

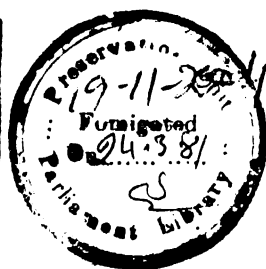
Monday, 5th September, 1927

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1927

(29th August 1927 to 21st September 1927)

THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927



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COUNCIL OF STATE.

Monday, 5th September, 1927.

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

QUESTIONS AND ANSWERS.

CLOSURE OF THE CAB ROAD AT HOWRAH RAILWAY STATION.

96. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Has the attention of the Honourable Member in charge of Railways been drawn to the inconvenience of female passengers owing to the closure of the Cab Road at Howrah railway station (in Bengal)?

(b) Is it a fact that 3rd class male and female passengers have to pass through a narrow gate into the station platform?

(c) If the answer to (b) be in the affirmative, will the Honourable Member be pleased to state whether any case of assault near the narrow gate has been brought to his notice?

THE HONOURABLE SIR GEOFFREY CORBETT: (a) No.

(b) I would refer the Honourable Member to the replies given by the Honourable Sir Charles Innes to Questions Nos. 1018 and 1039 asked by Khan Bahadur Sarfaraz Hussain Khan in another place on the 25th March 1924. Sir Charles Innes then explained that channels leading up to the gates had been found necessary so as to prevent the gates being rushed.

(c) No.

ELECTION BY THE HOWRAH MUNICIPALITY OF REPRESENTATIVES TO THE ADVISORY COMMITTEES OF THE EAST INDIAN AND BENGAL NAGPUR RAILWAYS.

97. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: What is the reason for depriving the Howrah Municipality of the privilege of electing its representatives to the East Indian Railway and Bengal Nagpur Railway Advisory Committees? Does the Calcutta Corporation enjoy this privilege?

THE HONOURABLE SIR GEOFFREY CORBETT: The constitution of the East Indian Railway Advisory Committee provides for one member representing Municipal interests who need not necessarily be a member of any particular municipality. The method of appointment of this member is a matter for the local authorities. The Bengal Nagpur Railway Company have not adopted the constitution laid down for Advisory Committees on State Railways, and no membership for a representative of a municipality *as such* is provided for on the Committee of the Bengal Nagpur Railway Company.

The Calcutta Corporation has a representative on the East Indian Railway Committee.

CONGRATULATION TO THE LEADER OF THE HOUSE ON THE K. C. S. I. CONFERRED ON HIM.

THE HONOURABLE THE PRESIDENT : The Council might like to know that I have had a letter from the Honourable Sir Manmohandas Ramji who, lest he should not have an opportunity of thanking the Council for their congratulations and should seem therefore ungrateful, has written to me and asked me to express to Honourable Members his thanks for the kind references made to him at the opening meeting. This reversion to the subject of titles enables me to repair a serious omission which I made at the first meeting. I have to confess that it only struck me at the eleventh hour before that meeting, that it is customary at the first meeting after the issue of the Honours List, to congratulate those Honourable Members who have received honours. The Honourable the Leader of this House was so covered with decorations beforehand that I have to confess that the very important honour which he received, in that it did not alter his designation or title, escaped my notice, *thinking* as I was of the matter very hurriedly. His services to the State have been so eminent and have covered such a long period that we have to confess that in some degree they must have contributed to his receipt of the honour of K. C. S. I. which was conferred upon him on the 3rd June. At the same time I think we may assert and claim that his able leadership of this House in some considerable degree contributed to the fact that he received the great distinction given him on that occasion. Honourable Members, I am sure, would all like to join with me in offering him our most hearty congratulations. (Applause).

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, I am highly grateful to you for the very handsome tribute which you have paid to me for the honour which I have recently received at the hands of His Majesty the King-Emperor. I have all along been under the impression, ever since the announcement of that honour, that whatever my services in other fields were, for which, Sir, you have admitted I have been already covered with decorations, and whatever the value of my leadership of this House might have been, the honour in question was largely due to my leadership of the Indian Deputation to South Africa. I have never concealed the fact that the success which attended that deputation would have been impossible of achievement but for the fact that those who worked with me contributed their best to the cause which I and they had at heart. They worked with an earnestness which it is impossible for me to describe. They devoted themselves wholeheartedly to the work which they had to do. They rendered to me loyal and enthusiastic co-operation which enabled me to achieve the little success that I was able to secure, and I think it will ill become me if I do not acknowledge on the floor of this House the assistance which I received from them. It would have given me greater gratification if all those who had contributed to the success of that delegation had been likewise honoured, but it was no small consolation to me to find that the deputy leader, my friend, Sir Geoffrey Corbett, who received a suitable recognition of his very valuable service, was decorated on the same date on which I had the honour to be decorated. I can assure my other colleagues on the delegation that the honour is not so much mine but it is more theirs.

RESOLUTION *RE* RELEASE OF POLITICAL PRISONERS.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan): Sir, I beg to move the following Resolution which stands in my name :

“ This Council recommends to the Governor General in Council that he be pleased—

- (a) to order the unconditional release of all such convicted or under-trial political prisoners in Indian jails as have not been held guilty in an open trial by any court of law or charged with any act of violence and of all political detenues whose trial in a court of law is not contemplated ;
- (b) to appoint a committee consisting of two members elected by the Legislative Assembly, one member elected by the Council of State, one member nominated by the Government and an Indian Member of the Executive Council of His Excellency the Governor General of India as President, to review the case of all other political prisoners convicted or under trial ; and
- (c) to order the release of all such prisoners as are not held to be guilty by this committee.”

Sir, my Resolution consists of several parts. It at first requests the Government to set free three classes of people, namely, those that have been convicted by law courts but not for any act of actual violence. It then deals with prisoners who may be still under trial but not under charge of any actual violence, and, thirdly, it deals with those political detenues whose trial in a court of law is not at all contemplated. It thus asks for a general amnesty to all prisoners who have been convicted or detained for political offences or charges not amounting to any act of violence, that is, to those who have been punished merely for their political views being opposed to the present system and policy of Government. Sir, we are all more or less dissatisfied with the present system and policy of Government. Even the Government acknowledge that this system requires to be changed, and they are shortly going to appoint another Commission to revise it. Is it, therefore, fair and proper that those who had expressed dissatisfaction, it may be in a somewhat extreme fashion, should be penalised for doing so ? Acknowledging the need and actually providing for the gradual reform of the constitution of India, the Government ask us to co-operate and work it out with them. May we not, therefore, ask the Government, as we have repeatedly been doing, to co-operate with us at the same time by taking us into their confidence and by creating an atmosphere of confidence in which all can freely express their opinion without fear of being lodged in jail for doing so ? An act of clemency at a psychological moment like the present, when the Government are going to inaugurate the first instalment of reform and inviting the people to come out with a scheme of their own, is sure to bring about a great change in the political atmosphere of the country. Such an amnesty was no doubt given after the War, when the announcement of the future policy with regard to the Government of India was made in 1917, and the Government say it had not the desired effect. But the disappointing result was surely not to any want of response on the part of the people of India, but to the unsatisfactory and disappointing nature of the reforms afterwards granted and to its quickly being succeeded by the change of attitude of the Government towards the people after the close of the War and the perpetration of Jallianwalla Bagh

[Mr. Kumar Sankar Ray Chaudhury.]

and other horrors and the introduction of the Rowlatt and other repressive Acts in India.

The second part of my Resolution asks the Government to appoint a representative Committee presided over by one of the Members of the Government of India to review the cases of all other political prisoners. We have no doubt been passing through times of excitement. The officials of the Government and the people as well have been equally affected by it, and so long as the judiciary is not separated from the executive the administration of criminal justice is bound to be looked upon with suspicion. It is, therefore, not unreasonable, I submit, to ask for a Committee where all views are represented, to sit in review over these cases dealt with by law courts, and a judgment passed by such a Committee is more likely to create confidence in the country.

Before going into the merits of the controversy, I feel it my duty to thank the Government of India for the declaration of a somewhat liberal policy made by the last Home Member in his speech in March last and our thanks are also due to His Excellency the present Governor of Bengal for giving some effect to the policy outlined by the Honourable the Home Member. But the method adopted to carry out this policy, if I may venture to submit, is not generous at all and is not likely to appeal to the people; on the contrary, the slow way in which the Government is proceeding is likely to take away from the effect which it would otherwise have.

If the Government are, as they ought to be, after proper investigation, which they have no doubt made, satisfied as to the guilt or otherwise of persons detained, they ought to publish their decision forthwith and to set free those about whose innocence they are so satisfied. The mere fact that the Governor of Bengal has announced that, if the situation continues to improve he hopes to release the remaining persons detained before the end of this year, shows that so far as His Excellency is concerned he is satisfied that they were innocent. This is also borne out by the statement made by the Honourable Mr. Moberly on the 23rd February 1927, that he would reiterate and emphasise that detention in jail is not resorted to in these cases as a punishment for any crime which a person may be believed to have committed—punishment for crime is solely a matter for the courts—the detention is purely preventive. This statement and the opinion expressed by His Excellency the present Governor of Bengal, I venture to submit, contradict and refute the statements made by Earl Winterton and Lords Reading and Lytton which they had themselves to correct from time to time when forced to do so by being contradicted and challenged on our side. These persons are now in jail, and as such they have no power nor can they in any way be made responsible for the improvement or detriment of the general condition of the country, and I fail to see any reason why they should continue to suffer in jail till something happens with which they have nothing to do. The very fact of their detention in jail is in my opinion likely to stand in the way of the situation in the country improving.

Much has been sought to be made of their refusing to give undertakings about their future conduct. The mere fact that the Government think fit

to rely upon their undertakings shows that the Government really feel that they are men of honour and innocent. But can they be expected to give such humiliating undertakings implying that they are men of evil propensities when the Government on their part do not give them any assurance that they would set them free on giving such undertakings? The existence of the Intelligence Department of the Government also depends on the continuance of a state of unrest in the country and the existence of this Department to a great extent contributes to the situation in the country remaining unimproved. The Honourable Mr. Moberly in his speech of the 23rd February 1927 has been forced to admit:

- "It is obvious that information about secret organization can be obtained only from persons who are or have been members of that organization whether they are detenus or at large."

We have also been repeatedly pressing that it is these people who are serving the Government as spies and informers as parts of these organizations who are serving as Agents provocateurs, and whenever any tendency towards leniency is displayed by higher authorities or any critical situation arises in the country these people readily come to discover some bombs or pistols at odd places or to ferret out some conspiracies and start a case implicating some hirelings who upon conviction are handsomely compensated and comfortably looked after in jails. Repeated questions about the family allowances granted in case of some of these persons either imprisoned or detained have been asked in the Bengal Council, but the Government have not vouchsafed to give us any answer. When the Swaraj Party was formed to capture the Congress, the main organisers of its mouthpiece, the *Forward* newspaper were arrested and the day after this party defeated the Bengal Ministry, warrants for the arrest of the chief workers of the Party were signed by virtue of which Subhas Chandra Bose, Satyendra Chandra Mitra and other organisers of the Party were arrested. Even the recent utterance of the Governor of Bengal has been immediately followed by the discovery of some empty shells and a broken revolver.

Srijut Subhash Chandra Bose, Satyendra Chandra Mitra and Anilbaran Ray had the good fortune of being sent up to the Legislatures as representatives of the people and had to be released by the force of public criticism, but the other poor fellows must rot in jail to expiate for the sins and activities of the Swaraj Party. Allegations have been made by two of the detenus Bhupendra Nath Dutt and Jiban Lal Chatterjee, about the existence and activity of the agents provocateurs, but have the Government made any investigations about these allegations or disclosed the results of such investigation? On the contrary, is there not evidence in the hands of the Government to show that the persons now detained had nothing to do with anarchical crimes that has cropped up during the last eight years and that they were the doings of a gang whose leader had made a clean breast of it to His Excellency Lord Lytton and has since been released and is now settled in life after his marriage with his family and child?

Let me now turn particularly to the case of some of the persons who are being still detained in jail under Regulation III of 1818, and I shall then deal with some who have been interned under the Bengal Criminal Law Amendment Act, 1925.

[Mr. Kumar Sankar Ray Chaudhury.]

Jiban Lall Chatterjee was suspected to be implicated in the Bolshevik conspiracy case at Cawnpore. Those actually convicted on trial have been released on expiry of the terms of their sentence. But he is still in jail for more than 4 years...

THE HONOURABLE MR. H. G. HAIG (Home Secretary): I do not think, Sir, that *Jiban Lall Chatterjee* is now in jail.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: He has been brought to Almora but he is still a detenu. I am going to state that as well.

THE HONOURABLE MR. H. G. HAIG: He is not in jail.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: But he has been in jail for more than four years. That is wrong, I submit, probably for the sin of trying to expose the doings of the Agents provocateur. While in jail he contracted phthisis. At the early stage of the disease the Burma Government recommended his transfer to Bengal for treatment but the Government of Bengal refused to take him back. Almost at the last stage of his life he has now been brought to Almora.

Satish Chandra Chakravarty.—He is suffering from filaria contracted at Moulmein. His legs are swollen which makes him unfit in future life. Several physicians have declared him to be incurable. He was then left to arrange for his treatment according to some other system. Kaviraj Syamadas Bachaspati, an eminent physician of Bengal, has given him medicine which has done some good, but in order to cure him the Kaviraj wants to keep him under personal supervision, but the Government will not allow him to be brought back to Calcutta. He has also been suffering from occasional fits which make him senseless for some time and he has been in jail for the last 4½ years.

Bepin Behari Ganguly.—He is suffering from indigestion and insomnia. Sixteen of his teeth have been extracted, but to no effect. His only brother has died leaving a wife and a minor son with no one to look after his education or to manage the affairs of his family. Settlement operations have commenced in the locality and he has applied for leave to be permitted to go home for some time and is awaiting a reply to it.

Jotish Chandra Ghose.—Unless a man is seriously ill one is not taken to the jail hospital under the Rules so when he was suffering from a severe nervous breakdown he was taken to the jail hospital at Insein and kept there for about 2 months. Major Finlay, Superintendent of Insein Jail, strongly recommended that he should be removed to Bengal and the Inspector General of Prisons, Burma, also supported it. But due to the persistent refusal of the Government of Bengal and on Superintendent Finlay refusing any longer to keep him, this gentleman was sent to Mandalay Jail where, on his arrival, seeing the wretched condition of his health, Superintendent Major Smith at once consulted Lieutenant-Colonel Brayne and he has declared that this gentleman has lost all vitality and may survive only for 5 or 6 years more if strictly looked after. He is suffering from hallucination and partial derangement of the brain and may drop down dead any moment. Two other detenus who

were staying with him are now under orders of transfer and he will have to live alone in this condition.

Arun Chandra Guha is suffering from blood poisoning and abscesses all over his body. He has been confined with another detenu who has taken a vow of silence, so both of them are in effect now in solitary confinement.

Purna Chandra Das.—He has been suffering from gastric ulcer and dysentery and is now lodged somewhere in the Madras Presidency.

Some of the State prisoners detained under Regulation III have been transferred to internment under the Bengal Criminal Law Amendment Act of 1925, and the late Home Member alleged that the ground for doing so was to give them facilities for village and home internment. But the real object of the Government of India in doing so was perhaps to avoid the responsibility of keeping these persons detained and to be heckled by the Legislature for doing so. For otherwise it seems inexplicable why the persons so transferred were largely sent out of the province of Bengal where under the law they could only be kept confined in jail.

Before leaving this branch of the subject under discussion I may in passing ask the Government how in the face of the provisions of section 4 of the Bengal Criminal Law Amendment (Supplementary) Act, 1925, the Government of India can shirk the responsibility for transferring people interned from one province to another, and how after such transfer the Inspector General of Prisons, Bengal, continues to pass arbitrary and most irksome orders regarding the withholding of letters without giving any reason therefor as required by law, or regulating the diet and clothing of the prisoners or the daily search of their persons and cells. Perhaps it will be difficult for this House to believe that even letters written by some of the detenus for purposes of their election to the Legislatures were withheld under orders from the Bengal Government.

I now come to those who are interned in villages under the Bengal Criminal Law Amendment Act, 1925. Recently I asked a question about the unhealthy localities in which they are confined, but the Government answered my question in the negative. I will therefore confront them with a few cases.

Manoranjan Gupta has been interned at a village called Harishpur, a very unhealthy place, infested with snakes, in the island of Sandip in the Noakhali District. He has to report himself twice to the thana every day. The thana is 2 miles off from his place of internment without any road and he has to wade through water eight miles every day to report himself to the thana.

Kiran Chandra Mukherjea has been interned at Ramgaty, a place infested with malaria where he cannot get either a servant or cook and he cannot cook at all himself as one of his hands is paralysed.

Not to multiply instances I may say that a large number of these detenus have been confined in Jalpaiguri District which is notorious as the hot bed of malaria, and one of these persons whose name I now forget was placed in a most unhealthy village where he contracted malaria through the effect of which he died in the Calcutta Campbell Medical Hospital even before his parents could arrive to see him on receipt of a telegram from the authorities.

[Mr. Kumar Sanjay Ray Chaudhury.]

I now cite another case of detention in jail at Mandalay of a gentleman named Surendra Mohan Ghose whose case deserves special mention as he is now lying bed ridden and in a precarious condition due to chronic dysentery from the very beginning of his detention.

In conclusion, I would submit that this provision for village internment, though ostensibly intended to give the persons detained some freedom, serves to operate as a great hardship to them, for besides being confined in most unhealthy places they are given an allowance varying from Rs. 20 to Rs. 35 a month, whereas those in jail get an allowance of Rs. 45 to Rs. 90 for food alone, and a personal allowance of Rs. 32 for other expenses besides free medical treatment and attendance of servants. Those interned in villages do not get any servants at all because of the hostile attitude taken towards them by the local police, and they have thus to go without food as most of them do not know how to cook themselves.

With these words, Sir, I beg to commend my Resolution for the acceptance of this House.

THE HONOURABLE MR. H. G. HAIG: Sir, my Honourable friend has raised a question of considerable importance and when a matter of this nature is under discussion, the Honourable the Home Member would ordinarily have wished to renew his long and distinguished connection with this Council and would have come down himself to represent the case on behalf of Government. I merely wish to say that the Honourable the Home Member is detained by urgent and essential work in another place.

The subject my Honourable friend has raised is not a new one. I fancy in one form or another it has been before this Council on several occasions. But I do not complain that he should have raised it, for we are dealing with questions which affect the ordinary civil rights of individuals and questions affecting the primary obligations of the State to preserve the security of its citizens. We are faced with the difficult problem of how far we can reconcile those two positions and how far it is necessary that the ordinary civil rights of citizens should give way to overriding State considerations and those principles from which ultimately the civil rights of individuals are derived. Though my Honourable friend has not raised a new subject, it seems to me that he has succeeded in importing some novelty into the discussion by the terms of his Resolution. I have studied it with some care to try and ascertain exactly what action he recommends the Government to take. There are to my mind certain points of obscurity. I was not able, for instance, to appreciate exactly what is meant by all convicted persons who have not been held guilty in an open trial by any court of law. This is one of the categories of persons whose unconditional release he suggests. Further, there are a number of references to political prisoners. Well, Sir, for the purposes of casual discussion or journalistic reference we all have some sort of idea of what is meant by a 'political prisoner,' but when the Government are asked to take definite action, I think it is necessary to be more precise. The term "political prisoners" is not known to the Indian Criminal Law. I do not know whether my Honourable friend suggests that a political murderer or a political dacoit should be placed before his Committee so that his case should be reviewed. I want just

to remind Honourable Members of the sort of actions which are committed under the name of "political" and the perpetrators of which no doubt would assert that they were political prisoners. I would refer to the judgment just delivered by the Chief Court of Oudh in the Kakori Conspiracy Case, and this is what the learned Judges said about the outcome of this case. They said :

"Thus, in a little over a year, some of the accompaniments of this conspiracy were the deaths of 4 men killed by fire-arms, the wounding of 12 others with fire-arms and torture of a brutal nature."

So much, Sir, for political prisoners. But I admit that my Honourable friend refers at any rate in one part of his Resolution to those who have not been guilty of violence. I am not quite sure, Sir, what particular class of persons he has in mind. We have moved some distance from the old unhappy days of non-co-operation when a number of gentlemen of high principles thought it their duty as a political protest to defy the laws of the country. We have not now, I am happy to say, in our jails any persons of that class. When he talks, therefore, of political prisoners who have not been guilty of any act of violence, I can only suppose that he means those who have been convicted of seditious writing or speech. Well, Sir, on what grounds are these gentlemen to be released unconditionally? If we are to release all such persons what is the use of retaining on the Statute-book sections which deal with such an offence? Finally, my Honourable friend suggests the appointment of a Committee, a somewhat motley Committee, if I may say so, to perform some very unusual functions. As far as I can make out, his object is that this Committee should review the case of convicted prisoners—prisoners convicted under the ordinary law and by the ordinary courts—and should then order the release of such persons as are not held to be guilty by this Committee. In other words, this Committee is to be set up to review the judicial findings of our courts. Is this an anticipation of the Supreme Court of Appeal of which we were hearing a few days ago? However, Sir, I do not wish to press too much the actual terms of my friend's Resolution. I would merely suggest to any Honourable Member who proposes to vote for it that he would be voting for some rather curious results. But I am prepared to argue the case on the broad ground which I think he wishes to take, and that is, the general release of the Bengal detenus. My Honourable friend has made a general appeal for the sympathy and the co-operation of the Government, and I do not wish to suggest that such an appeal is treated without due consideration. But, Sir, we are all aware that it is very easy to take a sentence out of a written or spoken passage, divorce it from its context and place upon it a meaning which it cannot reasonably bear. I want to ask the Council to look upon the present situation in connection with its context and with the chain of events that have led up to it. I hope it is not necessary to assure this Council that the Government do not like this system of detention without trial. The Government, Sir, are not moved by any obscure instinct of tyranny. To put it on the lowest grounds, the detention of these men causes Government a great deal of anxiety; it exposes them, they are well aware, to a great deal of prejudice; and if consistently with their primary obligations they could get rid of this system, they would do it to-morrow. The retention of these men under these special powers is justified by one reason and one reason only, and that is, the necessity for controlling a dangerous movement of revolutionary conspiracy. I do not wish to take the House

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in detail through all the unhappy history of the past. But I would like to remind the House of a few outstanding features, to show how we have arrived at the present situation. It is hardly necessary to remind this Council of the earlier revolutionary conspiracy which brought such trouble, such danger and such suffering to Bengal. The main outlines of that conspiracy were very plain. There was a series of robberies and dacoities, not infrequently attended by murder, with the object of raising funds for the purposes of this conspiracy. There was the manufacture of bombs and the collection of arms in order to carry out the primary purposes of that conspiracy. There was the assassination of Government officers, attempted or actual, whether high officials of Government, or those who in the course of their duties had made themselves obnoxious or inconvenient to the conspirators. And, finally, there was the terrorisation of witnesses and informers and, if necessary, their murder. The trial of that conspiracy could be followed by the blood of its victims. How was that formidable situation dealt with? Substantially by the methods which have been employed recently. The chief persons concerned were interned under Regulation III and other action was taken under the Defence of India Act, and those methods were successful. That formidable conspiracy was brought under control; so much so that in the year 1920 when a new constitution was being launched in this country with high hopes—at any rate on the side of the Government—it was decided to try the very policy which my Honourable friend is now advocating. A general amnesty was proclaimed. And what was the result? For a time there was a lull; but that did not mean that the conspiracy had ceased. That lull, I fear, looking back on it in the light of what has happened since, was a lull merely in order that the conspirators might mature their preparations and improve their methods. After a brief period we saw a recrudescence of that conspiracy, substantially the same conspiracy with the same objects, the same methods, and to a large extent the same persons. I need not recapitulate the story which was given by Sir Alexander Muddiman to the Legislative Assembly last cold winter of the deplorable series of crimes which took place during the years 1923-24. At last the Government were forced by the very successes of the revolutionaries to have recourse once more to the only methods yet discovered for dealing with them; and once more those methods were successful, to this extent, that the conspiracy was checked and outrages ceased. I think I am right in saying that since the introduction of these special measures there has been no further case of revolutionary outrage. I except of course that brutal murder of a distinguished police officer in the Alipore Jail. But, Sir, though the manifestations of this conspiracy have ceased and have ceased, I claim, because of the action taken by Government, it would be sanguine to hold that the conspiracy has been altogether destroyed. The means of the conspirators have been hampered but they still exist—the material means still exist, as is shown by certain finds of bomb cases and revolvers to which my Honourable friend referred in a somewhat frivolous manner. I do not know where he gets his information from—I imagine from a certain paper in Calcutta; but I should like to know his authority for suggesting that the revolver discovered a few days ago at Salkea was a broken revolver. The bomb cases which were there discovered were of a most dangerous character; I do not suggest they were filled, but they were bombs which when filled would be of a most dangerous character. Well, Sir, the material means for carrying

out this conspiracy still exist. What have we to say about the will of the individuals? Some of them—I hope a large number of them—have seen the error of their ways. But some of those who have been engaged in this conspiracy are men of a very desperate character. Now, my Honourable friend who smiles about these finds of bomb cases and revolvers might perhaps recollect that something less than two years ago at Dakhineswar certain persons were arrested in possession of these very things; they were put up for trial before a special court and their conviction was upheld by the High Court. Those men went to serve their term of imprisonment in the Alipore Jail; and what did they do, or some of them? They battered to death actually in the precincts of the Alipore Jail Rai Bahadur Bhupendranath Chatterjee. Does that not suggest to this Council that the men who were concerned with these bomb cases and revolvers are men of a somewhat desperate character?

I do not think I need say anything more to convince the House that this is a real conspiracy, that it is not an invention of the police; it is a conspiracy which, if it is not indeed in active operation—and I do not wish to suggest that—is kept in subjection by these very methods which have been employed reluctantly by Government. I would just like to say one word about the evidence we have from cases which have been judicially tried out about the existence of this conspiracy. I referred just now to the Kakori conspiracy case, the appeal in which has just come to a conclusion. It is rather remarkable in reading through the judgments to see how close is the connection between Bengal and this conspiracy in the United Provinces. The Chief Court says in their judgment:

“The central organization remained in Bengal whence the policy was directed and controlled.”

There are many passages of a similar character. The Sessions Judge says:

“One may in fact state that it”—

that is to say, the conspiracy,—

“was directed from Bengal.”

I would also ask the Council to reflect for one moment on this rather significant fact that among those who were convicted in the Kakori conspiracy case were two who were actually Bengal detenus. I refer to Sachindra Nath Sanyal and Jogesh Chandra Chatterjee. This is what the Chief Court says about Sanyal:

“In 1916, Sachindra Nath Sanyal was convicted by a special tribunal at Benares for complicity in a revolutionary conspiracy and sentenced to transportation for life. He subsequently received an unconditional pardon as a matter of clemency. After his release in 1920 he wrote on his own admission the book called ‘Bandi Jiwan’ or the ‘The prisoner’s life’ which is on the record. It is a eulogy of his previous activities containing a definite incitement to others to commit similar crimes. He subsequently entered into this conspiracy as one of the main promoters.”

Now, this is what they say of Jogesh Chandra Chatterjee:

“We are satisfied upon the evidence that Jogesh Chandra Chatterjee was one of the persons who originally conceived the idea of the conspiracy and that he was a member of what the rules call the central council which operated in Bengal.”

Another person convicted in the Kakori case was one of those who were actually arrested in the Dakhineswar House, Rajendra Nath Lahiri. That, Sir, is the present situation or that of the immediate past.

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I have shown how it has developed, and this is the background against which we have to consider the problem of release. This matter is one which engages the anxious attention of Government constantly. There have been a number of pronouncements of policy recently, all to the same effect. His Excellency the Viceroy, in addressing the Legislature at the beginning of last cold weather, stated the policy of Government. It was again stated by Sir Alexander Muddiman in the course of the debate in the Legislative Assembly last February. It was stated once more by Sir Alexander Muddiman on the 21st March, 1927, and within the last week or two, it has again been stated by His Excellency the Governor of Bengal. Sir, I wish to draw attention to that statement of policy. Sir Alexander Muddiman on the 21st of March 1927 said :

"The policy of Government regarding those who have been detained under Regulation III or the Bengal Criminal Law Amendment Act in connection with the Bengal revolutionary conspiracy has been and still is that the detention of no man should last longer than is essential in the interests of the public safety."

He then went on to explain that Government could not take the responsibility of releasing those about whom there is no reasonable doubt that they will utilise their liberty to resume their previous activities. And he then said :

"They are, however, anxious to proceed, as quickly as possible, with the gradual release of individuals whose conduct gives reason for hoping that they will not abuse their liberty."

His Excellency the Governor of Bengal in addressing the Bengal Legislative Council quoted this statement, and he then said :

"That was a definite statement of policy pronounced upon this vexed question just before I took up my office in Bengal. There has been no change in this policy, upon which I have considered it my duty to proceed. Since that statement was made and after a most careful consideration of the whole situation in all its aspects, and after consultation with my Government, I considered that the conditions prevailing in Bengal justified an acceleration of the rate of release, and action was taken accordingly."

And I wish to call the special attention of the Council to this point. The statement of policy is naturally a somewhat abstract one, and it is reasonable for the Council to say : 'these are no doubt fine words, but what have you done ? What action have you actually taken in pursuance of this policy ?' Well, Sir, the figures quoted by His Excellency the Governor of Bengal give, I think, a striking answer, and I should like to go back a little further than His Excellency the Governor of Bengal and quote the figures of the 15th January of this year, just before His Excellency the Viceroy made his first statement of the policy I have mentioned. On the 15th January there were in jail under the Bengal Criminal Law Amendment Act 72 prisoners, and 16 in jail under Regulation III, that is to say, 88 altogether. At the present moment, there are 32 in jail under the Bengal Criminal Law Amendment Act, and 8 under Regulation III, that is, 40 altogether. The number detained in jail, therefore, is less than half of what it was on the 15th January last. The number of those who have been dealt with under these special powers and have since been released altogether, free from all restrictions, on the 15th January, was 18; it is, now, 60. I claim, Sir, that those figures show that the Government are genuinely and honestly

pursuing the policy which has been laid down, but the pursuit of this policy depends on the continuance of the existing conditions, and that, Sir, was made very clear by His Excellency the Governor. He said :

“ Provided no untoward event occurs and the conditions at present prevailing in Bengal continue and the conduct of those released justifies the action taken in their cases, I hope that a large number of those now detained will have been transferred or released before the end of the year.”

That, Sir, is a statement with which, I suggest, this Council may well rest content. And there is one final sentence which His Excellency the Governor pronounced, and to which I would invite the particular attention of the House, for, as the Council will realise, this is a policy of individual release. It is based on the judgment of the Government about the attitude of mind of the individual prisoner. And His Excellency the Governor in conclusion said :

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“ I shall continue to give my own personal attention to each individual case.”

I hope, Sir, that I have succeeded in leading the House to reflect on the series of events which have led to the present situation, in making clear to them our view of the situation as it now is and indicating the principles on which the release of individual detenus can be, and is being, carried out. I trust that this Council will believe in the honesty of purpose of Government and will realise the steady progress that is being made in the direction of releasing these men. I have every confidence that the Council will support Government in rejecting these proposals for the immediate release of those at present in detention.

THE HONOURABLE SRIJUT LOKENATH MUKHERJEE (West Bengal : Non-Muhammadan) : Sir, the Resolution which I have the honour and pleasure of supporting falls into two parts. It calls for the release of all those persons who have not been held guilty in an open trial by any court of law and also of all political detenus under the Bengal Ordinance or under the Regulation, and it pleads for the release of such other political prisoners as will not be held guilty by a committee of a certain constitution also suggested in the Resolution.

Sir, I know there is a feeling that anything said on a Resolution like the one which is before the House will not persuade the Government to accept it, and yet I feel that I should not cast my silent vote on such a Resolution. Sir, speaking for myself I am more seriously concerned with the political detenus, especially of Bengal, the province from which I come, and I shall therefore confine myself more to this part of the Resolution.

Sir, so far as the first part of the Resolution is concerned, it will require little argument on my part to make out a strong, nay indeed, an unanswerable case in support of the proposal of my Honourable friend the Mover of the Resolution. So far as the Honourable Members on this side of the House are concerned, I do not think they need any argument to convince them of the plain justice, the soundness and the common sense of this part of the Resolution. So far as my Honourable friends on the opposite side are concerned, they are, I submit, impervious to all arguments in favour of these detenus. Sir, we in this House wish to be cautious and moderate in our language, and I

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will not employ any invectives in the course of my speech—for one reason, that no invective can be adequate to the enormity and iniquity of the action of Government in this matter, and yet the practice of sending to jail and detaining there for an indefinite period large numbers of people against whom no charge has been formulated and no evidence adduced can only be characterised as barbarous and tyrannical. And our righteous indignation at the wanton and indiscriminate use of this barbarous method borders upon anguish when we recollect that, of the young men who have been the victims of these remorseless measures, some are of high character and brilliant attainments—men of whom any age or nation might be proud—and whom it would be a sin against common sense to associate with bloodshed, crimes of violence or revolutionary conspiracy.

Now, Sir, the reasons given for the detention of these men without trial are these :

- (1) that there exists a revolutionary conspiracy ;
- (2) that revolutionary crime has been committed by these persons ;
and
- (3) that it is very difficult to bring the offenders to justice.

Sir, the grounds adduced in support of the third reason are in the official words as follows :

“Terrorism of witnesses and juries, the failure of juries to return verdicts in accordance with the evidence, the murder of witnesses and persons who have confessed or turned King’s evidence, the fear of witnesses to disclose facts within their knowledge, all combine to render justice unobtainable under the existing law. They have already operated in more than one recent instance.”

Sir, these are the words which as Governor of Bengal Lord Lytton said when the Bengal Ordinance was passed.

Sir, on the face of this important and serious utterance, may I point out to the Honourable Members of this House and to my Honourable friend the Home Secretary, in particular, that the refutation of all the allegations in the said utterance by my leader Pandit Motilal Nehru on the floor of the Assembly, proving to demonstration that there was absolutely no foundation for any of the fears entertained by the then His Excellency Lord Lytton, have remained up to this day the last word on the subject. It is not for me to repeat the challenges that Punditji threw in the face of Sir Alexander Muddiman, the then Home Member. Sir, I may only be permitted to quote here what he said in referring to the one case that had happened in 1908, where an approver was killed by his co-accused. Sir, Punditji asked :

“Is it fair, is it just, to go into the facts of any case which happened before the year 1919, when the Royal Proclamation extending general amnesty to those involved in previous cases was made ? By recalling these facts to your assistance—facts which happened before 1919—you are stultifying yourselves, you are stultifying the Royal Amnesty. If you do not take any of these cases into consideration, I challenge the Honourable the Home Member to show even a single instance of the use of threats, ill-treatment of approvers and witnesses and intimidation of jurors that has been relied on in all the Government pronouncements.”

Sir, it has been said that from the time these men have been taken, revolutionary crime has not been much in evidence. It is no doubt a fine argument. Sir, relying on the very same argument one is entitled with better

reason to infer from the actual fact of the discovery of some bombs since their arrest and detention, that all these men are being wrongly detained and that the real men, the culprits, are still at large.

In this connection, Sir, I may be permitted to refer to a statement made by Lord Lytton in the presence of some of the Bengal Members of the Indian Legislature at a little conference at which I was fortunate to be present with at least two more Honourable Members of this House, being very kindly invited by His Lordship. Sir, I venture to call this statement an admission, a serious admission, on the part of His Lordship. Sir, the statement, in the language of my Honourable and esteemed friend, Mr. Goswami, runs as follows :

"The people who had not been proceeded against, that is to say, people who have been detained without trial, were people who had committed no crimes but were prevented from committing crimes."

Sir, I submit I am not aware of any system of law which provides punishment of a person on the mere suspicion that he may cherish a design to commit crime. Sir, no wordly system of law sanctions such a procedure, nor does the present political condition of India justify the same.

Sir, there is another plea which the then Home Member adduced in the other House in opposing a similar non-official Resolution to which I shall refer. His plea was that these severe steps were necessary for the personal safety of some high officials. Sir, the very apt reply which my esteemed friend Mr. Goswami gave on this point in another place I may be permitted to read out to the Honourable Members of this House. Mr. Goswami said :

"Sir, that is a very bad justification of such a serious step, because, after all, there are other means of protecting these high personages, Governors of Provinces—if they are among the persons concerned ; because their safety is mentioned by Sir Alexander Muddiman—have a substantial bodyguard, for the upkeep of which we have got to pay a large sum of money. They have got a very huge staff of armed policemen. That also costs money. It is not that we Indians have been niggardly about the protection of high personages. The whole of Calcutta is full of the C. I. D.—for whom ? Not for my benefit, but for the benefit of high personages ! When Lord Irwin went out, outside his official tour programme, to some obscure village outside Calcutta last winter, places all round Alipur were filled with policemen, lest His Excellency might stray from the right path and be in peril. There are other means of securing the safety of these great people, and I say, on principle—and I am speaking very seriously—even the lives of the highest officials are not more sacred than the liberties of the people."

Sir, I fully agree with the view contained in the passage I have just read.

Sir, what I want to impress upon the House is that the Government have no justification in pursuing this repressive policy. They have no justification in curtailing the liberties of so many of our countrymen in the name of law and order without trying them in the open court of law. Sir, it violates an elementary principle not simply of British justice but of all justice when a man is condemned unheard. And this violation of elementary justice amounts to a crying scandal against humanity when the condemnation is followed by a prolonged period of incarceration the duration of which no human being can ascertain. And yet, here, in India, under a Government which prides itself upon its civilisation and enlightenment, we find a daily perpetration of this scandal and offence. Sir, this repression will more and more embitter the feelings of the people, and in the words of Professor Sidgwick

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will create that dangerous sympathy with criminals punished if the punishment inflicted is too severe. It is, Sir, exactly what is happening in India.

Now, Sir, I dispute the very basis of the Honourable the Home Member's argument. I deny—and coming from Bengal, a province which is the worst sufferer under the repressive policy of the Government, and having some acquaintance with the affairs of my province, I have a right to deny—the real existence of a true terrorist conspiracy in Bengal. Sir, I purposely qualify the words “existence” and “terrorist” because I submit that a real terrorist conspiracy is not exactly such a hole and corner affair as many people would fain have us believe. If it is at all of any considerable magnitude—and it would be idle to call it a terrorist conspiracy unless it were of considerable magnitude—it is bound to make itself felt in a thousand different ways; its shadow would stalk over the land and strike a vague feeling of uneasiness—and apprehension even into the hearts of people who might have no direct cognisance of its existence. Sir, I submit nothing of the sort is now perceptible anywhere.

Sir, even if we admit, for argument's sake, the existence of some sort of terrorist conspiracy in the country, what is there to connect the conspiracy with the persons arrested and detained without trial? If there is evidence in support of such connection, why is not the evidence sifted in a court of law? And if the evidence is not such as will bear examination in an open court of law, what justification can any Government have for detaining people in prison upon the strength of such weak and one-sided evidence? Or will it be contended that the Government does not produce such evidence in court for fear of jeopardising the lives of their witnesses? Sir, a more lamentable and laughable confession of impotence on the part of this so mighty a Government, it would be impossible to conceive.

Sir, I now come to the second part of my Honourable friend's Resolution, namely, his plea for the release of all other political prisoners convicted or under trial after their cases are considered by a Committee, the suggested constitution of which is such as to my mind ought to be accepted even by my Honourable friends opposite. Sir, this is a point which it would be useless to enforce by detailed considerations of argument or expediency. I would only urge the Government to stretch their imagination and statesmanlike foresight to the height of a great argument.

Sir, before I resume my seat, I would say a few words by way of appeal to my Honourable friends opposite for whom personally I have the highest regard. Do not misjudge the national character so grievously; and let me tell my Honourable friend the Home Secretary that it is this radical and fundamental misconception regarding the whole character and outlook of our mental being which lies at the root of your long and interminable series of administrative blunders. Please remember that in the affairs of men and nations, confidence begets confidence. Remember what one of your noblest political thinkers has said, namely, that magnanimity is not unoften the truest wisdom in politics. Take your courage in both hands; do not be stopped by pettifogging considerations of immediate loss or immediate gain. Proclaim, I shall not call it a general act of amnesty but a general act of oblivion for all.

political offences of the past and see what an immense and immediate response you will get—what a spontaneous leap-forward of that latent feeling of loyalty and grateful confidence which lies deep down in the hearts of our people—a loyalty and confidence which will pay you a thousand times over for whatever temporary lack of prestige your police and Criminal Intelligence Department may have to suffer.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, if a lion was brought into this room and shut up with us here, the House ought to picture to itself what fun it will create. In the same way, Sir, if these dangerous people are let loose on the public, I do not think the public will be very pleased, and naturally they will go in for those who let them loose, i.e., the Government.

THE HONOURABLE SETH GOVIND DAS (Central Provinces : General) : Lala Lajpat Rai who is from your own province was also in jail. What do you think of it ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : I think perhaps he then deserved it. Sir, there are two reasons for which I have got up to take part in this debate. One is that perhaps, later on, we may be called upon to vote, and I would rather like not to give a silent vote without giving my reasons for it. The second is the experience of the same sort of trouble that we have had in the Punjab. There was a gang, Sir, called the Babar Akalis, who so terrorised the country that not a single witness would come forward nor would anybody give any clue as to where they were, because if that was done, the Babar Akalis at once knew of it and the man who gave the clue was reformed, as they used to call it. That meant that he was to be killed. Such a large number of people were killed, that people did not even like to get into the police, and nobody would raise the police, because it was considered that whoever did it would be assassinated. I was chosen by the Government to supply this police, and within a very short period I raised about 175 men with horses and sent them there, because it was known to the Government that I neither cared much about death nor about assassination. In course of time, all these *jathas*, these dangerous people, were wiped out. They were either killed or brought to book. The same thing happened in my own district. There were some desperadoes who got hold of arms and went on killing people right and left and it was a long time—months—before order was restored. Knowing all these things, one naturally does not want such a state of affairs to occur again anywhere. It was stated here by one of my friends that “we are all of this opinion”. I do not know what he meant by “all”. Perhaps he meant “all of his way of thinking”. There are lots of others who do not think with him. I think, Sir, it is the weakness of the Government which in a way has been at the bottom of this, that the people try to become dangerous. If these men who are helping in a way the Bolsheviks, knew what the Bolsheviks have done to their own people, they will find out that such people have not only been sent to jail, but brutally killed in the streets and assassinated. I think this is rather a very bad way of doing things, but it is an effective way, and sometimes it does stop people doing such things. We must also look at it from the taxpayer's point of view. It is rather hard that at one time these people should be brought to book, and Government should spend lots of money on pleaders and

[Sir Umar Hayat Khan.]

on the witnesses, and directly they are put into jail, you release them by amnesty and again the same thing happens. I think therefore, Sir, if sections 107 and 110 of the Code, which embody the principle that prevention is better than cure, are used, lots of people of this nature who become dangerous can sometimes be put into jail or asked to give security, and I think it is for the good of the administration that these people should be detained, as they might otherwise be killing innocent people, who are detailed to look after them. I hope, Sir, that unless Government is assured that these people will not take to the same methods, the Government will not allow these men to be released. Because it is a well-known fact that if a man becomes an enemy and if you get hold of him and then give him a beating his enmity becomes redoubled; and I think no sane man would think of releasing a redoubled enemy to take his revenge when he is released. With these words, I oppose this Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise more to make a certain request to you than to speak on the Resolution. The Resolution consists of two parts. Clause (a) is complete in itself. Clauses (b) and (c) relate to the same question—the setting up of a Committee and releasing such prisoners as are held not to be guilty by the Committee. The Honourable Mr. Haig, Sir, in speaking on the Resolution raised two different sets of objections to these two parts of the Resolution. With regard to the first he raised an objection on its merits, as well as an objection on the score of its language. He found some difficulty in understanding how there could be an unconditional release of all convicted persons who have not been found guilty. I may assure him that we on this side have not found it so difficult to follow the language; I quite agree that we do not claim to have the same intimate knowledge of the King's English; but we understood it to mean that people who, though convicted are not found guilty of or charged with any act of violence, should be released. The emphasis is on the act of violence—they were not convicted of any offence involving violence or charged with any act of violence. The Resolution as drafted may be wanting in correctness of idiom, but one who has been in India for a long time not only knows the habits and customs of the country, but also the English used by us,—Indian English. Therefore, if there was any slight difficulty, the difficulty was not such as really to puzzle him to the extent that he said he was puzzled. My Honourable friend who has moved the Resolution has made a very definite request in this part of the Resolution, namely, the unconditional release of all persons convicted for their faith or opinions, and not for any offence involving violence, or charged with any act of violence. I think that is a perfectly tenable proposition. As I said I will not speak at length on the merits of the Resolution; I wish to say only that I entirely associate myself with the demand contained in this part of the Resolution.

With regard to the second portion of the Resolution there is some little difficulty, I admit; a demand to set up a Committee to revise the decisions of courts of law would be most difficult to comply with. The Honourable Mr. Haig has in a way twitted us for asking for a Supreme Court, and hoped that the Supreme Court would not be asked to try this kind of cases. I really do not feel very much oppressed by his charge because if the Supreme Court were here

I have no doubt that it would take up cases of exactly the kind which my Honourable friend is contemplating in the Resolution. The Privy Council has held over and over again that it was the prerogative of the King's Court to revise all convictions which have resulted in injustice by reason of failure to observe legal processes and of violation of rules of natural justice. We maintain, Sir, that in many of these cases, people were convicted either on hearsay evidence, or upon the uncorroborated testimony of accomplices. Many cases of this sort have come to the notice of the public through reports of proceedings of the courts in the newspapers and they are eminently fit cases for an impartial Committee, in the absence of a judicial tribunal, to look into and see if in some cases courts which have been domineered over by the executive have acted unjustly and convicted persons without observing legal processes and by violating the rules of natural justice. It is such cases apparently that my friend is referring to, and it is a very legitimate request I should think. But, Sir, there may be some Members of this House who may feel inclined to vote for part (a) but not for part (b) of the Resolution, and therefore I would request you, if you possibly allow me to make that request, to put the two portions of the Resolution separately.

One word more, Sir, about my Honourable friend, Mr. Haig's speech. He apologised for the Honourable the Home Member not being here; but I assure him that he made a very powerful propagandist speech in vindication of the executive and the bureaucracy, and his Chief would not probably have improved upon that; he has drawn a very lurid picture of the disorders in this country by quoting the Kakori case and a few other cases. But I will remind him that this is not the first time that we are listening to such arguments; I would ask him to remember that he is dealing with a country which is 16 times as big as Great Britain and has a population eight times as large; and if my Honourable friend has read, as he ought to have read, about the disturbances which occurred all over Europe and America with reference to the Sacco-Venzetti executions, and that in Paris alone during a single riot the casualties exceeded a thousand, he will see that to say in a country so large as India, inhabited by three hundred million people, some cases of disorders have arisen now and then and to use that as an argument for depriving people of their liberty by executive act, is not a convincing argument from the Indian point of view. He says he is anxious about detentions without trial, for they would expose the Government to popular prejudice and that he is guided by the same considerations of humanity as the opposition Benches and so on; but all these must be shown by action; of course professions are good in their own way, but we want them to be tested by action. Therefore, Sir, I hope that he will show his sympathy by advising his Government to take prompt action to give effect to the Resolution of my Honourable friend, though he may not accept it in this House.

One more word about my Honourable friend, Colonel Sir Umar Hayat Khan. He has told us about the distinguished services he rendered to the Government in suppressing disorders. Everybody is quite thankful to him. But he made one observation that he was never afraid of assassination and that he had plenty of trust in his countrymen. I have, however, a distinct recollection that at the time of recruitment there were widespread reports in the newspapers that Sir Umar Hayat Khan was so unpopular that he always

[Mr. V. Ramadas Pantulu.]

moved about with a bodyguard and was always armed, owing to the disaffection of his countrymen. I read it in the newspapers and other publications at the time ; but whatever that may be I end my speech with the request that you, Sir, may be pleased to put the Resolution in two different parts.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : That is wrong. I have always been my own bodyguard.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-official) : Sir, I would not have risen to trouble the Council with my views on this Resolution but for certain observations which fell from my friend, the Honourable Mr. Ramadas Pantulu. In supporting clause (b) of the Resolution he has made certain significant observations. He has hardly realised what this clause means in plain language.

I think he is a very shrewd and experienced lawyer, and I do not believe for a moment that he does not understand the real absurdity of this clause (b), but he has deliberately got up for the purpose of a mere formality to support this part of the Resolution. Now, what does the Honourable the Mover demand by this part (b) of his Resolution ? He wants to constitute a Committee which will consist of two members elected by the Legislative Assembly, one member elected by the Council of State, one member nominated by the Government and an Indian Member of the Executive Council of His Excellency the Governor General ; that is, in all five members. What will be the functions of this Committee ? They will review the cases of all political prisoners convicted or under trial. The simple meaning of this is that all cases where political prisoners have been detained or in all cases where they are undergoing sentences in all cases in which the Government of India have exercised their powers under the special Acts and Regulations, and in such cases where the Governor General in Council has delegated those powers to Local Governments under the Devolution Rules, all such cases are to be revised by this very important and extraordinary body of persons suggested by the Honourable the Mover. Now, a moment's reflection will show what an amount of inconvenience, what an amount of absurdity underlies the principle which has been advocated by my Honourable friend. The result is, that these people will sit in a tribunal, and the Governor General will have to place all facts, all statements, all evidence recorded by them and on which they have acted, for the scrutiny of this tribunal. Can you ever realise a more absurd proposition than that ? In the first instance, you are aware, and every Member of this Council is aware, that the Governor General acts under the special provisions of the Act ; he acts on certain evidence ; he acts on certain statements ; he acts on certain police inquiry and on depositions made by respectable persons who have refused to go to Court for various reasons to give evidence. Now, if those people are put on trial, and if the respectable gentlemen who have given evidence are again summoned to give evidence, they will certainly refuse, as they have done in the past, to give their evidence, not because their statements were not correct, but because they are afraid of being terrorised, of being shot, of being killed, they are afraid of being molested by these hosts of prisoners and by those men who are interested in them. Do you expect therefore the Government of India to expose all the information which they have collected and lay it before this

tribunal? What an act of bad faith it would be on the part of Government if they were to accede to such an unreasonable request? Who will in future in cases of conspiracies, in cases of unlawful associations, give their evidence before Government? Will they not be afraid to do so? Is it not unreasonable to expect such people hereafter to come before the executive and give evidence if Government commit such a breach of faith? Sir, such a Resolution is very ridiculous. And further, to expect the Governor General after the fullest inquiry in Council or the Local Governments under the powers given to them, after the fullest inquiry made by them, and after they have come to a decision and taken action, to appoint the suggested tribunal to sit in judgment on the Governor General in Council is, to say the least, really preposterous. Can you realise a more absurd proposition than that? That, Sir, is the plain meaning of part (b) of the Resolution. It cannot appeal to any ordinary intelligence. I think, therefore, the Government of India is perfectly correct in not agreeing to such an unreasonable proposition as the one embodied in the Resolution.

Now, Sir, as regards clause (a), I do not wish to trouble the Council with any further arguments. It has been made perfectly clear by the Honourable the Home Secretary, that the policy of the Government in this matter, as announced not only by His Excellency the Viceroy but by various high officials, is that they do not desire to detain people for a single minute longer than the circumstances of the case require. There is no pleasure in detaining these people in jails. It causes a serious prejudice against Government as a rule if they take action under these special Acts. It causes a lot of worry and annoyance to Government; it also causes a lot of unnecessary expenditure to keep and feed these people in jails for long periods, and there is no pleasure for Government to resort to such procedure. The Honourable the Home Secretary also pointed out in the course of his very lucid statement that only 40 more prisoners in Bengal remain still under detention, and the Government of India have promised that....

THE HONOURABLE SETH GOVIND DAS: Does the Honourable Member think that the number is too small?

THE HONOURABLE SIR MANECKJI DADABHOY: Please do not disturb me. The Government of India have promised that by the end of this year they will be in a position to discharge all these people provided the existing circumstances continue. In view of the declaration of such a definite policy, is there any sense in pressing a Resolution of this nature? The Government of India is anxious to release these prisoners which will of course depend on their own deportment, their own attitude, and their good conduct, so as to enable the Government of India to show clemency. I hope, therefore, that my Honourable friend over there will see his way, in view of the statement made by the Honourable the Home Secretary, not to press his Resolution.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, I do not want to give a silent vote, and I propose to support the Resolution, especially clause (a) of it in a few words. The question has been so often debated and has been discussed threadbare in the other place, in the Press, as well as on various platforms that, I think, it is almost impossible for any one to bring in any fresh arguments for or against the proposition. Sir, I have been noticing, and it must be clear to all the Honourable Members, that there has been a change

[Mr. R. C. Desika Chari.]

of heart on the part of Government in the policy they have been pursuing in regard to these detenus, and their treatment of the detenus has undergone a very considerable change, and I believe the Government have come to the conclusion that it is not desirable that they should persist in following the old policy and detain them in jail for unduly long periods without trial. I find pronouncements have been made almost to that effect time and again, and I believe the recent statesmanlike action of His Excellency the Governor of Bengal, Sir Stanley Jackson, has shown that it is only a continuation of the policy of the Government of India which has been given effect to by the release of so many prisoners, with reference to whom part (a) of the Resolution deals. I think, Sir, a bold policy on the part of Government will create a good atmosphere, and even after the Government have come to the conclusion that the present atmosphere has considerably improved, and it is very desirable that these prisoners should be released as soon as possible.

I would appeal to the Government to take prompt action in the matter so that the result of the generous action may be appreciated. If this action, which I believe will be taken very shortly, were delayed, the result of it will be that it will not be appreciated by the people and the advantages which would accrue to the country, to all sections and all political parties, would be lost. I therefore appeal to the Government to accept at least clause (a) of this Resolution, and as regards clause (b), I think there is a good deal of force in what the Honourable the Home Secretary said, that it is not desirable to constitute a Committee to sit in judgment over the decisions of course established by law. I take it that what the Honourable Mover meant by clause (b) was that there ought to be a sort of Committee to recommend to the Government the exercise of clemency in certain cases where the sentences are severe or where they think the conditions existing at the time when the convictions were secured were such that the cases were prejudiced by the political conditions existing at that time. With these words, Sir, I support the Resolution before the House.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I have already explained that the first part of my Resolution asks for an amnesty only for those who have not been guilty of, or been charged with, any act of violence. The Honourable the Home Secretary urges in reply that in that case we shall have to set free all persons who have been found guilty of sedition. We all know how that section is being gradually stretched and strained so that almost all speeches uttered by anyone on any public platform may, if the Government so please, fall within the section and even the Privy Council has declared itself powerless to interfere with any conviction for sedition. My Honourable friend then refers to the Kakori case, which, I submit, lends strength to my argument, for I have already stated that these cases are not in any way connected with those now in any prison and should not in any way affect their case.

As regards the complicity of Sachin Sanyal in this case, the less said the better. This gentleman had openly been writing a book making a case for the Government. Perhaps he is now no longer in the good graces of the police and that may, for aught I know, be the reason for his being implicated in this case. I have then advocated the constitution of a Committee which may

attract the confidence of the public, because the public has no confidence in the administration of criminal justice in the country, but the Honourable Member does not choose to deal with that point at all. Government have no doubt set free a good number of these persons and our thanks are due to them for what they have done, but may we not appeal to them to be a little more magnanimous and to deal with these persons once for all instead of having their future hanging in uncertainty upon the whims of the Criminal Intelligence Department? The Honourable Sir Maneckji Dadabhoy characterises the Committee as a cumbrous one and that the Government cannot place the evidence in their hands in possession of such a Committee. I am indeed sorry the Honourable Member has so low an opinion of himself, not to speak of the other members of the Indian Legislature. The Government have placed such evidence before High Court Judges, and even before District Judges and Magistrates, and I see no difficulty in their placing it before such a responsible Committee.

THE HONOURABLE MR. H. G. HAIG: There is very little that I need say in answer to my Honourable friend. The main point made by Government, I think, is clear. The policy which has been adopted, which has been forced upon them by circumstances, is being worked in a reasonable way and being worked with success, and they would urge this Council not to press them to depart from a policy which is being entirely justified by the course of events.

THE HONOURABLE THE PRESIDENT: As two Honourable Members who spoke desire to vote for one clause of the Resolution and to oppose or at least not to support the other clause of the Resolution, I am putting the Resolution in parts.

The question is: -

"That the following stand part of the Resolution:

'This Council recommends to the Governor General in Council that he be pleased:

- (a) to order the unconditional release of all such convicted or under-trial political prisoners in Indian jails as have not been held guilty in an open trial by any court of law or charged with any act of violence and of all political detenus whose trial in a court of law is not contemplated.' "

The Council divided:

AYES—14.

Alay Nabi, The Honourable Saiyid.
Desika Chari, The Honourable
Mr. P. C.
Govind Das, The Honourable Seth.
Khaparde, The Honourable Mr. G. S.
Mukherjee, The Honourable Srijut
Lokenath.
Padshah Sahib Bahadur, The Honour-
able Saiyed Mohamed.
Ramadas Pantulu, The Honourable
Mr. V.

Rama Rau, The Honourable Rao
Sahib Dr. U.
Ray Chaudhury, The Honourable Mr.
Kumar Sankar.
Sankaran Nair, The Honourable Sir.
Sethna, The Honourable Sir Phiroze.
Sett, The Honourable Rai Bahadur
Nalininath.
Sinha, The Honourable Mr. Anugraha
Narayan.
Suhrawardy, The Honourable Mr. M.

NOES—27.

Akbar Khan, The Honourable Major Nawab Mahomed.
 Akram Husain Bahadur, The Honourable Prince A. M. M.
 Bell, The Honourable Sir John.
 Berthoud, The Honourable Mr. E. H.
 Brayne, The Honourable Mr. A. F. L.
 Charanjit Singh, The Honourable Sardar.
 Commander-in-Chief, His Excellency the.
 Corbett, The Honourable Sir Geoffrey.
 Dadabhoy, The Honourable Sir Maneckji.
 Das, The Honourable Mr. S. R.
 Froom, The Honourable Sir Arthur.
 Habibullah, The Honourable Khan Bahadur Sir Muhammad, Sahib Bahadur.
 Haig, The Honourable Mr. H. G.
 Hooton, The Honourable Major-General Alfred.

Manmohandas Ramji, The Honourable Sir.
 McWaters, The Honourable Mr. A. C.
 Misra, The Honourable Pundit Shyam Bihari.
 Muhammad Buzlullah, The Honourable Khan Bahadur.
 Ram Saran Das, The Honourable Rai Bahadur Lala.
 Rampal Singh, The Honourable Raja Sir.
 Singh, The Honourable Raja Sir Harnam.
 Stow, The Honourable Mr. A. M.
 Swan, The Honourable Mr. J. A. L.
 Tek Chand, The Honourable Diwan.
 Thompson, The Honourable Sir John Perronet.
 Tudor-Owen, The Honourable Mr. W. C.
 Umar Hayat Khan, The Honourable Colonel Nawab Sir.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

“ That the following Resolution be adopted :

“ This Council recommends to the Governor General in Council that he be pleased :

- (a) to appoint a committee consisting of two members elected by the Legislative Assembly, one member elected by the Council of State, one member nominated by the Government and an Indian Member of the Executive Council of His Excellency the Governor General of India as President, to review the case of all other political prisoners convicted or under trial ; and
- (b) to order the release of all such prisoners as are not held to be guilty by this committee.’ ”

The motion was negatived.

RESOLUTION *RE* DEVELOPMENT OF NEW INDUSTRIES.

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

“ This Council recommends to the Governor General in Council to allot a sum of fifty lakhs per annum for the coming ten years in the annual Budgets for the development of new industries in India under the direct supervision and control of the Government of India.”

In connection with this Resolution, Sir, we should first of all realise the gravity of the economic conditions of the people of this country, and for this, Sir, we should review the history of our industrial progress for the last 50 or 60 years.

At the very outset, I am ready to admit, Sir, that we have made some progress in this direction during this period, but the question is whether this progress has been satisfactory, and whether it has been sufficient to solve the problem of the poverty of the people of this land. From the last Census

Report we find, Sir, that out of the total population, only 10 per cent. is dependent upon industries. But if we minutely examine this figure, we find that out of this small population, only 1 per cent. is directly dependent upon industries carrying them on in an organised way, and the rest 9 per cent. is scattered throughout the length and breadth of the country, carrying on remote concerns in an unorganised manner. Anybody who is acquainted with this kind of industries will at once realise that these industries in the mufassil are simply supplemental to the agricultural works, and, therefore, a good number of the population—I mean this 9 per cent.—which is dependent on such concerns is partly dependent upon agriculture. Even if for argument's sake, we admit that this 10 per cent. of the population is dependent upon industries, then too we find that the people dependent upon agriculture are increasing decade by decade, or, in other words, the burden on the soil is increasing. According to the last Census Report, out of the total population, 72 per cent. is directly or indirectly dependent upon agriculture, whereas, Sir, in 1891, this percentage was a little above 60. It clearly shows that our industrial progress has not been able to employ so much population that the burden on the soil may not increase. Before the advent of machine-made goods we had no doubt a large number of our population carrying on cottage industries. Though these industries were small, they were flourishing. After this advent on account of the competition of machine-made goods, both produced locally and imported from abroad, this population suffered and suffered so much that it had to take to the land. The result is clear, that to-day, we have more people dependent upon our land than the land can support. This is, Sir, in fact the main reason of the staggering poverty of the people of this country. We frequently hear that India is a rich country, or in other words, we have vast resources, resources of land, resources of minerals, resources of industrial development, and so on. It has been said that we are poor because we have not yet utilised these resources to the best advantage of the people of this country. But, then, who is responsible for not getting these resources utilised to the best advantage of the people of this land? Government say they are not responsible, and in proof of this they say that they have appointed so many Commissions and Committees on this matter. But, Sir, we should see the net result of these Commissions and Committees. The Industrial Commission came in 1918, and in the years that have gone by we see little progress. The Provincial Industrial Departments are in a morbid condition, sometimes conducted by unsympathetic officers, and sometimes starving for want of funds. Then came the Fiscal Commission, and slowly again, the Tariff Board in consequence. The Tariff Board may spend lakhs and may make lengthy reports only to find their recommendations—at least their important recommendations—shelved.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Which recommendation was shelved ?

THE HONOURABLE SETH GOVIND DAS : So many. These attempts could not solve the problem. They no doubt gave some material to the Director of Information for spreading wild stories, for spreading stories in high flown language, about the moral and material progress of India. It will be said that the average income of the people of this country is increasing. In 1900 it was Rs. 30, and in this very House, in 1914, the Honourable Mr. Cook declared that it was Rs. 50. It is said that it has further increased now. So far, no inquiry

[Seth Govind Das.]

worth the name has been made in this direction, and therefore, we cannot say how far these figures are correct. The Taxation Enquiry Committee was expected to throw some light on this problem, but it found our statistics available hopelessly inadequate for this purpose. Even if we admit this figure to be correct, this rise is a mere nominal rise, and it is due to the increase in price, or in other words, to the fall in the purchasing power of the rupee. If we compare the average income of the people of India with the average income of the people of other countries what do we find? In 1914, when the average income of the people of this country was £3, the average income of the people of Germany was £30, of France £38, of the United Kingdom £50, and of the United States of America £72.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir John Bell).

Even at the time of the War, we could not increase the average income of the people of this country. The other countries seized this golden opportunity and we were so backward that we were simply watched and saw how our own market was exploited by these foreigners. A handful of millowners and others did earn no doubt at that time.

But these profits were also very temporary and they were followed by great depression. To-day the depression is so great that
 1 P.M. even our most organised and established industry, I mean the cotton industry, is in a precarious condition—not to speak of other industries. This, Sir, is a brief history of our industrial progress during the last fifty or sixty years. In fact it is not a history of any progress worth the name. But, on the other hand, it is a history of how we have allowed ourselves to be exploited by foreigners. We went on killing our cottage industries without replacing them in a sufficient strength by modern industries; we went on exporting our raw material to other countries, to be returned to us in manufactured form and thus giving all the profits of manufacture to others; and the Government went on appointing Commissions and Committees.

Now, Sir, what is the position to-day? To-day the industrial department is a Provincial department and a transferred subject; because it is unfortunately a nation-building department. Among the transferred subjects it is a miscellaneous subject; and when the poor Minister cannot look after the important transferred subjects on account of want of funds, how can he look after this miscellaneous one? In addition, Sir, the Minister is obliged to consider non-Brahmin and such like communal interests and to advance the interests of his own community and, under the present constitution, he is not free to act as he thinks proper. If by chance or accident there is a competent Minister and he really wants to do something, then the question of money stands in the way. Fresh taxation at a time when the industries and trade are under a gloom of unprecedented depression, is not a thing which can be easily thought of. So, Sir, industries cannot be improved without fresh taxation, and fresh taxation cannot be imposed without the improvement of industries. It is really moving in a vicious circle. The Taxation Enquiry Committee was appointed to show the way out of this difficulty, but I am not aware of any province which could take advantage of the recommendations of this Committee even if we grant that they are useful. I do not see

any way out of this difficulty, I do not see any salvation until and unless the Government of India intervenes, and this intervention should not be merely by the appointment of more inquiry committees, but by a real move in the matter. Move means capital and organisation. As for capital, I ask for a small sum of Rs. 50 lakhs a year; a sum like this may be considered a big sum for an individual province; but for the Government of India which is spending Rs. 40 crores every year on the military alone, and that two for Imperial purposes, it is not at all difficult to invest—it is not expenditure, it is only an investment—this small trifling sum of Rs. 50 lakhs every year in industries. I do not mean, Sir, that Provincial Governments should have nothing to do with this programme. I want close co-operation between the Central and the Provincial Governments. Of course I want the funds to be provided by the Central Government because the provinces cannot afford to provide this money. When the funds are provided by the Central Government the supervision and control will certainly be in their hands.

I am not asking for anything new. State aid in a variety of ways to industries is a characteristic feature of modern nations. A recent example of this is the aid of the British Government to the Anglo-Persian Oil Company, and more recent still is their aid to the cinema film industry. Nearer home we have the example of the Mysore State which is carrying on many successful industries. His Excellency the Viceroy himself was pleased with these activities of the State during his recent visit. Then, again, Sir, the Government of India is also not an exception. They run the biggest industry to-day in India—the Railways are theirs.

In conclusion, Sir, I beg to point out that in spite of the best and varied resources India to-day is the poorest country in the world. One-fifth of the population of the world is not living like human beings. It is badly fed, badly clothed and badly housed. The Government, if it boasts to be a civilised Government, should come forward and help the teeming millions of this land. If the Government really want to increase the national wealth of this land, if they really want to make the people more wealthy and prosperous, if they really want to raise the standard of the people's living, if they really want to provide good employment for the excess number of people who are starving for want of employment or are pressing on the land, and if the Government really want to save the country from foreign exploitation, they should open one industry after another in a systematic manner. If that is done, I am sure the problem will be solved. It is not possible for any individual or for any limited concern to take up this work now. The risk of foreign competition is before them. But if the initial difficulty of opening these new industries in the face of foreign competition is removed by the Government, I am sure that in future many individuals and many limited concerns will come forward to take up this work with the necessary capital and the necessary technical skill. During the War, Government themselves realised that India would have been a far more important source of strength to the Empire if her national resources had been utilised more fully and if her industries had been developed. And though it is late, there is yet time to start new industries and to prevent old established industries from going down. With these words, Sir, I move my Resolution, and I hope this House will give that consideration to the Resolution which the importance of the subject deserves.

THE HONOURABLE MR. A. C. MCWATTERS (Industries and Labour Secretary): Sir, the Resolution which has been moved by my Honourable friend seeks to impose a somewhat formidable liability upon not only the present Finance Member but upon future Finance Members, whoever they may be; and I think it is important at this stage that I should indicate what the attitude of the Government is towards this Resolution. Whether the figure suggested may be considered trifling, as by the Honourable Mover, or perhaps ambitious, the Resolution does raise two important questions of principle, the first constitutional and the second financial. I think that the Honourable Mover himself realised, perhaps somewhat dimly, that there was a constitutional question involved, and I should like to make that position quite clear to the House in the first instance, because the constitutional position alone would make it somewhat difficult for the Government to accept this Resolution as it stands. The position is that under the constitution the development of industries is a provincial transferred subject. There is one exception—the Governor General in Council can declare after consulting Local Governments that the development of any particular industry may be treated as a central subject if it is expedient in the public interest. This position was arrived at, not by chance, but after a great deal of discussion by the Government of India in their despatches on constitutional reform, by the Functions Committee, and by the Joint Committee of Parliament; various views were expressed, I admit; but, finally, the result arrived at was that normally speaking the development of industries should be a provincial transferred subject.

In certain cases the Government of India can take action to make the subject central, but this refers, as the context shows, primarily to existing industries of national importance; there was no intention of making the stimulation of new industries a central subject. It is quite clear that the development of new industries was regarded by the Functions Committee as well as by the Joint Parliamentary Committee as a suitable subject to place under the charge of Ministers. I can quote the exact words of the Feetham Committee. This is what they said:

“The development of industries on which, in our opinion, the future of India so much depends, should be under the control of the representatives of the people.”

• They felt that such control would be more intimate, and that the Government of India were more aloof; that small industries, and new industries in particular, would be more likely to be efficiently helped by the representatives of the people who would be able to take a direct local interest in the stimulation of these industries. Anyhow, that is the present position. In view of that position it is constitutionally impossible for the Government of India to allot in the Central Budget a lump sum or any sum unless the development of particular industries has been definitely declared to be a central subject in the general interest.

I think, Sir, the Honourable the Mover was a little unfair to the Provincial Governments when he described their Industries Departments as being,—I think he used the words “in a morbid condition”. Possibly he meant “Moribund”. I think that is unfair, because I happen to know that there are a good many provinces in which the Industries Departments are functioning and functioning very efficiently too. And apart from the normal work of the departments of Industries, there are at least three provinces which

have passed State Aid to Industries Acts. Such Acts have been passed in Madras, in Bihar and Orissa and in the Punjab, and in all these provinces loans of considerable amount have been given or are under contemplation for new or existing industries. There are also several provinces which have, without actually passing a State Aid to Industries Act, managed to give very large sums to industries. For instance, in the United Provinces, my own Province, there is a Board of Loan Commissioners, who have actually lent large sums of money even without a State Aid to Industries Act. Of course, the fact of the matter is, as the Honourable Mover quite rightly recognised, that the Provincial Governments have been handicapped through want of funds, and that really goes to the root of the matter. It is not that the present constitution is necessarily defective, but that both the Central Government and the Local Governments have in these matters been very much handicapped through want of funds. That brings me, Sir, to the next point, the financial point. I think the House will agree with me that the provision of a large lump sum in the Budget is not the right way to develop industries; in fact, if I may express my own private opinion, I can conceive of no method better calculated to waste public money than the one suggested by the Honourable Member. You want to have first of all the whole field surveyed; you want to have a definite programme worked out, just the sort of programme we are endeavouring to work out in regard to technical education. The Finance Department have quite rightly insisted on having a quinquennial programme carefully worked out. Until you have a programme, there is no good in budgeting for 50 lakhs or 50 crores or any other figure, because the money will be simply wasted. That is one objection, but the financial objection goes even further. The Government of India have definitely declared their financial policy to be the extinction at as early a date as possible of the provincial contributions, and the reason for that is mainly because they wish to allow the provinces to have a fair chance of developing industries and other matters of provincial importance with a reasonable amount of funds at their command. Obviously the best way, at present at any rate, to improve the industrial development in India is to get rid of the provincial contributions and to enable the provincial Departments of Industries to operate with much more funds at their command than they have at present. That, I submit, to the House is the right line of development; you have first to get rid of the provincial contributions, and I think you have also to keep in mind certain other things; you have got to consider your tariff policy; you have got to consider whether there are any forms of taxation which at present press heavily upon industries,—I think you have got to consider whether you have a prior obligation in these matters also.

I think that is really all I have to say in answer to the Resolution. But I think it is important to remember that the functions of the Central Government in this connection are really very wide and very important indeed. The Central Government, in the first place, covers a very wide field of legislation, currency, banking, commercial law, patents, labour legislation, etc., all of which bear directly on industrial development. In the next place, it is a duty of the Central Government to provide cheap and safe means of communication. Here again arises the question of railway rates, and their reduction is certainly one of the best methods of helping industry. Then the Central Government has

[Mr. A. C. McWatters.]

under it a large number of technical departments, such as the Geological Survey, the Forest Research Institute, the Agricultural Institute at Pusa, the School of Mining and Geology, and so on, all of which represent a very large sum indeed provided in the Central Government's budget every year for the development of industries and the development of research in the interests of industries. And, finally, and most important of all, the Central Government has the regulation of the tariff and protective duties. In all these respects, the Central Government is actively concerned and is expending large sums of money on the development of industries, though not exactly in the way of providing a large direct subvention in the Budget. Finally, Sir, I again submit to the House that, both from the constitutional point of view as well as from the financial point of view, there are serious practical difficulties in accepting this Resolution, and it does not seem to me the most practical or suitable method of procedure.

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

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

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I rise to support this Resolution with some reservations. It is good that Government should take up the development of industries in India, but I submit that, while doing so, we should take care to see that such development does not pass into the hands of non-Indians so as to enable them to exploit the material resources of India at the cost of the people of India. It is better that the resources of India should remain unexploited than that they should pass out of the hands of Indians to benefit foreign exploiters. For some time past I have been trying to introduce a Bill to safeguard such rights, but Government have proved to be like a dead stone wall against which I am knocking my head in vain. The constitutional objection raised by the Honourable Mr. McWatters may be solved by deleting the words beginning with the word "under" to the end of the Resolution, and I would ask the Honourable Mover of this Resolution to accept that suggestion. As regards the financial objection, I submit the provision of a sum of Rs. 50 lakhs is not too much likely to affect other questions of financial importance.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I am an industrialist and I am very anxious to see the development of industries in this country. Therefore, I am in entire sympathy with the Mover of this Resolution so far as the general aspect of his Resolution is concerned. But the manner in which his Resolution is worded is my difficulty in supporting it. Another unfortunate thing is that in discussing the question of industrial progress of India, he as well as the last speaker have spoken at considerable length on the exploitation of Indian industries by foreign capitalists. My Honourable friends forget that in India capital is very shy, and that the people by nature and temperament are conservative and are wedded to agricultural industry. They are not disposed by temperament and also by a lack of certain other things, such as technical knowledge, experience, and so on, to handle the industries of this country. I cannot do

better than point out in a few words the great obstruction to industrialisation of India as stated by the Fiscal Commission. At page 39 of their Report, discussing the various factors which retarded the progress of industries in this country, they stated that they agreed with the Industrial Commission and gave several instances, and those were :

" the natural conservatism of the people, the inefficiency of labour, the absence of industrial and technical education, the lack of business enterprise, the shyness of capital for new undertakings, and the want of proper organization for utilising such capital as is available."

These were the chief and fundamental factors which the Fiscal Commission after mature consideration for several months suggested as great obstacles in the way of the industrialisation of India. In order to facilitate the progress and advancement of industries in this country, they suggested entirely new methods other than what were suggested by my Honourable friends, Mr. Govind Das and Mr. Kumar Sankar Ray Chaudhury. They strongly recommended, if India wanted to develop its industries, that foreign capital should be wholeheartedly invited, and that foreign capital was absolutely necessary for many more years in this country. My Honourable friend, Mr. Govind Das has very glibly talked of foreign exploitation. He thinks that every rupee which is brought to this country does not help this country, but that it is all for the benefit of the foreign capitalist who brings his money here and takes it away ten fold afterwards. He forgets that foreign capital employs indigenous labour, hundreds and thousands of people live and get means of maintenance by the advent of foreign capital into this country. Just here, for a moment let me read to the House what the Fiscal Commission have to say on this point. May I remind the Council that the quotation which I am going to read has not been even dissented from by the minority members of the Commission. They have all agreed unanimously on this point as regards foreign capital. At page 157 they say :

" But when the matter is really examined, there can be no doubt that, though the foreign capitalist may get his profit, the main advantage from the employment of foreign capital remains with the country in which it is employed. In the case of India this is particularly clear. In the earlier part of this report we have mentioned that India suffers notoriously from a lack of capital, and that for her rapid development more capital is urgently required. If, therefore, in addition to her own resources of capital she is able to attract capital from abroad, her development will be accelerated."

Then, they laid down in most emphatic language the following :

" Therefore, it is of the first importance that the development of new industries should proceed as rapidly as possible. The more capital is employed in the development of industries, the more rapid will that development be, and therefore the shorter will be the period of the burden on the consumer. Moreover, apart from the intrinsic benefits of increased supplies of capital, the foreigner who brings his capital to India supplies India with many things of which at her present stage she stands greatly in need. It is on the whole the foreign capitalist who imports into the country the technical knowledge and the organisation which are needed to give an impetus to industrial development. It is to him that we must look largely at first for the introduction of new industries and for instruction in the economies of mass production. By admitting foreign capital freely India admits the most-up-to-date methods and the newest ideas, and she benefits by adopting those methods and assimilating those ideas. If she tried to exclude them, the policy of industrialisation which we contemplate could with difficulty be brought to a really successful pitch. We hold, therefore, that from the economic point of view all the advantages which we anticipate from a policy of increased industrialisation would be accentuated by the free utilisation of foreign capital and foreign resources."

[Sir Maneckji Dadabhoy.]

Therefore, if my Honourable friend has at heart the real interests of this country in the matter of industrialisation, he should not talk against foreign capital and the exploitation of India by foreigners, but assist in inviting foreign capital to this country. So far as the Resolution is concerned, my difficulty in the matter is this. I think that all industries must first originate in private enterprises. That private enterprise would proceed from a knowledge of the various factors in respect of a particular concern or industry, and therefore, the responsibility must, in the first instance, be taken by the promoters of such an industry. I do not believe, except in a very very rare case such as the pulp industry, which, I understand, has been started by Government in Dehra Dun with a great portion of State capital there may be such exceptional cases, but ordinarily I think the enterprise must proceed from private shareholders' money, or private proprietary concerns. Of course, when these concerns are started, and the industries are of a promising character, and where any such industry being an infant industry suffers from unfair competition with foreign production or anything like that, then the Fiscal Commission have recommended the giving of bounties or the imposition of protective duties. Those are the ordinary methods of giving encouragement to industries by the State. But I am not in favour of the State taking upon itself the responsibility of going round the country and establishing manufacturing or industrial concerns. The State will be going out of its own way, and the adoption of such a policy would require a very large sum of money to finance such concerns. In this Resolution my friend the Honourable Seth Govind Das asks for Rs. 50 lakhs to be distributed for this purpose. What is even 50 lakhs in the matter of industrialisation of the country among the 9 great provinces of India? It works out to about 4 or 5 lakhs a year. That will not help even one concern in one province. It cannot perform that great part in the matter of industrialisation which my Honourable friend thinks it would. Though I am in great sympathy with the object of the Resolution, I am not in a position to support it on account of these practical considerations. I do not wish to go into the constitutional part of the question which has been fully dealt with by my Honourable friend Mr. McWatters. I am glad, however, that in a way this discussion will open the eyes of Local Governments, and I should be very pleased to see the Local Governments always ready and willing to help by temporary loans such industries which require money for immediate purposes. But beyond that, I am not prepared to go further. In my opinion, the industries of India must emanate from private capital and within the purview of the recommendations of the Fiscal Commission only, if need be, they can be supported by temporary State loans.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhamadan): Sir, I appreciate the patriotic motives which have prompted my Honourable friend to bring forward this Resolution. But at the same time, I realise the difficulties which have been pointed out by the Honourable Mr. McWatters. I quite understand, and I believe the Mover agrees with me in what I say, that the prosperity of the country, as some one has said before, rests very largely on its commerce, on its manufactures and also on its means of transportation. India is principally an agricultural country. Its commerce

is fast growing. In that connection, I am tempted to read a sentence or two from a lecture recently delivered by our very able and energetic Trade Commissioner for India in London, Mr. H. A. F. Lindsay. He said :

" It is not usually realised that India holds so important a place in the world's trade, having advanced from the sixth place in the list of the principal countries in 1913 to the fifth place in 1924. During the last three years, according to the Review of the Trade of India, published by Dr. D. B. Meek, Director General of Commercial Intelligence and Statistics, the volume of export trade has regained its pre-war level, but so far as the import trade is concerned the recovery is still very far from complete."

I wish he could have made a statement in the same strain in regard to our industries. There is certainly much required to be done in this direction, but I doubt if much can be done in the manner suggested by my Honourable friend. My Honourable friend simply asks for setting apart 50 lakhs and for giving it to the different provinces. How this is to be apportioned, and for what industries, he does not mention. The Honourable Mr. McWatters has explained the difficulties, first the constitutional and then another. But he went further and said that if there were a national industry, which was going to benefit the whole country, the Government of India would recognise that point and perhaps would come to the help of such an industry. After that explanation, I think it will be better if my Honourable friend brings forward some definite proposal for help from the Government of India for such a national industry or industries. In that case, we can take the Honourable Mr. McWatters at his word and get the Government of India to help that industry as best possible. I realise, Sir, that within the last half a century, amongst Eastern countries, Japan has done very considerably to improve her industries, and has done so by subsidising industries and giving help of different kinds. But what exactly they are, and how their constitution differs from ours I am not in a position to say or to offer any constructive proposal to the Government of India. In the absence of that information, I am afraid I cannot support my Honourable friend Seth Govind Das' proposal as it stands.

Then again, there is much force in what the Honourable Sir Maneckji Dadabhoy has said. It cannot be denied that as a rule, the people of India do not have the spirit of what we might call 'No venture, no gain'. In some of the Presidencies this does exist to a far greater degree than in others. So far as one knows, Bengal is the richest province in India, and yet I cannot help admitting that so far as the Indian population is concerned, the rich people in that province prefer to buy land or invest in Government paper, and look askance at industrial investments. It is different perhaps in Bombay, in the Central Provinces or in the Punjab. Therefore, as Sir Maneckji Dadabhoy rightly put it, much depends on the temperament of the people themselves. They might educate themselves to invest in industries. If the people help themselves first by starting industries I do not see why we cannot appeal to Government to come forward to their help if help is needed.

Now, it is not that Provincial Governments do not help industries. Some Provincial Governments do. I have within my knowledge one particular instance to which I would like to refer, and that is in connection with the province of Bihar and Orissa. There is a company known as the Indian Wire Products Company, Limited ; it was going to the wall and one large company which was a creditor was prepared to accept Rs. 2 lakhs in

[Sir Phiroze Sethna.]

debentures for the amount due to it; and the Government of Bihar acceded to the proposal of the company and advanced Rs. 5 lakhs in debentures to that company for the benefit of this particular industry; I am sorry to say that the Government of Bihar and the other creditor I have referred to are likely to lose the greater part of the money they have advanced.

Now, as, the Honourable Mr. McWatters has told us, if the provincial contributions are reduced or done away with, as they are bound to be in course of time, there will be more money at the disposal of the provinces, and then Honourable Members like Seth Govind Das and others who take such a keen interest—and rightly so—in this question could press their own Provincial Governments to help their industries as much as possible. If the provinces are relieved of the financial contributions, they certainly will have more money at their disposal; and if, God willing, the Central Government's revenues largely increase, it will be possible also to reduce taxation, which, if done, will enable even the Central Government to help national industries in the manner that Mr. McWatters has pointed out. The Statutory Commission will, it is hoped, soon be coming to this country and we shall not be losing much time if we delay the further consideration of this question till then, unless, as I have said, Seth Govind Das is able to bring forward a fresh Resolution for helping any particular national industry or industries—I say it will be better to wait until the Commission arrives for the reason that the Commission must consider the apportionment of the revenues between the Central Government and the Provincial Governments, and at that time the Commission might be informed of the views held by this Council as a result of the debate we are having to-day and which, if done, let us hope the Statutory Commission will devise ways and means whereby the object my Honourable friend has in mind will be well served and the industrial interests of the country advanced.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the spirit underlying the Resolution. It is a matter of gratification to us Punjabis to find that in our province an Industrial Board has been appointed and in a very short time it will be able to function. The question of finance, as the Honourable Mr. McWatters has himself realised, is a point on which consideration is needed. I beg to suggest that a Central Industrial Board be formed under the Government of India, which should be able to assist Provincial Boards wherever they exist. To expect each province to scrutinise some business venture will be to multiply expense on those particular ventures. What I beg to suggest is that in the Central Industrial Board questions of industrial development be considered and mature schemes should be put before the public and the public could then learn that they could start on certain industries which would be of profit to them. What we find now is that owing to the want of complete information, certain industries are started and then later on experience shows that the scheme was not well thought out and the result is disaster. In certain undertakings technical experts cannot be easily had and for want of that technical expert certain business firms fail when their first industrial expert resigns or dies. Therefore, Sir, although I do not want that a certain definite sum like Rs. 50 lakhs should

be allotted, I would leave that to the discretion of Government. Let them decide what amount they could easily spare for this purpose and that amount ought to go to assist the Central Industrial Board which should be an advisory body of all Indian Provincial Industrial Boards. One of its duties will be to scrutinise the various possible successful concerns or ventures which can be floated in each province and then put before the public full information and *pro forma* balance sheets to enable them to float such concerns. I quite agree with Sir Maneckji Dadabhoy that foreign capital ought not to be discouraged. In my opinion foreign capital has assisted India a great deal and has developed a number of industries which would not otherwise have been developed. My idea, therefore, is that we ought to work hand in hand with Europeans and learn those industries which India at present does not possess. I find, Sir, that certain industries which were started during the War in various provinces and which were then patronised by the Governments have now come to grief owing to the Government patronage being taken away. I will mention a few industries to illustrate my point. Some of the industries in the Punjab like surgical instruments, galvanised tubs and buckets and such like small industries which thrived very well during the war are now in difficulties. If there is a Central Board, the Provincial Board will be able to place before it the facts and the Central Board will exercise its influence with the Government of India to come to their assistance in some reasonable manner.

With these words, Sir, I support the principle of the Resolution though not the amount which the Honourable Member recommends. The Central Board will also be able to consider what industries ought to be subsidised and the amount of subsidies which ought to be recommended.

THE HONOURABLE SIR MANMOHANDAS RAMJI (Bombay: Non-Muhammadan): Sir, I am glad that the Honourable Mr. McWatters has raised two important points in connection with this Resolution. One is about the constitutional question—whether the Central Government can do this kind of work; and in support of that argument he said that the Mover of the Resolution had failed to point out the nature of the industries that he wanted to support. That is so, Sir, the Mover has not done it; but perhaps at a later stage he might do so.

I may point out to my friend some industries which are purely in the nature of central subjects. Take the ship-building industry. Is it not a central subject? Take the dyeing industry. Is it not a central subject? Take the chemical industries. Is it not a central subject? You can find out a dozen industries which could be very well taken up as a central subject requiring the full attention of Government. Another question that the Honourable Member raised was that this was a provincial subject. It is a provincial subject for minor industries. Nobody wants small industries to be developed by the Central Government. The position of Provincial Governments is well known. In the case of Bombay recently a Committee was appointed to go into the question of development of industries and the Industries Department. After the first sitting of that Committee, the terms of reference were changed and it was pointed out to the Committee that on account of financial stringencies the scope of the Committee was curtailed and the only function that remained for the Committee was to fix the salary and the qualification of the Director of Industries. Although the Presidency of Bombay is spending about two lakhs of rupees

[Sir Manmohandas Ramji.]

per-annum that all goes towards the upkeep of the officer and office of that Department and nothing more. That is the position of the Bombay Government. Now about foreign capital. My Honourable friend Sir Maneckji Dadabhoy has rightly pointed out to this Council that we must have the help of foreign capital because money is so dear in this country. If foreigners can find it easy to realise about 6 per cent. and be satisfied with that return, naturally they must look to India to invest their capital. It is difficult to find in India capital at 6 or 7 per cent., and that is the root cause why capital does not come out of hordes. Therefore, we should encourage foreign capital as much as we can and side by side try to develop our industries with our capital. At one time this country was independent of any other foreign country for its domestic requirements. What is the position to-day? The position, as I found it to my bitter experience during war time, is that if the war had continued three years longer, it would have been difficult to get out coats sewn by a worthless needle. The country could not produce a needle or a pin. The Government of India in those days were very keen to help industries, and since the war everything is neglected and things have to find their own way. It is one of the duties of Government to see that the country is rendered independent of any other foreign countries for its domestic needs, which Government will also find it to its advantage one of these days. With these remarks I support the Resolution.

THE HONOURABLE SETH GOVIND DAS: In reply to the debate I have very few observations to make as my task has been much lightened by my Honourable friend Sir Manmohandas Ramji. The Honourable Mr. McWatters in opposing the Resolution raised two important issues, one constitutional and the other financial. As regards the constitutional point he himself has admitted that though the Industries Department is a provincial department, yet in exceptional cases the Government of India can interfere. As regards the activities of Provincial Governments in this respect I said in my speech when I moved my Resolution that these departments in the provinces are in a moribund condition. The Honourable Mr. McWatters pointed out the examples of three provinces which have done something in this respect.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces : Nominated Official): The United Provinces have also done something. I think Mr. McWatters mentioned the United Provinces.

THE HONOURABLE SETH GOVIND DAS: According to my Honourable friend Pandit Shyam Bihari Misra, the United Provinces have also done something. Out of nine provinces only four have done something and that is very little. As regards Madras, I have heard from my Honourable friend Mr. Ramadas Pantulu that though an Act has been passed yet very little action has been taken. I made it very clear that I did not want that provinces should have nothing to do with this department. What I want is the close co-operation of the Central Government and the Provincial Governments in this respect. My Honourable friend Sir Phiroze Sethna has pointed out that I have not mentioned any national industries in which the Government can invest this amount of 50 lakhs. It is a matter of detail and, if the Government accepts the principle, it can very well be done. It has been said not once, not twice but times without number, that India has vast natural

resources. These resources have not been utilised. There are provinces in which there are considerable resources and they cannot get as satisfactory results by working alone as they can if they work in co-operation with the Government of India. I am sure, Sir, if the Government of India accepts that India has vast resources, they can find out such national industries in the country in which they can invest a small sum of 50 lakhs of rupees.

Then as regards the financial aspect of the question, it is an old, old pretext of Government. This financial bogey is always brought before us whenever any useful proposition is brought forward before the Council by the representatives of the people. If we want to reduce taxation, the financial bogey is put before us. If we want national development, the financial bogey is put before us; in fact whenever we, the non-official Members, ask for funds for constructive work of any kind, the bogey of want of funds is put before us. May I ask the Honourable Mr. McWatters how can Government afford 40 crores of rupees for military expenditure? May I ask him how can the Government of India spend lakhs and crores in Reverse Councils? Then, Sir, when the Government of India are spending so much and are investing so much, I think they can easily invest this small sum. It is in fact no expenditure; it is in fact an investment. The Government of India have invested crores and crores on Railways borrowed from foreign countries, and I think they can very well afford to invest this small sum for the development of industries.

Then, Sir, the Honourable Mr. McWatters placed a big list before the House regarding the functions of the Government of India. One more function will not overload the Government, I am sure. The Provincial Governments are already interested in this matter, and if the Central Government also give a little help, it will not be a big thing for them.

Then, Sir, my Honourable friend Mr. Ram Saran Das pointed out that he does not agree with me regarding the sum of 50 lakhs. I am not very particular about the 50 lakhs. I only want that the principle be accepted by the Government; the amount may be more or it may be less. It may be 2 crores or 1 crore or 25 lakhs, or any amount which the Government think fit. As far as I think, Sir, this sum of 50 lakhs is a very small sum. It should have been crores, but even when such a reasonable amount of 50 lakhs is opposed, I do not think Government would be prepared to accept a bigger amount.

Then, Sir, my Honourable friend Sir Phiroze Sethna pointed out that, as the Statutory Commission will be coming out shortly, we should wait till then and bring this point before them. If the Government of India accept the principle of my proposition, and if they bring the point before the Statutory Commission, I think it will certainly carry far greater weight. Therefore, Sir, for all these reasons, I cannot see my way to withdraw my Resolution and I commend it to the acceptance of the House.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : On a point of information, Sir, may I ask the Honourable Member in charge how the Central Board of Agriculture is constituted when Agriculture is a provincial subject?

THE HONOURABLE THE PRESIDENT : The Honourable Member is not rising to a point of personal explanation.

THE HONOURABLE MR. A. C. MCWATTERS : Sir, I have a very few words to say in reply. I should like to assure the Honourable the Mover of the Resolution that if I have not been able to accept the Resolution on behalf of Government, it is not because I am not fully impressed, as he is, with the importance of industrial development. It is solely because the method which he has suggested to assist that development is not, in my opinion, at the present moment, at any rate, a practical one, because we have not only a constitution with its various complications, but because we have financial obligations in front of us which, in my opinion, have first got to be liquidated before we can consider lump sum grants of this kind in the Central Budget.

There are one or two points in the Honourable the Mover's speech to which I should like to refer very briefly. He said that I had said that only three provinces were assisting the development of the industries of the country. What I said was that in three provinces State Aid to Industries Acts had been passed. That is the particular method of assisting industries which has been adopted in three provinces, and I went on to point out that in several other provinces, instancing the United Provinces, the same result had been attained without any Act at all by Boards of Loan Commissioners. I was not in any way suggesting that the other provinces had done nothing.

Then the Honourable Sir Manmohandas Ramji called attention to the position in Bombay. There, I think, the point he made about the procedure of the Committee specially appointed by the Government of Bombay really reinforces my point, that effective action was not possible simply because the province was unable to spare the funds, and, therefore, the right policy, in my opinion, is to put the provinces in funds to fulfil what is their primary function.

There was one point in the Honourable the Mover's speech which I think I can hardly pass over, and that is his remarks about the military budget. When I gave a list of the various functions of the Central Government in connection with industries, I think perhaps I ought to have included national defence and the protection of person and property. There is no function of the Central Government more important and more essential for industrial development than that, and it is therefore essential that in the Central budget fairly large sums should be provided for the army in the interests of industrial development.

One question was addressed to me about the constitution of the Central Agricultural Board. I have no direct knowledge of the constitution of that Board, but I quite agree with what has been said by several speakers that it is in the spirit of the constitution in certain circumstances to declare particular industries as of national importance. I made that point quite clear in my speech that particular industries may, in special circumstances, be treated as Central subjects.

Before concluding, I should like to say that I am sorry I am not able to accept this Resolution. Like the Honourable Mr. Ram Saran Das I am in sympathy with the spirit of it, and I think the Honourable Mr. Ram Saran Das made a very good point when he raised the question of central

co-ordination, co-ordination of information and so on. I should be the last to say that that problem has yet been satisfactorily solved. It is a point which we will keep in mind, and as more and more funds become available to the Central Government, the question of co-ordination, which is an important one, will not be lost sight of :

THE HONOURABLE THE PRESIDENT: The question is—

“That the following Resolution be adopted:

‘This Council recommends to the Governor General in Council to allot a sum of fifty lakhs per annum for the coming ten years in the annual budgets for the development of new industries in India under the direct supervision and control of the Government of India.’”

The Council divided:

AYES—16.

Desika Chari, The Honourable Mr. P. C.

Govind Das, The Honourable Seth. Khaparde, The Honourable Mr. G. S.

Manmohandas Ramji, The Honourable Sir.

Mehr Shah, The Honourable Nawab Sahibzada Saiyad Mohamad.

Mukherjee, The Honourable Srijut Lokenath.

Oberoi, The Honourable Sardar Shivdev Singh.

Padshah Sahib Bahadur, the Honourable Saiyed Mahomed.

Ram Saran Das, The Honourable Rai Bahadur Lala.

Ramadas Pantulu, The Honourable Mr. V.

Rama Rau, The Honourable Rao Sahib Dr. U.

Rampal Singh, The Honourable Raja Sir.

Ray Chaudhury, The Honourable Mr. Kumar Sankar.

Sett, The Honourable Rai Bahadur Nalininath.

Sinha, The Honourable Mr. Anugraha Narayan.

Umar Hayat Khan, The Honourable Colonel Nawab Sir.

NOES—26.

Akbar Khan, The Honourable Major Nawab Mahomed.

Akram Hussain Bahadur, The Honourable Prince A. M. M.

Alay Nabi, The Honourable Saiyid.

Bell, The Honourable Sir John.

Berthoud, The Honourable Mr. E. H.

Brayne, The Honourable Mr. A. F. L.

Charanjit Singh, The Honourable Sardar.

Commander-in-Chief, His Excellency The.

Corbett, The Honourable Sir Geoffrey.

Dadabhoy, The Honourable Sir Man-eckji.

Das, The Honourable Mr. S. R.

Froom, The Honourable Sir Arthur.

Habibullah, The Honourable Khan Bahadur Sir Muhammad, Sahib Bahadur.

The motion was negatived.

Haig, The Honourable Mr. H. G.

Hooton, The Honourable Major-General Alfred.

McWatters, The Honourable Mr. A. C.

Misra, The Honourable Pandit Shyam Bihari.

Muhammad Buzlullah, The Honourable Khan Bahadur.

Natesan, The Honourable Mr. G. A.

Sethna, The Honourable Sir Phiroze.

Stow, The Honourable Mr. A. M.

Suhrawardy, The Honourable Mr. M.

Sawn, The Honourable Mr. J. A. L.

Tek Chand, The Honourable Diwan.

Thompson, The Honourable Sir John Perronet.

Tudor-Owen, The Honourable Mr. W. C.

RESOLUTION *RE* GRIEVANCES OF RAILWAY EMPLOYEES.

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

“ This Council recommends to the Governor General in Council to appoint a Committee of three members consisting of the Honourable the Government Member for Commerce and Railways as Chairman and two other members, one from the Legislative Assembly and the other from the Council of State, elected from among the elected members of those respective bodies, to enquire into the grievances of the railway employees throughout the railway system in India, both State-owned and Company-managed, and suggest ways and means for the amelioration of their lot.”

Sir, this is an old sore—this question of the grievances of railway employees—which has been left uncared for and neglected for a number of years, and if I am raking it up to-day, it is because I find that the sore is of a cancerous origin and is fast spreading and eating into the very vitals of the Railway Administrations in this country. The Legislative Assembly from 1925 onwards had tried its level best to get this wound healed up but had failed in its efforts. The Government, with their characteristic pertinacity, refused to yield, interpellations, Resolutions and censure motions notwithstanding! Sir Charles Innes, in one of his replies, stated that it was dangerous to appoint an Enquiry Committee, that the railway employees numbering about 7½ lakhs all told, were an inflammable stuff, easily irritable and even the slight disappointment might end in danger. But he has failed to recognize that a discontented staff is a greater danger and an impartial enquiry may soothe their hearts and allay the unrest. Due to the world-war and the after-effects of the war, there has been an all-round increase in the wages of employees throughout India, either working under Government or working in mercantile firms, but in Railway Administrations alone, we have that order reversed, and wages, especially of the subordinate employees, considerably reduced. The Lee Commission gave the European officers employed, both in State and Company-managed Railways, all the concessions admissible to the Superior Services under the Government, but the increased emoluments, which the Government themselves have granted to their own subordinate services, have not been given to those in railway employ. Why? Because the controlling agencies that are responsible are unwilling to part with a pie more, but, on the other hand, are taking undue advantage of the law of supply and demand and want to squeeze out as much as possible from the sweat of their ill-paid, half-starved staff.

The Report of the Railway Board on Indian Railways in 1925-26 affords a curious study and betrays a lack of uniformity, want of system and huge waste in the working expenses. Taking the East Indian Railway as the model of sound railway administration in this country to-day, we find the Bengal Nagpur Railway, a Company-managed Railway, working in the same province and very nearly of equal mileage, comparatively unsound financially. While the East Indian Railway has earned a fabulous gain of Rs. 2,84,14,000 (2 crores 84 lakhs and fourteen thousand rupees), the Bengal Nagpur Railway suffered a loss of Rs. 46,60,000 during 1925-26. The East Indian Railway, it must be remembered, charges the cheapest fares in India, 2½ pies by mail and 2 pies a mile by ordinary trains for distances over 300 miles. Evidently the prevalent

discontent among the staff of the Bengal Nagpur Railway is the reason for the heavy loss in this railway. The cost of hauling a passenger one mile in this line is about Rs. 2.71, the highest for any Railway. It spends on its Agent's office 0.36 per cent. of the total earnings, the highest for any Railway (equalled only by the East Indian Railway which might justify this expenditure on account of its increased earnings) and 1.03 per cent. on its Audit Department against 0.92 per cent. spent by the East Indian Railway. On the Traffic Department it spends less—a department which earns, not spends, i.e., only 34.4 per cent. Every one of those items of expenditure can be curtailed and the accrued profits utilized to pay better wages to the lower subordinates and to reduce the fares. Coming to the South Indian systems, the Madras and Southern Mahratta Railway earned a net profit of Rs. 84,85,000, while the South Indian Railway earned Rs. 1,13,12,000 in 1925-26, though the mileage of the Madras and Southern Mahratta Railway is 2,996, while that of the South Indian Railway is only 1,876. Still, the South Indian Railway spends much less on its Traffic Department. It does not however seem to tend to economy where big interests are concerned. For, in 1925-26, the South Indian Railway spent Rs. 14,25,000 more on the maintenance of structural works, Rs. 10,27,000 more on the maintenance of carriage and waggon stock, Rs. 2,43,000 more on the supply of locomotive power, but only Rs. 14,000 more on the Traffic Department than in 1924-25.

THE HONOURABLE THE PRESIDENT: Order, order. I hope the Honourable Member will speak of the grievances of the railway employees. He seems to be talking about the grievances of the tax-payer all the time, or of the public.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: I am only pointing out the exorbitant demands made by the Railway Administration.

THE HONOURABLE THE PRESIDENT: The Honourable Member is decidedly labouring the point.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: To come to the point, Sir. On the Agent's Office, the South Indian Railway spends 0.37 per cent. of its total earnings, a percentage equal to that of the East Indian Railway, a broad gauge railway whose mileage is nearly double and whose profit is over two crores. Under the head of general administration, the South Indian Railway spends much more than the East Indian Railway. While money is thus lavishly spent on the superior staff of those departments, the South Indian Railway pays only Rs. 20-8-0 per mensem as the minimum wage for the traffic staff, and tells the men who cry for a living wage that it is not a business proposition to pay more when an adequate supply is available at a less cost. A contented staff is the greatest asset to any business concern, and a true business man must aim at securing this in the first instance. The Government and the heads of Railway Administrations will, by their apathy and stubbornness, only be driving discontent deeper underground. Not is this all. Low wages will lead to demoralization. The staff will be tempted to take bribes, wink at every offence for a paltry gain for themselves and mercilessly prey on the public. Not only will the Railway Companies be put to loss but the public will also suffer. There will be laxity in administration. The staff should therefore be placed above temptation, and if the railway concerns wish to thrive, they should

[Dr. U. Rama Rau.]

pay their staff not hand-to-mouth wages but handsome wages, commensurate with the risk and responsibilities involved. The safety of the lives of the travelling public depends on the contentment of the subordinate staff of the Railways, working in the Loco, Traffic, Engineering and other allied departments. Besides low wages, these employees seem to suffer under various other disabilities. There is racial discrimination, there is the housing problem, there is the question of affording facilities for the education of the children of the staff, there is the question of appeals against arbitrary fines, suspensions, dismissals, forfeiture of provident fund, etc.,—all these will have to be enquired into and solved to the satisfaction of both the employers and the employees. The Railway Unions are still in embryo and are powerless to act against the dictatorial authority of their own superiors, whose judgment they often have to question and criticize. It is quite necessary, therefore, that an impartial enquiry should be instituted forthwith and this could best be done by the small Committee I have proposed. By so doing, the Government will not only satisfy themselves but will also satisfy the Central Legislature and through them the public. The employees will have also some satisfaction of having had their grievances heard by the highest authority in the land. This will considerably allay their feeling and conduce to good-will and harmony between the employers and the employees. With these words, I commend this Resolution for your kind acceptance.

THE HONOURABLE SIR GEORGE RAINY (Member for Commerce and Railways): Mr. President, I think I ought to begin by thanking the Honourable Mover of this Resolution for the very high compliment he has paid me. He has assumed that I should be capable, with the assistance of one Member of this Honourable House and one Member of the Legislative Assembly, to conduct an inquiry into all the grievances of railway employees in addition to such other duties as my office may impose upon me. I am afraid, however, Sir, that I do not feel able to accept that compliment. I fear that I should prove totally inadequate to discharge the very grave responsibilities which the Honourable Mover desires to thrust upon me. After all, Members of this House and Members of the Legislative Assembly are busy people, and, as I have already hinted, I have a certain amount of work to do myself. Therefore, this Committee, if appointed, could not be a whole-time committee, but possibly a half-time or a quarter-time Committee. Though it seems to me that we might commence our inquiry if we were appointed, I doubt very much whether we should ever be able to finish it, for, I observe, the terms of reference in the Resolution are almost entirely unrestricted. What is proposed is that this Committee should inquire into the grievances of the railway employees throughout the railway systems of India, whether State-managed or Company-managed. That would mean that any matter which any class of railway employees considered to be a grievance would *prima facie* be a matter calling for investigation by the Committee, and the mere task of weeding out their questions which were really trivial, and were not matters calling for any intervention by the Legislature, would of itself be a very prolonged and arduous task. But even if the Honourable Mover had recommended the appointment of a whole-time committee and even if that Committee had included, as I think it must include, if it was to do any good at all, a number of railway experts, even then, a general

inquiry into the grievances of the employees of Indian Railways would be a task which would mean, an enquiry occupying from 18 months to 2 years before the Committee submitted its report. These are my preliminary objections to the Resolution which has been moved. There are, however, more important objections. The Honourable Mover, I think I gathered from his speech, considered that the most important grievances which called for an inquiry were grievances as regards pay and emoluments, and I think he suggested that on the Railways of India, the increases of wages and pay, which had taken place after the war were, speaking generally, less than in other industries or in other branches of Government service. That is a position which I cannot possibly admit to be a correct statement of the facts. A very large increase in the emoluments of railway servants on all Railways in India was made in the year 1919-20, and the whole question of the adequacy of the increase that had been given was investigated in 1921 by an officer of the Finance Department who was specially asked to satisfy himself whether these increases were adequate. I should like to quote—it has already been quoted by Sir Charles Innes in another place in dealing with the same subject—but I should like to quote here from this officer's report.

"I did not commence the investigation as the result of which this note has been written with the object of trying to prove that railway servants have received more than others. My endeavour was to get at the truth. It has surprised me more perhaps than it will surprise some of those who read this note to find how much really has been done in recent years—at of course an enormous cost, present and prospective, to the State—to make the lives of railway servants easier and their prospects brighter. I am absolutely convinced though there still may be isolated cases in which further concessions for this purpose may be admissible, that as much has been done for these men as a body as they can in reason demand."

That was written in 1921, and as I said, the increases of pay were given in the year 1919-20. That was a time of very high prices in India. Prices were, I think, something like 30 per cent. higher than they are at present. Therefore, the railway employees were fortunate in this respect, that the revision of their pay took place at a time when the cost of living was high; and if the officer whom I have quoted was correct in the opinion he expressed in 1921 that the increase of pay was fully adequate, and that it was probably better than in any other Government department, if that was true in 1921, at a time when prices were high, it is still more true in 1927 when prices are very much less.

I will not follow the Honourable Mover into that part of his speech in which he apparently dealt with what he regarded as the extravagant or wasteful management of particular railways, because that is a matter which is not directly relevant to the subject of the Resolution. He said, however, that low wages on the Railways were thoroughly bad things and that if Government did not take adequate notice of complaints, they were making the mistake of driving discontent underground with possibly disastrous consequences. I think every Member of this House will agree that, if wages are unduly low and if Government and the Railway Administrations refused to listen to complaints about them, then unquestionably that would be a very serious matter. But the point I should like to emphasise is this: that the onus of proof lies heavily upon those who allege that, generally speaking, the railway scales of wages are too low. It is for them to show that this is a fact before they have made out a *prima facie* case for any inquiry at all. I can only say that the

[Sir George Rainy.]

Honourable Mover in his speech was not able to satisfy me that there was any such *prima facie* case for inquiry. It is obvious indeed that however much one might wish that it were possible to better the lot of the ordinary railway employé, there are two points which have always to be kept in view by those who are responsible for settling the scale of pay and other similar matters. First, they have to consider the relation which the rate of wages on the railway bears to the rate of wages in industries generally, and second, they have to remember also the fact that these wages ultimately come, not out of any mysterious pocket of the Government of India, but out of the pocket of the ordinary tax-payer and the ordinary railway traveller and the ordinary merchant and consumer. In the long run it is they who have to pay, and therefore what I may perhaps call the sentimental interest is not all on one side. It is not merely that in considering the case of railway workers we have to consider that many of them are not well off; we have to consider also the other point that to render their lot easier and happier, in the long run the people who will have to pay for that, or the great bulk of them, are no richer and no better off than the men themselves.

The Honourable Mover referred briefly to several other matters in which he considered that the railway employés had grievances. But I do not think it would serve any useful purpose if I were to attempt at present to go into details of that kind. I should like, however, before sitting down to refer to another aspect of the case. The Honourable Mover referred to the existence of unrest and to the occurrence of strikes on more than one railway. Now, unfortunately, in this world we must expect to find in any large commercial or industrial organisation such as the Railways, that the employers and the employed do not always see eye to eye, and that frequently the employés will consider that they have grievances, whether those grievances could be established to the satisfaction of an impartial tribunal or not. Undoubtedly I think in recent years in India we have had more industrial troubles of this kind on the Railways than we used to have in former years. But I do not think for a moment it would be a true explanation to suggest that railway men are worse off than they used to be. It is rather to be attributed, first, to the unrest and excitement occasioned by the war and the years after the war, and, in the second place, to the general spread in India of new ideas about the place of labour in the scheme of things, and to anxiety on the part of the labouring classes to promote movements to try and better their conditions. Now, if I were considering what step could most usefully be taken in order to deal with this new state of affairs, which is growing up in India—it is not restricted to the Railways but is common to all the big organised industries—I think almost the very last thing I would do would be to appoint an all-India Committee with unrestricted terms of reference. What must be the almost inevitable result? The inevitable result will be that on every railway in India everything that has ever been considered a grievance for the last five or six years would be brought forward; the relations between the Railway Administrations and their workmen would at once become embittered and the maintenance of harmonious relations between the Railway Administrations and their workmen would become almost impossible. This state of affairs must continue for another two or three years at least. Now, a very large number of the alleged grievances are purely local matters, and you could not, as regards such matters, lay down uniform rules; I doubt whether you could

very well lay down general rules even for a single railway system—far less over all the Railways in India. The fair rate of wages would not be the same in the South of India as in the Punjab ; the housing question again is really a purely local question, and you have got to consider each particular case on its own merits. Now, the way I should look forward to seeing differences of opinion between employers and employed settled in this matter would be through the gradual development of conciliation machinery by which the employés and the Railway Administrations would be brought closer together.

A beginning has already been made in this matter. For some time past, two or three years I think, the Great Indian Peninsula Railway has had Staff Councils, as they call them, formed in 1924 and they have been operating very satisfactorily. They were instituted with a view to dealing with matters relating to the railway staff, and giving an opportunity for the staff to meet the officers and to discuss with their officers any matters affecting their welfare generally. There is a railway council which meets at the headquarters office, and there are also divisional and station committees. The information that the Railway Board has is that a large number of questions affecting the administration of railways and the welfare of the railway staff have been freely discussed at these meetings with useful results. The Bombay, Baroda and Central India Railway has had similar councils on the traffic side for some time, and has recently decided to institute similar councils for the locomotive staff. Turning to the Eastern Bengal Railway, I find they have got different names for their organisation, but the object is very much the same. They have what they call welfare committees and amongst the declared functions of these committees are these—to utilise to the full the practical knowledge and experience of the staff, to secure to the staff a greater share in the responsibility for the determination of the conditions under which their work is carried on, to provide means for ventilating grievances affecting a class as a whole with a view both to the prevention of differences and to their better adjustment when they appear, and so on. Well, we have made a beginning with the machinery for bringing the employers and the employed together and getting them to understand each other and trying to arrive at arrangements which will be mutually satisfactory. I have no doubt we have a lot to learn, but I do hope for really satisfactory results from the gradual development of such conciliation machinery in this country, and I should deprecate in the strongest possible way the appointment of a roving committee with unrestricted terms of reference which, as far as I can see, could not, within any reasonable time, arrive at recommendations likely to improve matters and which meanwhile would remove all chances of harmonious relations between the Railways and their men, and would produce, in my view, the most unfortunate results. For these reasons Mr. President, the Government of India are unable to accept this Resolution.

THE HONOURABLE LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I rise to support the underlying spirit of the Resolution. I cannot refrain from expressing my thanks to the Railway authorities and to the Railway Board and to the Honourable the Commerce Member for the consideration which they have shown in past years to the increment of the wages of the railway employees. I myself felt very interested in this matter and was watching the development of this question from time to time. What I find is that as far

[Lala Ram Saran Das.]

as the officials and the upper subordinate class of the railway employees are concerned they have been given adequate increments, but it is the lowest rungs of the staff and the menials who have not received proper consideration as regards the increment of their salaries. I was discussing this matter with a railway official and he told me that as far as the basis of salaries for the lowest rungs of the staff were concerned they were not adequate on economic grounds. I gave him the figures for the maintenance of one's self and family, and it was found that the lowest salaries were not adequate. He told me that it is simply a question of supply and demand and as long as Railways can get clerks or menials on low pay why should Railways pay higher salaries? It might hold good in a business concern, where it is purely a question of private enterprise, but in a concern where the safety of the travelling public is concerned we have to make the employees contented and to make them put their heart into their work. In case the Honourable Member for Commerce says that the question of the poor employees will receive his further consideration, I will ask my Honourable friend to withdraw his Resolution.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (Punjab : Sikh) : Whilst I feel sympathetic to the Honourable Mover of this Resolution my sympathies go towards the Honourable Member for Commerce, who has opposed this Resolution. I sympathise with the spirit of the Resolution, for the reason that I know for certain that the railway employees have genuine complaints and an inquiry is needed to hear those complaints and to satisfy them. As regards the proposal of having a committee to inquire into those complaints, of course I could agree with the expression of opinion which has been made by the Honourable Member for Commerce that it will entail two or three years' hard labour, and also a lot of expense to the public exchequer. My experience of the recommendations of these committees, I am sad to admit here, is not very pleasant. Committees are appointed by Councils. They work for two years, spend public money in travelling and in other expenses and when the recommendations of the Committees come to take some concrete form, they are shelved or thrown away. As regards the complaint of the railway employees, as the Resolution stands, the complaints of pointsmen getting Rs. 10 to Rs. 12 up to the highest official will have to be heard and considered. It will certainly entail very great labour and perhaps will not bring the desired fruit. As regards the genuineness of the complaints, I would like to express before this Honourable House that there are complaints not only of the menial staff, but among the upper grades also there are very reasonable complaints. I find that there is a difference of pay grades between different station masters, drivers and between engineers of the same covenanted service. There is also difference so far as their leave allowances are concerned. Of course, I know, and every member of the railway staff knows, that there is an officer above him before whom he can bring his complaints. But, Sir, it is not very often that complaints are dealt with in the sense in which they ought to be dealt with by superior officers. I think it is absolutely necessary that the grievances of the railway staff should be taken into consideration and remedied, and if any means could be devised so as to enable them to put forward their grievances before the administration, and the administration will be judicious enough to

consider those grievances without any difference as to class or creed, such means should be explored and acted upon.

Sir, I heard with very great interest from the Honourable Sir George Rainy that in certain Railways there are associations of employees. I think this is one of the means by which the employees of railways can bring forward their complaints, because they can often meet their superior officers and have an exchange of ideas and make their point of view properly understood by their immediate superiors and thus get their grievances remedied. If such associations are formed and encouraged on all the Railways under the Railway Board, it will go a long way to meet the purpose which the Honourable the Mover has in view, and it would not be necessary in that case perhaps to have the inquiry proposed by him. But, Sir, I still hold the opinion that, as the grievances are genuine, some means should be devised to go into those grievances and to remedy them as far as possible.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : Sir, if the Honourable Member for Commerce thinks that the committee that I propose is impracticable and it is not for them to do the work, I do not mind if he appoints a full-timed committee to go about and make inquiries. But even if that is not feasible, if he promises that he will send round an Inspector to inquire and find out whether the railway employees have any grievances or not, my object will be served. Further, Sir, I was extremely glad to hear that on some Railways there are Conciliation Boards. If the Railway Board would appoint Conciliation Boards on all the different Railways, and the grievances of the railway employees would receive their attention, I should be glad to withdraw the Resolution.

THE HONOURABLE SIR GEORGE RAINY : If the Honourable Member desires to withdraw his Resolution, the Government of India have clearly no objection.

THE HONOURABLE THE PRESIDENT : The Honourable Member seems to me to impose many conditions. He can only ask the leave of the Council to withdraw his Resolution unreservedly.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : If the Honourable Member for Commerce thinks that he can introduce these Conciliation Boards on all the Railways in India, I will withdraw my Resolution.

THE HONOURABLE SIR GEORGE RAINY : I am afraid, Sir, I should not be prepared to agree to a conditional withdrawal of the Resolution by the Honourable Mover which implies that the Government of India have to adopt a certain course of action.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : If the Honourable the Commerce Member cannot give me this undertaking, I shall have to press my Resolution.

THE HONOURABLE THE PRESIDENT : In the circumstances, I must put the Resolution to the Council.

[The President.]

The question is :—

“That the following Resolution be adopted —

‘This Council recommends to the Governor General in Council to appoint a Committee of three members consisting of the Honourable the Government Member for Commerce and Railways as Chairman and two other members, one from the Legislative Assembly and the other from the Council of State elected from among the elected members of those respective bodies, to inquire into the grievances of the Railway employees throughout the railway systems in India, both State-owned and Company-managed, and suggest ways and means for the amelioration of their lot.’”

The motion was negatived.

CRIMINAL LAW REPEALING AND AMENDING BILL.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadian) : Sir, I beg to move that the Bill to repeal and amend certain provisions of the Indian Criminal Law Amendment Act, 1908, and the Code of Criminal Procedure, 1898, as passed by the Legislative Assembly, be taken into consideration.

At this late stage of the day's proceedings, I do not think I will be justified in making a very long speech in support of this motion and make the Honourable Members sit late into the night. I shall have another opportunity of replying to the debate at the end of it, and therefore I shall make my introductory speech as brief as I can. This Act known as the Criminal Law Amendment Act, XIV of 1908, as most Honourable Members of the Council know, was passed under very exceptional circumstances, just on the eve of an instalment of reforms to this country. The 11th of December, the date on which this Act received the assent of His Excellency the Governor General, is a somewhat memorable date in the political history of India. It was just at that time that in England a very serious attempt was being made to conciliate people in this country by giving them some amount of responsibility in the administration of this country. The 11th of December happens to be the day on which our distinguished countryman, the late lamented Gokhale, made a very epoch-making speech in England while this repressive Act was being enacted in the Imperial Legislative Council. But when I look back to the history of legislation in this country, I find that the Government's diplomacy has got the three R's as every school boy has got his three R's. The three R's of the British bureaucracy are *Reforms*, *Recrudescence of disorder* and *Repressive Laws*. These are three R's. I find there is a regular cycle of these three R's whenever I go into the history of any reforms in this country. Therefore, in 1908, when reforms were being introduced this repressive measure also was introduced to deal with likely recrudescence of disorders. It was under those exceptional circumstances that this unfortunate Act XIV of 1908 was passed by the old Imperial Legislative Council. When it was passed, responsible members of the Legislative Council expressed the hope that it would not be a permanent feature of the Indian Statute-book, and that an early opportunity would be taken to repeal the Act as soon as conditions in India improved. My friend Sir Maneekji Dadabhoy, who happened to be in the Legislative Council in those days, then made a very sympathetic speech,

and he expressed his disapproval of the principles of the Bill, but supported it for the reasons that the interests of peace and order of the country then required it, but he qualified his support with a very earnest desire that it should be repealed as soon as possible. The Honourable the Maharaja of Darbhanga, who is now a Member of this Council, was also in the Imperial Legislative Council at the time, and he also opposed the principle of this Bill. He gave a very qualified support adding that it should be repealed as soon as possible.

There was another very distinguished Indian in that Council then, the late Sir Rash Behary Ghose. If I may be permitted to say so, he was one of the greatest jurists, if not the very greatest jurist, that India produced. He had two objections to the passing of this Bill. One was on a ground of expediency. He said that just on the eve of the reforms, within a fortnight of the reforms being announced in India, to pass a repressive measure of this kind was not expedient on the part of the Government. The second was with reference to the merits of the Bill. All that I can possibly now say against the Act was said on that occasion by the late lamented Sir Rash Behary Ghose.

This Act, when it was passed, was a very long one, consisting of 18 sections, but by the year 1922 we find that a big slice of it was amputated. By Act V of 1922, the first 14 sections which formed the first part were repealed, and now what remains of the Act is Part II consisting of only 4 sections, that is, sections 15, 16, 17 and 18. This portion relates to what are called unlawful associations. Certain power is given by this second part of the Act, which comprises four sections, that is, sections 15 to 18, to the Governor in Council in the first instance with reference to Bengal, and later on to various other Local Governments with reference to other provinces, to declare certain associations as being unlawful associations. Following on such declaration, the consequences are that any person who is found to be a member of such association is liable to punishment of a less serious character, namely, six months' imprisonment, and a person who is found to manage or promote an association of that character is made liable to more serious punishment extending to three years' imprisonment. That is the substance of the second part of the Act. Section 15 says :

"In this part 'association' means any combination or body of persons, whether the same be known by any distinctive name or not; and

(2) 'unlawful association' means an association—

- (a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or
- (b) which has been declared to be unlawful by the Local Government under the powers hereby conferred."

So, you see there are two parts of section 15 which define association. First of all, association is defined, and secondly, unlawful associations are classed under two categories. It is very necessary that the House should follow this definition, because I am asking for the repeal of only one portion of section 15 and not both the portions of that section. Section 15 (2) (a) says 'that an unlawful association means an association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts.' There is no objection to that.

[Mr. V. Ramadas Pantulu.]

standing under this Bill. But the second portion, section 15 (2) (b) runs as follows :

"An unlawful association means an association which has been declared to be unlawful by the Local Government under the powers hereby conferred."

This is the objectionable portion which is sought to be repealed by this Bill.

The Bill deals with three distinct subjects. The first subject that it deals with is the repeal of section 15 (2) (b), that is, the power given to the Local Government to declare any association as an unlawful association. Normally, a measure which seeks to repeal such an arbitrary provision does not require much argument in its support. Just imagine what it means? All that the Local Government has got to say is that a particular association is an unlawful association. Then every member of it becomes liable to punishment under the law. If the Local Government issues a notification that a particular association is unlawful and then puts up any member thereof before a Magistrate for an offence under section 17, the only power which the Magistrate has got to exercise is to find out whether he is a member of that association or not and then to punish him. The real point at issue ought to be whether the association is unlawful or not. The Magistrate would have no power to inquire into the question whether the association is unlawful or not, because the notification of the Governor General in Council or the Local Government, as the case may be, will be conclusive proof that the association is unlawful. Therefore, all that the Magistrate has got to do is to act as the henchman of Government and merely sentence the man put up before him by the Government. That is a most undignified position for any judicial tribunal in this country to take up, and I do not think it requires much argument to show that it is a most uncivilised law, for which any Government, any civilised Government, any decent Government, should take credit. You give no opportunity to the association to prove that it is not an unlawful association. You do not call upon the members to show that they are not members of an unlawful association, and you do not observe any form of law or any legal process whereby any member of an association, or the association as a whole, or any responsible officer of the association, will have the slightest opportunity of showing cause against the notification of Government. It is merely the executive whim which is exercised, I dare say, on certain principles. My Honourable friends on the opposite side will no doubt try to convince this House that the executive never acts arbitrarily, and that it acts better than a judiciary. But the Act itself casts no legal obligation upon the executive to take any preliminary steps to ascertain whether an association is unlawful, and it gives not the ghost of a chance to a person arraigned before a criminal court to prove that the association to which he belongs is not an unlawful association. That is the kind of law which is sought to be maintained on the Statute-book after a lapse of nearly 19 years.

This House and the other House made repeated attempts to get rid of this Act. The credit for initiating agitation, constitutional agitation for the repeal of this and other repressive laws, on the Statute-book, mainly pertains to this House. On the very first day on which the Council of State met to transact normal business, after it was constituted in the year 1921, a Resolution was tabled by the Right Honourable V. S. Srinivasa Sastri recommending to the

Governor General in Council the repeal of the repressive laws and he included in the schedule to that Resolution many Acts of which this was one. The Government accepted the principle of the Resolution and appointed a Committee. That Committee recommended the repeal of five of the repressive laws which were scheduled by Mr. Srinivasa Sastri, and then, with regard to this, the Committee said that, though at that particular moment they would not recommend the repeal of Part II of the Criminal Law Amendment Act, yet they expressed the hope that the Government of India would take an early opportunity to repeal the second part of that Act as well. But that hope was not realised.

THE HONOURABLE SIR MANECKJI DADABHOY : Will you read the passage in which the Repressive Laws Committee have stated that ?

THE HONOURABLE MR. V. RAMADAS PANTULU : I will read it later on. My Honourable friend wants references. Because I do not wish to keep this House beyond 5 o'clock, I do not propose to read portions of the Report.

THE HONOURABLE SIR MANECKJI DADABHOY : But I cannot allow you to make statements which do not exist.

THE HONOURABLE MR. V. RAMADAS PANTULU : When I make statements on the floor of this House, I take full responsibility for the statements that I make. But I am not here standing to convince every one of my Honourable friends that the statements I make are borne out by references. It is as much a part of the duty of my Honourable friend to read that Report as it is mine. If he comes here unprepared, I cannot help him. I do not propose to waste the time of the House on him.

THE HONOURABLE SIR MANECKJI DADABHOY : I have read it several times.

THE HONOURABLE MR. V. RAMADAS PANTULU : Read it once more. That Committee, Sir, has expressed the hope that the Criminal Law Amendment Act will also be repealed very soon. But nothing has been done since then. My Honourable friend Sir Hari Singh Gour brought a Bill, in the other House, some time in 1924 for the repeal of Part II of the Criminal Law Amendment Act. That Bill was passed by the Legislative Assembly by a very large majority of 71 against 30 or 40. It was brought to this House some time in February, 1924, by a very distinguished Member of this House, my friend Mr. Karandikar, but this House rejected the motion to take the Bill into consideration as passed by the Legislative Assembly, and there was an end to the matter. But during the debate in the other place on Sir Hari Singh Gour's Bill, Sir Chimanlal Setalvad and Sir P. S. Sivaswamy Aiyar, both very distinguished jurists, and Members who occupied the positions of Law Members of two Provincial Executives, asked the Government whether they would consider certain proposals to make Part II of the Criminal Law Amendment Act less dangerous than it is and more reasonable than it is. They wanted Government at least to concede to the association or any member of it who is condemned under that Act, by an executive notification, the right of appeal to the High Court in which the question whether the association which has been condemned is an unlawful association or not may be agitated. They said they would not then press for the repeal of the entire Part II. Government did not give any

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undertaking at the time, but said they would consider it on its own merits if that question was separately raised, but they would not consent to the repeal of Part II. Sir Hari Singh Gour, apparently inspired by the hope that the Government may accede to the very reasonable proposals made by Sir Chimanlal Setalvad and Sir P. S. Sivaswamy Aiyar with regard to the said right of appeal to the High Court as to the unlawfulness or otherwise of the association, brought this Bill again in the Legislative Assembly, and again, Sir, this Bill was passed by a substantial majority in the other House, and it now comes to this House as passed by the Legislative Assembly. Therefore, I would ask the Government to accept this portion of the Bill which relates to the repeal of clause 2 (b) which seeks to give the power to the Governor General in Council to declare certain associations unlawful merely by executive order. I know that there is section 16 of this Act which lays down certain principles on which the Government's opinion is to be based.

"If the Governor General in Council or the Local Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the Governor General in Council, or the Local Government, as the case may be, may, by notification in the official Gazette, declare such association to be unlawful."

But what are these principles? The principles are merely "if he is of opinion that any association interferes or has for its object interference with the administration of law and order or that it constitutes a danger to the public peace." It is bound to be merely an opinion based upon police reports. The Governor General in Council or the Local Government does not go about making inquiries. It bases all its notifications upon reports received from the police or interested sources, and it merely acts on them. I do not object to that, because it is the only way of doing things. But the objection lies in the fact that it acts on one-sided testimony and one-sided reports and gives no opportunity to the person who is accused of being a member of an unlawful assembly to repudiate that statement. It is acting against all civilised principles of Criminal law. Therein lies the objection. Therefore, I do not think many more words are necessary on my part to convince this House of the reasonable nature of this amendment.

The second part of the Bill relates to investing the High Court with jurisdiction to hear appeals under section 17. The new section which is sought to be substituted for the old section 16 runs:

"Any person convicted under the provisions of section 17 may appeal to the High Court on the ground that the association in respect of which he is convicted was not an unlawful association."

May I ask in all humility why this provision should be objected to? Is it because the executive has no confidence in its own High Courts, or because it thinks that an opportunity to prove that an association of that sort was not unlawful will materially interfere with the administration of justice or disturb the peace and order in the country? The initial power is there. The mischief can be arrested. Government can declare an association unlawful and then put the man under arrest and take all legal proceedings. All that we want is that the person so arrested ought to be given an opportunity to prove his innocence by a very simple and well-known method of an appeal to the highest judiciary in the country. May I ask in all humility what there is in this provision to

upset the even tenour of the administration of this country? I really cannot see anything. I have read very carefully the debate in the other House and I was unable to find a single sentence in any of the speeches made either by the official spokesman or by those who supported him as to the reason why the High Court should not be invested with such a power. There ought to be some power to see whether an act of the executive in depriving the liberty of an individual is or is not correct.

Two reasons were given for maintaining this Act on the Statute-book. One is the necessity for maintaining it in view of the frequent recurrence of disorders in this country. But the provision will be there. The provision is not sought to be repealed. All that we ask for is that when the provision is put into force, and when a person is punished, he should have the right of appeal. The other argument is one of prejudice. It is said over and over again: "Can you quote a single instance in which this provision has been misused or abused by the bureaucracy?" It was pointedly put to the Honourable members. That is not a valid test, because, a person convicted under the section for being a member of an unlawful assembly never has a chance of proving that the assembly was not unlawful and that he was not a member of an unlawful assembly? After that right is taken away, how can we give you the proof? You say: "Demonstrate that the convictions under this Act were wrong or that the action taken by the Government in declaring an association unlawful was wrong." But we are precluded from testing that point in any court of law. How are we then to prove our innocence? It is asking us to do an impossibility. But if you ask whether public opinion is against the Government of India doing such things, there is ample, abundant, proof of the fact that the Act was misused. This and the allied Act, the Seditious Meetings Act, were put into force on a large number of occasions and were grossly abused. Under this Act and the other Act meetings of Provincial Congress Committees—private meetings held in private houses—were held to be unlawful assemblies or associations, and the volunteer organisations of the Congress were held to be unlawful associations. If I am not mistaken, it was under these notifications by which associations were declared unlawful, that men of assured position like Lala Lajpat Rai, Pandit Motilal Nehru and the late Mr. C. R. Das were convicted. The Congress volunteer organisations and the Congress Committees were declared unlawful. They became unlawful associations and their members were sent to jail, some for six months and some for longer periods. If the bureaucracy contend that this is not misuse, it will not get one man in India, who loves his country, to agree with them. They may be supremely complacent in their own wisdom, in their own sense of justice, but there will not be one *Indian*, who is worth his name, who will say that an association of which the late Mr. C. R. Das and Pandit Motilal Nehru were members were unlawful associations or approve of an Act under which they were sent to jail by mere executive declaration. I do not think any arguments are necessary to convince any patriot, any man who loves his country, that it is a most grossly unjust and grossly uncivilised piece of legislation which ought not to be allowed to stand on the Statute-book for a minute.

An appeal to the High Court is a remedy which is given to persons who are convicted of much more serious offences of a political character. After all this is not so serious an offence as some other serious offences like waging war against,

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the King or sedition and offences of that character, in which the persons convicted can prove their innocence in a court of law. This is not so serious as those offences, and I really do not see where the objection comes in to giving a right of appeal to the High Court. With regard to cases where the High Court is merely asked to sentence a man and is not given any opportunity to go into the case and the evidence, the Calcutta and Madras High Courts have expressed their regret that they should be called on to sentence a man without being able to discharge their legitimate function of sifting the evidence and evidently felt that it was inconsistent with their dignity and prestige as the highest Courts of law. In these circumstances, I hope my Honourable friends on the opposite side will not oppose this small recommendation.

The third part of the Bill, Sir, relates to the amendment of section 491 of the Criminal Procedure Code. Under the Criminal Procedure Code the right of getting a person who is in unlawful custody produced before the High Court and releasing him, is given to High Courts. The right is the well-known one of writ of *habeas corpus*. That right is given in a qualified form to the High Courts. The section which deals with it is section 491 and it runs thus :

“Any High Court whenever it deems fit can direct that a person within the limits of its appellate criminal jurisdiction may be brought up before the High Court to be dealt with according to law, and that a person illegally or improperly detained in public or private custody within such limits be set at liberty.”

But this section contains a very vicious proviso which practically takes away the right of the British subject to the liberty vouchsafed to him by the first part of the section. If a man is tried in an ordinary criminal court, the High Court has jurisdiction to deal with him, either to set him at liberty or to order a new trial or to quash a conviction, and so on. But when a person is spirited away and put in jail under one of the extraordinary repressive laws, which the executive has armed itself with, the power of the High Court to deal with such a person is taken away expressly by sub-section (3) of section 491 :

“Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819 or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.”

What this Bill purports to do is to exclude British subjects from the scope of the third sub-section. By adding the words nothing in this section applies to persons “other than British subjects” liberty is given to High Courts to deal with British subjects confined under some of these repressive and extraordinary laws. The object of confining the protection to British subjects is this : it is to meet a possible objection by the other side that supposing there are some people from the frontier or outside India or people who owe no allegiance to the King and who may be outlaws, how is the Government to deal with them ? To meet such cases, the protection that is sought to be extended by means of the writ of *habeas corpus* is confined by this Bill to British subjects. With regard to non-British subjects you may deal with them as you please and the High Court will not be in a position to interfere. Therefore, Sir, it is a very modest request that is made.

I find, Sir, that in another place serious objection was taken to tacking on this provision to a Bill to amend a part of the Criminal Law Amendment Act. I really do not see any objection. The things are not so unconnected with each

other ; but even if they are, the Government of India have set the very bad example of similarly dealing with many matters in a single Bill. They bring in Acts of a repealing and amending character which deal with many heterogeneous things. Of course if left to myself, I would, as far as possible, like not to imitate the bad habits of the Government of India in legislation, if I can possibly avoid it. But I am afraid I cannot avoid imitating the bad habits of the Government of India for this reason that it is almost impossible to get non-official measures through the Council of State or the Legislative Assembly ; it takes an unconscionably long time—two, three and even four years. The official business and other work takes up almost the whole time of the Legislature and no non-official is able to get his Bills through ; and if it is not possible to get a single Bill through in a reasonable period, how much more difficult is it to get two such Bills through ? Therefore, expediency and the way in which Government manages its own business really compel us to imitate its bad example. And if I plead guilty of bad drafting it is for a good reason and I do not think, therefore, that objection ought to stand. The real connection is this when you are securing the liberty of the subject and trying to show that nobody should be confined by means of repressive enactments without a trial, and if you do have to confine him at all, you should give him at least a right of appeal to the High Court, that is the proper connection in which you ought to say that other people deprived of liberty under the repressive law should also be protected by writ of *habeas corpus* ; there should not only be a right of appeal to the High Court, but the High Court should also have its lawful function of getting the person before itself and releasing him if unlawfully detained. Supposing an association is declared unlawful or a man is arrested and locked without trial, the High Court must have power to say : “ Bring the man here ; we will see whether he is wrongfully confined or not ; and if he is illegally confined he will be set free.” In my short experience I can tell you that with regard to the Moplah rebellion there were a number of cases in which the special tribunals set up by the Government convicted a number of Moplahs for offences of a serious character and they were sentenced to long terms of imprisonment, but when the High Court was moved to issue a writ of *habeas corpus* and to get them released because they were wrongly convicted, the High Court first of all hesitated whether they had jurisdiction or not ; and when the whole matter was argued out, the High Court were convinced that they had jurisdiction and they issued writs of *habeas corpus* and a number of persons were released on the simple ground that they were illegally convicted. If my recollection is right, not less than a score of persons were so brought up under writ of *habeas corpus* to the High Court and they were all released on the ground that they were illegally convicted. A reference to the Indian Law Reports, Madras Series, will convince any one, if he has the patience to go through them, of the truth of what I have said. Therefore, it is a very valuable right for which we are fighting. To take away the right of the High Court in such cases will be a misuse of the power. Therefore, either in form or on its merits I do not see that the amendment in regard to British subjects being protected under section 3 is open to any objection. I hope that it will not be objected to on the ground that it is unconnected with the first part of the Bill.

It has been said that the Bill is not happily worded, that the drafting is not good and that there are certain objections to the language of the Bill. I will

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only say one word with regard to that matter. I am really surprised that the Government should raise such a difficulty with regard to non-official Bills. Standing here, I feel that I have as much right to the services of the official draftsman of the Government of India and the huge machinery the Government of India have set up for legislation in this country as the Honourable Mr. Das or the Honourable Mr. Haig. I would remind my friends on the opposite side that the Department is maintained at the public expense and the money does not come from England, but it is the tax-payer's money in this country that is paid to them and it is paid to see that legislation is properly drafted. Therefore if there is any defect in the drafting it is up to the Government draftsman to come to the rescue of non-officials as much as to the rescue of the officials. He is not their servant—he is the servant of the public. Therefore, if you plead that our Bills are defective, we throw the entire blame on you. The non-officials here are not in possession of a library or of the legal assistance or the technical expert advice which is available to every Government Member in charge of a Bill.

THE HONOURABLE MR. S. R. DAS (Law Member): Perhaps my Honourable friend will allow me to say that we in our Department have never refused to help a non-official in the preparation of his Bill.

THE HONOURABLE MR. V. RAMADAS PANTULU: I am very thankful to the Honourable the Law Member. But I have read the debates and at least on six occasions I noticed the plea that the non-official Bills were unacceptable on account of bad drafting.

THE HONOURABLE MR. S. R. DAS: Because they have not been subjected to our examination.

THE HONOURABLE MR. V. RAMADAS PANTULU: Does the Honourable member mean to say that every time we introduce a Bill, we should go on bended knees before the department or Mr. Wright and say 'For Heaven's sake, amend this.'

THE HONOURABLE MR. S. R. DAS: There have been many cases in which non-official members have submitted their Bills to our department and asked us to redraft them, and we have always complied with that request. But once a Bill has been introduced without consulting us, we cannot be held responsible for the drafting, nor can it be said that we have refused to assist the Honourable Member.

THE HONOURABLE MR. V. RAMADAS PANTULU: In the case of the amendment of criminal laws the previous sanction of the Government has got to be taken before a Bill is introduced. After it is sanctioned the objection of bad drafting does not come with any grace from the official draftsman. The proper way is to ask for its amendment and not rejections. I am however thankful to my Honourable friend. Therefore if there are any drafting defects we can with the assistance of the official draftsman put them right. I hope, therefore, no technical objections will be raised and the Government will deal with the subject on its merits. I have a great deal more to say. But I would not detain the House one minute longer than 5. I have got my right of reply, on other points which I have not dealt with now. Sir, with

these words I move that the Bill as passed by the Legislative Assembly, be taken into consideration.

THE HONOURABLE SIR MANECKJI DADABHOY : (Central Provinces : Nominated Non-Official :) This Bill does not come for the first time before this Council. With the formation and the election of members of the Legislative Assembly and the Council of State every time this Bill has been in the past brought up for discussion in some shape or other. This Bill has come for discussion in this very Council on two occasions previously. This Bill, I certainly admit, comes to us in a very much altered form. Originally the Bills which Dr. Gour introduced were for the total repeal of Part II of the Criminal Law Amendment Act. This Bill does not proceed on those lines. It does not ask for the total repeal of Part II, but it makes certain changes of a very vital character in the framework of the Bill. These changes and modifications at first sight look very simple and innocuous but they are really not so. They are full of serious potentialities, as I shall presently show, it would be dangerous for this Council to accept this Bill even in a modified form. My Honourable friend just about the close of his remarks referred to certain imperfections in drafting. It is true that the Bill contemplates an unusual procedure—there being no means or any connecting principle or justification for combining two distinct amendments in two different Acts. I am not going to take that as my plank for opposing my Honourable friend though I admit that in my long legislative experience it is for the first time that I have come across a Bill in which a modification both of the substantive law as well as the adjective law has been asked for. I know of Bills in which modifications of various substantive laws as embodied in different Acts have been asked for, but this is the first occasion on which a motion is made for the modification both of the substantive as well as the adjective law. My difficulties in this matter are serious. Still I am not going to make a good deal of harvest out of it, though it would prevent a proper, impartial and unbiased discussion of the whole subject. It might have the effect of clouding the judgments of my Honourable Colleagues because not being lawyers they may not be able to discern the connection between the two amendments that have been sought for.

Now, Sir, this Bill makes three definite changes. The first is a very substantial change. It seeks to repeal the following important provision in Part II of the Criminal Law Amendment Act, that is clause (b), section 15. To refresh the memory of my Honourable colleagues I will read clause (b). It states —

“ Unlawful association means an association which has been declared to be unlawful by the Local Government under the powers hereinafter conferred.”

The second change which this Bill seeks to make is to provide under Part II for a right of appeal by a separate section, section 16 (a), and the third change which is also of a very vital character, although my Honourable friend called it a very modest change, seeks to protect British subjects to whom the Act will not apply. It will apply only to frontier tribes and lawless marauders and Bolsheviks who are supposed to be carrying on their nefarious propaganda in this country. The object is to leave intact the power of the executive so far as non-British subjects are concerned and to extend the protection of the *habeas corpus* provision of the Criminal Procedure Code to British subjects.

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I will now deal with each of these three points and show how dangerous the whole position would be if these amendments are accepted by this Council. Now, my friend started with the assertion that the Repressive Laws Committee recommended that Part II of this Act should be repealed, and when I confronted my Honourable friend with a request to read that statement, he retorted that I had not read the report of the Repressive Laws Committee. I challenge him again to show me a single statement in that report where any unconditional recommendation for the repeal of Part II was ever made by that Committee, and I go further and, in support of my contention, quote the authority of no less a person than Sir Alexander Muddiman, until lately the Home Member of the Government of India.

Sir Alexander said :

“The facts are that the Committee definitely recommended that the Criminal Law Amendment Act should not be repealed; and it is no use wasting time on endeavouring to extract a pledge by Government out of that report.”

This is quite to the contrary. But what does my friend say? He says the Committee definitely recommended.....

THE HONOURABLE MR. V. RAMADAS PANTULU: Read the words “at present”.

THE HONOURABLE SIR MANECKJI DADABHOY: I have read the paragraph. But show me your paragraph?

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Paragraph 25, page 11.

THE HONOURABLE SIR MANECKJI DADABHOY: The Committee definitely recommended that the Criminal Law Amendment Act should not be repealed, and it is no use trying to extract a pledge or a promise from Government out of that Report. Nothing could be more definite than that. If my friend and the Honourable Member behind me depend on a certain sentence in the Report and wish to distort that statement and put on it their own interpretation, they are quite welcome to do so.

Now, the first point is the repeal of clause (b) of clause 2 of section 15 of that Act. Now sub-clause (a) of that clause says,—it is necessary to refer to it because it throws some light, it defines an unlawful association,—it says :

“which aids or encourages persons to commit acts of violence or intimidation or the members of which actually commit such acts.”

The present Bill does not touch this clause (a), and curiously enough, it asks for the repeal of sub-clause (b). The result of this will be that the Local Government will declare that a certain body is an unlawful association. This will be only a pure pious expression of the Local Government, and no further action could be taken. The whole Bill would be emasculated, it would be ineffective for any purpose whatsoever; it would be ineffective for the purpose for which it was designed. The only effect, in my opinion, would be to render wholly ineffective a section in the Act which the author of the Bill does not propose to touch. I can quite understand a proposal to repeal the whole Act or Part II of it; there would be some sense in a motion like that. But if the recommendation in the motion is now carried out, the result will be that the law will exist in name,

but will be wholly ineffective, and will frustrate the very purpose for which that law was created. The power is given to declare certain associations to be unlawful, but further action on the part of the Government will not be practicable. Now, Sir, I am not discussing at this stage the merits of Part II of the Act. I have only pointed out the position in which the Government will find itself by the acceptance of the proposal put forward by the Honourable the Mover,—that an emasculated, mutilated, senseless law should exist on the Statute-book.

Now, the next point which my friend has argued is in respect of the power of appeal; that is, section 16 of this Act, which states that any person convicted under the provisions of section 17 may appeal to the High Court on the ground that the association in respect of which he was convicted was not an unlawful association. How innocent does this provision look? My friend says. What is this, a mere right of appeal, why object to it? But a little reflection will show that if you pass this section, it would render the whole Act absolutely nugatory and useless. Now, what was the object of this Act? The object of this Act was to give Government power and authority to declare certain associations unlawful. That was the original aim. The Government asked for this power on the distinct plea that in certain cases in many parts of India dangerous associations existed; they had a sufficient amount of evidence to prove the existence of those associations; they had men who had given information in connection with it; but Government were in a serious difficulty in prosecuting these dangerous people and dragging them to a court of law on account of the difficulty of adducing evidence. This Act was purposely passed with an avowed object, it was passed with a definite object in view. You now try to give a right of appeal, and you want the Magistrate who will hear the case to call upon Government to produce that evidence and that information which the Government all throughout wanted to keep to themselves and had asked for this special legislation. As I have explained to the Council, the basis of this legislation is different. You ask now that the judgment, or shall I say the findings, of the Governor General in Council, or in case where these powers have been delegated under the Devolution Act, the Governor in Council of every province who has received information on this should be subject to the revisional powers of a Magistrate? Are they to submit the information to an authority entirely below themselves and ask such authority to revise the findings of the Governor General in Council or the Governor in Council, as the case may be? A moment's reflection will show that this is not such an innocent provision as my friend over there thinks it is. It goes to the root of the whole legislation of this Bill. It frustrates the object of Government; it kills the important part of the Bill, and it is impossible either for Government or for any other thinking and judicious Member of the Council to accede to the proposal. Why not have the honesty to say: "We don't want to have the whole Bill", and repeal the whole Act? This is a very ingenious proposal, and by the ingenuity of the author, it brings in a clause which goes to the root of the whole Act and renders the law entirely nugatory.

Now, the third provision which my friend called a very modest provision, is the introduction of four simple words in clause 4, namely "other than British subjects" in the Code of Criminal Procedure which provides for the operation of the *habeas corpus*. What is the argument on the other side? The argument

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is this. This provision is—let me just as a preliminary tell you, because in the former debates which took place the Government took the objection that among other things this provision, this weapon in their armoury, was necessary to check Bolsheviks, lawless marauders and foreign tribes which come to India, spend money, excite people and encourage anarchical propaganda. In order to meet that objection, this suggestion has been provided by the author of the Bill. Sir, what is the meaning of this? The meaning of this is that if a British subject is a member of an unlawful association or of a revolutionary body, or is propagating the spread of sedition and anarchy—if a British subject with external fund commits these acts, you must not touch him. If the Government takes any action under the Act against a British subject an application may be made forthwith to the High Court under the *habeas corpus* and his body may be produced. But if the foreign tribes and lawless people come to this country and supply funds to the British people, the foreign party may be touched immediately and arrested, but not the British subject who was the direct instrument of crime. This is the distinction which this section wishes to make. The section is, in plain language, that if our British subjects receive actual help and financial assistance and take part in this propaganda, you must leave them alone but only touch the foreigners.....

THE HONOURABLE MR. V. RAMADAS PANTULU: You do not leave them alone, but you leave it to the High Court to deal with them.

THE HONOURABLE SIR MANECKJI DADABHOY: It is a most absurd contention. It is an unwarrantable discrimination. My Honourable friends have forgotten the modern history of riots and revolutions in this country, and in this connection I will quote to you one simple case—the case of the Cawnpore conspiracy. It must be in the recollection of every Member of this House. The High Court in that case—mind you, the High Court, and not the executive Government—came to the conclusion that the accused who were British subjects received money and funds and were instigated by these foreign bodies and Bolsheviks.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: They have been punished by the High Court.

THE HONOURABLE MR. V. RAMADAS PANTULU: Nobody objects.

THE HONOURABLE MR. P. C. DESAI CHARI: It was not a case under the Criminal Law Amendment Act.

THE HONOURABLE SIR MANECKJI DADABHOY: But it was proved in that case that these people were helped by foreigners and they were convicted. The Honourable Mr. Crerar in the course of his speech in the other place in this connection also referred to this in very appropriate terms:

“October 1923. Then followed the Cawnpore conspiracy case. It was judicially proved in the course of the Cawnpore conspiracy case that there existed an organisation largely supported by inspiration and funds from abroad, for the promotion of a communist revolutionary movement in India. I am not asking the House to believe that on the assertion of any executive authority, but on the deliberate judgment of two Judges of the High Court. That was in the beginning of 1924. Later, disturbances unfortunately occurred in Burma and once more a prompt and early resort—there were very few prosecutions but a certain number of declarations—to the second part of the Criminal Law Amendment Act was again of the greatest value to the Local Government.”

So, you will see how dangerous it will be to insert these words in the Code of Criminal Procedure and thereby give immunity to a class of people in this country who live, who make it a profession to live, on the money received from foreign countries and from Bolsheviks for the purpose of creating anarchy in this country. Is this Council prepared to accept this suggestion, this modification? I say both parties, the perpetrator and the abettor, should be liable and that immunity of any kind should not be given. We must protect the country not only against lawless marauders and foreign fanatics, but also protect it against our own men who will join these people and create and help to create anarchy and lawlessness in this country.

Sir, I have pointed out that the provisions of this section are not so innocuous as my Honourable friend, Mr. Ramadas Pantulu, desires this Council to believe. My Honourable friend has referred to the part played by two or three of our distinguished citizens in connection with this Bill when it was first enacted. He has referred to the statements made by them in the Council that though they gave their consent to this measure they told the Government of India at that time that this legislation should be only for a stated period, that it should only be of a temporary character and should be repealed when the circumstances did not require it.

My Honourable friend has omitted to mention that my humble self was also among the Members who were in the Council then and who took some part in the debate. I was the first to point out that this Act should only be kept for a stated period and removed no sooner the circumstances demanded it. Since 1908 when the Bill was passed, various riots, revolutions, and communal outbursts of a very serious character have come into existence. In 1923, when I was speaking in this Council, I made it clear in a very long speech that the allegation that the abnormal times have ceased to exist is not correct. I went through the whole history of crime in India in that speech of mine, which is reported at.....

THE HONOURABLE MR. V. RAMADAS PANTULU: On a point of order, Sir. Can an Honourable Member quote himself in support of his statements?

THE HONOURABLE SIR MANECKJI DADABHOY: What was it that my Honourable friend said? I did not hear him.

THE HONOURABLE THE PRESIDENT: The Honourable Member may continue his speech.

THE HONOURABLE SIR MANECKJI DADABHOY: In the course of my speech I proved—I am not going to refer to the cases at this late hour and do not desire to inflict on the Council the reiteration of those cases, but if any Honourable Member desires to know the details he will see my speech reported at pages 252 to 256, fully reviewing the whole history of the crime and proving that the abnormal times are still continuing. I do not wish to take up the time of the House by going again into this matter, but I will only ask you not to lend any countenance to this Bill. The powers exercised under the Act are of a very important character. Though on two occasions in this Council and three or four occasions in the Assembly objections have been taken to this Act remaining on the Statute-book, no party, no Member either here or there, has pointed out a single instance in which Government have abused their powers under

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the Act. I have previously challenged my Honourable friends opposite to quote me a case in order to win me over to their side and show me when and where Government have abused their powers.

My friends have not been able to show it. Let me also tell you that this Act is not hastily or precipitately applied. It is not applied to the whole of India in the first instance. It applies only to certain provinces where there are revolutionary bodies endeavouring to thwart the administration of the country and to upset law and order. There is also a safeguard. A Provincial Government has to obtain the sanction of the Governor General before that Act can be put into operation. That is a very adequate safeguard. The Provincial Governments have got to prove the necessity for the application of that Act. It must also be admitted that since the passing of this Act there has been an increase in crime, and if there was ever a time or justification on account of the fanaticism prevailing among some of the illiterate, uneducated masses of the people who are in the hands of certain revolutionary bodies, it is this, and it is more than necessary that this Act should continue to remain on the Statute-book. I must also tell you that the Government do not ordinarily resort to this law. We have seen that in every province the Government first resorts to the ordinary law, and when it finds that the ordinary law is not capable of reaching these people, it is only then that it has recourse to this Act. If you bear in mind all these safeguards which the Government of India and the Provincial Governments adopt, it is perfectly clear that there is no case made out for the repeal or modification of Part II of this Act. Even in the course of the arguments that have been urged here and elsewhere, appeal is made only on the grounds of sentiment, a sentiment that Government have the power to declare associations illegal or unlawful without taking into confidence the other party or giving the other party an opportunity of contesting their conclusions. Is it possible, if such an opportunity was given to the other party, that they would help the Government? It is just for this reason that this sort of legislation is required. The original Act is a wholesome, salutary piece of legislation. It does not affect the ordinary liberty of men. It only affects the liberty of criminals. It only affects the liberty of people who want to break the law, and who want to join revolutionary and anarchical bodies. It only touches the liberty of that class of irresponsible and dangerous people. No citizen who is above board, who is not in any way connected with these associations has anything to fear from the existence of this Act. I ask my Honourable colleagues—we are designated as the elder statesmen—to reflect seriously on the consequences which might arise by our hasty acceptance of this Bill which my Honourable friend has moved. I feel confident that this Council will show the same sober and same judgment that it has demonstrated before.

The Council then adjourned till Eleven of the Clock on Tuesday, the 6th September, 1927.