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(Official Report)

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THIRD SESSION

OF THE

COUNCIL OF STATE, 1923.



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CONTENTS.

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

WEDNESDAY, 31ST JANUARY, 1923—contd.

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

MONDAY, 12TH FEBRUARY, 1923—

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

WEDNESDAY, 14TH FEBRUARY, 1923—

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

THURSDAY, 15TH FEBRUARY, 1923—

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

FRIDAY, 16TH FEBRUARY, 1923—

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

MONDAY, 19TH FEBRUARY, 1923—

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

TUESDAY, 20TH FEBRUARY, 1923—

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

WEDNESDAY, 21ST FEBRUARY, 1923—

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

THURSDAY, 22ND FEBRUARY, 1923—

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

MONDAY, 26TH FEBRUARY, 1923—

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

TUESDAY, 27TH FEBRUARY, 1923—

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

WEDNESDAY, 28TH FEBRUARY, 1923—

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

THURSDAY, 1ST MARCH, 1923—

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

MONDAY, 5TH MARCH, 1923—

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

TUESDAY, 6TH MARCH, 1923—

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

WEDNESDAY, 7TH MARCH, 1923—

The Budget	1133—81
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THURSDAY, 8TH MARCH, 1923—

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

MONDAY, 12TH MARCH, 1923—

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

TUESDAY, 13TH MARCH, 1923—

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

WEDNESDAY, 14TH MARCH, 1923—

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

THURSDAY, 15TH MARCH, 1923—

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

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

COUNCIL OF STATE.

Thursday, the 8th March, 1923.

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

ABSENCE FROM HOUSE AT QUESTION TIME OF MEMBERS WHO HAVE GIVEN NOTICE OF QUESTIONS.

(The Honourable Khan Bahadur Ibrahim Haroon Jaffer was absent when called on to ask the questions standing in his name.)

The HONOURABLE THE PRESIDENT: I must inform the House that this Honourable Member particularly asked that these questions might be put down between the 7th and the 12th. It is only the other day I drew attention to this practice of not informing the Honourable Member of the Government concerned that the Member putting the question intended to be absent. It really shows great lack of courtesy, that is all I can say. I said this two days ago and I say it again. I do not know what the House thinks about it. (*Hear, hear.*)

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I should like to say, Sir, that it is with great trouble we arrange the answers to these questions, and I have come down myself here to-day at considerable inconvenience, having had to leave my office and the work to be done there, in order to reply to the questions of the Honourable Member, and he himself has not turned up. I suggest, Sir, that these answers be not given.

The HONOURABLE THE PRESIDENT: I thoroughly sympathise with His Excellency in this matter. I think this is a matter concerning the reputation of the House. The pressure of public opinion is the only remedy for a thing of this kind.

QUESTIONS AND ANSWERS.

RATES FOR PASSAGES TO JEDDAH.

167. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will the Government be pleased to state what rate was prevalent last year for the passage to Jeddah and back during the last Haj season?

(b) Is it a fact that, owing to keen competition amongst the steamship companies, the rate went down from Rs. 150 to Rs. 35 only?

(c) Will the Government be pleased to state how many return-ticket holders lost their return-tickets last year by theft, loot and other causes?

(d) Is it a fact that many Muhammadan steamship companies bring back the stranded pilgrims to India free of charge? If so, will the Government be pleased to state how many such pilgrims were so brought during the last three years?

The HONOURABLE MR. M. S. D. BUTLER: (a) and (b). Owing to competition the rates varied considerably. Return tickets varied from Rs. 165 to Rs. 100. Single tickets for the outward journey varied between Rs. 100 and Rs. 5, and for the return journey between Rs. 65 and Rs. 10.

(c) The information is not available.

(d) So far as the Government of India are aware the number of stranded pilgrims brought back to India free of charge by Muhammadan steamship companies during the last three years has been 821.

SHIPPING BROKERS FOR *Hajis*.

168: The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will the Government be pleased to state if the licensing of shipping brokers for *Hajis* was prevalent some time back?

(b) Is the Government aware of the fact that these brokers were of immense help to the *Hajis*, and the system worked quite satisfactorily?

(c) Will the Government be pleased to state why the system has been discontinued or replaced by another system?

The HONOURABLE MR. M. S. D. BUTLER: (a) Yes.

(b) So far as the Government of India are aware the system worked satisfactorily.

(c) The shipping companies refused to pay brokers and engaged their own servants.

RATES FOR CHILDREN PILGRIMS.

169. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Is it a fact that P. & O. and other steamer companies charge half rate for children under 12 years of age?

(b) Is it a fact that pilgrims to Jeddah are compelled to purchase full tickets for children over one year old? If so, will the Government be pleased to state why this peculiar rule is applicable only in case of *Haj* pilgrimage?

The HONOURABLE MR. M. S. D. BUTLER: (a) The Government of India have no definite information but understand that this is the general practice.

(b) There is no rule or order of Government preventing shipping companies from charging reduced fares for the children of pilgrims, but, so far as the Government of India are aware, such companies carrying pilgrims to Jeddah charge full fares for children of and above the age of one year. This is probably due to the fact that the provisions of the Paris Sanitary Convention of 1912 require that, over and above the space required for the crew, a pilgrim ship must provide a minimum space of 16 square feet for each person irrespective of age.

CLAIMS AGAINST RETIRING OFFICIALS.

170. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state whether it is a fact that officers proceeding Home on retirement are immune from the liability to adjust monetary claims against them? If so, do Government intend to provide statutory safeguards for the recovery from such officers while in England of debts contracted by them in India?

The HONOURABLE MR. J. CRERAR: Officers proceeding Home on retirement are not immune from suits for claims against them. The difficulty is in the matter of enforcement once they have left India and this question is now being examined.

NAVAL TRAINING OF INDIANS.

171. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what provision, if any, has been made by Government for imparting Naval training to Indians?

(b) Will the Government be pleased to place on the table the correspondence that may have passed between Sir Muhammad Yusaf, Bombay Government and the Government of India?

(c) Is Government prepared to help the scheme of Sir Muhammad Yusaf, with the necessary concessions so that the work carried on there should be the best possible?

The HONOURABLE MR. D. T. CHADWICK: (a) The Government of India understand that the question of the establishment of training institutions for Indian seamen has been under the consideration of the principal Maritime Local Governments and that their efforts in this direction have not met with much success. The Indian Mercantile Marine Committee, which is at present sitting, will also consider the question of training executive officers and engineers of ships by the establishment of a Nautical College in India, or otherwise.

(b) The Government of India have no correspondence on the subject.

(c) In view of the answer to part (b) this question does not arise.

MUNICIPAL TAXATION ON GOVERNMENT BUILDINGS IN CANTONMENTS.

172. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what procedure is adopted regarding the incidence of municipal taxation on Government buildings within cantonment limits?

(b) Whether such taxes are collected at Poona?

(c) If not, why not?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Government buildings in cantonments situated in British India are exempt from the payment of any tax.

(b) No.

(c) The question does not arise.

INDIAN EDUCATIONAL SERVICE—MUSLIM ELEMENT.

173. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state the percentage of Muslim element in the Indian Educational Service in the different provinces?

(b) What developments have been made in this connection since my question on this subject put on 17th September 1919?

The HONOURABLE MR. M. S. D. BUTLER: (a) A statement giving the information is laid on the table.

(b) The number of Muhammadans in the Indian Educational Service is now 19 as against 1 in September 1919.

Percentage of Muhammadans in the Indian Educational Service.

Province.	To sanctioned strength.	To total number of officers actually employed.	To total number of Indian Officers.
Madras	1.88	2.27	4.76
Bombay	3.44	4.00	9.09
Bengal	5.28	6.89	14.81
United Provinces	6.25	6.81	21.42
Punjab	8.32	9.67	25.00
Burma	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
Bihar and Orissa	5.88	6.06	15.38
Central Provinces	8.12	4.34	14.28
Assam	8.28	11.11	50.00
North-West Frontier Province	40.00	66.66	100.00

G. I. P. RAILWAY MANAGEMENT AND ORGANISATION.

174. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state what changes in the management and organization of the Great Indian Peninsula Railway have been recently introduced?

(b) In view of the present financial stringency of Government, has any economy been effected as a result of these changes?

(c) Will Government be pleased to lay on the table an account of actual and anticipated savings made in this connection?

The HONOURABLE MR. D. T. CHADWICK: (a) From the 1st November 1922 the Traffic and Locomotive Departments of the Great Indian Peninsula Railway were replaced by:—

- (i) A Transportation Department which is responsible for the running of all trains and the carriage of traffic of all kinds having under its control all engines except those undergoing heavy repairs.
- (ii) A Commercial Department which is responsible for securing, charging for, loading, despatching, unloading and delivering goods and parcels and securing and charging for passengers.
- (iii) A Mechanical Department which is responsible for the design, construction and heavy repairs of engines, the provision of electricity, and the provision, structural alteration, and heavy repairs of pumping plant.

(b) and (c). The changes referred to have not yet been completely carried out, and it is not possible to give any figures. It is, however, anticipated that the result when complete will be a great gain both in economy and efficiency.

ARRESTS OF INDIAN EMIGRANTS IN BRITISH GUIANA.

175. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to enquire if there have been any arrests and imprisonments of Indian emigrants in British Guiana in connection with strikes due to hard economic conditions during the last six months?

(b) If so, what is the number of such strikes, arrests and imprisonments?

The HONOURABLE MR. B. N. SARMA: An inquiry in regard to the alleged strikes of Indian labourers in British Guiana and the arrest and imprisonment of the strikers has been addressed to the Colonial Government whose reply is awaited.

ACTION ON ESHER COMMITTEE'S REPORT.

176. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state what distinct steps they have taken to translate into action the Resolutions passed by the Legislature on questions arising out of the Report of the Esher Committee?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: A statement, indicating the action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report, is laid down on the table.

Action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report.

Subject of Resolution.	Action taken by Government.
1. Equipment and organization of the Indian Army.	A copy of the Resolution was communicated to the Secretary of State. Every effort is being made to equip and organise the Indian Army, as far as is practicable, in the same manner as the British Army, but complete assimilation will not take place owing to financial and other reasons.
2. Employment of Army in India for service outside the external frontiers of India.	Resolution was communicated to the Secretary of State. Except in the case of Aden and the Persian Gulf, all Indian troops stationed overseas are paid for by the Imperial Government. The cost of the garrisons at Aden and in the Persian Gulf is defrayed partly by the Imperial and partly by the Indian Government and questions regarding the strength and maintenance of both these garrisons are at present the subject of correspondence between the two Governments.
3. The appointment of a Surveyor-General of Supply.	The matter has been referred to the Secretary of State. No further action has been taken in this matter.
4. The appointment of Commander-in-Chief and Senior Staff Officers in India.	The conditions regulating the appointment of these officers have been approved by the Secretary of State for India.
5. Commander-in-Chief's right to correspond with the Chief of the Imperial General Staff.	This has been approved by the Secretary of State.
6. The admission of Indian subjects to all arms of His Majesty's Military, Naval and Air Forces in India.	The matter is still under reference to the Secretary of State.

Action taken by Government on the various Resolutions adopted by the Legislative Assembly on the 28th March 1921 in connection with the Esher Committee's Report—contd.

Subject of Resolution.	Action taken by Government.
7. The establishment of a military college in India.	The Prince of Wales' Royal Indian Military College, Dehra Dun, for the preliminary training of Indians to fit them to enter the Royal Military College, Sandhurst, was formally opened by His Royal Highness the Prince of Wales on the 13th March 1923. The number of cadets at present in residence is 27. Further entries will take place in the terms commencing in January and April 1923, bringing the total number of cadets up to the present authorised establishment of 70. An <i>ad interim</i> report by the Commandant of the College on the first terms work has already been published and circulated to the Members of the Legislature.
8. The fixation of pay of all commissioned ranks in all branches of the Army with an overseas allowance.	The rates of rank pay of British officers of the Indian Army have been revised and brought into line with those for British officers of the British Army, but no overseas allowance has been sanctioned.
9. Formation of a territorial force, etc.	The Resolution has been given effect to by Government. The Territorial Force is in process of development and recruitment has made good progress.
10. Grant of the rank of 2nd-Lieutenant, Lieutenant or higher rank to the officers of the Indian Territorial Force.	Officers of the Indian Territorial Force now hold a commission which confers British rank.
11. Interchange of officers between British and Indian Services.	The matter is still under reference to the Secretary of State.
12. Reduction of administrative Staff at Army Headquarters.	A 5 per cent. reduction at Army Headquarters and certain reductions in the staffs of Commands and Districts were effected during the spring of 1923. Further reduction at Army Headquarters are now being effected as a result of the recommendations of the Committee presided over by the Honourable Mr. C. A. Innes, appointed to inquire into the establishments of Army Headquarters, India.
13. Appointment of a committee for the purpose of examining and reporting upon the best method of giving effect to the natural rights and aspirations of the people of India for the attainment of full responsible Government.	All the points in the Resolution were discussed by the Military Requirements Committee.
14. Inclusion of "Anglo-Indians" in the terms of "Indian subjects" or "Indians."	The matter is under consideration.

SUGAR IMPORTATION AND REVENUE.

177. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: Will Government be pleased to state what has been the result of the further 10 per cent. increase in the duty on sugar since April last as regards—

- (a) the quantities imported; and
- (b) the income of Government?

The HONOURABLE MR. D. T. CHADWICK: The quantities of sugar imported and the duty received thereon between April the 1st, and December 31st in 1921 and 1922, respectively, were as follows:—

Quantities:—571,500 tons and 321,000 tons, respectively.

Duties collected:—Rs. 503 lakhs and Rs. 289 lakhs, respectively.

The fall in imports, and therefore in duties, is ascribable primarily to the exceptionally heavy imports of sugar in 1921-22. This is obvious, as in spite of the increase in the duty, the market prices of sugar in Calcutta in 1922 were very appreciably below those in 1921.

DIVISIONAL COMMISSIONERSHIPS.

178. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government be pleased to state if any orders have been issued or instructions given by the Secretary of State to the Government of India or the provincial administrations regarding the retention of any particular posts, such as those of Divisional Commissioners, in the cadres of the Imperial Services?

(b) What is the nature of such instructions or orders?

(c) Are they of the nature of statutory rules or official instructions?

(d) Will Government see their way to lay on the table a copy of such orders or instructions, or give the Council a summary of their contents?

The HONOURABLE MR. J. CRERAR: No orders have been issued.

INDIANS DOMICILED IN THE COLONIES.

179. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: What progress has been made in the negotiations between the Secretary of State for India and the Colonial Secretary on the question of the status of Indians domiciled in the colonies?

The HONOURABLE MR. B. N. SARMA: The Right Honourable Srinivasa Sastri was deputed by the Government of India to visit the Dominions of Australia, New Zealand and Canada in order to assist the respective Governments in giving effect to the Resolution of the Imperial Conference, 1921, regarding the rights of Indians to citizenship. Negotiations are proceeding between the Government of India, the India Office and the Colonial Office regarding the status of Indians domiciled in Fiji, British Guiana, and Kenya, but the Government of India are unable to make any announcement regarding their progress.

RESOLUTION ON THE PRIME MINISTER'S SPEECH.

180. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will the Government be pleased to state if they have communicated to the authorities in England the Resolution, passed by the Assembly on September 8th, 1922, on the Prime Minister's speech in the course of the Civil Service debate?

(b) If so, what reply has been received by the Government of India on the subject?

The HONOURABLE MR. J. CRERAR: (a) Yes.

(b) No reply has been received.

DISTRIBUTION OF I. M. S. APPOINTMENTS.

181. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Will Government state how the 80 new appointments to the Indian Medical Service recently announced by the Secretary of State are to be distributed among the provinces?

(b) Had any communication been received from the provincial administrations for any increase in the strength of their cadre of the Imperial Medical Service?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b). There is no proposal to increase the strength of the cadre of the Indian Medical Service. The Honourable Member is mistaken in thinking that the 80 officers who are to be appointed to fill existing vacancies in the Indian Medical Service, are to be distributed among the Provinces. They are to be employed in the first instance on the military side of the service.

QUALIFICATION OF INDIANS FOR MILITARY SERVICES, ETC.

182. The HONOURABLE KHAN BAHADUR EBRAHIM HAROON JAFFER: (a) Regarding the Viceregal speech on the occasion of the opening of the 1921 autumn session of the Indian Legislature, will Government be pleased to state what steps Government have been able to take so far with the object of enabling Indians to qualify for commission in the Artillery and Engineer Services of the British Army?

(b) Have the Government of India come to any definite conclusion on the scheme for assisting Indian lads to qualify themselves by a period of training in England for a commissioned rank in the Royal Indian Marine?

(c) Will Government be pleased to publish the two schemes above referred to?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The attention of the Honourable Member is invited to the reply given on the 13th February to question No. 121 asked by the Honourable Mr. Phiroze Sethna.

DRAFT NOTIFICATION RE EMIGRATION OF UNSKILLED LABOUR TO MAURITIUS.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to lay on the table, in pursuance of the provisions of sub-section (2) of section 10 of the Indian Emigration Act, 1922, a draft notification specifying the terms and conditions on which emigration for the purpose of unskilled work shall be lawful to Mauritius.

No.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

EMIGRATION.

Delhi, the March 1923.

NOTIFICATION.

In exercise of the powers conferred by section 10 of the Indian Emigration Act, 1922 (VII of 1922), hereinafter referred to as "the Act", the Governor General in

Council is pleased to issue the following Notification in the form in which it has been approved by both Chambers of the Indian Legislature :—

Emigration to Mauritius for the purpose of unskilled work shall be lawful for a period of one year with effect from a date to be notified in the *Gazette of India* by the Governor General in Council after the matters requiring determination under clause 10 of this notification shall first have been determined subject to the following terms and conditions, namely :—

- (1) The number of adult male labourers which may be recruited within the period shall be limited to 1,500.
- (2) The emigrant shall—
 - (a) have been recruited by a person licensed for that purpose by and responsible to an officer (hereinafter called the Emigration Commissioner) appointed by the Government of Mauritius, or
 - (b) have applied direct to the Emigration Commissioner for an assisted passage and have been accepted by him.
- (3) The emigrant shall not, before leaving British India, have entered into any engagement to labour for a period exceeding one month.
- (4) Engagements to labour entered into by an emigrant in Mauritius for a period exceeding one month shall be void.
- (5) The Government of Mauritius shall, at any time when so desired by the Governor General in Council, admit and give all facilities to an Agent appointed under section 7 of the Act.
- (6) No part of the cost of his recruitment, subsistence during transport or transport, shall be recoverable from any emigrant, and all expenses in this connection shall be defrayed from the fund created by the Government of Mauritius under section 45 of the Labour Ordinance, 1922.
- (7) Any emigrant shall, if he desires to return to India at any time after two years from the date of his introduction to the Colony, be repatriated at the cost of the Government of Mauritius to the place of his recruitment.
- (8) Any emigrant shall, at any time within the period of two years from the date of his introduction to the Colony, be entitled to be repatriated at the cost of the Government of Mauritius to the place of his recruitment if he satisfies the Agent appointed under section 7 of the Act that his return to his home is desirable either on the ground of the state of his health or on the ground that the work which he is required to do is unsuitable to his capacity or that he has been unjustly treated by his employer or for any other sufficient reason.
- (9) If any emigrant at any time within the period of two years from the date of his introduction to the Colony satisfies the Agent appointed under section 7 of the Act that he is unable to obtain a wage which will provide the cost of living for a man with a wife and three children and also a reasonable margin for savings, sickness and old age, he shall be entitled to be repatriated at the cost of the Government of Mauritius to the place of his recruitment.
- (10) The Government of Mauritius, in consultation with the Government of India or the Agent appointed under section 7 of the Act, shall from time to time determine the amount of wage which is sufficient to meet the requirements laid down in clause 9 of this notification.
- (11) If at any time there is no Agent appointed under section 7 of the Act, the Government of Mauritius shall appoint a person to perform the duties of the Agent as set forth in clause 8.
- (12) The Government of Mauritius shall furnish such periodical reports and returns as may be required from time to time by the Government of India in respect of the welfare of the persons emigrating to the Colony in accordance with this notification.

THE INDIAN COTTON CESS BILL.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I beg to move:

“That the Bill to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India, as passed by the Legislative Assembly, be taken into consideration.”

[Mr. B. N. Sarma.]

Honourable Members will recollect that last month on my motion for the reference of the Bill to a Select Committee consisting of Members of both Houses this Bill was committed to a Committee of 12. The Committee met, went into the question fully, bearing in mind the remarks of the Honourable Members of this House, and the Government was pressed for a reconsideration of one important feature of the Bill, namely, the rate at which the cess is to be levied. In deference to the wishes of some of the Members of the Committee and the voice of the agricultural section as represented in this House especially, the Government reluctantly agreed to modify the provision of the Bill as originally introduced and contented themselves with the levying of a cess of 2 annas per bale of 400 pounds, subject to the condition that for the first three years, in view of the enormous capital expenditure that has to be incurred, the cess should be at the rate of 4 annas as originally contemplated. The Legislative Assembly has accepted this view and passed it.

The other change of any substance was in favour of an enlargement of the composition of the Committee as originally provided for in clause 4. Doubts were expressed as to whether the rural and agricultural interests were sufficiently represented on the Central Cotton Committee and that if their interests had been properly represented, possibly the recommendation of the Committee would not have taken the particular form in which representation was made to the Government for the levying of the cess. It was pressed upon the Committee that it was desirable to give a larger representation to the cotton growers, the actual producers, and in deference to the wishes of the agricultural population as represented on that Committee, 10 representatives have been provided in lieu of 5 as originally intended, removing the representation given originally to one of the official Members.

The third provision I think is really an improvement in favour of the tax-payer and I think Honourable Members will appreciate it. A provision has been made at the instance of the Government providing an appeal to the Local Government where a mill-owner or an exporter is dissatisfied with a decision as regards assessments made by the Collector. In the case of an exporter the provisions of the Sea Customs Act are to apply, and in the case of the mill-owner and other persons, an appeal is to lie to the Local Government. I think Honourable Members will consider that this is distinctly an improvement upon the Bill as originally introduced.

I have very few other remarks to make. The Assembly considered these questions fully and adopted in substance the recommendations of the Joint Select Committee. I therefore move that the Bill be taken into consideration.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I would like to make a few observations in connection with this Bill, particularly as I was placed on the Joint Select Committee but unfortunately was not able to attend a single meeting of that Committee, and also because I was not present at the time when this Bill was introduced in the Council. Sir, I have since then had an opportunity of perusing the reports and I was a little bit surprised at the cold reception given to this most important Bill. I am afraid my perusal of the debate has led me further to think that there was a great deal of misunderstanding

as to the entire scope of the Bill. The Bill has been received in the Council with a certain amount of apprehension and suspicion. The suspicion, as I understand it, has been of two kinds. It has been thought that this Bill is not really brought forward in the interests of the Indian agriculturist but in the interests of the English manufacturer of Lancashire. It is also thought that the Government have taken the step of imposing a duty for extending a commercial crop like cotton at the cost of other food-crops. I venture to say that both these apprehensions to my mind are unfounded. It is not yet understood, and as one interested to a certain extent in the cotton industry of this country I may be permitted to express my entire approval of this Bill. It is said that India only goes in for the manufacture of lower counts and, as such, does not ordinarily require the long staple cotton; and as the long staple cotton is required by English manufacturers for the purpose of weaving and spinning the higher counts and weaving the finer cloth, this Bill ultimately would be more advantageous to those people than the people of this country. This view is entirely incorrect. In India during the last few years we have been making a very serious attempt to spin the higher counts and also to weave the finer cloth. India is consuming nearly 50 per cent. of the cotton which is grown in the country, and I am looking forward to a day when India will be in a position to utilize the same and consume the entire Indian crop. In this country, with the advent of new machinery, with the advent of the application of more modern appliances, scientific appliances, we are fast progressing in the matter of our spinning and weaving industry, and we must require before long a larger quantity of long staple cotton in this country for local consumption. We have found, practical men have found, that they need both the short and long staple cotton for the simple reason that a certain amount of long staple cotton has to be mixed with short staple even in the production of the coarser stuff. The second point on which apprehension has been raised is that an impetus, a wrong impetus, is given to commercial crops at the cost of the food-crops. Now it is a fact which should be borne in mind that the cotton area in this country is, after all, a limited area; cotton cannot be grown in the whole of India; it is only the soil of certain parts of the country that is capable of producing cotton, and if the cotton area is compared with the large tracts that are available for the grains and other foodstuffs, this argument, this contention, will lose all its force. It is only over a limited tract of the country, more particularly on black soil, that cotton is grown and I do not think that there is any justification for the apprehension that the commercial crop is put in a more advantageous position in the interests of the exporter and other outside interests. Then, Sir, I have noticed that more serious objection has been taken to this cess. It is said that this cess, in other words, is a direct tax on the producer and the grower of cotton and as such it is objectionable. It is also contended that the cess amounts to a tax on the poor agriculturists. I am afraid that the real meaning of a cess is misunderstood. Many of my Honourable colleagues have confused a tax with a cess. A tax is distinguishable from a cess inasmuch as a tax is imposed for revenue purposes only; the primary object of a tax, as we understand in ordinary parlance, is that it is imposed for revenue purposes, for collecting a duty which will be generally utilized for carrying on the general administration. A cess is of a more limited character. It is often local; it is distinguishable from a tax in so far that it is raised not for the purpose of deriving revenue but for the purpose of helping any particular industry by the application of that money to that very purpose. In the case of general revenues, the ordinary tax, you appropriate, you

[Sir Maneckji Dadabhoy.]

utilize for any or all purposes of State; in the case of the cess, it is only used and utilized for the purpose for which it is earmarked, as in the present case, and I therefore say that the apprehension in this case is also not well founded. Some remarks have also been made about this cess falling heavily on the producer of cotton. I am afraid I cannot agree with that statement. As one intimately connected with this industry, I welcome this Bill for two reasons. I welcome it in the interests of the agriculturists. The present price of cotton,—I mean, the price of cotton since the war—has risen so high in this country that you cannot purchase an inferior quality of cotton under Rs. 300 a candy and long-staple cotton at less than anything between Rs. 600 and Rs. 650 a candy. The infinitesimal duty of 4 annas per bale, which means for less than 400 lbs. of cotton, is absolutely of an inappreciable character, and we cannot possibly take exception to it. If you examine the ratio between the value of cotton and the duty, I do not for a moment apprehend that the producer will at all feel or even notice it. Moreover, in making purchases of cotton, the exporter as well as the consumer will not take into account this small duty; this small duty does not bear any relation to the actual value of the cotton, the actual purchase price. The consumer will ungrudgingly pay this duty. I do not care whether this duty ultimately falls on the producer or on the exporter or on the manufacturer, but I must say that one thing is clear to my mind, that the duty is extremely small and will not be felt. We have got some precedent for this legislation. It is not a legislation of a new character. A similar Bill in connection with tea cess was previously introduced in the Council. Also for the encouragement and cultivation of lac a similar Bill was in the past introduced, and I am distinctly of opinion that this Bill is really and ultimately for the good of agriculturists. It is admitted that in the matter of cotton scientific research is necessary and essential, but it is said that the Government should meet the cost of this from the general revenues. Now we all know that if we say that the general revenues should be made available for the improvement of cotton, we will never get any redress; we will have to wait for an indefinite period, because general revenues cannot be allocated for this particular purpose; and it is only the special revenues derived from a special cess on the cotton growing industry that alone can be applied for the purpose of improving our staple and to enable India to take its place with other foremost nations. I say India has great possibilities in this matter. Our Indian cotton can be improved with a little bit of enterprise, with a little expenditure of money and with scientific research, and though we may not be able to compete with America or any other Western countries in the matter of staple, I think we can attain some measure of success by studiously nursing our Indian cotton-growing industry, and the Bill has no other object than the nursing of the cotton growing industry; and as such I appeal to all my friends here who are interested in the most important industry of India, namely agriculture, to warmly support this Bill. One word more, Sir, and I have finished. I have also noticed that a great deal has been said about the machinery which we propose to employ in carrying out this work. I have heard it stated that the committee will be too unwieldy and that it would have been much better if the matter had been left to experts in agriculture. I cannot agree with that view at all. Non-official Members largely, people interested in the cotton industry, in the agricultural industry, and scientific and other experts will be associated in this work. The

proposed Committee, after all, will bring to bear upon the solution of the question the united wisdom, knowledge and experience from all parts of the country, and to my mind a versatile committee like this is the only one that will be in a position to effectively deal with this difficult matter. After all, there will be few meetings of this committee every year, and I have not the slightest doubt that the accumulated experience and wisdom of a committee of the sort recommended will be of great service to the country.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, in our country there are certain sayings which hold good for all time. "*Roti, kapra*," means food and clothing, and whenever one wants to offer good wishes to another he says *Raj Kaj*. *Raj* means stomachful and *Kaj* means body cover. These are the two essential things that one requires. India is not the only cotton producing country. Cotton growing has developed in other portions of the world. It is grown in the United States, Egypt, and other places. If we do not produce cotton properly, and other countries in the world show that their production is better, naturally in the market they will win. I am entirely for the Bill. Though there will be some expenditure, there will be a safeguard that we will not go down in the estimation of the world and we would not produce bad cotton. Unfortunately, though we produce cotton, some middlemen come in and they reap the benefit. On the other hand, Sir, rural people when they grow cotton, they generally spin it themselves. They make coarse cloth which is far better in endurance than anything which is made by machinery. But, at the same time, there are other people who have to buy cloth. We produce cotton in this country, then it is purchased, conveyed by means of railway and ship and expensive labour and machinery employed on it in England. How on earth, Sir, can they bring back the stuff after having manufactured it and sell it cheap here? The only thing I have to put to this House, Sir, for the good of the country is that we should take steps so as to manufacture cotton in our own country without having the necessity of sending the goods through railway and steamer and thus have cheap cloth in the country. Sir, I do not know if somebody will get up against me when I speak about Mr. Gandhi. When he tried to get cotton manufactured in India, although goods were said to be Gandhi-made, they were really made in Europe and sold here. These are the few remarks, Sir, that I make as a cotton producer. I hope that Government will do something in this respect to make cotton cloth cheap in India for the benefit of the people of this country.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, when this Bill is passed—as I hope it will be passed unanimously—the levy of this cess will give the Central Cotton Committee sufficient funds to enable them to improve both the quality of cotton grown by the agriculturist till now and also to give sufficient information to the agriculturists to enable them to get better prices for the same quality of cotton than what they are doing at present. This Bill is intended to help the agriculturist, and I am glad my Honourable friend Sir Umar Hayat Khan looks at it from that point of view. Yesterday, we heard my Honourable friend Lieutenant Chaudhri Lal Chand waxing eloquent on the needs of the agriculturist. Here is a measure which ought to please him, because it is for the agriculturist that this measure has been brought in, and I am quite sure it will be as welcome to him and other colleagues who represent

[Mr. Lalubhai Samaldas.]

rural constituencies as it is to us who represent urban constituencies. It may be that there is a holy or unholy alliance between the capitalist and the labourer or there is a triple alliance between the capitalist, labourer and the Government, but whatever that alliance may be, the work that is done to-day by this alliance is for the agriculturist and I hope the agriculturist will be pleased with it. With these words, Sir, I support the measure.

The HONOURABLE THE PRESIDENT: The question is that the Bill to

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I wish to speak.

The HONOURABLE THE PRESIDENT: The Honourable Member should rise if he wishes to speak.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: Sir, I had the honour of being one of the members of the Select Committee, and I am one of the producers of cotton and also a consumer. What I have found is that, as my Honourable friend Lala Ram Saran Das has just now said, the outturn of the long staple cotton is smaller than the country cotton, but the finer product always gets a good price. It is generally sold in foreign countries, not here in India. But one thing, Sir, is quite essential, namely, that our country and our produce must have a good name. We have already got a very bad name for our productions of wheat, indigo, cotton and other things, because the foreign buyers always say it is not fine produce, and that we always mix something in our produce. That always gives us a bad name. We always ask Government to do something good for the country, and when Government, fortunately or unfortunately, takes a step to do a good thing, a hundred difficulties are always raised. A word has been said by my most learned and Honourable friend Sir Maneckji Dadabhoj, who is a hundred times more able than my humble self, but I feel that I must reply to that, that is in regard to suspicion. Suspicion is always a produce of one's own heart. I will salute my friend and he will smile and be very pleased. I will salute my enemy and he will suspect me and think that I am teasing him. If you think that this Bill is introduced in the Council for the benefit of Lancashire and Manchester, you will have a hundred suspicions in your heart, but not if you think that anyhow, let Lancashire and Manchester get some benefit out of this Bill, we will also have our benefits. Why should we cut our noses to spite other people? Lancashire and Manchester will have good cotton and we will have a good price and we will have a good name too. Besides, as it has been said, it will be a golden day for India when all our cotton will be consumed here, but why should we consume a bad cotton? We must consume a good cotton. Research will not only make our cotton finer, it will give us a greater yield. We have already got research in so many other things. Pusa is there, there has been great research in regard to wheat, and we have a very good outturn of Pusa seeds. Besides there has been a cess for shellac, lac, indigo and other things; why not for cotton? The only thing is that if any body is suspicious we must see how the cess is working. In the Central Committee there are many most able gentlemen, like my Honourable

friend Mr. Lalubhai Samaldas and Mr. Purshotamdas Thakurdas, one of the most expert men, and also all these millowners of Bombay. They must see if the money is correctly spent and not thrown away; they must check it. But why not take this step and try our luck; and if this cess is collected and a good thing is done, let it be done. Besides the original rate was 4 annas a bale and it has been reduced to 2 annas a bale after three years. If the experiment fails, let it fail and let the Council again show that the measure has failed. With these few remarks in my most inferior language for which I apologise, I support the Bill.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I have only one or two observations to make. I think there is hardly any Member here who will seriously oppose the Bill. In the application of the fund it is provided that the other monies received by the Committee shall be applied to meet the expenses of the Committee, and the cost of such measures as it may, with the previous approval of the Governor General in Council, decide to undertake to promote agriculture and research in the interests of the cotton industry in India. In face of this provision I think nobody who is interested in the growing of cotton will oppose the Bill. But one thing I may say clearly and it is this, that we are not prepared to accept the statement that this tax, or cess as it has been called, is not a burden upon the cultivator. It is a burden on the cultivator, the manufacturer and everybody till it reaches the market. Nobody can deny it, but in spite of this fact, all of us ought to support this Bill, and if it proves later on that it does not promote the promotion of agricultural research or is not applied in the promoting of agricultural interests, then we can take measures to have it repealed. I give my full support to the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to detailed consideration of the Bill.

Clauses 1, 2 and 3 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 4.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Sir, may I, with your permission, at this stage suggest a verbal alteration if the Member in charge has no objection to it?

In sub-clauses (ix), (x) and (xi) of clause 4 the persons to be nominated have not been defined as they have been defined in other clauses, for instance, in sub-clause (viii). In sub-clause (viii) there are ten persons representing the cotton-growing industry. The three persons in sub-clause (ix) may mean anybody. So what I wish to point out is that these three persons in sub-clause (ix), the persons in sub-clause (x) and "such additional persons" in sub-clause (xi) be named as representing certain industries, otherwise the representatives of the cotton-growing industries will be always in a minority. There are already 9 representatives of the Chambers of Commerce in sub-clause (iv), four representatives in sub-clause (v) and there are other officers of the different Departments. So, Sir, if you will allow it and the Honourable Member has no objection, the following addition may be made in all these sub-clauses (ix), (x) and (xi), that after the word "persons" the words "representing the cotton-growing industry" may be added.

The HONOURABLE THE PRESIDENT: As usual I ask the Government whether they stand on notice.

The HONOURABLE MR. B. N. SARMA: I regret, Sir, that I cannot treat this as merely a verbal amendment. It is a matter of substance and I cannot therefore agree to its being moved at this stage.

The HONOURABLE THE PRESIDENT: I should like to understand whether the Honourable Member objects to the amendment being considered on the ground of notice.

The HONOURABLE MR. B. N. SARMA: Certainly, Sir.

The HONOURABLE THE PRESIDENT: Then I rule it out of order.

The HONOURABLE LIEUTENANT CHAUDHRI LAL CHAND: Sir, I will be satisfied if the Honourable Member of the Government gives an undertaking that the interests of the representatives of the cotton-growing industry in this clause will be duly considered when they are nominating persons under this clause.

The HONOURABLE MR. B. N. SARMA: Sir, I think the Government cannot bind themselves by an undertaking such as has been asked for by the Honourable Lieutenant Lal Chand. He will see on further examination of these clauses that clauses (ix) and (x) deal with Indian Darbars and States. It is for those States to nominate their representatives and the nominations are ordinarily accepted by the Government of India. It would not be desirable to fetter the discretion of the Chiefs of those States in the manner suggested by the Honourable Member. It is very probable that those States will send only representatives of the cotton growers, but if they do choose to nominate persons representing the manufacturing interests, I do not think that the Government of India can take any exception thereto.

As regards clause (xi), Government has taken power to nominate other persons with a view to redress inequalities. It is not possible therefore for them to say how the inequality has to be redressed or where it is likely to arise. I would also point out that his observation that the manufacturers have a majority, or nearly a majority, is not accurate. He seems to regard the Government representatives coming from the various provinces and nominated by the Government of India as in a way representatives of the manufacturing or mill-owning industry. I take strong exception to that. I think these officials will usually be connected with the Agricultural Department, representing the cotton-growing industry, and will only be indirectly interested in cotton manufactures. The Local Governments are primarily interested in agriculture and consequently would nominate where they have the power such persons as would represent the agricultural interests. Therefore, if anything, I should think the agricultural interests form a vast majority of this body. I do not think therefore that his apprehensions are real, and for the reasons which I have given, no such undertaking can be given. But if Government finds that at any particular time it is desirable to nominate persons representative of the cotton-growing industry for any special purposes, I daresay the Government will take particular care to see that such persons alone are nominated. But Government cannot give an undertaking of the kind desired, nor do I think is there any necessity for it.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I rise to support Lieutenant Lal Chand. There is a very great danger that great difficulties will arise if the cotton growers are not properly represented and the others who deal with the cotton afterwards have a preponderating voice in the Committee. I have to-day heard, Sir, that the long staple cotton actually gives a less produce than the country cotton. I cannot understand

The HONOURABLE THE PRESIDENT: I do not think the question whether long staple cotton or short staple cotton gives the biggest crop arises on this clause.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: The whole question is, Sir, that the cotton growers are the people chiefly concerned and they should be given the largest representation. The others really do not know anything about the matter and think that country cotton gives a bigger crop. In reality the long staple cotton gives three or four times the produce of the country cotton. I therefore want to put it to the House that when they are appointing a Committee they should see to it that the actual producers have the largest representation on it.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I would like to add one word only to this debate. My Honourable friend behind me is not aware that the State of Hyderabad, the State of Baroda and the Gwalior State produce nearly 50 per cent. of the aggregate quantity of cotton which is grown in India, and this section only rightly gives those States power to send their representatives on this Board. It is only right and proper that their hands should be absolutely unfettered in a matter like this. They are the best judges of the people on whom they should rely. It is idle for us to waste the time of this Council by observations of that nature.

Clause 4 was added to the Bill.

Clauses 5 to 17 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. B. N. SARMA: Sir, I now beg to move:

“ That the Bill, as passed by the Legislative Assembly, be passed.”

In making this motion let me thank the Members of this House for the cordial reception and hearty co-operation they have given to this measure both now and on the previous occasion and in assisting the Assembly in placing on the Statute Book a most beneficent measure of legislation. Honourable Members have last month placed another Bill connected with the cotton industry—the Cotton Transport Bill—on the Statute Book, and I think the Central Legislature may well be congratulated upon having during this session passed two important Bills of constructive legislation—two measures which had been recommended for adoption by the Indian Cotton Committee which was appointed by the Government in 1917 to recommend measures for the purpose of improving the cotton industry generally. Honourable Members will thus see that Committees appointed by the Government do not always end in nothing. In accordance with the recommendations of that Committee, the strength of the agricultural staff has been considerably increased both in the Departments administered by the Government of India and the Provincial Governments; and if more has not been done, it is because the Government has recently been confronted with a financial stress which they could not overcome both here as well as

[Mr. B. N. Sarma.]

in the provinces, and that is the reason why they have been obliged to accept this recommendation of the Central Cotton Committee which they have appointed in pursuance of one of the recommendations of the Indian Cotton Committee to impose a cess, and brought forward this measure for the benefit of the industry. I may say, Sir, that this is a genuine piece of Swadeshi legislation. It has been initiated and promoted by the representatives of the people. It took some time for them to convince the Government of the expediency of acceding to their request, and they are glad to find that the Central Legislature heartily appreciate and approve the recommendations of the Central Cotton Committee and have unanimously passed this measure. It is therefore legislation by consent; all that has been asked for is the assistance of the Government machinery in placing before the Central Legislature a Bill for adoption and giving it their sanction in order that the industry may be placed on a sound and satisfactory basis, and it would have been churlish on the part of the Government to have refused the assistance which was sought by the representatives of the industry. When I was a non-official Member and especially during the war, my attention was drawn to the very great hardship that was endured by the people of this country owing to the enormous increase in the cost of cotton-cloth; there was a cloth famine; and its price went up so high that there were complaints from Bengal, from Bihar, from all over the country, the poor people did not know how to find the money for the purpose of buying even the minimum amount of clothing. Government adopted various expedients and it was forced upon the Government's attention that something must be done to improve cotton growing, marketing and the manufacture thereof. This measure has nothing to do with the manufacturing side. As has been pointed out, it is primarily and wholly intended for the purpose of assisting the grower to grow more cotton and longer staple cotton, a better type of cotton which would give a larger yield and bring him greater profit. Technological research has been proposed to be undertaken only for the purpose of ascertaining the possibilities of the cotton that is to be grown under such conditions as may be recommended by the Research Committee. It is in order to help the cotton grower to obtain a fair price, that he may be informed of the possibilities of the cotton that he is growing under improved conditions; it is thus not for the benefit of the manufacturer except indirectly. Honourable Members will therefore see that this jealousy—natural, in the circumstances—of the manufacturer is unnecessary, especially while taking this Bill into consideration. I am not prepared to accept the contention which was put forward by some manufacturers that it is in a very remote way that they would be benefited. I think they would be more directly benefited than they imagine if the cotton grower would place at their disposal cotton of a better variety than is at present grown in this country without driving them to the necessity of importing the article from outside, which must be necessarily at a higher cost. To that extent he would be benefited, but that is not to be grudged. Nor is there any room for any conflict of interest arising as between the food producer and the cotton producer. We have on the average 20 million acres roughly—the area is fluctuating from year to year according to the season, according to the demand, and so on, and the cultivation of cotton,—the average, as has already been pointed out to this House, is roughly about 67 or 65 lbs. against 250 in America. But the fluctuations in the yield are so enormous that it is possible by proper research to assist the grower to considerably increase it; and if we can only improve the cotton

to the extent of 10 per cent.—not more—the benefit to the cotton grower will be no less than 10 crores of rupees. Honourable gentlemen will see that they are dealing with an industry of very great economic importance. Approximately 100 crores of rupees worth of cotton is grown in this country, and if, as I have said, only ten per cent. more can be realised either in the shape of yield or better quality, there will be an addition to the wealth of the country to the extent of ten crores. And I think the possibilities are very much greater, especially when we see that the contrast between the average here and the average in other countries where research has been undertaken is so great; and I think it will be a thousand pities having regard to the enormous possibilities of further extension in irrigation which are contemplated both in Sind, in Punjab and elsewhere, if something be not done to ascertain the requirements of water in the growth of the cotton crop, to place the whole position on a satisfactory footing, so that when the canals are actually built, the cotton producer may be in a position to know where he stands. The Indian Cotton Committee has recommended that a vast area in Sind and a considerable area in the Punjab should be set apart for the growing of cotton, and smaller areas in other provinces, and it is therefore absolutely necessary that this research should be undertaken at a very early date in order to give sufficient materials for the cultivator to proceed upon when these facilities are given to him. I said, Sir, a little while ago that there is no conflict whatsoever between the food production requirements and the cotton crop. Assuming for a moment that the country does not require a larger production, if you can increase the yield by say 50 per cent. on that assumption you can reduce the area under cotton and give it for food production. Therefore, this measure which would enable a larger crop to be gathered is necessarily beneficial from the food production point of view also, and I, therefore, think that it ought to be welcomed by the food producer—and no one is more interested in the food producer than the Agricultural Department, which knows what a small margin there is between scarcity and plenty in this country. If this measure were adopted . . .

The HONOURABLE THE PRESIDENT: I do not wish to interrupt the Honourable Member, but I would point out that if he makes a second reading speech in moving that the Bill be passed, I cannot prevent a second reading debate.

The HONOURABLE MR. B. N. SARMA: Sir, the Government does not take any exception whatsoever to any remarks made which are calculated to put pressure upon them to improve the lot of the agriculturist. I rejoiced, my heart was gladdened, when I listened yesterday to the remarks from various Members as to what little was being done for the agriculturist. You may rest assured that such remarks would be always welcome to the Government and particularly to the Department over which I preside. It is not because we are unwilling, but because we find that owing to peculiar conditions we are unable to do more that more has not been done, we regret we are unable to do more and we seek the assistance of the Legislature in other directions. Similar recommendations would be always useful and would be always welcome. This is likely to give considerable assistance to the Government in starting the Central India Institute, which they hope to be able to start especially for the benefit of cotton, somewhere in Central India, at Indore or another place which would be determined later on. I therefore welcome this measure as assisting in the promotion of research. I need hardly, Sir, at this stage dilate upon the need for research. Research,

[Mr. B. N. Sarma.]

co-operation and propaganda are *the* things that are wanted and the interest which has been aroused in the House by the introduction of this measure, as has been exhibited both on this as well as on a previous occasion, is a very healthy sign that the people are awakening to a consciousness as to where their interests do really lie. I once more thank the House for the patience with which they have listened to me and for helping me in placing this Bill upon the Statute Book.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I am one who has been benefited by the Research Department. I think that this Bill will be very useful because the Irrigation Department, the Executive Department and the cotton growers will meet together to give effect to the measure. I have to make a few observations. Firstly, some of the people who get into the Irrigation Department do not know how cotton is grown and when they should give water for growing cotton. The difficulty is that they give water at the wrong time of the year and therefore cotton does not grow. That is the first point. The second thing is that if one does not co-operate with the research department, it is a bad thing. If Indian cotton is mixed with long staple cotton, naturally the product is such that both get mixed and the result is that the stuff does not bring in sufficient money. Then, again, Sir, those who do not know how to grow it, place the long staple in such a way that it overgrows and the results are bad. Even if it overgrows, it should be cut at once. People do not like that beautiful crop should be cut down. When cotton was grown and all these various shrubs began

The HONOURABLE SIR MANECKJI DADABHOY: Are we going to get a lecture on cotton growing?

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: I want to show that people who do not know how to grow cotton are mistaken in their views. They do not know the operation. So, I just want to put before the House how useful this Bill is. Then, again, Sir, one has to water the cotton at the right time and that too

The HONOURABLE MR. LALUBHAI SAMALDAS: I rise to a point of order. Is the Honourable gentleman going to tell us how to water the cotton?

The HONOURABLE THE PRESIDENT: We are now concerned with the third reading of the Bill. The speeches, possibly with the exception of the lecture on cotton growing, have been relevant to the speech of the Mover of the motion. I trust the Honourable Member will cut short his lecture.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Unfortunately my friend says certain things with which we do not agree. All that I want to say is that while this Bill is so useful that we all will be able to combine and do something towards the improvement of cotton, I think perhaps those who are very angry with me for not knowing things will compromise with me.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, at this stage I do not want to say anything more than merely to thank the Honourable Member in charge for having piloted the Bill so successfully through both

the Houses and through the Joint Committee. I do not want to turn this House into a mutual adulation society. However it is not formal thanks that I am giving. The Honourable Mr. Sarma has held the balance even between the whole-hoggers who wanted a four-anna cess and the half-way-housers who wanted a two-anna cess. He found out a way which was acceptable to all, and that was to have 2 annas for all time and 4 annas only for the first three years. It was due to his tact that this Bill has reached this stage, and I would be failing in my duty as a member of the Central Cotton Committee if I did not express my hearty thanks to him for having piloted this Bill through the Council.

The HONOURABLE LIEUTENANT RAO BAHADUR CHAUDHRI LAL CHAND: Sir, with your permission, I should like to thank the Honourable Mr. Sarma for the safeguards he has provided for agriculturists. I accept them. Of course, up to this time the research activities of the Government of India were confined to cinchona only, and that, as was explained, was due to want of funds. Now funds have been placed at the disposal of this Committee and we may now hope that the Government of India will extend their activities to cotton also and will not confine themselves to cinchona.

The HONOURABLE KHAN BAHADUR AMIN-UL-ISLAM (Bengal: Nominated Official): Sir, I wish to say one word. It is always said that this Bill is intended to make the quality of long staple cotton more favourable. It is not so. The research is in regard to all sorts of cotton, to grow more cotton, make a finer yield and to produce a long staple cotton also. That comes in, but it is not only for long staple cotton.

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I beg to move:

“That the Bill to amend the Indian Income-tax Act, 1922, as passed by the Legislative Assembly, be taken into consideration.”

The object of this small Bill is to improve the drafting of the present Income-tax Act, 1922, in two respects. It has been found during the course of the past year that the Act, as it stands at present, does not give effect to the intentions of the Legislature, as clearly and as unambiguously as is desirable, in respect of those two matters. Fortunately there can be no doubt as to what the intention of the Legislature was. We have the Report of the all-India Income Tax Committee; we have the very long Statement of Objects and Reasons and the notes on the clauses of the Bill; and we have the Report of the Joint Select Committee, on which several Members of this Council sat. The first matter refers to section 7 (1) of the present Act. It was undoubtedly the intention of the Legislature, and can be proved by reference to the reports I have mentioned, that the perquisite enjoyed by persons in the shape of rent-free residences should be assessed to income-tax. Unfortunately section 7 (1) of the present Act was drawn in such a way that it is probable that a rent-free residence cannot be taxed. Clause 2 of this Bill remedies that.

The second matter is even more definitely a purely drafting amendment. Honourable Members will remember that, in the Act as passed, the adjustment system was kept alive in respect of assessments made in

[Mr. E. M. Cook.]

1921-22. Unfortunately, when the present Act was drafted, this particular section (section 68) was so framed that, on a strict interpretation of it, such as no doubt a Court of law would give, the adjustment system was only continued in respect of income-tax assessments, though of course the intention was, as every one knows, to continue it in respect of super-tax assessments also. Clause 3 of the Bill remedies that drafting defect. I beg to move.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan) Sir, I merely want the Honourable Finance Secretary to explain to me whether the adjustment system will now prevail or will it vanish after the introduction of this amendment?

The HONOURABLE MR. E. M. COOK: The adjustment system has already expired; that is to say, we are now making adjustments in respect of the year 1921-22, and beyond that there is no intention of continuing adjustments.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to a detailed consideration of the Bill.

Clauses 1, 2 and 3 were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE MR. E. M. COOK: I beg to move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE GOVERNMENT SAVINGS BANKS (AMENDMENT) BILL.

The HONOURABLE MR. B. N SARMA (Revenue and Agriculture Member): Sir, I beg to move:

"That the Bill further to amend the Government Savings Banks Act, 1873, as passed by the Legislative Assembly, be taken into consideration."

This is a very simple and non-controversial measure. The object thereof is two-fold, the primary one being to facilitate the return of a deposit to the heirs of the depositor where the amount is very small and does not exceed Rs. 100 without a great inconvenience to the heirs of the depositor and within a very short period if no probate, letters of administration or Succession certificate be produced. That would dispose of claims by the heirs as rapidly as possible, and it is intended that power should be taken that this speedy disposal should be effected by the Head Post Master and others who may be specially empowered under this Bill, subject to such rules as may be made by the Postmaster General. The system of delegation and decentralization has worked very well with regard to the Post Office Cash Certificates and the Government do not think that any risk would be involved by this measure. The Bill is therefore meant for the convenience of the public and to prevent unnecessary centralization in the Post Office. I therefore commend it to the acceptance of the House.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed with the detailed consideration of the Bill.

Clauses 1 to 4 and the Preamble were added to the Bill.

The HONOURABLE MR. B. N. SARMA: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Government Savings Banks Act, 1873, as passed by the Legislative Assembly, be passed."

The motion was adopted.

THE OFFICIAL SECRETS BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly, be taken into consideration."

The House will observe that this is a Bill to consolidate and amend. It is, however, very much more of a consolidating Bill than an amending Bill. The present law on the subject is most inconveniently distributed over several English and Indian enactments. There is, firstly, the Indian Official Secrets Act of 1889, which followed an English enactment of about the same date; there is the Indian Amending Act of 1904; and there is the English Official Secrets Act of 1911. That Act applies to India subject to the following provision:

"If by any law made before or after the passing of this Act by the Legislature of any British Possession provisions are made which appear to His Majesty to be of the like effect as those contained in this Act, His Majesty may by Order in Council suspend the operation within that British Possession of this Act or any part thereof, so long as the law continues in force there and no longer."

The inconvenient distribution of the existing law on the subject in India through these various enactments has in itself been a matter of very considerable embarrassment. The present Bill therefore consolidates the provisions of these enactments. In particular, the English Act of 1911 presents some practical difficulties of interpretation owing to differences of nomenclature, differences arising from variations in procedure and in the designations of the various authorities administering the Act between the practice in England and the practice in India. The substance of that Act is valuable and has been retained, but it requires a certain amount of translation into terms of Indian forms and terminology and that has been effected in the Bill which I now lay before the House.

In addition to the enactments which I have mentioned, an Act was passed in England in 1920 in order to give effect to the experience, the very bitter practical experience, which has been gained in the great war. The principal provisions of that Act which it is proposed to embody in this Bill will be found in section 4 of the Bill, which provides for certain rules of evidence and, as I say, those rules of evidence have been passed in England in the light of the experience gained during the war. It is not necessary for me to remind the House how dangerous to the interests of the State and the public is the nefarious trade of espionage, which resorts to every device of disguise, deceit and corruption. More than one disaster during the course of the war, disasters which either delayed or might

[Mr. J. Crerar.]

have seriously imperilled our cause, which did in fact result in vast losses of material and even more disastrous losses of life, were directly due to the machinations of foreign spies and their treacherous confederates in the United Kingdom. In the light of experience of that nature, it would be an act of great temerity, grave dereliction of duty, if Government did not ask from the Legislature such additional powers as are necessary to ward off from the State that great and that insidious danger. The powers which we propose to take are not however of a kind which are likely to be prejudicial to anyone but those concerned in the practice of espionage and the abetment or assistance of spies. They are for the most part mere rules of evidence which render it somewhat more practicable to the prosecution to bring home to persons guilty of offences of that kind their guilt. It may be said that in instituting a special rule of law to cover cases of that kind we ought to beware of doing anything which might be prejudicial to innocent persons who by negligence, accident or imprudence find themselves in a compromising position. But I think if the House will carefully consider the provisions of the Bill, it will agree that adequate safeguards to meet cases of that kind have been set up. I merely instance that no complaint of any offence under this Bill can be made except upon the authority of the Governor General in Council, the Local Government or of some officer specially empowered by the Governor General in Council in that behalf. That is sufficient to ensure that no prosecution will be launched except under the orders of a responsible authority, and after careful consideration of the evidence against the accused. But there is an additional safeguard. If any accused person desire to be tried not by a Magistrate but by a superior judicial authority, it will be open to him to apply to be tried by the Court of Session.

I have said enough, I think, to indicate to the House the general scope of this measure and the bearing of some of the more important of its provisions, and I venture to commend it to the best consideration of the House. I make the motion standing in my name.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR (Madras: Non-Muhammadan): Sir, while agreeing with the principle that severe steps should be taken against spies and against their prying into official secrets and communicating them to foreign agents, I wish to observe that there are one or two provisions in this Bill that are considered to be very drastic and that are considered to bring into the clutches of the law not only people who are not actually connected with prying into the secrets and communicating them but innocent people. Sir, in clause 3 of the Bill, which is the operative clause of the Bill, it is said in sub-clause (1):

"If any person approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy".

Sir, I quite see the point in clause (c), but under clauses (a) and (b) I think some innocent people also will be mulcted, and will be penalized if unknowingly they approach or inspect or pass over or is in the vicinity of or enter any prohibited place; as for example, there is a temple in the fort at Allahabad, and if some pilgrim or say some man who has a known

character, as is stated in sub-section (2), enters the fort, he will be penalized for this according to the provisions of this Bill. What I want is that instead of 'or' at the end of clause (a) and at the end of clause (b), the word 'and' should be substituted.

The HONOURABLE THE PRESIDENT: The Honourable Member must not move an amendment before the Bill has been taken into consideration.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: It is not an amendment; it is a suggestion, it is a verbal criticism of the existing Bill.

The HONOURABLE THE PRESIDENT: Actual verbal criticisms are of course reserved for the detailed consideration stage. The Honourable Member is quite in order in pointing out that in his view the Bill is too broad, but he had better reserve his actual verbal criticisms for the clauses stage.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: And then I want that clause (2) of section 3 should not be in its present form. "Known character" is too dangerous a doctrine to be introduced into the Criminal Code. It is not as is alleged there is an unfounded suspicion against this Bill, but on the other hand the Bill introduces a principle that a person may be convicted on suspicion, and as to "known character" I may say many people can be penalized for "known character". I have seen in some of the portions of Manu a doctrine where a woman is to be penalized for talking to a man of 'known character,' a person with a notoriety and I may say the same crude principle is introduced here, the principle of convicting on a man's 'known character,' i.e., of penalizing a man on suspicion, and it should not go as it is. Then in clause (4) there is introduced the relevancy of evidence in proving one's guilt if in his possession is found an address of a foreign agent. The relevancy of the evidence I do not object to, but that evidence alone should not go to penalize him. Then I do not know whether 'foreign agent' will mean foreign Consuls also. Foreign Consuls are sent to India by responsible foreign countries and people moving with them should not be penalised. In clause 5 (d) it is stated that if any official "fails to take reasonable care of

The HONOURABLE THE PRESIDENT: It is not fair to ask the Council to go into details on a 'consideration' motion.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, I welcome this Bill. If we repose trust in someone and he does not come up to the mark, I think we ought to have no sympathy for him. Sir, when I went away from this Council to Somaliland, I found that a spy was caught, and he was summarily ordered to be shot. I was awfully sorry and angry because he was so shot, but when next time I went to Flanders, we found that place also had spies. At Pertham a shell hurled all the wall over on my bed but fortunately I was not there. After that we left the place and went to four or five other places. Wherever we went, the place was immediately bombarded. We wanted to find out now that came about and we found that an old woman, frail and absolutely unable to walk, was sleeping and we thought she was absolutely helpless but when we tried to see the bedding

[Colonel Sir Umar Hayat Khan.]

there was a telephone, and by that telephone everything was being communicated. She was probably shot. It is no ordinary thing, Sir; when a Government servant in whom we believe, and who gets the pay of the Government, does some mischief, we should have no sympathy at all for him. In the same way a man who lives in the country, must live for the safety of the country, and I am absolutely for the Bill; and any such person who does not behave well in this matter should be very severely dealt with. With these remarks, Sir, I support the Bill.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Although I have no desire to make remarks at this stage which might more appropriately be made during the detailed consideration of the different clauses, yet I think it may be useful if I attempt to disabuse Mr. Ayyangar's mind of certain misgivings he has voiced on the subject of clause 3 of the Bill. The matter is not altogether one of detail; it almost amounts to a question of principle, and perhaps it might save some further discussion on the clauses if I put to him the view which we have advanced elsewhere as justifying the provisions of this clause. He stated that the purport of clause 3 was dangerous (and since this is the main operative clause, the purport of the whole Bill might be taken to be dangerous) in that it opened the way to the prosecution of persons who might be perfectly innocent. That we should prosecute spies and prosecute them with the utmost rigour of the law I think he agrees; his fear is that we might, by the wide extension which he notes that we have given to the terms of the law, make it possible for innocent persons to be involved in prosecution. Now, I must point out to Mr. Ayyangar that he has not given due weight to the opening words of this operative clause. It is not sufficient that a man should merely approach a certain place or that he should make a sketch or obtain or collect information. The prosecution has to prove that he does so for a purpose prejudicial to the safety or the interests of the State. That requirement governs the whole of the following circumstances. Mr. Ayyangar's friend who was visiting the temple within the Fort of Allahabad could not be prosecuted save under the following conditions. First, the Fort of Allahabad would have to be proclaimed a prohibited place and it would be also necessary that full notice should be given that the place was prohibited. Secondly, he must be arrested there in circumstances which would enable the prosecution to prove that his purpose was prejudicial to the safety or the interests of the State. Now, it is perfectly true that we do provide subsequently certain clauses which somewhat facilitate the task of the prosecution in proving this aspect of their case. I refer of course to clause 4 and the presumptions which arise under that clause. I shall be prepared to deal with those presumptions if the question is raised when the time comes. But for the present it is sufficient to say that in all these discussions on our Official Secrets Bill, I think that there has been a tendency to forget that there is one antecedent circumstance which the prosecution must put and prove to the Court, namely, the dangerous motive of the person who is found taking the action described in clause 3. When this Act was under discussion at Home, I think it was Lord Haldane who then put to the House of Lords the difficulty that occurred in proving dangerous motive; he cited the case of a man being found at midnight in the middle of a fortified place. He might plead that his purpose was perfectly innocent. Indeed one person who was so caught did actually plead that he had come to hear the birds sing. It is the extreme difficulty of proving the real intention of the accused which

has induced the Legislature to allow certain presumptions to be taken by the Court as relevant evidence of such motive. This is not unreasonable; when we prosecute people whom ordinary reason and ordinary common-sense would lead us to suppose were engaged in espionage, we cannot place on the prosecution the full burden of proving their intention, for they do not declare their intentions, nor can the character of their intention be assumed, as it so often can in ordinary criminal cases, from the nature of their action. In the subsequent clauses of this Bill, all we have sought to do is this, that taking the primary fact that first a man is found in circumstances which are exceedingly suspicious, and secondly, that the prosecution has to prove that his purpose was prejudicial to the State, we have given a certain amount of latitude to the prosecution by allowing them to take advantage of certain presumptions regarding the circumstances in which the man was found, his antecedent character as proved to the Court and similar considerations. That procedure was accepted as reasonable in the other House. It has, I think, also been generally accepted in the press that our law as framed does not add any new terrors to the existing law and does not involve the innocent person in chances of prosecuting. I have only one remark more to make on the question of principle raised by Mr. Ayyangar, in connection with clause 3. He must not charge us with adding anything to the law in this respect. He must not think that we for the first time have framed the clause to which he has drawn attention. The fact is, that clause 3, sub-clause (1), merely repeats the provisions of the Law of 1911. That law has been in force in British India for 11 years, and I do not think that India has had any cause to complain of its undue severity nor of its misuse to involve innocent persons in prosecution.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of the Bill.

Clauses 1 and 2 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 3.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR (Madras: Non-Muhammadan): Sir, the Bill will be greatly improved if instead of the word "or" at the end of sub-sections (a) and (b) the word "and" is substituted and sub-section (2) is deleted, so that it may be open to the Court to find out for itself whether the man prosecuted is really culpable or not. It is quite unnecessary to give these hints of "known character" and penalising him only on suspicion. The Court may be better able to judge for itself without sub-section (2). These are my remarks, Sir.

The HONOURABLE SIR MALCOLM HAILEY: We could not accept the suggestion put forward by Mr. Ayyangar to substitute "and" for "or" at the end of sub-clause (a) and sub-clause (b). He will see that by doing so we should insist on a concatenation of circumstances against the individual, which will be almost impossible to imagine, that is to say, for instance, he would not only have to enter or approach a prohibited place, but he would have also to be found making a sketch useful to the enemy. Many people might enter a prohibited place and be definitely

[Sir Malcolm Hailey.]

guilty of espionage without at the same time making a plan or sketch or model. To force us to combine these two points would be to rule out many cases in which espionage undoubtedly has occurred.

Then he wants the omission of sub-clause (2). Before I answer him on that point, may I correct a statement I made just now, namely, that clause 3, sub-clause (1), had been part of the law since 1911? That statement was inaccurate, but it was inaccurate to my own disadvantage. I might have added with justice that whereas the original law provided for 14 years' imprisonment, we have reduced in some cases the imprisonment to 3 years. So far from enacting a more severe provision we have even mitigated the rigour of the old. So much as regards sub-clause (2). As I said, section 3 makes it necessary for the prosecution to prove, when a person is found in these suspicious circumstances described in (a) or (b), or is guilty of the highly suspicious acts described in (c), that such action has been taken by the person for a purpose prejudicial to the safety or interests of the State. Now, the spy is not one of your open-hearted men who go about proclaiming to the public the purpose of his occupation; he is one of the most secretive and most elusive of individuals. Let us assume that he is found in these highly suspicious circumstances doing these highly suspicious acts, that he is found for instance at midnight peering over the plans of a new submarine that has just been designed for our own exclusive use. Let us suppose again that he is found at midnight in a fortification. How are we to prove his purpose? Of course, if he can prove that he was indulging in an aeroplane excursion and happened to drop out of the aeroplane into the middle of these fortifications, then I would assume that the prosecution would not be able to proceed further against him. But, supposing that he can give no such explanations? It is still difficult, perhaps impossible, for the prosecution to explain his exact purpose in being there. It might be that he does intend to sell the plans to the enemy. It might be that he proposes to blackmail our own Government. There is little doubt, however, that, if he really does intend to copy the plans or use them for purposes other than those for which they are authorised, then his action would be detrimental to the State. But, so far the prosecution can only rely on suggestions or suppositions. But if at the same time, this man is known to have been convicted previously for espionage, or if he is proved to be in the pay of foreign agents, or if he has been proved to be continuously consorting with foreign agents, or if you find in his pockets written evidence that he was in constant communication with foreign agents—then, we say that it is not unreasonable that the prosecution should be able to prove these circumstances in order that they may be used as a presumption relevant against him. Ordinarily, of course, they could not be used, under the law of evidence, as such presumption. We simply propose so far to waive the ordinary law of evidence as to allow a Court to use these circumstances for assuming that his purpose in indulging in a highly suspicious conduct, such as visiting fortifications or taking plans, was prejudicial to the State. That is as far as the Bill goes, and no further. It is not the case that a man can be arrested because of his known character, as Mr. Ayyangar suggested. It is not the case that he can be convicted on account of his highly suspicious communications with suspicious persons. It is certainly not the case as he suggested I think that a woman can be penalised for talking to a man of unknown character any more than it can be the case that a man can be penalised for talking to a woman of unknown character,—a case which perhaps more frequently arises. First, the prosecution has to

prove the highly suspicious actions. Then it has to prove that the motive is prejudicial to the State. In order to prove that, we allow the Court to take into consideration the previous circumstances of the man's life and his known communication with foreign agents. And that is as far as the Bill goes.

Clause 3 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 4.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: As I have already said, the mere possession of the address of a foreign agent I don't think will constitute an offence under this section. I have no objection to its being produced as evidence and to relevancy of the evidence in proving one's character. It may be an evidence along with other evidences to prove one's guilt for the purpose of clause 3 but that itself will not, I hope, constitute an offence. And this foreign agent is not clearly defined in sub-section (b). It may be an agent sent by an enemy country, it may be a foreign Consul, it may be some other person. How one is to know whether he is employed by the foreign agent for the purpose or collecting official secrets in our land is incomprehensible. It should be definitely stated whether it is an enemy's agent, or an agent of a country who is at war with the British Government. Or a list of foreign agents who are so employed may be prepared and notified in the "Gazette of India" as they are proposing to notify the places which are proscribed, the places that are not to be photographed or seen or inspected; in the same way a list of foreign agents may be registered and circulated. Some people who return from foreign countries may possess with them the addresses of many friends there who were of immense use to them on their foreign tours. If they are to be penalised for possessing the addresses of these foreign people who are styled as foreign agents, then that will be an unjust thing. I leave it to the Council whether it should accept this.

The HONOURABLE SIR MALCOLM HAILEY: Mr. Ayyangar has expressed a hope that the mere possession of communications with a foreign agent would not in itself involve prosecution. He had no objection to its being used as relevant for the purpose of proving an offence under section 3. What I have to say on that point is very short; it is that his hope is already realised in the Act. The possession of correspondence does not in itself constitute an offence. Mr. Ayyangar may, if he wishes—I don't suppose he will—but, if he wishes he may go about with the most inflammatory communications in his pocket, but that fact cannot be used against him under this law, as I have already explained, unless he first comes within the scope of clause 3. If he has such inflammatory stuff in his pocket, I would advise him not to be found in a prohibited place copying secret plans. If he is so found, then of course the possession of such correspondence can be used as relevant evidence against him. That is as far as the Bill goes. Foreign agent, he thinks, is insufficiently defined. But I doubt if we can go nearer to a definition than they have succeeded in framing in England. After all, they had a very considerable experience of the foreign agent and of his dangers during the war, and this is their definition. It must, of course, be sufficiently wide to allow the Court to investigate the facts and see if there is any reasonable ground for suspecting him of having been employed by a foreign power for the definite purposes described in sub-clause (b) of (2) of clause

[Sir Malcolm Hailey.]

4. That is, that there is reason to suspect that he has been employed by a foreign power for a definite purpose prejudicial to the safety of the State. We can go no further than that. We can lay down no hard-and-fast rule as regards foreign agents. We certainly cannot attempt to register foreign agents and notify them. If I may say so, that suggestion almost betrays a certain lack of humour. I ask the Council to imagine what would be the result of elaborately notifying to the world at large all foreign agents of whose existence we have any suspicion. Nor of course can Mr. Ayyangar and his friends who visit foreign countries be punished for possessing the address of foreign correspondents. It will be merely sufficient once again to repeat that they must be first of all found in circumstances which allow the Court to assume that they are guilty of an offence under clause 3. If they are found in such circumstances, then the possession of an address—not an ordinary address of a foreign correspondent but an address of the class described in sub-clause (c) of (2) of clause 4—may then be proved in evidence against them. This amounts only to making the possession of such an address, a suspicious address in itself, relevant evidence in the case.

Clause 4 was added to the Bill.

Clause 5 was added to the Bill.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

“That in part (e) of sub-clause (1) of clause 6 of the Bill, between the word ‘or’ and the word ‘uses’ the word ‘knowingly’ be inserted.”

This is an amendment designed to bring the language of that part of the sub-section into consonance with the preceding parts of the sub-section. I do not think it requires any further explanation.

The HONOURABLE THE PRESIDENT: To the clause under consideration, amendment moved:

“In part (e) of sub-clause (1) of the clause between the word ‘or’ and the word ‘uses’ the word ‘knowingly’ be inserted.”

That amendment is now open to debate.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, I find in this part (e) there are two places in which the amendment would apply, two places in which the word “or” and the word “uses” are juxtaposed. I presume the amendment refers to the last only, but in strictness it would refer to both. I presume that it refers to the last, because there the word “or” precedes the word “uses” and in the first place the word “uses” precedes the word “or”. But in both cases the word “knowingly” can be interposed between the word “uses” and the word “or”. I should like to know whether the Honourable Member intended his amendment to refer to the first or the last place or to both.

The HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary: Legislative Department): Sir, if there is any difficulty, might I move an amendment to the Honourable Mr. Crerar's amendment, namely:

“To substitute the following for his amendment:

“That for the words ‘or uses’ the words ‘or knowingly uses’ be substituted’.”

The HONOURABLE THE PRESIDENT: Does the Government object on the ground of want of notice? (Laughter.)

The HONOURABLE SIR MALCOLM HAILEY: No, Sir. That carries out our intention.

The HONOURABLE THE PRESIDENT: I think that clears the point.

The HONOURABLE SIR LESLIE MILLER: Yes.

The HONOURABLE THE PRESIDENT: The question is:

"That in the clause under consideration, in part (c) of sub-clause (1), for the words 'or uses' the words 'or knowingly uses' be substituted."

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That in part (b) of sub-clause (2) of clause 6 of the Bill, for the words 'neglect or' the word 'wilfully' be substituted."

The desirability of that amendment arose for the following circumstances. In the original draft of the Bill the words standing at the head of the sub-clause, the words "If any person for any purpose prejudicial to the safety of the State" were included in part (a) and therefore ruled that part only. They were moved by the Select Committee to the place which they now occupy and in view of that, it is desirable that for the words "neglects or" the word "wilfully" should be substituted. This amendment, like the preceding amendment, is of course favourable to the defence.

The HONOURABLE THE PRESIDENT: To the clause under consideration, further amendment moved:

"In part (b) of sub-clause (2) of the clause, for the words 'neglects or' the word 'wilfully' be substituted."

That amendment is now open to debate.

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 7 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 8.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: Sir, every one is in duty bound to give information and to attend a court as a witness but if the person does not know the information, I do not know how he can be expected to give the information to the police or attend as a witness, or how it is to be presumed that he has got knowledge of the information. I want an explanation about that point.

The HONOURABLE MR. J. CRERAR: I would ask my Honourable friend to read the clause to which he refers. He will then find that it refers to "any information in his power". I think that answers the point raised by my Honourable friend.

Clause 8 was added to the Bill

The HONOURABLE THE PRESIDENT: Clause 9.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: Sir, the person who abets the commission of an offence under this clause may be penalised, but I do not know how you can define an attempt to

[Mr. K. V. Rangaswamy Ayyangar.]

commit it. An attempt to commit suicide or an attempt to commit burglary can be detected, but an attempt to communicate with a person cannot be defined very easily and properly. I think "abets" may be retained and "attempts to commit" may be omitted.

The HONOURABLE SIR MALCOLM HAILEY: There is a very short explanation. If you cannot prove an attempt, then you cannot prosecute the offender. If you can prove it you can prosecute the offender. We may leave that question to the Courts.

Clause 9 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 10.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: If a person knowingly harbours any person—that is the wording of it, this applies also to British subjects in foreign countries according to the application clause of this Act. If a person in a foreign country entertains, or is entertained by, or puts up with a foreign agent, I do not know whether he should be penalised, and harbouring may only refer to British Indian subjects residing in India and knowingly harbouring a foreign agent or a foreign spy, and as I said before, we do not know that he is a foreign agent or a foreign spy.

The HONOURABLE THE PRESIDENT: I cannot let the Honourable Member to argue that point again. The Council has already considered it.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: If there should be an American tourist or any one else who is the guest of an Indian gentleman, is he to be penalised for harbouring or putting him up in his house, for extending his hospitality to him? I think that is indefinite.

The HONOURABLE MR. J. CRERAR: Sir, as far as I understood the Honourable Member, his point is this: if any person to whom this Act extends—any British subject to whom this Act extends, in Berlin or in Moscow, is guilty of an offence set out in this section, why should he be prosecuted? If a person commits that offence and we can catch him, I fail to see any reason why we should not prosecute him and, if we can prove the offence, why he should not be convicted.

Clause 10 was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 11.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: At the end of sub-section (3) the police officer may also be asked to certify that he had to take that action very emergently when he sends up a report to the Presidency Magistrate or outside such town to the District Magistrate or the Sub-divisional Magistrate. This certificate may be necessary to show that he acted *bona fide* in taking emergent action. He may certify that he took that action of arresting the person in the interests of order and owing to the emergency of the case. This certificate also may accompany his report informing the District Magistrate that he had to take action as emergency wanted him to do so.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): I only want to know why my Honourable friend has taken up an attitude to back up the traitors to the country.

The HONOURABLE MR. J. CRERAR: I had some difficulty in following my Honourable friend, but I understood his point is this. If a police officer takes action under sub-section (2) of clause 11 and thereupon reports his action to the Chief Presidency Magistrate or to the Sub-divisional Magistrate, he should accompany that report by a certificate. I may point out to my Honourable friend that a police officer making a report under sub-section (3) must necessarily do so with reference to sub-section (2) in order to explain what action he has taken and in pursuance of what authority. A reference to sub-section (2) makes it quite clear that the report must itself indicate that the action taken by the police officer was taken in a case of great emergency. That, as far as I can see, answers my Honourable friend's difficulty.

Clause 11 was added to the Bill.

Clauses 12, 13 and 14 were added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 15.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR: I think this clause is very drastic. A foreign agent may take a partner in India and the company may be going on, and if an innocent person should be penalised for the action of others I think that is very unjust. Let the company alone be penalised but not each and every member or officer of the Company or Corporation. By the action of one individual we cannot judge whether the whole corporation was intended specifically to fish out the secrets of the defence of India and divulge it to foreign countries. There may be any company in which an innocent man may be taken as a partner in India, and I think it is not proper that he should be penalised for the action of the company.

The HONOURABLE MR. J. CRERAR: Sir, I can only again with the utmost deference recommend my Honourable friend to read the clause to which he refers. He will see that the clause expressly says, "where the person guilty of an offence under this Act is a company or corporation". It does not refer to the case of any individual who is a member of a company or corporation committing an offence under this Act, but it says that the person committing that offence is a company or corporation. It is not a question therefore of the independent action of a particular individual who happens to be a member of a company involving that company in criminal liability. The clause refers to cases in which a company or corporation in their capacity as a company or corporation has committed an offence.

Clause 15 was added to the Bill.

Clause 16 was added to the Bill.

The Preamble was added to the Bill. •

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That the Bill, as passed by the Legislative Assembly and amended by this Council, be passed."

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law in British India relating to official secrets, as passed by the Legislative Assembly and amended by this House, be passed."

The motion was adopted.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, there is a Message.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: A Message has been received from the Legislative Assembly:

“ Sir, I am directed to inform you that the Legislative Assembly have, at their meeting of the 8th March 1923, agreed without any amendments to the Bill to amend section 29 of the Prisoners Act, 1900, which was passed by the Council of State on the 27th February 1923.”

STATEMENT OF BUSINESS.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): The next meeting of this Council for official business will be on Tuesday, the 18th March, when it is proposed to take into consideration the amendments made by the Legislative Assembly in the Bill further to amend the Code of Criminal Procedure, 1898, and the Court Fees Act, 1870.

The Council then adjourned till Eleven of the Clock on Monday, the 12th March, 1923.