

16th February, 1926

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report) .

Volume VII, Part II

*(10th February to 1st March, 1926)*

FOURTH SESSION

OF THE

SECOND LEGISLATIVE ASSEMBLY, 1926



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# Legislative Assembly.

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THE HONOURABLE MR. V. J. PATEL.

## *Deputy President :*

DIWAN BAHADUR T. RANGACHARIAR, M.L.A.

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LALA LAJPAT RAI, M.L.A., AND

MR. ABDUL HAYE, M.L.A.

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MR. ABDUL HAYE, M.L.A.

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# LEGISLATIVE ASSEMBLY.

*Tuesday, 16th February, 1926.*

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

## QUESTIONS AND ANSWERS.

### OVERCROWDING OF THIRD CLASS PASSENGERS AND WANT OF LATRINES IN THIRD CLASS CARRIAGES ON THE BENGAL AND NORTH-WESTERN RAILWAY.

855. **\*Kumar Ganganand Sinha:** 1. Will the Government be pleased to state whether or not they have communicated with the Bengal and North-Western Railway authorities regarding:

- (a) the overcrowding of third class passengers; and
- (b) the want of latrines in third class carriages running on branch lines?

2. If so, will they be pleased to lay the correspondence on the table, or state how far these grievances have been removed?

**Mr. G. G. Sim:** 1. (a) Yes.

(b) No.

2. The Honourable Member is referred to the answer given to question No. 367, asked in this Assembly on the 28th January, 1926.

### DEBITING OF HALF THE COST OF THE ARMY IN INDIA TO THE BRITISH EXCHEQUER.

856. **\*Mr. C. S. Ranga Iyer:** (a) Has the attention of the Government been drawn to the following observations of Mr. Ramsay Macdonald in his book "The Government of India"?

"A large part of the Army in India—certainly one-half—is an Imperial Army which we require for other than Indian purposes and its cost should therefore be met from Imperial and not Indian funds" (Page 154.)

"If the existing system of military defence is to last, the whole cost of the British Army stationed in India should be borne by the Imperial Exchequer" (Page 155).

(b) Do the Government propose to take steps to charge half the cost of the Army in India to the British Exchequer?

(c) If not, why not?

**Mr. E. Burdon:** (a) Government have seen the passages referred to by the Honourable Member.

(b) No.

(c) Because the Government of India do not subscribe to the view taken by the writer. In this connection, I would invite the attention of the Honourable Member to the reply given on the 27th January last to part (b) of starred question No. 305.

**Mr. C. S. Ranga Iyer:** Is it not a fact that the Army in India is kept for Imperial purposes?

**Mr. E. Burdon:** No, Sir.

**Dr. K. G. Lohokare:** Has the question ever been examined, Sir?

**Mr. E. Burdon:** Yes, Sir.

**Dr. K. G. Lohokare:** What is the decision?

**Mr. E. Burdon:** That which I have stated.

**Mr. C. S. Ranga Iyer:** Is the Honourable Member aware that Lord Randolph Churchill admitted that the Army in India is for Imperial purposes here?

**Mr. E. Burdon:** When did Lord Randolph Churchill make that statement?

**Mr. C. S. Ranga Iyer:** In one of his statements in Parliament.

**Mr. E. Burdon:** Can the Honourable Member give me the year?

**Mr. C. S. Ranga Iyer:** I produced the quotations in my last two years' budget speeches to which the Honourable Member did not reply.

**Dr. K. G. Lohokare:** Is the Honourable Member aware that in the Report of the Esher Committee Government have laid down the principle that the whole Army in India and in England is to be considered a single unit?

**Mr. E. Burdon:** My Honourable friend is not correct in his statement, Sir. The Government of India laid down nothing in the Esher Committee's Report.

**Dr. K. G. Lohokare:** Is that the principle that is being followed in answering this question?

**Mr. E. Burdon:** What principle, Sir?

**Dr. K. G. Lohokare:** That the Government of India do not hold that view. The reply that was given by the Honourable Member was that the Government of India do not subscribe to that view.

**Mr. E. Burdon:** The Government of India hold that the Army maintained in India is maintained entirely for the purposes of India.

**Mr. Chaman Lall:** May I ask the Honourable Member whether the Government of India have ever held a different view either through their own spokesmen or through the Secretary of State for India?

**Mr. E. Burdon:** Not to my knowledge, Sir.

**Mr. Chaman Lall:** Will the Honourable Member examine this question and then give us a reply on the floor of this House after examination of the records?

**Mr. E. Burdon:** Does my Honourable friend wish me to go into past history?

**Mr. Chaman Lall:** Most certainly. It has been stated on the floor of this House that the Secretary of State for India at one time or other has definitely held this view that the Army in India is used for Imperial purposes. May I know whether that view is correct or incorrect?

**Mr. E. Burdon:** I shall be glad if my Honourable friend will refer me to the passages which he has in mind.

**Mr. Devaki Prasad Sinha:** Has it ever in practice been used for Imperial purposes?

**Mr. E. Burdon:** Certainly. Portions of the Army in India have at times been lent to His Majesty's Government.

**Mr. O. S. Ranga Iyer:** Is that portion of the Army in India maintained at the expense of the English tax-payer?

**Mr. E. Burdon:** When it is employed for other than Indian purposes it is so maintained.

**Mr. Devaki Prasad Sinha:** What is the justification for using it for other than Indian purposes?

**Mr. E. Burdon:** Because India is part of the Empire.

**Mr. O. S. Ranga Iyer:** Will the Honourable Member be pleased to state whether the same argument holds good for asking Great Britain or the Empire to maintain the Army, at least half the Army, at the cost of the Empire or Great Britain?

**Mr. E. Burdon:** Will the Honourable Member kindly repeat his question?

**Mr. O. S. Ranga Iyer:** Will the Honourable Member be pleased to state if because of the reasons that he mentioned that the Army is actually used for Imperial purposes, the Army expenditure or at least half the Army expenditure will be paid by those for whose purpose it is maintained?

**Mr. E. Burdon:** That appears to me to be a complete *non sequitur*.

**Mr. B. Das:** May I know if the Right Honourable Ramsay Macdonald still holds similar views after having resigned the Prime Ministership?

**Mr. E. Burdon:** My Honourable friend is himself acquainted with the facts.

**Dr. K. G. Lohokare:** May I know if a portion of the expenditure of the standing army that is used for purposes other than of Indian is met by other exchequers, or if any of the expenses of such standing army are borne by other exchequers, or is it wholly borne by the Indian exchequer.

**Mr. E. Burdon:** I have already stated that if a portion of the forces maintained in India is used for purposes outside India, the cost is borne by the British tax-payer for the period they are so employed.

**Dr. K. G. Lohokare:** And is the cost of keeping such portion of the standing army here borne by the English exchequer?

**Mr. E. Burdon:** I do not know what the Honourable Member means by his distinction between the standing army and any other kind of army.

**Dr. K. G. Lohokare:** I will explain. The Honourable Member just replied that a certain portion of the standing army is being sometimes used for other purposes. I now ask him whether the expenses of the maintenance of such standing army are borne by that other exchequer.

**Mr. E. Burdon:** I have not used the phrase "standing army" in any answer that I have given, and I do not understand what the Honourable Member means.

**Mr. Devaki Prasad Sinha:** Can the Honourable Member say that whenever the Indian Army or a portion thereof has been used for purposes other than Indian the entire cost of the Army including the salary of the officers and the combatants of that Army has been borne by those nations for which the Indian Army has been used.

**Mr. E. Burdon:** Yes, Sir.

**Mr. C. S. Ranga Iyer:** Will the Government be pleased to give the House an opportunity to discuss this question in view of the fundamental difference between that side and this on a question of such momentous importance?

**Mr. E. Burdon:** I think the Honourable Member should take advantage of the opportunities which the rules and procedure of the House give him.

**Colonel J. D. Crawford:** Is it a fact that in the opinion of many military experts in this country the size of the Army maintained in India is not adequate for its defence?

**Mr. E. Burdon:** If my Honourable friend will read, Sir, the evidence given by public men and public bodies before the Skeen Committee, when that is published, he will find therein the answer which he wishes to receive.

**Mr. K. Ahmed:** Do Government propose for the benefit of India to maintain the English Army in Great Britain and utilise it in time of need in India or elsewhere on payment of half the cost, if necessary?

**Mr. E. Burdon:** His Excellency the Commander-in-Chief has never thought of that suggestion.

**Mr. K. Ahmed:** Is not never thinking in that line an arbitrary decision of His Excellency the Commander-in-Chief on behalf of the Government and the Department in charge of the Honourable Member?

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## UNSTARRED QUESTIONS AND ANSWERS.

### REVENUE DERIVED FROM INCOME-TAX IN SIND.

155. **Mr. B. Das:** Will Government be pleased to state what the net income-tax income of each district in Sind was during the year ending 31st March, 1925, and what the expenditure was?

**The Honourable Sir Basil Blackett:** I may refer the Honourable Member to the statement laid on the table in reply to question No. 481 by Mr. Harchandrai Vishindas in the Legislative Assembly on the 1st February, 1926.

## INCOME-TAX OFFICERS IN SIND.

156. **Mr. B. Das:** (a) Will Government be pleased to state if their attention has been drawn to the inconvenience caused to the mercantile community in Sind by the district of Thar Parkar and the mofussil district of Karachi being in charge of the same Income-tax Officer?

(b) If the reply be in the negative, will Government be pleased to state the area of the Thar Parkar district and the Karachi district as well as the area of all other districts in Sind separately?

(c) Will Government be pleased to make inquiries from the Commissioner of Income-tax, Bombay Presidency, if it will not be more convenient for the assesseees of the Karachi district to have dealings with the Income-tax Officers at Karachi rather than the Income-tax Officer, Thar Parkar district, who is several hundred miles away from them?

**The Honourable Sir Basil Blackett:** (a) and (b). I would refer the Honourable Member to the reply that I gave to question No. 482 by Mr. Harchandrai Vishindas in the Legislative Assembly on the 1st February, 1926.

(c) If any representation on the subject is received, the Government will give it due consideration.

## INCOME-TAX OFFICERS IN SIND.

157. **Mr. B. Das:** Will Government be pleased to make inquiries from the Commissioner of Income-tax, Bombay Presidency, why it has been considered necessary to have two Income-tax Officers in the district of Sukkur, one with headquarters at Sukkur, and the other at Shikarpur?

**The Honourable Sir Basil Blackett:** I may refer the Honourable Member to the reply which I gave to question No. 483 by Mr. Harchandrai Vishindas in the Legislative Assembly on the 1st February, 1926.

## APPOINTMENT OF A THIRD INCOME-TAX OFFICER FOR THE TOWN OF KARACHI.

158. **Mr. B. Das:** (a) Will Government be pleased to say if they have received any representation from Mr. R. K. Sidhwa of Karachi who represents several associations at Karachi that a third Income-tax Officer is very necessary for the Karachi town as assesseees are put to great inconvenience and have sometimes to wait for several days before Income-tax Officers at Karachi?

(b) Will Government be pleased to state what their basis of calculation is for increasing the number of Income-tax Officers in any place?

**The Honourable Sir Basil Blackett:** I may refer the Honourable Member to the reply which I gave to question No. 484 by Mr. Harchandrai Vishindas in the Legislative Assembly on the 1st February, 1926.

## DAILY ALLOWANCES OF EXAMINERS AND INSPECTORS OF THE INCOME-TAX DEPARTMENT.

159. **Mr. B. Das:** (a) Will Government be pleased to state if it is a fact that the Examiners and Inspectors of the Income-tax Department while travelling on duty do not get any travelling daily allowance on the day they leave their headquarters and on the day they return to headquarters?

(b) What is the practice with regard to other Departments in Sind under the Central Government?

**The Honourable Sir Basil Blackett:** The daily allowances of Examiners and Inspectors of the Income-tax Department in Sind are governed, like those of other officers of the Central Government in Sind and elsewhere, by Rules 69 to 91 of the Supplementary Rules (issued by the Government of India) to the Fundamental Rules.

**PAY AND ALLOWANCES OF INCOME-TAX OFFICERS AND EXAMINERS AND  
INSPECTORS OF THE INCOME-TAX DEPARTMENT IN THE BOMBAY  
PRESIDENCY AND SIND.**

**160. Mr. B. Das:** (a) Will Government be pleased to state how many officers, Inspectors and Examiners of the Income-tax Department in Sind will be able to rise to their maximum pay at the age of 55?

(b) Will Government be pleased to state what annual or biennial increments are given to Income-tax Officers, Examiners and Inspectors in Sind and the Bombay Presidency and inquire from the Local Government how they compare with the increments given to Deputy Collectors and Mukhtiarkars in the Bombay Presidency including Sind?

(c) Will Government be pleased to state what travelling allowances are given to officers in the Income-tax Department and how they compare with the allowances given to Deputy Collectors, Assistant Engineers and Deputy Superintendents of Police?

(d) Will Government be pleased to state what house rent allowances are given to the Income-tax Officers in the Bombay Presidency including Sind, and how they compare with similar allowances given to Deputy Collectors and Assistant Engineers in the Bombay Presidency and Sind?

(e) Will Government be pleased to state if it is a fact that no quarters have been provided for Income-tax Officers in Sind while other officers of similar grade get allowances?

(f) Are Government aware that in the towns of Larkana, Mirpurkhas, Sukkur, Shikarpur and Hyderabad it is difficult to get houses and that for this reason the officers of the Lloyd Barrage even of the Assistant Engineers' grade get Rs. 50 for house rent?

**The Honourable Sir Basil Blackett:** (a) The Government have no information on this point.

(b) The scales of pay are as follows:

	Bombay City.	Mofussil.	Sind.
Income-tax Officers	300—50/2—900	300—50/2—900	300—50/2—900
Examiners	225—25/2—500	150—15/225	175—25/2—325
Inspectors	200—25/2—500	150—15/225	150—25/2—325

The scales of pay of the Deputy Collectors and Mukhtiarkars are:

Deputy Collectors	{ Selection grade	1,000—100—1,200
	{ First grade	700—50—850
	{ Second grade	300—50—550—50/2—650
Mukhtiarkars	{ First grade	275—15—350—(Selection)
	{ Second grade	200—15/2—260



(c) The travelling allowances of the Income-tax staff are governed by the Supplementary Rules to the Fundamental Rules issued by the Central Government, while the travelling allowances of the Provincial Government staff are governed by the Supplementary Rules issued by the Provincial Government. Both sets of Supplementary Rules are on sale to the public.

(d) The Income-tax Officers have been allowed the same compensatory allowances as the Local Government have allowed to their officers on similar pay.

(e) The reply to the first part is in the affirmative. I am not sure to what officers the Honourable Member refers in the latter part of his question.

(f) The Government have no information on the subject.

INTERNMENT OF GHULAM QASIM KHAN, EX-NAWAB OF TANK, UNDER  
THE DEFENCE OF INDIA RULES.

161. **Mr. S. Sadiq Hasan:** (a) Is it a fact that Ghulam Qasim Khan, ex-Nawab of Tank, District Dera Ismail Khan, North-West Frontier Province, was arrested on the 17th April, 1917, under the Defence of India Regulations and deported to Ootacamund where he remained under custody for a number of years?

(b) Is it a fact that the said Ghulam Qasim Khan was subsequently removed to Karachi and that from Karachi he was taken to Leiah in the Punjab?

**Sir Denys Bray:** (a) Ghulam Qasim Khan was arrested under Rule 12(a) of the Defence of India Rules on the 19th April, 1917, and was subsequently interned at Ootacamund under Regulation III of 1818. He remained there till May, 1921.

(b) He was then removed to Karachi and subsequently allowed to go to Leiah.

DATE OF THE CANCELLATION OF THE WARRANT UNDER WHICH GHULAM  
QASIM KHAN WAS DETAINED.

162. **Mr. S. Sadiq Hasan:** (a) Is it a fact that the warrant under which Ghulam Qasim Khan was detained was cancelled by the Government of India on the 24th April, 1924?

(b) Is it a fact that Ghulam Qasim Khan received no information about the cancellation of the warrant till September or October, 1924?

**Sir Denys Bray:** (a) The warrant was formally cancelled by the Government of India on the 26th August, 1924, but it had ceased to be operative from the 7th August, 1922, on which date surveillance was removed from Ghulam Qasim Khan and orders issued for him to be informed accordingly.

(b) Information regarding the formal cancellation of the warrant was communicated to Ghulam Qasim Khan in November, 1924.

REFUSAL OF PERMISSION TO GHULAM QASIM KHAN TO RESIDE IN THE  
NORTH-WEST FRONTIER PROVINCE.

163. **Mr. S. Sadiq Hasan:** (a) Is it a fact that on the 16th May, 1924, Mr. Justice Moti Sagar, a Judge of the High Court of Judicature at Lahore, was pleased to pass an order to the effect that Ghulam Qasim Khan was at liberty to reside where he liked and that his movements were not restricted in any way?

(b) Is it a fact that the Honourable the Chief Commissioner of the North-West Frontier Province never allowed Ghulam Qasim Khan to enter the North-West Frontier Province, and finally informed him on the 10th June, 1925, that the Honourable the Chief Commissioner had no intention of re-opening the case of Ghulam Qasim Khan's removal from Tank and that he could not be allowed to enter the North-West Frontier Province?

**Sir Denys Bray:** (a) and (b). Yes.

REFUSAL OF PERMISSION TO GHULAM QASIM KHAN TO RESIDE IN THE  
NORTH-WEST FRONTIER PROVINCE.

164. **Mr. S. Sadiq Hasan:** (a) Will the Government be pleased to state the provisions of the law or Act or Regulations and the section thereunder by virtue of which Ghulam Qasim Khan is not allowed to enter the North-West Frontier Province and reside at his home in Tank? Was Ghulam Qasim Khan ever informed that under such an Act or Regulations he was not allowed to enter the Frontier Province?

(b) Will the Government be pleased to state the reasons why Ghulam Qasim Khan is not allowed to enter the North-West Frontier Province in spite of the fact that the warrant under which he was detained was cancelled by the Government of India?

**Sir Denys Bray:** (a) The existing prohibition against Ghulam Qasim Khan is an executive warning. If he disregards it he will be expelled under section 36(d), Frontier Crimes Regulation, 1901 (III of 1901).

(b) The presence of Ghulam Qasim Khan in the North-West Frontier Province is considered to be undesirable.

PETITION FROM GHULAM QASIM KHAN REQUESTING PERMISSION TO  
RESIDE IN TANK IN THE NORTH-WEST FRONTIER PROVINCE.

165. **Mr. S. Sadiq Hasan:** Is it a fact that in November last Ghulam Qasim Khan submitted a petition to His Excellency the Governor-General in Council with a prayer that the petitioner be allowed to enter the North-West Frontier Province and reside at his home in Tank? Has any decision been arrived at in respect of the petition? If so, what is the decision?

**Sir Denys Bray:** Such a petition has been received and is under consideration.

## RESOLUTION *RE* THE BURMA EXPULSION OF OFFENDERS ACT, 1925.

**Mr. President:** The House will now resume further discussion of the following Resolution moved by Mr. Amar Nath Dutt on the 9th February, 1926:

This Assembly recommends to the Governor General in Council that the Government do immediately move the Secretary of State to disallow the Burma Expulsion of Offenders Act, 1925, or, in the alternative, to take immediate steps to introduce a Bill in the Indian Legislature to repeal the said Act."

**Mr. J. W. Bhore** (Secretary, Department of Education, Health and Lands): Sir, my intervention in this debate, which will be very brief, is directed to one specific point. I am not concerned, Sir, with the merits or the demerits of this Act. I am not concerned with the necessity or otherwise for this measure, but what I am concerned with, equally with every Member of this House, and equally with every person outside it, who has the interests of Indians in South Africa at heart, is the suggestion which has come from two or three Members during the course of the debate that the continuance of this Act on the Statute-book is calculated to lend support to anti-Indian legislation abroad. Honourable Members will realise that I have stated the proposition in terms much more restrained than those which were employed by Honourable Members who referred to this matter. But in whatever terms it is stated the idea is one which I must try and do my best to dispel. The first point that I would like to make is that this Act is not discriminatory as against Indians so far as the penalty of expulsion is concerned. Sir, if my Honourable friend from Burma who sits behind me or my Honourable colleague who sits on my left also from Burma, choose to place themselves within the clutches of the criminal law, in regard to certain offences and had not the ingenuity to escape they, no less than I or my Honourable friends on the opposite side, would be liable to expulsion under this Act. Now, Sir, the main point of our objection to anti-Indian legislation abroad has always been that it seeks to impose special disabilities upon Indians, *qua* Indians or *qua* Asiatics, and I submit there is nothing in the principle of this Act which will blunt the point or lessen the force of the objection which we have always urged to anti-Indian legislation abroad. (Hear, hear.) Then, Sir, against what class of persons is this Act directed? It is directed against persons who have committed certain offences against the criminal law of the land. Now, Sir, is there any one in this House who places the case of Indians in South Africa no higher than that? Indians in South Africa are not criminals. (*An Honourable Member*: "It is a question of degree.") They have broken no criminal laws; they have transgressed no requirements of law and order. They are loyal subjects of His Majesty. They are law-abiding citizens of the Union who by their thrift and by their industry and by their toil have added to the wealth of the country which they have chosen to make their home. (Cheers from the non-official Benches.) It is a matter of deepest regret that it should have been necessary for me to get up in this House to point out that there is a world of difference between this Act, which deals with people who have been convicted under the criminal law of the land and an Act, for instance, which says to a law-abiding British citizen in a British Dominion that because you are an Indian or an Asiatic you shall not reside except in a specified locality, that you shall not trade except in a specified locality, and that you shall not acquire property except in a specified locality. Sir, during the course of debate when the tide of feeling runs high we often

[Mr. J. W. Bhore.]

give expression to sentiments which I am sure our calmer judgments would not endorse. Language was used in this connection on the last occasion which I most sincerely and earnestly hope will not be repeated to-day. There was one exception. My Honourable friend Mr. Jinnah, if I may say so, rendered a public service in expressing the views that he did.

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhammadan Urban): He rendered Government service!

**Mr. J. W. Bhore:** No, Sir, public service. On behalf of Government I must repudiate with all the emphasis at my command the suggestion that the passage of this Act takes away from us the power of objecting to anti-Indian legislation abroad.

**Lala Lajpat Rai** (Jullundur Division: Non-Muhammadan): Sir, in the course of the debate that took place on this Resolution last time, an impression was sought to be created that the Burmese were in favour of this Bill. I want to remove that impression first. I have been to Burma only recently. I was there from the 4th to the 12th January, 1926. During my stay there I addressed two public meetings, one at Mandalay and the other at Rangoon. Both these meetings were presided over by eminent Burmese publicists. The meeting at Rangoon was presided over by a gentleman who holds at the present moment the responsible post of Deputy President of the Legislative Council of Burma. There were other members of the Burmese Council also present at this meeting and they also made speeches. All of them repudiated the idea that they had any sympathy with this law. They denounced the Act in as strong terms as the Indians did. Similarly, at Mandalay my meeting was presided over by an eminent Burmese journalist, who also denounced this legislation. So, it is not right to state, that Burmese public opinion had demanded this law. The fact is that the Act was not initiated by Burmese at all. It was the creation of some other brain, other than that of the Burmese, the Indians or the Chinese. The contents of the Act, especially the sections of the Indian Penal Code which have been specified in the Schedules, clearly show the real intention of the Act. It was said by the speaker who has just sat down, the Honourable Member on the other side, that the Act was not directed against Indians only. It is true that it is not directed against Indians as such, but practically it is directed against Indians and Indians only. The foreigners in Burma can be divided into three classes; the Indians, the Chinese and the Anglo-Indians. It was pointed out in the debate on the first day that, so far as the Chinese were concerned, there was another law which affected them. (*The Honourable Sir Alexander Muddiman*: "No, no.") As to Anglo-Indians, we know that no one would dare to apply this law against them. We know it from our experience in this country as well as in the other parts of the British Empire. Thus the only other class of people who are left to be affected by this Act are the Indians. Therefore, though it may be literally true to say that the Act is not directed against Indians only, practically it is not true to say that it is not directed against them. Then, the principle of the Act, I submit, is very dangerous. We on this side of the House are not prepared to make ourselves a party to any scheme of federation under which one province can have the authority of making legislation of this kind against the people of other provinces or the people of India in general. If Burma had been a separate country, one might

have understood the reason for such an Act. Even in that case,—if Burma were a member of the Empire—one could not consent to such legislation. But in that case perhaps there might have been some justification for it. But so long as Burma is a part of British Empire it is extremely dangerous to allow this precedent to be set up for other provinces to follow and enact discriminating legislation against the people of other provinces. Sir, I fully agree with the Honourable the Home Member that the Resolution we are debating involves a grave constitutional issue. The issue is whether Provincial Legislatures can be allowed to enact legislation of this kind which practically affects all the people of India, and whether this kind of discrimination can be made by one Provincial Legislature against the people of other provinces. We submit this cannot be allowed. The law we are discussing sets up a dangerous precedent. That is one of the reasons why we so strongly object to this legislation not only in the interests of Indians resident in Burma, but also in the general interests of India as a whole. It is said that some time ago similar legislation was passed by the Bengal Legislative Council also, in what is known as the Bengal Goondas Act. Personally I am as much opposed to that law as to the Act under discussion. We do not endorse the principle of that Act any more than we do of this. In my judgment the principle of that law also was open to objection. No legislation should be passed by any Provincial Legislature which affects the people of other provinces injuriously on any ground whatsoever. I have yet to learn that in any country under a federal system of government, where there are a number of states or provinces subject or subordinate to the same Federal Government, the inhabitants of one province or of one state can be allowed to pass legislation of this kind discriminating against the residents of other provinces or other states. All the peoples belonging to one federal country are the members of the same nation and subjects of the same Government. That principle may well be extended to an Empire, but in the case of a country at least, its application cannot be questioned. To ignore it will be practically setting one province against another. This is dangerous, and I strongly object to it regardless of the fact that the Act involves a great insult to the Indian community of Burma, and that it is not in accordance with Burmese public opinion. Burmese public opinion, on this question, is divided, but the Indians are unanimously opposed to it. So far as we in this part of the House are concerned, Sir, under no circumstances can we accept the principle that underlies this legislation. To do so will be to deny that we are a nation inhabiting one country and living under one Government.

Coming now to the case of Indians in Burma, the Honourable Member who represents the Government of Burma told us the other day that it would be impossible to carry on the administration of Burma without Indians. May I ask if this is the reward that the Government are going to give to Indians who have helped in conquering that country and running it? If the British Government and the Burmese people cannot do without Indians, is this the way to treat the Indians in that country? You say that the law is aimed at offenders, breakers of the law, only, but if you see the sections which are scheduled, you will find it is principally aimed at political offenders. All offences against the State are included therein. If an Indian goes to Burma and makes a speech which brings him under section 124A, he is liable to be expelled from Burma.

**Mr. H. Tonkinson:** No.

**Lala Lajpat Rai:** Absolutely yes, please. There is no question of "No". A second conviction can be obtained easily. Even one speech can be made the subject of two convictions. We know that some persons have actually been convicted for two or three offences on the basis of one speech or one document. The fact that there must be two convictions for sedition before a man can be expelled is no safeguard. Take the case of a person who is not a Bengali but who goes to Bengal and makes two speeches and is convicted on two counts under section 124A. Are we to acknowledge that the Bengal Government is entitled to pass a law expelling that man from Bengal simply because of those two convictions? A law of that kind will destroy the very basis of common nationality. I therefore appeal to Members of the House to think very seriously before voting on this Resolution. It is not a trifling matter. If we accept the principle of this Act, and let it go without challenging it, we shall be laying ourselves open to the charge of having accepted that one province can enact legislation of this kind directed against the people of another province. By voting against this Resolution we may be cutting away the very roots of the tree of Nationalism. I therefore beg of the Indian Members of this House to enter a strong protest against this legislation and its principle. I support the Resolution, Sir.

**Mr. H. Tonkinson** (Home Department: Nominated Official): Sir, I had heard a great deal about the Burma Expulsion of Offenders Act before this debate began a week ago. I heard a good deal more about it on Tuesday last. I personally had never had an opportunity of examining its provisions in detail until the morning of that day. I did examine them then carefully, and I regret that the time at my disposal will be quite insufficient for me to dispel all the misunderstandings of the scope and of the provisions of this Act which have been manifested in this debate. (*An Honourable Member*: "It is over a week now.") I must perforce confine my remarks to a few points only. I regret this all the more because I believe that this House is still prepared to listen to reason, and when it finds that each of the points which have been attempted to be made against this Act can be met point by point, it would be prepared to dissociate this measure from the mass of prejudice raised against it and agree to reject the present Resolution.

I propose now to refer to the principles of this Act in sufficient detail to show how wrong my Honourable friend Pandit Motilal Nehru was when he stated that this Act was nothing short of a monstrosity. Before a person can be expelled from Burma under the provisions of this Act, it must first be established that he is liable to be expelled, and then that it is also desirable that he should be expelled. Suppose the District Magistrate decides to take action against a particular person, he first gives that person an opportunity of calling evidence on both points, namely, evidence to show that he is not liable to be expelled and evidence to show that there is reason why he should not be expelled. The District Magistrate finally comes to conclusions in regard to both points. (*An Honourable Member*: "May I ask how the Magistrate comes to conclusions that it is desirable to expel the person?") If the Honourable Member will listen he will get his answer. The District Magistrate finally comes to conclusions with regard to both points, and we may assume he decides them both in the affirmative. He then records in writing his reasons for recommending the expulsion of the person in question. So far we have only got a recommendation, we have not got an order of expulsion. In fact my Honourable friend Mr. Amar

Nath Dutt was quite wrong in thinking that the Act gives the Magistrate power to order the expulsion of any body, and my friend, Sir Hari Singh Gour was equally wrong when he talked of the unfettered judgment of the District Magistrate. Before the recommendation goes forward to the Local Government, the offender has the right to ensure that the proceedings shall be sent to the High Court, and in that case the High Court has to determine whether the person is liable to be expelled. All the items—and they are several—which are required before liability to be expelled can be established, fall within the competence of the High Court to determine. The reference in the High Court is dealt with as far as possible in accordance with the procedure provided by the Code of Criminal Procedure for the disposal of an appeal, and it is this reference to which I referred the other day when I suggested that the Act did provide for appeals. Any one who wishes to make the point that this is not an appeal from an order of expulsion is welcome to make it. It could not be such an appeal because the order of expulsion has not yet been made. I submit that the point is worth nothing because the recommendation has been recorded and that recommendation cannot go to the Local Government until, if the offender so wishes, the High Court has determined that the man is liable to be expelled.

I now turn to the second point, the desirability of expelling the man. The offender may produce evidence to show there is reason why he should not be expelled. The District Magistrate must record such evidence. The District Magistrate comes to a conclusion upon that and makes his recommendation. The case may come back with the finding of the High Court that the man is liable to be expelled. The recommendation must then go to the Local Government, and it is the Local Government which finally determines whether the reasons for expulsion are sufficient. I suggest for the consideration of this House that here again we have a real safeguard to prevent the Act being used save in suitable cases. I think myself that these safeguards are real, and as a District Magistrate of several years' standing in Burma, and also as a former Secretary to that Government, I think I am justified in alleging that I do not speak without authority. I have referred to these safeguards at some length early in my statement because I wish to impress upon the House how real and how effective they really are, and if I am unable to return to them, I trust that the effective nature of these safeguards will not be forgotten.

Now let me deal with what is required to constitute liability under the Act. It must be proved both that the person is a non-Burman and also that he is an offender. Let me take the question of an offender first. The Act contains two Schedules. The first Schedule consists of more serious offences, and one conviction only under that Schedule is required. The second Schedule consists of less serious offences and at least two convictions of an offence specified in that Schedule are required before a man becomes an offender. I am not concerned now to justify the inclusion of any section whatever in one or other of these two Schedules. I will, however, suggest to the House that a careful examination of the list of offences in the Schedules suggests that the principle upon which the lists were prepared is that of including all really serious offences in one or other of the Schedules. I admit that section 124A is included in the Second Schedule, but an examination of the Schedules leads to the inevitable conclusion that they were not prepared with the object of expelling politicians. I admit, however, that I am not surprised at the objection which

5. [Mr. H. Tonkinson.]

has been taken to the inclusion of section 124A. Now I am not going through all these sections, but I must say that there is no justification for the statement of Mr. Amar Nath Dutt that very few of the sections of the Indian Penal Code have been left out. The number of sections included is certainly large, but Honourable Members should realise the number of different entries which relate to cognate offences. For example, in the First Schedule we have no less than eight entries relating to dacoity, in the Second, five dealing with robbery, four with theft, and six with extortion. It is this duplication which is mainly responsible for the large number of offences. In addition to the two Schedules, we have also persons who are proceeded against because they are definitely habitual offenders. In all the cases, whether included in the First or in the Second Schedule, or whether they are cases of habitual offenders, the men must have had final convictions which have not been set aside on appeal or revision. The House will therefore, I trust, agree with me that no one can be proceeded against under the Act who has not been found to be a criminal either once or twice, as the case may be. If objection is taken against any of the sections included, then it is quite open to any Member of the Burma Legislative Council to introduce a Bill in that Council for an amendment of the Schedule. I invite the attention of my Honourable friend Pandit Motilal Nehru to the fact that, though the Act was passed by the first Council, we have now got the second Burma Legislative Council, the elections to which were not boycotted, and it is a Member of that Council who can introduce a Bill to provide for the omission, say, of section 124A, or of other sections which are objected to. . . .

**Pandit Motilal Nehru:** You can always find one Member in any Council and even in this House to do that.

**Mr. H. Tonkinson:** The same point arises in connection with the first suggestion of my friend Lala Lajpat Rai this morning.

I now come to a more important point. Before a man is liable to be expelled from Burma under the Act, it must be proved that he is a non-Burman under the Act. To be a non-Burman a man must fall into neither of two classes. If he falls into either of these two classes then he is not a non-Burman, that is to say, he is not liable to be expelled under the Act. These two categories consist of, firstly, persons whose father or mother belonged to one of the races indigenous to Burma, that is to say such races as Burmans, Shans, Karens, Kachins and so on. The second class consists of persons who are domiciled in Burma. In this connection I must correct a palpable mistake made by my Honourable friend Pandit Motilal Nehru. He said, I quote his exact words: "That is to say if he has acquired a Burman domicile it is not enough; he must also be the issue of a Burman." Actually, however, in order to be not liable under the Act, that is to say to be a Burman for the purposes of this Act, the definition does not provide that two conditions must co-exist, but that either of two conditions must exist. If one of them exists, it is sufficient to take a man out of the class of non-Burman to which the Act applies. As regards these two classes which are excluded from the operation of the Act, it is not necessary to say more of the class which consists of all those persons who have either a father or a mother of an indigenous Burmese race. The meaning here is obvious. The second class



is for our present purposes more important. If any one proves that he has a domicile in Burma, then he proves that the Act does not apply to him. It is because of this point that I suggest that the House should attach the utmost importance to the provision in the Act for a reference to the High Court. There is no definition of the word "domicile" in the Act . .

**Mr. Gaya Prasad Singh** (Tirhut Division: Non-Muhammadan): Why should there not be?

**Mr. H. Tonkinson**: That is what I am coming to. My Honourable friend, Sir Hari Singh Gour, gave the reasons stated by the Select Committee for not attempting to define the word. They were briefly to the effect that they were of opinion that domicile could not be defined. Sir Hari Singh Gour supported the Committee in what they said on this point when he said that the word was undefinable, and if I attempt to adduce other authority for this position, it is not to derogate from that of my Honourable and learned friend. One of the most distinguished writers upon the question of domicile, Professor Dicey, in his classical work on the Conflict of Laws, sums up the position as follows:

"English judges have certainly not underrated the difficulty of defining the word 'domicile.' Their language on the contrary generally points to the two conclusions, first that a satisfactory definition of domicile is, from the nature of things, unattainable, and secondly that, even if the term be definable, every attempt to obtain a serviceable definition has hitherto ended in failure."

That was the view that Professor Dicey stated had been taken by the English judges, though he was not prepared quite to acquiesce in that view himself. The fact that it is difficult to state concisely what is meant by domicile is not, in my opinion, a sufficient ground for taking the strong objection to the use of the word which was taken by Sir Hari Singh Gour. He objected to using an undefinable word in a Statute at all. The word is, however, used in Acts of the Indian Legislature; it is used very many times indeed in an Act passed by this Legislature not longer ago than last September without a dissentient voice. The fact is that, though the word cannot be defined within a very short compass, it is a term of art, it does mean something, and there are long series of rulings of the High Court in England, discussions by writers on Private International Law and so on, all of which would be open to the High Court of Rangoon when they are called upon to decide as to the application of the word in any particular case which may arise under this Act. Now, what does the word mean? As stated by Lord Westbury in *Bell v. Kennedy*,

"Domicile is an idea of law. It is the relation which the law creates between an individual and a particular locality or country. To every adult person the law ascribes a domicile, and that domicile remains his fixed attribute until a new and different attribute takes its place."

That, of course, is not a definition. I have not, in fact, time to repeat the very complicated definitions with their qualifications given by Professor Dicey, but as a simple definition I may mention that given by Savigny, namely:

"That place is to be regarded as a man's domicile which he has freely chosen for his permanent abode and thus for the centre at once of his legal relations and his business."

The main ideas underlying domicile are that it is the person's permanent home or the country in which he has an intention of residence. (*An animus manendi*.)

**Mr. C. S. Ranga Iyer** (Rohilkhand and Kumaon Divisions: Non-Muhammadian Rural): Country, not province?

**Mr. H. Tonkinson:** Country. I am coming to that in a moment. I am afraid it would be impossible for me in the time at my disposal to place before this House leading cases to prove how the various allegations as to the classes of men who have been said to be liable to be expelled from Burma under this Act are inaccurate. Let me however merely correct a few such allegations. My Honourable friend Mr. Amar Nath Dutt said the word "non-Burman" applies to Indians even if they have resided in the country for generations and have occasionally come to India as a sort of pilgrimage to the land of their ancestors. Let me assure my Honourable friend that he is quite mistaken. Those Indians have an *animus manendi* in Burma. The fact that they come occasionally to India does not shift their domicile. He also referred to settlers from Chittagong in Akyab who carry on agricultural pursuits there and so on. Let me assure him that those Chittagonians who have settled in Akyab have their domicile in Burma. And so one could go on but time does not permit.

I must, however, refer to the ideas of my Honourable and learned friend opposite in regard to the nature of domicile. He seemed to think that it was absurd to talk about a domicile in Burma. He said in fact "I have got my domicile in India; I have my domicile in every part of India". Let me venture to suggest a doubt to my Honourable friend as to whether he is correct in assuming that he has a domicile, in the legal sense of the term, in every part of India. The word "domicile" is applied to residence in a country or territory subject to one system of law. That is to say, it is applied to countries in the legal and not in the political sense. Thus the British Empire consists of a large number of countries in the legal sense,—England, Scotland, Northern Ireland, Southern Ireland, the Isle of Man, the different Dominions, Provinces, States, Colonies, etc. These are quite separate countries in the legal sense and the term "domicile" can be applied to each of them. Our law books are of course filled with rulings upon questions of English, Scottish and Irish domicile. Burma also, having a separate Legislature which makes its own laws is, I would suggest, a separate country in the legal sense.

**Pandit Motilal Nehru:** May I point out to the Honourable Member that the Scottish, Irish and English domiciles have pure reference to the personal law of the individual, and not to the criminal law of the land?

**Mr. H. Tonkinson:** It is the law of domicile that I am trying to explain. I could cite leading cases in which, for example, the question turned upon whether the domicile was in the State of New York or in any other State of the United States of America.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadian Urban): For what purposes?

**Mr. H. Tonkinson:** Now if we think of India as a Federation, shall we say, in embryo?

**Mr. Devaki Prasad Sinha** (Chota Nagpur Division: Non-Muhammadian): That is not a legal term.

**Mr. H. Tonkinson:** Then can we say that a person has his domicile throughout India? Each person has a domicile, I suggest, in one of the provinces of India because each province is a country in the legal sense of the term. If this is so and I only suggest a doubt because I can only prove up to the hilt that this is so in the case of different States in the United States of America and different States in the Commonwealth of Australia, then it is more proper—more proper, I suggest—to speak of domicile in Burma than domicile in British India. In any case it is quite possible to do so, for following the statement of Lord Westbury, the word expresses a relation between a man and a locality, Burma. Burma in fact as a province of India corresponds in this respect, I submit, to the States of Australia. To conclude as regards this point there can be no doubt that the necessity of proving non-domicile in Burma before liability under the Act can be established does constitute an important restriction upon the operation of the Act.

I am afraid time does not permit me to endeavour to take up many points which have been raised in the debate. I regret for example that I am unable to follow Mr. Jinnah in his suggestion that the Act is *ultra vires* of the Burma Legislature, on the ground of extra-territoriality or that there is anything legally defective in the sanction accorded to the Bill. Judging from the discussions of yesterday it takes much time to convince my Honourable friend of his errors though they are errors, but I am sure I could convince him in a calm atmosphere outside. I regret also I cannot attempt to deal with the strange views of my Honourable friend Sir Hari Singh Gour as to the extent of the application of the principle of asylum. No one here now will think it necessary, after the speech of my Honourable friend Colonel Owens, that any one should endeavour to refute the suggestion that the Burma Government are so blind to the interests of Burma as to desire to exclude Indians from Burma. They would be more foolish still if they thought they could do so under this Act. There is one point and a very important point which I should like to deal with, and that is the constitutional point raised by my Honourable friend Dr. Datta. The point was also referred to by my Honourable friend Lala Lajpat Rai this morning. Briefly this is the point dealt with in section 117 of the Australian Constitution, namely, a subject of the Queen (King now) resident—or shall we say domiciled?—in one State shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of and domiciled in such other State. I have repeated practically the wording of section 117. This is a question which I may remind my Honourable friend evoked very long discussions in the Assemblies which prepared the Australian Constitution. The restrictions upon its operation have also been on many occasions before the Federal Court of the United States of America. Now there is one point which I should like to emphasise in the first instance, and that is the greater differences that exist between the provinces in India and between the States either in Australia or in the United States. That is a point which was referred to by the Honourable the Leader of the House and I have not time to do more than refer to it again. The real point here is should one State be able to send back a man domiciled in another State because it finds him objectionable and on the view that each factory should consume its own smoke. Further, if this is admitted, does it constitute any discrimination? On this point I would first appeal to the existing provisions in the

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Indian Statute Law. The issue does not depend on whether a man is a criminal. For some years Burma has, I understand, used a similar provision without any question which gives to Burma power to re-export beggars who are landed on her shores.

**Diwan Bahadur T. Rangachariar:** What sort of beggars, alien beggars?

**Mr. H. Tonkinson:** Any beggars. Any Indian beggars can be expelled from Burma.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muham-  
madan): They may be expelled from anywhere.

**Mr. H. Tonkinson:** Then there is the Bengal Goondas Act to which reference has been made. My Honourable friend the Pandit and Lala Lajpat Rai said that they objected to that Act. Well, the Act is there nevertheless. I admit the same categories do not come under that Act as fall under the present Act. But the fact remains that persons definitely settled in Bengal under clause (b) of section 6, which my Honourable friend the Pandit was not prepared to discuss the other day, may be directed only to leave the Presidency-town area, whereas a person not so settled can be directed under clause (a) to leave Bengal. And not only is this the case with Bengal; there is a similar provision also in Bombay and Bombay can and does expel British Indians from the Presidency; there is a provision in the City of Bombay Police Act, which has been so used—I have some figures with me here for certain years showing the number of people expelled—Bombay does expel North-West Frontier Pathans from Bombay to the North-West Frontier Province.

**Diwan Bahadur T. Rangachariar:** What is the date of that Act?

**Mr. H. Tonkinson:** 1902, I believe, or 1904. Now, if these powers are possessed by the Bengal Government and by the Bombay Government, why should they not be possessed by the Government of a province so different from the other provinces in India as is Burma?

To turn to England, my Honourable friend the Deputy President referred to removing a person from England to Scotland. Has my Honourable friend failed to notice the Statutes passed one after another during the nineteenth century in England, which enabled one parish to send back to another parish in England, Scotland or Ireland a man who had not obtained settlement in the parish . . . . .

**Diwan Bahadur T. Rangachariar:** That is because of the burden on the rates.

**Mr. H. Tonkinson:** That is exactly the same point, Sir.

**Lala Lajpat Rai:** Not at all; there is no comparison.

**Mr. H. Tonkinson:** The principle is exactly the same as that objected to in this Act.

Then again as to the question of discrimination with which I have not dealt so far. For the purpose of considering the question of discrimination, you must not only take this Act, but you must also take together with it the Burma Habitual Offenders Restriction Act—there is an exactly corresponding Act to the latter Act in force in the Punjab. Under it a

Burman may be moved from one district to another, and his residence may be restricted to the latter district. It can be done in the same way in the Punjab and if my Honourable friend wishes to object to the criminals from Bellary going to his district of Tanjore I suggest that he should persuade the Madras Council to pass an Act like this.

**Diwan Bahadur T. Rangachariar:** I will be the last to do that.

**Mr. H. Tonkinson:** The position therefore is that there is no discrimination introduced in this Act, because a Burman can be dealt with under the one Act and a non-Burman under the other Act in exactly the same way.

I will now sum up. The safeguards in this Act are enormous. The introduction of the question of domicile means a great restriction—I repeat in my opinion a correct restriction—upon the operation of the Act. The Burma Government are not so foolish as to wish to get rid of Indians from Burma. And finally the constitutional point does not arise as there are similar provisions already in force in other provinces; and taking the two Acts together there is no discrimination as against a non-Burman. For these reasons, Sir, I oppose the Resolution and I trust that it will be rejected by this House.

**Colonel J. D. Crawford** (Bengal: European): Sir, I do not wish to take up the time of the House to any very great extent; but I desire to reply to the appeal made by my Honourable friend Mr. Jinnah on my own behalf and on behalf of some of the Members on these benches, that we should support this Resolution. As regards the merits of this particular Act, I have resided myself for some ten years in Burma, and I have no doubt that it is desirable that criminals from one province should not be sent to other provinces. My feeling, Sir, is this: that to allow one province to bring in legislation against another province or the members of another province is a very dangerous precedent. Mr. Tonkinson has quoted the position in England, how one parish can take or send its vagrants from other parishes back to those other parishes. That is a position that I would like to see in India; but I would like to see legislation which brought in that principle carried through in this House, where Members come from every province. That is really the reason why I have risen to speak this morning, to place on record the opinion of myself and of some Members who are with me that we do not desire to see this differential legislation carried out in the provincial Legislature. If such legislation is necessary—and I admit that at times it is necessary—then it is our feeling that if it cannot be done under the existing constitution, when that constitution comes to be re-examined, the principle that legislation of this nature shall be carried out in the central Legislature, shall be put into force. With these words I beg to notify that I propose to support the Resolution.

**Mr. M. K. Acharya** (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, I heard with very great interest the speech of my Honourable friend Mr. Tonkinson in the course of which he entered into what appeared to me to be a great deal of legal quibbling. Not being a lawyer, I cannot appreciate all the legal talents of my friend opposite. I therefore wish to deal with some of his remarks from what I may call the commonsense point of view. He assured us, practically, at the end of his speech, in substance, that the safeguards in the Bill were very very enormous, and that Burmans were not so foolish as to desire to get rid of Indians. I wish to put to him and to those who support this Act this question. If

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the safeguards there are so enormous, if in reality and practice it is not likely to touch any large number of Indians, if really after all there will be only just one or two cases where a man is liable to be, and where it is desirable that he should be, expelled, why do you take all this bother? Why do you create all this agitation? Why do you create so much of this inter-provincial feeling, if after all you are aiming at some one or two or three cases only here and there? Why do you waste all your breath and waste the time of the Government and the Legislature? Why waste so much of their precious time in manufacturing this wonderful Act which is really, in practice, after all going to be applied only to some one rare case here and probably to one other rare case there? If that be true, that there are such enormous safeguards, that in practice nobody is going to be touched, I say from the common sense point of view, why waste so much breath, why waste so much energy on an Act which is likely to be, according to what I heard from Mr. Tonkinson, more or less obsolete?

Secondly, Sir, it is said that Burmans are not so foolish; and the official Member from Burma said a great deal about that. I have got his speech here in which he enumerated all the great good that is being done to Burma by the Indians settled in Burma. He pictured to us almost eloquently the part played by Indians in the civic, the social, the commercial and other aspects of Burman life there. He said:

"I assert with confidence that Indians in Burma have had and do have a very good time, for it is a happy country . . . What is the position of Indians there now? They adorn with distinction our bench and our bar. Many departments of the public service in Burma are staffed by Indians. They prosper as merchants and traders in our towns. They hold land all over Burma,"

and so on. He then went on to draw a very very dismal picture of all the catastrophe that would happen if the Burmans should expel the Indians from there. He said:

"Our railway trains would come to a standstill. The great fleet of steamers belonging to the Irrawaddy Flotilla Company would cease to run; our rice mills would cease working; ocean-going steamers in our ports could neither load nor unload,"

and so forth. Admitting that all this is true and *bona fide*, which I do not for a moment doubt, if Indians from other provinces have contributed so much and are contributing so much to the every-day life of Burma, is it fair, is it honest for Burma to say that they will take only those things which are good for them and that they will not take any

12 Noon. portion of the evil which under God's Providence must always go along with the good we get? Why should a Burman be so selfish that he should wish to get only the good things, that he should welcome only good people to his province, that he should like to take advantage of their energy, their industry, and that he should not allow any undesirable man in his province and if any man commits a crime or if anybody proves a little undesirable, he should expel him the next moment? I, Sir, being somewhat of a philosopher cannot appreciate this attitude of mind. I cannot possibly understand any man saying that he will take all the good that he can get, and if he sees any little evil, if he sees any man committing a crime or any undesirable thing, he will see him off this earth. That is an attitude which I should most seriously condemn, whether in any province or in any community. Then some of the official Members said that there are 9 lakhs of Indians resident in Burma who are non-Burmans, but it would be interesting to know how any of them are criminals or are likely

to be criminals and would come under the category of Mr. Tonkinson as being worthy of expulsion. But of the 9 lakhs of Indians, granting for a moment that there are half a dozen, a hundred or say even five hundred people who happen to be undesirables or criminals, why do you want to apply a measure of this kind to stigmatise all the 9 lakhs of Indians who have been residing there for a long time and who, according to your own statement, have contributed a good deal to the prosperity of Burma? There may be, as I have said, a hundred people or so among the whole population who are undesirable, but we cannot help it. We live in a world of good and evil. You cannot have the rose without the thorn. You cannot have all the good without any evil. Supposing we say that the Members occupying the opposite Benches have done a lot of good to this country but that they are a little undesirable, how much would they resent this statement? How much will the Britishers resent it if they are told by Indians that they are not very desirable in India, though they have done a lot of good to this country? The Honourable Member from Burma drew a beautiful picture the other day when he said that Indians have contributed their labour, their energy and their industry in all departments of human activity in Burma, they are working on railways and steamers, and so on, but how ungrateful it would be of Burmans now to turn round and approve of a measure like this? Granting all your arguments that Indians have contributed greatly to the public life of Burma, it will not be right for the Burman now to turn round and say that he will get all the good from Indians and if there is any evil, or any undesirable person, he will turn him out. That is an argument which cannot be urged with reason when it is admitted that Indians have done a good deal for Burma. There are certain legal aspects of the question which have been raised in the course of this discussion, and I am sure my lawyer friends in this House will deal with them. But what I want to ask the gallant Colonel and my friend Mr. Naidu—I hope he is here, because he is also obviously one of the few Indians who went to Burma and settled there and conferred on Burma all the excellent benefits of his presence there,—what I want to ask him is, is it fair to him to come forward now and say that if a few Indians have proved themselves undesirable, they should be expelled from Burma? This is the question I put to him. Is the game worth the candle? Is all this huge cry, all this inter-provincial jealousy, dislike, and so on desirable? After all, what you say is that this measure is not going to seriously affect the people. But there are moments, Sir, when we are fighting for elementary principles of British citizenship, and it is worth while for us to fight for principles. Speaking candidly, I for one somehow feel that these troubles, this discrimination between one set of people and another, one community fighting with another, always come up when the foreigner rules the land.

**Lala Lajpat Rai:** One province against the other.

**Mr. M. K. Acharya:** Yes, certainly. Sir, I belong to a province where until very recently there were very few communal troubles, but with the advent of the Reforms, the most dirty, the most terrible, the most infernal communal troubles have been created, and that is the price of the Reforms. Is this the price of the Reforms that we ought to pay—feuds inter-provincial, inter-communal, inter-caste and inter-racial? Why then all this legislation? Sir, leave us alone for some time. If after looking after our own affairs for some time, we feel that one province should legislate against another or that one community should legislate against another, we shall

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do it. But for God's sake give us sufficient time, let us adjust ourselves. For God's sake, do not add your prestige and your talents to forging any legislation of this character. Mr. Tonkinson's talents ought to be really employed on a much better object than on passing this legislation. Sir, I appeal to your better sense, because, I am sure you are capable of rising to your higher sense, I would appeal to you and ask you to let these things alone and turn your attention to something really better, loftier and nobler.

**Diwan Bahadur M. Ramachandra Rao** (East Godavari and West Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, I should like to say a few words in support of this Resolution. My Honourable friend Mr. Tonkinson, as a past District Magistrate in Burma and as a Secretary of that Government, has taken considerable pains to expound the new law which the Legislative Council in Burma has placed on the Statute-book. He has taken the trouble of examining the codes of the various provinces and has brought to our notice certain enactments already in existence which justify the provisions of the present Bill. Sir, he has also said that there is nothing unconstitutional in the provisions of the Bill and that it is consistent with the present constitution in this country. Sir, the Honourable Member has said that we have no reason to complain if a person who has been convicted twice is liable to expulsion. He also contended, Sir, that there are proper safeguards—whether it is by appeal or reference does not matter at all—for obtaining the view of the High Court in regard to the question whether a person is really an offender or not or whether he is a non-Burman as defined in the Act. It seems to me altogether unnecessary to go into all these complicated questions of domicile and constitutional procedure.

The first point that I should like to bring to the notice of the House is that the migration between Burma and other parts of India is spread over all the provinces and Indian States. I find from the Census Report that there is a continual stream of migration to Burma from British India and from Indian States. You will find that Assam, Bengal, Bihar and Orissa, Madras, Ajmer-Merwara, the Andamans and Nicobars, Baluchistan, the Central Provinces, Coorg, the North-West Frontier Province, the United Provinces, the Punjab and Delhi are sending their quota to this province. As regards Indian States we have a similar state of things. Cochin, Travancore, the Bengal States, the Bihar and Orissa States, the Baluchistan States, Baroda, the Bombay States, the Central India Agency, Gwalior, Hyderabad, Kashmir, the Mysore States, the Punjab States, the Rajputana Agency, Sikkim, the United Provinces States, all send their quota, so that, Honourable Members will notice that so far as migration to Burma is concerned, every State and every Province in British India contribute their quota. This is not, therefore, really merely a domestic question as my Honourable friend Colonel Owens wanted to make out. Whatever law is made applies to every person who is an emigrant from either a British Province or an Indian State, and if he is convicted twice, he is liable to expulsion under this Act. That is the position which arises in consequence of this new legislation in Burma. I ask my Honourable friend seriously to consider whether the Burma Legislative Council should in these circumstances be enabled to pass an enactment which affects very seriously the personal liberty of every British citizen or subject of an Indian State in British India. That is the fundamental



question which arises on this motion. I contend, Sir, that if a law is at all required, it should have been enacted in the Central Legislature as suggested by Colonel Crawford. On this point I should like to say India is still a unitary State and that the analogy of a Federal Constitution does not apply to us at present. I should like to ask my Honourable friend whether, if India is still a unitary State, as it is, there is any justification for a law by which one province of British India is enabled to deport or to expel a British Indian citizen who lawfully settles down in that province and pursues a peaceful occupation. I may inform the Honourable Member that many persons from Madras have settled in Burma for generations. They have invested large funds in trade. They have purchased properties and they are carrying on their respective avocations in various departments of life. I should like to ask whether in these circumstances there is any justification to jeopardise their personal freedom simply because they commit an offence in Burma. If a man commits an offence, he undergoes a penalty. In addition to his undergoing a penalty in consequence of his committing an offence, the new law empowers the Local Government to expel him from that province.

**The Honourable Sir Alexander Muddiman:** No, Sir, it is not so. If, as the Honourable Member said, they have settled down for generations, it is not so.

**Diwan Bahadur M. Ramachandra Rao:** I am not speaking of persons who have settled for generations.

**The Honourable Sir Alexander Muddiman:** I took down the Honourable Member's words. He said that they had "settled in Burma for generations."

**Diwan Bahadur M. Ramachandra Rao:** Even in the case of a temporary resident who goes there and who has been there for 10 years or even 5 years and who pursues his trade during that temporary period—I am asking whether, simply because he is convicted of theft twice or has been convicted of an offence under section 124A, there is any justification to expel him from that province. I cannot see any reason for expulsion. My Honourable friend says that this will be done only if the District Magistrate considers it desirable—we do not know on what grounds he can come to this conclusion—and the Local Government also considers it desirable—according to their own sweet will and pleasure.

**Sir Hari Singh Gour:** In other words, revive the law of banishment.

**Diwan Bahadur M. Ramachandra Rao:** This is really an Act which gives absolute discretion to the Local Government to expel anybody they like. "Desirability" cannot be defined and the discretion of the Local Government and the District Magistrate is not fettered by any statutory rule. The Bill gives to the Local Government absolute power at the instance of the District Magistrate to send away any person from Burma solely on the ground of conviction for theft or some other offence. I should like to know whether this is consistent with the spirit of the British constitution and whether this is not an infringement of the right of personal freedom and whether this is consistent with the recent policy of the Government of India in regard to repressive laws. The Honourable Member will remember that a Committee sat for some considerable time and made various recommendations for repealing laws which infringed personal liberty, the right of association and the right of public meeting. Several of these

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enactments were on the Statute-book in India and after a considerable amount of discussion in this House the Government of India committed themselves to the policy of repealing all these repressive measures. In fact, several laws like the State Offences Act, 1857, the Forfeiture Act, 1857, the Indian Criminal Law Amendment Act, 1908, Part I, the Defence of India (Criminal Law Amendment) Act, 1915, the Anarchical and Revolutionary Crimes Act, 1919, were all repealed. These in a way infringed on the right of personal freedom and the right of association. The present measure which became law with the sanction of the Governor General subjects those who are in Burma to serious disabilities in regard to their personal freedom. I think therefore that this fundamental question will have to be decided whether it is permissible to a local legislature to enact a law which so seriously interferes with the personal freedom of the ordinary citizen.

**Lieutenant-Colonel F. C. Owens** (Burma: Nominated Official): What about Bengal Act No. I of 1923?

**Diwan Bahadur M. Ramachandra Rao**: I think it has already been said that there is no justification for it. If I were in the Legislature then, I certainly would have objected to the enactment of such a measure in a local Legislature. I am merely asking whether it is the proper legislative authority which should legislate against the influx of criminals. You will see that there are no safeguards in the Act as regards the property of persons who are expelled or deported. Many persons will have at the time of expulsion considerable property in Burma. What is to become of that property? Is it to be forfeited and is this man to abandon his property and go away or to sell his interest in it? These are safeguards which, if such a law were necessary, would have to be introduced in it. I think that this measure is very obnoxious and that there is no justification for the view that it is merely a piece of domestic legislation. I therefore support the Resolution.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I do not propose to take up the time of the House by repeating the arguments which have been advanced on the floor of the House on the iniquitous character of the proposed legislation. I desire, Sir, at this stage only to answer one or two constitutional points which were put forward by my friend Mr. Tonkinson and also by the Leader of the House, Sir Alexander Muddiman, the other day. Sir, the position has been taken by the Government that so far as the Government of India are concerned, it is not necessary for the Government of India to deal with the question as to whether legislation of this character should be undertaken by the Local Government of Burma or not. On the other hand, when it is a question of previous sanction for any legislation the Government of India come to this House and say "Oh, this is a matter for the Governor General, not for the Governor General in Council; you have nothing to do with it and you cannot put any questions in this matter." This House will recollect. Sir, that last year when these two Bills, the Sea Passengers Tax Bill and the Expulsion of Offenders Bill, were being brought up in the Burma Legislative Council, my friend Diwan Bahadur Ramachandra Rao wanted to put a question in this House and also wanted to move an adjournment of this House on the question of the Government of India sanctioning them or of recommending them for sanction to the Governor General. Sir, that motion was disallowed, and

to-day we are told that once the Governor General has given sanction thereto, thereupon the jurisdiction of the Government of India or their duties and responsibility for protecting the interests of other provinces have ceased. I do not at all propose to-day to dive into the inconsistent, confused, character of the provisions in the Statute in this matter in the Government of India Act or in the statutory rules thereunder. But, Sir, I want for one moment the Government on that side to picture to it themselves what the position would be if this previous sanction had not been taken by the Burma Government. Sir, under the Reservation of Bills Rules the Governor of any Governor's province "may reserve for the consideration of the Governor General any Bill, which has been passed by the Legislative Council of the province and is presented to the Governor for his assent" . . . "which in any manner affects any central subject or affects the interests of another province." Under this statutory rule, Sir, it must be taken normally to be the duty of the Governor of the province concerned that whenever any legislation is proposed in any province which affects the interests of another province or which affects any central subject as a matter of course, to reserve his assent and to find out whether the interests of another province are adversely affected by the legislation. Can it be doubted, Sir, that so far as this Bill is concerned, this legislation vitally affects and primarily affects the interests of other provinces than that of Burma? Sir, I quite know what the argument of the other side is. I quite know that from the point of view of statutory requirements, the Burma Government have fulfilled them. But I say, Sir, it is a failure of duty on the part of the Government of India, and may I say, Sir, with all respect, it is due to an inadequate perception of his responsibility on the part of the Governor General, that this previous sanction has been given to this legislation. Sir, we find under section 80A which provides for this previous sanction that:

"the local legislature of any province may not, without the previous sanction of the Governor General, make or take into consideration any law—

\* \* \* regulating any central subject; or

\* \* \* regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian Legislature."

Now, Sir, that is the only requirement that is required by section 80A, i.e., that unless it refers to any central subject or to any provincial subject which is subject to central legislation the previous sanction is not necessary. On the other hand, Rule 3 of the Reservation of Bills Rules says that the Governor is to reserve for the assent of the Governor General . . .

**Mr. L. Graham** (Secretary, Legislative Department): "May reserve."

**Mr. A. Rangaswami Iyengar**: I quite see that the word "may" is there. It is not put there for fun or for the sweet will and pleasure and the absolute pleasure of the Governor. It is put there in the exercise of some statutory authority and of justice and of equity. Sir, the Governor of any Governor's province is normally required to reserve. That is my interpretation of the word "may", Sir. Under this section . . .

**Mr. L. Graham**: Before the Honourable Member proceeds any further, may I point out that Rule 2 of those Rules says the Governor shall reserve and Rule 3 says the Governor may reserve. The Honourable Member is construing "may" as "shall", for which there is no justification whatever.

**Mr. A. Rangaswami Iyengar:** I am sorry, Sir, that we have not had the pleasure of listening to Mr. Graham upon the relative importance of "may" and "shall," but certainly I am prepared to say that the word "may" does not mean that it should be at the sweet will and pleasure of the Governor in all these cases which are referred to in Rule 3 that he should reserve or not. It is not a matter of his pleasure or whim. It must be a matter of some principle upon which he acts and I say the principle upon which he should act in these cases is whenever he finds that any legislation affects other provinces besides the province in which the legislation is initiated, it is his duty to reserve it to ascertain what the interests of other provinces are and to see that those are not adversely affected. I ask, Sir, did the Government of Burma consult other provinces which are vitally affected in this matter before they applied for sanction to the Government of India? Did the Government of India consider the interests of other provinces before they allowed the Viceroy to sanction this important piece of legislation? I say, Sir, that in this matter they have entirely failed in their duty and I think that the Statute as well as the principles which underlie it clearly contemplate that wherever there is legislation introduced in a local legislature which affects not merely the province concerned, but other provinces, it is the duty of the Government of India, as my friend Colonel Crawford rightly pointed out, to see that legislation of that character should be brought in this House. It should not be open to any province to punish other provinces or the citizens of other provinces. Then again, Sir, the difference between Rule 3 of the Reservation of Bills Rules and the previous sanction referred to in section 80A is this. Once the previous sanction of the Governor General is obtained, then it is stated that the Governor of the province is free from the liability to reserve the Bill. I say, Sir, that in so far as the previous sanction under section 80A is concerned, it refers only to central subjects, whereas in regard to the reservation powers of the Governor, it refers not merely to legislation affecting central subjects, but also to legislation affecting inter-provincial subjects and also legislation affecting the interests of another province. Therefore these rules, I say, Sir, are defective in that while they provide that the Governor, when he does not obtain previous sanction, should in the ordinary course—I will not say 'shall', Sir—should in the ordinary course reserve for the signification of the Governor General's assent legislation affecting other provinces. But once he obtains previous sanction which does not cover this case, then he is relieved of that duty. I ask, Sir, what is the position in such a case? What is the value of the power which is vested in the Governor and the Governor General concerned to veto a Bill once passed? If this previous sanction is obtained, the Viceroy is wholly committed to this Bill; and although, technically, I know in the Department it has always been declared that the fact that previous sanction has been given to a proposed Bill, does in no way detract from the power vested in His Excellency to withhold his assent in case of need, still it is obvious that when once previous sanction is given, it will be impossible for the Governor General to withhold his assent subsequently when the Bill becomes law. Therefore, Sir, by resorting to this trick of previous sanction we are virtually deprived of that power which is vested : . .

**The Honourable Sir Alexander Muddiman:** Trick?

**Mr. A. Rangaswami Iyengar:** Certainly.

**Diwan Bahadur M. Ramachandra Rao:** In a Pickwickian sense.

**Mr. A. Rangaswami Iyengar:** It is a political trick. Therefore, I say, Sir, that the terms of this previous sanction section is a most dangerous provision in law. This previous sanction provision virtually renders the power of veto and the withholding of assent absolutely nugatory. It also deprives this Assembly and the Government of India, which is expected to act in concert with this Assembly in all matters of legislation, of the power to intervene where the interests of other provinces are concerned. It commits the Government of India to support the action of the Local Government when it has passed through its legislature the legislation concerned. Again, Sir, we have been told that we are interfering with a legislation passed by the majority of the Burma Legislature and therefore we are going against the principles of provincial autonomy to which we are wedded. Sir, I wish we had provincial autonomy. I wish this Burma Legislature was really an autonomous legislature. If it had been, I am quite sure that no such Bill would ever have been brought before such a Burma Legislature. We know, Sir, the constitution of the present Burma Legislature. We know the circumstances under which it was elected and we know why it was that this Bill was pushed through. I therefore appeal to the Government to realise that they are placing this Assembly in a most unfair position by the action they have taken. When this matter came before the Governor General for his previous sanction, this House was deprived of its right to express its views on behalf of other provinces. When the Bill came before the Viceroy for his assent after it had been enacted, we were again deprived of the power to deal with it. It may be all right for Government Members to say: "Oh, what is the good of saying anything once the Burma Legislature has passed this legislation?" But this House is now asking the Viceroy to veto it after it has passed all these stages. This House, in the alternative, asks the Secretary of State to exercise his power of disallowance. You may say that it is an extraordinary method of procedure. But what I say is that you have denied us the opportunity of pronouncing our verdict upon a Bill which affects not only Burma but the whole of India and that is the only way in which we can see that justice is done to us, in which we in this House have the right to pronounce upon the validity or the propriety of legislation which so vitally affects us. Sir, the unanimity with which every province that is represented in this House has objected to this legislation ought to be a warning to the Government Benches to see that they have proceeded on an entirely wrong footing over this matter. I am sure, Sir, that if they will reflect over this matter, they will find that they have virtually placed this House in a most unfair position. Apart from anything else and whatever the Government may or may not do, I think this House has an undoubted right to pass this Resolution to make its most emphatic protest against the manner in which its rights have been destroyed by the action of the Government of India.

**Colonel Sir Henry Stanyon** (United Provinces: European): Sir, I listened with much interest to the extremely able speech of my Honourable friend, Mr. Tonkinson, on the matter of domicile. He rightly treated the question of domicile as most important in connection with this Expulsion of Offenders Act. I propose to address myself to this question only; because, in my humble judgment, it is here that the Burma Legislature have fallen into a fundamental error. (Non-official Cheers.) I attach no importance to the inability to define domicile. That does not mean that the word is not understood by lawyers or cannot be interpreted by courts. We should be

[Colonel Sir Henry Stanyon.]

in a bad way in the administration of justice if we did not sometimes use words which cannot be put into a short definition composed of other words. Who can give a succinct definition of the word "fraud"? How is it defined in the Indian Penal Code? Merely as an act which is done "with intent to defraud and not otherwise". Who can define professional misconduct? Yet the courts readily deal with fraud and with professional misconduct. Domicile is a term well understood in law but does not seem to have been quite correctly appreciated by the Legislative Council of Burma. It is sufficient to say for the purposes of my speech that domicile is the permanent connection between a man and a locality. As we all know, it is derived from a Latin word which we usually translate as "home". When a man has made Burma his permanent home, it is quite correct to say that he is domiciled in Burma. But the fallacy which underlies the Act we are discussing consists in the assumption that Burma constitutes the geographical limits of his legal domicile. My submission is that persons respectively domiciled in Burma, Bengal, Madras and Bombay are therefore legally domiciled in British India. A European domiciled in Bombay may marry a lady whose domicile till then is England. On the marriage the lady becomes domiciled in Bombay. Is that by force of a Bombay Act? Certainly not. It is by force of the Indian Succession Act, 1923, which is an all-India Act. Minority is also governed as to domicile by an all-India Act. That Act and the Indian Succession Act, where domicile is somewhat extensively dealt with, are enactments which treat of domicile as a home in British India, and not in any province of British India. Hence, I submit that the fallacy which underlies the Act we are now discussing is the assumption that a man can be sent away from Burma to Bengal and thereby undergo a change of domicile. It might well be argued that no Indian, at all events no British Indian, subject can be brought within this Act at all. I do not suppose that that was the intention of the Legislative Council of Burma. No doubt the Act does not make any discrimination between Europeans and any other people in the definition of a "non-Burman". But, in point of fact, if the person proceeded against has a British Indian domicile, then it is very difficult to treat him as a person who has not got a Burmese domicile in law. Therefore, I agree with the suggestion put forward by my Honourable friend Colonel Crawford that, if provinces are to have the right to send their insanitary materials to one another, that power should be given by a central enactment and should not be left to the provinces.

(Several Honourable Members moved that the question be now put.)

**Mr. President:** The question is:

"That the question be now put."

The motion was adopted.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural): Sir, I have heard all that has been said on the floor of this House against my Resolution. I have heard my friend the new Rao Bahadur Naidu. I was no doubt pained to find an Indian supporting an Act like this. But I was consoled when I remember the last New Year's Honour's list. Then, Sir, we were told that the representatives of Burma in this House were also in favour of this Act. Who are those representatives? Certainly Rao Bahadur Naidu is not one of them. Certainly my gallant friend over there,

the representative of the Burma Government, is not a representative of Burma itself. There are two Burmese gentlemen in this House. One of them said that he was in favour of this Act and he gave his reasons to which I shall presently refer and the other gentleman was opposed to it. Now, Sir, the Member of this House who spoke against this Resolution had a mandate from those who supported his candidature and it was his maiden speech. The only reason given by him for opposing this Resolution was that there were 56 Members who supported the Bill in the provincial Legislative Council and 15 who opposed it. Now if you closely analyse the division list you will find not a single Indian amongst those 56. Those 56 comprised members of the Burma Government and those who were in favour of an Act like this, while the solid representatives of the Indian communities were against this enactment. So I ask you if you have followed communal representation everywhere in the interests of the minority, I ask the Government of India what they are going to do to protect the interests of the minorities in Burma. Then, Sir, I have heard the official platitudes and also the threats from the lips of a Member who represents the Government of Burma here. He said that the Burman people were not tolerant of any interference and that we will incur their resentment. Now, Sir, I do not know what is meant by the Burman people not tolerating any interference by us. Probably they are taking shelter under the same plea as the Union Government wants to take by saying it is one of their domestic concerns in which no one has the right to interfere. As has been said by Colonel Crawford, it will be setting one province against another and when the interests of several provinces are concerned and it was necessary for the Government to have a law like this, it ought to be introduced in this House where all provinces are represented. This view of Colonel Crawford's finds support from that great jurist, Sir Henry Stanyon. We have also been told that if there is any separation of Burma it will be on economical and not on racial grounds. I do not understand what is meant by this. But the meaning perhaps is that Burma can afford to maintain herself without any aid from Indian finances, and also can ward off the enemies at its door without help from the Indian army and the Indian Navy. I have no objection to Burma being separated from India, but so long as it continues to send its representatives to this House, and so long as it is considered to be part and parcel of the British Indian Empire, I think such questions do not arise. Who was it that brought the Burma Government within the British Indian Empire? It was the Government of Lord Dufferin. I was a mere boy when this annexation of Burma took place, but I remember my grandfather reading the newspapers to us and telling us of the misdeeds of the British in Burma and why they annexed Burma to the British Indian Empire. I submit it is the same thing which prompts you to do this thing here. I will not say what it is. Sir, it was said that the Honourable Member from Burma was quite satisfied that it was not to exclude Indians that this enactment was enacted. May I ask, if it was not the Indian, for whom it was intended? He certainly cannot give an answer on this point because it was only the Indians to whom this Act applies. We have been asked to have friendship with our next door neighbours when Swaraj comes. Let Swaraj come and we will know how to make friends with our neighbours, but so long as you stand in our way of Swaraj, please do not utter such platitudes.

Now, it has also been said that the best minds of Burma are in support of this enactment. I do not know whether it is really so. Does not my

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friend Maung Tok Kyi represent the best mind of Burma? Certainly my friend from Madras does not represent the best mind of Burma. I emphatically assert that my friend over there represents the best mind of Burma.

Then, Sir, I am not going to trouble you with the constitutional aspect of the question as expounded by Dr. Datta, as also by my gallant friend Colonel Crawford, but, Sir, it has been said by the Honourable the Home Member that we should not sit in judgment on the provincial legislature. Then what are we here for? Sir, we know what powers have been given to these provincial legislatures. We know how things are carried on there with the help of cliques formed by the Treasury Benches there. We know also of the power and offices which you have the power to bestow on individuals. How you get hold of some of the Indian Members to your side to support measures which do not commend themselves to the people of the province.

**The Rev. Dr. E. M. Macphail** (Madras: European): Is the Honourable Member in order in reflecting on the Legislatures of the provinces?

**Mr. President:** The Honourable Member is not reflecting on any Legislature. He is referring to a certain class of Members.

**Mr. Amar Nath Dutt:** We are not sitting in judgment on the provincial Legislatures but are only discussing the desirability of what the Government of India should do in a matter like this when a provincial Legislature has gone out of its way.

Then, Sir, it has been argued by my friend, Mr. Tonkinson, that we have a right of appeal and of course he read the Act and wanted to convince us that there was a right of appeal. Sub-section (4) provides that the offender may within 15 days of receipt of copy of the order require the District Magistrate to refer for the determination of the High Court the question whether the offender is or is not an offender within the meaning of the Act. Now let us see what is an offender within the meaning of the Act. It is clearly defined here. An offender means "any person against whom any sentence or order of the nature hereunder mentioned has been passed by any court or magistrate." Now, Sir, as I was submitting, it does not provide any appeal about the matter whether the offender is a Burman or a non-Burman. . . .

**Mr. H. Tonkinson:** Sir, it does.

**Mr. Amar Nath Dutt:** No, I draw the attention of the House to clause 3, "any non-Burman as defined in clause (a) of the preceding section, who is an offender as defined in clause (b)." So it says that any non-Burman, as defined in clause (a) and any offender as defined in clause (b) can be expelled. Then again, as I was submitting, the right of appeal is confined only to see whether the man is an offender. He has been already declared an offender by the judgment of the court, and the High Court has no right to look to that judgment; it has simply to satisfy itself from the records of the case and see whether a judgment has been passed against him so as to bring him within the purview of the word "offender." That being so, Sir, I beg to submit that really no right of appeal has been given by the Act.



Then Sir, objection has been taken to my statement that almost all the sections of the Indian Penal Code are there. Sir, I think I was perfectly right when I stated that, because you will find that, out of the 500 odd sections in the Indian Penal Code, the first 120 can be left out which contains definitions, etc. Then the remaining sections which provide for punishment have a defining section before them, and I find, after consulting the Penal Code, that it is only the Chapters containing offences against marriage and offences against documents and criminal breach of contract which have been left out . . . .

**Sir Hari Singh Gour:** That has been repealed from the Penal Code.

**Mr. Amar Nath Dutt:** And that has been repealed from the Penal Code as my friend says. So, Sir, I beg to submit that we have not heard anything from the official Benches which compels us to change our opinion about the Resolution which is before the House, and I hope that this Resolution will be carried.

**The Honourable Sir Alexander Muddiman:** Sir, I do not think I should have intervened in this debate again but for the fact of two speeches which have fallen from Members on my right. My Honourable friend, Mr. Tonkinson, with his usual enthusiasm, industry and eloquence, made a very fine speech dealing with the details of the Act. (Hear, hear.) I am not going to emulate him in going over ground that he has travelled over so satisfactorily. I propose to take up a few very short points and to deal with them in a short way. In the first place I shall deal with the speech of my Honourable and amiable friend from Bengal, the Mover of the Resolution. It was with great satisfaction that I learnt that he remembered that he was a boy. He is still somewhat boyish, if I may say so, (Laughter) in his perusal of the Act which we are considering. I understand that a stern lawyer like Sir Hari Singh Gour had on several occasions to bring him to a better understanding of the Act. I will not deal with that point further. I do not think really he has made much of a case there.

Now, Sir, I wish to bring the House back to the Resolution so that the House may understand what it is really asking the Government to do. That is very important. We have had a most interesting constitutional discussion, which has ranged over many subjects, on which I should like to address the House at length. It has raised many questions highly important to the constitutional position. But what is it exactly that Government are being asked to do? We are being asked either to move the Secretary of State to disallow the Expulsion of Offenders Act, 1925, or, in the alternative, to take immediate steps to introduce a Bill in the Indian Legislature to repeal that Act. Now what exactly does that mean? My Honourable friends who have informed me that they have come to vote against this Act, some of them, might hesitate a little before they commit themselves to a proposition of this sort. This was a Bill brought forward by the Burma Executive Government, it was brought forward and received the sanction required by law, and I must make the constitutional position perfectly clear, it received the sanction of the Governor General and the assent of the Governor General. The Governor General of course did consult the Departments of the Government of India. He is not bound to and he is not bound to follow their advice, but I have not the faintest desire to shelter myself behind a legal argument of that kind.

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There has not been in the Government of India, nor could there be, any division on a Bill of this kind. My Honourable friend Mr. Jinnah thought I was hiding behind a mighty name. That is not so, Sir. What has been done has been done with the full knowledge of the Home Department. Now this Bill, as I say, was passed at the instance of the Burman Home Member in the Burma Legislative Council by a large majority. It was assented to by the Governor of that Province; it was submitted to His Excellency the Governor General and has been assented to by him, and this Resolution invites me now to take action to nullify that procedure. It has been said, and it is becoming common to say so, that the Legislature which passed this Bill was an unrepresentative Legislature. That is a very common plea taken. Sir, it was said it was an unrepresentative legislature, it was the first legislature, it was a legislature that my friend was not in, when he and his party were not taking part in the debates and therefore it was a legislature which could not pass a valid Act. That is a dangerous doctrine . . . .

**U. Tok Kyi** (Burma: Non-European): On a point of information, Sir. Is the Honourable the Home Member aware that some of the members of my Party are in the local Council now?

**The Honourable Sir Alexander Muddiman:** That is very excellent, Sir; that is not my point, my point was that that was the first Legislative Council. As I say it was passed in that Council, and if we are always going to question the validity of a particular brand of legislature for the time being that passes a Bill then that is an objection which could only be met by this House, at the beginning of every Session, re-enacting all the laws on the Statute-book. I am glad my Honourable friend interrupted me; he brings me on to my next subject. If this Act was passed in the Burma Legislative Council at a time when it was improperly constituted, my friend will be able to get his friends to take up some measure to get this Act repealed or amended in a suitable way, and that is the proper remedy if there is a strong feeling in Burma that this Act is unsatisfactory. It has been said that this is an Act which should have been passed by the Central Legislature. That was, I think, a point urged by my Honourable and gallant friend Colonel Crawford. But is it to be suggested that no amendment of the criminal law is to be made, except by this Legislature? Is it to be suggested that provincial Legislatures are to have no power to enact measures suitable to their own special conditions? . . . .

**Diwan Bahadur T. Rangachariar:** Of this nature?

**The Honourable Sir Alexander Muddiman:** I yield to no one in jealousy guarding against any intrusion by a Provincial Government on the sphere of the Central Government. I have held that very strongly and I do hold it very strongly and I have frequently, in my administrative capacity, to put checks in that direction on the undue freedom of the provincial Legislatures in interfering with Acts. In that I am with the House, but I am not with the House in saying that no legislation should be undertaken in a province which may affect the inhabitants of other provinces. If a man goes to a province he finds its own laws . . . .

**Diwan Bahadur T. Rangachariar:** Discrimination between provinces.

**The Honourable Sir Alexander Muddiman:** Discrimination between provinces. If my friend likes to remain in Madras there is no discrimination. Now, Sir, I do feel myself that it is a pity that there should be any suggestion of setting up the Indians against the Burmans. I think that would be a great pity and most undesirable. I have paid a tourist visit to Burma and I have seen quite enough of Burma to see how essential the Indian is to Burma. My Honourable friend Lieutenant-

1 P.M. Colonel Owens acknowledged that in a most suitable manner.

Any Government that was to attempt to use this measure to prevent Indians going to Burma for commercial and other purposes—in other words, their lawful occasions—would be a Government which I am perfectly sure would be equally disliked by both sides in that country.

**Mr. C. S. Ranga Iyer:** Do you contemplate the separation of Burma from India?

**The Honourable Sir Alexander Muddiman:** The Honourable Member will not lead me to discuss these academic questions.

Now I would like to make one further point, and that is on the question of allowing the provincial legislation to proceed. Now a very strong case is required to refuse sanction when an application for sanction is brought forward by a responsible Government. It is merely a question of giving sanction which, as my Honourable friend well knows, in no way affects the question of assent. The tests to be applied are entirely different. By giving sanction all you do is to enable a Local Government to take a Bill to their Legislature. The question of assent is quite a different matter. Again the giving of assent is a different matter from administrative approval. Very strong reasons are necessary before you can turn down a proposition by refusal to assent. It has been laid down by the Joint Parliamentary Committee that when the Provincial Government and the provincial Legislature are in agreement, normally speaking they should have their way. That is an important point which should not be lost sight of. That is an argument however I do not wish to carry too far. I see clearly there are occasions when the Central Government must interfere and I do not wish by anything I am saying to-day to diminish that proposition. The Honourable Mr. Tonkinson went further on that point than I should be prepared to go myself. While maintaining therefore the central control of the Central Government I maintain that to ask us to take the action suggested in this Resolution would be a very serious matter.

There have been really two points and two points only in regard to this Bill. One has been the point that was made about the inclusion of political offences in the Schedule, and the other was the point made or sought to have been made by my Honourable friend Sir Henry Stanyon—with whom for once I have the misfortune to differ—on the question of domicile. Now, Sir, domicile must obviously be construed with reference to the Act in which it appears. He put the argument that domicile is normally a question of private law; but here you have the word used in a special Act and it must be construed with reference to the purpose of the Act. It does not differ, I suggest so far as the purposes of this

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Act go. from "home". I will read you here an extract from Dicey which makes my point very neatly and in much better language than I myself could use. He says:

"Thus if D resides at No. 1 Regent Street with the intention of permanently residing in that house, the definition of home suits that house no less than it suits England, and if any legal result were to depend upon D's living at No. 1 Regent Street rather than in Westminster, the definition of domicile would apply to No. 1 Regent Street as being the place which is considered by law to be D's home."

**Sir Hari Singh Gour:** That is a local law.

**The Honourable Sir Alexander Muddiman:** That is exactly my point. Sir Hari Singh Gour has helped me very much. It has to be a local law for the purposes of the Burma Act.

Now, Sir, I think, as I said, most of the points have been very ably met in the speech of the Honourable Mr. Tonkinson. I do not propose to detain the House much further except that I hope those who vote in favour of this Resolution will understand the exact implications of their action. You are asking this Government to recommend disallowance of an Act which has been passed for the purposes and under the circumstances I have mentioned. You are asking us in the alternative to bring in legislation which will have the same effect. This is a position that we cannot possibly adopt and therefore, whatever your views on the constitutional point may be—and I myself, as I have said, do feel that it is necessary to preserve the position of the Central Government; I feel that this interference by local Legislatures with the central Codes is to be deprecated; I have frequently deprecated it myself, I am anxious that if you think of passing this Resolution you ought to consider its full implications. Sir, I continue to oppose this Resolution.

**Mr. C. Duraiswami Aiyangar** (Madras ceded districts and Chittoor: Non-Muhammadian Rural): Sir, I have only one question to ask of the Honourable the Home Member . . . .

**Mr. President:** Is the Honourable Member prepared to answer the question?

**The Honourable Sir Alexander Muddiman:** Well, Sir, I think it is a very bad practice.

**Mr. C. Duraiswami Aiyangar:** It is a question I wish to ask in order to enable me to vote after clearing up one doubt about the matter on which he has been speaking. It is only a point of explanation.

**Mr. President:** It is entirely for the Honourable Member to say whether he will clear up your doubt.

**Mr. C. Duraiswami Aiyangar:** I will ask him first and then see if he will clear up my doubt.

**The Honourable Sir Alexander Muddiman:** I should like to very much.

**Mr. C. Duraiswami Aiyangar:** Suppose acting on this principle the Madras Legislature passes legislation duly authorised that any man proceeding from Madras to Burma and getting himself convicted there should not return to Madras and the Burma Government rules that he should not remain in Burma, will you then throw him into the Bay of Bengal?

**The Honourable Sir Alexander Muddiman:** The question put by my Honourable friend appears to me to have been answered by himself and I do not propose to go further into that point.

**Mr. President:** Is the Honourable Member satisfied?

**Mr. C. Duraiswami Aiyangar:** Sir, I am satisfied because he will still be in British territory, as the Bay of Bengal is British territory.

**Mr. President:** The question is:

"That the following Resolution be adopted, namely:

'This Assembly recommends to the Governor General in Council that the Government do immediately move the Secretary of State to disallow the Burma Expulsion of Offenders Act, 1925, or in the alternative, to take immediate steps to introduce a Bill in the Indian Legislature to repeal the said Act.'

The Assembly divided:

AYES—69.

Abul Kasem, Maulvi.  
Acharya, Mr. M. K.  
Ahmad Ali Khan, Mr.  
Aiyangar, Mr. C. Duraiswami.  
Aiyangar, Mr. K. Rama.  
Ayer, Sir P. S. Sivaswamy.  
Alimuzzaman Chowdhry, Khan Bahadur.  
Ariff, Mr. Yacoub C.  
Badi-uz-Zaman, Maulvi.  
Carey, Sir Willoughby.  
Chaman Lall, Mr.  
Chetty, Mr. R. K. Shanmukham.  
Crawford, Colonel J. D.  
Dalal, Sardar B. A.  
Das, Mr. B.  
Das, Pandit Nil-kantha.  
Datta, Dr. S. K.  
Duni Chand, Lala.  
Duft, Mr. Amar Nath.  
Ghazanfar Ali Khan, Raja.  
Ghose, Mr. S. C.  
Ghulam Bari, Khan Bahadur.  
Gour, Sir Hari Singh.  
Hussainelly, Khan Bahadur W. M.  
Hyder, Dr. L. K.  
Isma'il Khen, Mr.  
Ivengar, Mr. A. Rangaswami.  
Jinnah, Mr. M. A.  
Joshi, Mr. N. M.  
Kasturbhai Lalbahai, Mr.  
Latnat Rai, Lala.  
Lindsay, Sir Darcy.  
Lokare, Dr. K. G.  
Macphail, The Rev. Dr. E. M.  
Mahmood Schammad Sahib Bahadur, Mr.

Majid Baksh, Syed.  
Makan, Khan Sahib M. E.  
Malaviya, Pandit Krishna Kant.  
Malaviya, Pandit Madan Mohan.  
Mehra, Mr. Jamsadas M.  
Misra, Pandit Shambhu Dayal.  
Murtuza Sahib Bahadur, Maulvi Sayad.  
Mutalik, Sardar V. N.  
Nehru, Dr. Kishenlal.  
Nehru, Pandit Motilal.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Pal, Mr. Bipin Chandra.  
Piyare Lal, Lala.  
Rajan Bakhsh Shah, Khan Bahadur Makhdom Syed.  
Ramachandra Rao, Diwan Bahadur M.  
Rangachar, Diwan Bahadur T.  
Ranga Iyer, Mr. C. S.  
Ray, Mr. Kumar Sankar.  
Reddi, Mr. K. Venkataramana.  
Roffey, Mr. E. S.  
Sadiq Hasan, Mr. S.  
Samiullah Khan, Mr. M.  
Sarfaraz Hussain Khan, Khan Bahadur.  
Shafee, Maulvi Mohammad.  
Singh, Mr. Gaya Prasad.  
Singh, Raja Raghunandan Prasad.  
Sinha, Mr. Ambika Prasad.  
Sinha, Mr. Devaki Prasad.  
Stanvon, Colonel Sir Henry.  
Talatnui, Mr. S. D.  
T. K. K. V.  
Venkataratnam, Mr. B.  
Yakub, Maulvi Muhammad.

## NOES—33.

Abdul Qaiyum, Nawab Sir Sahibzada.  
 Akram Hussain, Prince A. M. M.  
 Bajpai, Mr. R. S.  
 Bhore, Mr. J. W.  
 Blackett, The Honourable Sir Basil.  
 Bray, Sir Denys.  
 Burdon, Mr. E.  
 Calvert, Mr. H.  
 Clow, Mr. A. G.  
 Cocke, Mr. H. G.  
 Donovan, Mr. J. T.  
 Gidney, Lt.-Col. H. A. J.  
 Gordon, Mr. R. G.  
 Graham, Mr. L.  
 Hezlett, Mr. J.  
 Hudson, Mr. W. F.  
 Innes, The Honourable Sir Charles.  
 Jatar, Mr. K. S.

Lloyd, Mr. A. H.  
 Mitra, The Honourable Sir Bhupendra.  
 • Nath.  
 Muddiman, The Honourable Sir Alexander.  
 Naidu, Rao Bahadur M. C.  
 Neave, Mr. E. R.  
 Owens, Lieut.-Col. F. C.  
 Rahman, Khan Bahadur A.  
 Raj Narain, Rai Bahadur.  
 Sim, Mr. G. G.  
 Singh, Rai Bahadur S. N.  
 Sykes, Mr. E. F.  
 Tonkinson, Mr. H.  
 Vernon, Mr. H. A. B.  
 Vijayaraghavacharyar, Sir T.  
 Willson, Mr. W. S. J.

The motion was adopted.

## RESOLUTION *RE* EXTENSION OF THE REFORMS TO THE NORTH-WEST FRONTIER PROVINCE.

**Maulvi Sayad Murtuza Sahib Bahadur** (South Madras : Muhammadan) :  
 Sir, I beg to move the Resolution standing in my name, which runs thus :

“ This Assembly recommends to the Governor General in Council that he be pleased to extend to the North-West Frontier Province the provisions of the Government of India Act which relate to Legislative Councils and the appointment of Ministers, etc., with protection to the minorities.”

Sir, before proceeding with the subject, I have to submit that about half a dozen times I wanted to have some motion or other tabled, but this is the first occasion when I had the fortune of drawing the ballot in my favour. Sir, before handling the subject I should explain to you my position as regards this Resolution. So far as I am personally concerned, I belong to that party called the Swaraj Party which has for its guidance a growing aspiration for the elevation of our motherland. But, Sir, at the same time I am a member of the All-India Muslim League also, and not only an ordinary member but also a member of the Council, representing our Presidency; and as such, Sir, I have to act up to one principle, which is laid down by Islam :

“ *Khuz ma safa, Tha ma kadir* ”.

“ Whatever is good in anything, you had better accept it; whatever deserves rejection, you had better reject it.”

So this Resolution is based on a Resolution already passed, not only in one Session of the All-India Muslim League, but it was repeatedly passed in Lahore, Bombay and Aligarh, all of which meetings I had the pleasure of attending. Moreover, Sir, this has a history of its own. I had the pleasure of visiting some parts of the North-West Frontier some two years ago, when I came in contact with leading gentlemen of the Muslim community. You may be aware, Sir, that I always like to be *incognito*, but there I was the guest of my esteemed friend Hakim Ajmal Khan. I was introduced to some of the leading gentlemen there. They placed

their difficulties and grievances before me, and I placed my difficulties before them and said that as a Swarajist I could not make a move in this direction. But they said that what was nothing to me meant something to them and urged me to do something for them. They also said that so far as the Mussulmans and Hindus of other provinces are concerned, they do enjoy something, whereas the people of the Frontier do not enjoy anything at all, they are denied even the elementary rights of citizenship, and they added that it was my bounden duty, as an elected Member, to whatever province I belonged, to represent their cause, remarking that I was elected to this House to advocate the cause of those that are oppressed and that are subjected to many a hardship, be they Hindus or Muhammadans, be they Christians, Parsis or Sikhs.

Sir, I desire to make one point clear to this House. I do not move this Resolution on the ground that the majority of the population in the North-West Frontier Province consists of Muhammadans. Even if there had been a majority of Hindus, Christians, Parsis, Sikhs or Anglo-Indians there, I would have placed this Resolution before this House for its acceptance. That is my position. Sir, personally, as I have said, I do not attach any importance to the present Reforms. Personally I am of that opinion, and that is the view also of our Party. But then, you know, Sir, with what object we have entered the Councils. (*An Honourable Member*: "What"?) I was a staunch no-changer, Sir. After that I became a convert to this creed, the creed of the Swaraj Party. It happened this way. There was an occasion, Sir, which my Madras friends will remember. A mass meeting was held in Madras which was presided over by me at which the universally-lamented founder of the Swaraj Party, I mean Mr. C. R. Das, spoke on Swaraj. At that meeting I had the pleasure of hearing the arguments put forward by him in support of Swaraj, and I then became a convert to this creed. But before entering the Council I did not join the Party formally. After coming to Delhi, when I found that this progressive Party was fighting for the freedom of our motherland, I most willingly and gladly joined the Party. But, Sir, I move this Resolution not as a member of that Party, but I move it as a member of the All-India Muslim League.

Now, coming to the Resolution itself, Sir, I take my stand on the Majority Report of the Frontier Inquiry Committee, and therefore my task becomes very simple. The House is aware of the fact that in pursuance of a certain Resolution passed by the Assembly, a Committee was appointed to inquire into the frontier problem. The honour and credit of moving that Resolution goes to my Honourable friend Sir Sivaswamy Aiyer of my Province. That Committee consisted of 8 gentlemen, three of whom were European officials and five non-officials; of these five, three were Mussulmans and two were Hindus. They visited important places in the North-West Frontier Province; they investigated the matter very thoroughly and made a very sifting inquiry. Such a searching inquiry was made by them, that the evidence recorded by that Committee covers about 1,700 pages, and the conclusions they have arrived at support my Resolution.

Sir, before dealing with the recommendations made by that Committee, I wish to allude very briefly to the history of the North-West Frontier Province itself. The North-West Frontier Province, Sir, consists of 5 settled districts, called the administered districts, and 5 unsettled districts

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or tribal tracts. My Resolution relates only to settled districts. These comprise Peshawar, Kohat, Hazara, Bannu and Dera Ismail Khan. So far as these districts are concerned, the majority of the Committee have recommended that those districts should be given reforms, and it is high time that the question should be paid attention to; otherwise, they have said, delay will prove disastrous. The exact wording of the Majority Report will be read out later. The majority has dealt with the financial, judicial and other cognate questions. As I said, Sir, my task in moving this Resolution is further simplified when I see the President of that Committee before me. I hope, Sir, he will not attempt to shirk his responsibility in this matter as he has subscribed to the Majority Report.

**Pandit Shamlal Nehru** (Meerut Division: Non-Muhammadan Rural): We will hear him later on.

**Maulvi Sayad Murtuza Sahib Bahadur:** If my friend attempts to do so, I would point out that it would mean a mere farce to form Committees and send them round the country to take evidence spending the taxpayer's money. And who was the Secretary of that Committee. Sir? The present Chief Commissioner of the Frontier Province itself. Who was the other official member? He was a District and Sessions Judge in the Punjab. These three gentlemen with the help of four Members of the Assembly and one Member of the Council of State conducted the inquiry. The Honourable Sayyad Raza Ali was the Member from the Council of State who was on the Frontier Committee. Then here is our friend who comes from the same province as I come from—I cannot call him a mere friend, but I should call him a family friend, because not only have we been friends for a long time, but my forefathers and his forefathers have been friends. I refer to Diwan Bahadur Rangachariar. Now the difficulty lies in some wranglings. Of course I do not say that there should be use of any unparliamentary language. Sir, my family friend and the other gentleman who is now holding the post of Member of the India Council, I mean Mr. Samarth, have recorded a minute of dissent which covers about 120 pages, whereas the Majority Report covers only 30 pages. But the Majority Report has got quality in it, whereas the Minority Report has got quantity. (Laughter.) Yet, I do not see any reason why the President of that Committee should hesitate to support me. I am not justified in saying that he would not support me. On the other hand, I hope he will bring round all the other Members of his Government to uphold his cause and to support him to the last. I may say that my Resolution is the touch-stone which is calculated to test the sincerity of the Government. (*An Honourable Member:* “Has it not been tested before?”) My Honourable friends over there ask me whether it has not been tested before (*Mr. M. K. Acharya:* “And failed.”) and whether it has not failed several times and whether there is any necessity to repeat the test on this occasion. I say this to them in reply. They say so many things about the Pathans and the Afghans. They eulogise them to the skies. They say they are the gate-keepers of India. They do recognise that but for them the result of the Great Indian Mutiny would have been different. They state that it is they who helped them when they were passing through a great crisis. It is they who came to their rescue during the Great European War. And what does our friend say with his signature



at the top? If these Pathans are not given these reforms, if their aspirations are not given effect to, the result would be disastrous—disastrous to whom, Sir?—disastrous not only to India but to the whole Empire. Having said that, they cannot go back. This is the stand on which my Resolution is based. In this connection something comes to my recollection about my friend over there, Mr. Bipin Chandra Pal. The other day he said that Bengal and another place—(*An Honourable Member*: “Ireland”) Ireland, these two places are noted for having produced orators. I come from the benighted province of Madras. I have been a silent worker. I have no faith in tall talk. You may have heard the name of one poet. Sadi. Sadi and Hafiz are names familiar to every one, be he a Muhammadan, a non-Muhammadan or European. What does he say?

*“Tho chiz tecra-i-aql ast dam faro hastan,*

*Ba nakhtai guftano guftan ba nakhtai khamooshi.”*

“Two things are calculated to tell upon our brain, to keep quiet when we are obliged to give expression to our views and to talk unnecessarily when no speeches are necessary.”

If Madrasis are not good speakers they do not care to be good speakers. (Laughter.) We may pride ourselves on having produced so many Madrasis (pointing to the Madras benches) here and yet no mention of Madras was made by my friend.

Now, Sir, coming to the point . . . .

**Mr. President:** Is the Honourable Member going to be very long?

**Mr. Maulvi Murtuza Sahib Bahadur:** No, Sir.

**Mr. President:** The Chair does not desire to stop the Honourable Member.

(*Cries of: “After Lunch”*)

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

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The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President in the Chair.

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**Maulvi Savad Murtuza Sahib Bahadur:** Sir, I promised the House that I would furnish them with certain facts and figures concerning the North West Frontier Province. The population of that province is about 22 lakhs. Muhammadans form 91 or 92 per cent., and the Hindus and Sikhs together form 8 or 9 per cent. Now, as regards this, I have to place one fact before you. I come from a province where we are 7 per cent. and 93 per cent. are our non-Muslim brethren, and yet both communities live there very happily. There is no Hindu-Muslim question there. We respect the feelings of our Hindu brethren there and they reciprocate the same feeling towards us. But here I see that even this question which has nothing to do with the Hindu-Muslim problem has become very sensational. Articles after articles are appearing in the Press. Meetings after meetings are being held and there are counter-meetings after counter-meetings. Telegrams are pouring in; and to-day, Sir, while I was coming to

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the Assembly, I received a registered letter. I thought it contained something (*In Honourable Member*: "Currency notes.") yes, currency notes. (Laughter.) What it contained was a passionate appeal to the effect that I should advocate the cause of those unfortunate and unhappy men, to whose unhappiness reference was made in our national assembly, that august body, by my beloved sister, the President of the Congress this time. Though it was only a passing reference, yet it was pregnant with meaning. It appealed to the hearts of everybody.

**Mr. K. Ahmed** (Rajshahi Division: Muhammadan Rural): Quote the reference in the papers?

**Maulvi Sayad Murtuza Sahib Bahadur**: My Honourable friend is a close follower of the papers and yet he does not remember it. So, Sir, I will also make a passionate appeal to our Hindu brethren. Just as we do not have any Hindu-Mussalman question there, you need not entertain any apprehension regarding any difficulties. If you prove to us that your apprehension is real and not sentimental, I will be the first to start tomorrow for the North West Frontier. Let us have a round table conference among the Mussalman and Hindu leaders. Why do you entertain such fears which are uncalled for? We want to see Mother India get freedom and they are the freedom-loving children of Mother India, I mean, the Pathans, the Afghans. How are you justified in putting obstacles in their way? Don't you know that by putting obstacles in their way for their elementary rights of citizenship, you will be weakening your own cause? If you are true sons of Bharata Mata, prove it to us, especially at this time, Sir, when our national affairs are being presided over by my beloved sister.

**Mr. President**: Order, order.

**Maulvi Sayad Murtuza Sahib Bahadur**: We should not give room for any heart-burning among the Frontier people. I would request her to go with us and other Hindu leaders also. All these questions could be very amicably settled. I am sorry that the nationalist paper, the only nationalist paper here is unnecessarily writing articles after articles about this question. The other day I had a private talk with Lalaji. He said "Don't you make it a Hindu-Mussalman question."

**Mr. President**: Order, order. The Honourable Member is not justified in referring to private conversations here.

**Maulvi Sayad Murtuza Sahib Bahadur**: I also give you the same advice. I hope my advice will be heeded by the House and the question will be handled according to its own merits. Now, I will confine myself to certain extracts. I do not want to take up any more of your time. I have already made an unnecessarily long speech. Some of our friends think that if the Frontier Province is given reforms it will become a political danger. That point has been fully met in the Report of the Majority. When you have a race which is prepared to lay down their lives to safeguard the interests of India, nay, to defend India, to defend the whole of the Empire, how can it prove a political danger? You have tested their loyalty on more occasions than one. You have testified to their devotion to the cause of India. They have proved themselves thoroughly

loyal. I may even go to the extent of saying that they have proved themselves more loyal to Government than to their Creator. I do not think that my Muhammadan friends from the North-West Frontier Province will take it ill. What I mean to say is that they have for the sake of British Government even fought against the Turks, for the prosperity of whose kingdom they were praying in their mosques every Friday. They fought against that nation, Sir.

**Mr. K. Ahmed:** Hear, hear.

**Maulvi Sayad Murtuza Sahib Bahadur:** And yet you have not given them the Reforms.

**Mr. K. Ahmed:** What a shame!

**Maulvi Sayad Murtuza Sahib Bahadur:** Quite so, Sir. It is a shame. I may even say it is a disgrace.

**Mr. K. Ahmed:** A monstrous shame!

**Maulvi Sayad Murtuza Sahib Bahadur:** But we should not jump to the conclusion just now that we would not get the support of the Government. I have made out a strong case so that those who are sitting on the Treasury Benches should necessarily support me.

The other day, Sir, a deputation of 55 leading Muhammadans representing all the five districts of the North-West Frontier Province waited upon the Chief Commissioner of the Frontier Province. Among other representations, the first and the foremost was that relating to the introduction of Reforms into that province. I do not deem it necessary to read any portion of the address, which is a long one and which is in Hindustani. But I will just read out a portion of the reply. It runs as follows:

"The first question you raise is that of Reforms. You are aware that I signed the majority report of the Frontier Committee and I adhere to the views I then expressed."

I hope the same view will be shared by the President of the Committee.

**Sir Denys Bray** (Foreign Secretary): What view, Sir?

**Maulvi Sayad Murtuza Sahib Bahadur:** The view of the Secretary who was one of the members of the Committee. The reply goes on thus:

"The orders of the Government of India on that Report are still awaited, but it is common knowledge that one of the difficulties in the way of grant of local self-government to this province is the financial difficulty."

This difficulty they have themselves solved, Sir. They say that if the Reforms are introduced into the North-West Frontier Province there will be a recurring expenditure of Rs. 1,18,000 and it would not under any circumstances exceed Rs. 1,25,000.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): There is a deficit of 2 crores per annum.

**Nawab Sir Sahibzada Abdul Qaiyum** (North-West Frontier Province: Nominated Non-Official): That is on the Imperial side, Sir.

**Maulvi Sayad Murtuza Sahib Bahadur:** Crores and crores of rupees are being spent on the Frontier. As a member of the Public Accounts Committee I wanted to put some questions even yesterday. I did not,

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however, do so because only the other day my Honourable friend over there was heckled on this very subject and I did not want to add to his difficulties. (Laughter.) The reply runs on:

"Even after deducting all charges connected with the Frontier tribes and the defence of the border the revenues of this province cannot be made to balance the expenditure. No way out of the constitutional difficulty involved has yet been found. I shall refer to this subject later on."

I would request the Honourable the Home Member, whose absence from the Chamber is keenly felt by me, to let the House know what decision has been arrived at on the Report of the Majority of the Frontier Committee. Sir, I have also received many telegrams from the people of the Frontier Province, one of which I must read out to the House. You will see how appealing it is, how pathetic it is. Can any son of India ignore his duty after becoming acquainted with the contents of this telegram? It runs:

"Think of mother India. Do not deprive us of our just rights. Whole of Frontier expect you to purge yourself from undesirable influences."

**Mr. S. C. Ghose** (Bengal: Landholders): Where does it come from?

**Maulvi Sayad Murtuza Sahib Bahadur**: It comes from Char Sadda.

**Mr. S. C. Ghose**: Not from Calcutta?

**Maulvi Sayad Murtuza Sahib Bahadur**: No. It comes from Char Sadda. You can satisfy yourself by having a look at it. Perhaps my Honourable friend wanted to weaken my case by making the House understand that I am reading from another telegram which has no bearing whatever on the subject under discussion.

**Mr. S. C. Ghose**: I did not mean that. You are quite mistaken.

**Nawab Sir Sahibzada Abdul Qaiyum**: If the Honourable Member wants to read the literature on the subject, I will hand over to him all the telegrams that I have received.

**Maulvi Sayad Murtuza Sahib Bahadur**: I know, Sir, that unnecessary apprehensions are being entertained in some quarters. But I hope, although I am not a lawyer, I have made out a sufficiently good case in support of my motion. So, I expect that all the Honourable Members of this House will give me their solid support. My Resolution, when passed and given effect to, is calculated not only to improve the condition of the Frontier people but also to bring about our own national salvation. If the Frontier does not get Reforms, what further instalment of Reforms can you possibly expect to get? Government themselves say that the people of the Frontier are the gate-keepers and that they have been proving themselves loyal from time to time, yet nothing has been done for them. So, you should all support me whole-heartedly. With these few words, I commend my Resolution for the acceptance of the House.

**Mr. Ahmad Ali Khan** (Assam: Muhammadan): Sir, after the eloquent manner in which the Mover moved this Resolution, I will not say much but would like to add a few words. It seems to me that there are two important questions underlying the Resolution and the various amendments that are on the paper to-day. The first is whether the Frontier people have advanced to that stage that they can be entrusted with the scheme of Reforms which

we in other parts of India enjoy. That is the first question which Honourable Members will have to put to themselves. The second seems to me to be this, namely, that if the answer to the first is in the affirmative, then the question is in what manner, in what shape are further reforms or further concessions to be given to the Frontier Province. As regards the first, Sir, I think no Member ought to be in doubt if he has read the report of the North-West Frontier Inquiry Committee, and I shall, in addition to reading certain passages from that Report, quote for the benefit of Honourable Members both on the official and non-official side the opinion of one who was closely associated with the administration of frontier districts for a very long period of time. I mean Sir Armine Dew, who, lecturing before the East India Association, not very long ago—I think it was about a couple of years ago—expressed himself thus:

“The time has surely arrived to pause and examine British administration on the North-West Frontier and to see how far it answers its purpose or is capable of improvements . . . .”

Sir Armine Dew said that he was an optimist regarding the frontier tribesmen, for with all their faults they were good to live with and easy to handle.

“The time has come to throw precedents on one side and to start entirely afresh. India is best protected by abandoning the policy of fear. She must refuse to be stamped by threats of violence. She must take more into account the wishes of the frontier people and obtain their confidence and not attempt to rule them with a ‘big stick’ in the shape of military forces and laws.”

I read that for the consideration of Honourable Members, and if further proof is needed I would only draw the attention of Honourable Members to the following passage in the Report. In particular I would like to call their attention to a few lines on page 22:

“The frontier inhabitants are assuredly not behind the rest of India either in intelligence or capacity to manage their own affairs; their aspiration for reforms has been awakened into consciousness and will not be satisfied by anything short of essentials of the reforms enjoyed elsewhere. Whatever the form of the Council introduced into the province it must be something ‘live and vigorous’. The day for an Advisory Council is past, in fact a Legislative Council is essential.”

In the face of all that I do not want to labour the point. It must be admitted on all sides that a very strong case has been made out for giving them all that they ask for in the Resolution.

The second question is the manner in which the concessions are to be conceded. In that matter, Sir, I agree with the view expressed in the Report that the solution is not amalgamation with the Punjab. The only solution is the constitution of the province as a separate unit of administration, because the administrative problems in the Frontier Province are not identical with those in the Punjab. The experiment of running the two provinces under one administration was tried and condemned, and further it is doubtful if the Punjab people or the Punjab Government are anxious to have a province like the Frontier Province on their hands once again. The question of the amalgamation of the Frontier Province with the Punjab has been discussed in the Punjab Council and I have before me the result of the voting. There were 38 against amalgamation and 23 for amalgamation and the manner in which the voting took place was that all the Mussalmans were against the amalgamation and all the Hindus were for amalgamation. That to my mind lends colour to the belief that there is strong apprehension in the minds of my Hindu friends there on the frontier, an

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apprehension grounded on the fact that they form a very insignificant minority of 6 or 7 per cent. Here too I may be permitted to quote what the members of the Committee wrote about it:

"The local Hindus shrink from the perpetual minority that confronts them in the frontier province. The Hindus of the Punjab are anxious to come to the rescue of their frontier brethren and are confident of their power to cope with their Muslim neighbours which re-amalgamation would bring to the Punjab. Our two friends on the Committee are swayed not only by a sympathy with the frontier Hindus in their lot but by a fear that a separate Muslim frontier province would constitute a political danger. We have endeavoured to show that the fear of a Muslim frontier province is unjustified and we are convinced that the safeguarding of the Hindus in many cases can be adequately secured in the local reforms scheme we advocate."

My Hindu friends are perfectly justified in considering what effect the grant of reforms to the Frontier Province will have on the Hindu minority. But at the same time I must tell them that so long as the position of the minority is amply safeguarded, if they get adequate representation in the Council and on the local bodies, I do not see how they can with propriety oppose the grant of reforms scheme to the Frontier Province. A good deal has been made out as to the cost that the frontier as a separately constituted province will entail on the Government of India, but it must be remembered that the frontier tribesmen cannot pay their way and the Government of India must come to their rescue. This financial difficulty will still exist if the Province be amalgamated with the Punjab. It seems to me that the only difference will be that, whereas any deficit that occurs will be charged to the Punjab Government, in this case it will be charged to the Government of India. With these few remarks, Sir, I heartily support the Resolution.

**Mr. S. Sadiq Hasan** (East Central Punjab: Muhammadan): Sir, I am moving this amendment as I find it may be difficult to carry a majority in favour of the Resolution.

3 P.M.

All my Swarajist friends are opposed to dyarchy and in order to gain their support, which I could not get otherwise, and also to attain unitary and autonomous responsible government, which is our present goal, and has the support of the Swarajists and Independents alike, (at least for the rest of India), as was shown on the occasion of Pandit Motilal Nehru's famous amendment, and also by which it would be easier to get rid of brutal frontier law which is the law of terror, I move this amendment. My amendment is this:

"That for the words 'extend in the North-West Frontier Province the provisions of the Government of India Act which relate to Legislative Councils and the appointment of ministers' the following be substituted:

'introduce in the North-West Frontier Province an unitary and autonomous responsible Government with full protection for minorities, subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters'."

It is not necessary for me, Sir, to recapitulate all the arguments in favour of self-government because whatever Mr. Rangachariar and Panditji Malaviya have urged for the rest of India applies with double force to the North-West Frontier Province because these sturdy people, forming an integral part of India, are more liberty-loving and have more military spirit than ourselves. Sir, we find a number of amendments sent by our friends to the Resolution of Maulvi Sayad Murtuza Sahib Bahadur. The Members who have sent these amendments would not like to have anything less than autonomous government for themselves, but they will grudge even

the reforms which they are already enjoying to the frontier people. Well, Sir, I hear there is an amendment coming from the Swarajist Party to get the frontier province re-amalgamated to the Punjab . . . . .

**Mr. K. Ahmed:** What a shame!

**Mr. S. Sadiq Hasan:** I think it means nothing but shelving the whole affair and I am strongly against it because the majority of the Frontier Province is against it and the Punjab Provincial Council is also of the same opinion; and so to accomplish amalgamation over their heads would be as serious a blunder as was committed by Lord Curzon when he partitioned Bengal . . . . .

**Pandit Motilal Nehru** (Cities of the United Provinces: Non-Muhamadan Urban): Or the Punjab.

**Mr. S. Sadiq Hasan:** The Punjab agreed to it.

**Sir Hari Singh Gour:** Sir Mackworth Young was dead against it.

**Mr. S. Sadiq Hasan:** Sir Mackworth Young is not the people of the Punjab. We cannot get unwilling people to weld together by force. Lord Curzon was considered injudicious and those who want to have amalgamation will be considered still worse. You can bind and unbind people at your sweet will. Unless the bulk of the population, both in the Punjab and the Frontier Province, desire it, the accomplishment will not only create deep resentment, but will also be an act of sheer tyranny. I do not want that there should be a bone of contention to be in this respect, the whole result of which will be that the people will divert their attention to fighting over this problem and forgetting the main issue. Sir, we have to see why there is this opposition even to reforms on the part of those who are not even opposed to reforms and are enjoying them even now.

**An Honourable Member:** Because they are sham reforms!

**Mr. S. Sadiq Hasan:** Although I am in favour of autonomy and think the frontier people will be able to maintain better peace under their own rule, yet I cannot understand the objection of those gentlemen who do not even want reforms, for in that case law and order will remain under the control of the same Government which is controlling them now. All this hue and cry is raised—and I must be frank,—so that the interests of the minority may not suffer in the least. Many leading people do not mind whether they are inconsistent or obviously narrow-minded. Are we justified in keeping an overwhelming majority in subjection on account of the unfounded fear that a small minority may suffer in spite of the fact that full protection for this minority is explicitly asked for and that not in a grudging, niggardly fashion either! What have these gentlemen in that case to say about the Central Provinces and Madras? Cannot the Muslims of those Provinces stand up and ask for the abolition of all which is good, which I hope they will never do . . . . .

**Mr. A. Rangaswami Iyengar** (Tanjore cum Trichinopoly: Non-Muhamadan Rural): There is nothing good.

**Mr. S. Sadiq Hasan:** And what will be the attitude of our Honourable friends at that moment? It will be a dangerous doctrine, Sir, if such a small minority can dictate that the progress of the country should stop. They have every right to demand full protection for their rights and we

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are prepared to ask it for them. But, Sir, a minority forming 6 per cent. of the population certainly has not the right to bar the progress of the whole population.

There is another fear which is besetting the minds of some of our friends,—that the frontier people may join the Afghans at some critical moment, and for this reason they would like to keep them backward as they are. I say to you that if you have suspicions about the frontier people and want to keep them in permanent slavery and sacrifice them to your own interests, the time may come when they will sacrifice your interests to their own. The only solution of this problem lies in making them happy and contented, so that they may always remain a bulwark to the motherland. I will read to you a couple of lines from the Frontier Inquiry Committee Majority Report, page 14:

“If India was shielded from imminent perils arising from the great war, it was her stalwart frontier population whom she had in a large measure to thank for keeping those perils from her.”

Sir, I am also told that there are some land-owning Khans and poltroons who are opposed to this democratic form of government; but their number practically is negligible and they have no influence. These selfish people are afraid they will be losers or they want to carry favour with their masters, the District Magistrate; but, Sir, the tide of freedom cannot be checked as it has not been in the rest of India. With these few words, Sir, I move my amendment.

**Nawab Sir Sahibzada Abdul Qaiyum:** Sir, it is very seldom that I rise in this House to speak on motions. But here is a question which affects my own Province and I hope I shall have the indulgence of the Chair and also the patience of the House and that my remarks, whatever they may be, will not be treated like the supplementary questions of the Honourable Member over there, or the speech of another gallant friend of mine.

Sir, the question of Frontier reforms has now been before the House for a very long time. Question after question has been put on this subject in this House by Members of this House and the only reply that has ever come from the Treasury Benches is that it is under consideration. I wonder when that consideration is going to finish.

**Mr. A. Rangaswami Iyengar:** It is still going on.

**Nawab Sir Sahibzada Abdul Qaiyum:** Only the other day Mr. Jinnah asked for some sort of approximate date on which we could expect some definite reply.

**Mr. K. Ahmed:** And I said “Never.”

**Nawab Sir Sahibzada Abdul Qaiyum:** And if I remember rightly the reply was that we may hear something more definite to-day . . .

**Mr. A. Rangaswami Iyengar:** Not yet.

**Nawab Sir Sahibzada Abdul Qaiyum:** The question is now going to be discussed in this House and I hope that we shall get some hopeful gesture, as it is called, from the Government Benches. I hope that definite



gestures will be forthcoming to-day. Sir, it is not lack of confidence in the present administration that moves me to support this Resolution. Our administration is as good or as bad as any other administration in India. Our officers are quite capable; they are of the same type, very fair, very highly educated and quite alive to their sense of justice, as in any other part of India. Nor again is it the voice of a discontented man, who rises to-day to ask for these Reforms. I have been one of the most . . .

**Mr. A. Rangaswami Iyengar:** Conservative?

**Nawab Sir Sahibzada Abdul Qaiyum:** I have been one of the most favoured persons, who has access to the offices and the counsels of the local authorities from the Chief Commissioner down to the Assistant Commissioner. It is not the voice of a discontented man or a disappointed man in service or of a seditionist or of an agitator. It is the voice of a loyal and faithful servant.

**An Honourable Member:** An ultra-loyalist.

**Nawab Sir Sahibzada Abdul Qaiyum:** Who according to the official authorities has been given the credit of having done his part fairly well on the Frontier during his long life. I do not complain that I cannot have access to the head of my province and bring the grievances of my people before him. I have the opportunity of such access as many others of my countrymen have it too. The doors of the high officials are open to all of us. But what I really feel is this, that that is not enough. I do not want individuals to visit the authorities and lay their views on public matters before them; because if every body visits them and voices his opinion, there is the fear of their saying things against one another, as is the custom of not only of Afghans but also of Indians and of Orientals generally. You represent your views in one way, the other man represents his views in another way; and you naturally influence the opinion of the authorities in an irresponsible way, which of course is not a very sound or safe method. What I really want is a sort of council, call it an advisory council, if you like, though this term does not sound so well as a legislative council. That is the council I want—but I want a council in any case—a council where we could debate important subjects connected with the Province and lay the united opinion of the people or the opinion of the majority before the administration and to secure the right decisions of the administration in that way. And that is why I am supporting this Resolution. There is one thing, Sir, which I must make clear to this House, and it is that I am not a great believer in these reforms and in these councils. I have said so before the Inquiry Committee, which sat in the North-West Frontier Province. I was the first witness before that Committee, Sir, and I laid this matter quite bare in my statement before the Members of the Committee. I said that I was not sure if the Councils elsewhere had done any good to the country. I would rather say that they have been bones of contention, scraps dropping from Heaven, set people fighting among themselves. Sir, I am no great believer in these Reforms myself. There is no reformation in these reforms. I know the mentality of the majority of Members here from my two and a half years' experience in this House. If in spite of these reforms you cannot pass a Resolution to put a stop to beggary and—what was the other word?—vagrancy, what can you expect of them? If you cannot pass Sir Hari Singh Gour's Age of Consent Bill asking for the raising of the age by a year or two, what can you expect of them?

**An Honourable Member:** We did pass it.

**Mr. A. Rangaswami Iyengar:** Thanks to the Government.

**Nawab Sir Sahibzada Abdul Qaiyum:** I do not believe in their sense of reformation at all. You do not know what may happen to you on a Bill. You may discuss it, you may come to the end of the Preamble, you may convince the House of the reasonableness of the Bill, but when the final voting comes, off the Bill goes. Some funny thing happens—I do not know what it is—and the whole thing is exploded. India is composed of numerous nationalities, castes, creeds and religions. If anybody can reform Indians, it is a man like Lenin, who may lead them to hell, or Kamal, who may take them to a rational heaven. Some such reformer is wanted. Unless you can find such a man, you cannot bring about any reformation in this country. Some people will say it is good to marry; some will say it is good to remain bachelors; some say polygamy is bad, some say monogamy is bad; these communal troubles and other differences cannot be solved by debates in this House. It requires a strong personality and not a person with soft ideas. What has your greatest reformer, Mahatma Gandhi, done? Poor fellow, he could not even bring about a uniformity of head dress. He could not persuade me to take off my turban and cannot persuade my friends over there to take off their caps and wear my turban. Poor fellow, he has failed; and if he has failed nobody else can do much with spiritualism, lectures or with teachings. As I have said, somebody like Lenin and Kamal might do it and send Indians to hell or heaven.

**Mr. President:** Will the Honourable Member come to the Resolution?

**Nawab Sir Sahibzada Abdul Qaiyum:** I am coming to the Resolution, Sir. I say that these reforms do not meet with my approval; but what can I do? A line has been chalked out for India, by which we have to march and reach the goal. (*Mr. Jamnadas M. Mehta:* "Cross the line".) That is the difficulty which persuades me to support this Resolution. And what is that line? That line is the line of constitutional advancement.

**Mr. N. M. Joshi** (Nominated: Labour Interests): Are you forced to adopt it?

**Nawab Sir Sahibzada Abdul Qaiyum:** I am forced to it; that is the position. If it is possible to go back to the old days of anarchy and the feudal system, perhaps I might have taken that line by natural instinct. (Laughter.) But it is not our line now. I am only shown this line by which I can reach my goal. Sir, we are all school fellows in the school of India. At one time we were in the Punjab reading in the same class: that is I was reading say, in the fifth class, along with my Punjabi friends who are promoted now; the class was too cumbrous; it had to be split up into two sections, one section across the Indus and the other section cis-Indus. One section is being promoted over the other, or rather has been promoted, and the other section is being left there. Can you imagine, Sir, the state of our feelings? Suppose that after 1929 a Royal Commission comes, which, I hope, will not come (Laughter), Yes—unless we improve it is not the time for a Royal Commission to come, i.e., so long as we discuss matters in this spirit on the floor of this House (Laughter); but my difficulty is, if by chance that Royal Commission comes and something is

decided upon in the way of further advance, where shall we be? You will say "You have not exercised the third class power and so we cannot give you second class powers." Will they not say so in their Report? Well, that is my difficulty. We will be put really in a very bad position, and the position will not be of our own creation. We did not wish for separation; I do not consent to re-amalgamation. There was the necessity of creating this separate province, a real necessity, which is mentioned in the Inquiry Committee's Report, for the purpose of the more effective defence of India and for the defence of members of this House! We were used as a catspaw and linked with the agencies. Now, why should we be treated like that? I cannot understand it. It is not only the reforms that we are losing; it is the canal lands that we have lost. Have you ever thought of that? Simply by a stroke of the pen we have been declared not entitled to any share in the canal lands that are being brought under cultivation, in the Punjab, simply because we form a separate province. (*Mr. C. S. Ranga Iyer*: "Shame".) That is the material loss that we have undergone.

This is my difficulty. Big people with traditions, historical traditions, mutiny traditions, Kabul war traditions and various people with meritorious military service records are now cramped into a small tin like so many fishes; everybody wants something while there is nothing to be had, in the small area, so long at least. With the rest of India, we had scope for our vitality—I should call it; we were almost equal to Europeans; we required just a bit of education. I remember when my class fellows left the school they had nothing in their pocket except entrance pass (examination): With that pass examination, Sir, some of us became judges and did fairly well; others became politicians and they too did not do badly—I am not going to praise them—but they did fairly well with their limited education. There was some scope for the ability which they possessed; it was no great intelligence, but what I would call "common sense." That is how we really feel depressed. I challenge the House to examine the work of these officers—the records of their judicial and executive work, and see how they stand as compared with down country officers. They will find these records not inferior to any records in any other part of India. We compile our records very carefully; we take the same evidence; it is the same law which is being administered. But this is not my chief reason: the chief reason as I have told you, is that we are going to lose in material. I have quoted to you the incident of the canal lands and of the limited chance of service on the Frontier. Well, Sir, this much for my plea for asking for these reforms. I will not say more on this subject because I want to give an opportunity to people who come from outside the Province; my view may be considered partial; so I do not want to take much of the time; I will give an opportunity to the other Members of the House to speak on the subject. I will simply come to my case in this line.

Sir, some years ago there was a movement from the opposite Benches, from that corner over there, from my venerable friend, Sir Sivaswamy Aiyer; certain Resolutions were moved in the House. I had not put in an appearance here then. Many of these Members were not in existence then. Diwan Bahadur Rangachariar was there. They thought something was wrong with our Province; they started a movement for this and that, for judicial amalgamation and various other things, until Government made up their mind to send a Committee to the Frontier and find out where the

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disease lay and what the remedy for it was. Sir, they inquired on the spot; they came to certain conclusions, and they laid their conclusions before the Government of India. They have been before them under consideration—since when?—since 1922 up to the beginning of 1926. Nothing definite has been heard about those recommendations from the Government as to what action they propose to take on them. My friend Mr. Ahmad Ali Khan has quoted certain passages from the Report, and if you want me to quote more, I will do so—I would have even come forward with a written statement. But I thought that a written statement would have no effect in this House, otherwise I would have laid all the facts and figures before you. Nor do I think that facts and figures go a long way in this House. (*An Honourable Member*: "You are wrong".) So I do not attach any importance to written statements or to facts and figures . . . .

**Mr. K. Ahmed:** But you are an author of them.

**Nawab Sir Sahibzada Abdul Qaiyum:** And you, Sir, are, I believe, a supporter of these—Sir, para. 38 of the Report says that we are capable of doing everything which the people of the other provinces can do. Then para. 28 says what will be the result if the legitimate aspirations of those people are not paid heed to. Sir, the result or the consequence is also stated there and I will not repeat it. I do not agree with their conclusion that there will be a turning of our faces to the west, or that there will be a revolution, for if we had the will or the wish to turn our faces to the west, who was there to prevent us from doing so when we had a thousand and one opportunities before us. I wonder if the Honourable Members of this House know that there is a great distinction between an Afghan and a Pathan. The Afghan has naturalized himself as a Persian. He speaks the Persian language and has adopted the customs of Persians. He is quite separate from the Pathan. The Afghans say, if something goes wrong, "*Afghani sheed*"—they say this simply because we are a different element. Well, Sir, can the Honourable Members occupying the opposite Benches say that we are not Indians, that we are not part and parcel of India, that we have our sympathies more with the Afghans than with the people of these parts? Have we not fought against the Arabs? Have we not fought against the Turks? Have we not fought more than once against the Afghans themselves? Who defended the borders of India in 1919 and who has got the credit for it? In these circumstances will you not call me an Indian, even if I happen to oppose you? How many lives have we sacrificed for the purpose of defending the frontiers of India? Are not the bones of my forefathers lying in the soil of Delhi? Are not the bones of a thousand and one Pathans and other tribes lying in Delhi? Have not the Lodhis, Shershahis, Sherwanis and other tribes settled down in India? Then, why cannot a man coming from Peshawar be called an Indian if those people can be called Indians? Sir, I claim to be an Indian, and I claim my Province to be a part and parcel of India. I have submitted to all your laws including the Indian Penal Code. All that I now ask is this. Why do you not apply another Act to our Province which is called the Government of India Act? What is there to prevent you from applying it to our province? You call this Act the Government of India Act. Why should you not extend it and apply it to the frontier when you can apply the Indian Penal Code to us? I say, Sir, that you have no

right to apply any law to us unless you consider us as Indians, unless you consider that we form a part and parcel of India. I have thrown in my lot with you for ages and centuries, and as the Persian proverb says:

*"dar mian i qa'ar i darya takhta bandam karda ii,  
bâz megoi ki dâman tar makun hushyar bâsh"*—

"You have thrown me in the sea, whether for good or bad, and still you say, keep yourself aloof, do not soak your clothes with the water of the Indian ocean". It is really a funny argument. I want this House to remember the fact, Sir, that we have fought your battles across the border and in this very city of Delhi. Nicholson was our leader and not yours. He came here with the Yusufzais and there are a lot of Yusufzais over there in the galleries whose relations came and joined him in defending Delhi.

**Sardar Bahadur Captain Hira Singh Brar** (Punjab: Nominated Non-Official): And not the Punjabis?

**Nawab Sir Sahibzada Abdul Qaiyum**: Yes, the Punjabis too fought, but you are enjoying the fruits of your labours, while we are not enjoying anything. That is my reason. Well, Sir, I would appeal to the House not to treat us as aliens or strangers in this country. There is a proverb "*mal-i-bad barish i khawand*" or something of that sort. I do not know that proverb well, but perhaps my friend the Maulana can correct me. If we are bad or undesirable, then the best thing is to leave us alone. But we do not want to leave you and go away. I want you to treat us as your brothers. We are supposed to be your watchmen, just as you employ Pathans in Bombay or elsewhere as watchmen. Mr. Chetty, I believe, has got some of them, and I believe the Panditji has also got some.

**Mr. President**: The Honourable Member should realise that the Chair has allowed him double the time that he is entitled to, and he should now bring his remarks to a close.

**Nawab Sir Sahibzada Abdul Qaiyum**: Thank you, Sir, I will just finish. I am sure I have gone astray, but I shall finish now. What I say is, Sir, that we want to be your brethren. Give us the education, give us the same laws, give us the same training that you get and treat us like your brethren. Do not treat us like step-sons or half-brothers. What will be the result if you elect to rule us by the rod? There is a Pushtu proverb which says that even a discontented wife can make you uncomfortable in a house; she may not prepare your curries well, or she may not even smile at you when you enter your house. Well, what I say is, please do treat us kindly and well.

Sir, there are certain amendments suggested to this Resolution, and I think it is very necessary for me to make my position quite clear about them. Nothing short of a separate Council can satisfy the wishes of the frontier people. We can give you a blank cheque, if you like, to do whatever you think best or whatever you consider necessary for the protection of the minorities. After all, we have got some people who are in the minority in the South of India. You will not be just if you show a different sort of treatment to us. You will not be so unjust as to frame a different

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set of rules which would give a different meaning. But please do not bring in this excuse that you are prepared to give us a moon in the sky which will not be achieved at all, or that you will give us Swaraj or autonomy, because you yourselves have not got it yet. Don't tell us that you are going to reamalgamate us with the Punjab, because that is impossible, (*An Honourable Member*: "Why?") not from the Government point of view alone, but from the point of view of local conditions also, because we are your barrier. We are just like a cat's-paw between you and the transborderers and we serve your purpose. If it had been in my choice alone, I should have been quite in sympathy with this amendment and I should be glad to go and live in some hill station in the Punjab. But it is not possible and feasible, because we have got our kinsmen across the border and if you devise some other line besides the natural Indus line, then you divide the country at a place where you will have perhaps to build a China wall and not even a China wall will save all those troubles. You can only find a barrier against them through our civilisation, education, and treating us like brethren. What have you been doing? The Hindu Sabha says there are some fears. I cannot understand what the fears are. One thing which really pains me and hurts me is when we are told that there are some secret societies of Mussalmans. What for? To overthrow this mighty British Government or to extirpate the handful of non-Moslems? If we are overthrowing this mighty Government all that we have to do is to cross the border and join the Mahsuds and the Afridis, and fight it out with the Government. But we are fighting against these very Mahsuds and others. I put a question to the Honourable Members and ask them as to how many lives have been lost in defending them. Sir, there is no question of our overthrowing this powerful British Government. If you say that we want to extirpate the handful of non-Moslems, it is ridiculous. It is the minority and not the majority that goes in for unconstitutional methods. We can, and are fighting them constitutionally, why should we resort to secret societies? We have been living most peacefully with them in the transborder area. Yes, we have been living most peacefully. I have got a collection of my Hindu brethren in my own village. Just ask them how I am treating them or how they are getting on with me. Really we cannot do without them. They are our bankers, they are our trustees. If I want to deposit money, I will not deposit it with my friends in those galleries. I will deposit it with one of my Sowcars. I keep my account with my Hindu brethren. My private "Hakim" or family doctor is a Hindu brother. Once I had a little *barampta* of Hindus and it was through them that I gained my object across the borders, simply because the tribesmen for the Hindus sake united in taking action against the bad characters. There, Sir, can be no question of the extirpation of the Hindus. If we extirpate them, what are we to do? Then it is said that there is fanaticism. Fanaticism against whom? The old fanaticism even against the Britisher has disappeared. There have been no outrages for ages now. What fanaticism can be there if there is a separate electorate and separate representation? Who will fight the Hindus. They will have their own representation and we shall have our own representation. If we fight among ourselves it needs not worry them. Suppose we are fighting against one another it does not really hurt them. They will be quite safe. As a matter of fact there will be one party in their favour. There can be no question of trouble on that account.

Well, Sir, things have not changed since the Report was made. We have not gone back in our education. We have not gone back in our civilisation and we are not more troublesome now than we were in 1922. See the Administration Reports as to how far crime has gone down since. There may be one or two . . . .

**Mr. President:** Order, order. The Honourable Member has not taken the hint that the Chair gave him. The Chair has allowed the Honourable Member more than double the time that the Honourable Member is entitled to.

**Nawab Sir Sahibzada Abdul Qayyum:** I think I must abide by the ruling, Sir. All that I say is that we are united in this matter, that we want a separate province, and that there is no dissenting voice among us, and if you have heard of any I can quote to you from the bulky literature I have recently received, telegrams, letters and resolutions, etc., that there is no dissenting voice on this matter among the Mussalmans of the North-West Frontier Province. With these words, Sir, I resume my seat.

**\*Dr. L. K. Hyder** (Agra Division: Muhammadan Rural): Mr. President, it is not my practice to take up a large part of the time of the House. The time is very short and I want to devote a certain portion of it (*Honourable Members:* "Louder please.") to covering ground which is extensive, which is unknown, in order to clear up the issues. I may say at the very outset that it seems to me that I am discursive, but I have got to make clear the issues before this House in order that we may have a vote on this question when it is properly understood. Let me explain to you, Sir, what I mean by saying that I stand here to clear up certain misunderstandings on the part of the Government and also certain bogeys—a definite bogey which is as old as a century. The bogey I refer to is the bogey of unknown dangers on the North-West Frontier. During the whole course of the 19th century, from 1849 right up to the year 1925, the Government have been saying, "Do not talk about the Frontier; you know nothing about it, we know. I bow, Sir, to the judgment of the gentlemen who scan the foreign skies, but it is, Sir, open to a layman also to bring his judgment to bear upon certain things. On the other side, Sir, it is said that centuries of some imaginary distrust have held up the pace of the trans-border people's advance. Between these two extreme schools, one school which says, "Modern India knows nothing about foreign affairs; therefore do not talk about the Frontier; do not talk about freedom; do not talk about reforms; do not touch them; leave them alone" and the other extremist school existing among the Indians themselves that there is a great deal of fear of those people who live that side of the frontier, that they are perfect barbarians, that they are savages, and that savage laws ought to be applied to them, I say that I shall have to travel over ground which is extensive in order to make my point clear, as I said at the very outset. That point, Sir, is this, that on the North West Frontier for a century the international issue predominated over the local issue. The point which I have to state is this. Here in the year 1925, so far as one can scan the foreign sky, the local issue predominates over the international issue. Now, Sir, I have thought it necessary to make these remarks in order that the learned and accomplished gentleman who is an author himself of certain dialects in Baluchistan might not get up and say that it is the

\*Speech not corrected by the Honourable Member.

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exclusive concern of the Governor General. I say this to the non-official European gentlemen also, because they are also under some apprehension of dangers existing on the North-West Frontier and they therefore tell the layman, the ordinary man, "Don't talk about that; you Indians do not know." My first point was that for a century the international issue on the Frontier has been predominant over the local issue. I will give you an instance. Take the year 1838. What was it that led to the 1st Afghan war? Take the year 1878, take the year 1885, take the year 1919. During all these years, during all this space of time, it has always been the fear of Russia, not only here in India among the British officials, but also throughout the British Empire and also among the stay-at-home people in England. There was a sort of nervousness about the advance of Russia towards the frontiers of India. Well, Sir, I will put this question now to the Honourable the Foreign Secretary, whether he honestly thinks that that fear now exists. It is no longer there. At any rate Czarist Russia is not there. There is Soviet Russia. What are the aims and objects of Soviet Russia? To uphold, to spread doctrines which have got no relation, which are not the least akin, to the ways of thinking either in this country or on the border to-day. All these have vanished and the local issue at the present day predominates. I shall not be dogmatic about it; but so far as human ability can forecast the future, to me it appears, Sir, that this problem of the Frontier cannot be understood unless this is grasped, that it must not bear the character which it does.

Now, Sir, what does this local issue in the North West Frontier consist of? It resolves itself into two parts. The first is the problem of the tribal areas and tracts administered by Political Agents, such as Chitral, Malakand, the Kurram Agency, Waziristan and the Khyber Agency and also the territories adjoining the five settled districts. On this side of the tribal area the problem is purely Indian and modern in its form. What is it that the people in this area say? They say "Let Indians rule us; give us the benefits"—as has been pointed out by my friend, the only competent man in this House to speak about the Frontier—"give us the benefits of the liberal institutions which have been created in modern India." That is the problem stated in its barest outline. I have taken pains to read with some attention the Report of the Minority of the Frontier Inquiry Committee. There are a number of arguments which they bring forward as regards the grant of Reforms to the five settled districts of the Frontier and they resolve themselves into these arguments. No. 1 is that no reforms can be given to the Frontier, because the province is a miniature province, it is a tiny little province and we cannot have all the paraphernalia of a first class province there. The gentlemen who signed that Report have larger territories in view. But I submit to you, Sir, that there are, if not in India, outside India, kingdoms which are exactly equal to the area of the five administered districts. Look at the case of Greece. Is it not a kingdom? What is its population? Not more than the population of the five settled districts. I am not talking of the population of the tribal tracts. The population of the five administered districts and the border is altogether 5 millions. What is the population, Sir, of Norway? It is not more than 2 millions and a quarter—exactly equal to the population of the five settled districts. Well, Sir, that is the answer so far as it relates to the smallness of the size of the Frontier Province. Another argument has been advanced



that the Frontier is not financially self-sufficient. I will come now to the crores which my Honourable friend from Nagpur, Sir Hari Singh Gour, was speaking of. I have before me, Sir, a statement prepared from the Administration Reports of the Frontier, showing figures ever since the creation of the province right up to the year 1923-24. There is one preliminary thing which I will say about these figures, that is, one cannot make comparisons and draw conclusions without looking more closely into these figures. The receipts of the Province after its creation amounted to Rs. 27 lakhs, and the expenditure was Rs. 25 lakhs. If I scan the items of expenditure, there is an item of over Rs. 10 lakhs which is purely devoted to political objects. Another item of "Police" is well over 3½ lakhs, and there are certain items, Sir, which relate to matters which can by no means be made a local charge and which would not be made a local charge by any Government in the world. I refer to the construction of roads, bridges, cart roads, better means of communication right down from Peshawar to Dera Ismail Khan.

**Mr. Chaman Lall** (West Punjab: Non-Muhammadan): May I ask if that is so in England as well?

**Dr. L. K. Hyder:** England, Sir, has a sea wall. That is why the problem of defence there is not the same thing as the problem of defence in a country which possesses a frontier which extends from the borders of Waziristan right up to Chitral in one direction and to the Shan States in the other. That problem does not exist in England. That problem, Sir, existed in Germany which had to defend two frontiers and that problem I can assure my Honourable friend was one that was not lightly regarded by the German General Staff. Sir, to come back to this question of finance. Sir, I do not dabble in figures. It is not my business. My profession is to interpret them, the meaning and methods of these figures. I find, Sir, that the bulk of the expenditure of the North West Frontier Province is on objects which are political and can in no way be placed under the heading of maintaining law and order, or on the construction of means of communication which are after all a very essential part of the defence of a country. With these things, Sir, the Budget is jumbled and if I were to draw the lesson that the Province cannot pay its way I shall not be justified in doing so by the figures. Then I looked at the items of expenditure which are purely for the development of the Province, say, education. The Frontier Province started with the magnificent sum of Rs. 9,000 in the year 1901-02. The Province has a population of nearly two millions and a quarter. Although things are better just at the present moment, I say that if you divide the population by the money that you spent your total is a very small figure indeed.

**Diwan Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): We are now spending 12 lakhs on education.

**Dr. L. K. Hyder:** I see, Sir, that the figures are as follows:

					Rs.
1923-24	.	.	.	.	10 lakhs.
1922-23	.	.	.	.	10 "
1921-22	.	.	.	.	12 "
1920-21	.	.	.	.	9 "

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I do not wish to tire the House with these figures. I only wanted to have an eye-picture before me. (*An Honourable Member*: "You said Rs. 9,000.") That was the amount earmarked for education when the Province started. As regards the state of education let me give some facts. I see that a belief exists among the Members occupying Benches on the opposite side that all is well with the state of education in the North West Frontier Province. (*Some Honourable Members*: "Who said it?") I said that there is some ground for believing that all is not well with education there. (*Honourable Members*: "No.") I was going to say that the total number of literates in the section of a population which is nearly 95 per cent. is much smaller than the total number of literates in that section of the population which is only a very small portion of the whole population. If Honourable Members think that the Government of the North West Frontier Province has really been extravagant in this matter, I will refer them to the last Census Report which has been written by a very distinguished member of that province who bears the name of Rai Bahadur Lena Singh. It is for the year 1921-22. He says that for every 15 Muhammadans there is one Hindu and that the total number of Hindu literates is much greater than the total number of literates among the bulk of the population of the Province. Well, Sir, I do not wish to take up much time of the House.

**Diwan Bahaur T. Rangachariar**: Will my Honourable friend tell us what is the correct expenditure according to him on the internal administration of the central districts?

**Dr. L. K. Hyder**: I have not got the reports with me, but I will explain to you. I have great admiration and great respect for the work which is done by the members of the Education Department of this Government. I put the question to my Honourable friend from Madras as to how he is going to divide the salary of the Chief Commissioner in its proper proportions? How much is due to his work as Chief Commissioner and how much to his work as Agent to the Governor General? Then there is the Personal Assistant, Maulvi Abbaz Khan, and a Superintendent of Police, Taj Muhammad Khan, who are running across the Frontier tracing the murderers. I ask him whether he can evaluate their services and what auditor is there who can evaluate the services performed by them?

**Diwan Bahaur T. Rangachariar**: May I ask my Honourable friend to put that question to the President of the Committee who did it in the Majority Report?

**Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): He has considered that.

**Dr. L. K. Hyder**: I can assure my Honourable friend that I am not one of those persons whose profession it is to manipulate figures. I can assure him that the only conclusion that I can draw from the figures is that so far as the expenditure on the development of the province is concerned, it is very small. The bulk of the expenditure is either on political matters or what they call territorial matters, or the construction of such works as the Swat Canal. People in the Frontier have now begun to appreciate the advantages of being British subjects because they think that the life they are now leading is better than the nasty and rude life which they

used to lead in chaos. That, Sir, is due to the construction of this Swat Canal. I earnestly hope that the day may come when the Afridis, the Mahsuds and the other tribes of the Frontier will invest their money in the securities of the Government of India. If you wish to prevent these raids, these expeditions, then the surest way is to entangle them in the meshes of wealth. There is no other way of doing it. I do not wish to touch that problem, but the problem is one of hunger. It is that problem and that problem alone. That has been the age-long problem. What better means could exist than to open up the country and give them all the benefits that are enjoyed by citizens. That day, Sir, will be a very good day, but that day has not come yet.

**Mr. President:** Will the Honourable Member bring his remarks to a close?

**Dr. L. K. Hyder:** Sir, I will not take up much time of the House. But, Sir, the argument was raised that a special treatment, a differential treatment, has been accorded to that province merely because the population does not consist of Hindus. Now, Sir, neither geographically nor historically is the population of the Frontier province Indian. But I ask in all seriousness—it is not my profession to say things which are not true—I ask what is the age of this province? It is only fifteen to twenty years, and we know that these units will be moulded into shape for incorporation with British India in course of time. Look at the soil on which we stand. That was not made in the course of a few years. It is the result of the work of natural causes for millions and millions of years. That applies with certain qualifications to the moulding of the minds of the people of India. It is a process which takes time but we have to work for it and wait for it. Reference was made to the cleansing waters of the Punjab. Do the waters of the Punjab really possess these cleansing properties? I think not. If you bring in these people against their wishes you will create a position which has not existed so far in India. I do not think that the solution you have proposed is the right solution. The only solution is to give them the liberal institutions that other provinces possess. That is the only way. If you adopt any other way then the ideal will not be reached. It has been said by competent men that the defect of most Legislatures is that they are ignorant, that they bungle. I have a very high opinion of the talent to be found in this House, but I fear very much sometimes. Here solutions are proposed which are fraught with grave consequences and the results might be just the opposite of what my friends desire. Administratively the question of re-amalgamation has been condemned since the time of Lord Lytton. There was no abler man than Lord Curzon who tore the whole thing to pieces. The demand for re-amalgamation is what every British administrator has condemned. Look at what Sir Charles Lyall says.

**Mr. President:** Order, order. The Honourable Member has not yet taken the hint the Chair gave him.

**Dr. L. K. Hyder:** I take the hint and I sit down.

**Colonel J. D. Crawford (Bengal: European):** Sir, it was not my intention to intervene in this debate, and it is certainly not my intention to oppose the Resolution. My Honourable friend who has just sat down raised the old, old question of the Russian bogey and in pursuing his

[Colonel J. D. Crawford.]

arguments endeavoured to show that there was no danger on our frontier at any time, and he was of the opinion that the international questions there, which must always be international questions on the frontier of any country, had outweighed the local ones and it was this that had prevented the North West Frontier from getting some measure of self-government.

I would take another line. The dangers on our frontier do exist and it is no use trying to make out that they do not. How many Members have read the very clever article which has appeared in a military magazine published in this country? I shall just take two or three sentences out of it. I commend the article to the perusal of Members of this House:

"Bolshevik leaders like Lenin, Trotsky and Zinovieff have repeatedly and openly declared that Soviet Russia is at war with the British Empire, and such is indeed the case at the present time, although armed force is not actually being used.

To quote an Italian student of the subject, 'To Bolshevism the British Empire is capitalism and imperialism personified, and the destruction of the British Empire is and must be its most important objective'."

Do not let us run away with the idea that we have no dangers. I do not want to exaggerate them but they are there and must always be considered, and therefore a portion of your North West Frontier must always to some extent come directly under the Central Government in that the defence of that frontier is undoubtedly an all-India question and not a local question. But I feel that we must give a certain measure of self-government to the North West Frontier Province because I believe that we have on our frontier really loyal servants of India and if we could interest them in the development of the province and in India itself, you would possibly have a sure buffer in the defence of India. I certainly would not say that the men on the North West Frontier with whom I served are in any lesser degree unsuited to a measure of self-government than any other people in India. All I say is, if I support the Resolution—and I am going to do so—that I do not desire to commit myself that they shall have exactly the same form of Government that we have in other provinces. I would like to see indigenous methods of Government modified and extended to meet their requirements. That, however, is a matter for consideration later. For the moment I rose purely to correct the statement of my friend that there is no danger on our frontier. That danger does and always will exist, and although we need not exaggerate it, we must remember it.

**Sardar Bahadur Captain Hira Singh Brar:** Sir, being a Punjabi I feel that I should also take a little part in this debate, although I feel sorry to look at the silence on all those Benches while a soldier like me, who is neither a politician nor a statesman, should get up and say something of this sort. Had there been a little amendment from some side to modify the Indian Penal Code, or something of that sort, I think hundreds of my friends would have got up to support the amendment. Why not now get up and speak your mind? Speak the truth. (*Honourable Members:* "Wait and see.") Why not get up and say something of what you feel. The time is ripe to give reforms of the kind we are enjoying, or modified reforms or some kind of reforms which you think will do for the North West Frontier. Why not get up and say something? If you think the time is not ripe, or that reform at the present

moment will not be suitable to those tribes near Peshawar and Kohat and those places where we generally get Hindu and Mussalman riots, say so . . . . .

**Nawab Sir Sahibzada Abdul Qaiyum:** More than the Punjab?

**Sardar Bahadur Captain Hira Singh Brar:** If I will not displease the Honourable Member here, I may say that the reforms we are enjoying are reforms only for the educated, urban classes of India. If I look round the House I do not find a single Member representing the masses or the rural classes who make up the Indian nation. Well, Sir, I will say the same thing to my Honourable friend the Mover that if he is going to introduce a similar kind of reform, and to my Honourable friend the Nawab Sahib, that if he likes to have a similar kind of reform, where the rural class is unrepresented, I do not think he will get much benefit out of it.

**Nawab Sir Sahibzada Abdul Qaiyum:** I said, Sir, that I was not a great believer in these reforms, but that was the line chalked out for us for further advancement.

**Sardar Bahadur Captain Hira Singh Brar:** Sir, this is the last Session but one of this Assembly, and I do not think I can carry any congratulatory message to my class of people in regard to any good Resolution or Bills passed for their benefit. Then, Sir, the class and caste question, which makes communities of India, is daily growing more acute, and if we see the feeling of the House to-day, we can imagine what kind of feeling is existing. When the caste differences are removed first . . . . .

**Mr. K. Ahmed:** Remove yours first.

**Sardar Bahadur Captain Hira Singh Brar:** I think that will be the time to look forward to reform.

**Mr. K. Ahmed:** Have you removed your differences and caste prejudices in the Punjab?

**Sardar Bahadur Captain Hira Singh Brar:** Sir, this or that reform will not bring us any real pleasure or benefit until we become true Indians first and Hindus and Mussalmans afterwards.

**Mr. K. Ahmed:** Are you a true Indian first in the Punjab?

**Sardar Bahadur Captain Hira Singh Brar:** Certain Honourable Members like my friend in front of me become on certain occasions Indians first, but as soon as they wish to get a big salary they turn into Hindus or Mussalmans first and Indians afterwards . . . . .

**Maulvi Abul Kasem** (Bengal: Nominated Non-Official): Sir, is the Honourable Member relevant? On this question we are not discussing Indian reforms.

**Sardar Bahadur Captain Hira Singh Brar:** The Hindu-Mussalman question is now acute in the House. (*An Honourable Member:* "No.") In conclusion, Sir (Laughter), if the North West Frontier Province can afford the expense of the higher salaries of the Ministers and others . . . . .

**Nawab Sir Sahibzada Abdul Qaiyum:** We do not necessarily want paid Ministers.

**Mr. K. Ahmed:** Or high salaries, a few hundreds will do.

**Sardar Bahadur Captain Hira Singh Brar:** Is a matter to be decided by expert statesmen.

**Mr. K. Ahmed:** They in the Province will decide it.

**Sardar Bahadur Captain Hira Singh Brar:** Under these circumstances probably it will be said that the time has not yet arrived to extend the reforms any further.

**Mr. K. Ahmed:** What a nice idea!

**Dr. K. G. Lohokare** (Bombay Central Division: Non-Muhammadan Rural): Sir, the amendment that I have given notice of is as follows:

"This Assembly recommends to the Governor General in Council that he be pleased to arrange to amalgamate the settled districts of the North-West Frontier Province with the Punjab in order to secure for the people of these districts the benefit of the Reforms."

However, Sir, I see before me another amendment with the last clause cut off. I was not much in love with that last clause. I thought it would make the proposal relevant to the point under discussion and I inserted it, but I shall be pleased to move the amendment without that clause if the Chair permits me to do so . . . . .

**Sir Denys Bray:** May I ask, has the Honourable Member been allowed to move his amendment without the final sentence?

**Mr. President:** The Honourable Member may drop the final sentence if he likes. The Chair has no objection.

**Dr. K. G. Lohokare:** I am moving this amendment not with any communal motive or as a brief from anybody. I have put this amendment with a certain view I hold on the question. From the impressions I gathered when I was in contact with the Pathan regiments so long ago as 1904-1905 (*An Honourable Member:* "Too old!"),—those were the days when this North West Frontier Province was just separated from the Punjab.

**Mr. K. Ahmed:** Things are quite different now, Sir.

**Dr. K. G. Lohokare:** The impressions that I gathered in those days and the further literature which I have studied on the subject have led me to believe that in present circumstances this was the only solution.

**Khan Bahadur W. M. Hussanally** (Sind: Muhammadan Rural): But have you studied the literature that is current now?

**Dr. K. G. Lohokare:** Yes, Sir, I have read the current literature; and my impression is that since that time there have been certain developments during that period which have a very lasting effect upon the future of India. I mean the present Curzonian inheritance. This event, Sir, the separation of the North West Frontier Province from the Punjab is one of the Curzonian inheritances that we have before us, whose fruits we have now been preparing to enjoy along with such others of the same kind. So far I have not expressed and I am not at all inclined to express anything against the legitimate desire of the men of the North West Frontier Province of getting a share of the Reforms. I do accept that they ought to get a share of the Reforms like other parts of India; but at the same time, Sir, the circumstances of this Province are such that it leads me to believe that the solution of this question lies in getting the province retransferred to the Punjab so that they may get and derive the full benefit of the Reforms. The separation of

this Province came about in 1901. We have this Report before us, which puts it down not only as a settled fact but as an irretrievable measure. The Frontier Provinces Amalgamation Report before us lays down one principle in the pages of the Majority Report. That principle, Sir, is the inseparability of the settled districts of the North West Frontier Province from the tracts in the Frontier Province. That is the principle which is upheld in this report. It was this principle which was advocated in 1877. Politicians of imperialistic views wanted this principle to be introduced into the political goal of India in order, firstly, to be able to obtain possession of as much more country as possible and secondly to settle the Frontier problem once for all. This is known as the "forward policy".

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President, Diwan Bahadur T. Rangachariar.)

Imperial politicians holding these views took the forward policy in hand and tried to push it through in India at the expense of the Indian exchequer whenever they thought it best to do so or whenever opportunity offered. Subsequent Viceroy's have tried to check that policy sometimes, but every now and then the hand of Imperialism shoots forth, and we see the result of it in this separation of the North West Frontier Province from the Punjab. In 1901 this Province was separated at the express desire of Lord Curzon in spite of the dissenting minutes of the councillors of the Government of India and in spite of secret military despatches criticising this policy. Yet the policy was pushed through and the Secretary of State sanctioned it as a temporary measure providing that after some time the experiment should be reviewed. A committee was, however, appointed at the instance of this House and the result of the work of the committee is here before us; and the same principle is once more being affirmed—the principle of non-separability of the province from the tracts. And what is the cause, Sir? The Majority Report gives us the reasons. The people are one. That is one reason given. But everywhere people are one, in other countries people are one also and the people of the northern Punjab Districts and this province are one too. But there is another reason. From the hinterland the political officer has to control the forward policy. It is the "*forward policy*" that is to be continued to be pursued. It is absolutely necessary,—the majority think, that for this purpose, the political officials and the military officials should be in the hinterland, and they should pursue that policy by means of stratagems such as tribal subsidies, tribal militia and such other means. These stratagems are not now new in the history of India. They were first begun by our well known friend General Dupleix. Clive took advantage of it and keenly followed it, and we Indians have been victims of these stratagems every now and again. The policy that was to be adopted was this, that by means of subsidies and the local militia acquisition of new territory was to be pushed, with political officers and military commanders in the rear. I sincerely congratulate my frontier province countrymen on their success in keeping themselves out of the net of these devices. This forward policy was subjected to criticism and consequently the amount of money that was being spent from both the Indian and British exchequers upon frontier invasions had to be stopped. And where are we to-day? In 1877, Lord Lytton wrote that despatch. In 1891/92 imperialist politicians had the upper hand and the Durand Commission

[Dr. K. G. Lohokare.]

settled the Durand Line, and with that Durand Line decision the British Government took under their protection or rather assumed responsibility for certain tracts known as tribal tracts. That was then a settled fact; but after 1893-94 after the Durand line was a settled fact, the theory of the forward policy had to be kept in abeyance at least. I cannot say because I do not know whether it has been absolutely abandoned; it is not publicly known yet if it is abandoned; but from the results I see it is at least in abeyance. The policy is now not there. The prop that you wanted for that forward policy was that you wanted to keep yourselves in the districts behind; the purpose—the policy—for which you introduced these tribal militias and tribal subsidies is gone; the forward policy has gone and yet you maintain the hinterland base that was necessary to push that policy.

Secondly, it has to be noted whether that structure has been successful in attaining the purpose for which it was created. That is a question. What have these tribal subsidies done? Have they had any effect on the tribesmen in the way of securing the purpose of tribal militia and tribal contentment? That is the question. I have to reply to this, and I rely for that upon the strength of this Report. You will see yourselves from this Report at pages 137, 138 and 139 that in 1905 these tribesmen had about 20,000 rifles. By 1920 the number of their rifles rose to as much as 140,000 (*Nawab Sir Sahibzada Abdul Qaiyum*: "Self-manufactured rifles!") What of others! And for that manufacture at least whence did the money come? That is the question. The argument is: you want domination from the districts; in order that the tribesmen may be watched when they come down for the sake of purchasing commodities in the bazaar; there you want to put him down and catch hold of him. You want economic domination. We must know then whence he gets the money. (*Mr. M. A. Jinnah*: "How would you remedy that by amalgamation?") I will tell my Honourable friend how to remedy that. Stop subsidies! What I mean is this: has that system of tribal subsidies succeeded? That is the question. If my friend would be prepared to prevent these tribal subsidies. (*Mr. M. A. Jinnah*: "How would you prevent it?") That is the problem there and there lies my charge, Sir. (*Mr. K. Ahmed* made an interruption which was inaudible) Amusement indeed! The main purpose for which this variety of forward policy devices were started was to control from the interior the forward districts and to humanise the tribesmen. Whether that policy has succeeded in humanising them is the question. Whether by contact with a reign of terror we may succeed or whether by contact with highly organised civil government we can succeed is the question. The present administration is a political domination, full political control and full military law, so that on the spur of the moment any orders may be given either in the tribal territory or in the settled districts. Well, the situation cuts both ways. If you want to control tribal territory, why do you treat Peshawar and the other places in a way that they do not deserve? There is a little incident that I remember. In my younger days I took up the teacher's line and I had to teach a big zemindar's son. That lad would not learn well; he had a poor boy alongside of him as his companion and then when I told the zemindar that his boy would not learn, he wished me to scold this poor boy in order that his son might see how the other boy was being treated



and that might do him good. Is that the idea in that political and military domination, Sir? Because the tribal men are unruly, therefore punish these local peaceful men and put them under a reign of terror so that you will, as it were, be able to terrorise the tribesmen? Is that the idea? (Mr. K. Ahmed: "That is your own prescription, Doctor, not ours.") That is the prescription laid before me which I am simply reading. Is that prescription, as my friend described it, going to humanise these tribes? Well, Sir, I am doubtful. The results so far show otherwise. What is the number of crimes? The statistics show; the Administration Reports show. What is this increase in crimes due to? Is it due to a more general moral depression of the whole of mankind, or is it due to depredations from outside of some persons migrating there, or is it due to incentives of this sort of reign of terror? What is it due to? Have you succeeded in your humanising influence? That is the question I want to ask. If at all you care to bring these people under humanising influences the only remedy is to put these districts on one side of the yoke along with the adjoining province districts on the other side with which they were before, namely, the adjoining districts of the Punjab and the van of peace and progress will smoothly run. That is the only way which you will be able to humanise the greater part of the population here and create an incentive in the minds of the tribal people to pursue peaceful occupations and a settled life. Settled life and healthy occupation has to be shown as a model lesson in the neighbourhood. The tribes will then alone settle down. If you are not prepared to do that, you will have to accept the results shown here. And what are those results? Nomad life and crime! You say you have incurred expenditure on education, you say you have incurred expenditure on sanitation; but in spite of this enormous amount of expenditure, what is the result? In spite of this top-heavy expenditure, what is the result? That is what I want to inquire. Surely, if with all this double and top-heavy expenditure the result is not there, I think the ground of the argument of "inseparability" is completely washed off and you must be prepared to take these districts over from the North West Frontier Province and hand them over back to the Punjab.

Thirdly, Sir, the financial aspect of the separation has been shown by Resolutions that have been moved in this House and the other House some time before. I will simply point out to my friends here that forty extra executive posts have been created for the sake of maintaining the Province independently. Take the case of the Director of Public Instruction. I find in this Report that for the sake of five districts there is an educational Inspector called Director who is paid Rs. 2,200 to something like Rs. 2,500. Elsewhere in other districts of India he is paid something like Rs. 700 to Rs. 800 and even in the Punjab below Rs. 1,000, while you require here Rs. 2,200. And yet the Director of Public Instruction may make room for allowances for the Personal Assistant he has. Then, when you come to the medical service with a fat top, the subordinate medical service has a short list. There is no outlet for such subordinate services under that administration. These persons have to remain stagnating in the same place, the cadres being very small. You cannot get fresh men; neither can those men go out if they want to, and try and find chances for their betterment somewhere else. You thus spend enormously, and yet what is the result? Minus progress is the result!

**Mr. K. Ahmed:** Do it against their wishes.

**Dr. K. G. Lohokare:** Now, Sir, here is a threat put before me by my friend. I say you tack them on to the Punjab and then look at the result and a threat is presented. That is a threat that did not frighten anybody before at the time of separation. When this Province was taken away from the Punjab, how did my friend then think of this threat? Did these people then willingly agree to the separation of the province? I know it for certain that from 1903 to 1905 the Pathan and Afghan officers expressed their strongest disapproval against the separation of the Province. My gallant friend speaks only of one aspect of the matter and says that they lost the canal lands. Why did you lose them? Because you were not tacked on to the Punjab. If you were yoked to the Punjab, certainly you also would have got the canal lands immediately after the war. Sir, by the creation of a separate Frontier Province, the people of those parts have lost innumerable advantages which are enjoyed by the people of the Punjab. They have lost, Sir, many valuable advantages. Some of the people did not evidently realise this difficulty at the time of separation and that was evidently due to want of education. They did not realise then that if they had continued to remain in the Punjab, which has made considerable progress in all directions, they would have had as good a career before them as the people of the Punjab are now enjoying and that they would have been able to make much more remarkable progress than they could do in an isolated territory. Sir, they say the demand is for an isolated career. But I am sorry to say, that, keeping in view the national aspect, keeping in view the national goal before us, considering the advance of India as a whole, the demand that is now made is, in my opinion, likely to do a much more harm than good not only to them but to us as well. They have been hanging a large stone round their neck and going into a tank embracing us as well, so that both of us may drown together. The result will be sorrow for both. I, therefore, in my heart of hearts wish that these districts should go together, that the people of both the Punjab and the Frontier should be like brethren instead of their asking for a separate Council and working in an isolated manner. I have put before the House my own idea on the subject, so that we may find out a proper way together. If my friends think, Sir, that it is communal feeling or communal bias which has prompted me to take part in this debate I should request them kindly to believe in me and permit me to say candidly that I have no such feeling. Believe me, Sir, when I say that I am not in sympathy with any of the attempts of organizations which rouse communal bias or communal jealousy, nor am I an advocate of such sentiments. I, therefore, appeal to the House that for the common good of this country, for the common interest of our country, for the common defence of India, the districts of the North West Frontier Province ought to be with the Punjab. They ought to be under the same rule of the Punjab Government, so that the people of the advanced province like the Punjab may take their brethren with them and the combined progress of both may be accelerated. It is with that view, Sir, that I move my amendment.

**Mr. Deputy President:** Amendment moved:

“That for the original Resolution the following be substituted, namely:

‘This Assembly recommends to the Governor General in Council that he be pleased to arrange to amalgamate the settled districts of the North West Frontier Province with the Punjab in order to secure for the people of these districts the benefit of the Reforms.’”

**The Honourable Sir Alexander Muddiman** (Home Member): Sir, I should like your guidance on a point of order before we proceed further. Is it your intention to take the vote on this amendment and dispose of it first before we come to the main Resolution?

**Mr. Deputy President:** I cannot speak for the President who will come back presently, but I think a general discussion on all these propositions will be advantageous to the House.

**The Honourable Sir Alexander Muddiman:** Then am I to take it as your ruling, Sir, that the amendment is not to be debated by itself?

**Mr. Deputy President:** Yes, for the present. (*Several Honourable Members:* "Divide, divide. Government do not want to reply.")

**Sir Denys Bray:** Sir, I should like to be allowed to speak on the amendment only. The Benches opposite have not honoured me with their views, and it is very difficult . . . .

**Pandit Motilal Nehru:** You have not honoured us with your views.

**Sir Denys Bray:** I must confess it is one of the pleasurable surprises . . . .

**Mr. Deputy President:** The Honourable Member in charge has got a right of reply, but the Honourable Member may, if he so chooses, 5 P.M. confine his remarks to the amendment, but I have already said that the discussion now proceeds both on the main Resolution and the amendment.

**Sir Denys Bray:** I bow to your ruling, Sir. Mine has been a very pleasurable surprise this afternoon. From the rumblings that came from the many amendments, I expected the debate to run on somewhat different lines this evening. And I think it is largely due to the example set by my Honourable friend the Mover that the debate has proceeded with such an air of good humour and unanimity. It reminds me of that tag from one of Sheridan's Plays:

"When they do agree upon the Stage, their unanimity is wonderful."

The Honourable the Mover threw out a somewhat personal challenge to me. He wanted to know what my own views were and whether I stood by them. Of my own views on the many problems that faced us on the Frontier Inquiry Committee, I have no secrets to reveal. They stand plain and large in the Majority Report—too plain and too large, some have told me. Since that Report was written over three years ago, there have, it is true, been happenings, in this great country which, had I to put my signature to the Report to-day, might lead me to tone down a little here, to brighten up a little somewhere else. The high lights might be softened; the shadows might possibly be deepened, but the outline would remain the same. And the outline as depicted in the Majority Report is surely plain enough. In one matter assuredly there would be no change. Throughout the Report there rings one dominant note: that this North-West Frontier is an All-India concern, that its problem is an all-India problem and has to be treated not parochially but Imperially. You must think Imperially on your frontier matters. And if you think Imperially, you will be forced to eschew slight and easy decisions which communal or other bias may lightly suggest. You must look at both sides of the question. Heaven knows that is always difficult to do. But here even this is not enough. You must not

[Sir Denys Bray.]

look merely at the outside of a question like this. You must probe into the very heart and inwardness of it.

I had hoped myself when I went on the Frontier Inquiry that it might be within the compass of my power to help in the solution of this very difficult problem. For I went, of course, neither Hindu nor Moslem, but merely as a servant of India who has spent the better part of his life on the consideration of how best all-India interests can be served on India's frontiers, and beyond. And if I was foremost amongst my colleagues in preaching that this problem is an all-India problem and must be examined not parochially or communally but Imperially, it would ill become me to complain that Government should better my instruction, and decline to take light and quick decisions on a problem so vital to all-India, so difficult in its many complexities. It is of set purpose that Government have declined to hurry over a question which in its essence has taxed, indeed overtaxed, the best brains ever since the British took over the Frontier with the Punjab.

To a man like myself, who devoted no little time, Sir, to this Committee and who assisted as best he could in the compilation of its report—a report difficult to compile, somewhat difficult, I fear, to read and to master—it was somewhat irksome to a man like myself to find, that Government, of set purpose declined for instance, to allow the Report to be published for a considerable time. I admit it was irksome. Yet I admit that Government were right. There is no disguising the fact, Sir, that the question even before we faced it on the Frontier, engendered heat on the Frontier itself. It is hardly an exaggeration to say that we blazed a communal trail from one end of our Frontier journey to another. It would be idle to pretend that we ourselves on the Committee were not touched by the scorching of that heat.

(At this stage, Mr. Deputy President vacated the Chair which was resumed by Mr. President.)

The Frontier itself was rent in twain, the Punjab was rent in twain. And it came to myself as a great personal blow to read the debate on the controversy in the Punjab Legislative Council, a greater blow to examine the division list to find that the Mussalmans to a man went in one lobby and the Hindus to a man went in the other. I will say this of our own experience that, great though the communal division which we found, we found nothing quite comparable to that on the Frontier. This division in the Punjab Legislative Council was yet another warning to Government, another warning that on a matter like this, with its implications and its dangerous reactions, cautious deliberation was essential. Now, when the report was finally published after something like 18 months' delay, it created hardly a ripple. On all sides, Government received congratulations on the calm of its reception. The only complaints that reached my own ears at any rate were complaints from my friends in the Press that they had been deprived of what might have been admirable copy. Government had damped down inflammatory matter with the help of the all-damping hand of Time.

Small wonder that Government's success here fortified them in their decision to proceed with leisurely deliberation. It fortified them in turning a deaf ear to counsellors—I could mention one at least—who urged on them a little less deliberation. But let the most impatient of us give Government their due. Don't you think, Sir, that to Government is due *some*

measure at any rate of the success of this afternoon's debate, *some* measure of congratulation for the absence of heat this afternoon over a question that hitherto has roused such burning heat? Where is the cry for amalgamation with the Punjab *now*, that cry that once was live, that once rent the Punjab and rent the Frontier in twain? With all respect to my friend Dr. Lohokare, with all respect to the Mover of a similar amendment to come, I can say with great certitude that the cry is dead.

**Pandit Motilal Nehru:** So they hold.

**Sir Denys Bray:** Indeed I hardly know whether to treat this amendment with seriousness or not. For, in brief, how do we stand? I have often wondered myself what precisely provincial autonomy may mean. But can it mean *this*—that you are going to foist a province which wishes to live its own life upon a province which declines, and has openly declared that it declines, to take it over? The cry of amalgamation, Sir, is dead. I am almost tempted to regard my Honourable friend Dr. Lohokare who now attempts to raise it as some Rip Van Winkle who all these years has been asleep. (Laughter.)

**Nawab Sir Sahibzada Abdul Qaiyum:** The papers that have been received from the Frontier do not mention it.

**Sir Denys Bray:** As my Honourable friend Sir Abdul Qaiyum reminds me, there is not a word of it in this most voluminous mass of literature I have received in the last few days from our friends on the Frontier. Nay more. There is not a word of it in the amendment of that great champion of amalgamation, my Honourable friend Mr. Rangachariar himself. The cry of amalgamation is dead, and how my Honourable friends opposite can have been induced to bring it forward passes my wit to understand. Not all the eloquence of the Honourable the Leader of the Swaraj Party will be able to breathe life into those dead bones.

In passing I may remind the House of this. I have apparently been twitted with the fact that Government have not announced their decisions. Yet Government announced their decisions in this regard a full year ago. When I was empowered by Government to announce those decisions in another place, was there any communal heat engendered? Was there any great agitation seen arising then? Not a bit of it. The cry, I say, is dead.

And where if my Honourable friend Mr. Rangachariar will allow me to put the rhetorical question—where now is the cry (except in his amendment) for judicial amalgamation? Here again, I announced the decision of Government against it last year; and it was received, as far as I could see in the Press and elsewhere, without a dissentient voice. My Honourable friend knows perfectly well that Government have not only announced their decision for a Judicial Commissioners Bench, but that Government hope ~~very~~ shortly to announce the actual appointment of a distinguished member of the Frontier Bar as Additional Judicial Commissioner. And I have little doubt that that gentleman will adorn the new Bench and in fulness of time leave it with traditions formed that the Bench will not willingly let die. (Hear, hear.)

I claim, Sir—and mine is in a way somewhat unwilling testimony—I claim, Sir, that Government have been well justified in the deliberate deliberation with which they have dealt with this potentially dangerous case. And what still remains of the Majority proposals or, let me rather say, of the proposals of the Committee as a whole? In essence nothing

[Sir Denys Bray.]

but this—the question of constitutional reforms. Now, here, as the House well knows, difficulties bristle. One has only to look at the agenda paper. We have amendments ranging from a “unitary autonomous province” to a larger representation in the Central Legislature. I do not myself propose to attempt to deal with those very large words “unitary autonomous province”, for I feel here too that the amendment has been put forward in an atmosphere of unreality. This at any rate, I can say, that not until, not unless and until, a unitary autonomous province is created—I will not say in Madras or Bengal or Bombay—but in that which I myself, with the pardonable bias of an old Punjabi, regard as the most important, the most critical province of India, not until then need we seriously consider this amendment. But take even the more humble and workmanlike suggestion put forward in the Majority Report. Even over this difficulties bristle. We confessed it ourselves in the Report itself. We made it clear, for instance, that our proposals were impossible of fulfilment without an amendment of the Government of India Act. True I myself thought I had discovered a means of fulfilling our proposals without such an amendment. But my constitutional lawyer friends scoffed at my discovery. For my solution was simply this, that we should re-amalgamate the province with the Punjab and in the same breath cut it out again and carve it into a Lieutenant Governor's province. Yes, of course there are many constitutional difficulties. The whole subject bristles with difficulties of all kinds. There is that difficulty that has been mentioned by more than one speaker, the financial difficulty. As my friend, Dr. Hyder, has said, who on earth could ever expect the Frontier Province to pay its way? You might as well expect your army to be directly productive. But the difficulty remains, first whether a deficit province is contemplated under the Act at all, and secondly, if so, in what way that deficit could or should be made up, by an annual grant or by a readjustment of Central and Provincial headings, or how. These technical matters are beyond a man like myself. But even here we are advancing. We hope by next Budget to have got out a new major head of Border Watch and Ward, which by absorbing as far as possible the expenditure which is directed to Imperial needs, will present the true state of the purely provincial Budget in a truer light.

There is one other difficulty, which I have still to mention. It is of course ever-present to us all this evening, and that is the communal question. Well, as I suggested the other day in answer to a question, I think, by my friend Mr. Jinnah, Government have been awaiting this debate with great interest and great attention. And it is with great interest and great attention that Government will follow it, and its actions and reactions in the Press, in the Frontier, and in India at large. (Loud Applause.)

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I quite agree with the Honourable the Foreign Secretary when he says that the question of the Frontier Province is an all-India question and it is for this reason, Sir, that I crave your indulgence to say a few words on the Resolution before the House. Sir, really to me it looks very surprising that the question of extending what is known as the Government of India Act, which is the first instalment of responsible Government in India, should be considered as contentious or debatable for any province in India in 1926, when from the very beginning, since these Reforms were introduced, that is from 1921, we have been considering this

Reform Act, the Government of India Act, which is the first instalment of Reforms, as very inadequate and insufficient for the whole country. Both the first and the second Assembly have with an overwhelming majority passed Resolutions demanding immediately responsible government or at least a more substantial second instalment. The capacity and high standard of intelligence of the people of the North-West Frontier Province have been eloquently testified to not only by the majority but also by the minority of the members of the Frontier Inquiry Committee. Therefore, their capacity to run the Reforms, at least as efficiently as other provinces have worked them, cannot be questioned and debated. Even the Honourable Sir Denys Bray in his speech this afternoon and also in his speech which he delivered on the 16th March, 1925, in the Council of State, while opposing the introduction of Reforms in the North-West Frontier Province, did not say a word about the incapacity of the people of the Frontier Province to run the Reforms. My Honourable friend Mr. Rangachariar, who wrote a very elaborate minute of dissent on the Report of the Inquiry Committee, in the concluding remarks of his on page 94 of the Report says :

" Whatever might be the final result of the labours of this Committee, I wish to place on record my appreciation of the very fine qualities of both head and heart of the Muhammadan-Hindu population of this province whose vital interests are involved on the decision of the Government of India and the Secretary of State."

Now, Sir, there can also be no doubt that a very vast majority of the population of this province is hankering after the Reforms and they feel extremely miserable to find that, while the people of the sister provinces in India have got some share at least in the administration of the country, they are still treated like minors. In the Report of the Majority Committee on page 80 there is a passage about the talents of the men of the Frontier Province. It has already been quoted by my friend Mr. Ahmad Ali Khan and I would repeat a small portion of it for the information of the House. It runs as follows :

" The prospect on the Frontier, if all-India interests are tampered with and an attempt is made to crush the Pathan's will for self-determination in order to gratify the supposed interests of a tiny minority, we decline for our part to contemplate."

And certainly, Sir, it cannot be in the interests of the Government, if the legitimate aspirations of the guardians of the frontiers of India are not satisfied, to allow the fire of discontent to smoulder in the hearts of the freedom-loving Pathans, which is at least as dangerous as to allow smoking near a petroleum tank. Their patience is already exhausted and the highly unsatisfactory reply given by the Chief Commissioner to a deputation of the leaders of the province, which recently waited upon him, has only added insult to injury. It is high time that Government should realise the delicacy of the position and rise to their sense of duty and take immediate steps to satisfy the aspirations of the people who, in the words of the Majority Report, " did India supreme service during the critical years of 1914 to 1919 ". My friend the Honourable Sir Denys Bray has already said that this problem is a very difficult problem and that the Government have been considering it for the last so many years. I am really surprised to hear this. Has the intelligence of the Government of India become incapable of solving problems? If they cannot solve this problem of a small province even in three or four years? When other difficult problems come before the Government of India, we find that they are solved within a few days or within a few months. What is the difficulty in this problem which the intelligence of the Government of India cannot solve in so many years? (Laughter.)

[Maulvi Muhammad Yakub.]

I do not propose to take up the time of the House by discussing the various forms of Reforms and the objections and their answers. They have been fully discussed in the Inquiry Committee Report and the minutes of dissent which, I believe, have been carefully gone into by the Honourables of the House. This Report, as we know, was signed on October 9, 1922, and it was not published deliberately, as the Honourable the Foreign Secretary said this afternoon, until the 24th March, 1924. The reasons given by Sir Denys Bray for this deliberate delay are given in his speech in the Council of State on page 575 of the proceedings where he says:

“Government are fully alive to the great issues that are at stake, the great issues that were before us on the North-West Frontier Province Inquiry Committee and Government are very anxious that a right solution of them should be reached as soon as may be. Herein, I suggest, lies one of the reasons for that delay which my Honourable friend Mr. Raza Ali asked me to explain. There is first the great importance of the issue. And there is, then, that other reason which my friend Mr. Natesan evidently anticipated I would give. The publication of the Report was delayed deliberately and on a set purpose. There is no getting away from the fact that our inquiry engendered communal heat on the Frontier. It engendered some little communal heat, I regret to say amongst ourselves. It engendered great communal heat in the Punjab Legislative Council. It engendered heat also in the Press and wherever politicians do congregate.”

Now, Sir, I ask the Honourable the Foreign Secretary whether the inquiry instituted by the Lee Commission did not engender some little communal heat between Englishmen and Indians, whether it did not engender heat in this House and whether it did not engender heat also in the Press? Why did not Government delay the publication of that highly contentious report in order to avoid the stir which its publication did create in the country? The reason is obvious. Where it is a question of satisfying the aspirations of Indians you find a hundred and one excuses for delaying them, but when the benefit goes to the Englishman you do not care a fig for the cry raised against it throughout the country. In the course of his speech in the Council of State the Honourable Sir Denys Bray stated that the Government had set out to solve this difficult problem and this was also the burden of his speech this afternoon, and the reason given was that the Government would have shown scant courtesy to the minority if their proposals had been so treated. Now, Sir, here the minority consisted only of two members, while in the case of the Reforms Inquiry Committee presided over by the Honourable the Home Member, the minority consisted only of one less than the majority, but no courtesy was shown by the Government to this minority report and the Government did not trouble about the more difficult problems contained in the report of that minority. On the other hand the Secretary of State for India thought that it was not even worth considering. What is the reason for this difference in treatment between the two? It is quite clear. In the former case the minority recommended a retrograde step and therefore it was considered worth showing courtesy while in the latter case the minority proposed a step forward and therefore it was looked down upon. Sir, I am not going to answer the objections that the Honourable Members may have against the introduction of the Reforms in the Frontier Province, because at present I am concerned with the Government and not with the Honourable Members of the House. Nearly all the objections raised or that might be raised by the Honourable Members were carefully considered by the majority report of the members of the committee appointed by the Government, and rejected by it for very strong reasons.



I wish here only to examine the reasons given by the Government for the delay in giving effect to the recommendations of the majority report. The only reason given by the Honourable Sir Denys Bray on behalf of the Government, in the Council of State, was that the delay was caused by the communal heat which might be engendered. I ask the Government if they have ever delayed the enforcing of any measure for the simple reason that it would create communal heat. Do you mean to say that you would refuse to satisfy the just claims of 97 per cent. of the population, as you said in your own report, "in order to gratify the supposed interests of a tiny minority"? There can be no justification for introducing the Reforms in provinces where the Muslims are in a tiny minority when you refuse to introduce them in a province where other than Muslims happen to be in a small minority; and of the eleven provinces in India the Frontier is the only province where my co-religionists happen to be in a big majority. Is it not sheer injustice that you deprive them of reaping the fruits of the majority even in this province?

The other point which was raised by the Honourable Sir Denys Bray was about the financial difficulties. It has already been dealt with by my friend, Dr. Hyder, but in addition to that I would also submit that the question of finance has never come in the way of the Government of India when they want to do anything. Only the other day, in spite of the financial difficulties, we heard that one commission and one committee were appointed, and we find that lakhs and crores of rupees are recklessly spent on these committees and commissions. If you want to do anything you can provide money for it, but if you don't want to do anything you always say there are financial difficulties.

There is an amendment tabled on the agenda in my name, but I find that the people of the Frontier Province are as much against that amendment as they are against the amalgamation and therefore I think it would not be wise if I were to move my amendment.

In conclusion, I will only say this much that as my friend, Syed Murtuza, the Mover of this Resolution, has said, this Resolution will serve as a touchstone. It will not only demonstrate that the responsible officers of the Government of India do not stick to their words, but it will also go to show whether the position which was taken at Aligarh by that arch-tyrant of Bengal, Sir Abdur Rahim, was right or wrong, and no one would be more pleased than myself to see that the fears and suspicion of Sir Abdur Rahim prove to be false and unjustifiable.

With these words I support the original Resolution.

**Mr. Bipin Chandra Pal** (Calcutta: Non-Muhammadian Urban): I had no mind, Sir, to intervene just at this stage in this discussion, but my Honourable friend here, Maulvi Muhammad Yakub, has almost thrown a direct challenge to some of us from Bengal, by bringing in Sir Abdur Rahim in this debate.

**Nawab Sir Sahibzada Abdul Qaiyum**: You always find some excuse to speak on a subject.

**Mr. Bipin Chandra Pal**: Well, Sir, I was not seeking any excuse for the simple reason that my sympathies are entirely (will that please him?) with the Mover of this Resolution. I am a Hindu, I am a member of the Hindu Sabha, I am a supporter of the Sanghathan, and I have done and am prepared to do my little bit so far as these movements are concerned in Bengal,

[Mr. Bipin Chandra Pal.]

but I am a Nationalist, an Indian first and a Hindu next. My friend, Sir Abdul Qaiyum cheers me, I shall be thankful to him and to Providence if he will also make the same confession that he is an Indian first and a Mussalman next.

Now, Sir, when I read this Resolution I found that the situation was very difficult, exceedingly difficult for all concerned, difficult for us on these Benches. I don't know whether it is very easy for my friends on those other Benches. That it is not easy for them any more than it is easy for us, is proved by the exceedingly diplomatic silence of, and a speech that is more silent than silence, that we have had from my Honourable friend the Foreign Secretary. He has won his laurels. I think the foreign affairs of India are too cramped, too limited for the wonderful capacity of Sir Denys Bray. The position is very difficult, it has been made difficult by the amount of literature that has been showered upon us. We have been told of the difficulties of the Hindu minority in the North-West Frontier Province. They are not imaginary difficulties. We remember Kohat; we remember the difficulties that do exist . . . .

**Maulvi Muhammad Yakub:** And we remember Shahabad and Kartarpur.

**Mr. Bipin Chandra Pal:** Yes, to our discredit, to the common discredit of both the Hindu and the Muhammadan, we remember these detestable instances in different parts of India. I do not blame the Muhammadan; I do not blame the Hindu.

**Mr. K. Ahmed:** Don't you?

**Mr. Bipin Chandra Pal:** I think the best way to deal with my friend there is not to take any notice of him except when he makes a very intelligent remark.

**Mr. K. Ahmed:** Did you not kill a man on last Bakr-Id day at King George's Dock, Calcutta?

**Mr. Bipin Chandra Pal:** He asks me if I killed a man on Bakr-Id day, was he a Hindu or a Mussalman? That is not the question. These incidents are happening and these incidents will happen until we have got trained in the real nationalist mentality. Now, Sir, I found, not in your Legislative Chamber, but outside this Chamber, in all our conferences and congresses, for the last 25 years and more we have found prominently hung up a grand motto—"Home rule is our birthright". Now is it true or is it not true? If Home rule be my birthright, it is also the birthright of my Honourable friend Abdul Qaiyum and of others; it is the birthright of the people of the North-West Frontier Province, as much as it is the birthright of Bengal and the United Provinces and other places. (Hear, hear.) And what is a birthright, Sir? A birthright is not a right conferred upon us by any one, it is not even a right that is acquired by us by our merit or achievement. It is a right that comes to us with our very birth. If this be true, then, no one can raise any question regarding our qualifications for the exercise of this birthright. We resent the raising of the question of our fitness or unfitness for Home rule. When you accept anything as your birthright, you put out of court all interrogations whether you are fit or not fit for it. No pecuniary qualification, no educational qualification, yes, Sir, I will go further and say no pretence to civilization or barbarism, can deprive a man of his birthright to manage his own affairs—his demand for

what you call Home rule. (Hear, hear.) If that be true, and I have always stood by it long long before many of my friends; I have always stood by it, and I stand upon this fundamental principle here, in regard to this matter. Every province, every people has a right to manage its own affairs itself. What about the minority? It is asked. I feel no less than any Member in this House for the difficulties of the very small minority of Hindus in the North-West Frontier Province, but I will tell them, and I hope they will accept it from me in good faith, you must accommodate yourselves to the majority of the province as the minority of Mussalmans in Madras and elsewhere must accommodate themselves to the majorities of those provinces. You must do it. And unless you do it, do not talk of Home rule. Unless you are prepared to accept all the inconveniences and disabilities and even the penalties due to your being in the minority, then do not talk of responsible government; unless you do it, do not talk of Swaraj and of self-governing dominion status. This is the plinth and foundation of responsible or representative Government, namely, that the majority shall rule in every country. This is democracy. My friend the Home Member shakes his head. Evidently he does not believe in democracy. Well, if I were in his position perhaps I would also find it difficult to believe in democracy. (Laughter.) Democracy is increasingly difficult for those who sit in high places and rule their brother man. That, however, is not the question. We cannot refuse to admit that the rule of the majority is the rule of democracy. And if we want self-governing dominion status or Swaraj, we must concede these elementary principles of democracy to whatever people may ask for them.

My next argument in favour of this Resolution is this, namely, that granting all that is said against the North-West Frontier people, we committed—I think I am talking imperially now—we committed a great blunder, not now, but when we were led by the statesmanlike or unstatesmanlike imagination of the late Lord Beaconsfield when he went out in search of a scientific frontier. That was the ruin of the whole of our frontier policy. Lord Lytton went out in search of a scientific frontier, and since then we are having all these tribal barriers, all these complications on the frontier. But we cannot undo that now, we have to work out our own *karma* as the Indian people, subject to the authority of Great Britain. We have to reap the evil or the good of the *karma* of our masters and that scientific frontier is responsible for all these complications. But we must recognise this also, that unless this frontier is educated, unless this frontier is brought into line with us, it will always stand as a menace to the peace and progress of India. That is a fact which you cannot go away from. It has been said, and no one is more conscious of the difficulties of this frontier problem, except the Foreign Secretary, than this poor journalist. I have tried to imagine things, not to know always; I am not allowed to know. A few years back I was not allowed to know things in Delhi also, much less in the Punjab. I was not allowed to go to Delhi nor go to the Punjab, much less to the frontier, but I had imagination enough to understand the difficulties of the Frontier Province. At the same time I believe that if you have a discontented population in your North-West Frontier Province, whatever money you may spend upon the administration of your North-Western border will be misspent and absolutely thrown away. You have to satisfy the people there. I do not know if all the people want the thing that Nawab Abdul Qiyyum wants. Nawab Akbar Khan tells us another story. Of course we do not know anything about that. But this demand

[Mr. Bipin Chandra Pal.]

we have no right to refuse. If Nawab Akbar Khan can prove to the satisfaction of the authorities that the majority of the Muhammadans in the North-West Frontier Province do not want this reform, then it will be for the Government either to grant it or refuse it, but here we in this Assembly have no right to refuse to accept and support the Resolution that has been moved by my Honourable friend Syed Murtuza Sahib. With these words I support this Resolution.

**Mr. K. Ahmed:** I move, Sir, that the question may now be put.

**Mr. President:** If Honourable Members wanted the Chair to accept the closure they should not have got up in large numbers at first. It is impossible for the Chair to accept the closure at this moment when there are leaders of important parties who have not yet spoken.

**Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I have followed the debate with all the care and attention that the subject demands, and I rise to express my thoughts on the Resolution with a full sense of the responsibility which attaches to anything I say on this subject. I say at once that I am opposed to the Resolution as it stands. (*An Honourable Member:* "Shame.") Shame, very well, to whom? That has to be decided. The one appeal which I will make to all my friends, the Members of this House, is that they should hear what is to be said on the opposite side with patience and courtesy. Never was a subject brought before this Assembly in recent times which more deserved to be discussed calmly and to be considered dispassionately. I am not speaking here as only a Hindu. I am not speaking here as one anxious only for the fate of the Hindus who live in the North-West Frontier Province. I venture to think that the question is of much greater importance than the fate that might befall the small minority of Hindus in the North-West Frontier Province. I entirely agree with the Honourable the Foreign Secretary in the view that this is a matter of all-India importance. I also share the view that this is a matter of supreme importance to the defence of India. That being so, the ordinary canons which apply in other areas have to be applied with greater care and caution here. On the general question of the introduction of self-Government I may say that I am at one with my Honourable friend Mr. Bipin Chandra Pal, that in every place and in every country home rule or self-government ought to be the rule. But there is a very important qualification which has to be taken into account. Home rule, national government, self-government is a very civilised form of government. Even in primitive forms of society where the people were compact and united they took up home rule and enjoyed it. If there was no complication introduced by communal strife they went on happily under home rule. But, where religious or communal differences are acute, home rule becomes more difficult. Here we are not writing on a clean slate, we are not dealing with a population which is homogeneous. We are dealing with a province which does unfortunately contain elements which are not homogeneous, and where religious and communal differences are very acute; and in considering what form of government would be most suitable for such a population we have to take into account certain hard facts. The fact of outstanding importance which has to be considered is what is the state of feeling between the two important communities which inhabit the province.

Along with that it has to be considered whether that state of feeling is temporary, ephemeral, due to accidental causes which appear once in a life time, which fortunately are very rare and remote, or whether it represents a more persistent and dominating feature in the relations of the two communities there. That point of view I submit is of great importance. There are two ways in which Governments are established and carried on. One is by the might of arms, the second by the consent of the people concerned. The first is the old way when people were left to themselves. The stronger community could choose to rule over the weaker as it liked. If the minor community was able to stand the onslaught of the major community in spite of its small numbers it would subsist and live. If it could not, it would subordinate itself to the major community and adjust its relations with it. That way of deciding the fate of a people is not permitted now to exist within the dominions over which the King's flag flies. The Government have established British administration in certain parts of India. Wherever British administration has been established the rule by which the stronger community dominated over the humbler or the weaker one has been checked, put a stop to, prevented. We are considering the second form of government, government by consent, with the sanction of the sovereign power. Now the question here is what is the form of Government most suited to the province in question? The answer depends largely on what is the permanent feature of the relations between the Hindus and Muhammadans in the North-West Frontier Province. I will come to the other aspect, the aspect of the defence of India, later on; but I want, to begin with, to draw attention to the relations which subsist between Hindus and Muhammadans.

My Honourable friend Sir Abdul Qaiyum in appealing to us to support the proposal for reform said: "We want to be your brethren; treat us like your brethren". I most sincerely wish those words to prove true in practice, not only in the life of my Honourable friend but in the lives of all of us, Hindus and Muhammadans, generally in the North-West Frontier Province and everywhere else. That has been our cry. I have now been in public life for forty years and I have never been guilty of desiring to promote discord between Hindus and Muhammadans. I have seldom if ever advocated the cause of Hindus as distinguished from the cause of Muhammadans either in the National Congress or the local Legislative Council of which I was a member for many years, or in the Legislative Assembly. I do not remember any time when I have entertained any thought of hurting my Muhammadan fellow-countrymen. I should be ashamed of myself, I should be ashamed to think of my God, or to appear before Him, if I ever cherished the smallest thought of injuring any of my Muhammadan or Christian brethren.

**Mr. K. Ahmed:** Do you realise it?

**Pandit Madan Mohan Malaviya:** Now, Sir, that is the spirit in which I approach the problem. But what are the facts. I wish the facts were as the words of my Honourable friend Sir Abdul Qaiyum would lead one to believe. I very much wish they were. But what are the real facts? This Frontier Province was a part of the Punjab since the Punjab was amalgamated by the British Government. Up to 1901 it continued to be a regulation province. Unfortunately then—as I think by a great mistake—this Province was made a separate province. I

6 P.M.

[Pandit Madan Mohan Malaviya.]

think a great wrong was done to the people of the Province when that was done and the Secretary of State when he sanctioned this proposal felt that a great wrong might be done by it. The majority of the Frontier Inquiry Committee quote at page 34 of their report from the Secretary of State on this point. They say:

"The Secretary of State, in sanctioning the general idea underlying the proposal, stated thus:

'But in the case of the settled districts, which you propose to detach from the Punjab, it is clearly undesirable that the people who had already enjoyed benefits of a highly organised administration with its careful land settlements, its laws and regulations, and the various institutions of a progressive civil government, should be thrown back from the stage which they have already reached. The Governor of a large province not only possesses a special and large experience of British administration but can summon to his aid and counsel heads of departments and Commissioners of Divisions whose advice may be of the utmost value. The Governor General's Agent will not without special arrangement be able to count on such assistance. I have not overlooked the fact that Your Excellency intends to draw upon the Punjab for skilled officers in the subordinate branches or in the technical departments. But I am not satisfied that this will meet the whole case. For the important question of superior direction remains to be dealt with.'

"And finally when he conveyed a general sanction to the detailed scheme which went up in 1901, he observed:

'that for the time being it could only be regarded as experimental and that its actual working would have to be carefully considered.'

That was how the scheme was sanctioned, Sir, as an experimental measure, and notwithstanding the very strong opinion which my Honourable friend Sir Denys Bray has expressed to-day, that the question of re-amalgamation of the Frontier Province with the Punjab is dead, I venture to think that that question is not dead and may yet come up for reconsideration. Without any disrespect to my Honourable friend the Foreign Secretary, I may say that a man greater than he once said that the partition of Bengal was a settled fact; yet settled fact was unsettled by the King-Emperor coming and laying the foundation stone of the capital at Delhi. But that is by the way. I only wish to draw attention to the fact that when the Frontier Province was separated from the Punjab, a great wrong was done to the people of the settled districts which now constitute that Province. And what has been the consequence? Crime has increased there since that time. Many other evil results have followed. For twenty-five years the people of the North-West Frontier Province have been kept from the advantages which flow from a regular administration of justice and from a regular system of Government. During this period their fate has been worsened. I am in hearty and real sympathy with the Muhammadans and Hindus of the North-West Frontier Province in the calamity which has befallen them in their being made a separate province. But now let us take the fact as it is. That action has had its results. The progressive and civilising tendencies of a regular administration have not been in operation in the North-West Frontier Province for the last twenty-five years; and the administration which was put in its place has not been successful in giving them a better system. The success of an administration does not lie merely in the fact that the Government authorities are able to put down rowdyism or to suppress mutinies or riots. It lies in the amount of culture, of civilisation, of progress, in the ways of civilised government and of ideas of citizenship which have been inculcated in the minds of the

people concerned; and I submit that in these respects the North-West Frontier Province has been unfortunate. But it is so and we have to take facts as we find them.

Now, Sir, during these years many untoward events have taken place. I will refer only to a few of them. In 1910 Sir George Roos-Keppel was Chief Commissioner at Peshawar. No, I shall begin with 1909. In 1909 there was an accidental fire at Kohat and the loot of Hindus followed, and the local Muhammadans joined in the loot on an extensive scale. In 1910 Sir George Roos-Keppel went on leave. Shortly after that there was a loot in Peshawar; Hindus were deliberately looted; there was a great deal of property lost; some people estimated it as more than fifty lakhs of rupees, others at less, and the Hindu population was driven out of Peshawar and had to remain in exile at Rawalpindi and at other places. Hindus formed nearly 16,000 of the population, men, women and children. They remained in exile for a year more or less at Rawalpindi, etc. That was in 1910.

**Nawab Sir Sahibzada Abdul Qaiyum:** Will the Honourable Member quote the authority where these numbers are given?

**Pandit Madan Mohan Malaviya:** The authority is my friends from Peshawar who have come and told me this.

**Nawab Sir Sahibzada Abdul Qaiyum:** And who are certainly in the gallery now. I simply want to know how the Reforms will take away the powers of control of law and order from the hands of the authority and hand them over to the Council of which my Hindu brethren are afraid. The second question which I should like to put . . . .

**Mr. C. S. Ranga Iyer:** On a point of order, Sir. Is this question time?

**Mr. President:** The Honourable Pandit has given way, and the Honourable Nawab Sir Abdul Qaiyum is in order in putting the question.

**Nawab Sir Sahibzada Abdul Qaiyum:** The second question is whether the Kohat riots, to which the Honourable the Pandit refers, were not traced to something like the Hindu Sabha and Sangathan movements, according to official inquiry, and to the circulation of certain books?

**Pandit Madan Mohan Malaviya:** I have not come to Kohat. My friend is getting impatient. I beg him to listen to me patiently, and when he has heard me, then to express his opinion . . . .

**Nawab Sir Sahibzada Abdul Qaiyum:** What I cannot understand is this, how is this poor Council to bring about all these worries for the Hindus? I cannot understand this.

**Mr. President:** The Honourable Member is not entitled to make a speech. He has put his question and it is for the Honourable the Pandit to answer them or not.

**Pandit Madan Mohan Malaviya:** Now, Sir, in relation to this loot in Peshawar, it was stated in the *Frontier Advocate* which used to be published at that time in Dera Ismail Khan, that some of the looters openly said that some Muhammadan leaders at Peshawar had told them to loot the Hindus. The columns of that paper would still show that fact. It was also said that there was a party at Peshawar which had great admiration for Sir George Roos-Keppel, and it was believed that that party wanted to

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show that Sir George Roos-Keppel was a strong officer and that he should be called back. (*Sir Denys Bray*: "Shame.")

**The Hon' urable Sir Alexander Muddiman**: It is a very improper remark to make when a man is dead.

**Pandit Madan Mohan Malaviya**: Is he dead? I beg your pardon; but I have not said a word against him; and I would ask the Honourable Member and the Foreign Secretary who cried "shame" on me to say what word I have uttered against Sir George Roos-Keppel. I appeal to you, Sir, and I ask Sir Denys Bray to say what word I uttered against Sir George Roos-Keppel that he cried "shame" on me.

**Sir Denys Bray**: I myself, Sir, cried "shame" not because of the reference in particular to Sir George Roos-Keppel, but because I regard this recitation of allegations of past events in the province as most undesirable. The figures he has adduced I believe to be entirely incorrect, and the whole colouring to be wrong.

**Pandit Madan Mohan Malaviya**: I submit, Sir, the Honourable Member was entitled to say what he has said, but he was not entitled to use the word "shame"; he ought to measure his words according to the context of the discussion.

Now, Sir, what I said was that there was a party which wanted to show that Mr. Merk was a weak man and it was said that that party encouraged the loot. I take the fact that there was this loot at Peshawar. I have not said and, what is more, I never intended to say a word against Sir George Roos-Keppel. What I said was and I repeat it that there was this loot at Peshawar; property worth fifty lakhs or less was looted, and Government perhaps paid some money in order to compensate some of the men who had suffered. This is what happened in 1910. 16,000 was given to me as the approximate number of Hindus, of men, women and children in the population of Peshawar, most of whom left Peshawar and found shelter in Rawalpindi, etc. Some of them remained in Rawalpindi throughout the year, and many of them remained there for some months.

The second event to which I would draw attention was that of 1919. There was an Afghan invasion. General Nadir Khan came and for three or four days local Muhammadans looted the Hindus and the forces of the invaders joined them. Small fines were imposed by Government on the local Mussalmans. But there again there was a loot of the Hindus by the local Mussalmans. That is the point to which I am inviting attention. In June 1919 the Waziris attacked the Hindus of Gomal; the local Mussalmans joined them in the attack; the population was still largely in exile in Tank. In 1920 about five hundred raiders, Waziris, attacked Kirk, Tahsil Tehri, in the district of Kohat. Local Muhammadans joined the raiders in looting the Hindus. And, in September 1924 we had the Kohat riots. Now, assuming the utmost that has been urged against the Hindus in those riots, namely, that there was a pamphlet put into circulation which had excited the Mussalmans, and that some Muhammadans were excited by it, the fact remains that the incendiarism and loot which took place on the terrible scale on which it did was most deplorable and condemnable. Now, Sir, these are events . . . . .

**Nawab Sir Sahibzada Abdul Qaiyum**: But the Hindus began by firing at children.



**Mr. K. Ahmed:** Who began the firing first, Sir?

**Pandit Madan Mohan Malaviya:** Sir, my friend unnecessarily interrupts me. I wish to place only indisputable facts before the House as they are worthy of consideration in view of the importance of the question that is before us. That represents the attitude of the masses of Mussalmans towards their Hindu townsmen. As regards the educated classes there is unfortunately a party of them also which is opposed to the Hindus. I am told that in 1922 my Honourable friend Sir Abdul Qaiyum himself—I should like him to say whether it is correct or not—said at a conference which was held at Government House at Peshawar that the best way of putting an end to the raids, etc., was to ask the Hindus and Sikhs to go out of the North West Frontier Province. . . .

**Nawab Sir Sahibzada Abdul Qaiyum:** I have asked the Honourable Member to quote his authority for the statements he makes. His only authority appears to be that of those who are sitting in the galleries. He is making statements based on private conversations which he had with friends outside. I would ask him to cite his authority for the statements he makes..

**Pandit Madan Mohan Malaviya:** I should be very glad indeed if my Honourable friend would say that that statement is incorrect, and I will apologise to him. . . .

**Nawab Sir Sahibzada Abdul Qaiyum:** It is entirely incorrect.

**Pandit Madan Mohan Malaviya:** I should tell my friend that Nawab Major Akbar Khan told me this before Baba Prem Singh and several others. He told me that this was a fact.

**Nawab Sir Sahibzada Abdul Qaiyum:** I hope, Sir, the Honourable Member will not drag in the name of an outsider into this debate. Let the outsider fight out the matter outside this House. I trust he will not quote private letters and conversations in support of his statements.

**Pandit Madan Mohan Malaviya:** I may also tell Sir Abdul Qaiyum that I have been told that Colonel Bruce was also present, and he said that the Hindus were also the subjects of the British Government and that such a suggestion should not have been made. Now, Sir, I mention these unfortunate facts with great regret but it is necessary to know the state of feelings that exists in the Frontier Province. It has been repeatedly said that there is a party of Mussalmans in the Frontier Province which is distinctly of opinion that Hindus and Sikhs should go out of the Province. I shall be very happy, as I have said, to know that these allegations are wrong, and if they are I shall most sincerely apologise to the House and to my Honourable friend for having referred to this matter.

Sir, I have invited the attention of the House to the fact that during the last 15 years there has been a series of fires and loot in the Frontier Province, and that the Hindus have been the victims in all these cases. But I do not mean to say that that is a ground for refusing to introduce self-government or reforms in that Province. I do not mean to say that that

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is a ground which disqualifies the people for all time from having self-government. I refer to these matters in order that we may judge whether the conditions essential for self-government, that is government by general consent, have been established. And on this point I will quote from the present Chief Commissioner himself. In reply to the address which the Provincial Muslim Deputation presented to him on the 25th of November last, the Honourable Mr. Bolton said with reference to their prayer that election should be introduced in local bodies :

"I am theoretically entirely in favour of this measure and that I have not been more active in putting it into practice, is due to one fact only and that is the communal strife that has resulted from the introduction of communal representation elsewhere, and has threatened to develop here, whenever the question of election to local bodies has been mooted. As soon as there is a demand for election, not from Muhammadans in order to promote Muhammadan interests nor from Hindus to promote Hindu interests, but from the citizens of say Peshawar as a whole in order to improve the municipal administration for the benefit of the city of (say) Peshawar, I will enter whole-heartedly into the scheme. But as long as elections are pressed for on communal grounds only, I am inclined to think that we are better off as we are."

Regarding the question of greater communal representation in Government service also, he said :

"The next question is that of Government Service in regard to which I am sorry to see you adopt again a communal attitude. An examination of the representation of the different communities in the higher services of this Province, executive, judicial, etc., shows that Muhammadans already hold a higher percentage of the posts than could well be adopted under any communal scheme. In the ministerial services in some offices the percentage is very much lower, but you must remember that it is only in recent years that educated Muhammadans have become available. At the last Census there were actually far more Hindus literate in English than Muhammadans in the Province. Among recent recruits the Muhammadan percentage is very much higher. Though I would prefer that Muhammadans should rely on their own merits for selection, I am contemplating the issue of some orders fixing minimum percentages of recruitment, and it follows from this that there must also be maximum percentages."

The Honourable the Chief Commissioner then went on to refer to another complaint of the Muhammadans. The Muslim Deputation had complained that 30 per cent. of the police had been recruited from among the Hindus and Sikhs. That was after the Kohat riots. In the Kohat riots it was found that because the police was mainly Muhammadan, and because the Frontier Constabulary was also Muhammadan, therefore the Hindus and Sikhs were not sufficiently protected. The Hindus did not want to return to Kohat until the Government gave them safeguards against their being again exposed to the same danger, and one of the safeguards they asked for was that for some time at any rate until normal conditions were established, the Government should appoint 50 per cent. of the police from among the Sikhs and Hindus. The Government agreed to appoint 30 per cent. in the towns and cantonments, but my Muhammadan friends complained of it. They showed much concern about this matter as will be clear from the Chief Commissioner's reply. He said :

"Your concern at the increase of Hindu recruitment to the police is probably due to the misrepresentation of the orders issued which I have seen in some Muhammadan journals. The orders were to the effect that 30 per cent. of the Hindus in towns and cantonments should be Hindus and Sikhs. This is little if at all in excess of proportion of the population in towns."

Now, Sir, I have drawn attention to this expression of opinion of the Chief Commissioner to show that he too feels oppressed by the presence of an intense communal feeling in the Frontier Province. The facts to which I have drawn the attention of the House are important. It cannot be denied that from time to time local Muslims have attacked the Hindus as a whole, that in the loot to which I have referred it was not Muhammadan houses that were plundered but Hindu houses, and that even among educated Muslims an influential party is unfortunately unfriendly to Hindus and Sikhs. In this state of things, it is for the Assembly and the Government to consider what is the right course to adopt. I am not, as I have said, opposed to reforms, altogether, but I submit that the Resolution before us which asks that Reforms which obtain in other parts of India should be introduced now in the Frontier Province is premature. I submit that the best course to adopt is, that when the time comes, as I hope it soon will, for considering the question of further reforms in India as a whole the facts relating to the Frontier Province should be fully examined and the Commission should be asked to recommend in what form and to what extent self-government should be established in the Province.

Now, Sir, on the second point, and it is not of less importance, it has to be remembered that the Frontier Province is a place which has to be specially guarded if India has to be properly defended. Therefore whatever measure of reforms is introduced,—and I repeat again that I am not opposed to the introduction of self-government in some form or other in the Frontier Province,—but whatever measure is proposed to be introduced should be carefully considered. I wish that the representatives of the Government and Hindu and Muhammadan leaders should sit together and consider the various points and find out and recommend what the reality of the situation demands. It is no good simply decrying a particular view because it does not agree with your view. The facts have to be examined, and if the Government and the leaders of public opinion as represented in this House will sit together and find out what is the best way in which our Muhammadan fellow-subjects could be given every opportunity for self-development and the interests of our Hindu fellow subjects could also be adequately safeguarded, it would be entirely satisfactory and should meet the wishes of all parties.

To say offhand, on a discussion of a Resolution of this nature, that the present scheme of Reforms should be extended to a province of the importance of the North-West Frontier Province is, I submit with great respect, not the correct way. The opposition which I make is not to the principle of the extension. The opposition which I offer is not prompted by the mere fact that the Hindus are in a minority there. I do not say that Reforms should not be introduced there for that reason. I have never suggested that and will never suggest it. I earnestly hope and pray that communal differences will subside. I myself believe that the right thing for the Hindus and Muhammadans to do is to forget and bury communal quarrels, to discard communal selfishness and prejudice, and to live the larger, nobler life of citizens. I am pleading for that life. I consider that it is the duty of Hindus as well as Muhammadans and Government officials to see that the idea of citizenship develops among all our people. I should be happy if some at least of our time should be employed in devising measures which will promote ideas of citizenship throughout the land. We have to work to establish that the Hindu, even when he is in a minority of only 6 per cent. in a population, should feel secure that his honour and liberty and property are safe in the keeping of his fellow-citizens among

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the Mussalmans, and the Mussalman should feel that his honour and liberty and property are safe in the keeping of the Hindus where they are in a majority.

To come back to the Resolution, I submit, Sir, that the question has to be considered from the point of view of local conditions and the importance of the Province to the Empire. All I have drawn attention to is meant to show that the question deserves to be studied very carefully. I am very sorry to have had to refer to matters which I knew would be unpleasant and disliked. The House is right in not wishing to hear disagreeable things, but I had a duty to perform. When an important question like the one before us is being discussed, it is our duty even at the risk of being misunderstood to bring facts to the notice of the House and of the Government which have to be considered and which have to be provided for. That does not mean opposition to Reforms. It means that all the conditions of the locality should be examined . . . .

**Mr. President:** Order, order. The Honourable Pandit must realise that the Chair has allowed him more than double his time.

**Nawab Sir Sahibzada Abdul Qaiyum:** If you will permit me, Sir, I will say that the Honourable Member is arguing the Government point of view that the Indians must first settle their disputes among themselves before they can expect any further Reforms.

**Mr. President:** The Honourable Member is giving an opportunity to the Honourable Pandit to continue. Does he wish that the Pandit should continue?

**Nawab Sir Sahibzada Abdul Qaiyum:** That is not my concern, Sir. It is somebody else's concern.

**Pandit Madan Mohan Malaviya:** I will conclude, Sir. I beg every Member of this House not to allow any prejudice to grow in his mind by the mention of the unpleasant events to which I have referred. I have been very reluctant to mention them, but I have thought it my duty to do so only in order that the gravity of the question before us should be realised. I am opposed to the Resolution as it stands, but I am most anxious that the question of the extension of reforms to the North-West Frontier Province or the question of what form of Government should be established there, which would give the people the fullest measure of freedom to grow and to develop, should be taken up when the Reforms Commission comes and should be settled after a dispassionate examination, in which the interests of all parties living in that province and of India as a whole should be considered.

**Mr. Mahmood Schamnad Sahib Bahadur** (West Coast and Nilgiris: Muhammadan): The narration of these stories has embittered the feelings of the House.

(Several Honourable Members then rose to speak. Mr. President called on Maulvi Abul Kasem to speak.)

**Mr. K. Ahmed:** I move that the question be now put.

**Mr. President:** Some Members desire that the Chair should accept closure at this stage. They know very well that if the Chair is unable to

accept closure now, they have to thank themselves for it. They should not have got up in such large numbers and taken their turn first but should have allowed the other side also to state their point of view. The Leaders of the two important Parties have not yet spoken and the Chair understands that both Mr. Jinnah and Pandit Motilal desire to do so. The Chair has also ascertained that Diwan Bahadur Rangachariar, who was a prominent member of the Frontier Committee, as also Sir Sivaswamy Iyer, desire to have an opportunity to participate in the debate. The Chair, therefore, regrets it cannot accept closure at this stage. The Chair is as anxious as the Honourable Members are to finish this Resolution and will accept closure after the speeches of the Members just mentioned. For that purpose, the Chair is prepared to sit till midnight if necessary.

**The Honourable Sir Alexander Muddiman:** Sir, on this statement as to the number of speakers that may be expected, I move that the debate be adjourned.

**Mr. President:** The question is:

"That this debate be now adjourned."

The Assembly divided:

AYES—49.

Aiyer, Sir P. S. Sivaswamy.  
Akram Hussain, Prince A. M. M.  
Bajpai, Mr. R. S.  
Bhore, Mr. J. W.  
Blackett, The Honourable Sir Basil.  
Bray, Sir Denys.  
Burdon, Mr. E.  
Calvert, Mr. H.  
Carey, Sir Willoughby.  
Clow, Mr. A. G.  
Crawford, Colonel J. D.  
Dalal, Sardar B. A.  
Datta, Dr. S. K.  
Donovan, Mr. J. T.  
Ghose, Mr. S. C.  
Gordon, Mr. R. G.  
Graham, Mr. L.  
Hezlett, Mr. J.  
Hira Singh Brar, Sardar Bahadur  
Captain.  
Hudson, Mr. W. F.  
Hussanally, Khan Bahadur W. M.  
Innes, The Honourable Sir Charles.  
Jatar, Mr. K. S.  
Lindsay, Sir Darcy.  
Lloyd, Mr. A. H.

Lohokare, Dr. K. G.  
Macphail, The Rev. Dr. E. M.  
Mitra, The Honourable Sir Bhupendra  
Nath.  
Muddiman, The Honourable Sir  
Alexander.  
Mutalik, Sardar V. N.  
Neave, Mr. E. R.  
Nehru, Pandit Shamlal.  
Neogy, Mr. K. C.  
Owens, Lieut.-Col. F. O.  
Pal, Mr. Bipin Chandra.  
Rahman, Khan Bahadur A.  
Rangachariar, Diwan Bahadur T.  
Reddi, Mr. K. Venkataramana.  
Roffey, Mr. E. S.  
Sarda, Rai Sahib M. Harbilas.  
Sim, Mr. G. G.  
Singh, Rai Bahadur S. N.  
Singh, Raja Raghunandan Prasad.  
Stanyon, Colonel Sir Henry.  
Sykes, Mr. E. F.  
Tonkinson, Mr. H.  
Vernon, Mr. H. A. B.  
Vijayaraghavacharyar, Sir T.  
Willson, Mr. W. S. J.

NOES—17.

Abul Kasem, Maulvi.  
Ahmad Ali Khan, Mr.  
Ahmed, Mr. K.  
Ajab Khan, Captain.  
Alimuzzaman Chowdhry, Khan  
Bahadur.  
Badi-uz-Zaman, Maulvi.  
Ghazanfar Ali Khan, Raja.  
Ghulam Bari, Khan Bahadur.  
Hyder, Dr. L. K.

Ismail Khan, Mr.  
Jinnah, Mr. M. A.  
Mahmood Schamnad Sahib Bahadur,  
Mr.  
Makan, Khan Sahib M. E.  
Rajan Bakhsh Shah, Khan Bahadur  
Makhdum Syed.  
Sadiq Hasan, Mr. S.  
Wajihuddin, Haji.  
Yakub, Maulvi Muhammad.

The motion was adopted.

**The Honourable Sir Alexander Muddiman:** By your courtesy, may I be allowed to make a statement that another day will be allotted to continue the discussion.

**Mr. President:** If the rules permit the continuation of the debate on the next non-official day, the Chair will not have the slightest objection. It all depends on the interpretation of the rules.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 17th February, 1926.