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(Official Report)

THIRD SESSION

of the

THIRD LEGISLATIVE ASSEMBLY

1928



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LEGISLATIVE ASSEMBLY.

Saturday, 22nd September, 1928.

The Assembly met in the Assembly Chamber at Half Past Two of the Clock, Mr. President in the Chair.

- (1) ALLEGATIONS IN CERTAIN NEWSPAPERS OF PARTIALITY AND BIAS AGAINST MR. PRESIDENT.
- (2) ALLEGED PROPAGANDA BY THE HOME DEPARTMENT AGAINST MR. PRESIDENT.

The Honourable Mr. J. Crerar (Leader of the House) : Mr. President, I should like, with your permission, to make a further statement on a matter which recently occupied the attention of this House and which has since continued to be of the deepest concern to Government and the whole House. The discussion which took place on Friday, the 14th, on the question raised by the Honourable the Leader of the Opposition regarding comments made in the Press or elsewhere about the President of the Assembly has not, by common consent, resulted in clearing up a situation which we all deplore.

In what I have to say, my earnest desire and the desire of the Government is to do what they can to place the relations between the Chair, the House and the Government on the basis of mutual confidence and understanding which all agree should subsist ; and with this object I find it my duty to restate the position of Government in the matter and myself as Leader of the House. The Government is not less jealous of the dignity of the Chair than any other section of the House, and regard themselves, along with all other Honourable Members, as bound to protect the Chair in the discharge of the duties imposed upon it. (Applause.) Government have never had any reason on any occasion to question the strict impartiality of the rulings that you, Sir, have given from time to time or of your conduct in the Chair and they have asked me to express their full confidence in the Chair. (Applause.) It follows that we must deplore and condemn, in common with Honourable Members sitting in all other parts of the House, all allegations and comments in the Press or elsewhere that may appear directly or indirectly to reflect adversely upon the impartiality of the Chair. It therefore also follows that in any action you, Sir, may think it right to take to vindicate the authority of the Chair in the matter of the reflections which were the subject of the recent discussion in the House or of any that may be made hereafter, you will have the full support of Government. I state this explicitly to remove any misunderstanding that may have been caused by my previous statement on this subject. I must frankly admit that, the question having been raised quite unexpectedly, I spoke in less considered terms than I would have wished and without due deliberation. I have now stated above the considered view of Government and express my regret that my previous statement did not correctly convey it.

(1245)

[Mr. J. Crerar.]

The House has also had its attention drawn to allegations of a campaign, instigated by Government, against the Chair. I would ask the House to take it from me that there is no foundation for such a charge, which could hardly have been made except in an atmosphere clouded with suspicion. I have, also, been assured that certain official Members of the House have used expressions impugning the conduct of the President and for this I, as Leader of the House, express my full regret and theirs, and would assure both the President and the House that, so far as Government can, they will take steps to ensure that there will be no recurrence.

On the question of the relations between Government and the President of the Assembly, I would only ask leave to say one thing more. If at any time—and I make the supposition only to avoid any possible ambiguity—circumstances had arisen in which Government had been unable to feel that confidence in the impartiality of the Chair which is necessary for the due discharge in this House of the functions both of the Chair and of Government, Government would at once have adopted the only possible and straightforward course of informing the President, and bringing the matter before this House.

I desire in conclusion to repeat and to emphasise that Government is, on all grounds, certainly not less concerned, and in some respects perhaps even more deeply concerned, than any other interest, in the prestige, dignity, and authority of the Chair. (Applause.) I am grateful to you, Sir, for affording me this opportunity of making my own position and that of Government plain. It is the earnest desire of myself, as of those for whom I speak, that, whatever from time to time may be our political disagreements, we may all unite to invest this House with an honourable tradition in the conduct of its affairs, and see that by lending our assistance to the Chair, who is the natural guardian of all interests in the House, this tradition should be constantly maintained. (Applause.)

Pandit Motilal Nehru (Cities of the United Provinces : Non-Muhammadan Urban) : Mr. President, I congratulate the Honourable the Home Member on the statement he has just made. It is conceived in a spirit of absolute fairness to all concerned. I take it to be a complete vindication of the honour and dignity of the Chair and of this House against unworthy attacks and reflections from whatever quarter such attacks and reflections have emanated. On behalf of this side of the House I fully associate myself with the Honourable the Home Member in his unqualified condemnation of the baseless aspersions cast upon the Chair and this House by the Press, for which we know the correspondents of the *Times of India*, the *Daily Telegraph* and the *Morning Post* are responsible. I have no doubt that you, Sir, will take such action against them as you consider proper.

As regards the allegations made by the *Pioneer* against the Government, I am sure the Chair and this House will unhesitatingly accept, as I do, the assurance of the Honourable the Home Member that there is no foundation for the charge. I am equally sure that the House will welcome the further assurance that the Government is not less jealous of the dignity of the Chair than any other section of this House and I hope and trust that all sections of the House, whatever their differences may be

on other points, will always combine to uphold that dignity to the best of their ability.

The frank expression of regret by the Honourable the Home Member at the conduct of certain official Members of the House who permitted themselves to impugn the strict impartiality of the Chair will, I have no doubt, be deeply appreciated by the House. The assurances given by the Honourable the Home Member and the good sense of the official Members themselves will, I am confident, avoid a recurrence.

I hope, Sir, that after the statement made by the Honourable the Home Member to-day the misunderstanding caused by his previous statement will be removed and that you and the House will accept his regret for having made that statement. In these circumstances, so far as the Government and the official Members of the House are concerned, the matter will, I trust, be treated as a closed chapter.

In conclusion I desire to convey to you, Sir, our abiding faith in the strict integrity and impartiality of the Chair. Your rulings have as often been against us as in our favour, but I can confidently assert that there is not one Honourable Member on this side of the House who has ever doubted that they were prompted by anything other than strict fairness. It is indeed a matter of pride to us to find that in our first Indian elected President of the House we have one who by common consent would do honour to the Speaker's Chair in any Legislature in the world.

Permit me, Sir, to convey to you the assurance of this side of the House that we have the fullest confidence in the Chair and that it will always be our duty and privilege to protect its honour and dignity. (Applause.)

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Sir, on behalf of myself and the party which I have the honour to represent in this House, I fully and unreservedly associate myself with the remarks made by the Leader of the Opposition. I repeat the congratulations which he has given to the Government and the Honourable the Home Member for his very full and frank statement. I may add that that statement is calculated to enhance the reputation and dignity of the Government and the Chair. I am fully confident that it will be received with great pleasure throughout the country and that it will conduce to good understanding between the parties that are represented in this House.

I also share, Sir, the assurances that have been given by the Honourable the Leader of the Opposition with regard to the confidence of this part of the House in the impartiality, integrity and ability of the Chair. I believe that this unfortunate incident having been closed so happily, we shall all in future be jealous of the reputation of this House, the reputation of the Chair and also of the reputation of the Government. (Applause.) I think, Sir, the Government and the Honourable Member who have done this honourable thing deserve (thoroughly and heartily) to be congratulated. If we proceed in this manner, I am perfectly sure that in future the relations between the two parts of the House will be much more pleasant and much more agreeable than they have been in the past.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, with great pleasure I identify myself with all that has fallen from the Honourable the Pandit and Lala Lajpat Rai. I have not the least doubt, Sir, that the Government of India have on this occasion risen fully to the best traditions of any Government and have proved their earnest solicitude for the prestige of this House. The statement made by the Honourable the Home Member does, if I may say so, great credit to himself and to the Government that he represents on the Treasury Benches. It is a genuine pleasure indeed, Sir, to see that a Session, which many outside thought began with so much estrangement of feeling, as it was felt then, is happily now to end in complete understanding and cordiality in the House. Nothing better could have been expected and I wish to repeat the assurance of my Party of our great respect for, and complete confidence in, you, Sir, as the President of this House.

Mr. H. G. Cocke (Bombay : European) : Sir, I desire on behalf of this group to express our approval of the course which Government have taken this afternoon and to congratulate them upon having taken that course. As I said on a previous occasion, no Party has stood more in support of the dignity and detachment of the Chair than the group to which I have the honour to belong, and this Party will never allow itself to be detracted from this course. We realise, as I am sure, you, Sir, realise, that in order to retain the full confidence of the House at all times it is essential that a President should assume continuously a cloak of strict impartiality and detachment. It follows that however much any ruling or any action of the President may be the subject of comment on technical grounds, no Member of this House is justified in imputing partiality or wrong motives to the Chair unless he is prepared to bring the matter to the floor of the House.

Nawab Sir Zulfiqar Ali Khan (East Central Punjab : Muhammadan) : Sir, I desire to associate myself with the sentiments already expressed by the other Party leaders and I congratulate the Government on their decision to give ample and adequate expression to their views with regard to the controversy which has lately arisen. I am glad that the storm which threatened to involve us in some trouble has passed off and left us in perfect peace and calm in this House. Sir, on behalf of my group I wish to express the feeling that you, as the symbol of authority, dignity and honour in this House, deserve, and have always received the consideration and obedience which you deserve, and we shall in future maintain that tradition which has been maintained by this House. Sir, we have never questioned the legality of your rulings and I have no doubt that all fair-minded men will say that whatever decisions you have given have been accepted with disciplinary attitude and behaviour. Sir, on behalf of my group I wish to congratulate the Government and I congratulate the House on the manner in which they have received the announcement made by the Honourable the Home Member.

Mr. President : I should like to say a few words on this occasion, but I think you will allow me to consider the statement which I have just heard and the speeches made by the Honourable Members. I propose to say what I have to say on Monday. In the meantime I cannot help congratulating the Honourable Member (the Honourable the Home Member) and the Government he represents.

MESSAGES FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, I have received two Messages from the Secretary of the Council of State. The first Message runs as follows :

" I am directed to inform you that the Council of State have, at their meeting held on the 21st September, 1928, agreed without any amendments to the following Bills which were passed by the Legislative Assembly on the 17th September, 1928 :

1. A Bill to amend the Indian Trade Unions Act, 1926, for a certain purpose.
2. A Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose.
3. A Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business.
4. A Bill to amend certain enactments and to repeal certain other enactments.
5. A Bill further to amend the Madras Salt Act, 1889, for a certain purpose.
6. A Bill to provide for the protection of the match industry."

The second Message runs as follows :

" I am directed to inform you that the Bill further to amend the Indian Succession Act, 1925, for a certain purpose, which was passed by the Legislative Assembly on the 17th September, 1928, was passed by the Council of State at its meeting held on the 21st September, 1928, with the following amendment :

' In clause 1, for the brackets and word ' (Amendment) ' the brackets and words ' (Second Amendment) ' were substituted. '"

The Council of State requests the concurrence of the Legislative Assembly in the amendment."

Sir, I lay on the table the Bill as amended by the Council of State.

SEPARATE OFFICE FOR THE LEGISLATIVE ASSEMBLY.

Pandit Motilal Nehru (Cities of the United Provinces : Non-Muhamadan Urban) : Sir, I beg to move the following motion :

" This House is strongly of opinion :

- (a) that a separate Assembly Department should be constituted not later than 1st December, 1928 ;
- (b) that the Government of India should take immediate steps to secure the sanction of the Secretary of State to that part of the scheme which requires his sanction ;
- (c) that the scheme submitted by the President and amended by the Government of India should be modified so as to provide :
 - (1) that the Assembly Department should be included in the portfolio of the Governor General ;
 - (2) that the principal officers of the Department should be appointed by the Governor General in consultation with the President ;
 - (3) (a) that these principal officers shall be liable to dismissal by the Governor General in consultation with the President ;
(b) that other disciplinary action against these officers should be in the hands of the President subject to a right of appeal to the Governor General ;
 - (4) that other members of the establishment should be appointed by the President in consultation with the Secretary ;

[Pandit Motilal Nehru.]

- (5) that these other members of the establishment shall be liable to be dismissed, or otherwise punished, by the President in consultation with the Secretary, subject to a right of appeal to the Governor General ;
- (6) that questions of expenditure should be dealt with in the ordinary manner, but in case of difference of opinion on any item of expenditure between the President and the Government of India there should be a reference to the Governor General, whose decision shall be final ;

The House further requests the President to communicate this opinion to the Governor General for such action as he may be pleased to take."

As the House is aware, this motion has a history behind it. It was as far back as 1924 that in answer to a question by the Honourable Mr. Neogy this information was elicited from the Government. They said :

"The question was exhaustively examined after the Incheape Committee submitted its report and it has been decided that for the present, in the interests both of economy and of efficiency, it is desirable that the business of the Legislature should continue to be conducted by the Legislative Department of the Government of India."

That was on the 1st February, 1924. Since then there has been some correspondence and conversations between the President and the Government on the subject and a scheme carefully worked out was laid by the President before the Governor General. After a great deal of delay due to one thing or another a despatch was sent to the Secretary of State by the Government of India giving the substance of the scheme of the President and their own scheme and pointing out the differences between the two. That despatch was unfortunately sent away before this House was afforded an opportunity to discuss it. Honourable Members will remember that it was only the other day that the President made a statement to the House and upon that statement a number of Honourable Members addressed the House and a statement in reply was made by the Honourable the Home Member the next day. The question whether things should be allowed to remain where they were was considered and it was suggested by you, Sir, that Party leaders might meet in your room and consider the question. We did meet and we did consider the matter, but we arrived at no decisions. There was only a general discussion. At your invitation we met again the day before yesterday and the motion that I have just read was the result of the deliberations of our conference. It represents the view of the Party leaders present. In some instances it does not represent the view of the President and in others it is the unanimous view of the Party leaders and the President. On behalf of Government no opinion was expressed at the conference, because they had already sent a despatch to the Secretary of State which was under his consideration. I forgot to say that, as a result of the first conference to which I have referred, the Honourable the Home Member very kindly undertook to inform the Secretary of State of the view of the conference and to request, on behalf of the conference, his permission to enable the House to discuss the despatch which had been sent to him. That permission having been received, the despatch was laid on the table of the House and has since been considered by Honourable Members.

The proposal which my motion contains is not identical with the one the Honourable the President made in the scheme which he drew up, but it was felt that, as a temporary measure, and as a beginning in the direction of fully separating the establishment of this Assembly from all Government Departments, the motion that I have laid before

the House would be a satisfactory first step and it is only in that sense that I am moving it. Honourable Members will, I hope, be agreed that, in spite of the peculiar position of this Assembly, and its limited powers, it is in no sense subordinate to the Government and that it is an Assembly the Members of which have equal rights, no Member having any superior rights to another Member. It is therefore only proper and in the fitness of things that the establishment attached to the Assembly should also be independent of Government control. In fact, that is so in the House of Commons and I suppose—though I am not quite sure—in the other representative Legislatures. Therefore, the one thing that we have to ensure is independence of not only the Assembly but of everything appertaining to the Assembly—its office and establishment—from the control of Government. The motion that I have put before the House goes a long way to secure that independence, but of course not the whole way, and that is due to the peculiar conditions in which we find ourselves. If this were a House wholly elected and responsible to the electorates no difficulty would have arisen, because it would in the very nature of things have the fullest control of every Department. But the difficulty arises from the fact that the powers of this House are limited and it cannot exercise any control upon any Department or exert any influence on anything which is not specifically referred to it by Government. We heard the other day from the Honourable the Home Member that they have to this extent carried out the scheme of the Honourable the President—that they have given a whole-time Secretary to this Assembly who is not a Member of the House. But he still remains under the control of the Legislative Department.

Now, that is the first and foremost thing that has been dealt with in my motion. We do not wish that the principal officers of this Assembly should have any connection with the Government any more than with any other section of the House and therefore my first proposition is that the principal officers should be appointed by the Governor General in consultation with the President. The practice in England, as the House is aware, is that the clerk of the House is appointed under letters patent by His Majesty the King on the recommendation of course of the Prime Minister and the Assistant Clerks are appointed under Signs Manual on the recommendation of the Speaker or in consultation with the Speaker. But things are different in England to what they are here. There the Government is in a majority in the House. The Prime Minister has the same controlling voice and is in the same position in regard to all the Departments of the State. Here we have just the opposite state of things. The Government is an irremovable Government. It is always in a minority; of course except on such occasions as it can snatch the votes from one group or another (Laughter) and therefore the Government—that is one of the reasons in fact given in the despatch—want to keep a hold upon the office of the Assembly. Well, I do not see any reason why one Party in the Assembly—and I submit with due deference that the Government has no more importance than any other Party in the House—I should alone have a controlling voice in the office establishment of the Assembly, unless it be of course as Government and not as Members of the House. That is the strongest reason, I submit, why the Department should be entirely separated from

3 P.M.

[Pandit Motilal Nehru.]

the Government as such. The Government is a party in this House just as any other Party. Well, the objection to that I find at page 5 of the despatch, which says :

“ The view which the Government of India take is that Members of the Assembly Office, both those now to be transferred from the Legislative Department and also those to be appointed later on to fill vacancies, must all be Government servants.”

I do not see any reason, Sir, why they must, but the reason given ‘ so long as there is a majority in the Assembly, which may at any time be adverse to the Government, and on the support of which the President must depend for his continuance in office,’ the men appointed must be Government servants. Now I do hope that no insinuation is made here ; but it seems to me to be something which would strike any reader that the President who owes his office to the vote of the elected Members, was perhaps not considered a suitable person to be put in charge of the office ; but I hope no real insinuation is made here. At the same time I do not understand the logic of this. Why should it be that, because the Government is in a minority, and because the President owes his post to the vote of the majority, therefore the office of the Assembly should remain under the control of the Government, that is to say the minority ? I submit that there is no substantial reason given,—and on the contrary the reasons for entire separation from the Government are overwhelming. Now a difficulty has been created, or rather suggested, in the despatch that you cannot have an independent office ; that it must under the present constitution be linked to some existing Department or included under some portfolio of the Council of the Governor General. I am not aware of any definite rule saying that it must be so. But what is stated is :

“ The requirements of the constitution demand that it should be linked with the Imperial Secretariat, and the natural status for it is that of an attached office, that is to say, an office attached to one of the Departments of the Government of India at the head of which will be the Secretary of the Legislative Assembly.”

Now, that is an argument which goes to this extent, that the Government of India is a self-contained unit ; that everything pertaining to the Government must belong to some Department or other of the Government ; any Department that is to be established must necessarily, therefore, come within that self-contained thing which is called the Imperial Secretariat. I submit, Sir, that that begs the whole question. That is the very point upon which we differ from the Government. We say that it should be an entirely independent office and not included in the Departments which are under the control of the Government. But in order to obviate this difficulty, the House will be pleased to observe that we have suggested—and this is a result of the conference we had the other day—that the Assembly Department should be included in the portfolio of the Governor General. Now that is a device—I call it only a device, a conventional device—to get over this technical difficulty and will ensure practically complete separation from the Government Departments. Now we know that His Excellency holds other portfolios—for instance, the Foreign and Political Department—and that it is not as it were going out of one’s way to ask His Excellency to hold this portfolio ; besides I find that this scheme to a very large extent is actually in vogue in the Punjab where this portfolio is held by the Governor in Council—I mean the Governor—and I do not see any difficulty in

that ; so that the House will see that there can really be no substantial objection to the entire separation of this Department.

Then we come to the question of the appointment of the principal officers and of the subordinate officers. Now, so far as that goes, we have followed, as far as we could under the circumstances, the practice in the House of Commons and we have substituted the Governor General for the King and the President for the Prime Minister. I do not see that we could make any better choice in the matter. We have suggested that the principal officers of the Department should be appointed by the Governor General in consultation with the President. I think that is as near as we can get to the practice in England. Then as regards the other officers, they should be appointed by the President in consultation with the Secretary. There in England, the appointments are made by the Clerk of the House, who has the right to appoint, to suspend and to remove any of the subordinate hands in the office. Here the right is given also to the President, but in consultation with the Secretary. These other members of the establishment shall be liable to be dismissed or otherwise punished by the President in consultation with the Secretary, subject to a right of appeal to the Governor General. Now that is an additional right. The Governor General has the portfolio and in the case of the principal officers the Governor General is also the appointing authority, and it is but natural that the appointing authority should have the right to dismiss and suspend and take other action.

Then we come to the question of expenditure. I will only briefly give you these details. In regard to expenditure, as the House is aware, the proposal of the Honourable the President was that the Budget of the establishment should be independent of the Finance Department. Now some technical difficulties were found in that and after a full consideration the conference, to which I have alluded, came to the conclusion that the present arrangement under the circumstances would be followed with a slight variation—that is, that the question of expenditure would be dealt with in the ordinary manner, that is through the Finance Department, but in case of a difference of opinion on any item of expenditure between the President and the Government of India there would be a reference to the Governor General whose decision shall be final.

I do not think I can add very much profitably to what I have already said. I hope the motion will commend itself to the whole House as a very desirable thing in the circumstances in which we are placed. Of course if I had my own way in framing this motion it would be framed in slightly wider terms. But as it is, it is only a beginning and I think it is a good beginning and I beg the House to adopt it.

The Honourable Mr. J. O'rerar (Leader of the House) : Mr. President, it is not my intention, for what I think must be obvious reasons, to speak on this matter with anything but extreme brevity. When Government originally decided to accede to what was understood to be the wish of the House that a day should be appointed for a discussion of the general question of the Assembly establishment, the main significance which we attached to such a proposal was that we should have an opportunity of hearing the views expressed by the House on this important question. For that reason

[Mr. J. Crerar.]

I do not intend to enter into the merits either of the scheme which is contained in the Government despatch or of that which is outlined in the motion moved by the Honourable the Leader of the Opposition. I will only ask Honourable Members to take note of the fact that in the proposals which were formulated in the Government of India's despatch Government had quite fully accepted the principle of a separate establishment for the Assembly, and they proposed to give effect to it in such a manner as to them seemed most compatible with the present framework of the constitution and administration. The views of the Government of India in the matter are set forth fully in the despatch and I do not think it would conduce to any great advantage that I should elaborate or recapitulate them. I have only one observation to make and that is that in the passage which the Honourable the Leader of the Opposition quoted regarding the position of Government in this House no insinuation ever was intended or implied. Honourable Members will realize that the circumstances in which this despatch was laid before the House were entirely exceptional, and that course was taken in deference to a strongly expressed opinion. The despatch was of course not written with the intention at the time of its writing that it should be at this stage the subject of a discussion in the House. But I think Honourable Members will do Government the justice to recognize that in taking and in asking the Secretary of State to take this unusual course, they have evinced a genuine and sincere desire to give the House the earliest opportunity of considering the whole matter fully and without prejudice. Well, Sir, the position now is that the proposals of the Government of India are before the Secretary of State. As the House is aware, he has consented to postpone his conclusions till he is in possession of the results of this debate. But it will be recognized that, while the Secretary of State's financial sanction is required in any event to the creation of the proposed new appointments in either alternative, both schemes in their general aspect are matters of very great administrative importance. The Government will now be glad to have before them the opinions elicited in this debate. They will themselves take those opinions into the most careful consideration and will communicate them with as much despatch as possible to the Secretary of State.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : Sir, I beg to support the motion made by my Honourable friend, Pandit Motilal Nehru. I do not think I need make a speech in support of that motion, because the necessary part of the correspondence has been given to the House by him. He has also stated the reasons for the difference between the views of the Government of India and that of the President. I would just say a few words as to how the decision embodied in the motion has been arrived at by the different parties represented in this House, because that will make the position clear. This motion is the result of two conferences held by the leaders of the different Parties in this House, with the President, the Deputy President and the Leader of the House. At the first conference we all requested the Government unanimously to let us see the despatch of the Government of India to the Secretary of State on this subject, so that we might be in a position to see the points of difference between the Government and the President about the scheme of separation. I congratulate the Government on their having placed that despatch before this House and thus having enabled us to see that despatch and to form our opinion on the points of difference that existed between the scheme of the

President and the scheme adumbrated by the Government. Since then, Sir, we have had another conference between the same gentlemen in which we considered those points of difference. I presume that the documents relating to this subject have been in the possession of Honourable Members for the last three or four days and that they have gone through them. There is the President's scheme; there is the despatch of the Government of India to the Secretary of State; and there are the comments of the President on that despatch. These papers have been published in the form of a blue-book and the despatch to the Secretary of State has been supplied in a separate white paper. The points of difference between the two schemes have been briefly stated by the President on page 14 of the blue book. They are 6 in number. We took each point one by one in the conference we held and gave our opinion on each. The decisions arrived at were unanimous—all the leaders of the Parties agreeing to the recommendations they have made to this House as embodied in this motion. I will briefly state those different points, so that the conclusions which we arrived at may be absolutely clear to all Honourable Members, although they must have already heard those conclusions from their Leaders and I have reason to believe that the Parties have endorsed all that the Leaders' Conference decided.

The first point was, Sir, as to who should be in charge of this portfolio of the separate Assembly Department. The Government of India in their despatch had stated, though not clearly, that the Assembly Department should be attached to some portfolio. The President stated that, if it was necessary that it should be attached to any portfolio, it should be within the portfolio of the Governor General and the Leaders' Conference has adopted that suggestion. Therefore, clause (1) of part (c) of this motion disposes of that part of the points of difference.

The second part relates to the appointment of the principal officers of the Department. The only point of difference between the Leaders' Conference and the President on this point was that the President insisted—and he has not yet surrendered his judgment on that point—that the appointment should be made on his recommendation. We have substituted the word "consultation" in the place of "recommendation." That is the only change which we have submitted for the consideration of the Government in the matter.

The third clause stated that these officers could be dismissed or otherwise punished on an address by the Assembly to the Governor General to that effect. We have suggested a material change in that matter. We think that the authority appointing these officers should be the authority to dismiss or punish them. That clause, as it stands now, is divided into two parts: one part relates to the dismissal of these officers, which has been left to the discretion of the Governor General, and the other part relates to the disciplinary action which the President might choose to take in case he considers it necessary. The second part, namely, disciplinary action, has been left in the hands of the President according to this recommendation, while the appointing authority will have the right and the power to dismiss these officers if there is any occasion for that.

The fourth clause relates to the other members of the establishment. The President thought that they should be appointed by the President on the recommendation of the Secretary. That has been practically retained as it is. They can be dismissed or punished by the President in consultation

[Lala Lajpat Rai.]

with the Secretary. The only thing we have added to this is that there should be a right of appeal on the part of the members of the establishment dismissed or punished to the Governor General.

Then there is the sixth point. The dispute was that in case any recommendations for expenditure made by the President at the budget time were reduced by the Finance Department, this House could not increase the amount reduced by the Finance Department when the Budget came before us. Therefore practically the decision of the Finance Department in that matter would be final. We have come to the conclusion that that decision should not be entirely left in the hands of the Finance Department and therefore we have provided in this motion that questions of expenditure should be dealt with in the ordinary manner, but if the Finance Department after scrutinising the recommendation of the Assembly Department, makes a recommendation to reduce the expenditure, then the matter should be referred to the Governor General and his decision will be final.

We have, Sir, given our best consideration to these points and we think that the modified plan proposed in this motion is the best in the interests of this House as well as of public business and also of the Government, and therefore we hope that the united wish of the House, as expressed in this motion, will receive that consideration at the hands of the Government and the Secretary of State which it deserves and that the Government will be good enough to accept this recommendation made by this House. We hope the President also will accept it ; and that thereby this very important matter,—the subject of the separation of the Assembly Department from the Legislative Department—would be settled and settled in a way satisfactory to all parties concerned and in time to give effect to it before the next Session. In the first part of the motion we have said that the scheme should be sanctioned and put into force not later than the 1st December.

With these words, Sir, I support the motion that has been made by my friend, Pandit Motilal Nehru.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, I rise to support the motion moved by the Honourable Pandit Motilal Nehru. The reason why we have a definite motion of this nature is, of course, Sir, as you remember, your happy suggestion, when this subject was under discussion last time, that this question of separation should be considered by various party leaders in consultation with the Honourable the Home Member. We were then told that it was almost certain that the discussion to-day would be one-sided in view of the fact that the Government of India were not prepared on that day to consider the question of making this despatch available to us in the House. The Leaders' Conference requested the Home Member to make an effort, in the name of the Conference, to get the despatch made available to us, and I think it requires to be noted with due appreciation, and indeed our thankfulness to His Excellency the Viceroy that he did comply with this request of that small Conference. We may note with satisfaction the fact that the Secretary of State was also pleased to comply with our request to make the despatch available to us here to-day. I am sure, Sir, that such compliance on the part of the Government of India and the Secretary of State is bound to appeal to us and is bound to make us consider the Government proposals with all the weight that they deserve. If this despatch had

not been made available to us to-day, you, Sir, know—and I am sure the House could imagine—what could have been the use or the utility of the discussion to-day. Thanks to the courtesy extended to this House and to the Leaders by His Excellency the Viceroy and the Secretary of State, we are to-day in a position to know both sides of the case and hence the Resolution now before the House.

I feel, Sir, that the Honourable Lala Lajpat Rai has so fully dealt with each of the six items under (c) in the Resolution that I do not like to dwell on them at further length. All that I would like to say is regarding No. (c) (1) of the Resolution. That appeared to me, at any rate, in the Conference, to be the crux of the whole question. The question was, and I suppose still is, whether the Assembly want the Assembly Branch or the Assembly Department to continue under either the Legislative Department or any other Department of the Government of India ; or whether they want it to be taken away from all the portfolios and charges of the Honourable Members of the Executive Council. I think the solution that you, Mr. President, suggested, in your letter to the Government of India, is the best and is certainly a feasible one under even the present constitution, namely, to hand over that to the portfolio of His Excellency the Governor General. It is quite true that His Excellency the Governor General is not the least busy of the Members of the Cabinet, but we have precedents for this, and in the Central Provinces and in the Punjab, I understand, Sir, that the portfolio of His Excellency the Governor in each of these provinces has responsibility for the respective Legislative Council Departments. These are relevant precedents, and I should be very much surprised if we were told that this could not be done under the present constitution in the Central Government. I suggest it to the Government that this is the easiest and perhaps the most suitable manner of getting out of the present difficulty, and I am sure that this Department being under His Excellency the Governor General, there will be the greatest confidence and the utmost reliance by this House in the impartiality of His Excellency the Governor General. We were told that this may bring His Excellency the Governor General into conflict with the Assembly. I will only say that I hope it will never so happen. His Excellency the Viceroy and Governor General is not generally open to criticism by the Assembly and need not necessarily come into conflict with the Assembly owing to this arrangement. The Assembly realise their responsibility—until now they have shown that they realise it very fully—and the closer they are drawn in co-operation with the Government, they will realise it more and, I am rather inclined to think, will give in more to Government views. I am sure that there will be very little chance of His Excellency the Governor General ever clashing with the wishes of the Assembly. I therefore feel that part (c) (1) of the motion is the most important part and I hope that the Government of India and even the Secretary of State will accept this Resolution with the same grace with which they accepted our request that the despatch under discussion be made available to us.

I do not think I need labour any of the other points at length, and I hope that this motion will prove to be another solution made feasible by mutual good-will and confidence on both sides.

Mr. H. G. Cooke (Bombay : European) : Sir, it gives me a large measure of satisfaction to find myself in agreement with my Honourable

[Mr. H. G. Cocke.]

friends, Pandit Motilal Nehru, Lala Lajpat Rai and Sir Purshotamdas Thakurdas. It is not always that we find ourselves in the same Lobby, and we trust that in future there will be many such occasions.

Sir, I hope these meetings of party leaders will form a precedent for the future, as I have no doubt whatever that we can by their means get over very acute difficulties, which difficulties it would be impossible to surmount in this House.

Before I go on to support this motion, I should like to say that while I agree entirely in principle with the motion, I am very anxious to say that we should remember the past services of the Legislative Department in dealing with the affairs of this Assembly. Since I have been in this House, Sir Henry Moncrieff Smith, Mr. Graham and Mr. Wright have occupied the position of Secretary of the Legislative Department, and I feel sure that everybody in this House has received much assistance from those gentlemen from time to time, (Cheers), and, therefore, although it is with regret that I say good bye to them, at the same time I support this motion thoroughly in principle, and I am quite sure that the separation of the Assembly Office is a sound thing to accomplish.

I quite agree with what Sir Purshotamdas Thakurdas has said with reference to (c) (1) of the motion. There is a possibility, if the Governor General is pleased to accept this portfolio, of criticisms of him in this House, but I think that that position should never arise. I certainly think it undesirable in principle that this office should be associated with any Department of the Government of India, whether the particular Member of Council sits in this House or in another place.

With regard to sub-clause (4) of (c), while, Sir, I do not disagree with this provision, I throw out the suggestion that it may be desirable that this sub-clause should be slightly altered, to the effect that the subordinate members of the establishment should be appointed by some body outside your office entirely and outside the Government of India, namely, by the Public Service Commission. That is a point well worthy of consideration. If I were in your Chair, Sir, I should certainly prefer that these appointments be made by some outside authority. I therefore suggest that that matter might well receive consideration between now and the 1st December next.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I also rise to support the Resolution which has been proposed by my Honourable friend, Pandit Motilal Nehru. Sir, generally speaking, separations are sad things, but when it comes to judicial separations, they are sometimes followed by great sensation and heart-burning. It may therefore be considered a supernatural phenomenon if the separation of the office of the Assembly and the Legislative Department is carried into effect with amicable settlement and without any heart-burning. It is now an admitted fact that the separation of the office of the Legislative Assembly and the Legislative Department is very essential and desirable, and therefore this fact need not be argued at all, but the manner and the extent to which the separation should be given effect to is not free from difficulties and

debatable points. While it is extremely desirable that the office of the Assembly should be perfectly independent of outside influence, considering the limitations which are placed on the powers and responsibility of this House, and considering that the Legislative Department is still considered as a creation of the Government of India, it could not have been left entirely by itself and therefore the provision for including it in the portfolio of the Governor General is the only reasonable solution. The other provisions also aim at giving effect to the same fundamental principles, namely, independence from outside influence, it being undesirable to make the Governor General the subject matter of discussion by the Assembly ; the appointment of the principal officers is made subject to consultation with the President of the House.

As regards the appointment of the members of the establishment, it is suggested that they should be appointed by the President in consultation with the Secretary. The main object is that the President also should not be made the subject matter of discussion and questions in the Assembly. We want the Secretary to be the chief executive officer, and while the President will have full control over the officers of the Assembly, in matters of appointment his action should be above suspicion and criticism.

An alternative suggestion has been made by my Honourable friend, Mr. Cocke, that the appointment of other members of the establishment should be handed over to the Public Service Commission, being an independent body. It was also suggested that the President might be entitled to ask the Public Service Commission to recommend a certain number of candidates, out of whom the President may select the right number. These are matters of detail which may be left to be decided by the President and the Governor General.

The chief points for consideration by the Assembly are :

- (1) that the Assembly should have a separate independent office ;
- (2) that the President of the Assembly as the representative of the House should have full control over the office in order to secure efficiency in the work ;
- (3) that having the two above-mentioned points in view, the working of the machinery should be regulated in such a way that both the Governor General and the President should not become subject-matter of discussion and criticism by the Assembly, and it is with a view to achieve this object that the Resolution before the House has been drafted in the form in which it now stands. The Leaders of all the Parties in the House have a strong desire, and rightly too, that nothing should be imported into the discussion of this Resolution of an undesirable nature, and the unanimous desire of the House, expressed in the Resolution, should be conveyed to the Governor General in a dignified manner and in a spirit of moderation and compromise, so that no obstacle may be created in the way of its acceptance.

[Maulvi Muhammad Yakub.]

I think, Sir, that the decision on this scheme, as it has now been laid before the House, should not be delayed for a very long time. The sanction of the Secretary of State, we all know, is not required to the scheme as a whole. The financial sanction of the Secretary of State is required only in the matter of new appointments and, therefore, the scheme, as it is now proposed, can be sanctioned by the Government of India without any delay.

With these remarks, I beg to lend my hearty support to the Resolution. But before I sit down, I wish to pay my humble tribute to you, Sir, for the earnestness, sincerity and ability with which you have tackled this thorny question and the manner in which you have steered it across the stormy waters. Fortunately in Lord Irwin we have a most sympathetic, genial and generous Governor General, always ready and anxious to come to an amicable settlement, and I am sure that no hindrance will be placed in the way of the acceptance of this Resolution so far as His Excellency is concerned. (Cheers.)

Nawab Sir Zulfiqar Ali Khan (East Central Punjab : Muhammadan) : Sir, I have carefully studied the alternative schemes of the Government of India as embodied in their despatch to the Secretary of State and also the scheme submitted by yourself. This controversy which has been simmering for some time has been occupying the anxious attention and consideration of the Members of this House. I need not give the full history of its development, as some of the Party leaders have already given it to the fullest extent. I may say, Sir, that I had the honour of being present at the two conferences held for the purpose of arriving at some harmonious understanding between the Party leaders of this House. What transpired there, I need not recapitulate. There were certain points on which there was difference of opinion, and I think the Honourable the Home Member as a disinterested spectator noticed then that the decision taken at those conferences were taken by a majority. (*An Honourable Member* : "No, no.") You might remember that there was more than one point on which I differed. However, I do not want to import a spirit of controversy into this debate, but would like to emphasise only one or two points. The point now is whether this Department should be directly controlled by His Excellency the Viceroy or whether it should be attached to any Department of the Government of India. I think if His Excellency can afford the time, he may, by accepting this responsibility, provide a very good solution of the present difficulty. But supposing His Excellency does not agree to the proposals formulated by us, that is to say, with regard to his direct control of the Assembly Department, then I think this question remains undecided as to whether this Department should remain as an independent Department, independent of all the Departments of the Government of India, or whether it should remain attached to some Department of the Government of India, say the Legislative Department or the Finance Department. I think, Sir, whatever arrangement may be arrived at, one consideration should not be lost sight of and that is that the identity and the vitality of the different Departments may not be in any way impaired by any action which in deference to the views of the majority may be taken. Of course the country is aware and the House is also aware that the condition of the minorities in the country as well as in this House is one of helplessness.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Question ?

Nawab Sir Zulfiqar Ali Khan : It is a thing not be questioned. It is a self-evident fact. Therefore, I would emphasise the fact that whatever attitude the Government may adopt with regard to this controversy, they will keep in view the sentiments of the minorities in this House, and I cannot understand how they can be forgetful of the sentiments of the people outside this House.

Mr. C. S. Ranga Iyer : What are those sentiments ?

Nawab Sir Zulfiqar Ali Khan : I do not think I should import any spirit of heat or controversy into this House. But if the Honourable Member is anxious to enquire what those sentiments are, I shall not hesitate to mention them.

Mr. C. S. Ranga Iyer : I should like to know them.

Nawab Sir Zulfiqar Ali Khan : The controversy is evoked by the Nehru Report.

Mr. Jammadas M. Mehta (Bombay City : Non-Muhammadan Urban) : Question ?

Nawab Sir Zulfiqar Ali Khan : Now, Sir, I think that while giving my support to the general provisions embodied in this Resolution, I should say again and again that in the matter of recruitment to the subordinate establishment, care should be taken to consult the Public Service Commission. As the House is already aware, practically all the Departments of the Government of India resort to that body for filling up vacancies in their Departments, and I cannot understand why the Assembly Department which is going to be created anew should be an exception to this procedure.

Mr. C. S. Ranga Iyer : The Honourable Member is talking rubbish.

Mr. President : I hope Honourable Members will not introduce any heat into this controversy.

Nawab Sir Zulfiqar Ali Khan : For your consideration, I will say very clearly that if this procedure—namely, having recourse to the Public Service Commission—is followed, it will redeem the scheme from those chances of friction and unpleasantness which are likely to spring up here later on.

Mr. C. S. Ranga Iyer : The Honourable Member is himself creating friction and unpleasantness here and now.

Nawab Sir Zulfiqar Ali Khan : I am not creating friction, but I am visualising the situation.

Mr. C. S. Ranga Iyer : You are oppressed by vision.

Nawab Sir Zulfiqar Ali Khan : I am only visualising the future situation.

Mr. President : The Honourable Member is entitled to express his own views.

Mr. Jammadas M. Mehta : But, is this the occasion ?

Nawab Sir Zulfiqar Ali Khan : Therefore, Sir, I think that if the scheme that I have outlined to the House, namely, resorting to the Public

[Sir Zulfiqar Ali Khan.]

Service Commission for the recruitment of the subordinate establishment is followed, you remove those chances of friction and those chances of misunderstanding which are likely to arise ; and I hope the Government will keep it in view. I think this is the unanimous opinion of my Party on this side of the House.

Mr. K. C. Roy (Bengal : Nominated Non-Official) : Sir, as a member of the preliminary conferences which discussed these issues raised in the motion, I give my wholehearted support to the Resolution moved by my Honourable friend, Pandit Motilal Nehru. My speech in part has been already anticipated by my Honourable friend, Sir Purshotamdas Thakurdas and I have very little to say except that I support Mr. Cocke and Nawab Sir Zulfiqar Ali Khan to the extent that the recruitment of the subordinate services may be left to the Public Service Commission. I shall be disclosing no secret if I give out that in informal conference I opposed this item, because the Public Service Commission is yet an infant body and does not command the respect and confidence of the country as much as it should. But, all the same, if the agency of the Public Service Commission would satisfy my Honourable friend, Mr. Cocke, and my old friend, Nawab Sir Zulfiqar Ali Khan, I would most gladly support them.

To me the whole question of separation, Sir, is a mere constitutional issue. It is not a question for a majority or minority. To me, Sir, it is a very essential improvement in our existing constitutional system. The one thing that worries me in the Resolution of the Honourable the Leader of the Opposition is the use of the expression "principal officers". My reading of English constitutional history has convinced me that there can be only one principal officer and that that principal officer is the President of the House. The Secretary of the House or his deputies can only be mere clerks and executive officers of the House. The principal officer of the House is undoubtedly the President. Here I am fortified by no less an authority than Sir John Marriott, lately a conservative member for Oxford, the best of contemporary English historians. This is how he defines the position of the Speaker of the House of Commons :

"The Speaker has from the very first been the pivot of the parliamentary machine. The principal officer of the House is its representative on all ceremonial occasions, the regulator of its procedure, the guardian of its dignity and the President over its debates."

I wish the House to note that the Speaker is described as the principal officer of the House, and if there is going to be a principal officer, he must be the President of this House and nobody else.

With these small alterations, Sir, in the Resolution which has been moved by my Honourable friend, Pandit Motilal Nehru, the Resolution is an ideal one representing the views both of the Honourable the President and the Members of Government.

There is another point also, Sir, which has given me food for thought and that is the relationship of the President in respect of the Governor General. In our constitutional development, I consider it is of the highest importance that the President should be protected by the authority of the Governor General against the encroachments on his rights and the rights of the House by the Executive Department of the Government of India.

Here also I am fortified by the authority of Sir John Marriott. Perhaps, Sir, some of us who have been privileged to witness the election of the Speaker know that His Majesty the King sends a message to the Speaker through the Lord Chancellor and this is how the message runs :

"With respect to yourself, Sir, although His Majesty is sensible that you stand in no need of such assurance, His Majesty will ever put the most favourable construction upon your words and actions."

And occasions may well arise for our President to demand a similar indulgence from His Majesty's representative in this country. Professor Marriott sums up the whole position thus. He says :

"From the 17th century onwards the Speaker has at once been the servant and master of the House."

And if this Resolution is accepted by the House, your position, Sir, will be the same : you will be the servant and master of the House. I therefore commend the proposition to the House.

Mr. President : Do Honourable Members still desire to debate this question further ?

Mr. C. S. Ranga Iyer : I should only like to know, Sir, whether this is an occasion to raise the contentious issues about minorities. I do think it was an unhappy statement that was made specially in this House where minorities have not been trampled under foot.

Mr. President : The question has now been sufficiently debated. The question is :

"This House is strongly of opinion :

- (a) that a separate Assembly Department should be constituted not later than 1st December, 1928;
- (b) that the Government of India should take immediate steps to secure the sanction of the Secretary of State to that part of the scheme which requires his sanction ;
- (c) that the scheme submitted by the President and amended by the Government of India should be modified so as to provide :
 - (1) that the Assembly Department should be included in the portfolio of the Governor General;
 - (2) that the principal officers of the Department should be appointed by the Governor General in consultation with the President ;
 - (3) (a) that these principal officers shall be liable to dismissal by the Governor General in consultation with the President ;
 - (b) that other disciplinary action against these officers should be in the hands of the President subject to a right of appeal to the Governor General ;
 - (4) that other members of the establishment should be appointed by the President in consultation with the Secretary ;
 - (5) that these other members of the establishment shall be liable to be dismissed, or otherwise punished, by the President in consultation with the Secretary, subject to a right of appeal to the Governor General ;
 - (6) that questions of expenditure should be dealt with in the ordinary manner, but in case of difference of opinion on any item of expenditure between the President and the Government of India there should be a reference to the Governor General, whose decision shall be final.

The House further requests the President to communicate this opinion to the Governor General for such action as he may be pleased to take."

The motion was adopted.

STATEMENT OF BUSINESS.

The Honourable Mr. J. Orerar (Leader of the House) : With your permission, Sir, I desire to make the following statement as to the probable course of business during the next week. On Monday, the 24th, I shall ask you, Sir, to suspend Standing Order 44 in order to enable me to move that the Public Safety (Removal from India) Bill, as reported by the Select Committee, be taken into consideration. The business in connection with this Bill may be expected to run into Tuesday, the 25th. After questions on Tuesday, the 25th, elections for the Committee of the Department of Commerce and the Committee on the separation of railway finances from the general finances will be held. After the conclusion of the business in connection with the Public Safety (Removal from India) Bill we shall take up on Tuesday or on the following days the following business :

1. A motion to take into consideration the Bill further to amend the Indian Penal Code (Amendment of section 505).
2. A motion to circulate the Bill to amend the Indian Patents and Designs Act.
3. A motion to take into consideration the amendment made by the Council of State in the Bill further to amend the Indian Succession Act, 1925.
4. Resumption of the discussion of the Demand for Supplementary Grant in respect of Railways.

On the conclusion of Government business opportunity will be given to Mr. A. Rangaswami Iyengar to move his motion to take into consideration the Report of the Select Committee on the amendments of the Standing Orders.

Mr. President : The Honourable the Leader of the House has stated he will ask me on Monday to suspend the Standing Orders. The question of suspending the Standing Orders will only arise if any objection is taken.

The Honourable Mr. J. Orerar : Quite so, Sir. If objection is taken.

The Assembly then adjourned till Eleven of the Clock on Monday, the 24th September, 1928.