

Wednesday, 11th March, 1931

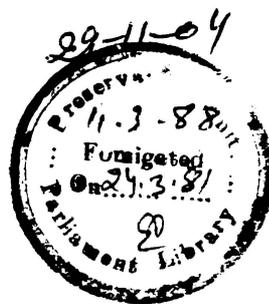
THE  
COUNCIL OF STATE DEBATES

VOLUME I, 1931

*(10th February to 2nd April, 1931)*

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FIRST SESSION  
OF THE  
THIRD COUNCIL OF STATE, 1931



CALCUTTA : GOVERNMENT OF INDIA  
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# COUNCIL OF STATE

Wednesday, 11th March, 1931.

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

## QUESTIONS AND ANSWERS.

### PROMOTION TO THE 1ST DIVISION OF UNQUALIFIED CLERKS IN THE 2ND DIVISION.

106. THE HONOURABLE MR. SYED ABDUL HAFEEZ : (a) Has Government recently issued any orders regarding the recruitment of the ministerial establishment of the Government of India offices ?

(b) If so, will Government be pleased to lay a copy of the orders on the table of the House ?

(c) Are unqualified clerks eligible for promotion to the Upper Division ? If so, what is the procedure observed for the promotion of such clerks ?

(d) Are unqualified clerks eligible to officiate in the Upper Division at the discretion of the various Departments ?

THE HONOURABLE MR. H. W. EMERSON : (a) Yes.

(b) These are departmental orders and have not been published.

(c) Yes, in a specified number of vacancies reserved for promotion of departmental men.

(d) Yes, provided they are holding permanent appointments in the Second Division and are considered to be fit to officiate by the Departments concerned.

### DETERMINATION OF SENIORITY AMONG THE MINISTERIAL ESTABLISHMENT OF THE VARIOUS DEPARTMENTS OF THE GOVERNMENT OF INDIA.

107. THE HONOURABLE MR. SYED ABDUL HAFEEZ : (a) Is the system of seniority amongst the ministerial establishment of the various Departments uniform ? If not, why not ?

(b) How is seniority determined in the Home, Education, Health and Lands, Finance, Legislative, Commerce and Foreign and Political Departments ?

THE HONOURABLE MR. H. W. EMERSON : I am making enquiries and will communicate the result to the Honourable Member in due course.

### APPOINTMENT OF MUSLIMS AS CASHIERS IN THE VARIOUS DEPARTMENTS OF THE GOVERNMENT OF INDIA.

108. THE HONOURABLE MR. SYED ABDUL HAFEEZ : (a) What is the number of cashiers in the various Departments of the Government of India ?

(b) How many of them are Hindus and Muslims, respectively ?

(c) How many posts of cashiers fell vacant from 1921 to 1930 ? Was any Muslim appointed to any of the vacancies ?

(d) If there is no Muslim cashier, do Government propose to appoint Muslim cashiers in the future ?

(e) When did the cashier of the Finance Department retire ? Is the present cashier a Hindu ? Was the question of appointing a Muslim as cashier considered at the time ?

THE HONOURABLE MR. H. W. EMERSON : (a) to (c). The information is being collected and will be furnished to the Honourable Member when complete.

(d) There is no restriction on the selection of persons for the post of cashier but the matter is essentially one for the Heads of Departments concerned who are, and must continue to be, free to select the person whom they consider to be best fitted for the post.

(e) The cashier of the Finance Department retired from the 1st January, 1931, and the present cashier is a Hindu. The question of appointing a Muslim as cashier was considered before the retired cashier proceeded on leave in July, 1930.

BOUNTY PAID TO, AND ARTICLES MANUFACTURED BY, THE TATA IRON AND STEEL COMPANY.

109. THE HONOURABLE MR. ABU ABDULLAH SAIYID HUSSAIN IMAM : Will Government be pleased to state :

- (a) What is the total amount of bounty given to the Tata Iron and Steel Company from the year 1917 till now ?
- (b) What articles have been manufactured in the Tata Iron and Steel Company since 1924 and their respective tonnage ?
- (c) On which of the articles mentioned in the reply to part (b) above has protective duty been imposed, and what was the amount of protective duty per ton ?

THE HONOURABLE MR. J. A. WOODHEAD : (a) Rs. 2,08,70,400.

(b) A statement giving the information is laid on the table.

(c) The Honourable Member is referred to the Indian Tariff Act and to the notification by the Government of India in the Commerce Department, No. 260-T. (127), dated the 30th December, 1930, under which the duty on galvanised iron and steel sheets and certain other articles was increased.

The approximate figures of production at the works of the Tata Iron and Steel Company, Limited, Jamshedpur, from the 1st April, 1924, to 31st December, 1930, are as follows :—

Articles.	Production. Tons.
First class rails . . . . .	860,000
Fish plates . . . . .	35,000
Light rails . . . . .	20,000
Sleepers . . . . .	16,000
Structural Steel . . . . .	750,000
Plates . . . . .	170,000
Black sheets . . . . .	94,000
Galvanised sheets . . . . .	83,600
Timber . . . . .	340,000
Agricultural Implements . . . . .	No. 3,400,000

ARREST OF KUMARI CHAMBELI DEVI.

110. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :  
(a) Has the attention of Government been drawn to a note appearing in the *Hindustan Times* of the 26th February, 1931, under the caption " Scandalous Delay " ?

(b) Is a young girl named Kumari Chambeli Devi who was arrested more than two months ago still being kept in confinement in the Delhi Jail without her having yet been brought before a court for trial ?

(c) If so, why ?

(d) On what date, and for what offence, and under what section of law was she arrested ?

(e) Has she been informed of the offence for which she was arrested ? If so, on what date ? If not, why not ?

(f) Has she, since her arrest, been produced before a magistrate ? If so, on what date ? If not, why not ?

(g) What action is being contemplated in relation to her in future ?

THE HONOURABLE MR. H. W. EMERSON : (a) Yes.

(b) No.

(c) Does not arise.

(d) to (g). I would refer the Honourable Member to the communiqué issued by the Chief Commissioner of Delhi on the 3rd March, of which a copy is laid on the table.

OFFICE OF THE CHIEF COMMISSIONER, DELHI.

COMMUNIQUÉ.

*Dated Delhi, the 3rd March 1931.*

A paragraph appeared in the *Hindustan Times* on the 26th of February in regard to the case of Musammat Chambeli Devi who was described as a young girl in her teens. It was stated that for 2 months and a half this young girl was kept in virtual solitary confinement without even being informed of her offence and without being brought before a magistrate for trial. The facts of the case are as follows.

The woman in question is a widow aged about 25. She has a child of 6 or 9. She was arrested on the 15th of January under section 17 (a) of the Criminal Law Amendment Act, a month and 11 days, not 2½ months before the appearance of the paragraph in question. The charge against her was that she had recited a seditious poem at a meeting held a few days before. On the 17th she was remanded to the judicial lock-up by the order of a magistrate of the 1st class who informed her of the charge against her. On the 20th she was produced before a magistrate and the chalan was put into court. On the 26th she again appeared before a magistrate and the case was adjourned as it was decided to take action against her under section 108, Criminal Procedure Code. Information under section 108 was laid formally before the court on the 6th of February. Notice was served on the 19th and the hearing of the case was fixed for the 2nd of March, when on her refusal to furnish security she was sentenced to 6 months' simple imprisonment.

Up to about the 20th February she was the only female prisoner in the jail.

CONSTRUCTION OF A RAILWAY BETWEEN KASHIPUR AND KALAGARH *via*  
THAKURDWARA.

111. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :  
(a) Is there any project of constructing a railway line on the Rohilkund and Kumaon Railway system between Kashipur and Kalagarh *via* Thakurdwara ?

(b) If so, how far has the project progressed, and what is the estimated cost ?

(c) Has the survey been made ? When is the construction likely to commence ? And by what time is it expected to be completed ?

THE HONOURABLE MR. J. A. WOODHEAD : (a) Yes.

(b) There has been no progress, as it has not been possible to allot funds. The estimated cost of the project is Rs. 19,19,572.

(c) Yes. Construction will commence when funds can be allotted. No funds have been provided during 1931-32. The line will be ready for opening about two years after commencement of construction.

RESOLUTION *RE* AVOIDANCE OF SHORT TERMS OF IMPRISON-  
MENT.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI  
(Madras : Non-Muhammadan) : Sir, I move :

"That this Council recommends to the Governor General in Council that steps be taken to prevent altogether imprisonment for terms of less than two months."

In making this recommendation I want the Government to be pleased to consider seriously the question of the best method of tackling an evil which has attained somewhat serious proportions in all the provinces of this country and which is perhaps not peculiar to India. The Indian Jail Committee of 1919-20 took the average for five years ending 1918 and found that the percentage of persons admitted into jails and sub-jails with sentences of 15 days and less to the total admissions into jails, was as high as nearly 35 per cent. In the province from which I come, in spite of the repeated circulars which I know the Government have issued to the magistracy to avoid imprisonments for short periods, and in spite of greater facilities now given for the collection of fines and for not giving effect to the alternative sentence of imprisonment for non-payment of fine, the total number of prisoners admitted into jails and sub-jails for sentences not exceeding one month during the last three years has been :

	Total number of admissions in jails.
1927 . . . . .	7,306 22,069
1928 . . . . .	6,811 21,063
1929 . . . . .	6,957 20,249

It is high time that these short-term sentences are put an end to.

The opinion is held almost universally that short-term sentences of imprisonment are of no effect whatsoever. They are wholly devoid of intimidatory or deterrent effect ; it is evident that they can have no reformatory effect

whatsoever. In the meantime, they are expensive to the State and are not helpful to the individual ; on the other hand, imprisonment for however short a period destroys his self-respect, makes him come in contact with undesirable people in jail and renders him indifferent to further disgrace. It also develops anti-social grudges.

The only ground on which the system of short-term sentence is sometimes justified is that it is very difficult to suggest an alternative punishment which will be equally deterrent. This kind of argument is applicable to all kinds of imprisonment ; and as regards this, I can only say that if we shake ourselves from the thralldom of preconceived ideas, it may be possible for us to discover some methods of treatment other than imprisonment for a short period which will be equally efficient in respect of those cases for which short-term imprisonments are now awarded. I have often felt the inconsistency of some people saying on the one hand that prison has no terrors for the people of this country and on the other hand stating that in this country even one day's imprisonment acts as a deterrent against crime. I would myself suggest the introduction of a system by which men can be let off under orders "convicted and discharged with a warning" or "fined" would meet the requirements in most cases. If an offence is of such a character that it is necessary for a court to inflict the serious punishment of imprisonment, there is no reason why the period should not be for at least two months. In England, imprisonment for less than five days has been statutorily abolished. There is no reason why we in India should not go further and set an example even to England to follow. On the whole, I think that the present system requires to be thoroughly overhauled and that imprisonment as a punishment should be restricted only to serious cases and should not be inflicted for periods of less than two months. There is no meaning in sending a man to jail for 3 or 4 days. By sending such people for short terms it adds to the burden of the tax-payer. I dare say that the Government of India would have issued circulars to Local Governments in this regard, but I want that effective steps should be taken to put a stop to the practice of awarding short-term imprisonment. Honorary Magistrates are the worst offenders in this respect. I should think that for the first time the offender should be let off with a warning or with a small fine, and if he commits the same offence for a second time then he may be given a deterrent sentence. As I said, Sir, it is meaningless to imprison persons for 3 or 4 days. I hope the Government will take all necessary steps to give effect to my Resolution.

I commend this Resolution to the acceptance of the House.

THE HONOURABLE MR. H. W. EMERSON (Home Secretary): Sir, my Honourable friend desires, I think, to draw the attention of Government to the undesirability of short terms of imprisonment, in so far as it is possible to avoid them, but he has worded his Resolution in such absolute terms as to make it impossible for Government, in present circumstances, to accept it as it stands. I understood that he himself admitted that the great difficulty was to find any alternative method of punishment. The Government of India and all Local Governments are in agreement that where a short term of imprisonment can be avoided it should be avoided. Indiscriminate punishments of this kind needlessly fill the jails ; they bring offenders into contact with criminal associations and they often fail to have a deterrent effect. Local Governments are constantly bringing to the notice of magistrates the undesirability of awarding such punishments when there is an alternative course, and in particular, they advocate the wider

[Mr. H. W. Emerson.]

use of the provisions relating to first offenders. At the same time cases occur in which a short term of imprisonment is the appropriate form of punishment, and it is therefore not possible for Government to make such a drastic change in their penal system as to eliminate altogether any sentence of imprisonment which does not exceed two months. I have no doubt that, when arrangements are made for the probation of offenders on the lines which the Honourable Member himself suggested two days ago, it will be easier than at present for the courts to avoid short terms of imprisonment. In the meantime, the ideal which the Honourable Member wishes us to accept must, I am afraid, remain an ideal. We shall certainly draw the attention of Local Governments to what the Honourable Member has said and again ask them to impress upon all courts the desirability of avoiding punishments of this sort, in so far as it is practicable. In fact, I do not think that Local Governments want any urging in this respect. They are themselves fully alive to the importance of the matter, and I know from my own experience that they are continuously bringing it to the notice of the various courts. If the Honourable Member will be satisfied with this assurance, I hope he will be able to see his way to withdraw his Resolution.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI :  
Sir, there is only one word which I would like to say in reply. There are ways of getting rid of these short terms of imprisonment. If a magistrate fines a man, and he is not able to pay, he might be let off by being given 4 or 5 hours of imprisonment. I have done that as a magistrate myself, giving 12 hours in default of a fine. There is not much difficulty in this. But I am glad the Government of India realise the difficulties in the way of these short-term imprisonments. When the Probation Act is introduced, no doubt there will be some improvement. But I still hope that the Government of India will send round a circular to all Local Governments drawing their attention to this and asking them not to have short sentences imposed.

Sir, I am satisfied with the assurance of the Honourable Mr. Emerson and I do not propose to press my Resolution. I therefore ask the leave of the House to withdraw my Resolution.

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

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#### STATEMENT OF BUSINESS.

THE HONOURABLE SIR BROJENDRA MITTER (Leader of the House) :  
Sir, with your permission, I desire to make a statement regarding the future course of business in the Council. There will be no meeting on the 12th March, as there is no Government business for disposal. On Monday, the 16th, and Wednesday, the 18th March, the Council will discuss non-official Resolutions balloted for those days. As there is no sufficient official business at the moment before the House, and, as there is no certainty as to when Bills pending before, or to be introduced in, the other House will be laid on the table of the Council of State, it is unfortunately impossible to state at present when the Council will next meet for official business.

I shall make another statement on the subject on or before the 18th March.

ABSENCE FROM THE COUNCIL OF MEMBERS HAVING QUESTIONS  
AND RESOLUTIONS IN THEIR NAME.

THE HONOURABLE THE PRESIDENT: The abrupt termination of the Council business this morning is due in some degree to two causes to which I think I should refer before I adjourn the House. Out of three Honourable Members having questions in their name on the paper to-day, two were not in their seats—one is even yet not in his seat—when their names were called to ask the questions. The Honourable Member in whose name the first Resolution stands on to-day's list was also not in his seat when his name was called. The result of that is that his Resolution, under Standing Order 60, is deemed to have been withdrawn. This action of Honourable Members, as I have pointed out before in previous Sessions, is not only discourteous but it is very unfair to the Council. It is particularly unfair to the members of the Government who have wasted time preparing answers to questions and who have wasted time preparing their reply to Resolutions. Moreover, in regard to a Resolution it is possible that other Honourable Members have prepared speeches which they proposed to deliver in respect of that Resolution. I sincerely hope that I shall not have to invite the Council's attention to this matter again.

The Council then adjourned till Eleven of the Clock on Monday, the 16th March, 1931.