

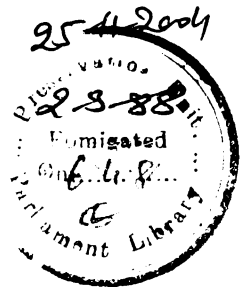
Tuesday, 17th September, 1929

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1929

(16th September to 28th September 1929)

SEVENTH SESSION
OF THE
SECOND COUNCIL OF STATE, 1929



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COUNCIL OF STATE.

Tuesday, 17th September, 1929.

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

RESOLUTION *RE* ESTABLISHMENT OF A JUDICIAL COMMITTEE OF THE PRIVY COUNCIL IN INDIA.

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

“ This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Judicial Committee of the Privy Council to His Majesty in India composed of persons who are or have been Judges of High Courts in India and are chosen one from each High Court in India by the Judges of the said High Courts to hear appeals therefrom as a Circuit Court and to perform other judicial functions assigned by law to it from time to time.”

The history of this Resolution, Sir, is an old one. A Resolution for the establishment of a Supreme Court for India was moved in the Assembly by Dr. Sir Hari Singh Gour in 1921. Dr. Tej Bahadur Sapru, who was then Law Member, wanted time to collect public opinion on the establishment of such a Court, and moved an amendment for that purpose which was accepted by Dr. Gour, and the amendment was carried. After opinions had been collected, Dr. Gour again moved another Resolution in the Assembly for the same purpose, but it was defeated in the Assembly. Sir Alexander Muddiman, then Home Member, in opposing the Resolution, stated :

“ When Dominion Status is acquired by India, then would be the time for the immediate consideration of the proposition in regard to the establishment of a Supreme Court of appeal here.”,

and other Members also contended that the Resolution was rather premature.

Now that the political constitution of India is going to be recast and public opinion in India has been unanimous in the demand for Dominion status, it is time that we should formulate our proposition about the establishment of a Supreme Court in India. Moreover, the question of the jurisdiction of the Privy Council over the Dominions is going to form one of the subjects of discussion before the next Imperial Conference. It is therefore all the more necessary that we should formulate our demands now. Having thus shortly dealt with the necessity and appropriateness of my Resolution, I will now try to explain the objects of my Resolution and state how they are intended to meet the various objections that have been raised against the scheme. The first objection raised was that a court established in India could not and should not interfere with the prerogative of the King who was the fountain of all justice. I may at the outset say that it is now almost an exploded theory, for

[Mr. Kumar Sankar Ray Chaudhury.]

the dealing out of justice involves such legal knowledge as the King can hardly be expected to possess. Moreover, it hardly lies with the British people to advance an argument like this when they have themselves allowed their House of Lords to usurp this function of the King by becoming the highest court of appeal in the British Isles. But I do not, however, propose in my Resolution to deprive the King of his prerogative, and all that I want is that His Majesty should consult his Indian subjects when dealing with Indian matters by appointing Privy Councillors from amongst them who shall be residents in India for the purpose of affording ready relief to his litigant Indian subjects instead of dragging their cases to England, so that not only justice might be done to them more readily, but they might see for themselves that justice is being done to them by enabling them properly to instruct their lawyers for the purpose.

Another objection that was raised was that the litigant public in India should not be deprived of the benefit of the learning, efficiency and independence of the Judges in England. Without however admitting in any way that Indian Judges are at all less learned, less efficient and less independent, rather on the contrary venturing to submit that they are better versed in local laws, I may say that my scheme of a proposed Privy Council in India leaves the litigant public here quite free to carry their appeals to England if they so choose or are allowed to do so by the British people in future.

The third objection raised was as regards cost. It was argued that we were getting the benefit of the Privy Council in England without having to pay for it. This is no longer so, and we have to contribute to some extent for its upkeep now and cannot expect to get this benefit for any long time to come; specially when India becomes more or less self-governing. Moreover, the cost of the Privy Council and its establishment in England is not very high, a large part of the preliminary work is already being done in India by way of preparation of the paper books, and I do not understand why the cost of the Privy Council should be very high in India under similar circumstances. The services of the High Court Judges are pensionable in India, and if Judges to the Privy Council are recruited from them, the cost is not likely to be exorbitant.

The fourth objection that was raised was about its location and the difficulty of getting efficient legal advice at one particular place. To meet this objection I have proposed that the Privy Council should be peripatetic and hold its sessions at the seats of the different High Courts in suitable seasons when dealing with appeals arising from those courts so as to enable the litigants to get the best legal help locally and cheaply.

Another argument raised was that we cannot expect to get men of sufficient calibre in India to fill up the posts of the Judges and that the offer of such posts would tend to take away the independence and prestige of the High Court Judges. As regards calibre, I venture to submit that one of the few professions in which Indians as at present circumstanced shine and excel is the profession of law, and it is idle to say that we shall not get men of sufficient calibre. As regards independence I beg to state that that would depend upon the method of selection adopted. To secure it, Judges are selected in England by the party in power, but once selected they are made removable only by a vote of censure being passed upon them by the Legislature and this scheme has been adopted

by the Nehru Committee for its Supreme Court. This no doubt secures independence in Judges to some extent, but it does not secure independent Judges but party men, and Judges have not infrequently and not unnaturally been found to have leanings towards the views of their party. Judges of High Courts in India, on the contrary, hold office during the King's pleasure and this rule should be altered and made similar to that of England. But I am not at present concerned with High Court Judges. Judges of the Supreme Court in the United States, with whose functions the functions of the Judges of the Privy Council in India are expected to be very much identical, are on the contrary elected by the President acting in consultation with the Senate and hold office for life and are removable by impeachment. So long as we have not an elected President, we cannot have Judges elected by the head of the Government, nor can we leave the selection to popular election as has been done with very bad results in the case of the subordinate judiciary in the United States. I have therefore proposed that the Privy Council Judges should be selected by and from amongst the past and present Judges of the High Courts themselves. This will not only serve to secure the independence of the Judges of the Privy Council but raise the prestige of the High Court Judges as well and enable the best of them to come to the Privy Council by a process of semi-popular selection without any of the defects of a popular election or nomination on party lines. I propose to confine the selection from amongst the Judges themselves in order to make the position of the High Court Judges more attractive so as to make it acceptable to the best legal talents in the country. I have no objection to throw it open to the legal talents in the profession directly, should it be thought more advisable, but the choice must be in the hands of a limited circle, preferably the Judges alone.

Another objection raised, and that by the leader of our party, Pandit Moti Lal Nehru, was that so long as the judicial system in the country was defective and judicial and executive functions remained in one hand and under the control of the executive, it was no good crying for the establishment of a Supreme Court in India. Improvement of the judicial system prevailing here is not only not due, but is long overdue and we have been crying for it ever since the Congress came into existence; but that, I submit, is no reason why we should not have an independent Supreme Court in India. We all know how the old Supreme Courts of India and their successors, the present High Courts, with the independence they possess, have acted from time to time as the bulwark of popular freedom against the vagaries of executive high-handedness, and but for their existence how sorry would have been the plight of the people in India.

Objection was also raised on behalf of the British commercial classes in India about different views being taken by the Supreme Courts in different countries upon common points of trade and commerce. This is bound to happen when there are different courts in different countries and cannot even be avoided by the establishment of one Supreme Court for all parts of the Empire because of the facts of its personnel changing from time to time and newer light being thrown upon any point in subsequent cases. The idea of having one Supreme Court for the Empire was mooted before 1921, but subsequent Imperial Conferences have assumed a very cold attitude towards any idea of a federation of the Empire. So long as that does not take place, India cannot but have a Supreme Court of her own.....

[Mr. Kumar Sankar Ray Chaudhury.]

(At this stage the Honourable Mr. Mahmood Suhrawardy crossed between the Speaker and the Honourable the President.)

THE HONOURABLE THE PRESIDENT: Order, order.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: and the best way of solving the difficulty of a conflict of decision lies in making the jurisdiction of the different Supreme Courts concurrent and co-ordinate so as to make their rulings equally operative and citable. The establishment of the branches of the Privy Council to His Majesty in the different parts of the Empire with co-ordinate powers is perhaps the only way to meet the situation, and it was advocated by no less a person than Lord Haldane.

Another objection hinted on behalf of the British commercial classes was that they were not ready to give up their right of an appeal to the British Privy Council in favour of one to any court established in India composed necessarily of Indians. With the cry of non-discrimination loud in their mouth, it is, I venture to state, rather ungracious on their part to advance this claim of extra-territoriality at this stage. If they want to be treated as foreigners in this matter let them be treated as such in all other respects as well.

I shall now bring my remarks to a close by meeting the observation of Sir Alexander Muddiman about opinion not being unanimous in the country. Unanimity of opinion cannot be expected upon any matter in a country so vast as India; besides, the diversity that has arisen is due to the various points of objections which I have already tried to meet. Apart from these there is no question of any two opinions having been advanced about the desirability of establishing a Supreme Court in India and, in the words of Sir Alexander Muddiman,

“The time has come for the immediate consideration of the proposition in regard to the establishment of a Supreme Court here.”

My proposal, therefore, is that a Privy Council of His Majesty be constituted in India composed of Judges to be elected one from each of the different High Courts in India, by and from amongst the past and present Judges thereof to hold their courts at the seats of the different High Courts from time to time. It shall have powers like those of the present Privy Council in England in respect of civil and criminal matters. The constitution of the Government of India having to be based on Statute and being somewhat federal in its nature, various questions about its jurisdiction and proper function in relation to the provinces and the Indian States will arise from time to time in future which will require to be decided by a superior tribunal independent of Government control, as in the United States. I have therefore left the powers and functions of the Privy Council quite wide and open for such contingencies and tried to make it as independent of Government as possible.

With these words I commend my Resolution for the acceptance of the House.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): May I ask, Sir, whether I should move my amendments together or as each is disposed of? They relate to the same thing and the Resolution is not in clauses.

THE HONOURABLE THE PRESIDENT : I think the Honourable Member might move all his amendments at once.

THE HONOURABLE MR. G. S. KHAPARDE : Thank you. I have four amendments. I move :

“(a) That after the words ‘ High Courts ’ where they first occur, the words ‘ or Courts exercising the powers of a High Court ’ shall be inserted ;

(b) That for the words ‘ each High Court ’ the words ‘ each such Court ’ shall be substituted ;

(c) That after the words ‘ Judges of the said ’ the word ‘ High ’ shall be omitted ; and

(d) That at the end the following shall be added, namely :

‘ provided that litigants have the option of appealing either to the Circuit Court or to the Judicial Committee of His Majesty’s Privy Council ’.”

Sir, I am in sympathy with the Resolution and I have no intention of opposing it. My amendments are intended merely to make explicit what is more or less implied both in the Resolution and in what the Honourable Mover has said. The reason for the first amendment is that he has confined the whole thing to constituted High Courts, but there are other courts in India, namely, Chief Courts and Judicial Commissioners’ Courts, and there is no reason why they should be excluded. In the Privy Council there are as many as 29 Judges, and when we file an appeal we have to file 29 copies of the proceedings, 29 grounds of appeal, and so on. So why should the Indian Privy Council be confined only to a small number ? It should be large and it should be in the discretion of the Chief Justice, whoever he is, or the Chancellor as he is called in England, to constitute a Bench to try each case, which is very convenient. So the object of my first amendment is to enlarge the circle of persons who can be selected for sitting on this new Privy Council ; and they will really all be persons of experience in India having exercised all the powers and are likely to help the cause of justice. In connection with this I may say that the last amendment follows naturally. The establishment of a Court here should not debar us from carrying our case to the Privy Council in England if we wish to—not by way of appeal of course. The litigant must choose from the beginning whether he will appeal to the Court here or take his case to England. The reason for that is, that there are some cases which may be tried with greater advantage in India—cases based on local custom and tradition—whereas in other cases involving difficult points of jurisprudence, they may better be taken to England where there are greater constitutional lawyers. So litigants would have to choose from the beginning whether they should file an appeal here or in England.

The other two amendments are merely verbal ones. In the place of “ High Courts ” I have put in “ courts exercising the powers of a High Court ”, while the other is merely a nominal or verbal amendment. My chief amendments are that the circle of selection should be larger than it is put in the Resolution, and option should be given to litigants here either to carry their cases to the highest court here or to take them to England as they think most convenient. These are not against the Resolution, and I hope the Honourable Mover will see his way to accepting them.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I regret I have to oppose the original Resolution as well as all the amendments of my Honourable friend Mr. Khaparde-

[Sir Maneckji Dadabhoy.]

On two previous occasions the Assembly had the opportunity of discussing this question in fuller detail and with a larger wealth of information and in the presence of many able and eminent lawyers which are to be found in that body. This Resolution has now come before this House with a small modification only. As I understand, on the two previous occasions in the Assembly the establishment of a Privy Council in some part of India was advocated. Here my Honourable friend has introduced an innovation by saying that the Privy Council should not be located in any one place but should be a sort of itinerant Privy Council moving from place to place as the exigencies of the case required. My objections to this Resolution are mainly of a two-fold character. In the first instance, I think this Resolution is entirely premature and untimely. I use both these words advisedly. It is very untimely. My Honourable Colleagues will agree with me that if my Honourable friend wanted to bring in the highest Council of the Indian Legislature a Resolution of this kind, it was absolutely necessary that he should have done that before the Simon Commission embarked upon its onerous duties. It has been brought too late, just about the time when the Simon Commission in England is about to write its Report. We do not know what the nature and character of that Report is going to be. There are many speculations on the subject, but so far we are not in a position to judge what will be the scope of that Report as to the future constitution of this great Empire ; whether we are going to have Dominion status, as is asked for by some of my Colleagues, or whether we are going to have a constitution on a more or less modified form analogous to the present constitution is a matter of mere speculation ; and to ask the Government of India to advise His Majesty's Government for the modification of the Government of India Act at this particular juncture seems to my mind not only inadvisable, but a most inappropriate and unwise thing to do. But, Sir, it is not only on the ground of the premature character of the Resolution that I am opposed to it. I am opposed to it on more substantial grounds. I should be very sorry—and I am speaking as one connected with law for many years, I was called to the Bar over 40 years ago and I have practised in various courts in this country for a period of 30 years before I drifted into the commercial line, and I can therefore claim to speak with some amount of knowledge and information on the subject—I for one should be very sorry for India if the seat of the Privy Council is shifted from England to this country, and I say so with great earnestness and determination. I think India will have everything to lose and nothing to gain, nothing substantial to gain, if the seat of the Privy Council is shifted from one place to another. I attach a great deal of importance to contact with eminent lawyers. There is no gainsaying that in England we have a Bar with all its long tradition, one of the finest, most eminent, most cultured and most instructed Bar in the world. There are men of colossal ability there, colossal merits, men of such great talents, that it would be impossible to compare—and I speak without any disparagement of the Indian Judges—it would be a great mistake to compare the combined learning, knowledge, legal culture and information of these Judges with the legal standard of knowledge prevailing in this country, whether at the Bar or on the Bench, and I say that the Indian litigant to-day has the splendid opportunity of having his case heard by men of great learning and talent assisted by most eminent lawyers which it is impossible to obtain in this country. Are you really mov-

ing this Resolution in the great interests of this country, or are you moving it from a sentimental point of view ? If you regard the question of sentiment, if you think that India must have a Privy Council,—and why should India be deprived of it—this is another matter. But if you as practical men, as practical politicians, as men of business, reflect, you will find that it would be a great inconvenience, the balance of advantages will be against such a scheme which is contemplated by my Honourable friend Mr. Chaudhury. Then, Sir, there is the question of the standard of efficiency. Whatever may be the position, whatever may be the status of the Indian Bench—and there is no doubt, as you are aware, our High Courts as a rule are free from bias and prejudice—are you going to get the same standard of merit and efficiency, the same freedom of action between a case tried in this country and a case tried and decided in England ? Those Judges are not in contact with Indian conditions of life, with Indian state of affairs ; they will only base their decisions on the evidence and on the arguments which they find and on the merits of the brief which has been despatched from India.....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Let us go to Timbuctoo.

THE HONOURABLE SIR MANECKJI DADABHOY : They are and will be beyond the plane of bias, beyond the blame of reproach in any way, and is not that a very great thing to look forward to ? I attach great value to contact. Whatever may have been the reasons assigned by my Honourable friend, I feel very strongly that the balance of advantage lies in the maintenance of the present constitution and in not making any departure from the precept and tradition which have been followed in this country ever since the days of British occupation.

Sir, there is another substantial argument which goes to the root of the matter and my Honourable friend Mr. Chaudhury has partially referred to it. The establishment of the Privy Council in England is based on a constitutional tradition. The tradition is that His Majesty the King has the privilege and reserves to himself the right and the prerogative of consulting men of great learning, men of acknowledged ability and talent on particular occasions when it pleases His Majesty. The fundamental basis on which the constitution is based is the access which these men appointed to the Privy Council have, the privilege of audience with His Majesty, who is in a position to summon them at any time to consult not only in connection with legal matters but all matters affecting the good government of the Empire. You want now to detach that tradition, and you think that by constituting a court in this country to be able to exercise the same privileges and powers as the Judicial Committee of the Privy Council, you will acquire a great thing. But it is not so. The very elementary object of that is His Majesty's supreme right of consultation and you will be depriving him of that. His Majesty cannot come out to this country and consult Indian Privy Councillors. It would be absurd to destroy the old, ancient and well-rooted tradition and constitution and to ask for that tradition to be substituted by a peripatetic Privy Council composed of Indian Judges who would hear final appeals in this country.

I, Sir, also protest against this Resolution on the ground of cost. The establishment of a Court in India will involve us in a huge expenditure. The

[Sir Maneckji Dadabhoy.]

Reforms have already made the administration of this country top-heavy. All the provinces are grumbling to-day because they are not able to make both ends meet ; and on the top of that you now want the tax-payers in India to pay for the establishment and expenditure of another Supreme Court, and my Honourable friend wants an itinerant court travelling from Bombay to Calcutta, from Calcutta to Madras, from Madras to Rangoon and from Rangoon to the Central Provinces if Mr. Khaparde's amendment is passed. And you want to incur this sort of expenditure. First, there will be a criminal waste of time, in my opinion, apart from the question of expenditure and delay in the dispensation of justice. And what will happen ? If, for some reason, the Judges go from Madras to Bombay and in Bombay counsel are not ready or for some unforeseen reasons they are not able to hear the appeal, the Honourable Judges of the Privy Council will be required to disperse and to go to Calcutta, absolutely to my mind a farcical method of dispensing justice. My Honourable friend, Mr. Chaudhury, wants to import the principle of circuit administration in India. The Judges will go out in circuit for dispensing justice as they do in England. Such a procedure will not work satisfactorily to my mind in this country. On the other hand, the cost of the present Privy Council is practically paid by His Majesty's Government in England. The cost of the present Privy Council is fully paid. It is true that we do contribute towards the salaries of two Judges under the new Act. But that is a very small sum as compared with the total expenditure on the establishment of the Privy Council. Then, apart from that, where is the great advantage to be derived from the appointment of the Judges in this country and the selection of retired Judges who have already left the country ? These appointments may or may not be suitable, and after ten years my friend Mr. Chaudhury, if he is living, will advocate or, if not he, some other Member of the Assembly will ask for the Indianisation of the Privy Council. That is the sort of thing that is going to take place in this country. God save us from our friends ! I ask Honourable Members if it is a practical and feasible scheme to be applied to this country.

My friend endeavoured to make some capital by asserting that the Indian Judges are more conversant with local laws and are in a position to administer local laws with greater efficiency than the English Judges. I demur to that proposition with great deference to my Honourable friend, Mr. Chaudhury. The seat of preliminary training and learning of our Judges is England : practically all our Judges in India have acquired their knowledge in England, and the Judges in England, I mean the Privy Council Judges, will be in a supremely better position to my mind to consider the validity and the legality of decisions given in this country than the Indian Judges who by long contact and association with the administration of our law in this country are imbued with a sort of predilection in favour of certain preconceived views. Therefore, in my opinion, there is a great deal more to be gained by association with the English courts than with Indian courts. And then, as for special laws, to which my friend Mr. Chaudhury referred.....

THE HONOURABLE THE PRESIDENT : Order, order. I saw the Honourable Member glance at the clock a moment ago.

THE HONOURABLE SIR MANECKJI DADABHOY : I will just conclude my remarks, Sir. We have got two Indians of great eminence in the Privy Council now. Practically one Englishman who had practised in this country for many years, Sir George Lowndes, and who was formerly Law Member with the Government of India, and Sir Benode Mitter, an Indian lawyer of great reputation. We have got two men of great ability and eminence and they can certainly be trusted with the administration of Indian laws.

Sir, my limited time prevents me from going further into the matter. I will say one word only as regards my friend Mr. Khaparde's amendment that he wants a duplicate machinery, one in India and the other in England. Some people may resort to the Indian machinery if they choose : the others may go to England. I should be very sorry for the constitution of our courts in this way, not to say anything of the criminal waste of money and the prodigal expenditure on the establishment of a duplicate machinery of this character.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern : Non-Muhammadan) : Sir, I rise to oppose the Resolution as well as the amendment—not because I am not in sympathy with the establishment of a Supreme Court or a Judicial Committee of the Privy Council in India, but because I cannot reconcile myself to the constitution which has been suggested in the Resolution. My friend Sir Maneckji Dadabhoj....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : You ought to have suggested a better constitution if you are in sympathy with this Resolution.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : I think a constitution has in the past been suggested and therefore it is not necessary for me to suggest one now. My friend, the Honourable Sir Maneckji, has expatiated upon the excellence of the constitution of the present Privy Council. Although I do not say anything against the eminence and ability of the Privy Council Judges, I think India should be self-sufficient and it must have a Supreme Court for the decision of its own cases. Moreover, that will save a good deal of expenditure that is needlessly incurred by litigants now-a-days. My main objection to the Resolution is that the constitution which has been suggested, namely by election of the Judges by the High Court Judges, does not commend itself to me at all. If a Supreme Court or a Judicial Committee of the Privy Council is to come into existence in India, the Judges must be appointed by His Majesty the King-Emperor and not by anybody else. The opening of such posts to election would always bring such corruption as now exists in the United States. However eminent the voters, however eminent the persons who go to elect the body, they can be influenced by considerations which may not be quite proper, and I am therefore opposed to the constitution which has been suggested in the Resolution....

THE HONOURABLE THE PRESIDENT : Order, order. The Honourable Member from Bengal has been sufficiently long in this Council to know that it is grossly disorderly of him to move about in the House between the Chair and any Honourable Member who is speaking. This is the third time he has offended this morning.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : Then, Sir, the other thing that I am opposed to is the peripatetic nature of the Court

[Mr. Narayan Prasad Asthana.]

which has been suggested to be established. As it has already been said, it will cause waste of a good deal of time and money. Moreover, it will lose in dignity and if a Supreme Court is to be established in India it must have a fixed abode and a fixed place. Therefore, what I am at now is that the constitution which is embodied in this Resolution is not such as to commend the Resolution to the Council, and therefore I oppose it.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, the speeches that have been made in opposition to this Resolution do not leave very much for me to say ; but I propose to develop to some extent some of the points made by my Honourable friend, Sir Maneckji Dadabhoy, and to reply, as far as possible, to some of the practical considerations put forward by the Honourable Mover. The Resolution in form is a suggestion that the Government of India Act should be amended, and I would like to make a preliminary observation on that point. The Statutory Commission is now inquiring into the general constitutional position, and therefore prior to the submission of their Report, it would seem premature seriously to recommend an amendment of the Government of India Act in a particular direction when we do not know what the future constitution will be or what changes will be recommended by the Commission, or what changes the Government of India Act will have to undergo. Piecemeal alteration now will only have to be reviewed in a short time in reference to the actual recommendations of the Commission as a whole. I would therefore urge upon the House that it is premature and inappropriate to take up such questions now. No useful purpose will be served by undue haste, and on this occasion there is no justification for a plea of urgency. The existing arrangement by which appeals are heard by the Judicial Committee of the Privy Council sitting in Whitehall has worked satisfactorily for many generations. Not only has it not, so far as I am aware, led to any serious complaint, but has met with almost universal approbation. The question, somewhat analogous to the present question—and which indeed the Honourable Mover appears to think is the same question—of establishing a Supreme Court in India has from time to time been discussed in the Central Legislature during the last few years. But every time that it has been forced to a division it has been defeated by an overwhelming majority, and that majority has included eminent lawyers of this Legislature. And why have they voted against this proposal ? The Leader of the Party to which the Honourable Mover belongs himself said that the Resolution was premature. But the real and fundamental reason for the opposition to this suggestion is the wide-spread and general confidence both of the public and of counsel in the Judicial Committee of the Privy Council, which is one of the most authoritative judicial tribunals in the world (Applause) consisting as it does of famous lawyers and jurists of ripe experience, proved capacity and world-wide reputation. And on that Committee India is well represented. The names of the present representatives, Sir George Lowndes and Sir Benode Mitter, who have learned their law in India, should be sufficient to reassure the Indian public that Indian cases receive adequate attention. There are of course other reasons, but I need not dilate on them at the moment, for the Resolution, in form, does not advocate the establishment of a Supreme Court but the establishment of what the Honourable Member calls a Judicial Committee of the Privy Council in India.

There is, I beg to submit, some evidence of confusion of thought in the framing of this Resolution, and, if I may say so, some misapprehension as to the constitutional position and functions of the Judicial Committee of the Privy Council. Reference has been made by the Honourable Sir Maneckji Dadabhoy to the theory underlying the present constitutional position, and I do not wish at this stage to weary the House with an elaborate historical disquisition on the origin and functions of either the Privy Council or its Judicial Committee. The Judicial Committee was only established by Statute in the reign of William IV though it had functioned for many centuries, and it was established for a special purpose namely, to dispose of appeals to the Sovereign in Council. That is a very important point. The constitutional theory underlying it is that the final judicial authority in all the dependencies of the Crown including British India is vested in the Sovereign in Council. Appeals to the Sovereign from beyond the seas have been made from the time of Henry VIII in virtue of the fundamental principle that it is the duty of the Sovereign to administer justice to his subjects. This jurisdiction is founded essentially on prerogative. The right of the subject to claim relief under it in certain self-governing colonies where Supreme Courts have been established has been restricted by express provisions in the Statutes creating such courts, but even so, the power of the Crown to exercise this prerogative still remains and cannot be taken away by the creation of any court under whatsoever name it may be described....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : How was it taken away by the House of Lords ?

THE HONOURABLE MR. C. W. GWYNNE : I think the Honourable Member is incorrect in that statement. So far as I know, no power has been taken away. The power remains. The power cannot be taken away....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Is there any appeal from the decision of the House of Lords to the King in Council ?

THE HONOURABLE MR. C. W. GWYNNE : I am speaking of appeals from the dependencies of the Empire beyond the seas from whom the appeal is to the Judicial Committee of the Privy Council. In the course of this debate reference has been made to the high quality of that Committee. If I may be permitted to mention its composition, this will be obvious at once. This Committee consists of the Lord Chancellor, the Lord President and *ex-Lord* Presidents, six Lords of Appeal in Ordinary and such other members of the Privy Council as shall from time to time hold or have held high judicial office, six Judges of High Courts in England or Ireland or the Court of Session in Scotland, and not more than seven Judges of the Superior Courts of the self-governing colonies or other possessions fixed by Order in Council and not more than two Judges of any High Court in India that shall be nominated by the King. The Indian representation has of course recently been modified by the Appellate Jurisdiction Act, 1929, by which any person may be qualified who is a Privy Councillor and has been a Judge of the High Court in India or is a Barrister, Advocate or Vakil of not less than 14 years' standing. The Committee thus is composed of very eminent and experienced lawyers, is greatly strengthened by the presence of the Law Lords and does provide for the adequate representation of Indian interests. It is important to realise the procedure of this Committee. This Committee does not give judgments like

[Mr. C. W. Gwynne.]

other courts by a majority of votes. Its decisions are unanimous and take the form of a recommendation to His Majesty in Council, and are promulgated as Orders in Council. It is the highest court of appeal for cases which arise in any part of His Majesty's dominions and possessions beyond the seas.

The Honourable Member's suggestion that the Judicial Committee should be appointed by the Governor General in Council to sit exclusively in India thus runs entirely counter to the whole constitutional history and theory. The analogy of the Privy Councils in Canada and Ireland does not help the Mover in the slightest. These Privy Councils perform nominally administrative functions. They exercise no judicial functions and, though a Supreme Court of Judicature has been established both in Ireland and Canada and some other dominions, the right of appeal to the Sovereign in Council, *i.e.*, the Judicial Committee of the Privy Council, may still be exercised. It may be limited; it may be circumscribed; but it cannot be entirely extinguished or withdrawn.

So much for the constitutional aspect. I now wish to refer to one or two practical points. The Honourable Mover maintains that
 12 NONN. his suggestion will bring about an improvement in the legal machinery of India, and if it could function in India it would afford vast relief to the Indian litigant both in time and in money and would save him the expense of seeking justice in London. But while one may feel in entire sympathy with these objects, one may question whether his suggestions will secure the objects he has in view. Any proposals designed to modify or to improve the existing machinery, especially in its ultimate form as concerning the Sovereign in Council who is the fount of justice, require wide consultation and close deliberation with lawyers both in India and in Great Britain. Such proposals concern not only India but the whole fabric of the Empire, and it is important that, while local needs may justify local treatment, the general constitutional theory underlying the administration of justice throughout the Empire should remain unimpaired. The modifications now suggested seem to have been conceived in haste and to be based on analogies which do not strictly apply. I think it is possible to overestimate the minor inconvenience of distance and to overlook the fact that the proposal of the Honourable Mover deprives India of the ripe experience and great learning of the members of the Judicial Committee—a tribunal to which Indian appeals have been submitted and which is regarded by the Indian public and the Indian lawyer as a weighty and authoritative tribunal.

Then as to speed and cost. Can it be seriously contended that the cost of litigation before the Privy Council is so much greater than the cost of such litigation would be before a Committee functioning in India? The Honourable Mover proposes that this Committee should tour throughout the country. If it tours throughout the country, it is difficult to understand how appeals to it from any particular High Court can be disposed of more speedily or more cheaply than they are at present by reference to the Judicial Committee. Either appeals will have to await the arrival of this Court which has been described as a peripatetic court or a circular court in the course of this debate, or parties will have to follow it to some convenient place. Counsel will come

from every High Court in India to practise before it and will be in a position to demand higher fees than they charge when appearing before the High Courts. The cost to the litigant would in all probability, even if this court of appeal were absolutely final, be at least no less than it is at present. But as I have endeavoured to explain at some length, an appeal to this Court could not under the constitution be final. The right would still remain of appeal to the Privy Council, that is, to the Sovereign in Council ; and consequently parties to suits might find that the establishment of this Committee in India only added one more to the series of appellate courts or, as the Mover of the amendment would have it, a duplicate court.

In conclusion, there is one practical consideration of some importance which has been referred to by two speakers and which I will put in a little more detail. At present the cost of the Judicial Committee of the Privy Council to Indian revenues is £4,000 per annum ; that is, about Rs. 54,000. For this small sum India obtains the services in the exercise of the highest appellate jurisdiction in the Empire of some of the most eminent English, Indian and Colonial lawyers. The proposed peripatetic or itinerant court would consist according to the Honourable Mover of presumably seven members, and if the amendment of my Honourable friend Mr. Khaparde is accepted, of perhaps 10 or even 12 members, including as members Judges of Chief Courts or Judicial Commissioners of various courts. These 10 or 12 Judges would have to be paid very high salaries, considerably higher salaries than are now paid to High Court Judges. An expensive establishment will have to be maintained. At the lowest computation the cost to the tax-payer, instead of the small sum of Rs. 54,000 would be a good many lakhs per annum. Why then change without most careful and mature deliberation a system which gives to India a tribunal which is a repository of legal lore, a tribunal whose work has always been of the highest merit, a tribunal which has commanded and now commands the confidence of counsel and client alike ?

Sir, I oppose both the Resolution and the amendment. (Applause.)

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, with regard to the Honourable Mr. Khaparde's amendments, my submissions are these. I have no objection to the amendment except that it would increase the number of Judges, as has been observed by the Government Member, and that it will introduce even Judicial Commissioners. I want the Judges to be select men, and the choice should therefore be confined to High Court Judges. Then, as regards the second amendment, about making it quite clear that an appeal may be lodged with the Privy Council in England, my submission is that my Resolution gives the litigant that opportunity and the amendment is therefore redundant, unless of course it is necessary to make the point clear. My Resolution, I submit, is quite clear because the Privy Council to be established in India is a Privy Council to His Majesty in India and does not take away the right of a litigant and compel him to file an appeal to this Court only and not to the other.

I now come to Sir Maneckji Dadabhoy's observations. He said at one point that this Resolution is too late. The Simon Commission has already formed its opinion and is soon going to submit its report. Again he

[Mr. Kumar Sankar Ray Chaudhury.]

said that it is premature because the Government of India has not come to a conclusion about it. I do not understand....

THE HONOURABLE SIR MANECKJI DADABHOY : I did not say anything of the sort.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : If he did not say so, I withdraw my remarks, but my idea was that he said so. My submission is that now that the constitution of the Government of India is going to be recast this is the most opportune time for the people of India and their representatives in this House to voice their opinion about the matter. The Government no doubt cannot commit themselves to any view, but that does not prevent the representatives of the people from coming to this House and getting a Resolution carried expressing the views of the country. Sir Maneckji Dadabhoy then said that it is necessary that we should keep in contact with the eminent Judges in England. My reply to that argument is this. The contact that is necessary is an intellectual contact, not rubbing shoulders with one another, and that contact can be preserved by consulting the decisions of the different Privy Councils....

THE HONOURABLE SIR MANECKJI DADABHOY : You do not think there is any thing in contact by association ?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I shall come to the other points. He said that option should be left to the people to go to England with their appeals if they are disposed to think that the English Judges are of a far superior type and the English lawyers are of a far superior type than those obtaining in India. I have no quarrel with him ; if he is so minded, he can carry his appeal to the Privy Council, but that should not prevent other people who cannot afford to carry their appeals to England on account of their poverty or other causes, and why should they not be allowed an opportunity to have their litigation finally decided in this country ? Then he said that a Circuit Court will not be a convenient one. I will remind him that the practice in the Privy Council also is like that ; cases are made ready and then the Judges sit. It is not that the Judges are always in session ; they take up the cases as they crop up. Cases are got ready and then the Judges sit from time to time. (*The Honourable Sir Maneckji Dadabhoy* : "At one place".) That can be adopted here also in the different provinces. Appeals are filed from time to time and as a certain number of them get ready in different provinces, the Judges may select which province to take first and dispose of the cases that have become ready there. If some cases happen not to be ready, they may be taken later on along with other cases when they are ready. I think these are the most important points dealt with by Sir Maneckji Dadabhoy.

Then I come to the Government Member. He said the motion was inopportune. I have already dealt with that point. I submit that this is the most proper time for the House, at least the representatives of the people in the House, to express their opinion upon the matter. He also dealt with the opposition previously advanced by the people on the ground of the people having confidence in English Judges. I have already stated that I leave the people quite free to carry their appeals to England if they so choose, but that

should not prevent others who want to have the final decision arrived at in this country. Then he dealt upon the constitutional point of view. With regard to that I have already tried in anticipation to meet his arguments. I have already stated that the prerogative of the King is now a fiction. It has been taken away so far as the Privy Council is concerned even by the Statute of 1833. The Privy Council as it now exists is a statutory body and does not depend upon the prerogative of the King. The King cannot choose any body and every body he likes to work on the Judicial Committee, and I have already said that it does not lie in the mouth of Englishmen, when they have deprived the King of his prerogative by making the House of Lords the final court of appeal, to say that we cannot interfere with the prerogative of the King. As regards cost, my submission is that it is unavoidable. As soon as we get self-government, or a modicum of it, at any rate, the British people are sure to say: "Well, we will not allow you to carry your appeals to England at our cost; you will have to establish a Privy Council of your own". They have already raised an objection on that ground and we have to pay a contribution of Rs. 54,000 already; and therefore, sooner or later, we will have to undergo the cost, and it is better for us therefore to be prepared for it.

THE HONOURABLE THE PRESIDENT: The original question was:

"That the following Resolution be adopted, namely:

'This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Judicial Committee of the Privy Council to His Majesty in India composed of persons who are or have been Judges of High Courts in India and are chosen one from each High Court in India by the Judges of the said High Courts to hear appeals therefrom as a Circuit Court and to perform other judicial functions assigned by law to it from time to time'".

Since which amendments have been moved:

- "(a) That after the words 'High Courts' where they first occur, the words 'or Courts exercising the powers of a High Court' shall be inserted;
- (b) That for the words 'each High Court' the words 'each such Court' shall be substituted;
- (c) That after the words 'Judges of the said' the word 'High' shall be omitted; and
- (d) That at the end the following shall be added, namely:

'provided that litigants have the option of appealing either to the Circuit Court or to the Judicial Committee of His Majesty's Privy Council'".

The first question I have to put is:

"That those amendments be made in the original Resolution."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is:

"That the Resolution be adopted."

The motion was negatived.

RESOLUTION *RE* MOST SUITABLE LOCATION FOR THE CENTRAL MEDICAL RESEARCH INSTITUTE, ETC.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, I rise to move the Resolution which has been submitted and which runs as follows :

“ This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to inquire into and report on the following points :

- (i) the most suitable location for the Central Medical Research Institute ;
- (ii) the constitution of the Governing Body of the Indian Research Fund Association ; and
- (iii) recruitment for the Medical Research Department.”

My Resolution, Sir, is based on the assumption that, in the near future, the Government of India will commence definitely to carry out the recommendations of the Fletcher Committee, particularly in connection with the establishment of a Central Medical Research Institute, the constitution of the Governing Body of the Indian Medical Research Fund Association, and the recruitment for the Medical Research Department.

But I must admit, Sir, that we, non-officials, are feeling that we have been left right out in the cold in this matter. Only yesterday we were informed in reply to question No. 31 that a copy of the Report has been placed in the Library. Apart from a very incomplete summary in the form of a press note, the general public have not yet been favoured by Government with the publication of the Report and its full recommendations. It is not for me, Sir, to attempt to excuse Government for this delay. It may be that they have very good reasons for their action ; but at the same time we are entitled to presume that when a Committee is appointed on such a vital subject, and when that Committee has submitted a report that need not for any reason be considered as confidential, public interest alone would almost demand its publication at the earliest possible moment. But what do we find ? The Report was actually printed a year and a half ago ; but except that a copy was placed in the Library of which even Honourable Members of the Council were unaware and despite many requests and representations from various medical organisations throughout the country, Government have persistently retained their secret, not even giving the universities an opportunity of expressing their views on a subject which is obviously so vital to them. And because it is now a fact that the Government intend going ahead in the establishment of the Research Institute at Dehra Dun, I feel that it is my duty, Sir, at least to obtain from Government their reasons for all this secrecy.

Now, Sir, I would emphasise at the beginning that I hold no brief for any place in India in this matter. I only desire that such an important Institute as this should be located at the most suitable place,—suitable, of course, for the work which it has to do. And, Sir, I cannot see that Dehra Dun fulfils any of the stipulations which seem to me to be so necessary. I admit, of course, that in selecting Dehra Dun, the Government are carrying out one of the recommendations of the Fletcher Committee. The great body of medical opinion, I am informed, is strongly against this place for the Institute ; and surely, Sir,

that influential and trustworthy opinion should at least be given consideration. That at present there is no agreement as to any particular place, is no reason why Dehra Dun should be selected.

Now, what are the supposed advantages of Dehra Dun ? As far as we can see with our limited information, these advantages are, at the most, four in number, namely, climate, convenience, space, and ready accommodation. But, Sir, none of these considerations seem to be exclusively confined to Dehra Dun only, nor are they absolutely essential for medical research. In fact, if those four factors are to be made the final reasons for decision, I should imagine that other places might be found which would conform to them all even more satisfactorily.

Let me first of all deal with climate. If all other necessary conditions were fulfilled satisfactorily, I would have no hesitation in agreeing to Dehra Dun ; but I do not think that climate should be placed first. The Haffkine Institute in Bombay and the School of Tropical Medicine at Calcutta are sufficient examples of the way in which it has always been recognised that climate must always be made subservient to necessity ; and the history of India is replete with examples of the way in which men of all professions and branches of science have recognised this. Willing workers are forthcoming despite the difficulties and inconveniences of climate. Although I do not for one moment believe that there can be any such idea at the back of Government's mind, I must at least voice the feeling, which has been expressed to me that any insistence of location at Dehra Dun on grounds of climate will at once give grounds for belief that the staff of the Research Institute will mostly be Europeans for whom special climatic facilities have to be provided.

Now, Sir, let me deal with the question of convenience. This is, in fact, the weakest of all the four claims, for no place could be more inconvenient for medical research than Dehra Dun. Research always presupposes an abundance of team work, a multiplicity of co-workers, an atmosphere of real discovery. It is true that Dehra Dun already has one or two research institutes, but they are not of the medical type ; whereas in both Calcutta and Bombay there are already in existence world-famous research institutes doing excellent medical work. Likewise, Dehra Dun, lacks an university atmosphere, it lacks suitable co-operation of, and intercourse with, medical colleges and well-known doctors and students of various sciences ; it lacks the essential clinical facilities which can only be provided by large hospitals ; and, finally, it lacks that informed critical medical opinion which is indispensable as a stimulus to research work. From all these points of view, Dehra Dun is most inconvenient ; and surely Government will not put forward a small claim for convenience of supervision in face of such an array of disadvantages as that.

The third argument, that of available space, is hardly worth considering. India is a very large country, and in almost every large town and city the Government have land which can easily be transferred by a book entry to locate the proposed Institute.

Similarly, the question of accommodation needs more than a cursory examination. There may be a building available at Dehra Dun, but I understand that it will require extensive alterations to make it suitable. But is Dehra Dun the only place in India where Government buildings are available

[Sir Ibrahim Haroon Jaffer.]

for such a purpose ? I myself could mention two good spots in the Bombay Presidency if this is the sole guiding reason. Economy is most decidedly necessary in making arrangements, but too great an economy often results in extravagance. I do not wish to make any concrete suggestions here lest I should be accused of endeavouring to get this Institute for the Bombay Presidency, but I wish to emphasise that the whole question needs a very careful examination before coming to a decision.

Now, Sir, I think I have said sufficient about location. The advantages of Dehra Dun appear to me to be very poor when compared with the disadvantages. There are others, of course, which will occur to this Honourable House ; but they will be for the proposed Committee to deal with.

But there are other considerations besides that of location, and they are of such a nature that only an expert Committee can adequately deal with them. I refer to the Governing Body of the Indian Research Fund Association, which at the present time is, with one exception, wholly official. Now, Sir, every Member of this Honourable Council will agree with me that the tendency now-a-days is to seek the co-operation of non-officials on all such matters as these ; and if we may accept the Royal Agricultural Commission's Report as being of a similar character, I would remind this Council that the Central Council contains a bountiful sprinkling of non-officials. It stands to reason, Sir, that if Government desire to make medical research popular in India, if they desire that money should not be grudged for that purpose, they must invite in the Governing Body the willing and helpful co-operation of the medical profession and the Legislatures.

And lastly, Sir, I think I need only call the attention of this Honourable Council to the fact that it is now generally demanded that the Recruitment and Appointments Board can no longer be composed solely of Government representatives in the persons of I. M. S. officers. I admit that the Fletcher Committee has overweighted this Board with the official element, but, Sir, I think Government will realise that they cannot, they dare not, accept such a recommendation if they desire to retain the confidence of the medical profession and the general public. The Medical and Science Congresses held in India have proved that there is an abundance of remarkable talent available in the medical and scientific professions to permit of placing members on the Recruiting Board, with the greatest confidence. This would ensure, moreover, that all posts in the Research Department would be thrown open to selection. Government have, it is true, recently agreed not to reserve any new appointments in the Research Department for I. M. S. officers, but why should not the same procedure be followed in the existing 30 posts in the Research Department whenever a vacancy occurs ? There are now no valid reasons for such reservations ; and all appointments must be made solely on the grounds of merit.

Therefore, Sir, I think this Council will agree that I have made out a strong case for the appointment of the proposed Committee. These are questions that need a thorough examination. And that is all we are asking for. We do not wish to dictate as to where and how these things are to be done. We are prepared to leave them to the Committee, knowing full well that justice will be done in every case.

Therefore, Sir, I commend this Resolution to this Honourable House. I am glad that we have now at the head of the Health Department a gentleman—I mean Sir Fazl-i-Husain—who is known to be very sympathetic towards any reasonable and just non-official demand. I am sure this Resolution also will receive full consideration at his hands and that Government will accept it.

I notice that the amendment of Dr. Rama Rau is almost identical with my motion except that he proposes a Committee of nine members. The cost of such a large Committee would be prohibitive and I would not like to tie the hands of Government and would leave it to their discretion to determine the number of its members; and it is for this reason that I disagree with his amendment.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadan): Mr. President, I move :

“ That for the original Resolution the following be substituted :

‘ This Council recommends to the Governor General in Council to appoint a small Committee, consisting of two official and two non-official medical men, two members elected from the elected Members of the Legislative Assembly and two members similarly elected from the Council of State with the Director General of the Indian Medical Service as Chairman, to enquire into and report on the following points, namely, (i) the most suitable locality for the establishment of a Central Medical Research Institute, (ii) the constitution of the Governing Body of the Indian Research Fund, (iii) Indian recruitment for the Medical Research Department, and (iv) such other matters relative to Medical Research in India as the Committee may consider necessary ’.”

Sir, in moving this Resolution, I do not propose to traverse at length the past history of Medical Research in India. Suffice it to say that the Government of India exhibited all along a sort of inertia and step-motherly attitude towards this all-important question of Medical Research in this country, being guided solely by the researches made in other countries and applying them freely to Indian conditions with often negative results. I am not alone in this accusation of the Government of India's past policy or want of policy in regard to Medical Research. Sir Pardy Lukis, at one time Director General of the Indian Medical Service, urged the need for research into the nature of the tropical diseases peculiar to India and pointed out the futility of applying the result of researches made in England and other Western countries to Indian climate and conditions. Colonel Christophers, not long ago, made a similar observation which I had better quote in his own words :

“ No Government, however enlightened, can combat disease without knowledge, and were they prepared to lay out vast sums on the Public Health, their efforts would be nugatory without the contributions of Medical Research. Both Sanitation and Medical Relief are based on the findings of Medical Research and are powerless to advance except as a result of advance in the branches of science dealing with disease. The vastness of the problem at issue should not be ignored. It is no question of applying such knowledge as we now have, nor of purchasing the necessary knowledge from Europe. Europe cannot help, for her problems are different and she knows nothing of India's requirements. Only by the encouragement of Research in her own territories can India arrive at a proper basis for effectively combating the many diseases that affect her population and it is the duty of an enlightened Government to allocate a due proportion of her revenues for this purpose.”

Goaded partly by this inward pressure and partly moved by the rapidly increasing and alarming mortality from preventible diseases, the Government

[Dr. U. Rama Rau.]

of India were awakened to their sense of responsibility and had established in 1906 the Bacteriological Department, now called the Medical Research Department. In 1911, the Research Fund Association was established, to which the Government of India had been making an annual contribution of 5 lakhs. In 1920 the idea of establishing a Central Medical Research Institute came into their head and Professor Starling was invited to frame concrete proposals for the same. Owing to financial stringency, his scheme was shelved for some time. In 1923 the scheme had been revived in a modified form, as the result of an *ad hoc* enquiry conducted by a Committee of medical experts under the Chairmanship of Sir Walter Fletcher, K.B.E., F.R.S., Secretary of the National Medical Research Council of Great Britain.

The Fletcher Committee's Report has not yet seen the light of day. Except that it is available in the Library now, it is not available to the members of the medical profession all over India to study it.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : No.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : It is only available now, Sir. It was not available some time back. But it may safely be presumed that most of their recommendations, if not all, have been embodied in the Government's proposals sanctioned by the Standing Finance Committee on the 29th August, 1928, and approved of by the Assembly. This scheme is estimated to cost 6.56 lakhs for annual maintenance and 9 lakhs for initial expenditure. This then, in brief, is the history of the Central Medical Research Institute proposed to be established at Dehra Dun.

The Government of India may now be said to have been acquitted of their original charge of apathy and inertia but they are committing another serious offence in locating the Research Institute at Dehra Dun. The points urged by the Government in favour of Dehra Dun are (1) climate ; (2) facilities for control and supervision by the Government of India ; (3) availability of plenty of space either free or at very low cost ; (4) availability of a ready-made Government building called Chandbagh and a grant of 6 lakhs by the Indian Research Fund Association to meet the cost of alterations thereto to make it suitable for a Central Research Institute. The location of the School of Tropical Medicine at Calcutta, of the Haffkine Institute at Bombay and the King Institute at Guindy near Madras and their successful working in spite of the trying climate of these three cities should help us to throw the question of climatic considerations overboard. No scientific atmosphere whatever exists at Dehra Dun and existing offices there have no bearing on Medical Research. In strange contrast with the Government of India's decision selecting Dehra Dun as a suitable locality we find that the Rockefeller Foundation, who have made an endowment for the establishment of the Public Health Institute, have insisted on Calcutta as the suitable place for its location. The reasons are as stated by the Government themselves (1) that with its large population and numerous hospitals, Calcutta offers the clinical material adequate in measure and variety, and (2) that the School of Tropical Medicine, a centre both for instruction and research, which is maintained jointly by private contributions and with the aid of the Govern-

ment of Bengal, will provide complementary facilities which, were the proposed Public Health Institute located elsewhere, would have to be duplicated at an extra cost. Colonel Graham, the permanent Public Health Commissioner with the Government of India, and Lieutenant-Colonel Mackie, Director of the Hoffkine Institute, Bombay, and Acting Public Health Commissioner with the Government of India, both have regarded these reasons as conclusive and the condition itself as unexceptionable. The same argument holds good in respect of the Central Research Institute. The benefits of team work and clinical work, the presence of educated and well-informed medical opinion and the existence of medical colleges and teaching hospitals and such other facilities as provincial cities can afford are entirely absent at Dehra Dun. The presence of a large Central Research Institute in a city where medical colleges and teaching hospitals exist, would act as an incentive to many young medical graduates to undertake investigations and thus help the country generally. This would not be the case in a place like Dehra Dun, where no medical instruction is or is going to be imparted.

In all foreign countries such institutes are located in large cities like Tokio, Berlin, Vienna, London, etc. While so, I am at a loss to know, why the Government of India should persist in having the headquarters of the Research Institute at Dehra Dun, and, if it is merely for the sake of the salubrious climate and the small savings in buildings and equipment, it must certainly be the outcome of the penny-wise policy which the Government of India generally pursue and with which they are often credited. Even the views of the medical experts of America were of little avail in influencing the Government of India and weaning them from their short-sighted course. Public opinion, not to mention medical opinion, in India has never been consulted in the matter. It is therefore incumbent on the Government to appoint a small Committee, as suggested in my Resolution, to go into the whole question carefully and pitch upon a suitable locality for the location of the Central Research Institute, before launching on this scheme. I propose that the Committee shall consist of official and non-official medical men with the elected Members of the Central Legislatures duly represented on it and with the Director General of the Indian Medical Service as Chairman.

Incidentally, the Committee may be entrusted with the task of enquiring into and making proposals for overhauling the constitution of the Governing Body of the Research Fund Association. As at present constituted, the Governing Body consists entirely of Government officials. Neither the Legislatures nor the independent medical profession in India are represented on it. As in the case of the Agricultural Research Council, there should be at least two Members of the Legislative Assembly, one Member of the Council of State as also the representatives of the independent medical profession in the Governing Body of the Research Fund Association which obtains its grant from Government. I must not be understood to mean that I intend introducing politics into those bodies, by suggesting the inclusion of the Members of the Central Legislatures therein. Far from it. On the other hand their presence will have a salutary influence on the working of this Association. In the Advisory Board, the independent medical profession

[Dr. U. Rama Rau.]

and research workers should find a place, as also the various Indian Universities, the All-India Medical Congress, the Indian Science Congress and the Indian Chemical Society.

Then comes the question of recruitment for the Indian Medical Research Department, for the Central Medical Research Institute and the Public Health Institute proposed to be established at Calcutta. The "Recruitment and Appointments Board" should not be heavily weighted with I. M. S. officers. Such a Board should have on it representatives of the Medical Colleges, official as well as non-official, of the independent medical profession, of the Indian Chemical Society and of the Indian Science Congress. I understand that, according to the Fletcher Committee's report, 23 out of the 30 appointments in the Medical Research Department are reserved for I. M. S. officers and 7 are open to non-I. M. S. medical men. I fail to see why such a disparity should exist at all. The policy of reserving a large number of research posts for members of the I. M. S. and of creating a separate grade of inferior service, members of which can never aspire to higher appointments, however competent they may be, is largely responsible for retarding the progress of Medical Research in this country. Such a state of affairs should not be allowed to continue long.

There are also other matters, such as the composition of the Selection Board recommended by the Fletcher Committee, the emoluments of the higher staff, the award of scholarships to Universities for research work and post-graduate study, which may be usefully tackled by the Committee. I therefore commend my Resolution for your kind acceptance.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS (Director General, Indian Medical Service): Sir, I may say straightaway that Government are very pleased that this Resolution and amendment have been brought forward to give them a chance of making perfectly plain and clear the reasons why they have taken such action as they have and also to clear up some misunderstanding which exists at present abroad, that is, amongst the public. With your permission I will deal first with that part of the Resolution and amendment which deals with the suitable location for the Central Medical Research Institute. My Honourable friend the Mover of the amendment has more or less covered some of the ground which I had proposed to talk about, but I will fill in some lacunae which he omitted. He said that as far back as 1896 this question of the location of the Institute—or, as it was then called, the Central Bacteriological Laboratory—came up. Sir Alembroth Wright, whom you all know by repute, happened to be in India at the time and he with other members who were doing plague work in Bombay considered certain places in India where this Bacteriological Laboratory could be situated. Amongst other places which my Honourable friend did not mention were Agra, Calcutta, Delhi, Bombay and Mukhtesar.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER: Not Lucknow or Lahore?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: No. After due consideration of these places, these big towns were ruled out, and in

course of time the Central Bacteriological Laboratory came to be concentrated at Kasauli. This became known as the Central Research Institute and with it the Indian Research Fund Association was formed, *pari passu*, and also the Indian Medical Research Department. It was found by the Government of India that the Institute at Kasauli was not sufficiently large for the amount of work which was being done, and therefore in 1920 Professor Starling was brought out from England to report on the advisability of shifting its location. He travelled about India and eventually settled on Delhi. That was in 1920. Delhi, as you are aware, has not got the best of hospitals and his scheme included not only the building of the Central Medical Research Institute, but also hospital buildings, and the whole scheme was to cost something in the neighbourhood of 24 lakhs. I may say that that scheme was sanctioned by the Standing Finance Committee and the Assembly. It was however held over for some time and considered further. Government were not quite sure in their minds of the advisability of locating the Central Research Institute in Delhi. So in 1926, when money became easier, the Government of India again broached this subject. I remember it very well because I had come to the Government of India in April of that year, and in July 1926 the Department of Education, Health and Lands instructed me to go into this question of the location of the Central Medical Research Institute. I considered Professor Starling's report and submitted a note in July or August. In a way I was a true prophet. I suggested to the Government of India almost exactly what the Fletcher Committee recommended in their report. After my note the Government of India considered that it would be better, instead of having an individual opinion, to have a Committee; also they thought, very naturally, that a Committee consisting of scientists from England or a mixed board would be much more likely to be unbiassed, impartial and uninfluenced by local conditions than a purely local Committee such as we are asked to form now. I will read out the names of this Committee to you, if you will forgive these details. The Committee was constituted as follows: Sir Walter Fletcher, K.B.E., M.D., F.R.C.S., a Doctor of Science, an LL.D. and a Fellow of the Royal Society, and incidentally he is also Secretary of the Medical Research Council in Great Britain. The next is Lieutenant-Colonel S. P. James, an M.D., D.P.H., a retired I. M. S. officer, who is the Medical Officer and Adviser on Tropical Diseases, Ministry of Health, Great Britain. He retired from the Indian Medical Service in 1916, *i.e.*, 13 years ago. He is also the head of the Intelligence Section of the Ministry of Health in Great Britain. Those were the two representatives who came out on the Committee representing Great Britain. Then we put an Indian medical practitioner on the Committee, Dr. Row, M.D., D.Sc., Professor of Pathology, Grant Medical College, Bombay. He is employed by the Government, but he is an independent medical practitioner. Then we had to put on some one from the Medical Research Department and we put on Colonel Christophers. Colonel Christophers is well known; his work is well known; he is well known internationally and is a C.I.E., K.H.P., Fellow of the Royal Society; he is Director, Central Research Institute, Kasauli. The Dutch Government also struck a special medal for his work. Now, the composition of this Committee was such that it was more likely to come to an absolutely impartial, unbiassed opinion, than any Committee which can be formed of Indian officials and non-officials. Now, this Committee travelled about India

[Sir Henry Symons.]

and visited various places which I will mention presently. But before so doing, I would say that the instructions which they received from the Government of India were as follows :

“ The Committee were to investigate :

- (a) the framework of Professor Starling's scheme for the establishment of a Central Research Institute with special reference to recent developments in the field of medical investigation and research in India and elsewhere.
- (b) the relations of the proposed Institute to research activities now in progress under the auspices of—
 1. The Government of India,
 2. The Indian Research Fund Association,
 3. Agencies under the control of Provincial Governments (so far as consistent with the constitutional position established by the Reforms),
- (c) the manner in and the extent to which the proposed Institute can co-ordinate the activities of the various agencies referred to in (b),
- (d) the most convenient venue for establishing the Institute, regard being had to its projected activities,
- (e) the strength and constitution of and method of recruitment to the Medical Research Department,
- (f) the training of assistants for medical research work,
- (g) the future of research on the problem of human and animal nutrition.

The Committee were also to make recommendations together with estimates of cost.”

You will see that the Committee were instructed to go into the whole question of medical research, the composition of the Indian Research Fund Association, and the Medical Research Department.

Now, the Honourable Mover has said that this has been a confidential document. Let me remind him that this is the report of a Committee, on a subject which is scientific in its nature. It has been available for anyone who asked for it in the Education, Health and Lands Department. It is not a report, say, like the Report of the Royal Commission on Agriculture, on big subjects of that nature. Therefore, what is the use of a report of this nature being put on the book-stalls of railway stations? Any medical man who applies for it is supplied with it at once. Therefore, I maintain that this has not been kept confidential. Anyone who wanted information with regard to the report of the Committee could have had it by asking the Department for it.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER : Have copies been sent to the Universities for their opinion ?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS : Inasmuch as the Government of India had appointed a special Committee on the subject, it was not necessary to ask the opinion of the Universities. Now, this Committee, the composition of which I have just explained to you, travelled about India. They came out to India at the end of 1927 and they arrived at Calcutta when we had a Conference which represented all the research workers anywhere between Suez and New York or California ; and they were asked to come in time for that Conference, so that they might get the local atmosphere and get some idea of what work was being done in India. After that Conference

was over, it was Christmas time and afterwards the Committee travelled and went to Kasauli, Dehra Dun, Delhi, Calcutta, Madras, Coonoor, Mysore, Bangalore and Bombay. After they had gone round and got the opinions from the various Directors of Institutes and medical men in those places, they returned to Delhi and wrote their report, and in their report they suggested the location of the Central Research Institute at Dehra Dun. Now, the reasons for selecting Dehra Dun were as follows : (1) Climate. I am afraid I am repeating but I have to enlarge. (2) Buildings available. (3) Different kinds of research. (4) Research atmosphere. Now, about climate, we have all heard a lot about it ; it comes up every year in connection with the exodus—climate, as regards working in suitable or unsuitable climates. Some of us find our work in unsuitable climates, some in suitable climates. I am sure the Mover of the Resolution will not say that the climate of all places in India is the same. I come from Madras where in extreme heat it is difficult to concentrate, and there are other such places in India. The Mover of the Resolution comes from Poona where the climate is better and more pleasant. If our work lies in a place where the climate is unsuitable, we have to do our work there. But, as I shall point out later on, it is not necessary to locate this Institute in, shall I say, a place which has an undesirable climate. Therefore the Committee—and quite rightly, I maintain—did not recommend the location of this Institute in climates like Bombay, Calcutta and Madras.

Now, we come to buildings available. In Dehra Dun we already have 50 acres of land. We already have buildings which can be adapted and we have excellent land which can be made use of.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : How many lakhs have you put in to make it up ?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS : That is being gone into at the present moment. Now, as regards the . . .

THE HONOURABLE THE PRESIDENT : From the various remarks that have fallen from the Honourable Member's lips, I gather he has still a great deal to say, he has promised to revert to various subjects in the rest of his speech. He is putting the Chair in rather an awkward position in regard to this.

1 P.M. Honourable Members are aware that the time limit for speeches is 15 minutes, and that there are only two exceptions. The Mover of a Resolution has half an hour and the Member of the Government in charge of the Department to which the Resolution relates has also half an hour. But the Member in charge of the Department may delegate his functions in respect of a Resolution to another Member of the Council. I have made inquiries and have ascertained that the Honourable Member in charge of the Department has not delegated his functions in regard to this Resolution to the Honourable Member who is Director General of the Indian Medical Service. Now, it is clear to my mind that it is not fair to the Honourable the Mover of the Resolution to allow two Members to speak on behalf of the Government and for each of them to have half an hour. And I wish to make it clear that if one Member speaks for half an hour, I shall have to treat him as the Member in charge of the Resolution and the other Member of Government will have to confine himself to 15 minutes.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Quite. I bow to that, Sir.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS : I am sorry, Sir. But I think it is a very important question and takes time to explain. However, the other reason, and this I maintain is the most important one, is that there are various kinds of research. This again is a technical subject which I am sure the Members of the House will forgive me for going into in a few words. There are two kinds of research work carried out in the medical institutes—one which is called basic or long range, and the other clinical. The basic or long range deals with epidemic diseases—such as cholera, plague, malaria, kala azar, small-pox, and general types of disease. Now, these diseases, you will admit, are universal. They occur all over India—north, east, south and west. Therefore, your Institute can be put anywhere. Again, the workers in connection with this have to go abroad into the field and they do their work in the most unhealthy climate as a rule, and then they fall back on their Central Medical Research Institute and carry on their investigation. Now, it stands to reason then that it is most advisable that these workers should have a good climate to fall back upon, a good climate in which to work and think. No one can think easily, thoroughly and soundly in an unsuitable climate. As I have said, I have been in Madras for many years and I know what it is. Now, I come to the clinical research. Clinical research is a different thing and that is the one on which my friend the Mover based his arguments. He said we must have this Central Institute where we have got all the material. I have just told you that in the basic work, there is material everywhere. It is not in Bombay, Calcutta or Madras. It is in the mofussil. Your clinical work is in big towns, I admit, and you have already in these big towns clinical research institutes. You have the Parel Institute in Bombay. You have the King Institute in Madras, and the Tropical School in Calcutta. Then there is another in Rangoon, and so on. The Fletcher Committee recognised that, and they suggested that you should have a clinical research unit which would be based on wherever your Central Research Institute is, and that this clinical institute should consist of a Director and two or three assistants, and, if necessary, more. Now, that clinical institute would be at the disposal and at the beck and call of every Local Government. If you wanted it in Bombay to inquire into any disease, it would be available. You could call upon it, and it would be at your command. Now, that is exactly the same thing as exists in England at the present moment. Let me read this out to you :

“ The Medical Research Council finances the National Institute for Medical Research at Hampstead which fills a role almost identical with that of the proposed Central Research Institute at Dehra Dun in so far as basic and other researches are concerned, and does this without a hospital being attached to it. This Institute, together with the Mill Hill farm laboratories in association with it, deals with problems in biochemistry and pharmacology, experimental pathology, bacteriology and protistology, applied optics, applied physiology, biological standard, production of standard cultures and sera ; it houses the national collection of type cultures, and the central research library ; and it runs a Publications Department. Meantime, it has a Department of Clinical Research based on University College Hospital, London, and directed by one of the physicians to the hospital, and it has medical units or individual workers attached for various enquiries at St. Thomas', St. Bartholomew's, Guys and the London Hospital in London, at the Royal Infirmary in

Sheffield, Edinburgh and Cardiff, and at the James McKenzie Institute for Clinical Research, St. Andrews. Other research schemes in some 30 different subjects are being carried out at present by special workers directed by representative committees of experts from all over Great Britain and these would correspond to much of the work now being undertaken by the I. R. F. A. in India but with due appreciation of the difference in resources both of men and money."

Therefore, the Fletcher Committee recommended that we should have exactly the same as they have got in England. I would mention also, as the Honourable the Mover knows, that disease varies greatly all over India. We have a disease peculiar to Madras which we have not got in the Punjab. There are more gastric diseases in Madras whereas in the Punjab you have a large amount of bone diseases. I ask you, therefore, what is the good of putting an institute, say, in Madras, which is to deal with these local diseases? The clinical unit would be at the beck and call of any province. We can send it to Madras or the Punjab as it is required.

Now, as to the objections raised by the various bodies—I may say there are 12 bodies and 5 of these bodies are in Bombay. The Honourable the Mover said he might be accused of wanting it in Bombay. I have no doubt what they want in Bombay. Although they did not say so definitely, one member of the Committee said: "We have 12 acres of land in Bombay, please come and make use of it". Some of the other societies I have never heard of. There is the small one—the Dharwar Medical Society—that I have never known the existence of. The only outside bodies are the Central Provinces, Berar, and the United Provinces. Allahabad said, we do not want Dehra Dun: Lucknow said, we do not want Dehra Dun. We do not know what they want. None of them have come forward with a constructive policy. None of them have said where to put it.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: So appoint a Committee.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: Sir, I am afraid I have encroached upon the time of the House to-day. But I felt it my duty to go into details because Government have been so much misunderstood. Government have been accused of going slowly, whereas there is no doubt that Government have taken the best possible advice and have acted upon it and, I maintain, quite rightly.

(The Honourable Mr. G. S. Khaparde rose in his seat and then sat down. The Honourable the President called his name twice, but the Honourable Member did not again get up to speak.)

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to speak?

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Yes, Sir, I wish to speak.

THE HONOURABLE THE PRESIDENT: I called him twice.

THE HONOURABLE MR. G. S. KHAPARDE: I wish to speak for specially two reasons. One of it is that I really feel a difficulty about voting on this matter. A good deal has been said about the location, but nobody has spoken much about the constitution of this body. The constitution of this body at

[Mr. G. S. Khaparde.]

present is this. We have a President, a Secretary, the Director General, the Public Health Commissioner, Assistant Director, etc. All of them are officials, and the only non-official is the Raja of Parlakimedi, a gentleman whom I do not know. With this constitution for this institution, I do not agree at all. Unless it is more popularised and you get representatives from the medical profession and from the various other bodies, I do not feel inclined to vote for anything at all. There are *ex-officio* people whom I do not know, to whom I could not possibly go and complain. If I do, I will probably get an answer in the official way that the matter has been considered and disposed of. So, unless this constitution is put on a better basis, I do not feel inclined to speak about it.

There has been a good deal of talk about the location. I proposed Betul in the Central Provinces for the seat of the Government of India at one time. If it is good enough for the seat of the Government of India, why should it not be a good seat for this institution? It is on the Satpura mountains where medical plants grow and its climate is equable and you can wear English clothes throughout the year. And what is more, there are no dances, no dramas, no cinemas, and these people who are investigating problems will be something like educational recluses, living together, studying their subjects and making proposals. They will be removed from all the attractions of dances, dinners, etc. Let them be put on a mountain where they have no dramas, no cinemas and no entertainments, and no dinners, and then they will do something. Otherwise, if you put them in Bombay, they will get a thousand invitations and they will do nothing. So, I think that this constitution should be put on a proper basis so that it may be possible for the local talent as well as for the European talent to come together. Otherwise, it is not worth while going on with it. The constitution is the chief point. As to the location, *primâ facie*, the Government are in favour of Dehra Dun. But I suppose that if the constitution is put right, they will be able to make suggestions, and we will be in a better position to decide as to whether we want this institution or not. That is all I wish to say, Sir.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, this has been a very interesting debate. Before I studied the case, I was told that the case was an extremely important one, and that there were considerations of vital importance which the Government had ignored, and that the demand for a Committee was such an inevitable one that the Government could not refuse it. So, in studying this problem I more or less started with a bias in favour of the Resolution. Having studied it, and having had advice from experts I was most anxious to meet the Honourable the Mover of this Resolution as well as the Honourable Member who has moved the amendment, as far as it lay in my power to do so, and this is the result. So far as the second part of the Resolution is concerned, namely, the demand for making the constitution of the Association more representative and less of *ex-officio* members, I wish to state to the Council that Government has been able to meet that demand. Not only will there be seven *ex-officio* members of whom the Honourable Mr. Khaparde knows many and the eighth one who has been in the Association for ever so long, but there will be six more, and the Council will no doubt be satisfied when I tell

them that three of them will be as suggested by the Honourable Member who moved the amendment, that is to say, two representatives of the Assembly to be elected by that body, and one representative of this Honourable Council to be elected by it. Besides these three, there will be two representatives of the medical faculties of the Indian Universities, and one who will be a non-medical scientist to be nominated by the Governor General. I have no doubt that this constitution of the Association will make it truly representative and is more or less as desired by the non-official Members of this House.

As regards the Recruitment Board, Sir, its constitution is under consideration and I am not in a position just now to state to what extent non-ex-officio members will be taken, but I am in a position to state definitely that Government will probably give it the same sort of constitution as it has already given to the Association. Therefore, it must be patent to the House that as regards parts (ii) and (iii) of the Resolution, the need for a Committee does not exist.

Now, I turn to the first part of the Resolution, that is to say, the location of the Institution. The history of this case has been dealt with at length. I must frankly state to the House that the location was definitely decided by the Government of India two or three months ago, after the matter was thoroughly considered in all its aspects. This has been mentioned in the Assembly in answer to a question put there. During the last Budget Session some Members of the Assembly had seen the Honourable Member in charge of this Department about this very matter; and after he had fully considered those representations and such representations which the Medical Association of Bombay had sent to him he held another consultation with his officers and Government finally decided in favour of Dehra Dun. At one time I thought perhaps the medical profession in Bombay was not as much occupied as the medical profession in other places, because of the length and number of representations which they sent to the Government of India on the subject. I cannot but admire the close reasoning of those representations and the great persistence which those who wanted a change displayed in those representations. I have no doubt that the authors of those representations are to no small extent responsible for our having had the pleasure of discussing this subject in the Council to-day, and, as the Director General, Indian Medical Service, has pointed out, for enabling the Government to place the whole case frankly and fairly before the House. Well, the location at Dehra Dun having been already settled, all I could do was to see whether the arguments in favour of a change are so strong and so convincing as to make me reconsider the matter. The argument of the Honourable Mover is that Dehra Dun is a place which is comparatively nice for living as against Bombay or Calcutta or even places like Lucknow and Lahore. He said that this selection is due to the fact that most of the workers of that Institute will be Europeans. I am sure he was not at all serious in his contention, because he cannot possibly be unaware of the fact that most of the hill stations in Upper India nowadays are patronised more by Indians than by Europeans. The population of what I may call the civil station of Simla to-day does not show that the majority of that population is European. Is he not aware that whenever he takes a constitutional in the evening along the Simla streets the number of Indians he meets is as large as, if not very much larger than, that of Europeans. According to my way of reckoning it is. Therefore, to say that

[Khan Bahadur Mian Sir Fazl-i-Husain.]

the selection of a nice cool place, a good place to work in, can but indicate only one thing—that it is intended for European workers—to my mind is not a fair argument at all. Those who have to do brain work, those who have to put in good work, be they European or Indian, do want a good climate. And I am not sure whether it can be reasonably urged that Indians possess a constitution which can put forth really good sustained work in Calcutta or Bombay to the same extent as they can in Dehra. This general argument, an argument which a layman might consider and which may appeal to the public, was the only one which the Honourable Member urged. As for his other arguments, such as the necessity for a University atmosphere and things of that kind, surely the Honourable Member is not unaware of the fact that the distractions of Calcutta, be they political or social, and of Bombay also, are not conducive to the sort of atmosphere in which research workers can be expected to do their best. I am at one with what has been said by previous speakers that you do want for a research institute a place with a good climate—a place like Dehra Dun for instance, from where you can get to a higher altitude, to Mussoorie, in an hour or so or again to lower altitudes, *e.g.*, to Hardwar, if you so desire.

THE HONOURABLE SETH GOVIND DAS: Why should it not be in the Central Provinces? No such all-India institution exists in the Central Provinces at all.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I really appreciate this interruption very much. Had I been myself on that Committee I would have tried to explore some place in the Central Provinces to locate the Central Institute in. I have a liking for the Central Provinces myself, but not having been on that Committee, and that Committee having been composed of four experts, four absolutely impartial men, none of whom belonged to the Central Provinces, I do not think that ground by itself would justify my re-opening the case which is already decided. As a matter of fact, if you examine the constitution of that Committee of four experts, you will see that one was an *ex*-Director of the Tropical School of Medicine in Calcutta. Surely, if he did not stand up for Calcutta, it hardly lies in the mouth of any one, however great a patriot of Bengal he may be, to press for Bengal. If Dr. Row, a representative of the medical profession of Bombay and now an ornament of the Grant Medical College, Bombay, did not stand up for the Bombay Presidency, it does not lie in the mouth of a critic to say that Bombay has not been fully considered. Similarly, if Colonel Christophers, who knows Kasauli well, did not press for the Punjab, I will not re-open the matter. (*An Honourable Member*: “What about Madras”?)

These interruptions are always most helpful, because I belong to the Punjab. If the Director General of the Indian Medical Service, a better Madrasi than whom it is not easy to find, did not stand up for Madras, well the Honourable Mover of the amendment can hardly expect this Council to vote for Madras.

To sum up, Sir, Government have already actually accepted the second part of the proposal, and have given an assurance to the House that Government will deal with the third part of the Resolution more or less on the lines of the second part. I have also stated that Government have already arrived at a definite decision on the first part and the arguments urged against that

decision are in no way such as to justify my re-opening the case. I trust therefore that the House will persuade the Honourable Mover to withdraw his Resolution, failing which the House will refuse to accept it.

***THE HONOURABLE SIR IBRAHIM HAROON JAFFER :** Sir, as anticipated, I think I have received sympathetic replies from the new Member in charge to two out of the three demands I have made before the Council. I am sorry to say that he does not agree to the chief point, the location of the Research Institute. Well, Sir, the chief reason is the report of the Fletcher Committee. Well, we have some experience of Committees and we know that in the face of new facts sometimes their reports are altered. I think it can be altered also in this case. I have no desire, Sir, to enter into any lengthy discussion when there are only two minutes left for lunch, but in case this Resolution is defeated I appeal to the Honourable Member to call a conference of medical men and again discuss this point with them, and I think some *via media* can be found.

With these words, Sir, I ask the Council to pass the Resolution.

THE HONOURABLE THE PRESIDENT : It is not very easy to arrive at the decision of the Council in this matter in view of the fact that the Resolution raises various points and that there is an amendment and in view also of the attitude taken by the Government towards the various parts of the Resolution. I think the Council can only satisfactorily give its decision if I put the various points separately to the Council. First it will be for decision whether there is to be a Committee ; then, if there is to be a Committee, what is to be the constitution of the Committee, and after that what will be the various points of reference to them. I will therefore put the first part of the Resolution to the Council.

The original Resolution ran :

"This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to enquire into and report on the following points."

To that part of the Resolution an amendment has been moved.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : I beg leave to withdraw my amendment.†

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

THE HONOURABLE THE PRESIDENT : The question is :

"That the following words stand part of the Resolution :

'This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to inquire into and report on the following points : '."

* Speech not corrected by the Honourable Member.

† "That for the original Resolution the following be substituted :

'This Council recommends to the Governor General in Council to appoint a small Committee, consisting of two officials and two non-official medical men, two members elected from the elected members of the Legislative Assembly and two members similarly elected from the Council of State with the Director General of Indian Medical Service as Chairman, to enquire into and report on the following points : ... '."

The Council divided :

AYES—12.

Govind Das, The Honourable Seth.

Jaffer, The Honourable Sir Ebrahim Haroon.

Khaparde, The Honourable Mr. G. S.

Mahendra Prasad, The Honourable Mr.

Mookerjee, The Honourable Srijiut Rama Prasad.

Ramadas Pantulu, The Honourable Mr. V.

Rama Rau, The Honourable Rao Sahib Dr. U.

Ray Chaudhury, The Honourable Mr. Kumar Sankar.

Sinha, The Honourable Mr. Anugraha Narayan.

Suhrawardy, The Honourable Mr. Mahmood.

Surpat Singh, The Honourable Mr.

Zubair, The Honourable Mr. Shah Muhammad.

NOES—23.

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

Asthana, The Honourable Mr. Narayan Prasad.

Basu, The Honourable Rai Bahadur Suresh Chandra.

Burdon, The Honourable Mr. E.

Charanjit Singh, The Honourable Sardar.

Clayton, The Honourable Mr. H. B. Dadabhoy, The Honourable Sir Maneckji.

Dutt, The Honourable Mr. P. C.

Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.

Fyfe, The Honourable Mr. J. H.

Graham, The Honourable Mr. L.

Gwynne, The Honourable Mr. C. W.

Harnam Singh, The Honourable Raja Sir.

Harper, The Honourable Mr. K. B.

Latifi, The Honourable Mr. Alma.

Maqbul Husain, The Honourable Khan Bahadur Sheikh.

Muhammad Hussain, The Honourable Mian Ali Baksh.

Ryan, The Honourable Mr. T.

Symons, The Honourable Major-General Sir Henry.

Thompson, The Honourable Sir John.

Watson, The Honourable Sir Charles.

Weston, The Honourable Mr. D.

Woodhead, The Honourable Mr. J. A.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : In view of the decision of the Council, it is not necessary to put the rest of the Resolution to the Council.

RESOLUTION *RE* ACCOUNTANTS IN POST OFFICES.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Sir, I beg to move the Resolution that stands in my name :

“ This Council recommends to the Governor General in Council to raise the posts of the accountants in all the first class Head Post Offices, and those in the second class Head Post Offices under Postmasters in the grade of Rs. 250—350, to the lowest selection grade of Rs. 160—250.”

Sir, my position has become much easier on account of the attitude that has been taken up by Government in some of the different provinces. When a proposal is made for putting officers in the selection grade, two questions are considered. The first is the intrinsic value of the work done by the officers concerned : if the work is of a really important, intelligent and responsible character, then the officers are placed in the selection grade. Next, there is the other test applied by Government, namely, how many subordinate clerks work under the superior officer. But this test is not applied by Government in all cases ; because there are instances where officers have been placed in the selection

grade in spite of the fact that they have either no clerk under them or less than five clerks under them. To go into the question whether the work of these accountants is of such a nature as would entitle them to be put in the selection grade, I need refer only to the observations that have been made by the different superior officers of the Department from time to time. An accountant is appointed in each of the district Head Post Offices. He is in charge of all the accounts not only of the district head office, but also of all the sub-post offices in the district. He has to do the work of an audit officer over and above the work of keeping accounts, because the Postmaster of the Head Post Office is responsible for sending up the accounts of all the subordinate Post Offices and he is responsible for the correctness thereof. Although the Postmaster is theoretically speaking responsible for the correctness of the accounts, the accountant is really responsible for the work for the simple reason that it is not physically possible for the Postmaster to scrutinise the accounts in all the details and then certify the accounts as correct. He has to depend on the accountant for the correctness of the accounts. There are cases in the office codes where the accountant is made responsible for the incorrect statements that may appear in the accounts, as for example, on account of the incorrectness of the accountant, if leave is allowed to a person to whom leave is not admissible, or if a person is allowed a leave allowance in excess of what he would be entitled to under the rules, the accountant is held responsible and not the Postmaster.

Then, Sir, if we look to the pay given to the accountants in the other departments of Government, we find that the pay is much higher than what is given to the accountants in the Post Offices. In the Post Offices, the salary is the salary of an ordinary clerk with an addition of Rs. 10 or Rs. 15 or Rs. 20 as a special allowance. But when we come to the Military Department accountants or the Public Works Department accountants, they are put either in the grade of Rs. 125 to Rs. 200 or even in a higher grade and in the case of the Military Accounts, they are always put in even higher grades. Over and above this, the examination which has been introduced by Government during the last four or five years to test the capacity of these accountants is a real and searching test which entitles the accountants to be put in the higher grade automatically. The examination is thrown open to all the clerks and officers in the Post Offices and although there are thousands of officers entitled to appear during the last four or five years only a few hundred officers have taken care or thought themselves competent to appear in the test. For passing the examination the candidate must show his knowledge of the different Codes, the Civil Service Rules, the Fundamental Rules, the special Rules and Regulations passed in the different provinces from time to time and over and above that the Life Insurance Rules, the Provident Fund Rules and a host of other rules. And not only that. Each candidate must obtain at least 60 per cent. of the total marks to get a pass certificate. Officers who satisfy such a test should certainly be given proper emoluments. And I find that this principle has been accepted in the Bombay, the Madras and one or two other Circles. It has not been accepted in all parts of Bengal.

My Resolution may be divided into two different parts. One is to raise the posts of the accountants in all the first class Head Post Offices. I do not think that Government will have any objection to the introduction of the selection grade in first class Head Post Offices. The next group is the second class Post Offices, not all of them, but only such as are under Postmasters in the

[Srijut Rama Prasad Mookerjee.]

grade of Rs. 250—350. Post Offices are divided into two classes, first class Post Offices and second class Post Offices, not on account of the intrinsic importance of the work that is being done there but on account of the volume of the work in the Post Office, and the salary of the Postmaster. The quality and quantity of the work done by the accountant is the same, whether it be in a first class Post Office or a second class Post Office. But I have intentionally kept out the second class Post Offices that are under Postmasters in the grade of Rs. 160 to Rs. 250, because there may be overlapping of the grade between the superior and subordinate staff in the same Post Office. Personally I shall be satisfied if the selection grade is introduced in the case of officers who are subordinate to Postmasters in the higher grade of Rs. 250—350. This would not entail a very great additional cost to Government. If all the second class Post Offices had been included the cost would have run up to two lakhs or two lakhs and a half. But the adoption of this Resolution—I speak subject to correction—would mean about 80 to 90 thousand rupees per annum including the amount which Government is now spending by converting the accountantships in the first class Post Offices.

With these few words I commend my Resolution for the acceptance of the Council.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (East Bengal: Non-Muhammadan): Sir, I do not propose to move my amendment.*

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): I wish to support the Resolution, seeing that they are poor people and specialists in their own way. They should be treated well by introducing a special reform for them. They should be put on the same basis as in the Military or other Departments.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, I hope I shall not lay myself open to the charge of discourtesy if I am somewhat brief in replying to the Resolution. The Government are in complete sympathy with the desire which animates the Honourable Mr. Rama Prasad Mookerjee in moving the Resolution. They are anxious that all their staff, and not less than others, accountants in Post Offices, should be adequately remunerated, but I regret I must oppose the Resolution because it would involve the adoption of a scheme which would have very inconvenient results. There is a great number of Post Offices in India, most of which are Branch or Sub-Post Offices, working under Head Post Offices. These last are divided into two classes, first and second. Apart from the three Presidency General Post Offices which are not in question, there are about 34 first class Post Offices and about 217 second class. Every Post Office is in charge of a Postmaster on an appropriate rate of pay, and in each Head Post Office there is an Accounts Branch consisting often of a single man, sometimes of several men, whose responsibilities vary from office to office. The accountants in charge

* That for the words "those in the second class Head Post Offices under Postmasters in the grade of Rs. 250—350 to the lowest selection grade of Rs. 160—250" the following words be substituted, namely, "all the second class Head Post Offices."

—each may be a single man actually doing the work or a man at the head of the Accounts section—are either in the selection grade or are time scale clerks with special pay in addition. Now, it is to be inferred from the Honourable Member's Resolution that he thinks that the pay of the Postmaster is a criterion of the importance and responsibility of the accounts work. Certainly in an important office, where the Postmaster is highly paid or comparatively highly paid, the accountant has in general more responsibility than in the smaller offices, but the pay of the Postmaster does not afford an actual precise test of the importance or status of the accounts work. The adoption of this rule would involve various anomalies and would give rise to claims from other members of the staff, and it would be quite impractical for Government without incurring considerable difficulties in other directions to accept the Resolution. At the same time, I may say that the Government are far from being uninformed as to the grievances of the Accounts staff. We have now under consideration a very full statement—I have a copy here, it is 19 to 20 pages of print—dealing with their grievances. This is at the present time receiving the consideration of the Honourable Member in charge of the Department of Industries and Labour in consultation with the head of the Post and Telegraph Department. And I do not think I need assure anybody here who knows the gentlemen I have just referred to—I do not think they need any assurance that any statement of grievances will receive the most sympathetic and careful consideration. Actually, within the last year or two, a number of accountants' posts in particular Post Offices have been raised to the selection grade and we have now under examination the question of a suitable criterion for deciding other cases, all of which will receive the most careful consideration. I can therefore assure the Honourable Member that Government are giving the matter full consideration. They are entirely sympathetic to the staff, but it would be impracticable and would give rise to inconvenience in various directions if a rule—if I may say so without offence—if a rule of thumb were adopted. The observations made by the Honourable Member will be recorded and will be given the fullest weight in considering the matter; and with that assurance I hope I shall not seem unsympathetic if I oppose the Resolution on behalf of Government.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, after the statement that has been made by the Honourable Member opposite, I do not think I ought to press this Resolution at this stage. I have brought to the notice of Government only one of the many grievances that are now being considered by Government. The Honourable Member has not referred to one fact which I stated in my opening speech, and that was the disparity in the pay between accountants in the Postal Department and the pay that is drawn in the other Departments under Government.

THE HONOURABLE MR. T. RYAN: May I say with reference to that point, Sir, that accountants vary greatly in magnitude and importance, and it is really hardly fair of the Honourable Member to suggest that an accountant in the Post Office is necessarily comparable in the exacting nature of his work or the qualifications required of him with accountants in highly organised departments like the Military Accounts Department. I am not belittling the Post Office accountant in any way, but I could not subscribe to the proposition that one accountant should necessarily be paid the same as another accountant.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I do not suggest that they ought to be placed at once in the same grade as the accountants in the Military Accounts Department, but they might at least be given, I suggest, some higher grade than at present, especially when the accountants in the Military Accounts Department have to pass an examination in which they are to get only 40 to 45 as pass marks whereas these Post Office accountants have to get 60 marks as pass marks. I therefore say that they deserve some consideration. But in view of the statement made that Government is looking into all these matters, I do not wish to press this Resolution at this stage.

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

The Council then adjourned till Eleven of the Clock on Wednesday, the 18th September, 1929.

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