

Friday, 13th March, 1936

THE COUNCIL OF STATE DEBATES

VOLUME I, 1936

(15th February to 25th April, 1936)

ELEVENTH SESSION OF THE THIRD COUNCIL OF STATE, 1936



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COUNCIL OF STATE.

Friday, 13th March, 1936.

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

QUESTIONS AND ANSWERS.

INVITATION OF APPLICATIONS FOR THE POST OF ENQUIRY CLERK BY THE NORTH WESTERN RAILWAY.

95. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Did the North Western Railway invite applications for the post of an enquiry clerk from the existing staff ?

(b) Was no Muslim member of the staff called to appear before the Selection Board ? If not, why not ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Government have no information. These are matters of detailed administration entirely within the competence of the Agent to whom a copy of the question has been sent for information and such action as he may consider necessary.

CONTRACTS FOR THE SALE OF ICE AND AERATED WATERS ON THE NORTH WESTERN RAILWAY.

96. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Will Government please state whether contracts for the sale of ice and aerated waters of the North Western Railway were till August, 1934, divided into four sections, namely, S, N, C and E ?

(b) Were these sections temporarily converted into three sections in August, 1934, by attaching a portion of E section to N and the other portion to section C ?

(c) Has the North Western Railway now attached entire section E to C ? If so, was this arrangement made at the instance of Captain Deep Chand, one of the ice contractors ?

(d) Does Captain Deep Chand hold the contract for the combined section C ?

(e) Does Captain Deep Chand, in addition to having the ice contract for the combined section, also hold the fruit contract at the Delhi main station ?

(f) Are Government prepared to consider the advisability of restoring the four-section system on the North Western Railway for the purpose of ice contracts ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). The North Western Railway system was divided into four sections in 1933, but in the

middle of the 1934 season the contract for one section was terminated and portions thereof were added to each of two other sections.

(c) The present division of the system into three sections accords with the arrangement in force in 1922. I am not aware at whose instance this arrangement was adopted.

(d) Captain Kunwar Deep Chand is the contractor for sections of the line south and east of Lahore excluding the main line between Lahore and Karachi.

(e) Yes.

(f) I will communicate the Honourable Member's suggestion to the Agent, North Western Railway, for consideration.

RAILWAY STAFF AT QUETTA, NORTH WESTERN RAILWAY.

97. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ : Will Government please state :

(a) Was staff drafted to Quetta from different divisions of the North Western Railway to replace the staff killed or injured during the earthquake ?

(b) Has any rule been laid down by the Railway Administration for the return of this staff to their respective permanent posts in the divisions from which the staff was drafted to Quetta ?

(c) Has the above staff been put to trouble in regard to the education of their children and the settlement of their domestic affairs ?

(d) What steps, if any, have been taken by the Agent, North Western Railway, Lahore, to mitigate the troubles of the staff drafted to Quetta ?

(e) Did the staff submit a memorial on September 7th, 1935, praying *inter alia* for the fixation of the period of one year ? If so, what steps have Government taken to settle this question ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Yes.

(b) Under terms of their service agreements staff are liable for service on any part of the North Western Railway but Government are informed that the case of those who have been drafted to Quetta to replace staff killed, injured or who have been evacuated from the devastated area, will receive consideration when the position is more stabilized.

(c) Memorials have been received from certain staff who were transferred to Quetta division in emergency but no complaint has so far been received in regard to difficulties in the way of the education of their children.

(d) The matter is under consideration.

(e) The reply to the first part is in the affirmative. As regards the latter part the matter is under consideration.

QUALIFICATIONS FOR APPOINTMENT ON THE NORTH WESTERN RAILWAY.

98. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ : Are the minimum qualifications prescribed for appointment on the North Western Railway on and from 1st April, 1926, Matriculation, 2nd division or its equivalent from a recognised University, Junior Cambridge and Diploma Examination of the Acheson College, Lahore, being considered equivalent to

the Matriculation? If so, will Government please state whether appointments in the superior staff or promotions from the inferior to the superior posts were made according to these instructions?

THE HONOURABLE SIR GUTHRIE RUSSELL: Government are informed that the minimum educational qualifications, as detailed in the question, are in accordance with the rules as they stood on 1st April, 1926. The minimum educational qualification was an essential condition for staff recruited in the following categories:

Station master and commercial group students, office clerks (excluding tracers and draftsmen), correspondence and shed clerks, ticket collectors, guards, boy firemen and certain other outdoor staff in subordinate railway service.

With regard to promotion of staff from inferior to subordinate service, as these rules did not apply to staff in service prior to 1st April, 1926, those inferior staff that were subsequently so promoted would be excluded from complying with this condition, provided they were otherwise considered suitable.

As regards direct recruitment in the categories specified above, the prescribed minimum educational qualification has been adhered to.

APPOINTMENT OF CLERKS, GRADE II, ETC., ON THE NORTH WESTERN RAILWAY.

99. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ: Should one out of every three vacancies of office clerks in grade II and above on the North Western Railway be filled by direct recruitment of a suitable graduate? What is the number of vacancies that occurred during the last three years? Were outsiders employed for every third vacancy in accordance with instructions?

THE HONOURABLE SIR GUTHRIE RUSSELL: Information is not readily available to show the last occasion on which graduates were recruited as office clerks direct into grade II in the manner referred to in the first part of the question, but Government are informed that this procedure has not been followed in any office of the North Western Railway since 1930 because it was found possible to recruit graduates in the lower grade.

STATE PRISONERS UNDER DETENTION IN BENGAL.

100. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to lay on the table a statement of State prisoners detained in different camps and jails in Bengal without trial for more than five years with their names, educational qualifications and also the posts they held or the profession to which they belonged prior to their arrests and detention?

THE HONOURABLE MR. M. G. HALLETT: There are no persons under detention as State prisoners under Regulation III in any camp or jail in Bengal.

REMOVAL FROM SERVICE, WITHHOLDING OR REDUCING OF PENSIONS OF GOVERNMENT SERVANTS ON ACCOUNT OF THE POLITICAL ACTIVITIES OF THEIR DEPENDENTS.

101. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to lay on the table a statement of parents or

guardians with their respective positions in Government service whose pensions have been withheld or reduced or who have been removed from Government service on account of the alleged complicity of their sons or wards in political activities ?

THE HONOURABLE MR. M. G. HALLETT : From the enquiries which I have made, which are not yet quite complete I have ascertained that there have been only two cases in which civil pensioners who formerly served under the Government of India have been deprived of their pensions. In one case action was taken on account of the objectionable political activities of the pensioner culminating in his conviction for an offence under the Emergency Powers Ordinance. In the other case the pensioner was deprived of his pension for failure to control the activities of his son who, though resident in his father's house, was engaged in revolutionary activities and also for failure to give information and assistance to the police engaged in investigating the son's offence. The son was sentenced to transportation for life for attempting to murder a Superintendent of Police in Bengal. This pensioner was granted a subsistence allowance.

If I get any further information, I will lay it on the table of the House.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : May I enquire from the Honourable Member if there is any chance of restoring their respective pensions in the near future ?

THE HONOURABLE THE PRESIDENT : Order, order. That is a matter of opinion and I will not allow it.

RELEASE OF DETENUS.

102. **THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :**
(a) Have there been any terrorist crimes during the past two years? If not, do Government propose to release such of the detenus who have been in detention for four years or above ?

(b) Do Government propose to release those who are connected neither directly nor indirectly with any particular outrage or crime? If not, why not ?

(c) Will Government be pleased to state how many are being detained in the different detention camps merely on suspicion or merely because they were unknowingly on friendly terms with actual terrorists ?

THE HONOURABLE MR. M. G. HALLETT : (a), (b) and (c). Though this question refers to the terrorist situation in the province of Bengal, I welcome the opportunity of making a general statement in regard to it and of dispelling some of the misconceptions which part (c) of the question shows still exists about the action taken in regard to detenus. Honourable Members have no doubt also seen in the Press the detailed speech made by the Honourable Home Member in another place giving further details of the terrorist position.

It is not a fact that there have been no terrorist crimes during the last two years. In 1934 there were two murders, two attempted murders (including the attack on His Excellency Sir John Anderson), six dacoities, one robbery, one attempted robbery and two bomb outrages. Apart from these serious

outrages there were numerous cases in which arms and ammunition were recovered. The following statement shows the recoveries of arms, etc.—

Revolvers and pistols	41
Revolver ammunition	315
Guns	8
Gun ammunition	11
Rifles	3
Bombs	3
Bombshells	24
Daggers, etc.	1

In 1935 there have been in Bengal three murders, one dacoity and one mail robbery. There have also been considerable recoveries of arms.

Revolvers and pistols	11
Revolver ammunition	132
Guns	7
Gun ammunition	8
Daggers, etc.	11

Honourable Members have no doubt noticed in the Press the seizure of revolvers and ammunition from a ship in the Hooghly ; the fact that seamen are still prepared to take the risk of smuggling arms into Bengal goes to show that the demand for illicit arms is still strong.

Thus though the situation in regard to terrorist crimes has improved and though there have been in the last six months no murders or serious dacoities, save one in Dacca district in last January in which revolutionaries are believed to have taken part and shared the proceeds, yet there are still cases of recovery of illicit arms and the distribution of inflammable leaflets which go to show that the situation has not improved to such an extent as to justify any general relaxation of the measures taken or any general release of persons detained because of their connection with the terrorist movement, particularly in view of the fact that such releases have in the past been followed by a recrudescence of the movement. Those who have been detained for four years or over include the leaders of the movement when it was at its height. They are not detailed merely on suspicion or merely because they were unknowingly on friendly terms with actual terrorists. The evidence against each individual is very carefully scrutinised first by the police, then by officers in the Bengal Secretariat and also by two experienced Judges. The Government of Bengal carefully examine the cases of those who are undergoing detention with a view to relaxing the nature of the detention in suitable cases. They have also recently started a scheme of which details have appeared in the Press for giving selected detenus industrial and agricultural training. Though the total number of persons still under detention is still large yet the following statement shows that the Government of Bengal sanction release or some relaxation of the condition of detention in all possible cases.

During last year 217 cases were released either unconditionally or on money bonds or subject to certain orders restricting their movements, *e.g.*, requiring them to report themselves at a police station at stated intervals. One hundred and one were sent to be domiciled at their own homes ; while 198 were released from jails and 129 from detention camps and sent to be domiciled in villages, which is less severe than detention in a camp or jail.

PARSI MARRIAGE AND DIVORCE BILL.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Mr. President, before we proceed to the next item on the agenda paper, may I request you to permit me, on behalf of the elected Members of

[Sir Phiroze Sethna.]

this House, to express our great satisfaction on learning from the Press Communiqué issued in this morning's papers that in answer to our request His Excellency the Viceroy has been pleased to extend the life of this Council. I have to request you, Sir, to convey to His Excellency our sense of appreciation and our thanks for the favour he has done us and may we also be permitted to thank yourself and the Honourable the Leader of the House for your valued help in this connection.

THE HONOURABLE THE PRESIDENT: I will most certainly convey your grateful thanks to His Excellency the Governor General. Will you please now proceed with the debate on your Bill?

THE HONOURABLE SIR PHIROZE SETHNA: Sir, at the Simla session of 1934 I introduced a Bill further to amend the Parsi Marriage and Divorce Act of 1865. A week later I asked for the Bill to be circulated for opinion. These opinions were received and at the Simla session of 1935 I moved the appointment of a Joint Select Committee of the two Houses. The Report of the Joint Select Committee is now in your hands and the next step is for the House to take the Bill into consideration.

The Parsi community is perhaps the smallest in India in point of numbers. According to the 1931 census their numbers throughout India including the Indian States totalled 111,853. Of these 15,304 were in the Indian States. Of the remaining 96,549 in British India as many as 89,544 are in the Bombay Presidency and 57,765 or half their entire population in Bombay city itself. In passing I may remark that these figures show an increase of 7·8 per cent. in the Parsi population over that of 1921. From the figures I have quoted it will be seen that Bombay city is the stronghold of the community.

I may be allowed to give in brief the history of the original Act known as the Parsi Marriage and Divorce Act (XV of 1865). As far back as 1835, that is a hundred years from now, efforts were made by the community to induce the British Government to enact laws specially suited to their conditions and urgent social necessities. These early efforts however, though often renewed, were not successful. In 1855 a movement was set on foot and a public meeting of prominent members of the community was held on 20th August of that year when, amongst other decisions, it was also resolved to establish a society called the Parsi Law Association for the purpose of drafting special Bills for the community relating amongst others to the law of marriage and divorce. The Bills prepared by the Committee were referred to a Commission appointed by the Government of Bombay to enquire into the usages recognised as laws by the Parsi community of India and into the necessity of special legislation in connection with them. The Commission consisted of four members, two Europeans and two Parsis. The Chairman Sir Joseph Arnould and Sir Henry Newton both Judges of the Bombay High Court were the European members. The two Parsi members were Mr. Framji Nusserwanji Patel of Bombay and Mr. Modee Rustomjee Khurshedjee of Surat. After the Commission's Report was published the Government of Bombay, on 20th October, 1863, issued a Resolution on the same. The Resolution concluded with the following sentence:

“ His Excellency the Governor feels it his duty however to add, that Her Majesty possesses no subjects, who for loyalty, intelligence, capacity for public duties, liberality, sympathy with suffering and honest admiration for British justice have a better claim to a full and indulgent consideration of their needs, than the Parsi community of Bombay and the mofussil ”.

The Commission's Report was submitted to the then Secretary of State who was Sir Charles Wood (afterwards Lord Halifax), grandfather of our former Viceroy Lord Irwin, the present Lord Halifax. Sir Charles agreed with the opinions expressed by the Parsi Law Association and by the Government of Bombay and in his despatch he decided that legislation was necessary and further that it should be enacted by the Council of the Governor General and the law should apply to Parsis living both in Bombay and in the mofussil.

The Association petitioned the Supreme Legislature to enact Bills on the basis of those prepared by it. The Parsi Marriage and Divorce Act (XV of 1865) was one of the results of the labours of this Association and yet another Act was passed at the same time known as the Parsi Succession Act (XXI of 1865). These special laws were published by the Parsi Law Association in 1868 with explanations thereof by their energetic secretary, a distinguished Parsi of his day, the late Sorabji Shapurji Bengali. I quote the following from the preface of this book :

" In times to come the Parsis may, with proper pride point to the fact that of all Asiatic communities they were the first as they are still the only people who have voluntarily imposed on themselves a law declaring bigamy a criminal offence and punishable as such after the manner of the English law. On similar grounds they may claim honour as the first of oriental peoples who by legally defining her individual marital rights have raised woman to a definitely higher social position on the basis of her own personal claims as a reasonable and responsible being ".

The Parsi Marriage and Divorce Act of 1865 was at that time introduced as a Government measure. We had similarly hoped that Government themselves might have moved the present Bill but the Government of India today are of opinion that the conditions of 1865 do not furnish an effective precedent because the opportunities for non-official legislation at that time were meagre and practically all legislation was then introduced by Government. I will admit that in or about 1865 no members of the Parsi community were members of the Supreme Legislature whereas we have today Parsis as Members of both Houses of the Central Legislature. This explains why the present Bill has been introduced by a non-official and will be similarly sponsored by a non-official in the Assembly.

Seventy-one years have elapsed since the original Bill was passed. Conditions have changed very greatly in the social life of the community and for years past it has been urged in the Parsi press by responsible people that the Act should be so amended as to conform with altered conditions. There can be no better critic of present conditions in regard to marriage and divorce amongst Parsis than the Honourable Mr. Justice Bomanji J. Wadia of the Bombay High Court by reason of the fact that he has been the presiding Judge for several years of the Parsi Matrimonial Court. In a Foreword he wrote more than a year back to a book entitled *Parsi Law* by a Parsi advocate Mr. Framji A. Rana which contains the Marriage and Divorce Act of 1865, Justice Wadia commented as follows :

" The greatest benefit conferred by the Statute of 1865 was to make marriage monogamous among the Parsis. But the conditions to which it was suited have considerably changed since 1865 and further amendments have become necessary. New conditions bring new ideas and new ideas require new adaptations and adjustments. The law relating to divorce specially needs changing without forgetting that marriage is the most important relation of human life and having due regard also to the duties and obligations arising out of the union of husband and wife. The law relating to divorce should now be more expansive and not circumscribed within the narrow limits which the sixties of the last century probably required. To give another instance, a wife can sue the husband for judicial separation under the Act, but on the same and at times stronger grounds the husband cannot sue his wife. Is not this an anomaly ? The time is certainly ripe when other legislation will serve the needs of the community better ".

[Sir Phiroze Sethna.]

There are several Parsi Associations today but the one and only body which is recognised to be the premier Association in the community is the Parsi Panchayat of Bombay which controls or has under its control funds to the extent of more than two crores of rupees for the benefit of the community. Apart from the control of or custody of such funds the community as a whole look up to the Trustees of the Parsi Panchayat for guidance in matters of religion, social customs, etc. The Parsi Panchayat however does not generally take a lead in such directions unless it receives representations from the community or from well-known associations of the community. One such prominent Association known as the Parsi Central Association of which Sir Cowasji Jehangir, a distinguished member of the Assembly, is the esteemed President, took it upon itself in 1923 with the help of other associations and individuals to draft amendments suited to present requirements. In issuing a pamphlet nine years later in October, 1932, comparing the clauses of the existing Act with those in the proposed Bill, it observed in the introductory note attached to the pamphlet that

"The Council of the Parsi Central Association appointed a Sub-Committee known as the Parsi Laws Revision Sub-Committee on the 17th December, 1923, i.e., nearly nine years ago in pursuance of letters received from Sir Phiroze Sethna and Mr. F. A. Vakeel, B.A., LL.B. (Solicitor), suggesting amendments in the Parsi Marriage and Divorce Act of 1865".

This Sub-Committee known as the Parsi Laws Revision Sub-Committee consisted of representatives of Parsi Associations and prominent individuals who interested themselves in the question reported that

"Fifty-one meetings were held during the course of three years and after closely and carefully scrutinising each and every section of the Act and after giving their close and earnest attention to the present requirements of the community who submitted an exhaustive report (with a few minutes of dissent) on the 12th April, 1927. The Council of the Association thereafter decided to print and circulate the Report to elicit public opinion thereon and accordingly the Honorary Secretaries sent (500) copies to the Trustees of the Parsi Panchayat, to all the Parsi Associations and Anjumans, the delegates of the Parsi Chief Matrimonial Court, Parsi jurists and publicists all over the country and to Parsi Associations in China and Persia. Publicity was also given to the Report in the Press. The Report was well received and some of the Indian papers wrote leading articles in support of the recommendations made therein. Written opinions of well-known Parsi lawyers, such as Sir Dinshaw Mulla, Mr. Justice Bomanji Wadia, Messrs. Coyaji and D. N. Bahadurji were received".

I have quoted this extract to convince the House that the Bill was not drawn up in a hurry and that every effort was made to consult organisations and individuals of the community who would be in a position to offer sound advice.

THE HONOURABLE THE PRESIDENT : All the same, you will admit that your Bill is far in advance of English law on the subject.

THE HONOURABLE SIR PHIROZE SETHNA : That is not our fault, Sir. There was a Commission appointed in England for revising the Marriage Act there. Its recommendations have been accepted by one House but the matter I believe has been held over by the other House. If they will delay, there is no reason why we should not go forward, as the times do require.

THE HONOURABLE THE PRESIDENT : I have nothing to say. If the community wants it, they can have the law.

THE HONOURABLE SIR PHIROZE SETHNA : The final stage was to consult and get the sanction of the Trustees of the Parsi Panchayat.

The Trustees of the Parsi Panchayat also consulted Parsi bodies and individuals in Bombay and the mofussil and thereafter returned the Bill to the Parsi Law Revision Sub-Committee with some modifications which were all accepted by the Sub-Committee. The Bill was then introduced in this House as already stated in August, 1934, and later circulated for eliciting public opinion.

When the Bill was circulated for opinion, with a view to secure as much unanimity as possible, a conference was arranged by me which held three sittings in November, 1934 in Bombay. Invitations were sent out to all the Parsi Associations of Bombay which number about 25. As a result of the discussions at the conference, a joint reply was sent to the Government of Bombay by as many as 21 bodies including the Parsi Panchayat in answer to Government's request to give their opinions on the Bill. They said they were definitely of opinion that the existing Act required to be amended. The question was how far we could go and at the same time carry the great majority of the community with us. At the conference we agreed to certain amendments which were communicated to the Government of Bombay and we felt quite confident that with the changes agreed to at the conference no reasonable Parsi would object to the Bill in any particular. Such an emphatic pronouncement by the leading Parsi Associations, as many as 21 out of about 25 of them in addition to the support of the small and large Parsi Anjumans of various towns and cities in India will, I am sure, convince this Honourable House that not only is the Bill necessary but that the amendments recommended carry with them the concurrence of the vast majority of the community.

There are bound to be differences of opinion in every community and I will admit there is a small section amongst Parsis also which is against some sections of the Bill as approved by the great majority. I say advisedly that they are opposed only to some sections of the Bill for they too recognise that the existing Act requires to be amended in many particulars. This opposition chiefly comes from a small section who are ultra conservative in their views and do not as a rule approve of any changes in keeping with the changing times.

What exact changes are proposed in the Bill and why, have been fully explained in the Statement of Object and Reasons attached to the Bill and in the Report of the Joint Committee. Most sections of the original Act are kept intact whilst in some minor changes or verbal alterations have been made. The new matter which has been introduced will be found mostly in clause 32 of the Bill. Honourable Members on perusing this clause will find that relief is proposed to be given in cases where it is sorely needed judging from the standpoint of avoiding unnecessary human misery or suffering. There is a section of the community which would go much further and with considerable force of argument prefer the inclusion of additional grounds for divorce, but the Trustees of the Parsi Panchayat have decided to proceed on lines of moderation and so have the members of the Joint Committee. The sexes have been put on a basis of equality and certain defects in the present Act as found from experience in law courts and outside have been sought to be removed.

The Report of the Joint Select Committee has been generally approved by the community. Exception, however, has been taken to the definition of a Parsi and it is therefore that the Honourable Sir Nasarvanji Choksy has given notice of an amendment. Sir Nasarvanji has also given notice of an amendment to section 40. This has been necessitated by a recent Appellate Court judgment. As I am the Mover of the Bill I have in accordance with the prevailing practice preferred that another Member should move amendments and when Sir Nasarvanji does so I will offer fuller explanations in addition to what

[Sir Phiroze Sethna.]

he himself will have to say. I would like to point out that I am personally in entire agreement with both these amendments.

THE HONOURABLE THE PRESIDENT: Will you please defer your remarks on the amendments till the amendment stage is reached.

THE HONOURABLE SIR PHIROZE SETHNA: I have only to add that in addition to these amendments I understand from the Honourable Sir David Devadoss who was a member of the Joint Select Committee that he has some verbal alterations to propose. I am in agreement with him as well.

Sir, I move :

“ That the Bill to amend the law relating to marriage and divorce among Parsis, as reported by the Joint Select Committee, be taken into consideration ”.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : I have only a very few remarks to make. The provisions of this Bill were considered at considerable length and with great care by the members of the Select Committee. As pointed out by the Honourable Sir Phiroze Sethna, section 32 may be said to be in advance of the provisions contained in the matrimonial law of England, but considering the present state of things it was deemed necessary to give effect to the desire of the Parsi community, which as we are all aware is not only a very influential but a highly enlightened community. The Select Committee agreed to make the necessary changes. I may particularly draw your attention, Sir, to one clause which provides a remedy which was not in the previous Act. Recently the High Court of Bombay held that under the Act it had no power to reduce the alimony granted to a wife, but the learned Judges gave relief under what they called the inherent power of the Court. Now in this Bill provision has been made that where circumstances have changed since the grant of alimony, the Court may, after taking into consideration the circumstances then prevailing, alter or reduce the amount.

As regards the other sections, material changes have not been made, and as regards the table of affinity and kindred it was thought best to adopt the whole table as given in the previous Act.

With these few remarks, Sir, I have much pleasure in supporting the Motion.

THE HONOURABLE THE PRESIDENT: Motion moved :

“ That the Bill to amend the law relating to marriage and divorce among Parsis, as reported by the Joint Select Committee, be taken into consideration ”.

The Question is :

“ That that Motion be adopted ”.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: The Question is :

“ That clause 2 stand part of the Bill ”.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : Sir, I beg to move the following amendment :

“ That for sub-clause (7) of clause 2 of the Bill the following be substituted, namely :

‘ (7) A Parsi means a Parsi Zoroastrian ’.”

The definition adopted by the Joint Select Committee created considerable agitation and difference of opinion. The Trustees of the Parsi Panchayat

therefore reconsidered it and came to the conclusion that the best solution of the question would be that a Parsi should be defined as a person born of Zoroastrian parents. Nothing thus requires to be said in its support inasmuch as the definition is perfectly clear and not open to any misconstruction. It is bound to satisfy the Parsi community.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, the existing Act has no definition of a Parsi. The conference of the different Parsi Associations which met in Bombay in November, 1934, recommended that a Parsi should be defined in the Act and defined as one who was a Parsi Zoroastrian which would mean a person who was a Parsi by race and a Zoroastrian by religion. This proposal was considered by the Joint Select Committee and it was a question either of adopting it or of substituting another definition based on the views expressed by Justice Davar in a celebrated Parsi case. The Joint Select Committee decided in favour of the latter and that is why in their Report they defined a Parsi as follows :

“ ‘ Parsi ’ means a person professing the Zoroastrian religion and born of Parsi parents who profess the Zoroastrian religion or a Parsi father who professes the Zoroastrian religion ”.

Strong exception, however, is taken by the community to the definition and the House will see that there is reason for such objection. In the first place the definition as drafted is not exhaustive and it is deficient. It is not exhaustive because it makes no mention of Iranis, *viz.*, Zoroastrians who have come over to India temporarily or permanently. The Parsi Marriage and Divorce Act applies to them as well because they are Zoroastrians and the amended Act must equally apply to them. Again, the definition is incomplete because it leaves out an important particular as explained by Justice Davar. He said :

“ The Parsi community consists of Parsis who are descended from the original Persian emigrants, and who are born of both Zoroastrian parents and who profess the Zoroastrian religion, the Iranis from Persia, professing the Zoroastrian religion, who came to India, either temporarily or permanently, and the children of Parsi fathers by alien mothers who have been duly and properly admitted into the religion ”.

The House will notice that the definition has left out the last words in Justice Davar's judgment, *viz.*, “ who have been duly and properly admitted into the religion ”. This is essential because a child by a Parsi father and a non-Parsi mother can only be accepted as a Zoroastrian provided such child has gone through certain Zoroastrian ceremonies. It is for this reason that we desire to define a Parsi as one who is a Parsi Zoroastrian and hence this amendment which I trust the House will accept.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That for sub-clause (7) of clause 2 of the Bill the following be substituted, namely :
(7) A Parsi means a Parsi Zoroastrian ’.”

The Question is :

“ That that amendment be adopted ”.

The Motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 to 9 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 10 stand part of the Bill ”.

THE HONOURABLE SIR DAVID DEVADOSS : With your permission, Sir, I should like to move a verbal amendment in clause 10. It reads :

“ When a Parsi Matrimonial Court passes a decree, etc.”

We have defined the word “ court ” in clause 2.

THE HONOURABLE THE PRESIDENT : You have not asked my permission to move the amendment in the first instance.

THE HONOURABLE SIR DAVID DEVADOSS : I beg your pardon, Sir. Will you please allow me to make a few verbal amendments in clauses 10 and 32. No doubt we should have given notice, but seeing that these are only verbal and consequential—for instance changing 1935 to 1936—I thought I might get your permission here and move them.

(The Honourable the President accorded permission.)

In clause 10 the words are “ Parsi Matrimonial Court ”. As we have defined “ Court ” in clause 2 as meaning a Court constituted under this Act, the words “ Parsi Matrimonial ” are unnecessary. With your permission, I move that they be deleted from clause 10.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That in the first line of section 10 the words ‘ Parsi Matrimonial ’ be deleted and the word ‘ Court ’ left by itself, for ‘ Court ’ is defined in clause 2 (2) ”.

The Question is :

“ That that amendment be adopted ”.

The Motion was adopted.

Clause 10, as amended, was added to the Bill.

Clauses 11 to 14 were added to the Bill.

Clauses 15 to 17 were added to the Bill.

Clauses 18 to 27 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 28 stand part of the Bill ”.

THE HONOURABLE SIR DAVID DEVADOSS : With your permission, Sir, I beg to move :

“ That the words ‘ of the ’ in the fourth line of clause 28 be deleted.”

It reads “ to practise in any of the Courts constituted under this Act ”. “ Any Court ” will be quite sufficient. It is unnecessary to have the words “ any of the ” and also to substitute the word “ Court ” for the plural “ Courts ”. Then in the same clause the word “ Parsi ” may be added before the words “ District Matrimonial Court ” in the last but one line of the same clause. It is much better to have the word “ Parsi ” before the word “ District ”. With your permission I move that that word also be inserted.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That in the fourth line instead of the words ‘ any of the Courts ’ it would be preferable to say ‘ any Court ’ dropping the words ‘ of the ’ ; in the same section in the last but one line the words ‘ District Matrimonial Court ’ might be preceded by the word ‘ Parsi ’ to read ‘ Parsi District Matrimonial Court ’.”

The Question is :

“ That that amendment be adopted ”.

The Motion was adopted.

Clause 28, as amended, was added to the Bill.

Clause 29 was added to the Bill.

Clauses 30 and 31 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 32 stand part of the Bill ”.

THE HONOURABLE SIR DAVID DEVADOSS : With your permission, Sir, I should like to have the proviso to sub-clause (c) of clause 32 made clear. It reads :

“ Provided that divorce shall not be granted on this ground, if the suit has been filed more than two years after the infliction of the grievous hurt, or after the plaintiff came to know of the infection, or after the last act of compulsory prostitution ”.

I should like to add the letters (i), (ii) and (iii), so that it may not be thought that these are cumulative. The amended proviso will read :

“ Provided that divorce shall not be granted on this ground, if the suit has been filed more than two years (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution ”.

It is only to make the matter quite clear, so that there may be no dispute about it in Courts. I move that these three letters of the alphabet be inserted in the proper places.

May I also move an amendment to clause (h) ?

THE HONOURABLE THE PRESIDENT : Let this amendment be disposed of first.

Amendment moved :

“ That the proviso which is the second paragraph to sub-clause (e) of clause 32 had better be clarified by writing it as follows :

‘ Provided that divorce shall not be granted on this ground, if the suit has been filed more than two years (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution ’. ”

The Question is :

“ That that amendment be adopted ”.

The Motion was adopted.

THE HONOURABLE SIR DAVID DEVADOSS : Sir, I move :

“ That in clause 32 (h) the words ‘ under this Act ’ be deleted ”.

If these words remain it might be said that the orders passed under the Act which is going to be repealed by this Act would not come within the ambit of this Act.

The Motion was adopted.

Clause 32, as amended, was added to the Bill.

Clauses 33 to 39 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That clause 40 stand part of the Bill ”.

THE HONOURABLE SIR NASARVAN-JI (HOKSY) : Sir, I beg to move :

"That in sub-clause (1) of clause 40 of the Bill for all the words beginning with the words 'to the satisfaction of the Court' and ending with the words 'have been duly executed' the following be substituted, namely :

- (a) to the satisfaction of the Court, secure to the wife while she remains chaste and unmarried such gross sum or such monthly or periodical payment of money for a term not exceeding her life, as having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or
- (b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable."

This amendment is necessitated on account of some legal technicalities. It appears that the Act of 1865 was passed, after the passing of the English Act and adopted from it. Subsequently the English Act was amended but the Parsi Act was not amended in conformity with it. Under these circumstances, there have been some legal difficulties and it is in order to obviate them in future that this amendment has been provided. The Honourable Mover, Sir Phiroze Sethna, will explain in detail how the above omission has led to certain irregularities in the disposal of the subject-matter in Parsi matrimonial suits for the maintenance of the wife.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, this amendment is proposed because of a judgment delivered a little over three weeks back, on 20th February, 1936, in the Bombay High Court on the Appellate Side by the Honourable Justice Broomfield and the Honourable Mr. Justice Tyabji in First Appeal No. 164 of 1935. Manekbai R. M. Kapadia *versus* Nadirsha J. Vachha.

The Parsi Marriage and Divorce Act of 1865 was based in a large measure on the Matrimonial Causes Act of England of 1857. Section 34 of the Parsi Marriage and Divorce Act deals with the question of alimony to be given to a wife on divorce and it is more or less similar in terms to section 32 of the English Act. Section 34 of the existing Parsi Marriage and Divorce Act reads as follows :

"The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability, and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties, and suspend the pronouncing of its decree until such instrument shall have been duly executed".

I have read only the relevant portion of section 34. Now the language of this section is important because it is confined merely to an order on the husband to secure in favour of his wife a gross or periodical sum and for that purpose to order the husband to execute the necessary documents. This was the law in England in 1857. In 1865 an application was made on behalf of the wife against the husband who was a practising solicitor and who had no realised property of his own but had merely professional income. The Court said that under section 32 of the Matrimonial Causes Act of 1857 it had no power to make a personal order on the husband to pay a monthly or weekly sum. Thereupon Parliament in 1866 passed an Act (29 and 30 Vict. C. 32) specially for the purpose of removing the hardship felt by the Act of 1857 and in addition to the power already contained, further power was given to the Court to order the husband to pay a weekly or monthly sum for the maintenance of the wife. That Act of 1866 also gave power to the Court to alter or

vary the amount of alimony if the circumstances altered. Unfortunately the Parsi Act of 1865 was never amended and for nearly 70 years the Parsi Matrimonial Court has gone to making personal orders against the husband without the necessary amendment of the law, as was done in the English Act.

In the case I have referred to Manekbai married Nadirsha in 1915. In 1927 she filed a suit in the Parsi Chief Matrimonial Court which gave her a decree of divorce against her husband and the Judge made
12 NOON. an order on the husband directing him to pay a sum of Rs. 85 per mensem as alimony to Manekbai. Nadirsha remarried and so did Manekbai. In March, 1935 Nadirsha made an application for reduction of the alimony of Rs. 85 because he contended that Manekbai had remarried and her present husband was earning Rs. 90 per month and Manekbai herself had an income of Rs. 36 per month from certain Trust Fund. Mr. Justice Bomanji Wadia reduced the amount of alimony from Rs. 85 to Rs. 50 per mensem. Against this order Manekbai filed the appeal in question. Manekbai contended that the order of alimony was unalterable and permanent.

The respondent Nadirsha urged that this appeal raised a very important question of jurisdiction. He contended that section 34 of the Parsi Marriage and Divorce Act is more or less similar in terms to section 32 of the Matrimonial Causes Act of England of 1857. That Act as already stated has been modified whereby the Judge in England can make a personal order against the husband and it may not be secured by any legal document. The Parsi Marriage and Divorce Act of 1865 having not been so modified the Judge could not make an order for the payment of alimony without being secured. Justice Broomfield made the following observation with which Justice Tyabji agreed. Justice Broomfield observed :

" I feel grave doubts as to whether the power to order monthly payments without being secured is conferred on the Parsi Matrimonial Court by the Act of 1865 or can be deduced from its other provisions. I feel grave doubts also as to whether there is inherent jurisdiction in the Court to make such an order "

Justice Broomfield in the course of the judgment also stated that as the Parsi Act was shortly to be amended this point might be borne in mind at the time the amended Bill was being considered by the Legislature. It is to remedy this defect that this amendment has been moved by the Honourable Sir Nasarvanji Choksy to section 40 of the Bill which section corresponds to section 34 of the existing Act and I support it. This amendment will enable a Judge to make a personal order against a husband which he cannot do at present.

THE HONOURABLE THE PRESIDENT : How was this point overlooked in the original Bill ?

THE HONOURABLE SIR PHIROZE SETHNA : I am not a lawyer myself. There are eminent Parsi lawyers but it seems this point never occurred to anybody until Justice Broomfield gave his decision the other day.

THE HONOURABLE THE PRESIDENT : Amendment moved :

" That in sub-clause (1) of clause 40 of the Bill for all the words beginning with the words ' to the satisfaction of the Court ' and ending with the words ' have been duly executed ' the following be substituted, namely :

- (a) to the satisfaction of the Court, secure to the wife while she remains chaste and unmarried such gross sum or such monthly or periodical payment of money for a term not exceeding her life, as having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed

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just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

(b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable'."

The Question is :

"That that amendment be adopted".

The Motion was adopted.

Clause 40, as amended, was added to the Bill.

Clauses 41 to 53 were added to the Bill.

Schedules I and II were added to the Bill.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 1 stand part of the Bill".

THE HONOURABLE SIR DAVID DEVADOSS : With your permission, Sir, I wish to move :

"That in clause 1, the figures '1935' be altered to '1936'."

The Motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, before I move that the Bill, as amended, be passed, I may be permitted to thank the Honourable Members of this House for the facilities they have afforded for the passage of this Bill, for which the Parsi community have reason to be grateful to them. I would also like to express our indebtedness to the members of the Joint Committee of both Houses, from the Chairman, the Honourable the Law Member, downwards for the keen interest they took in the matter, although the subject was foreign to them, and for all the help they gave. I tender to them all our very best thanks. Sir, I now formally move :

"That the Bill, as amended, be passed".

The Motion was adopted.

RESOLUTION *RE* REMOVAL OF EXISTING SEX DISQUALIFICATION FOR MEMBERSHIP OF THE COUNCIL OF STATE IN RESPECT OF WOMEN.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras : Nominated Non-Official) : Sir, the Resolution which I have the honour to move runs as follows :

"This Council recommends to the Governor General in Council that the existing sex disqualification for election and nomination to the Council of State should be removed in respect of women generally".

I hope the Council will forgive me if I begin on a personal note. The fact that the speaker has brought forward this Resolution is a mere accident. I would, however, like to mention that Madras led the way in removing the sex disqualification of women, and if I may say so without laying myself open

to the suspicion of egotism or provincial feeling, it will perhaps be recognised that it is not altogether inappropriate that a Member coming from the Southern Presidency has sponsored the Resolution which is now being moved. The scope and purpose of the Resolution which I have just read can be best appreciated if the Resolution is viewed in its proper perspective, and to this end, I shall very briefly state the present position of women in relation to our Legislatures. Honourable Members are doubtless aware that under the Electoral Rules framed under the Government of India Act of 1919, women are disqualified both for voting at elections and for membership of these Legislatures. Power, however, is given under the Rules to the Legislatures to remove this disqualification. As a matter of fact, most of the Legislatures have removed it. As far as my information goes—I speak subject to correction—women can now vote at elections to the Council of State and the Legislative Assembly and to all the Provincial Councils except in the North-West Frontier Province. They can also be elected or nominated to the Legislative Assembly and to the Provincial Councils except in Bengal, Assam and the North-West Frontier Province. The point to note for our present purpose is that women cannot be members of the Council of State, though they are entitled to vote at elections to the Council. (*A voice*: “No”). An Honourable Member says that they are not entitled. I may remind him that we passed a Resolution in this Council at the Simla session allowing women to vote.

Under the Government of India Act of 1935 provision is made for a very large female electorate and for the representation of women in all the Legislatures, both Federal and Provincial. Seats are reserved for them in both Chambers of the Federal Legislature and in the Provincial Legislative Assemblies in the major provinces; and it is intended to provide for their representation in the Provincial Legislative Councils by nomination. It will thus be seen that the movement to secure for Indian women due recognition of their rightful place in the constitution of the country has achieved a very large measure of success. That success has not yet been adequately reflected in the constitution of the Council of State, which, as I have already said, still retains the sex disqualification for its membership. The Council however has the power to remove this disqualification and can do so by passing a Resolution recommending its removal to the Governor General in Council.

I hope I have now made the scope and purpose of my Resolution sufficiently clear. In the light of the constitutional developments which have taken place in recent years, the retention of this sex disqualification is an anomaly and an anachronism, and a positive hinderance to women's advancement. The need and justification for its removal therefore will be readily granted, and I do not think that I need labour this point any further. I would however like to mention that the removal of the disqualification is quite feasible. It will not entail any administrative inconvenience, because there will be no need for the preparation of any fresh electoral rolls. I believe any elector in a constituency is entitled to stand as a candidate for the Council of State from that particular constituency. I may also mention that the action proposed in the Resolution will not in any way prejudice the rights of any province which has not yet removed and does not wish to remove the sex disqualification for membership of its own Legislative Council.

THE HONOURABLE THE PRESIDENT: You have already said it has been removed everywhere except in the North-West Frontier Province.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: No, Sir, there are three provinces, Bengal, Assam and the North-West Frontier

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Province where women will not be entitled to stand as candidates for election. In view of the circumstances which I have set forth, I think it would be a reflection on the liberal-mindedness and sense of chivalry of this Honourable House if it allows this sex disqualification to remain on the Statute-book any longer. I am fully confident that my proposal will receive the support of this Honourable House. The political status of women is rightly regarded as a matter of great public importance and I would on this occasion appeal to the House to give its unanimous support to this Resolution. In particular I would appeal to the Honourable Leader of the House and to the Honourable Home Secretary, who is in charge of this subject, and through them to the other official Members of this House to give their cordial support to this Resolution. A unanimous vote by the Elder Statesmen will, if I may say so without offence, redound to the prestige of this Council and will give to the women's movement in this country an accession of strength, balance and dignity.

Sir, I move. (Applause.)

THE HONOURABLE CAPTAIN MAUNG AYE (Burma : General) : Sir, I hope Honourable Members will extend to me the same privilege which they usually do to Members addressing the House for the first time. When I was at school I heard the names of Adam and Eve. Naturally I thought Eve was the first wife of Adam. But when I grew older I got a little bit wiser and I found that Lilith was the first wife of Adam. Lilith was a woman with all body and no soul, and that I believe, Sir, was the age of innocence or shall I say the true golden age. I need not go into the reasons how our first forefather got a second wife in Eve. Eve was a woman with a body as well as a soul. And being blessed with a soul she began interfering at once with a knowledge of good and evil, that is, I think, a knowledge of herself and her husband. And that, I think, was the first woman's vote. Sir, there is a large body of women who feel very naturally that if they are capable of bringing children into this world and being responsible to the State for these children, it is only right and proper that they should have the privilege of sitting in the Legislature to help and mould the laws which govern themselves and their children. (Applause.) With due deference to the Honourable Leader of the House, I venture to suggest that no public body can efficiently administer education, public health, maternity and child welfare without the help of women. And it is regrettable to note that, in this respect, women are kept in the same category as paupers, lunatics, criminals and aliens. Sir, Plato in his book *The Republic* kept the woman and man on the same plane in the political body. John Stuart Mill summed up in these words :

" The question of sex is as entirely irrelevant to political rights as is the difference in height, or in the colour of the hair ".

On the other hand Pericles said the virtue of the woman should not be known either for good or for evil. Pericles was a wise man. But let us visualise the days when these benches as well as the Treasury benches will be occupied by women. Stern faced women keen on politics and social welfare know how to get the thing they want. There may be budget cuts in domestic affairs in the sphere of irrigation, to promote prohibition. There may be debates on the question of longer or shorter skirts, or there may be Resolutions that men should wear skirts, as we do in Burma, or that women should wear trousers, as they do in China. (Laughter.) Some Honourable Members may say that women are not effectively represented in this House. At first sight it seems very true, but if Honourable Members are like me, they will begin by vigorously and vehemently opposing their wife's views, and in the end always do as they

are told. So on second thoughts I think the women are effectively represented. Sir, I have expressed my opinion in this House, but in order to avoid domestic jars, I propose to follow the example of some Honourable Members and shall vote in accordance with instructions received. (Laughter and Applause.)

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I rise to support the Resolution moved by the Honourable Sir Ramunni Menon. I am indebted to him for taking this early opportunity of curing a defect which remained in my Resolution of last session. This defect remained in my Resolution unintentionally. I never thought that I would be depriving them of their just rights, but I do hope that when this Resolution is adopted, the Honourable the Leader of the House will convey to the Governor General in Council our desire that it should be translated into action as well. If we do not have the chance of sending women by elections, as other deficiencies of minorities, etc., are made good by nominations, I trust the Honourable Leader of the House will see to it that in the next Council women are represented in the Council of State at least by nomination.

Sir, I support this Resolution.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, Sir Ramunni Menon is to be congratulated on moving this Resolution. Sir, the key to progress in this country is in the hands of Indian women. Our Indian sisters have shown in recent years a remarkable awakening and if we are hopeful of the future, it is because of the character and nobility of Indian womanhood. Sir, we want some women Members in this House. I think they will have much to contribute to our discussions ; they will be able to contribute usefully on social questions—questions of labour welfare, child welfare, etc. Sir, I hope that if some women are not elected, they will find their way into this Council through the door of nomination.

With these words, Sir, I support the Resolution.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras : Non-Muhammadan) : Sir, I have very great pleasure in supporting the Resolution moved by the Honourable Sir Ramunni Menon. I daresay my colleagues know that in municipal elections women are not prevented from standing or for voting. I know in many municipalities women have been returned and that they are doing very good work, and I do not see why the Council of State should not have the privilege of having women elected as Members. They will be very useful during the Budget discussion, especially in asking the Government for more funds for maternity welfare and other things. I hope the Resolution of Sir Ramunni Menon will be unanimously accepted by the House.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary) : Sir, I should be sorry if these benches were entirely silent on this occasion and should like to add my support to the Resolution. I think the House can congratulate itself on the accession of the new speaker (the Honourable Captain Maung Aye). His speech was interesting, but I should be sorry to think that the golden age existed in days when women had no souls. I do feel seriously that we have in the women, especially in India, an enormous and almost entirely untapped source both of energy and of insight for advancing the welfare of the country. I do not suppose that, whatever action is taken on this Resolution, it will result in the accession of many women to this House and it will be a long time, I think, before my Honourable friend realises his

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ambition of seeing a woman taking the place occupied by our distinguished Leader. But there are many subjects—for instance, the one we have just been discussing, that of divorce and marriage—on which a body consisting exclusively of men is necessarily handicapped. And I believe that just as the masculine and the feminine have to be in some degree mingled to produce the complete man or the complete woman, so in a House of this kind we would benefit from the inclusion of those who are able to speak from another view point.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, Mr. Clow has anticipated me: these benches were not going to be silent; but I was going to get up and explain what the procedure is in this debate. One unfortunate Member of this House cannot vote, and that is the Honourable Leader. According to the procedure followed when a motion of this kind has been discussed in the Legislative Assembly and also in the Provincial Legislatures, it has been adopted as a convention that Members of the Executive Council should not vote but that other official Members may vote according to their conscience. Mr. Clow has supported this Motion in eloquent words. I entirely sympathise with the reasons given by him and other Members and I intend, if it goes to vote, to vote in favour of it, not because of instructions received, but on the merits of the question.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, I have much pleasure in supporting this Resolution and I congratulate Sir Ramunni Menon on having brought this forward at an early date. Sir, Madras has been called the benighted presidency and this Resolution comes from the benighted presidency. I may inform you, Sir, and the Honourable House that it was in Madras that a lady was chosen as the Deputy President of the Legislative Council and there is now an elected lady sitting. A lady who was nominated as so far back as 1922 as one of the Councillors of the Corporation of Madras. I believe she was the first lady in India to be chosen as a member of the Corporation of a city. Madras, Sir, has considerably advanced in education, especially education of women, and there is a very strong feeling that they are not getting what is their due. We have seen in the papers the agitation that is going on and in these days it is but right and proper that they should be given a chance of coming here and explaining their position or pressing their claims. As Mr. Clow has rightly observed, many subjects could be dealt with only by women effectively and properly.

With these few remarks, I have much pleasure in supporting the Resolution.

THE HONOURABLE THE PRESIDENT: Resolution moved:

“This Council recommends to the Governor General in Council that the existing sex disqualification for election and nomination to the Council of State should be removed in respect of women generally”.

The Question is:

“That that Resolution be adopted”.

The Motion was adopted.

RESOLUTION *RE* ECONOMY ON RAILWAYS.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, I rise to move:

“This Council recommends to the Governor General in Council to explore further avenues of economy in the Railways and to revise the separation convention of 1924-25”.

When I gave notice of this Resolution I thought that it was about time that we again ventilated the question which I raised on the 14th March, 1934. There was a period of two years to see what real efforts the Government have made towards this desirable end of further economies. Apparently, Sir, to some of my friends, there is no connection between the two items which I have joined together in this Resolution, the economy and separation convention. I shall try to convince the House that they are inter-connected and in a way inter-dependent. I shall therefore first deal with the separation convention. When the separation convention was made the Government was on a tide of prosperity; incomes were rising and revenues were also on the increase and therefore everything was given an optimistic tinge by the officials and non-officials. The Resolution of the Assembly on the subject is a long one, and even comprehensive, but I am sorry to find that one special item which ought to have been of paramount importance was left out. It was not made compulsory: it was left to the discretion of the railways to have a sinking fund of their own. Now if the railways had started with a sinking fund their position would have been much better than it is at the present moment. It was a basic mistake to think that the railways should contribute to the general exchequer to finance the sinking operation. If there is a sinking fund operation its benefits should go to the commercial line and not to the general taxpayer. I can describe, Sir, the position of the Government of India in respect to its public debts as of three kinds. Firstly, it acts as the banker of the commercial department and advances the money. Two-thirds of its debts is represented by the commercial department. Then, Sir, about one-sixth is given in loans to the provinces and the Indian States, where we act as honest brokers; we have no responsibility. And the third is, Sir, that we have our own debts caused by the exigencies of the times, deficiency budgets and so forth. Therefore, the only necessity of a sinking fund for the central revenues is to the extent of our uncovered by assets debts, which we have, amounting to less than Rs. 200 crores. For Rs. 800 crores which is represented by the commercial departments there is no sinking fund worth the name. It is anomalous, Sir, that the railways sinking fund should be financed from central revenues and not from railways. But now, Sir, the position has categorically changed. The railways have spent the magnificent reserve of Rs. 18 crores. By the end of next year, Sir, we will have contracted a debt of Rs. 35½ crores from the depreciation fund. We will be, Sir, in arrears of Rs. 26 crores from the central revenues. In all an additional liability of Rs. 80 crores has been created during the past few years. This, Sir, is not a theoretical analysis but hard facts. It is all very well for the Railway Department to say they are trying to run the Department with the lowest possible expenditure. But we are not interested to know what are their intentions. We want to see the actual facts and I find, Sir, that the railways have much leeway to make up. It is for this reason that I think it is a hopeless task to expect that railways will ever be able to make that contribution successfully to the central revenues. We are on the eve of the formation of the Statutory Railway Authority which will mean that the control of the Legislature will be further and further removed. It is therefore advisable that the Railway Department should take the initiative and bring forward a Resolution in the Legislature asking for a revision of the Convention and the line of the revision which I suggest, Sir, is as follows. After meeting all our expenditure including interest, whatever is left over should up to 2½ per cent. of the capital be devoted to the depreciation and sinking fund. I would give, Sir, two-thirds of whatever is left over to the depreciation fund and one-third to the sinking fund operations. At the maximum, Sir, it will amount to something like Rs. 6 crores a year for the sinking fund and Rs. 12 crores for the depreciation fund. And if there is any surplus from Rs. 18

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crores, that surplus, Sir, should not go to meet the expenditure of the Central Government but should, like the surplus of England, go towards the central sinking fund operations. That should be, Sir, a windfall for the sinking fund whenever it is possible to get it. If we do this, Sir, we will be doing it not only for sentimental reasons but because we have reasons for doing it. I shall give some of the reasons why I wish that there should be a sinking fund provision in the railways. You know, Sir, and the House is aware, that whenever we have terminated the contracts of the companies or bought railways, we have not bought them on the basis of share capital but we have always paid premiums. You call it evaluating the assets. But in reality that asset is not represented by any capital at charge of the company from whom you buy. They have made profits and part of the profits have been invested in the undertaking. Therefore that in reality is a writing up of capital. This, Sir,—what I prefer to call the goodwill of the company,—is an item which finds no place in the permanent assets of the commercial department. It has to be written off, and the sooner it is written off the better for the stability of the commercial concern itself.

Then, Sir, there is over-capitalisation due to the fact that in our depreciation fund account we do not debit the depreciation fund with the replacement cost but with the original cost. The difference, the higher cost of replacement is borne by capital. That again leads to over-capitalisation. There are other items, Sir. For instance, in many of our replacements new stations have been built, yards have been re-modelled. All these costs, Sir, are not assets which will pay any direct return. A principle which I had often adumbrated but which has been so ably enunciated by the Honourable the Finance Member this year is, that for every capital expenditure there should be a direct return equivalent to the interest charges as well as sinking fund operations. This sort of thing, Sir, leads me to demand that there should be a sinking fund operation of tolerable magnitude in the railways and for this reason I hope that the separation convention will be revised.

Now, Sir, I come to the question of economies. The Honourable the Chief Commissioner will give me a long list of supposed economies which have been effected from job analysis, from fuel campaign, from standardisation, and so on and so forth. These economies, Sir, exist mostly on paper. They are theoretical savings and I am afraid, Sir, that the Honourable the Chief Commissioner has no records to prove that these economies have been actually effected and are palpable realities. So much so, Sir, that the Retrenchment Committee had occasion to remark when they were making their inquiries in 1931 that no paper existed to show how far the new lines that had been opened were a paying or non-paying proposition. And the Pope Committee too, Sir, had occasion to question the effectiveness of the accounts and costs prepared by the railways to show the actual and real costs. Now, Sir, I should like the House to consider on broad lines what has been the result of the economy campaign? Twelve years ago, Sir, the operating expenditure of the railways was Rs. 51·65 crores. Today it is Rs. 51·25 crores in the Budget for next year. We are indebted to the railways for the reduction of Rs. 40 lakhs in 12 years. This is one side of the picture. But I have a gloomy picture too. In 1931-32, the first year when a serious attempt at retrenchment was made by the Government, the expenditure of the State-owned railways came down to Rs. 49·31 crores; but today we have budgetted for Rs. 51·25 crores, an increase of Rs. 194 lakhs, during five years. That is the net result of all the economy campaign that has been carried on and which has been proved to exist on paper. The trouble is that the railways never forget that

they are a Government department. It has not that incentive which a commercial concern has, which has to submit its accounts to its shareholders and which is liable to be turned out if there is inefficiency. In the railways there is security of tenure. There is no one to question them. Each man is independent and has complete *swaraj* in his own department. Therefore, there is not that incentive to economise which exists in commercial concerns. I am an admirer of State-management of railways, but I am afraid I may be converted to Company-management if this sort of laxity continues to exist in State-management. My complaint is that as long as they had not spent Rs. 14 crores from the reserve fund, they did not realise their duty to economise. It was only when they had finished Rs. 14 crores that they thought that the time had come when they should bestir themselves and think of economy. The trouble with the railways is that as long as they have some money, and that money is sufficient to meet their day-to-day expenditure, or they can find money even by borrowing from the depreciation fund, they will make no serious effort to tackle the economy problem. They are content with small economies of Rs. 12 lakhs here or Rs. 5 lakhs there, and that too on paper. If Government and the railways had realised the real nature of the depression, if they thought that they were in for this reduced scale of income permanently—they are after all human beings—they would have made efforts to bring the expenditure into line with their income. But in their present mentality, when they are thinking every day of returning prosperity, when they are, like Mr. Micawber, waiting for something to turn up, it is hopeless to expect them to do anything which would radically cure the troubles of the railways.

On the question of the removal of the Lee concessions I need not say much. Suffice it to say that there is no justification for their continuance and no reason why, being a commercial concern, we should not reduce these concessions even if we cannot remove them altogether. In all commercial concerns—if you ask the members of the chambers of commerce, they will tell you, what they have done in their own concerns. There is reduction in pay. There is everywhere some effort to economise. Charity begins at home. The first effort at economy it is whispered is to increase a Member in the Railway Board, and thereby make an increase in the already top-heavy expenditure by adding to it the salary of about Rs. 48,000 and a staff costing another Rs. 6,000 or Rs. 8,000. That is the first real effort at economy which we may expect from the Railway Board.

Then, Sir, as regards the new scales of pay that have been introduced by the railways, I find that in the higher grades the pay is still too high for a commercial department and for the pockets of India to bear. It is only in the lower grades that there has been any real effort to reduce, where it ought not to have been. I mean that this ought not to have preceded in the lower grades. The pay ought to have been first reduced in the higher paid staff, and then they could have tackled the lower paid staff. But here, everything moves the other way round. It is anti-clockwise in this Government.

I find also that there is no uniformity in the scales fixed for the different railways. Some railways have the grade system; others have the time-scale of pay. If there is a central authority like the Railway Board, it ought to come to a decision as to what is best for the railways. If it thinks that there should be only the grade scale of pay, let us have that; if it thinks that the time-scale of pay is the best, let us have that. This concern is centralised and yet there is this difference.

We have been questioning the railways to tell us which is cheaper, the divisional system or the district system. In some railways we have the

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divisional system, in others the district system. Are the Railway Board ever going to come to a decision on this question, or are matters going to be left to move as they may? The Railway Board can never come to any conclusion on any subject.

When I said that the economies of the Chief Commissioner exist only on paper, I meant to say that I have verified my conclusions. I tried to find out what has been the actual result of one method only, and in that I was very much disappointed. I took up the question of heavy engines, the Atlantic type as they are commonly called. When they were bought, we were promised that their purchase would give us a great reduction in the operating cost. But when we had bought all these huge engines we realised that we had bought white elephants.

THE HONOURABLE THE PRESIDENT : Your time is up.

THE HONOURABLE MR. HOSSAIN IMAM : The Mover has half an hour, Sir.

THE HONOURABLE THE PRESIDENT : Yes, you have already taken over 30 minutes.

THE HONOURABLE MR. HOSSAIN IMAM : I shall then skip over some points.

These engines were found to be unable to run on certain sections of the line because lighter rails were liable to be distorted, and the joints to be dis-jointed. They had to be changed, and that meant that capital had to be invested. Then it was found that the bridges were not safe to stand the strain of these engines. They were strengthened. That meant additional cost. Then it was realised that in certain sections which had steep gradients or loose earth, they were not able to work in the monsoon months. They were therefore shifted to other parts. Again no use could be made of them for one reason or other. All these things contributed to make the promised economy non-existent which did not exist in actual action. Then there was another difficulty. They could draw heavier trains at a cheaper cost, but in drawing lighter trains they consumed more than the 56 lbs. of coal which is the consumption of mail engines, and so economy was not effected by employing these heavy engines. If these paper economies are translated into realities and an all-in cost is taken, you will find that none of them led to economies that were promised.

I am very grateful to the Pope Committee's Report for having given me a good deal of information. At the same time I have the complaint to make that the Railway Board have not treated that Report with the courtesy or the attention that it deserved. I do not know whether it is an intentional slight or an oversight, but many important items of Mr. Pope's Report do not even find mention in the Administration Report presented to us this year. That report deals with certain of his recommendations, but there are other items of very great importance which have been entirely left out, *e.g.*, three, "The stores purchase policy", "Accounting as an aid to efficiency" and "Utilisation of non-ferrous scrap". Other items of minor importance also were not mentioned in the Administration Report, but these are of very great importance and ought to have been mentioned. And what is the net result? The Administration Report does not say what action has been taken. The thing that is

mentioned is job analysis, because that provides some jobs. That is the only reason why job analysis has been adopted by the Railway Board. I hope, Sir, that the Chief Commissioner will enlighten the House on these questions.

Then, Sir, I wish to refer to two items with some diffidence. We have all heard about *dustoori*, that there is corruption here and there. But if you want to save millions there are other fields which ought to be tapped. If the stores purchase policy, its exclusiveness and favouritism and other things are looked into you will save millions. But I am afraid it will not be looked into because it affects those high up. The case of the goods yard was taken up because it concerned only humble people; but the corruption is not a bit less in the matter of the purchase of stores.

Then, Sir, there is another department of the railways which gives out contracts, the Engineering department, the counterpart of our Public Works Department. Institute a strict inquiry into the methods adopted, break the monopoly of those to whom contracts are given, investigate all those things, have extra-departmental inquiries in these matters, then it will be found that buildings can be made at a cost 10 or 15 per cent. cheaper than at present. But that too, I am afraid, will not be done. There is ample room for economy, if there is a will to have economy.

Sir, I move.

The Council adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the Chairman (the Honourable Sir David Devadoss) in the Chair.

THE HONOURABLE THE CHAIRMAN (THE HONOURABLE SIR DAVID DEVADOSS): Discussion on the Honourable Mr. Hossain Imam's Resolution will proceed.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner of Railways): Sir, can a leopard change its spots? I have never believed it and I never believed that the Honourable Mover would change his opinions but when in discussing the second part of the Resolution he came out as the champion of the railways, I wondered whether I was wrong. Then he started discussing economies on railways and I was quickly disillusioned and have to revert to my original belief. The Honourable Mover said that some of his friends suggested to him that the first part of the Resolution had nothing to do with the second. I must admit that I was one of those friends and having listened to his speech, I am afraid I am still of the same opinion. The Honourable Mr. Hossain Imam has dealt with his Resolution in two parts and I propose to follow the same course. He took the second part first, namely, the 1924-25 Separation Convention. Now the general terms of that Convention were as follows. I will only read two; those to which he referred:

"The contribution shall be based on the capital at charge and working results of commercial lines, and shall be a sum equal to one per cent. on the capital at charge of commercial lines (excluding capital contributed by companies and Indian States) at the end of the penultimate financial year plus one-fifth of any surplus profits remaining after payment of this fixed return"

subject to certain conditions.

"Any surplus remaining after this payment to general revenues shall be transferred to a railway reserve: provided that if the amount available for transfer to the railway reserve exceeds in any year three crores of rupees only two-thirds of the excess over three crores shall be transferred to the railway reserve and the remaining one-third shall accrue to general revenues".

[Sir Guthrie Russell.]

Now it was arranged that this could be revised at the end of three years if required. What I cannot understand is how an alteration in the Convention would have caused railways to earn one pie more or to save one pie in working expenses. A different Convention might have altered the financial complexion of railways, but it certainly could not have effected economy and that is what I understand my Honourable friend claims. Now actually in 1929 a committee of the Assembly was appointed to go into the question whether there should be an alteration made in this Convention. There were about three meetings of the committee as far as I remember. The last meeting was in June, 1930. Then Government decided that owing to the pending constitutional changes there was not much use in making an alteration in the Convention. Now, exactly the same situation obtains at the present day. We all hope that within the next two or three years we shall have the Statutory Railway Board. Under the Government of India Act one of the first things to be done is for the Federal Railway Authority or the Statutory Railway Board to come to a financial settlement with the Government of India. It does not seem to be much use in coming to a financial settlement now which is going to be upset possibly two years hence.

Now, I come to the first part of the Resolution, namely, economies. The Honourable Member started off by saying that he presumed that I would produce a list of economies which the railways have effected. That is exactly what I do not propose to do. During the General Discussion of the Railway Budget the Honourable the Railway Member went into the details of what the railways have done; he tried to impress upon the House that the railways had done something. There are also several documents in existence which detail the working of railways, but the Honourable Member frankly stated that the speech of the Honourable Railway Member and these documents had no effect on his opinion. If I went into detail it would not have any effect on him either. But there are one or two remarks that I would like to make on certain points he has made. In 1932-33 he said that the working expenses of railways were Rs. 49 crores and 8 lakhs and the estimate for 1936-37 is Rs. 51 crores and 25 lakhs. In other words the working expenses were going to be increased by Rs. 2 crores and 17 lakhs. What he entirely omitted to mention was that in 1932-33 the gross earnings of railways were Rs. 84.43 lakhs, whereas in 1936-37 we estimate for Rs. 91.25 lakhs; in other words with an expenditure of Rs. 2.17 lakhs we expect to get Rs. 7 crores additional earnings. If you get additional traffic, it costs you more money. Further working expenses are not in direct proportion to additional traffic. If you get Rs. 7 crores additional traffic for an expenditure of Rs. 2.17 crores, it seems to me to be rather a good proposition. The Honourable Member also forgot to mention that our working expenses of last year compared to 1932-33 dropped by Rs. 6½ crores. It is admitted of course that the earnings also went down.

There is a point he raised about locomotives. I am not quite clear exactly what he meant but I think the accusation was that we had bought heavy locomotives which we were unable to use because certain portions of the track were not fit to carry them and we had to store these locomotives until we had got the track in a fit condition to carry them. Well, that is not quite correct, though there is a certain amount of truth in what he says. What actually happened was this, when we bought these locomotives we were only able to use them on certain sections but as we strengthened the track on other sections we were able to use them more extensively and so extended their use, that is the position as regards locomotives.

He also said something about new scales of pay and said we had not reduced the higher scales of pay sufficiently and had reduced the lower scales too much. At least I think that is what he did say and he claimed that if we reduced the higher scales of pay we would effect very large economies. Now I think it has been explained both in the Lower House and in this House if there is to be economy it must come mainly from the lower paid staff as they are in a tremendous majority. The numbers in the higher scale are very few, and you have got to pay a man who is holding a responsible position a reasonable amount. I can assure the Honourable Member that even if we reduced the higher scales by 50 per cent. the economies which we would effect would be very small indeed. Then he accused us of trying to camouflage the Pope Committee's Report. He said in our Administration Report we had only mentioned a very small number of the suggestions that Mr. Pope had made. That is quite true but I can assure the Honourable Member that there was no idea of camouflaging but the Administration Report must be kept within reasonable limits and if we went into details of all the suggestions made by Mr. Pope we would require to publish a much more voluminous report. But if the Honourable Member will come to my office, I will show him exactly what we have done.

Now, Sir, I think that covers the main points raised by the Honourable Mover. Though I must say I cannot agree with all his arguments, I am quite prepared to accept the first part of the Resolution which asks the Governor General in Council to explore further avenues of economy in the railways because that is exactly the policy of the Government of India. But for the reason that I have already stated I cannot accept the proposition to revise the separation convention of 1924-25.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution and wish to ask the Honourable Sir Guthrie Russell why he is opposing the revision of the convention? The reasons that he has put forward have not convinced us at all. As regards the first portion of the Resolution, the Honourable the Chief Commissioner of Railways said that it is the Government policy to explore further avenues of economy. Sir, I am sorry to find that although so many inquiries were made, at present instead of keeping up those reductions efforts are being made to increase the establishment, particularly in the officer grade. Sir, railways ought to be run purely on commercial lines, and they must cut their coat according to their cloth. On the North Western Railway a post of Deputy Agent has been created and there are strong rumours that another Member is to be added to the Railway Board. The Honourable Sir Guthrie Russell has said nothing about this although the Honourable Mover of the Resolution did ask as to where was the justification or necessity of adding another Member to the Railway Board. I hope Sir Guthrie Russell will be good enough to ventilate that point.

Sir, efforts have not been made to reduce the expenditure on the services. I mean the superior services and the senior subordinate services. The Lee concessions still continue. When, Sir, times are such, there is absolutely no justification for continuing those concessions and in case railways are to be run on commercial lines there is absolutely no reason for not cutting down expenditure to the level at which it stood some time back. Well, Sir, we find from the Pope Enquiry Committee that certain recommendations were made as regards the reduction in expenditure and as regards the effort to attract more traffic. But, Sir, those recommendations the Railway Board and Railway Administrations have not accepted in full. Sir, we find the allowances and the salaries of the drivers (locomotive drivers), and of the top grade

[Rai Bahadur Lala Ram Saran Das.]

guards are too high. You can get mechanical engineers of high qualifications for from Rs. 300 to Rs. 400 a month. The average pay *plus* allowance of a top grade driver of a mail train comes to Rs. 700 or Rs. 800 a month. If I am wrong the Honourable the Chief Commissioner will put me right. Sir, the same is the case with top grade guards. I admit, Sir, that there was a time when there was a dearth of suitable drivers and guards in India. Now, of course, you can get them in hundreds and there is no reason whatsoever why their salaries and their allowances should not be sufficiently curtailed. The Honourable the Chief Commissioner was very pleased to give me a list the other day of the reductions made in the scales of salaries and allowances but I find to my disappointment that the reductions have not gone far enough. Sir, the Honourable Mover asked a question from the Chief Commissioner of Railways as to what was the reason that on certain railways there was a district system and on other railways there was a divisional system. The Honourable Sir Guthrie Russell has given no reply to that. We want to know from him as to whether or not the divisional system has proved a success? We want the information now from him so that we may know where the matter stands? Sir, if the divisional system is a success why not adopt it universally? My information as a layman is that it has proved a failure.

Sir, lorries now are a standing feature in railway competition. Railways notwithstanding their efforts to beat them out have not succeeded in doing so. But the present policy of the Railway Board is to increase the railway fares, freights and terminal charges. I should like the Honourable Sir Guthrie Russell to explain why they kick at the traffic which is offering. I find in the Pope Committee's Report recommendation of the methods adopted by the London, Midland and Scottish Railway. They suggested concessions for educational trips, land cruises, commercial research and stimulation of industries. I want to quote a paragraph from that Report. They say :

3-5 P.M.

"Joint investigations are being conducted in close touch with Government into the characteristics of, and possibilities of, stimulating particular industries".

In India, Sir, my impression is that the Railway Board are not moving in this direction to the extent they should. Surcharge on coal has not been removed, special rates are not being offered to industries and the industries are being forced to employ lorries to carry their goods. Why are the rates not lowered? You are not getting the traffic. Whatever you get will be a gain. I have asked about this a number of times and the railway people give the stereotypical reply that it does not pay them to do so. I should like to know what the basis for that statement is? How do you judge that a certain rate pays you or not?

Then, Sir, sudden increase of rates by a stroke of the pen is undesirable. It affects the commercial people adversely. You indirectly impose that extra taxation without going to the Central Legislature. That is not fair.

I want to suggest some means of increasing the traffic and decreasing the expenditure. I would reduce more officers rather than sweepers, *chaprasis* and poor clerks. On the North Western Railway, economy has lately been effected by dismissal of watermen and sweepers who were of convenience to the passengers. Why not abolish a few of the divisions? On the North Western Railway—of course I am not a technical man—but I would all the same suggest that the Quetta and Ferozepur divisions may be abolished. The Quetta division consists only of a few hundred miles. Where is the necessity of keeping the divisional staff? Why not amalgamate it with the Karachi

division? Ferozepur can similarly go piecemeal to the Delhi division and piecemeal to the Lahore division. There are many ways of effecting real retrenchment. Amenities to passengers are being given on a very poor scale. The other day, while making observations on the Railway Budget, I asked what is the percentage per year out of the earnings from passengers that you spend upon the amenities of passengers.

(At this stage the Honourable the President resumed the Chair.)

There are no waiting sheds on roadside stations. There is no lighting at night. There are no raised platforms at a majority of wayside stations. The facilities which are given to passengers are very few. You must move in that direction seriously. The other day, when I suggested that railway loans ought to be converted to cheaper rates of interest, the Honourable the Railway Member said that something has been done in that direction. He gave a sum which I consider is not big enough. Now is the time to repay those loans or to convert those loans to a cheaper rate of interest.

I have already mentioned the high overhead cost. Now I come to the workshop. Of course, Dickinson's suggestions have been adopted to a certain extent. It is perhaps a fact when I say that Burn and Company made an offer to the North Western Railway to run their shops at half the present cost. If this is wrong, I should like the Honourable the Chief Commissioner to throw some light on this.

My Honourable friend, the Mover, complained about the engines. The Honourable Sir Guthrie Russell replied that he did not quite follow what the Honourable Member meant. I will try to explain what it seemed to me he meant. When X-C Class engines were purchased, the axle bearings were too low and the sand and dust used to get into them and the engines went on the sick list soon after running a few hundred miles. I made some enquiries on the subject and I learn from a reliable source that there was an error in their design.

Then, Sir, when the railways themselves admit that traffic is falling, where is the necessity for getting improved new wagons though you do get a certain percentage of economy in their working. But what about the capital cost? Unless and until the traffic improves considerably, I find no justification for adding to the wagons. I travel a good deal and I find that almost at every station there is a large number of wagons lying idle in the yards. Similarly, new engines are being ordered to replace the old ones. I admit that the working of up-to-date engines is cheaper than the working of the old ones. But why incur capital cost? You ought to effect as much economy as you possibly can. I would therefore strongly suggest that unless and until the railways begin to make a profit there must be a substantial decrease in the scales of salaries and allowances of the officers and of the top grade subordinates. As times are bad and it is very difficult to make two ends meet, I would not like to go for any reduction in salaries below Rs. 100 or Rs. 50. My friend Sir Guthrie Russell said that the present salaries of officers are reasonable. Well, as long as you earn profits I do not mind those salaries, but I must say that if you compare those salaries with those of railways anywhere else in the world you will find that the salaries in India are very high.

THE HONOURABLE SIR GUTHRIE RUSSELL: Sir, I did not say anything about the present scales of officers' salaries. I said the new scales were reasonable.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Well, Sir, I want the reduction or cut recommended to you by the Retrenchment Committee to be restored and to continue it until the railways begin to earn a

[Rai Bahadur Lala Ram Saran Das.]

profit. There is absolutely no justification for restoring the cut. That restoration I must say has not been approved by the public at all. Sir, in times like these every effort should be made to reduce expenditure, and I would request the Honourable the Chief Commissioner for Railways to restore the cut, to reduce the scales of salaries and allowances which have already been suggested and thus make the railways pay.

Another side of the question is that, now that the Railway Budget has been separated from the General Budget, the loss on the working of the railways is either met from the depreciation or the sinking fund. But now, as Mr. Hossain Imam has told you, the time is fast approaching when you will have to fall back for your deficit on the revenues of India, and as the present taxation is already very heavy I do not know how you will be able to make two ends meet.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER (Madras : Non-Muhammadian) : Mr. President, in supporting this Resolution, I would like to submit a few points with regard to economy on the railways. Sir, some time last session we questioned the cost of the running of rail motors on the Kalka-Simla line, and we understood from the reply that they were being run at a loss. Similarly there are other experiments being carried on on other railway systems. Electric trains have now been introduced in some places, and we are told that these electric engines and Dynamometer cars are not working economically and there are too many kept as reserve. There is also a considerable loss on the working of certain classes of engines, which have proved defective, as observed by the Honourable the Leader of the Opposition. Then I am told that some of the engines bought by Government for State-managed railways have been sold to Company-managed lines. Also when we compare the mileage of some of these engines with the mileage obtained in other parts of the world it is shown that we have too many. These are stabled in many places and this extra cost is not justified by the work we get from these engines. Then with regard to the reconstruction of old lines and bridges, the Mover of the Resolution has pointed out that a large amount of capital expenditure is devoted to providing a stronger roadway for the new heavy engines. Yet as my friend has said, the cost of remodelling the roads to suit the engines has not been justified by the results, especially in regard to the cost involved in reconstructing bridges at enormous cost. This has meant enormous capital outlay on these new works. And the old material which has been renewed, which could have been used profitably for many other purposes, has been sold for a song.

Then, Sir, I would submit that there is a great difference in cost of accounting and auditing between the State and Company-managed railways. Under the State the cost is many times greater. Then the money spent on remodelling stations is simply enormous, for no other purpose than to provide a grander boulevard for people to visit in the evenings. The old stations with a little remodelling, as has been done at the Madras central station, would have very well answered for all purposes, and there was no necessity for completely doing away with them and spending lakhs and lakhs on new stations. So there are many ways from what a layman can observe in which the railways can practise economy in their expenditure and working.

With these words, I support the Resolution.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, before I commence my remarks I wish to apologise to the House and to Sir Guthrie Russell for my unavoidable absence from my seat when the debate on my Resolution was resumed after lunch. My absence has deprived me of the advantage of hearing the opening remarks of the Honourable the Chief Commissioner, as I arrived about the middle of his speech. I am therefore unable to reply to the first part. But I understood that the reason for his opposing the latter part of my Resolution was that the question will of itself come before the Government when the Statutory Railway Authority is constituted, and therefore there was no urgency of considering the question now. Is it so? If so, I would not mind asking the permission of the House to withdraw the latter part of my Resolution.

THE HONOURABLE THE PRESIDENT : Your Resolution is so worded that you will have to withdraw the whole of it; I cannot allow a part of your Resolution to be withdrawn.

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable the Chief Commissioner has accepted on behalf of the Government the first part of my Resolution, with the exception of the words—

THE HONOURABLE THE PRESIDENT : I am afraid I am unable to put your Resolution in two parts as it is worded.

THE HONOURABLE MR. HOSSAIN IMAM : I was not asking for the Resolution to be put in two parts. I want to ask for leave to delete the latter portion.

THE HONOURABLE THE PRESIDENT : I am afraid I cannot at this stage allow you to delete one portion. Your Resolution stands as it is and will be voted on.

THE HONOURABLE MR. HOSSAIN IMAM : That increases our difficulties and I am afraid it will increase the difficulties of the Government Members as well.

I come to the basic question of economy. The remark of the Honourable the Chief Commissioner that from a commercial point of view an increase of Rs. 217 lakhs in the expenditure when the income has increased by Rs. 6 crores is not condemnable. That remark on the face of it appears to be very reasonable, but to those who are conversant with railway administration and with the items that make up the total cost it will not appeal at all. Our capital at charge does not increase by additional men or goods carried. More than a third of the total cost is taken up by interest charges. The interest charges are Rs. 31 crores and the total operating cost is Rs. 50 crores and there are about Rs. 13 crores for the depreciation fund. Our total expenditure is made up of all those amounts. The interest comes to about one-third. The depreciation fund accounts form a sixth, which also does not increase. One-half of the expenditure does not increase by any increase in the passenger or goods carried. Even in the item Operating cost, the item of over-head charges—divisional officers—does not increase. The expenditure involved in the pay and emoluments of the inferior servants, that also increases to a very minor extent. If you have double the traffic, the increase is about one or two men. A booking clerk who can deal with 100 passengers can very well deal with 150. The pay and the emoluments of people, for instance, the driver and the guard

[Mr. Hossain Imam.]

do not increase with the number of additional men carried. With the exception of fuel expenditure, I should say no items rise in proportion to the increase in traffic and passengers. So it is no defence to say that an increase of Rs. 6 crores in income justifies an expenditure of Rs. 2·17 crores. That is a spirit which I have reason to deplore. If it had been a commercial concern, the outlook would not have been this—*how much our income has increased and therefore increased expenditure must necessarily take place*. That is the mentality of the Government and not of a commercial concern. A commercial concern has first to see whether it has been able to balance its accounts and until that account is balanced, every item of expenditure will come for a thorough pruning from a commercial man. May I remind the Honourable the Chief Commissioner of an example given by another Member from the same side of the House? He said he could not incorporate the action taken by the Government on the Pope Committee Report in the Administration Report. As a matter of fact, the Administration Report is a bulky volume having 126 pages in its first volume and 272 pages in the second volume. If they had a desire they could have given more space than the solitary paragraph which they have devoted. If they want to have a precedent, they can take it from the Honourable Mr. Clow who gave us a voluminous Report on the actions taken by the Government on the Report of the Royal Commission on Labour. Was it impossible for the railways to do the same? Do they not belong to the same Government, the indivisible whole? The reason is not far to seek. Opinions in the Railway Board are fluid. The trouble is that Mr. Pope's Committee has committed a great error in insisting on action. The keynote of the Pope Committee's Report is action and persistence that every item should be looked into and nothing looked over. Sir, I should like to remind the House—it is nothing new to the Honourable the Chief Commissioner—of the concluding paragraph of the Pope Committee's second Report that :

“efficiency and economy can only be obtained by constant organised research and investigation and that no saving is too small to be ignored”.

This is the golden rule which ought to be writ large in the offices of the Railway Board as well as the offices of their officers. But, Sir, this wholesome rule which has been twice expressed by the Pope Committee has fallen on deaf ears. We do not say that the Railway Board have disregarded it, but we do say that it has not been followed in the spirit and in the force in which it ought to have been followed. May I ask the Honourable the Chief Commissioner what steps he has taken about the Jamshedpur Railway workshops? Has anything been done about it? Is it going to be opened, and the money which was invested utilised?

THE HONOURABLE SIR GUTHRIE RUSSELL? Do you mean the Tantanagar Workshops?

THE HONOURABLE MR. HOSSAIN IMAM: Yes.

THE HONOURABLE SIR GUTHRIE RUSSELL: They are open at the present moment.

THE HONOURABLE MR. HOSSAIN IMAM: I am very thankful to the Honourable the Chief Commissioner for this. I stressed greatly the necessity of opening this workshop at the time of the Steel Protection Act.

Now, Sir, there is one part of the Pope Committee's Report which said that in order to attract traffic and passengers, it is necessary that the convenience and the requirements of the passengers and traffic should be looked into. I am referring to paragraph 15, Part IV, of the second volume of the Pope Committee's Report. But, Sir, here when we book our goods, we do not know, we are never informed even of the maximum amount of time which will be taken in transit. When I book a thing it may reach in 10 days or in 20 days—there is no knowing. Then, Sir, I would ask the Chief Commissioner of Railways to read a letter which Sir Zafrullah Khan wrote before he assumed the portfolio of Commerce and Railways. That will give him some instruction as to what the railways ought to be and how the passengers should be treated. Then, Sir, the reason why we have been hammering at this question and bringing this subject often and often before the Government is, that we wish that the Government should not fall into the false security and self-complacency that they have done enough. There is nothing like enough until you are able to pay your full quota if you insist on having the present convention or if you prefer to adopt my suggestion, until you have $2\frac{1}{2}$ per cent. on capital. Until then the railways must make a constant effort to check the increased expenditure.

Sir, I should like to have a ruling on the point I raised.

THE HONOURABLE THE PRESIDENT : I understand that you wish to delete the words "and to revise the separation convention of 1924-25". I understand that it is the established policy of Government to make all economies in the matter of railways and I do not know whether the Government Member has any objection to the Resolution as amended ?

THE HONOURABLE SIR GUTHRIE RUSSELL : No, Sir, I accept the Resolution as amended.

THE HONOURABLE THE PRESIDENT : Do you wish to say anything ?

THE HONOURABLE SIR GUTHRIE RUSSELL : As I was forced to my feet very early in the debate, I would like to say one or two words. I apologise for not replying to the question about the divisional and district systems. It is very difficult to say whether the divisional or the district system is cheaper because we have not got them running alongside one another. The divisional system came in in about 1921-22 on the Great Indian Peninsula Railway. I myself raised this question some years ago and what I did was I got the cost of the district system on one of the Company-managed railways and I took the cost of the divisional system on the three State railways and I graphed the expenditure year after year to see whether expenditure on the divisional systems or the district system had risen by the greater amount. We definitely knew that expenditure had increased on both systems, the result of that examination was not very conclusive. Though it rather tended to show that on the railways that have the divisional system though expenses had increased they have not increased by quite as much as on those that have the district system. But it is very difficult definitely to decide which is the better system as far as expenditure is concerned but I can assure my Honourable friend the Mover that we have not lost sight of this. Now there is one other point—

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : When will you be able to decide which is the better system ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I have tried to explain that it is very difficult to decide. The better system is obviously the cheaper system. I think that is what my Honourable friend wants to make out. Now as I said the trend appears to be that the divisional system is slightly cheaper than the district system allowing for change of circumstances. If my Honourable friend so desires, I will have the graphs brought up to date just to see how the conclusion arrived at three or four years ago works out now.

The only other point I would like to mention is the question of the cost of operation. My Honourable friend Mr. Hossain Imam is correct when he says that the cost does not work directly proportionate to the earnings. The normal way you work out cost is you get down to a figure of cost per ton per mile. That is one of the statistical figures. Now if you carry say 10 million tons at a certain cost—say 3 pies per ton per mile—if you carry another half a million tons that will not cost you 3 pies. The American practice lays down that the dependent cost, that is the additional cost of carrying a reasonable amount of extra traffic is about 33½ per cent. of the total cost for all traffic.

I am very glad that my Honourable friend Rai Bahadur Lala Ram Saran Das explained the trouble about locomotives. I think that has been put right.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, what about the rumoured addition of a Member to the Railway Board ?

THE HONOURABLE THE PRESIDENT : That question does not arise on the Resolution. I will allow the Honourable Mover to delete the words “and to revise the separation convention of 1924-25”. The Resolution therefore stands thus :

“That this Council recommends to the Governor General in Council to explore further avenues of economy in the Railways”.

The Question is :

“That that Resolution be adopted”.

The Motion was adopted.

RESOLUTION *RE* GRANT OF RS. 50 LAKHS TO PROVINCIAL GOVERNMENTS FOR THE UPLIFT OF THE DEPRESSED CLASSES.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhamadan) : Sir, I beg to move :

“That this Council recommends to the Governor General in Council that he may be pleased to make a grant of at least fifty lakhs of rupees to Provincial Governments for the special purpose of improving the educational, the economic, the hygienic and other proper and feasible improvement of the depressed classes”.

Perhaps the Hindu Members of this Council may be surprised to find that a Resolution of this kind is moved by a Member who does not belong to their community. But if the problem with which it deals is considered from the national aspect which it undoubtedly has, there can be no reason for such surprise. I belong to the minority Parsi community but I regard myself as a nationalist, though of the moderate school of political thought and as such I cannot be indifferent to the condition of a section of our countrymen who form what are called the depressed classes and one feels it a duty to do what one can to elevate their status. This problem is one which has been engaging the earnest attention of my Hindu countrymen for the last thirty years or more.

and within recent times the interest in it has appreciably increased. Though in its social and socio-religious aspects it may be essentially and primarily a Hindu problem, it is rightly regarded, both as a humanitarian and a national problem. It has made its appeal to all communities in India, and as an illustration of this I may remind the House of the fact that Mr. David, a prominent man of business in Bombay, has donated a fairly large amount from the interest of which a number of scholarships are given to students of the depressed classes. This is the right spirit in which this problem should be approached, and it gives me great pleasure to admit that the Provincial Governments also have been taking a growing interest in the educational and economic condition of the depressed classes and doing what they can within their limited resources to improve it. The Government of my own province, the Bombay Government, have established what is called the Backward Class Department, and I am glad to note that the second administration report on the work of this Department, published about a year ago, shows that that Government have been taking a steady and increasing interest in the education of the depressed classes and in the general improvement of their condition.

In the Budget for 1935-36, the Government of India have allotted Rs. 1 crore for economic improvements in rural areas. They rightly recognised that the vast population living in the villages had the first claim on the surplus in the Exchequer and it is gratifying that they have decided to spend more than the crore of rupees originally allotted. The Provincial Governments to which allotments have been made have decided to spend some portion thereof on the economic improvement of the depressed classes. I am sure the House appreciates what has been done in this matter by the Government of India. What I desire however is that this beneficent policy in the interests of the depressed classes should be continued further and that a much larger grant should be specifically made out of the Indian revenues for the purpose of improving the educational and economic condition of these classes. My Resolution requests the Government of India to make a grant of at least Rs. 50 lakhs specifically for the benefit of the depressed classes, as distinguished from other sections of the rural population.

The problem of the depressed classes in its educational and economic aspects and in those social and socio-religious aspects which bear on their educational and economic condition, has been carefully considered, I am glad to say, both in the interim Report on Education of the Indian Statutory Commission and in the Report of that Commission itself. Honourable Members would do well to bear in mind some statistics with regard to these depressed classes. From the figures given in these Reports it will be found that the depressed classes in British India number about 19 per cent. of the total population. They number about four and a half crores, excluding aboriginals who are not considered as belonging to these classes. They form about 28½ per cent. of the total Hindu population in British India. In the Madras Presidency they number 65 lakhs, in Bombay 15 lakhs, in Bengal 1 crore and 15 lakhs, in the United Provinces, 1 crore and 2 lakhs, in the Punjab 28 lakhs, in Bihar and Orissa 50 lakhs, in the Central Provinces 33 lakhs and in Assam 10 lakhs. These figures show that the problem we are now considering concerns large masses of men. As has been pointed out by the Statutory Commission, in the three provinces of Bengal, the United Provinces and Bihar and Orissa, the connection between the theoretical untouchability and practical disability is less close in those provinces and a special investigation might show that the number of those who are denied equal rights in the matter of schools, water, and the like is less than the total given for depressed classes in these areas. This shows that all those who are classified as untouchables do not suffer from all

[Sir Phiroze Sethna.]

the disabilities that go with untouchability. In other words some untouchables classified as untouchables enjoy equal rights with touchables in the matter of schools, water, and the like and this is why the connection between theoretical untouchability and practical disability is less close in these provinces. Nevertheless, it may be safely said that in all the provinces the economic and the educational condition of the depressed classes is so bad that it calls for the special attention of Government. Though it is satisfactory to note that the desire for education has been steadily growing among these classes within recent years, there is still very great scope for improvement. Primary and middle school education seems to have made notable progress, but secondary and university education still shows very little progress. Except in Bengal the number of those in high schools and colleges does not exceed even 500. The education of girls of these classes is yet in a much more backward condition and the Statutory Commission has pointed out that only one girl out of every thirty thousand of the female population of the depressed classes proceeds beyond the primary stage. I shall not weary the House with a plethora of statistics but I may be allowed to refer to two tables given in the interim Report of the Statutory Commission on page 220 of the Report.

The tables show beyond doubt that education of the depressed classes ought to receive the special attention of the Government of India and the Provincial Governments. The Government of India have done well to appoint a central educational board to consider problems of education and I beg to suggest that this board may well be entrusted with the task of suggesting special measures for the educational progress of the depressed classes.

Besides special measures for promoting the educational progress of the depressed classes, measures must also be taken for improving their economic condition. Some of them, no doubt, own lands, but in most cases those lands are merely small pieces incapable of yielding reasonable profit from agriculture. The Government may well consider whether it would not be possible to give them Government lands without any price or at any rate for a small price. They also suffer from indebtedness, and free grants of money or loans without interest or at a very small rate of interest, may be made to them in order that their indebtedness may at least be considerably reduced. Special co-operative credit banks should also be started to give them financial assistance. This aspect of the problem is not so easy as the educational aspect and to begin with a thorough enquiry may be made as to how and on what lines practical measures can be adopted to ameliorate their economic condition. Of one thing I feel certain, and it is this. If Government will only have the will to do it, they can, from their forest or other lands, give free of cost or at a moderate price lands to those members of the depressed classes who are landless or own very small pieces of land.

I need not say more in support of this Resolution. I may refer in this connection to the munificent gift of Rs. 1 crore made by His Highness the Maharaja Gaekwar of Baroda for the benefit of the depressed classes in his State. His Highness has thus set a noble example which may well be followed by other princes, by the Indian Government and by everyone of the Provincial Governments. I hope that it will not be out of place here if I make an earnest appeal to all wealthy and charitably disposed countrymen of mine to make it a point to spend as much as they can for the educational and economic betterment of the depressed classes. Let us all realise that in elevating them we shall not only be doing our duty by them, but also elevating ourselves. I shall not in this place refer to the social or the socio-religious aspects of this problem

of the depressed classes. For in the first place they are outside the scope of my Resolution; secondly, some of them are controversial, and I am anxious to avoid controversy as much as possible; and, thirdly, because I am not sure that they can all be tackled by Government by means of legislation. But whatever controversial aspects the whole problem of the depressed classes may have, however difficult it may be for the Government to deal with them, and though there can be no doubt some of them can be solved fully and satisfactorily by the Hindu community alone, we can all, Government as well as the Members of the Legislature, help as much as we can in improving the educational and the economic condition of the depressed classes. This aspect of the problem is beyond controversy. These classes have suffered long from neglect and it is absolutely necessary that every effort should be made by Government and the people to bring them, educationally and economically, into line with the other communities of India. I am aware that the resources of the Government are not boundless and that there are many demands upon the public exchequer. But there are clear signs of returning prosperity and Government are showing increasing interest on the welfare of these classes. I am encouraged by this fact in moving this Resolution, and I have sincere hopes that the Government of India, and in particular my Honourable friend the Finance Member, will have a warm place in their or his heart for these classes and that it will be possible for Government to accept my Resolution and set apart funds for the educational and economic improvement of the depressed classes. What is wanted is a full realisation by Government and the people of their special obligations to them, and then the rest will not be found difficult.

Sir, I move my Resolution.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras : Non-Muhammadan) : Sir, I have very great pleasure in supporting the Resolution moved by the Honourable Sir Phiroze Sethna. The depressed classes came to recognition practically after the Montagu-Chelmsford Reforms. Before that, the only agency doing anything for this community were the missionaries. The Montagu-Chelmsford Reforms made an attempt to improve the condition of the depressed classes in India. Speaking of my province, during the time when His Excellency the Viceroy was Governor there, in 1921 or 1922, a special department was started to improve the deplorable condition of the depressed classes in that province. A Labour Commissioner was appointed in 1922 in the person of one Mr. Paddison, who took a great deal of interest in that work. So I can say that Madras was the first province to start doing something for this community by the creation of this special department, and I am glad to hear that Bombay has recently started a special department for uplift work among the depressed classes.

The depressed classes have received great prominence under the new reforms. However, as the Honourable Mover has said, many of them are uneducated, they do not own lands and they do not enjoy much in the way of co-operative facilities and things like that. In Madras the Government have afforded special co-operative facilities for this community. Some years ago no doubt the depressed classes were untouchables. But things are changing now. At one time this community was not admitted to public schools, but now all that is disappearing and there is a great awakening in this respect. And now the Resolution before us asks the Government of India to spare Rs. 50 lakhs for the amelioration of the condition of these people in the provinces. I think it is a very reasonable one and I am sure the Government of India would accept the Resolution and do their best to see that these unfortunate people are given proper education and facilities such as loans to build huts, medical aid in hamlets and cheries and also lands to cultivate. The

[Diwan Bahadur G. Narayanaswami Chetty.]

Madras Government have provided them with lands, and to some extent have alleviated their sufferings, but I do not know conditions in other provinces. Now that political freedom has been given to these people, they ought to be educated to use their franchise properly.

Sir, I have very great pleasure in supporting the Resolution.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I am very glad that this Resolution has been moved by one who belongs to a community which does not desire to see its numbers increased. Sir Phiroze Sethna has rendered a service really, not only to the depressed classes but to Indian society, by bringing forward this Resolution this afternoon. The question of the depressed classes is vital, not only for Hindu society but for Indian society. In my own town I have taken some interest in the uplift of these classes and I know the filthy conditions under which they live. If one goes to a depressed class locality one feels absolutely depressed. The conscience of caste Hindus has to be roused ; the conscience of the Government in regard to the depressed classes has also to be roused. Their educational condition is very very unsatisfactory. You hardly come across an educated man among the depressed classes. Educational opportunity is absolutely necessary for economic opportunity. If these classes do not receive proper education they will never be able to get employment in the superior and provincial services, and we want these classes to have a due share of representation in these services. Therefore Sir Phiroze Sethna has very rightly laid stress upon educational opportunity. We have a surplus budget this year. A part of that surplus is going towards rural reconstruction and I would suggest that a part of the funds allotted for rural reconstruction should be devoted exclusively to the amelioration of the condition of the depressed classes.

With these words, Sir, I give my very hearty and cordial support to the Resolution moved by our distinguished leader Sir Phiroze Sethna.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I had no mind to speak on this Resolution because I thought the subject was such that it will have practically universal support here, but I would like to tell my Honourable friend from Madras that in the Punjab this question is being easily solved and that by the majority of the orthodox community the depressed classes are being very fairly treated. The Arya Samaj people being few in number cannot do much, but the orthodox community is doing a great deal in this matter. I might mention for the information of the House that in the Arts Colleges in the Punjab a number of scholarships are being given to help the depressed classes, and very soon now we will have many graduates from the depressed classes. Even now there are a few members of the depressed classes in the Provincial Civil Service in the Punjab. Sir, I might say that previously it was the orthodox community which was mostly standing in the way, but now, as far as my information goes, they are going to practically treat the depressed classes at par except in the matter of inter-dining and inter-marriage. Of course members of these classes are invited to *jalsas* and functions, and so far as temple entry goes, things are also being made easy for them so far as is permissible.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : I have great pleasure in supporting this Resolution on behalf of the Muslim Members of the Punjab. We feel very strongly for

these depressed classes. They appear to be working under two great handicaps ; one is a purely religious one with which the Legislature can have nothing to do and we can only appeal to the orthodox section of the Hindu community to try to treat them fairly ; the second concerns their education and other facilities in worldly matters. I should be very glad if the Government of India would take special steps to spend money on their education. As far as the Punjab is concerned, this problem fortunately is not so acute. As far as backwardness in education is concerned, all the people in rural areas are almost on the same level. I personally think that they can very easily be defined as depressed classes, whatever religion they belong to. Educationally they are very backward ; socially they are very backward ; they have got no facilities for improved life in the villages. I am sure the money which the Government have set apart to be spent on rural uplift will considerably help these depressed classes too, because this distinction does not exist in the villages. I gladly support this Resolution and would ask the Government of India to pay this amount not from the money which they have already set apart for rural uplift, but over and above that amount.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary) : Sir, we must all sympathise with any measures which are taken to improve the condition and ameliorate the life of the depressed classes. It is a problem which I feel sure all Local Governments fully appreciate, the Honourable Mover of the Resolution, Sir Phiroze Sethna, referred to what has been done in Bombay and the Honourable Diwan Bahadur from Madras referred to the movements initiated there, I think during the Governorship of His Excellency Lord Willingdon. That shows that these Local Governments are fully alive to the problem and I will before I conclude quote some more statements to show that something is being done in other provinces, for I think it is desirable that Local Governments should get full credit for the work they are doing. The work done quietly and unostentatiously by the elected Ministers in the provinces and by the staff under them is very often overlooked by people who merely take a superficial view and Local Governments in consequence do not get the full credit of what they are doing.

The proposal as stated by Mr. Sapru and the Honourable Mover is, as I understand it, to this effect, that out of the sum of Rs. 1 crore—or whatever the total sum is—which is being allotted to the provinces this year for the economic development of rural areas a sum of Rs. 50 lakhs should be set aside for the depressed classes.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Not out of the Rs. 1 crore, but over and above it.

THE HONOURABLE MR. M. G. HALLETT : The Honourable the Finance Member has got to put his hands into his pocket and like the conjuror pull out another rabbit !

THE HONOURABLE MR. P. N. SAPRU : If no other sum is available, that certainly would be my suggestion, that out of Rs. 1 crore that has been allotted for rural reconstruction Rs. 50 lakhs might be allotted for the depressed classes.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY : It is a very good suggestion if it could be done.

THE HONOURABLE MR. M. G. HALLETT : It is rather rash for me to trench on financial ground. If I make a mistake, I have no doubt my friend on my right will pull me up very rapidly and correct me.

[Mr. M. G. Hallett.]

The position as I understand briefly is that the surpluses which have accrued—thanks to the increased consumption of sugar in this country during the last two or three years—are to be used partly for the very laudable object of giving a crore of rupees and some additional lakhs of rupees for the rural development schemes, including schemes for investigating problems connected with public health, and also, I believe schemes connected with agriculture. Another portion is being set aside for the equally laudable object of having money available to finance the new Constitution and to make funds available for the provinces in the difficult days when provincial autonomy first starts.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That you can give to the depressed classes.

THE HONOURABLE MR. M. G. HALLETT : In that case you will adjourn the new Constitution till the Greek Kalends! However anxious we may be to help the depressed classes, I do not think that the country as a whole would like the reforms to be postponed.

The third object on which he is expending his balance next year is the equally laudable object of reducing taxation and reducing taxation on just that class of person who is most hard hit by it. I have myself often felt that the unfortunate clerk in a district office on a small salary of Rs. 88 a month, the small shopkeeper or itinerant vendor of goods, who is charged with having an income of over Rs. 1,000, are very hard hit by having to pay even the few rupees which he has to contribute to meet the demands of the Income-tax Department. In order to provide those sums he probably has to deprive himself and his family of the necessities of life and it was certainly only because of the very grave emergency with which we were faced two or three years ago that such a tax was in my opinion justifiable. I take it that this Council does not want that tax to be continued even to provide Rs. 50 lakhs, or whatever sum the tax might realise, for the amelioration of the condition of the depressed classes.

Sir, speaking as a non-financier, it does not seem to me that Rs. 50 lakhs can be made available unless you alter the budget—and that budget has received very general approval; all that could be done would be to earmark part of the crore which will be allotted to the provinces, for this specific object. The total grant is distributed among the provinces at present on the basis of the rural population. Local Governments draw up schemes showing on what they will expend the money and no doubt many Members of this House saw the pamphlet which was issued at the time of the last session showing the schemes which Local Governments had undertaken. Many of those schemes are schemes which indirectly, if not directly, benefit the depressed classes and I think it is a good thing that schemes which benefit everybody should be undertaken out of this money rather than schemes which only benefit one particular section of the population. For instance, the Honourable Mover's Resolution refers to the hygienic condition of the depressed classes, by which I presume he meant that steps should be taken to improve the public health. This affects everybody. Epidemics, cholera, plague, small-pox or malaria, attack the whole population, whether a man is a Chamar or a Brahmin and any measures which can be taken to lessen the incidence of disease will benefit both the depressed classes and the upper classes as well. Much of the money which has been allotted last year is being spent on measures to improve public health generally. Small hospitals are being started or itinerant doctors are deputed to villages for the purpose of medical relief. A rule laid down by every

Government is that every hospital should of course be open to every section of the community, depressed or otherwise. Then again take another object on which Local Governments are expending money, that is the development and improvement of village communications by the construction of roads and bridges. That again does to a certain extent help the depressed classes; the expenditure of the money may give him some employment when the work is under construction; if he has some agricultural holding he benefits like the rest of the village community. Next, Sir, I refer to education; that is a problem to which I think all Local Governments have been devoting very much attention—the education of the depressed classes. For instance, this is a report which is not very up to date of what has been done in the United Provinces. The Honourable Mover referred to Bombay and one Member referred to Madras, so I need not refer to them. In the United Provinces in 1932 there were altogether 757 special schools for the depressed classes with 26,074 pupils on the roll. There were in addition in ordinary schools 95,340 pupils belonging to these classes. Special scholarships have been provided by the Government to enable boys of the depressed classes to proceed to middle and high schools and other Government artisan and technical schools. Government have also appointed an Advisory Committee to advise Government on all such questions concerned with the education of the depressed classes. In technical and industrial institutions 25 per cent. of the scholarships and stipends are reserved for boys of depressed classes. Government give a grant of Rs. 960 per mensem to a private depressed class industrial school at Khurja. That I think shows that Government are tackling this problem of education and are wisely encouraging the boys of the depressed classes not to go into the ordinary secondary schools and thereby become one of the unemployed scholars of those schools but to take up technical work for which many of them are well suited, and get themselves trained in technical work so that they can find employment in industry and not become merely members of the very large unemployed class in this country.

It is very much the same in the Punjab, where they encourage the children of the depressed classes to go to industrial schools; and it is the same in Bihar, where also depressed class pupils are given scholarships or stipends in the high schools if they wish to go there.

Then, Sir, in the Punjab and in Northern India another work on which Local Governments have been engaged for some time past and which they are supplementing now with the aid of the money received from this grant is the development of the tanning industry. The Chamars are, I understand, the leading depressed class in the Punjab and the Department of Industries has organised for the benefit of Chamars a village tanning demonstration party which holds practical demonstrations of the improved methods of tanning in villages which are chiefly populated by Chamars. This is work directly for the economic benefit of that community. The same is being done in Delhi where the Chamars are settled in large numbers, and a recent report shows that in view of the economic importance of the leather tanning and leather working industries which constitute the hereditary occupation of Harijans numbering more than half a lakh in the province the Industrial Surveyor has undertaken the development of these industries and as an initial step has organised an industrial co-operative society amongst the workers. The development of co-operative societies among the depressed classes is, I think, extremely important. The Honourable Diwan Bahadur Narayana-swami Chetty referred to the fact that the Government of Madras had started co-operative banks for the depressed classes. Funds have been given for the development of the co-operative movement and with the progress of the

[Mr. M. G. Hallett.]

co-operative movement Local Governments will no doubt be able to start more societies for the depressed classes wherever they can find suitable places for them.

I have quoted these figures briefly just to show that Local Governments are not in any way blind to this problem and there is no reason to believe that even if we did not ask them to do so, they would not undertake further measures which would contribute to the amelioration of the conditions of this unfortunate people. But, Sir, we must always remember a point that was made by my Honourable friend, Rai Bahadur Lala Ram Saran Das, that the problem of untouchability differs very much in different parts of India. That is a platitude really, a truism, but it is often, I think, overlooked. I remember an example, to quote my own experience, when the Franchise Committee came down to Patna where I then was. They wanted to go to a typical village inhabited by high caste and low caste untouchables. We went out to the village and I think the low caste people there were Chamars and one member of the Committee asked me to find out whether they were allowed to use the well. I got hold of a Chamar and asked him whether he could draw water from the well. He said: "Yes, why should I not? I can take water from the Ganges and no one objects to my taking water from the well". That, Sir, is a good example of how in certain parts of India the untouchables live on almost—though possibly not quite—equal terms with the higher castes. And it follows from that that any measures which are taken to ameliorate the general condition of the village—whether it is by providing wells or by providing hospitals or by providing roads--all help *inter alia* the depressed classes as well as the upper classes.

I trust, Sir, that from what I have said I shall not appear to have been unsympathetic to this problem, but I do not think it is desirable to earmark a sum of Rs. 50 lakhs out of a total sum of Rs. 1 crore for this specific object, but I do undertake to send a copy of this debate to all Local Governments when they are asked to submit their schemes as to how they will spend this sum and I have no doubt they will take these suggestions that have been made into consideration.

The Honourable Sir Phiroze Sethna made several practical suggestions which were, first, that special co-operative credit banks should be started. That, I say, has already been done in certain provinces but it might well be done in others. Secondly, that there should be an early investigation of the question. I cannot say whether this is necessary in every province. In Madras where the problem is acute there is already a department which is dealing with the whole problem. Similar committees or departments have been started in Bombay and in other provinces. His third suggestion is certainly one which the Local Governments might be prepared to consider and is that waste land might be given to these classes. Madras has done a lot in that way and something like 300,000 acres have been distributed to the depressed classes there to enable them to build houses of their own and settle on the land.

I am prepared as I have said to give an assurance to the Honourable Member that this discussion will be forwarded to Local Governments who no doubt will consider it, but I am not prepared to earmark a sum out of the very small amount available for the economic development of all rural areas for the relief of any one class, however pitiable their state may be. After all, there are many high class people in the villages who have also not sufficient to maintain themselves on and whose condition certainly requires some amelioration even if they do not suffer from social or religious disabilities.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I shall first deal with the speeches of my Honourable non-official friends and then refer to the remarks made by the Honourable Mr. Hallett. Every non-official Member who has spoken has admitted—and so did I myself—that the lot of the depressed classes now is perhaps better than what it was some years ago. An endeavour is made not only by orthodox Hindus but by others as well to improve their condition. That is a sign of the times and a very gratifying sign indeed. The Honourable Rai Bahadur Lala Ram Saran Das made out that in the Punjab the case was not at all so bad. But in the Punjab there are only 28 lakhs of depressed classes whereas as I stated in my opening speech in Bengal there are 115 lakhs, in the United Provinces 102 lakhs and in Bihar and Orissa 50 lakhs and I do not think the position of the depressed classes in those provinces is as satisfactory as my friend made out is the case in his province. However, the point to which I wish to draw the attention of the House is that, although these gentlemen have said that the position of the depressed classes is improving, every one of them has supported the Resolution because they think that if a sum like half a crore of rupees were set apart for the purpose of alleviating their position, that amount would go a great way to improve the situation, which has already slightly improved but needs to be yet further improved.

Now, the Honourable the Government Member has given us a list of the different activities of the different Provincial Governments in regard to affording relief to this particular class of people. I do not for a moment deny that the Provincial Governments are doing what best they can, but at the same time I would urge that if they have more funds to spend, they can do better. Where can they get more funds from except from the Government of India? The Government of India have already given a crore of rupees. The Honourable Mr. Hallett inquired if it was my intention to get a portion of this crore earmarked for the depressed classes. My Honourable friends round me replied by saying, "No; we want this sum separately for the depressed classes". That certainly is my view as well. If I asked for Rs. 50 lakhs every year, that would have been a different proposition. I am not asking for a recurring grant. Government have given a crore of rupees for improving the lot of the rural classes. I want another Rs. 50 lakhs for improving the lot of those who are branded as belonging to the depressed classes. They have not been given sufficient amenities in spite of all that has been said by some of the Members. The Government Member himself admitted that very much more can be done for their benefit, and that will be done if this amount can be set apart for the purpose. However, the Honourable Mr. Hallett has pleaded that he is not a financier, that he does not belong to that department, and that much would rest with the Finance Member himself. He has promised that he will convey the gist of the discussion that has taken place today to the different Provincial Governments in the hope that they might pay more attention to helping the depressed classes. Sir, I would like to remind the Honourable Mr. Hallett of the munificent gift of a crore of rupees, to which I referred in my earlier speech, made by His Highness the Maharaja Gaekwar of Baroda. His Highness has also a very large rural population whose condition he is trying to improve. But he also has depressed classes in his State and he has set apart this sum expressly for the benefit, not of the rural classes, but in addition to what is being done in the State for the rural classes, for the benefit of the depressed classes. If a State with only a fraction of the resources of the Government of India can do so, I do not see why the Government of India cannot make a grant once, not a recurring grant, of Rs. 50 lakhs for the purpose that I have specified in the Resolution.

[Sir Phiroze Sethna.]

For these reasons, I would like to press my Resolution to a vote, so that even if it fails, Government may know what is the wish of the House, at any rate of the elected Members, so that—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Why not nominated Members also ?

THE HONOURABLE SIR PHIROZE SETHNA : I leave it to them to vote as they please. I hope they will vote with us.

My only object is that the Finance Member, when he prepares his next year's Budget and when he expects a larger surplus than he has today, he will be prepared, if not this year, at any rate next March, to devote a sum of half a crore of rupees for the special purpose for which my Resolution is moved.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“ This Council recommends to the Governor General in Council that he may be pleased to make a grant of at least fifty lakhs of rupees to Provincial Governments for the special purpose of improving the educational, the economic, the hygienic and other proper and feasible improvement of the depressed classes ? ”

THE HONOURABLE MR. A. J. RAISMAN (Finance Secretary) : I think it is very relevant to the question of the attitude which will be taken on these benches to know exactly what the Honourable Mover has in mind—whether he is merely making a recommendation that at some suitable time, if and when resources are available, this should be done or whether his proposal is that now a sum of Rs. 50 lakhs should be set apart.

THE HONOURABLE SIR PHIROZE SETHNA : If it can be done immediately, I should certainly wish it. But if it cannot be done immediately—

THE HONOURABLE THE PRESIDENT : I am afraid your suggestion, Honourable Mr. Raisman, is too late. You ought to have got up at an earlier stage and made this suggestion. The Resolution wants immediate assistance and the Honourable Mr. Hallett has spoken on the Resolution and has given the opinion of the Government. I have no option now but to put the Resolution to the vote of the House.

THE HONOURABLE SIR PHIROZE SETHNA : My Resolution does not say this must be done at once. I have not said in so many words that the money should be given immediately. It can be done as soon as it can be afforded—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : On a point of order Sir,—

THE HONOURABLE THE PRESIDENT : One at a time, please.

THE HONOURABLE SIR PHIROZE SETHNA : If Government cannot do so today, but if they can do it during the year, if there is a surplus, I shall have no objection.

THE HONOURABLE THE PRESIDENT : As the Resolution reads, the only inference is that you want Government to pay Rs. 50 lakhs now. There is

no other interpretation possible. You do not say "at any other time, or when it can be afforded later".

Honourable Raja Ghazanfar Ali Khan, do you wish to say anything ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I merely rose on a point of order, Sir, to enquire if, after you have asked for a division and said "The Ayes have it", they can start this discussion.

AN HONOURABLE MEMBER : The Honourable the President has not yet said "The Ayes have it".

THE HONOURABLE SIR PHIROZE SETHNA : If you add, "as soon as convenient" I will agree.

THE HONOURABLE THE PRESIDENT : All this has come from the Honourable Mr. Raisman after the Member-in-charge has spoken, who has said that Government cannot at present accept your suggestion. If you are prepared to withdraw your Resolution that is another thing.

THE HONOURABLE SIR PHIROZE SETHNA : That, I am not.

THE HONOURABLE THE PRESIDENT : Then I must put the Resolution to the vote.

THE HONOURABLE SIR PHIROZE SETHNA : Instead of the Honourable Mr. Raisman, if the Honourable Mr. Hallett takes up that point, would you allow it ? He has got the right of speaking a second time.

THE HONOURABLE THE PRESIDENT : You must be prepared to withdraw your Resolution. In that case, I will ask him to do so.

THE HONOURABLE SIR PHIROZE SETHNA : My point is, that if the Honourable Mr. Hallett says he will agree if I add to my Resolution "as soon as convenient to Government", I am perfectly willing to withdraw.

THE HONOURABLE THE PRESIDENT : You can move your Resolution any time you like when the rules allow you to do so.

THE HONOURABLE SIR PHIROZE SETHNA : Then, Sir, I must press my Resolution. The Honourable Mr. Hallett has the right of a further reply.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : What does he know about finance ?

THE HONOURABLE MR. M. G. HALLETT : In regard to the current year, all we can do is to put this debate before Local Governments and ask them to consider whether they will allot some portion of the grant of Rs. 1 crores to this object. As regards the future, it is impossible to commit ourselves. We cannot say when a balance would be available and I cannot anticipate exactly what the situation will be a year hence.

THE HONOURABLE THE PRESIDENT : Does that satisfy you ?

THE HONOURABLE SIR PHIROZE SETHNA : I am afraid I did not quite catch what the Honourable Member said.

THE HONOURABLE THE PRESIDENT : He says they will refer the matter to Provincial Governments asking them to take into consideration what can be done this year out of this amount—

THE HONOURABLE SIR PHIROZE SETHNA : I want the Government of India to do this, not the Provincial Governments.

THE HONOURABLE THE PRESIDENT : As regards the future, he can make no promise.

THE HONOURABLE MR. M. G. HALLETT : We cannot give another Rs. 50 lakhs this year. That is perfectly definite.

THE HONOURABLE THE PRESIDENT : Are you prepared to withdraw your Resolution ?

THE HONOURABLE SIR PHIROZE SETHNA : No, Sir.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“ That this Council recommends to the Governor General in Council that he may be pleased to make a grant of at least fifty lakhs of rupees to Provincial Governments for the special purpose of improving the educational, the economic, the hygienic and other proper and feasible improvement of the depressed classes ”.

The Question is :

“ That that Resolution be adopted ”.

The Council divided .

AYES—11.

Banerjee, The Honourable Mr. Jagadish Chandra.
Chetty, The Honourable Diwan Bahadur G. Narayanaswami.
Ghazanfar Ali Khan, The Honourable Raja.
Gounder, The Honourable Mr. V. C. Vellingiri.
Hoseain Imam, The Honourable Mr.

Jagdish Prasad, The Honourable Rai Bahadur Lala.
Naidu, The Honourable Mr. Y. Ranganayakalu.
Ram Saran Das, The Honourable Rai Bahadur Lala.
Sapru, The Honourable Mr. P. N. Sethna, The Honourable Sir Phiroze.
Sinha, The Honourable Kumar Nripendra Narayan.

NOES—27.

Akram Husain Bahadur, The Honourable Prince Afsarul-Mulk Mirza Muhammad.
Campbell, The Honourable Sir George.
Charanjit Singh, The Honourable Raja.
Choksy, The Honourable Khan Bahadur Dr. Sir Naarvanji.
Clow, The Honourable Mr. A. G.
Devadoss, The Honourable Sir David.
Ghosal, The Honourable Sir Josna.
Glancy, The Honourable Sir Bertrand.
Hafeez The Honourable Khan Bahadur Syed Abdul.
Haidar, The Honourable Khan Bahadur Shams-ud Din.
Hallett, The Honourable Mr. M. G.
Ishrat Hussain, The Honourable Saiyid.
Jagdish Prasad, The Honourable Kunwar Sir.
Johnson, The Honourable Mr. J. N. G.

Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.
McIntyre, The Honourable Mr. W. T.
Menon, The Honourable Diwan Bahadur Sir Ramunni.
Mitha, The Honourable Sir Suleman Cassim Haji.
Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Raghunandan Prasad Singh, The Honourable Raja.
Raisman, The Honourable Mr. A. J.
Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Russell, The Honourable Sir Guthrie.
Stewart, The Honourable Mr. T. A.
Suhrawardy, The Honourable Mr. Mahmood.
Thomas, The Honourable Mr. E. F.
Williams, The Honourable Mr. A. deC.

The Motion was negatived.

RESOLUTION *RE* MAKING OF OFFENCES UNDER SECTION 498,
INDIAN PENAL CODE, COGNIZABLE.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab :
Muhammadan) : Sir, I beg to move :

“ That this Council recommends to the Governor General in Council that he may be pleased to take early steps to make section 498 of the Indian Penal Code cognizable ”.

Sir, as Honourable Members are aware, this section 498 of the Indian Penal Code relates to inducing or taking away or detaining with criminal intent a married woman. The proper course for me perhaps would have been to bring in a Bill amending the Indian Penal Code, but I have preferred to bring forward a Resolution because my intention was merely to draw the attention of the Government of India towards this most important matter. During the last several years the number of abduction cases has risen considerably.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED
AKBAR KHAN : Rising where ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Not in your province, because in the North-West Frontier Province the woman is also punished under the law, which is not done in any other province in India, and perhaps that is the reason why the number of these cases is very small in that province.

Now, this is already an offence, and my only object is that, instead of the complainant having to lodge a complaint in a court of law, he should be able to lodge a report in the police station and the offence should be made cognizable. As the law stands at present, we find that hardly 5 per cent. of such cases really end in a conviction. My experience of my part of the country is that most of the murder cases, if their history be traced, arise out of some abduction having taken place in the family and having created feelings of enmity between two families. That is generally the root cause of murder cases in this country. Also, Sir, the communal atmosphere at present is not very calm, and when the parties to these abduction cases happen to belong to two different communities, it creates not only bitterness between families but also embitters relations between the communities. This has been more or less the case in Bengal and Sind. Those Honourable Members who have been reading papers regularly must be aware that there have been a number of complaints on this account in these provinces. Therefore I would invite the attention of the Government to the desirability of their taking the opinions of different Governments on this matter and if they are satisfied that this is an offence which in the interests of law and order ought to be made cognizable, I would request them to take steps in that case to bring forward necessary legislation.

Sir, I move.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED
AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) :
Sir, I rise to oppose this Resolution. The Raja Sahib has not convinced us by his argument whether abduction cases are on the increase. If his remarks are confined to the Punjab, then I would ask my Honourable friend to see some Member of the Punjab Legislature and bring up the case there; but if he refers to the whole of India, he has not given any statistics to assure us that this

[Sir Mahomed Akbar Khan.]

particular crime is on the increase in other provinces too. Why I oppose him is that he does not take into account that Mussalmans generally and particularly the Afghan population of the North-West Frontier Province, are very strictly *pardah* observing people. If the police is given these powers, we have all party feelings. A man may be put up for Rs. 100 or Rs. 200 to make a false accusation on a very big man of the place and on his bringing this false accusation, unnecessarily the house of that gentleman will be searched in the night and he will be disgraced in the eyes of the public. That is my main reason for opposing this Resolution. I say, Sir, that we are daily asking for some more liberties ; we are asking for our rights. On the other hand, the Raja Sahib is cutting down our rights. We may find that at 12 midnight a policeman with three or four men accompanying him as guards come to search our houses because a false accusation is made. If you want to punish that man, he will be only a hired man and he may get six months' imprisonment. But what about the gentleman whose house has been searched, Sir ? What will be his position in the eyes of the public ? Sir, if I am permitted, I will say that although I am a Mussalman and I do not believe in the transmigration of the soul but if a man is thrice burnt and he is hung thrice it will be a lesser disgrace to him than his house being searched. That is a thing on which the situation might change on the Frontier at any time. If I am permitted I must say that Miss Ellis' case was due to nothing else than the searching of Ajab Khan's house. If a house is indiscriminately searched the Afghan population believe in an eye for an eye and a tooth for a tooth. If an Afghan's house is searched he will move heaven and earth to be avenged on the person who has searched his house. I think I am voicing the view of the Afghan population as a whole in opposing this Resolution and I do not like a Resolution of this nature to be brought into this House by which the secrecy of our houses is to be interfered with. Well, Sir, I say that personally I may be a civilised human being, but I am a Pathan. If the outer door of my house is knocked by a stranger, I think it is the height of humiliation for me and I would not be able to live in the place and I would be the laughing stock of those people. We consider our own houses absolutely as our own castles and I would under no circumstances give the police the right to search houses of innocent men in the night. It will be a very easy instrument for our enemies. Any man might give an ordinary man Rs. 300 or Rs. 400 and the house of a gentleman, a *rais*, will be searched at any time at night. Supposing you want to run in this individual, the hired individual, he will be a man of no status, but the respectable man will loose his respectability by indiscreet searching.

THE HONOURABLE THE PRESIDENT : You have said that two or three times.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, these are my main arguments against this Resolution and I oppose it tooth and nail and lock, stock and barrel.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I am surprised that a man of Raja Ghazanfar Ali Khan's intelligence and ability should have brought forward a Resolution of this character. We are living in the 20th Century and not in the Middle Ages or in ancient times or primitive times. Sir, Raja Ghazanfar Ali Khan looks upon woman as property and he thinks that if she goes away with a lover the lover must be punished. My attitude on these matters is very different. I think sections 497 and 498 ought not to find a place in the criminal law of this

country, because men's conceptions and women's conceptions in regard to these fundamental matters have changed and we believe not in the crude morality in which the Raja Sahib believes but in a new morality. Therefore, apart from the objections which my Honourable friend Sir Akbar Khan has raised, there is also a fundamental objection to this Resolution and that objection is that it would treat woman as simply chattel, as property. Our conception of marriage is very different from the Raja Sahib's conception. Our conception of marriage is that woman is a partner, is a companion. The marriage tie according to us is a volitional tie.

THE HONOURABLE THE PRESIDENT: Do you wish to contend that the husband has no right against her ?

THE HONOURABLE MR. P. N. SAPRU: I did not say that. The husband would have no right in a criminal court; he would have a right in a civil court. The offence of adultery and enticing away a woman should be civil offences. I do not accept the Penal Code as infallible. The Penal Code was framed in 1857; things have changed since that date. Therefore, Sir, apart from other objections to which this Resolution is open, I think there is a very fundamental objection and I must strongly oppose it.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern: Non-Muhammadan): Sir, I am also amazed that the Honourable Raja Ghazanfar Ali Khan should have moved a Resolution of this extraordinary character. Under the present law adultery and enticing away a married woman are offences of which a court only takes notice on the complaint in writing of the husband or some one who is in charge of the woman on behalf of the husband.

Offences under sections 497 and 498 of the Indian Penal Code are matrimonial offences. The offence is an offence against the husband and it is really for him to decide whether he will condone the offence or proceed against the seducer criminally. Society and law ought not to interfere in the personal lives of the people except when it is necessary in the social interest that they should so interfere. A husband may have very good reasons for not proceeding against a seducer. He may consider it a disgrace to go to a court and speak publicly about a domestic tragedy. His children's future—the prospect of a suitable marriage for his daughter—all this may be affected by a scandal of this kind becoming public. The reputation of his family may require that he should keep silent. And yet if the proposed change is effected in the law it will become possible for any police constable to break up the integrity of a home, finish the reputation of a family, or affect the prestige of a respectable citizen. A change of this character in the law would make decent living and home life impossible. It may easily become a veritable engine of torture in the hands of the police, and it will not make the police force popular with the people. After all, Sir, what his wife does, is a matter which concerns only the husband and it is for him really to decide whether he wants to proceed against the wife's paramour in a court of law, or take her back and keep silent in the interests of the family and the children, if any, or keep quiet and leave the wife to her fate.

As my Honourable friend Mr. Sapru has said probably Raja Ghazanfar Ali Khan looks upon women as chattel and adultery and enticing away of women as theft. Sir, we have other notions and other ideals. Marriage for us Hindus is a sacrament. It represents for us the highest form of companionship and we do not want interference with our daily home life.

I therefore strongly oppose the Resolution.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : Sir, without importing into the discussion the heat of my Honourable and gallant friend or talking about the New Morality of the Honourable Mr. Sapru, I wish to say a few words about the legal aspect of the question. Sir, an offence under section 498, if my memory does not fail me, is a compoundable offence, as also is an offence under section 497. If it is made a cognizable offence it might be abused by the police. That is one point. The second is that there are a number of castes and divisions and sub-castes wherein very peculiar customs prevail. Anybody who has read Thurston's *Castes and Customs of India* published some years ago, which gives a very graphic description of the various customs, will know that there are certain low caste and depressed class people who are in the habit of mortgaging their wives and there are other castes wherein a woman can go away just as she likes and even some upper classes have this custom which once formed the subject of a judicial decision. No doubt under the Hindu law marriage is a sacrament and there is no such thing as divorce but under the caste custom in this particular caste, which is a very influential caste in the south, in the Madras Presidency, the wife can simply return the marriage cloth, and *thali* as it is called, and go away. There is no question of being bound for life to the husband. I may mention, Sir, that some of the zamindars belong to that class. When I say zamindars I mean the owners of proprietary estates, permanently-settled estates, paying very large *peiskish* to Government—Rs. 3 or Rs. 4 lakhs a year. Well, supposing the wife of a zamindar says : " I am not going to live with you and I return you the cloth and *thali* given at the time of marriage " and goes away. Well, if this is made a cognizable offence, what is to become of the wife and of the man she goes away with ? And if it is a cognizable offence, are you going to arrest the woman as well as the man who enticed the woman ? So this will raise very serious difficulties and this is an offence purely against the husband. I think we should leave the law as it is. As we know the Penal Code was drawn up by Mr. Macaulay as he then was, and was the subject of two or three commissions, and after a good deal of discussion this law was enacted as we have it. In England, adultery is not a criminal offence and that being so I do not think it is proper in the 20th Century to make an offence under section 498 a cognizable offence and thereby make the lives of some people very very difficult and irksome.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary) : Sir, I was rather uncertain at first what attitude I should adopt towards this Resolution. I find that the question has never been discussed and I thought that possibly the Honourable Mover might satisfy me that he had some substantial and valid grounds for making this suggestion. It might also have happened that he would receive some support if he was able to prove the statement that he has made, that this crime is becoming more common. But my decision has been made simple because he has been opposed from every quarter of the House and the arguments that have been put forward on all sides are those that I felt myself were relevant to this question. I felt that the two fundamental points are, firstly, that it is not desirable to alter the criminal codes of the land unless there was very good reason for doing it. They have stood the test of time since the days of Macaulay and unless there is very good reason for it they should not be altered. Secondly, I am strongly opposed to giving more power to the police in a matter of this kind which, as Honourable Members pointed out, affects a man's family life. It would certainly tend to lead to more abuses, for my experience of this section is that it is generally used for bringing a false case against a man by his enemy.

I think the Honourable Member contended that this crime has increased in recent years. I have got no exact statistics, but the statistics I have got showing crimes under this chapter of the Penal Code, chapter 20, shows that actually in 1934 the number of crimes under this section in four provinces in India—Bengal, the United Provinces, the Punjab and Sind—was 10,448, while in 1932 there had been 11,658. In the Punjab also there has been a slight decrease. That shows that the crime is certainly not on the increase and that removes one of the few arguments he brought forward in support of his Resolution. As there is such a volume of feeling against this proposal—I fully sympathise with the opinions of those who have opposed it—I have no hesitation in opposing the Resolution.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I must confess that I am very much surprised to see this unexpected opposition from all quarters. During this discussion, two or three statements have been made which still remain a mystery to me and I have not been able to understand their true significance. Almost every speaker laid great emphasis on the 20th Century. Nobody has taken the trouble to explain what particular standard of morality this 20th Century has brought into this world in accordance with which we should have sympathy for the person who abducts a married woman.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-
madan) : Freedom for women.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : The Honourable Member seems to be under a great misapprehension.

The only speaker whose ideas—although I do not agree with them—appeared to me to some extent to be reasonable or logical at least is my Honourable friend Mr. Sapru. He has definitely told us that according to his code of morality, enticing away the wife of a man should not be made a criminal offence. Similarly, he said, committing adultery should not be considered an offence. I can understand a person of his ideas opposing this Resolution.

As far as my Honourable and respected friend from the Frontier Province is concerned, I was surprised at his speech. This is not the first time, as a matter of fact, that I have been surprised at his speech. But I am more surprised this time than ever before. He reminded me of my college days. Some of us had a great hatred for mathematics and we used to cram up certain important questions in algebra which may appear at the university examination. One of the boys crammed up what we call the binomial theorem. When the examination papers came, he found that they contained no question about the binomial theorem. But, when he began to answer the paper, he wrote: "Let me explain the binomial theorem first" and then he gave a long description of it. I do not know how the Nawab Sahib got into his head the idea of the searching of houses. He has all the time been dwelling on various aspects of house search, sometimes at midnight, sometimes by 500 policemen and sometimes in other different ways. Have I said a word about house search?

AN HONOURABLE MEMBER : Cognizable offence.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : My Honourable friend wants to make this a cognizable offence. That means you give power to the police to search the house.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: The Nawab Sahib is trying to make out that this is the only offence which I am trying to make cognizable and that no other offence under the Indian Penal Code is cognizable and the police do not have the right to go and search the houses of those great Pathans according to whose ideas the searching of a house is much worse than a man being hanged three times.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: See Ajab Khan's case—what they have done there.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: There are about 200 sections in the Penal Code, offences under which are cognizable.

Then, Sir, I was a bit surprised when I heard from the Honourable Member from Madras that there is a custom in some very ancient community that if the wife just returns the cloth, then the husband has got no more claim on her. It appears a little curious to anybody—

THE HONOURABLE SIR DAVID DEVADOSS: It is a fact.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I understand that when she returns the cloth, it means that the marriage is dissolved. May I inform my Honourable friend that if the marriage is dissolved, there is no offence under section 498, whether it is cognizable or non-cognizable? The mere fact that the marriage is dissolved makes it—

THE HONOURABLE SIR DAVID DEVADOSS: On a personal explanation, Sir. The Honourable Member is assuming that the husband has consented to the divorce. He may say, "Very well, the woman has gone away; therefore, go and arrest the man".

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Section 498 only relates to a married woman and as soon as the marriage is dissolved, naturally there is no offence at all.

Similarly, Sir, I was surprised at the speech of my Honourable friend from the United Provinces. He also seemed to be labouring under a great misapprehension. He started by saying that I considered woman to be mere property, and that he had some sacred conception of wives. It is absurd. It has nothing to do with the question we are now discussing. The mere fact that an offence is cognizable does not make it incumbent on the husband to go and report the matter to the police.

THE HONOURABLE MR. HOSSAIN IMAM: The police will take the action themselves.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Certainly not. The offence can be cognizable and still compoundable. The Honourable the Home Secretary can very well enlighten us whether it is a necessary corollary that an offence which is cognizable should also be non-compoundable. If a husband thinks that he should not take action, he can refuse to do so and no police can force him. The idea of making this offence, which is already in the Penal Code, cognizable was this. If it is not cognizable, then naturally the

man runs away with the wife. In these days when we hear so much about ticketless travel, he may catch the first train and go to the other corner of the country, and naturally the husband is ruined. He sells all his property in the litigation with no result. That was the only object why I wanted to make this offence cognizable. I can quite understand that some of the Members are gravely suspicious about the *bona fides* of the police in India.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Yes, we are.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I am only surprised that the Honourable the Home Secretary also should have associated himself with the opinions of these Honourable Members.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, may I ask the Chair ? You are an eminent lawyer and can understand what is cognizable. Does it not give the police power to interfere ? The Honourable Member wants to make section 498 cognizable. I cannot understand what he means by cognizable. It is being taken before a magistrate. He wants to give power to the police. That is what it means.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : It is not giving extra power to the police. As the Nawab Sahib already knows, section 498 is an offence in the Frontier Province more than in any other part of India. According to the laws in the Frontier Province, in the case of a Pathan, the woman is also punished, while under the Indian Penal Code, the courts in British India cannot punish the woman. That is why the number of such offences in the Frontier Province is much smaller. I am sure that the frontier people will very strongly support this Resolution if it is passed.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Interference of the police.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : It is those *purdah* families who in the words of my Honourable friend Mr. Sapru and others belong to that backward civilised class according to whose standard of morality nobody has a right to take away a married woman without the husband's permission, who will welcome this. I should have thought, Sir, that almost every Indian Member in this House would have strongly welcomed this proposal and would have thought that it was high time that such an offence was made punishable in a much stronger way than the law allowed at present. It is somewhat unfortunate that the wisdom of this elder House seems to be working in a very radical spirit so far as the standard of morality is concerned. While on all other matters they are extremely conservative the Honourable Members choose to be very much unconventional as regards relations between husband and wife. I have no intention of pressing the Resolution to a vote and therefore I shall withdraw it with your permission, Sir. But I hope that those Honourable Members will go back and seriously consider whether they have not really done something which they should not have done by opposing this.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : We have done the correct thing by not giving this power to the police.

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

The Council then adjourned till Eleven of the Clock on Monday, the 16th March, 1936.