

Monday, 21st March, 1938

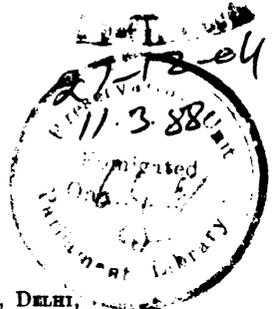
THE
COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION
OF THE
FOURTH COUNCIL OF STATE, 1938

Member designated... 18/4/38



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COUNCIL OF STATE.

Monday, 21st March, 1938.

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.

DETAILS OF INITIAL AND RECURRING EXPENDITURE ON A FLEET OF SIX ESCORT VESSELS, ETC.

182. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: (a) Will Government state what approximately is the estimated capital and annual "recurring expenditure to maintain a sea-going fleet of not less than six modern escort vessels which will be free to co-operate with the Royal Navy for the defence of India, and in addition to fulfil their responsibility for local naval defence of Indian ports" as stated by the Honourable the Finance Member in his Budget speech?

(b) What steps are being taken to bring into existence such a fleet and to man them with Indian officers?

(c) Did the Government of India make any calculation of their financial commitments before accepting this proposal of the British Government?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) I would refer the Honourable Member to the answer given to the Honourable Mr. G. S. Motilal's question No. 171 of 10th March, 1938. The details of initial and recurring expenditure have not yet been fully worked out and much will depend on the class of escort vessels selected to replace obsolete craft.

(b) As already indicated in (a) it has been decided to replace obsolete ships by modern ones as funds become available.

As regards Indianisation of officer ranks, the present proportion is one Indian to two British and there are now 26 Indian officers either serving or under training. The development of Local Naval Defence, as it progresses, will automatically create an increase in these figures more rapidly than would have been possible otherwise.

(c) Yes.

RETURN TO INDIA OF RAJA MAHENDRA PRATAP.

183. THE HONOURABLE MR. B. N. BIYANI: (a) Has the attention of Government been drawn to a statement of Raja Mahendra Pratap published in the *Hindusthan Standard* of Calcutta?

(b) Has the attention of Government been drawn to the declaration in the statement that he (Raja Mahendra Pratap) has returned the passport of Afghanistan with the intention of returning to the land of his birth?

(c) Has the attention of Government been drawn to a reply in the United Provinces Council on January 29th stating that there was no ban on the entry of Raja Mahendra Pratap into the United Provinces ?

(d) Do the Government of India contemplate allowing Raja Mahendra Pratap to return to India without any fear of prosecution for any of his past actions ?

(e) If not, why not ?

THE HONOURABLE MR. F. H. PUCKLE: (a) to (e). I have seen Mahendra Pratap's statement and a press report of the reply to a question in the United Provinces Council. These do not alter the position explained in this House on the 15th September last in Mr. Maxwell's speech on the Honourable Member's Resolution, and I have nothing to add to what was stated in regard to Mahendra Pratap on that occasion.

APPOINTMENT OF CROWN COUNSEL OR LAW OFFICERS IN CONNECTION WITH THE FEDERAL COURT.

184. **THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR:** (a) Will Government state the total number of Crown Counsels or Law Officers intended to be appointed in connection with the Federal Court of India ?

(b) Have they been appointed ? If so, how many of them are Musalmans and how many are non-Muslims ?

(c) If the answer is in the negative, when are they likely to be appointed and do Government intend to bear the principle of communal proportion in mind in making appointments ?

THE HONOURABLE MR. F. H. PUCKLE: (a) to (c). As the Honourable Member is aware, the Advocate General for the Federation has already been appointed. There is no proposal at present to appoint any Crown Counsel or other Law Officers in connection with the Federal Court.

HIGHER POSTS IN THE OFFICE OF THE FEDERAL COURT.

185. **THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR:** What is the number of higher posts in the office of the Federal Court and what is the number of Muslims, Hindus and Christians recruited for those posts ?

THE HONOURABLE MR. F. H. PUCKLE: I presume that by "higher posts" the Honourable Member means "gazetted staff". If so, the answer is that there has been only one appointment, that of temporary Assistant Registrar, to which a Hindu has been appointed.

COMPOSITION OF THE ESTABLISHMENTS OF THE FEDERAL COURT.

186. **THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR:** Will Government state the number of Muslims and non-Muslims recruited since the creation of the Federal Court in the offices connected with it in clerical services, lower or higher ?

THE HONOURABLE MR. F. H. PUCKLE: Ten appointments have been made so far in the clerical service (higher and lower) of the Federal Court. Three of the persons appointed are Muslims and seven are non-Muslims.

INTRODUCTION OF LEGISLATION IN CONNECTION WITH THE QUESTION OF Phooka.

187. THE HONOURABLE MR. G. S. MOTILAL: Will Government state whether they propose to bring in an anti-*Phooka* Bill in the current session, as promised by them in the last special session?

THE HONOURABLE MR. F. H. PUCKLE: Government hope to introduce in the course of the current session a comprehensive Bill dealing *inter alia* with the question of *phooka*.

BUDAPEST INTERNATIONAL FAIR.

188. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will the Budapest International Fair be held in April-May 1938, and will the Indian Government Trade Commissioner, Milan, participate in it? If so, will Government state what approximately will be the expenditure out of the Indian exchequer, and what steps have been taken to advertise the fact to Indian traders and business men, and what are the main details of the arrangements in this connection?

THE HONOURABLE SIR MUHAMMAD YAKUB: The reply to the first part of the question is in the affirmative. As regards the second part, the approximate cost of participation will be £500. A notice regarding the Fair and the arrangements for the despatch, etc., of goods intended for exhibition has been published in the *Indian Trade Journal* of the 27th January, 1938, a copy of which is in the Library. A short statement has also been issued to the Press for publication.

VACCINATION CERTIFICATES FOR PASSENGERS TO AND FROM BURMA.

189. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Are passengers going to Burma from India required to take a small-pox licence before they are allowed to disembark in Rangoon? If so, are passengers coming to India from Burma required to take a similar certificate? Will Government state the difference, if any, in the procedure?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: *1st part.* Such passengers are liable to vaccination unless they can prove immunity.

2nd part. No.

3rd part. As the Honourable Member is aware, each country has discretion as to the health protection measures adopted at its ports. In this case the majority of the passengers from Burma to India are returning Indian labourers who have already been protected and, therefore, special precautions are not considered necessary.

RATE WARS BETWEEN SHIPPING COMPANIES ON THE WEST COAST.

190. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Have Government taken any steps or do they propose to take any, to minimise shipping rate war, and consequent uneconomic competition among the steamship companies on the Konkan coast, or elsewhere? If so, what?

THE HONOURABLE SIR MUHAMMAD YAKUB: The attention of the Honourable Member is invited to the reply given by me to question No. 131 on the 2nd March, 1936.

RETRENCHMENT ON THE CEYLON GOVERNMENT RAILWAY AND EVICTION OF INDIANS FROM KANDAPOLA, CEYLON.

191. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state what steps they have taken to safeguard the interests of Indian employees in Ceylon in giving effect to the proposals for retrenchment on the Ceylon Government Railway; and of the Indian cultivators as regards their proposed eviction from Portswood vegetable gardens at Kandapola, Ceylon?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: So far as retrenchment on the Ceylon Government Railway is concerned, suitable representations were made by the Agent of the Government of India in Ceylon with the result that the racial discrimination involved in the retrenchment proposals has been removed. As regards Kandapola, I have nothing to add to the concluding portion of my reply to the Honourable Member's question No. 28 on the 14th February, 1938.

SEIZURE AT CALCUTTA OF SILVER FROM JAPAN FOR NEPAL.

192. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Was silver worth about Rs. 2,00,000 smuggled or attempted to be smuggled without payment of customs duty into Nepal from Japan via Calcutta, and was the silver seized in Calcutta some time back? What are the facts of the case, and what steps have been taken in the matter?

THE HONOURABLE MR. J. C. NIXON: Government are not aware of any recent case of seizure at Calcutta of silver from Japan for Nepal.

STRIKE OF RAILWAY COOLIES AT BENARES STATION, E.I.R.

193. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state whether the railway coolies at the Benares station have only recently gone on strike for the redress of alleged grievances against the contractor? Are Government aware that the travelling public are put to great inconvenience on this account? Do Government propose to make an enquiry into the matter and to restore normal conditions?

THE HONOURABLE SIR GUTHRIE RUSSELL: The Agent, E.I.R., reporting on the 8th March, 1938, stated that there had been no strike of railway coolies at Benares station, but that endeavours were being made to stir up troubles amongst them.

FISCAL ARRANGEMENTS BETWEEN INDIA AND BURMA UNDER THE OTTAWA AGREEMENT.

194. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state whether the fiscal arrangement between British India and Burma under the Ottawa Agreement is in operation? If so, for how long?

THE HONOURABLE SIR MUHAMMAD YAKUB: I regret that I am unable to follow the precise purport of the Honourable Member's question. The Ottawa Trade Agreement does not govern the fiscal relationship between British India and Burma. The trade relationship is governed by the India and Burma (Trade Regulation) Order, 1937, which includes provisions as to the tariffs of both countries, and is to remain in force for a period of at least three years from the 1st April, 1937.

DUTY LEVIED ON PETROL IMPORTED FROM BURMA.

195. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Do Government contemplate that the duty levied on petrol imported into India from Burma be hereafter treated as customs revenue and not as excise as a result of the separation of Burma from India ?

THE HONOURABLE MR. J. C. NIXON: This is already being done.

INCLUSION OF DEV NAGRI (HINDI) SCRIPT ON STATION NAME-BOARDS, N.W.R.

196. THE HONOURABLE MR. B. N. BIYANI: (a) Are not the name-boards of railway stations in the Punjab written in "Dev Nagri" script ?

(b) If not, do Government propose to do so in the future ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) and (b). I understand from the Agent, N.W.R., that it has been decided to include the Hindi script on station name-boards at stations in all cases in which new name-boards are to be provided.

In the case of stations at which the names are not cut into the boards or stones, it is considered that, with a slight re-arrangement, it will be possible to show the names in four scripts, *i.e.*, English, Urdu, Gurmukhi and Hindi, this is being done when boards are repainted.

In the case of stations at which the names are cut into the boards or stones and the length of the station name makes its addition in another script impracticable, the existing name-boards are being supplemented.

In due course, all station name-boards will include the station name in the Dev Nagri (Hindi) script.

LEVEL CROSSING NEAR AKOLA STATION, G.I.P.R.

197. THE HONOURABLE MR. B. N. BIYANI: (a) Is there a level crossing near Akola station on the G.I.P.R. on the road between Akola and Akot ?

(b) Are there habitations on both sides of the level crossing ?

(c) Is there heavy traffic on this road and are carts and motors required to wait for a long time many times during the day and night at the level crossing ?

(d) Do Government propose to construct a bridge on this level crossing ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a), (b) and (c). Government have no information.

(d) Their policy is to leave to the discretion of Railway Administrations the provision of overbridges where circumstances justify them, and when the local authorities are prepared to pay the share due from them. They suggest that the matter be referred to the Agent of the Railway concerned through the Local Advisory Committee or the local road authorities.

RETURN TO INDIA OF RASH BEHARI BOSE.

198. **THE HONOURABLE MR. B. N. BIYANI:** (a) Has the attention of Government been drawn to a statement published in the *Hindustan Standard*, dated Calcutta, 20th January, 1938, issued by Mr. Rash Behari Bose from Japan contradicting the Honourable Mr. Maxwell's speech in the last Simla session of the Council in reply to my Resolution regarding the political exiles that Mr. Bose was not allowed to come back to India to see his father when petitioned by his relatives 10 years back ?

(b) Is Mr. Rash Behari Bose still prohibited from entering India ?

THE HONOURABLE MR. F. H. PUCKLE: (a) Government have seen the press report in question.

(b) Mr. Bose has discarded British Indian nationality. The position in regard to the return to India of such persons was explained very fully in this House on the 15th September last in Mr. Maxwell's speech on the Honourable Member's Resolution, and there is nothing in Mr. Bose's statement to alter that position.

INTER CLASS ACCOMMODATION ON THE G.I.P.R.

199. **THE HONOURABLE MR. B. N. BIYANI:** (a) Have Government brought the suggestion to the notice of the Agent, G.I.P.R., to arrange for inter class accommodation on passenger trains on the G.I.P.R. as promised by the Honourable Sir Guthrie Russell in reply to my question No. 131 (c) on the 20th September, 1937 ?

(b) Have Government received any reply ?

(c) If so, what ?

(d) If not, do Government propose to remind the Agent, G.I.P.R., in the matter ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) A copy of the Honourable Member's previous question and of my reply thereto was forwarded to the Agent, G.I.P.R.

(b) Yes.

(c) I am laying on the table a copy of the reply received.

(d) Does not arise.

Copy of a letter No. 15101-L/3, dated the 9th December, 1937, from the Agent, G.I.P.R. Bombay, to the Secretary, Railway Board, New Delhi.

Inter class accommodation on the G.I.P.R. Railway Board's No. 772-T. of 5th November, 1937.

I beg to inform the Board that inter class accommodation is provided by this Railway as shown below :—

On Mail trains . . .	{	(i) Punjab Mail. (ii) Calcutta Mail (via Chheeki). (iii) Calcutta Mail (via Nagpur). (iv) Madras Mail. (v) Poona Mail.
On Express trains	{	(vi) Poona Express. (vii) Mail and Express between Jhansi and Lucknow. (viii) Peshawar and Lucknow Express. (ix) Nagpur Express. (x) Madras Express. (xi) Grand Trunk Express. (xii) Allahabad Express.
On ordinary passenger trains running on sections.	{	(a) Jhansi-Cawnpore. (b) Jhansi-Manikpur. (c) Itarsi-Allahabad. (d) Bina-Katni. (e) Cawnpore-Banda.

It is proposed to provide, on renewal account during 1939-40, twenty-six bogies (consisting of I, II, III and Inter classes) to the design of the quadri-ccrpo bogies in use on the E.B.R. These bogies, when provided, will be run on the main and branch line passenger trains.

LL.M. EXAMINATION OF THE DELHI UNIVERSITY.

200. THE HONOURABLE MR. V. V. KALIKAR : (a) How many applications have been made since 1923 by the Law Graduates of the Delhi University, and other Universities for permission to appear for the examination of Master of Law of the Delhi University, and what is the result ?

(b) Does the University send the following reply to those who apply for permission to appear at the LL.M. examination : "The Executive Council of the University has not appointed, nor is likely to appoint in the near future, a person or persons under the general direction of whom you may carry on legal studies as required by the Ordinance. In these circumstances, I regret very much to say, that the University is unable to make the necessary arrangements for your admission to the examination" ?

(c) Is an application made on 30th of April, 1936 for permission to appear for the LL.M. examination of the Delhi University still pending and not disposed of ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Since 1924 when the Faculty of Law was instituted, the Delhi University has received a number of enquiries about the possibility of admission to the LL.M. examination of the University but no record is kept of such enquiries. The University received four applications for permission to appear for the examination of Master of Laws, of which two were rejected and one is still pending. Permission was granted to one applicant but he did not take the examination.

(b) The reply is in the affirmative.

(c) Yes.

SURPLUS ACCOUNTS IN THE LAW DEPARTMENT OF THE DELHI UNIVERSITY.

201. **THE HONOURABLE MR. V. V. KALIKAR :** What was the surplus in the Law Department of the Delhi University during the time beginning with 1923 and ending with 1937-38.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The information is not available as separate accounts for the different Faculties or Departments of the University are not maintained.

LL. M. EXAMINATION OF THE DELHI UNIVERSITY.

202. **THE HONOURABLE MR. V. V. KALIKAR :** (a) What steps did the Delhi University take to make provision for giving instructions to the LL.M. students since it was first discovered that the students could not appear for the LL.M. examination on account of the failure of the University to make the necessary arrangement ?

(b) Does the Delhi University now propose to make at an early date the necessary provision for giving instructions to the candidates appearing for the LL.M. Examination of that University ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) and (b). The matter is under the consideration of the University.

PROVISION FOR RESEARCH WORK IN THE DELHI UNIVERSITY.

203. **THE HONOURABLE MR. V. V. KALIKAR :** Does the University sanction some amount for research work in their budget every year. If so, what research work has been done up to this time in the subject of Law under the auspices of the Delhi University ? If not, why not ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The University does not make any provision for research work in their budget.

CONFERRMENT OF THE DEGREE OF DOCTOR OF LAWS BY THE DELHI UNIVERSITY.

204. **THE HONOURABLE MR. V. V. KALIKAR :** (a) Did the Delhi University confer any degree of Doctor of Law on the submission of a thesis ?

(b) Did the University confer any honorary degrees of Doctor of Law ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) No.

(b) Yes.

STEPS TAKEN TO MINIMISE THE CHANCES OF INFECTIOUS OR OTHER DISEASES BEING CONVEYED BY AIRCRAFT.

205. **THE HONOURABLE RAJA YUVERAJ DATTA SINGH :** Will Government state what steps have been taken, or are proposed to be taken, to minimise the chances of infectious or other diseases being conveyed by aircraft in this country ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : A statement is laid on the table.

Statement showing the action taken or proposed to be taken for the prevention of the conveyance of infection by aircraft.

Aircraft enter India either from the West or from the East. Those entering from the West alight at Karachi where adequate facilities already exist for sanitary control both in respect of the aircraft and of passengers. These facilities include apparatus for disinfecting and disinsectisation of aircraft, medical staff for examination of the passengers and accommodation for the isolation of persons exhibiting suspicious symptoms. In the case of aircraft flying from the East, the risk of the import of dangerous diseases not already endemic in India if not remote is very small. Notwithstanding this, however, and in view of the desirability of excluding all forms of dangerous disease, a scheme is under execution for elaboration at Dum Dum—the first port of call in India in respect of these craft—of arrangements similar to those already operating at Karachi.

No aircraft which has previously alighted in an area infected with or suspected to be infected with yellow fever is permitted to arrive in India within 9 days of departing from that area. The same prohibition is imposed upon the arrival of individual passengers who may similarly have been exposed to infection. This prohibition is only relaxed where aircraft or passengers, as the case may be, have taken certain specified precautions calculated to obviate the possibility of their importing the disease into India.

In addition a set of rules is under promulgation making permanent all temporary measures at present imposed and found to be necessary and effective. These rules also supply various omissions in these measures and generally tighten up sanitary control of aircraft entering India.

With respect to aircraft flying from place to place within the frontiers of India, the question of the degree of sanitary control necessary at aerodromes is receiving attention and all adequate measures that enquiry reveals to be essential and possible will be taken.

CURRENT AVERAGE VALUE AND THE *ad valorem* INCIDENCE OF EXPORT DUTY ON RAW JUTE AND JUTE MANUFACTURES.

206. THE HONOURABLE MR. G. S. MOTILAL: (i) Will Government state the average price for the quantity on which duty is chargeable on

- (a) cuttings of raw jute on which there is an export duty of Rs. 1-4-0 per bale of 400 lbs. ;
- (b) other descriptions of raw jute on which there is an export duty of Rs. 4-8-0 per bale of 400 lbs. ;
- (c) jute manufactures described as "sacking" on which there is an export duty of Rs. 20 per ton ;
- (d) jute manufactures known as "Hessians" on which there is an export duty of Rs. 32 per ton ?

(ii) Will Government state the approximate *ad valorem* incidence of export duty on each description of jute goods referred to above ?

THE HONOURABLE MR. J. C. NIXON: I lay on the table a statement giving the information asked for.

Statement showing the current average value and the ad valorem incidence of export duty on raw jute and jute manufactures.

Description of goods.	Unit.	Average	Duty.	Incidence.
		value.		
		Rs. A.	Rs. A.	Per cent.
Raw jute—	Bale of 400 lbs.			
Cuttings		20 8	1 4	6.1
Other descriptions		30 10	4 8	14.7
Jute manufactures—	Ton.			
Sackings		208 4	20 0	9.6
Hessians		310 3	32 0	10.3

COURTYARDS OF QUARTERS ALLOTTED TO DUFTRIES IN THE RAJA BAZAR AND MINTO ROAD AREAS, NEW DELHI.

207. THE HONOURABLE MR. HOSSAIN IMAM : (a) Are the courtyards of duftri quarters at Raja Bazar and Minto Road, New Delhi, small and are latrines and bathrooms built inside the quarters ?

(b) Were applications received requesting the removal of latrines and bathrooms from the courtyard to outside ?

(c) What action was taken on these applications ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) Latrines and bathrooms are built inside the quarters which are rent free. The courtyards cannot be regarded as unreasonably small having regard to the status and pay of the tenants.

(b) Yes.

(c) The requests of the applicants could not be acceded to in view of the expenditure involved which was estimated at about Rs. 40,000.

THE HONOURABLE MR. HOSSAIN IMAM : What is the measurement of the courtyard, Sir ?

THE HONOURABLE SIR MUHAMMAD YAKUB : I am afraid I could not say off-hand.

QUARTERS ALLOTTED TO DUFTRIES IN SIMLA.

208. THE HONOURABLE MR. HOSSAIN IMAM : (1) Are there no duftri quarters at Simla and do duftries occupy peons' quarters ?

(b) Are two or four persons required to live together in a single quarter ?

(c) Did Government issue any resolution on the subject of the provision of family quarters for duftries at the time Government granted them family travelling allowance ?

(d) If the answer to part (c) is in the negative, do Government propose to take steps to pay duftries suitable house rent allowance ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) The inferior servants' quarters at Simla are distributed to Departments *pro rata* to the demand of each Department and can be allotted either to peons or to duftries at the discretion of the Departments.

(b) The quarters are not uniform and have varying capacities. Departments allot the quarters with due regard to the number of persons which can be accommodated in each quarter without detriment to the health of the occupants.

(c) No orders have been passed by Government for the provision of family quarters for duftries, but a scheme for the construction of such quarters was under contemplation in 1919. It has not been found possible to give effect to this scheme, but duftries in the Government of India Secretariat have been given compensation in the form of a family visiting allowance.

(d) Government consider that the existing rates of Simla house rent allowance admissible to duftries are adequate.

STANDING FINANCE COMMITTEE.

209. **THE HONOURABLE MR. HOSSAIN IMAM :** Will Government state why no Standing Finance Committee was formed for the current year ? Do they propose to constitute such a Committee for the next financial year ? If not, why not ?

THE HONOURABLE MR. J. C. NIXON : A Resolution for the election of a Standing Finance Committee was put down on the Order Paper in the two previous sessions of the Legislative Assembly ; it was not moved, as it was clear that the proposal would not be readily acceptable to the House. It is hoped to table a suitable Resolution before the end of the current session of the Assembly.

THE HONOURABLE MR. HOSSAIN IMAM : How did the Government arrive at the conclusion that it would not be favourably received ?

THE HONOURABLE MR. J. C. NIXON : One way—there were amendments on the Order Paper.

THE HONOURABLE MR. HOSSAIN IMAM : Were those amendments unacceptable to the Government ?

THE HONOURABLE MR. J. C. NIXON : Yes.

THE HONOURABLE MR. HOSSAIN IMAM : Have they acceded to those amendments ?

THE HONOURABLE MR. J. C. NIXON : The Honourable Member must wait and see what Resolution is tabled.

SCRUTINY OF NEW CHARGES AND NEW POSTS BY THE STANDING FINANCE COMMITTEE.

210. **THE HONOURABLE MR. HOSSAIN IMAM :** Will Government state whether new charges and new posts created under the Central Government have not been scrutinised and approved by any Committee of the Central Legislature ? Was it the convention in former years ? If not, what was the system, how long did it continue : when and why was it changed ?

THE HONOURABLE MR. J. C. NIXON : Yes, since no Standing Finance Committee has been appointed during the current financial year. With reference to the latter part of the question, I would invite a perusal of the memorandum on the functions and procedure of this Committee contained in its proceedings, dated the 21st January, 1937 (Volume XVI, No. 3), a copy of which is available in the Library of the House and which gives the information required by the Honourable Member.

THE HONOURABLE MR. HOSSAIN IMAM : Will a *post facto* sanction be taken for the appointments sanctioned this year ?

THE HONOURABLE MR. J. C. NIXON : No, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : Then how do you propose to take the sanction of the Committee for the appointments already made during the period that the Committee was not in existence ?

THE HONOURABLE MR. J. C. NIXON: I would point out to the House that the Committee never had any sanctioning powers at all.

PROPOSED NEW APPOINTMENTS FOR THE CENTRAL EXCISE SERVICES.

211. THE HONOURABLE MR. HOSSAIN IMAM: Will Government give the following information in regard to the new appointments proposed to be made for the Central Excise Services:

- (a) The number and categories of new appointments proposed?
- (b) The names of the newspapers in which the posts were advertised?
- (c) The number of categories expected to be maintained in each province?
- (d) The classification as superior and inferior appointments?
- (e) The number of applications received, and the number called for interview from each province?

THE HONOURABLE MR. J. C. NIXON: (a) to (e). A statement is laid on the table.

(a) *Number and categories of new appointments proposed.*

Name of posts.	Number of appointments.	Number to be filled by direct recruitment.	Number to be filled by promotion.
Deputy Commissioners	2	..	2
Assistant Commissioners	3	..	3
Superintendents	5	3	2
	(includes 2 leave reserves).		
Deputy Superintendents	7	7	..
Inspectors	85		..
<i>Ministerial staff.</i>			
Selection grade clerks	4	} Appointments have not yet been made.	
Upper grade clerks	5		
Lower grade clerks	17		
Stenographers	3		
Supervisors	47		
<i>Inferior establishments.</i>			
Duffri	1		
Jamadars	30		
Pawns	226		

(b) *The names of newspapers in which the posts were advertised.*

1. *The Statesman, Calcutta.*
2. *The Star of India, Calcutta.*
3. *The Hindustan Times, New Delhi.*
4. *The Civil and Military Gazette, Lahore.*
5. *The Leader, Allahabad.*
6. *The Pioneer, Lucknow.*

(c) *The number of categories expected to be maintained in each province.*

Name of posts.	Delhi.	Punjab.	United Provinces.	Bihar.	Bengal.
Deputy Commissioners	1	..	..	..	1
Assistant Commissioners	2	..	..	..	1
Superintendents	2	1	..	1	1
Deputy Superintendents	..	1	2	1	3
Inspectors	17	6	27	10	25
Clerks	15	1	..	1	12
Supervisors	12	3	7	..	25
Inferior servants	36	23	73	28	97

(d) *The classification as superior and inferior appointments.*

With the exception of "Inferior Establishment" under part (a) above all the appointments are "Superior".

(e) *Number of applications received and the number called for interview from each province.*

Province.	Number of applications received.	Number of candidates called for interview.
North-West Frontier Province	27	15
Sind	2	..
Punjab	1,097	216
Delhi	387	49
United Provinces	1,085	167
Bihar	77	11
Bengal	418	49
		excluding 43 being called for interview at Calcutta.
Assam	20	..
Central Provinces	24	3
Ajmer	6	..
Indian States	36	12
TOTAL	3,179	522

METHOD OF SELECTION OF CANDIDATES FOR THE APPOINTMENTS CREATED FOR THE CENTRAL EXCISE SERVICES.

212. THE HONOURABLE MR. HOSSAIN IMAM : With reference to the preceding question, will Government state the method adopted for selecting candidates? Was any member of the Federal Public Service Commission, or non-official, or Member of the Legislature, or official of the Home Department, or any other independent person associated in interviewing the candidates? What was the composition of the Selection Board?

THE HONOURABLE MR. J. C. NIXON : The reply to the first part of the question is in the negative. As regards the second part, candidates were interviewed by a Selection Committee composed of the Commissioner of Central Excises and Salt, Northern India, and two Deputy Commissioners of the Department. Selected candidates for the posts of Superintendent were then interviewed by the Central Board of Revenue by whom a final selection was made.

THE HONOURABLE MR. HOSSAIN IMAM : Is it the procedure in the Finance Department that only the appointing authority compose the selecting board?

THE HONOURABLE MR. J. C. NIXON : That is the usual practice in Government service unless the appointments are put in the hands of the Public Service Commission.

INTEREST-BEARING OBLIGATIONS OF THE GOVERNMENT OF INDIA.

213. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement showing the interest-bearing liabilities of the Government of India on 31st March, 1936 and 1937 and 1st April, 1937, together with the interest yielding assets on those days (on the lines of Appendix II of the Explanatory Memorandum of the Finance Secretary for the year 1935-36)?

THE HONOURABLE MR. J. C. NIXON : I place a statement on the table.

Interest-bearing Obligations of the Government of India.

	31st March, 1936.	31st March, 1937.*	1st April, 1937.
	(In crores of rupees.)		
In India—			
Loans	426·18	437·88	437·88
Treasury Bills	32·13	28·54	28·54
Other obligations—			
Post Office Savings Bank	67·25	74·68	72·59
Postal Cash Certificates	65·98	64·40	64·40
Provident Funds, etc.	96·12	102·00	78·96
Depreciation and Reserve Funds	13·25	19·82	18·10
Provincial Balances	4·93	1·00	..
Total—Loans, etc.	458·31	466·42	466·42
Total—Other obligations	247·53	261·90	232·05
TOTAL	705·84	728·32	698·47

*These figures are based on actuals and therefore differ from those furnished on the 14th September, 1937, which were based on the revised estimates, in reply to the Honourable Member's question No. 148.

Interest-bearing Obligations of the Government of India—contd.

—	31st March, 1936.	31st March, 1937.*	1st April, 1937.
	(In millions of pounds.)		
In England—			
Loans	317·76	300·73	300·73
War contribution	16·72	16·72	16·72
Capital value of liabilities undergoing redemption by way of terminable railway annuities	41·75	39·86	39·86
Provident Funds	1·27	12·50	12·50
Total	377·50	369·81	369·81
	(In crores of rupees.)		
Equivalent at 1s. 6d. to the Rupee	503·33	493·08	493·08
Total—Interest-bearing obligations	1,209·17	1,221·40	1,191·55
Interest-yielding assets—			
Capital advanced to railways	750·04	751·49	716·80
Capital advanced to other Commercial Departments	24·24	25·88	24·53
Capital advanced to provinces	186·58	183·93	127·18
Other interest-bearing loans	21·55	20·74	23·35
Burma's debt to India . . . . .	..	..	50·75
Total—Interest-yielding assets	982·41	982·04	942·61
	(In crores of rupees.)		
Cash, bullion and securities held on treasury accounts	17·67	23·59	10·87
Balance of interest-bearing obligations not covered by above assets	209·09	215·77	238·07

* These figures are based on actuals and therefore differ from those furnished on the 14th September, 1937, which were based on the revised estimates, in reply to the Honourable Member's question No. 148.

DEBT OWED TO THE GOVERNMENT OF INDIA BY PROVINCES ON 1ST APRIL, 1937, ETC.

214. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the amount of interest and capital received by them up to date from each province and Burma, together with the dates; and the amount expected before the close of the year and the amounts due?

THE HONOURABLE MR. J. C. NIXON: I lay a statement on the table. In every case the amounts expected coincide with the amounts due.

Statement.

(Figures are in lakhs of rupees.)

Province.	Debt owed to the Government of India on 1st April, 1937.	Dates on which instalments are to be paid.	Amounts payable in 1937-38.		
			Capital.	Interest.	Total.
Madras	756.71	15th September and 15th March.	4.07	15.58	19.65
			2.71	16.94	19.65
			6.78	32.52	39.30
Bombay— Municipal and Improvement Trust Loans. Other Loans	1060.76	31st March	42.15	53.35	95.50
	2253.86	31st July and 31st January.	24.57	33.62	58.19
			8.03	50.16	58.19
United Provinces	2577.05	7th August and 7th February.	74.75	137.13	211.88
			25.45	36.13	61.60
			10.57	51.05	61.60
Punjab— Special debt Other debt	1000.00	31st March		35.00	35.00
	1698.88	1st August and 1st February.	17.93	22.66	40.59
			6.97	33.62	40.59
Central Provinces	330.25	30th September and 31st March.	24.90	91.28	116.18
			1.18	7.41	8.59
			1.19	7.40	8.59
Sind— Lloyd Barrage debt Other debt	2501.52	31st March		116.72	116.72
	425.67	1st July and 1st January.	5.89	4.24	10.13
			1.73	8.40	10.13
Burma	5075.00	30th September and 31st March.	7.62	120.36	136.98
			47.59	177.23	224.82*

* In addition to this amount Burma will pay Rs. 80 lakhs on account of pensions.

AMOUNT TRANSFERRED TO ENGLAND FOR THE PENSION FUNDS.

215. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the dates and the amounts of money transferred to Commissioners for Service Pension Funds? The reason for delay, if any?

THE HONOURABLE MR. J. C. NIXON : The total amount transferred up to the end of February was £2,210,000. The Commissioners were not appointed until October, 1937. In any case it is more convenient both for the Government of India and for the Commissioners that the transfer should be effected gradually.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can the Honourable Member tell us what is the amount that remains to be transferred ?

THE HONOURABLE MR. J. C. NIXON : The sum has been mentioned in the Budget speech. My recollection is that it is about £5 millions, but I would not like to swear to it.

VALUE OF OBJECTIONS TO TRANSFER TO ENGLAND OF PENSION FUNDS.

216. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the total money value of objections to transfer to England of Pension Funds received by Government from persons concerned ?

THE HONOURABLE MR. F. H. PUCKLE : The amounts of the interest of persons who objected to transfer will not be known until the actuarial valuations which are at present being made are completed. In accordance with Mr. Maxwell's undertaking to the Honourable Member during the Simla session full information will be laid on the table of the House when it is available.

SECURITIES HELD IN THE GOLD STANDARD RESERVE.

217. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a detailed statement of the securities held in Gold Standard Reserve on 31st March, 1935, showing the securities held in Gold Standard Reserve transferred to the Reserve Bank of India and to the Silver Redemption Fund, and those retained by Government on the dissolution of Gold Standard Reserve.

THE HONOURABLE MR. J. C. NIXON : I would invite the attention of the Honourable Member to page 515 of the Finance and Revenue Accounts for 1934-35 and pages 518 to 521 of the Finance and Revenue Accounts for 1935-36. These references give all the information which it is in the public interest to publish. Copies are available in the Library.

SECURITIES HELD IN THE SILVER REDEMPTION RESERVE.

218. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay a statement showing the various kinds of Sterling Securities now held in the Silver Redemption Fund and the depreciation written off in each year, the interest received in each year, the kind of Sterling Securities added each year to the Fund and the market value of all the securities on 31st December, 1937 ?

THE HONOURABLE MR. J. C. NIXON: A statement is laid on the table.

SILVER REDEMPTION RESERVE.

A.—Securities held on the 31st December, 1937.

Security.	Nominal value.			Market value.		
	£	s.	d.	£	s.	d.
5 per cent. Conversion Loan, 1944-44	1,000,000	0	0	1,140,000	0	0
4½ per cent. Conversion Loan, 1940-44	1,048,550	0	0	1,134,926	2	0
2½ per cent. Funding Loan, 1952-57	237,100	0	0	224,652	5	0
2½ per cent. National Defence Loan, 1944-48.	5,018,800	0	0	4,962,338	10	0
TOTAL	7,304,450	0	0	7,461,916	17	0

B.—Interest and depreciation.

Year.	Interest realised.			Depreciation.		
	£	s.	d.	£	s.	d.
1935-36	159,684	15	0	19,155	3	6
1936-37	222,419	15	0	358,156	7	8

C.—Securities added.

Year.	Loan.	Nominal value.
		£
1935-36	2½ per cent. Conversion Loan, 1944-49.	18,800
1936-37	2½ per cent. Funding Loan, 1952-57.	237,100

POST OFFICE CASH CERTIFICATES.

219. THE HONOURABLE MR. HOSSAIN IMAM: Will Government give the following information about the Post Office Cash Certificates:

(a) Up to what year payment of interest on actual discharge was debited in the Government Budget?

(b) Since what year and up to date interest on accrued basis has been included in the Budget?

(c) The system on which Budget figures for the next year has been prepared?

(d) Whether on 1st October, 1930, the accrued bonus was Rs. 8,34,82,000?

(e) What was the accrued bonus on 31st March, 1937?

THE HONOURABLE MR. J. C. NIXON: (a), (b) and (c). I would invite a reference to page 16 of the Explanatory Memorandum on the Budget for 1938-39.

(d) Yes, approximately.

(e) About Rs. 8,30 lakhs.

DEBT OWED TO THE GOVERNMENT OF INDIA BY THE GOVERNMENT OF BURMA.

220. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table a statement showing details of the divisible liability of the Governments of India and Burma, together with the rate of interest settled and the amount fixed as debt of Burma to India, the interest and capital portion paid in 1937-38 and receivable in 1938-39?

THE HONOURABLE MR. J. C. NIXON: I would refer the Honourable Member to the press communiqué and other documents published on the 15th of February, 1938. I place a copy on the table.

New, Delhi, the 15th February, 1938:

COMMUNIQUE.

The first and second interim reports of the Committee for the Application of the Recommendations of the Indo-Burma Financial Settlement Tribunal are being published to-day. The final audited figures as on the date of separation are not yet available. The Reports are therefore based on estimates framed by the Committee, the first in November, 1936 and the second in November, 1937. The final report of the Committee based on the final audited figures will be ready before the end of the current year. The payments to be made by the Government of Burma during 1937-38 and 1938-39 will be based on the second interim Report and any difference between these figures and the final figures will be adjusted later.

2. The Committee has now estimated the debt of Burma to India at Rs. 50.75 crores and the annuity required to redeem the principal and interest in 45 years at Rs. 2.25 crores.

3. In addition to the above annuity the Burma Government has to bear 7½ per cent. of the liability of the Government of India in respect of central pensions in issue on the date of separation. The Tribunal recommended that this liability should be capitalised and discharged by an annual payment, decreasing by level decrements over a period of 20 years. In the first interim report the Committee gave a rough estimate of the capital value and of the amount to be paid by Burma in 193-738. Later, however, it was found almost impossible to collect the data, in respect of thousands of pensioners, required by the Actuary to arrive at the accurate capital value. The Secretary of State for India, at the instance of the Governments of India and Burma, therefore decided that the liability should be discharged by an annual payment by Burma of 7½ per cent. of the actual sum paid from Central Revenues in each year in respect of this category of pensions. The second interim report takes this decision into account. The amount payable by Government of Burma on this account is estimated at Rs. 80 lakhs in 1937-38 and Rs. 75 lakhs in 1938-39.

4. The Tribunal also recommended that:—

- (a) pensions commencing after the date of separation and earned in part by central service prior to separation, termed "part earned" pensions, should also be capitalised and that Burma's share of this should be 7½ per cent.; and
- (b) all civil and military buildings, stores and other miscellaneous assets, termed "dead" assets, held by the Central Government in India and Burma on the date of separation should be valued and taken into account in the distribution of assets and liabilities between the Government of India and the Government of Burma.

The capitalisation of (a) was found impossible for the reasons given in paragraph 3 above. No account of the "dead" assets is included in the published accounts of the Government of India and no accurate valuation could be arrived at except at the expense of an enormous amount of time and labour. Taking account of the order of magnitude of Burma's liability to India for (a) and comparing it with the order of magnitude of India's liability to Burma on account of (b) it was decided by the Secretary of State, at the instance of the two Governments, that these two elements, extremely difficult to compute, if not incommensurable, should be taken as cancelling one another.

5. All the other calculations in the reports of the Committee strictly follow the recommendations of the Tribunal.

Finance Department.

The first interim report of the Committee for the Application of the Recommendations of the Indo-Burma Financial Settlement Tribunal.

INDIA OFFICE,

WHITEHALL, S.W.1.

30th November, 1936.

MY LORD MARQUESS,

In pursuance of the instructions conveyed in Sir Findlater Stewart's letter of 1st February last, I have the honour to submit, on behalf of the Committee for the application of the recommendations of the India-Burma Financial Settlement Tribunal, an interim report on the sum to be paid from the Revenues of Burma to the Revenues of India in liquidation of Burma's share of the net liabilities estimated to be outstanding on 31st March next.

2. The Committee recommends that the sum to be paid in the year 1937-38 should be Rs. 3,23,01,000. A statement showing the manner in which this amount has been calculated is attached.

3. The figures in the statement refer to liabilities and assets assumed to be outstanding on 31st March next. Of the various items some are capable of fairly accurate prediction. Others may be subject to material amendment in the light of future experience or further investigation. Of the latter the most important are the liability for pensions, including both those in course of payment on 31st March next, and those to be paid in future to officers serving at that date, and the value of the "dead" assets.

4. It was recommended by the Amery Tribunal that an attempt should be made to assess the capital value of pensions, both in issue and part earned, and that the share attributable to Burma of the capital value so assessed should be discharged, in the former case by an annuity decreasing by equal decrements over twenty years, and in the latter by a level annuity payable half yearly over forty-five years. It has not been possible, within the time available, and in advance of the actual date of separation, to make any great progress with this investigation. In the case of pensions in issue, the Government Actuary has furnished an estimate, which it is anticipated will require only minor revision, of the capital value of the pensions in issue in this country. No detailed investigation into the value of pensions in issue in India has however been practicable; and in respect of these pensions it has been necessary to add to the value obtained for sterling pensions a tentative figure arrived at on very broad assumptions. In the case of part-earned pensions it has likewise been impracticable to form any estimate based on adequate data, and it has been necessary to omit from the calculation both this item and that relating to dead assets. As however there is reason to believe that these two items which fall on opposite sides of the account, are not widely different in magnitude, it is hoped that any error so introduced may prove to be comparatively small.

I have the honour to be,

MY LORD MARQUESS.

Your Lordship's obedient servant.

(Sd.) S. TURNER,

Chairman.

The Most Honourable the Marquess of Zetland,

P.C., G.C.S.I., G.C.I.E.,

Secretary of State for India.

APPENDIX.

Liability of Burma 1937-38.

LIABILITIES—			Rs. Lakhs.
Permanent Debt—			
		Rs. Lakhs.	
Sterling	.	4,49,94·09	
Rupee	.	4,56,03·90	
		-----	9,05,97·99
Treasury Bills including accrued discount	.		39,94·00
Cash Certificates including accrued bonus	.		72,30·94
Post Office Savings Bank deposits	.		75,50·00
Provident Funds, special loans, etc.	.		1,02,63·56
Family Pension Funds	.		16,65·20
Provincial balances interest bearing	.		3,61·60
Part earned pensions	.		..
Miscellaneous liabilities	.		28,79·37

Total liabilities, exclusive of liability for pensions in issue	.		12,45,42·66

ASSETS—			
Railways—			Rs. Lakhs.
Cost met from Government funds as recorded	.	7,53,29·00	
Add—Amount written off before 1924	.	39,05·00	
		-----	7,92,34·00
		Rs. Lakhs.	
Deduct—			
Excess of stock nominal value over cash		1,87·00	
Amounts set aside for depreciation	.	47,47·00	
		-----	49,34·00
		-----	7,43,00·00
Securities held on account of the General Reserve		47·00	
		-----	7,43,47·00
Other Commercial Assets—			
Posts and Telegraphs	.	18,17·23	
Less Depreciation	.	3,14·20	
		-----	15,03·03
Irrigation	.		70·21
Security Printing Press	.		39·51
Currency Note Press	.		22·61
Northern India Salt Department	.	88·79	
Less depreciation	.	29·51	
		-----	59·28
Forests	.		14·52
Vizagapatam Port	.		3,92·21
		-----	21,01·37

	Rs. Lakhs.
New Delhi	15,94.24
Military Lands at Bombay	2,31.12
Advances to Provinces	1,86,20.00
Other interest bearing advances	21,62.16
Investment of cash balance . . . . .	.70
Silver redemption reserve	10,00.00
" Dead " assets . . . . .	..
Cash and miscellaneous assets	29,06.28
Total Assets	10,29,62.87
Excess of liabilities over assets	2,16,79.79
Share of excess assignable to Burma 7½ per cent.	16,18.48
Assets of which Burma will assume possession—	
Railways—	
Cost met from Government funds as recorded	35,01.00
Less amounts set aside for depreciation	1,75.00
	<u>33,26.00</u>
Other Commercial Assets—	
Posts and Telegraphs	1,35.76
Less depreciation	23.44
	<u>1,12.32</u>
Advances to Provinces	6,75.94
Other interest bearing advances	24.42
Cash to provide working balance	2,00.00
	<u>Total</u>
	<u>43,38.68</u>
Liabilities for which Burma will assume direct responsibility—	
Post Office Savings Bank deposits	2,33.73
Provident Funds	3,92.65
Non-interest bearing liabilities	1,54.92
	<u>Total</u>
	<u>7,81.30</u>
Net assets of which Burma will assume possession	35,57.38
Debt of Burma to India, being net assets as above	Rs. 35,57.38 lakhs, plus
share of excess liabilities Rs. 16,18.48 lakhs	51,75.86

	Rs. Lakhs.
Annuity required to redeem principal and interest in 45 years	2,29.26
Capital value of pensions in issue, 1st April, 1937	1, 4,05.24
	<hr/>
Share of above assignable to Burma	7,80.39
	<hr/>
1st Year's payment of equivalent annuity decreasing by equal decrements over 20 years	93.75
	<hr/>
Total payment due from Burma in 1937-38	3,23.01
	<hr/>

The rate of interest used for the valuation of debts and pensions, and for the conversion of capital sums into annuities, is $3\frac{1}{4}$ per cent.

The second interim report of the Committee for the Application of the Recommendations of the Indo-Burma Financial Settlement Tribunal.

INDIA OFFICE,

WHITEHALL, S.W. 1.

2nd December, 1937.

To

THE MOST HONOURABLE THE MARQUESS OF ZETLAND, P.C., G.C.S.I.,
G.C.I.E.

MY LORD MARQUESS,

In continuation of my Report dated 30th November, 1936, I have the honour to submit, on behalf of the Committee for the application of the recommendations of the India-Burma Financial Settlement Tribunal, a second interim report on the sum to be paid from the Revenues of Burma to the Revenues of India in liquidation of Burma's share of the net liabilities outstanding on 31st March, 1937.

2. The Committee recommends that the sum to be paid in the year 1938-39 should be Rs. 2,24,82,000. A statement showing the manner in which this amount has been calculated is attached.

3. In accordance with the instructions conveyed in Sir Findlater Stewart's letter dated 22nd October, 1937, the Committee has excluded from consideration, in arriving, at the above figure, the liability in respect of pensions, whether in issue on 31st March 1937 or part-earned at that date, and the value of the dead assets.

4. The Committee regrets that it has not found it possible, at this date, to submit a final recommendation as to the sums to be paid in future years to achieve a complete extinction of Burma's indebtedness. It is anticipated however that the annual payment recommended in the final report, which will be submitted at the earliest possible date, will not differ to any material extent from that indicated in the Appendix.

I have, &c.,

(Sd.) SIDNEY TURNER,
Chairman.

APPENDIX.

Estimate of Burma's liability to the Government of India after separation, excluding liability for pensions.

LIABILITIES—	Rs. Lakhs.	Rs. Lakhs.
Permanent Debt—		
Sterling	4,49,94.09	
Rupee	4,56,04.13	
	<hr/>	9,05,98.22
Treasury Bills, including accrued discount		29,50.49
Cash Certificates, including accrued bonus		72,70.43
Post Office Savings Bank deposits		74,67.66
Provident Funds, special loans, etc.		1,02,30.81
Family Pension Funds		16,66.67
Provincial balances, interest bearing		2,54.07
Miscellaneous liabilities		33,79.27
		<hr/>
Total liabilities, exclusive of liability for pensions		12,37,17.13
		<hr/>
ASSETS—		
Railways—	Rs. Lakhs.	
Cost met from Government funds, as recorded	7,51,49.00	
Add—Amount written off before 1934	39,05.00	
		<hr/>
		7,90,54.00
Deduct—	Rs. Lakhs.	
Excess of stock nominal value over cash	1,87.00	
Amounts set aside for depreciation	46,49.00	
		<hr/>
		48,36.00
		<hr/>
		7,42,18.00
Securities held on account of the General Reserve		47.00
		<hr/>
		7,42,65.00
Other Commercial Assets—		
Posts and Telegraphs	18,02.12	
Less Depreciation	3,06.92	
		<hr/>
		14,95.20
Irrigation		1,76.98
Security Printing Press		38.51
Currency Note Press		28.03
Northern India Salt Department	89.31	
Less Depreciation	29.05	
		<hr/>
		60.26
Forest		14.44
Vizagapatam Port		3,81.79
		<hr/>
		21,95.21

	Rs. Lakhs
New Delhi	15,31·50
Military Lands at Bombay	2,31·12
Advances to Provinces	1,84,02·77
Other interest bearing advances, including estimate for accrued interest Rs. 20,000	20,99·00
Investment of cash balance	83
Silver redemption reserve	9,78·18
Cash and miscellaneous assets	26,30·34
Total Assets, exclusive of "dead" assets	10,23,33·95
Excess of liabilities over assets	2,13,83·17
Share of excess assignable to Burma 7½ per cent. Assets of which Burma will assume possession—	16,03·74
	Rs. Lakhs.
Railways—	
Cost met from Government funds as recorded	34,69·00
Less amounts set aside for depreciation	1,48·00
	33,21·00
Other Commercial Assets—	
Posts and Telegraphs	1,35·70
Less depreciation	23·34
	1,12·36
Advance to Provinces	6,74·94
Other interest bearing advances	24·50
Cash to provide working balance	2,00·00
	43,32·80
Liabilities for which Burma will assume direct responsibility—	
Post Office Savings Bank deposits	2,09·05
Provident Funds	3,89·68
Non-interest bearing liabilities	2,62·92
	8,61·05
Total	8,61·05
Net assets of which Burma will assume possession	34,71·75
Debt of Burma to India, being net assets as above Rs. 34,71·75 lakhs, plus share of excess liabilities Rs. 16,03·74 lakhs	50,75·49
Annuity required to redeem principal and interest in 45 years	2,24·82

The rate of interest used for the valuation of debts and for the conversion of capital sums into annuities, is 3½ per cent.

TOTAL GOVERNMENT TRANSACTIONS WITH THE RESERVE BANK OF INDIA, DELHI AND THE IMPERIAL BANK OF INDIA, NEW DELHI.

221. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state whether the Reserve Bank or their agents the Imperial Bank transact Government business in Delhi and New Delhi ? What was the total amount handled by each in the year 1937 ?

THE HONOURABLE MR. J. C. NIXON : The Reserve Bank transacts Government business in Delhi and the Imperial Bank in New Delhi. During the year 1937 the total Government transactions were approximately as follows :—

Reserve Bank, Delhi.—Receipts Rs. 2,29 lakhs, payments Rs. 5,04 lakhs.

Imperial Bank, New Delhi.—Receipts Rs. 92 lakhs, payments Rs. 3,22 lakhs.

NET INCOME FROM GOLD STANDARD RESERVE AND CURRENCY DEPARTMENT.

222. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table the combined net income from the Gold Standard Reserve and Currency Departments from 1925-26 to 1934-35 and the combined net income from the Reserve Bank and the Silver Redemption Fund from 1935-36 up to date ?

THE HONOURABLE MR. J. C. NIXON : A statement is laid on the table.

Net Income from Gold Standard Reserve and Currency Department.

Year.	Gold Standard Reserve.	Currency Department.	Total.
	Rs.	Rs.	Rs.
1925-26	2,63,68,987	3,72,77,860	6,36,46,847
1926-27	2,59,71,520	3,42,97,298	6,02,68,818
1927-28	2,44,52,480	1,69,89,337	4,14,41,817
1928-29	1,65,71,600	1,99,14,432	3,64,86,032
1929-30	3,06,66,667	2,00,49,580	5,07,16,247
1930-31	2,13,33,333	69,30,658	2,82,63,991
1931-32	96,85,520	1,22,03,760	2,18,89,280
1932-33	63,69,800	1,54,63,739	2,18,33,539
1933-34	44,61,213	35,94,726	80,55,939
1934-35	1,41,94,907	32,78,930	1,74,73,837
1935-36	7,19,733	.....	7,19,733

Net Income from Silver Redemption Reserve and Reserve Bank.

Year.	Silver Redemption Reserve.	Reserve Bank.	Total.
	Rs.	Rs.	Rs.
1935-36	18,73,733	42,93,244	61,66,977
1936-37	Nil.	35,92,100	35,92,100
1937-38	12,00,000*	10,41,200	22,41,200

* Revised estimate.

STARTING OF A CINEMATOGRAPH TALKIE HOUSE IN AJMER.

223. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Saiyed Mohamed Padshah Sahib Bahadur) : (a) Does the hall of the B.B.&C.I.R. Institute, Ajmer, where a cinematograph talkie is going to be started, consist only of one floor of the same level throughout, instead of gradual elevation from the screen towards the rear, involving the risk of the audience on the back rows overstraining their eyes ?

(b) Is not the hall provided with such means of ventilation as are necessary for a cinematograph house ?

(c) If the replies to the questions at parts (a) and (b) above are in the affirmative, will Government please state why the District Magistrate, Ajmer-Merwara, has not insisted on the removal of the defects in the said hall before granting licence for its use for cinematograph talkie exhibitions ?

THE HONOURABLE MR. F. H. PUCKLE : With your permission, Sir, I propose to answer questions Nos. 223, 224 and 225 together.

I am obtaining information and will lay replies on the table of the House in due course.

STARTING OF A CINEMATOGRAPH TALKIE HOUSE IN AJMER.

224. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Saiyed Mohamed Padshah Sahib Bahadur) : (a) Under the rules framed by the Chief Commissioner, Ajmer-Merwara, is an application to the District Magistrate, Ajmer-Merwara, for licence for using a building for cinematograph exhibitions required to be supported by certificates from (i) the Superintendent of Police, (ii) the Civil Surgeon, (iii) the Chairman, Municipal Committee, and (iv) the Chief Electrical Engineer, Ajmer-Merwara and Delhi ?

(b) Did the District Magistrate, Ajmer-Merwara, grant a licence for the use of the hall of the B.B.&C.I.R. Institute, Ajmer, for commencement of the exhibitions, without the production of the certificates referred to above ? If so, what action do Government propose to take in the matter ?

(See reply to question No. 223.)

STARTING OF A CINEMATOGRAPH TALKIE HOUSE IN AJMER.

225. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Saiyed Mohamed Padshah Sahib Bahadur) : (a) Was an application made to the Commissioner, Ajmer-Merwara, in his capacity as Advocate

General of Ajmer-Merwara, by four citizens of Ajmer, praying for permission to be granted to them for filing a suit against Mr. C. Lindsay, President of the B.B. & C.I.R. Institute Committee, Ajmer, and two others, for a perpetual injunction prohibiting the use of the hall of the said Railway Institute for cinematograph talkie exhibitions, on the ground of danger to the safety of the lives and health of the cinema-going public ?

(b) Did the Commissioner and Advocate General take no action on this application ? If none, why ?

(See reply to question No. 223.)

TOTAL AMOUNT REALISED FROM THE SURCHARGE ON COAL. ETC.

226. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :

(a) Will Government state the total amount of surcharge realised on railway freight on steam coal, coal slack, coal rubble and hard coke during each of the years that this surcharge has been in force (i) for short distances, (ii) for long distances, and (iii) for all kinds of coal for shipment ?

(b) What does Government estimate will be its total income from this surcharge during the next year, i.e., 1938-39 ?

(c) What is the total tonnage of these coals (i) for short distances, and (ii) for long distances, each year ?

THE HONOURABLE SIR GUTHRIE RUSSELL: If the Honourable Member will let me know what maximum distance he has in mind by the use of the term "short distances", I will see whether it is possible to obtain the information he requires without undue labour.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: After to-day's Resolution has been discussed ?

THE HONOURABLE THE PRESIDENT: Order, order.

DYNAMOS PURCHASED BY STATE-MANAGED RAILWAYS.

227. THE HONOURABLE MR. HOSSAIN IMAM: Will Government give the following information in respect of the Indian Railways :

(a) The number and average price of dynamos purchased by each Railway in 1935-36 and 1936-37 ?

(b) The number and average realised price of dynamos scrapped by each Railway in 1935-36 and 1936-37 ? and

(c) The number and total price of dynamos budgeted for purchase in each Railway in the year 1938-39 ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a), (b) and (c). If the Honourable Member refers to train lighting dynamos, the number and average price of dynamos purchased for State-managed Railways in 1935-36 was 181 and Rs. 2,468 and in 1936-37, 289 and Rs. 2,438 respectively. Train lighting dynamos are purchased both as replacements and for new carriage construction but in neither case is their provision separately budgeted for in the normal course. To endeavour to trace the number and average realised price for dynamos scrapped during 1935-36 and 1936-37 would involve labour and time incommensurate with the results.

THE HONOURABLE MR. HOSSAIN IMAM : Is there any record of the materials scrapped ?

THE HONOURABLE SIR GUTHRIE RUSSELL : There is presumably a record in the scrap books. That is all the record we have.

THE HONOURABLE MR. HOSSAIN IMAM : Are any prices given—the value realised ?

THE HONOURABLE SIR GUTHRIE RUSSELL : We have got no prices.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable Member enquire from the Railways if they have got the prices ?

THE HONOURABLE SIR GUTHRIE RUSSELL : No, Sir.

EXTENSIONS AT DELHI STATION, N.W.R.

228. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Is there any proposal of the N.W.R for the extension of the Delhi junction station ? If so, what are the chief features of the proposal, and what will be its approximate cost ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Yes, the chief features of the proposal are an extension of the third class waiting halls and booking offices and the provision of a covered porch for tongas and taxis to pick up and set down passengers in all weathers, the extension of the upper class concourse, which is at present very congested, and also the provision of an adequate circulating area for road vehicles within railway premises. The scheme will entail a slight diversion of the Queen's Road running in front of the station. The estimated cost of the work is Rs. 1,57,771 and that of the land required Rs. 3,10,600. If the negotiations now in progress are successful, the land will be acquired by exchange and not by cash payment.

CONSTRUCTION OF A RAILWAY BETWEEN LAKHIMPUR KHERI, R.&K.R. AND NANPARA JUNCTION, B.&N.-W.R.

229. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Do Government propose to explore whether it would be remunerative to have a railway line constructed between Lakhimpur Kheri (R.K.R.) and Nanpara Junction (B.&N.-W.R.) or such other point as may be deemed suitable, with a view to facilitate the traffic in timber trade and agricultural produce in that area, in addition to passenger traffic ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Any railway on the proposed alignment would have to cross two large rivers. Government do not consider that there is likely to be enough traffic to justify the cost of the line, which would be heavy on account of these two large bridges. Should the United Provinces Government consider the line of sufficient importance to justify them giving a subsidy, they will, no doubt, approach the Central Government.

RECIPROCIITY BETWEEN BRITISH INDIA AND THE GOVERNMENT OF BURMA IN
THE MATTER OF EXECUTION OF DECREES OF COURTS.

230. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Will Government state the arrangements which have been made, or are proposed to be made with reference to the execution of decrees in Burma, passed by the British Indian Courts, or *vice versa* ? Have the separation of Burma affected in any way the interests of such Indians ? If so, in what respects ?

(b) Has there been any correspondence between the Governments of India and Burma on this subject ? If so, what is the conclusion arrived at ?

THE HONOURABLE MR. F. H. PUCKLE : (a) and (b). It is not possible for me to detail the various respects in which the separation of Burma may arguably have affected the interests of Indians in Burma. My reply is therefore confined to the particular aspect of the matter referred to at the beginning of part (a). This matter has been under correspondence with the Government of Burma, but no final decision has yet been reached. As the Honourable Member is aware, the Code of Civil Procedure (Amendment) Act, 1937 (VIII of 1937), was enacted with a view to provide reciprocity in the matter of enforcement of judgments between the Courts in the United Kingdom and other parts of His Majesty's Dominions and those in British India. That Act has been brought into force in Burma, and the question of declaring British India a reciprocating territory is under the consideration of the Government of Burma. The question which Courts in British India should be declared superior Courts for the purposes of new section 44A of the Code of Civil Procedure has been referred to the Provincial Governments and as soon as their replies are received steps will be taken to bring Act VIII of 1937 into force in British India and to complete reciprocal arrangement with both the United Kingdom and Burma.

APPOINTMENT OF A SUB-COMMITTEE BY THE AIR DEFENCE COMMITTEE,
KARACHI.

231. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Was a sub-committee appointed by the Air Defence Committee of Karachi ? If so, with what object ; and what are its proposals and their financial implications ?

(b) Was any Indian appointed as a member of the sub-committee or of the Air Defence Committee ? If so, what are their names ?

THE HONOURABLE MR. F. H. PUCKLE : (a) and (b). The Government have no information beyond what has appeared in the Press.]

POST OF SECRETARY TO THE PERMANENT CENTRAL OPIUM BOARD, LEAGUE OF
NATIONS SECRETARIAT, GENEVA.

232. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Has the post of Secretary to the Permanent Central Opium Board in the League of Nations Secretariat, Geneva, fallen vacant ?

(b) If so, do Government propose to press for the appointment of a suitable Indian to this post ? If so, what steps have been taken in the matter ?

THE HONOURABLE MR. A. DEC. WILLIAMS : (a) The answer is in the affirmative.

(b) The position is that the President of the Permanent Central Opium Board has sent notice of the vacancy to all Governments who are parties to the Geneva Opium Convention and the Convention for limiting the manufacture and regulating the distribution of narcotic drugs, with a view to their bringing the vacancy to the knowledge of duly qualified persons who might be interested. Government have caused the existence of the vacancy and the steps to be taken by persons desirous of applying for the same to be widely published. The question of pressing for the appointment of an Indian will not arise unless and until a qualified Indian candidate submits an application.

RESERVATION FOR INDIAN MEDICAL SERVICE OFFICERS OF JAIL APPOINTMENTS IN THE UNITED PROVINCES.

233. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Were five out of the six posts of the Superintendents of Central Prisons reserved for the Indian Medical Service officers and have the Government of India represented to the Secretary of State for the withdrawal of this reservation ?

(b) If so, when is a decision likely to be arrived at ?

THE HONOURABLE MR. F. H. PUCKLE : (a) Yes ; five posts of Superintendents of Central Jails in the United Provinces were reserved for the Indian Medical Service. It is the intention that the reservation should be retained only in favour of officers who were in service on 31st March, 1937.

(b) I hope fairly soon.

PARLIAMENTARY AND MUNICIPAL FRANCHISE RIGHTS OF INDIANS IN NATAL.

234. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have the Indians in Natal who had both parliamentary and municipal franchise been deprived of the same ? What are the latest steps which Government have taken to restore the franchise, when were they taken, and with what results ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Indians in Natal were deprived of the Parliamentary franchise by Law XI of 1896 and of the municipal franchise by Ordinance No. 19 of 1924. As regards the second part of the question, the attention of the Honourable Member is invited to the reply given by me on the 15th November, 1937 to his question No. 311.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE SIR MUHAMMAD YAKUB (Commerce and Labour Member) : Sir, I beg to lay on the table the information promised in reply to question No. 61 asked by the Honourable Mr. Kumar Sankar Ray Chaudhury on the 14th February, 1938 and question No. 96 asked by the Honourable Mr. B. N. Biyani on the 17th February, 1938.

EXPORT OF FRUITS.

Statement showing the value of fresh fruits exported during the years 1932-33 to 1936-37.

	1932-33.	1933-34.	1934-35.	1935-36.	1936-37.
<i>Fresh fruits.</i>	Rs.	Rs.	Rs.	Rs.	Rs.
(a) Coconuts	7,718	9,479	9,361	4,077	12,638
(b) Others	1,88,834	3,91,986	1,93,374	1,76,813	1,96,743
TOTAL	1,96,552	4,01,465	2,02,635	1,80,890	2,09,380

NOTE.—Excepting coconuts, different kinds of fresh fruits are not separately recorded in the Sea-borne Trade returns.

IMPORTS OF CULTURE PEARLS.

(a) (i) Culture pearls are imported into India mostly by post from Japan.

(ii) Statistic relating to imports of culture pearls are not separately recorded in the Sea-borne Trade returns of British India. It is roughly estimated that imports during 1937 were worth less than Rs. 5,000.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the following Bills which were passed by the Legislative Assembly at its meeting held on the 18th March, 1938, namely :

A Bill further to amend the Trade Disputes Act, 1929, for certain purposes.

A Bill to amend the Hindu Women's Rights to Property Act, 1937.

RESOLUTION RE ESTABLISHMENT OF A SUPREME COURT OF CRIMINAL APPEALS—*contd.*

THE HONOURABLE THE PRESIDENT : The debate will now proceed on the Honourable Haji Syed Muhammad Husain's Resolution.*

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I should like to give my support to the Resolution which was moved by the Honourable Haji Syed Muhammad Husain at the last meeting of the Council. It is a matter of regret to me that I was not present at the last meeting to hear how my Honourable friend put the case for the establishment of a Supreme Court and what the other speakers, who

*" This Council recommends to the Governor General in Council to take immediate steps to introduce measures to provide for civil appeals to the Federal Court from the judgments of High Courts in British India as provided by section 206 (1) of the Government of India Act of 1935 and to establish at the earliest possible date a Supreme Court of Criminal Appeals in India."

spoke on the Resolution said. I could not hear them. As I understand the legal position, it would appear to me to be like this. Under section 206 of the Government of India Act, the Federal Legislature has power to give jurisdiction to the Federal Court to hear appeals from the High Courts in India in cases valued at not less than Rs. 15,000. Under section 316 of the Government of India Act, during the transitory period, all the powers which can be exercised by the Federal Legislature can be exercised by the Central Legislature. The present Legislature has the powers of the Federal Legislature for the purposes of section 206, and what the Honourable Mover, as far as I have been able to understand would like the Governor General in Council to do is to approach the Secretary of State to get an Order in Council bringing into operation section 206. If section 206 is brought into operation, then the Central Legislature would have all the powers of the Federal Legislature and even before Federation is established, if it is ever established, we shall have a Supreme Court working in India. The Resolution therefore suggests that this step should be taken. The principle that there should be appeals to the Federal Court from the High Courts has been accepted by the Government of India Act itself. The Government of India Act itself contemplates that there shall at some time or other be appeals from the High Courts to the Federal Court. The Federal Court has been established. It is functioning. But Federation is not yet in sight. The position is that the Court at present has no work. The Court from our point of view is a costly business. It has some very very distinguished and eminent Judges; it has strong judicial talent but there is no scope for that talent. Therefore some work should be provided for the Federal Court. It ought to be made to justify its existence, and if this jurisdiction is conferred upon the Federal Court you will be conferring a boon upon the Judges of that Court, because they will find some occupation and work to do. There has been a demand for a Supreme Court in India for a very very long time and the reason for that is not because the Privy Council justice is not very good—we all appreciate the great work that the Privy Council has done so far as Indian law is concerned—but the reason for that is that the present arrangement is very costly and dilatory for litigants. Solicitors and barristers would in the case of a Supreme Court in India have the advantage of the presence of the client, and it will be possible for barristers who are arguing the case in the Supreme Court to have consultations with those who have conducted the case in the Courts below. Therefore, from the point of the litigant public, and also the Bar, the Court would be more advantageous than the present arrangement.

There is a second part of the Resolution to which I would now like to invite attention, and that is the part which deals with criminal cases. Now, it is quite true that the Federal Court cannot be vested with jurisdiction as a Court of Appeal in criminal cases. But independently of the Federal Court I would say that there is a case for the establishment by an Act of the Indian Legislature of a Supreme Court of Criminal Appeal. The position in civil cases is that you can go to the Privy Council if there is disagreement between the High Court and the court of first instance in suits of over Rs. 10,000, even on a question of fact. On questions of law you can go to the Privy Council even if both the Courts agree. So far as criminal cases are concerned, we know that the Privy Council is not a Court of Criminal Appeal. In DeLott's case they laid down the rule that they would only interfere where there had been a failure of natural justice or where a court had exercised a jurisdiction which was not vested in it. The present position therefore is that the civil litigant is in a much better position than the accused in a criminal court. The civil litigant has an appeal to the High Court; then he has got

[Mr. P. N. Sapro.]

an appeal to the Privy Council. The criminal accused has only an appeal to the High Court in cases of sentences over two years and there is no further appeal; and if he is tried on the Original Side of the High Court there is no appeal for him at all. If he has been tried by a jury and the Judge disagrees with the jury and the case is referred to the High Court the High Court's decision is final. In petty cases a man has a greater chance than in more serious cases. The High Court has some revisional jurisdiction in petty cases. You have an appeal from a Magistrate to the Sessions Judge, and then you can go in revision to the High Court. But in more serious cases there is just one appeal provided for you. Now, in some Courts, and particularly in my Court, we find that these appeals are heard by a single Judge. In our Court only capital cases and transportation cases are heard by a Bench; all other cases are heard by a single Judge. The single-Judge jurisdiction in criminal cases is much more extensive than the single-Judge jurisdiction in civil cases. There is a Letters Patent appeal in civil cases to a Bench from the decision of a single Judge; there is no such appeal provided in the case of a criminal accused.

Well, Sir, I ask, do you therefore attach more importance to property than to life, liberty, honour, self-respect? Even property depends upon honour, self-respect, and liberty. Therefore I think I should not be wrong in describing this present system as lacking in humanity and as scandalous. Sir, we know that vast consequences follow a criminal conviction and we also know that we have a system of appeals against acquittals. A man is acquitted by a Sessions Judge; then the Government can appeal to the High Court, and the High Court's view in cases of appeals against acquittals is final. Well, these are cases in which you should give to the accused a chance of further appeal. Also, Sir, uniformity in the interpretation of law is necessary. The Criminal Procedure Code and the Indian Penal Code are very complicated pieces of legislation, particularly the Criminal Procedure Code, and you find different Judges and High Courts interpreting the Procedure Code in different ways. Surely there should be some Tribunal which would give a final and authoritative interpretation on these disputed questions which arise in courts of law? It is to the interest of everybody concerned, including the State, that there should be some uniformity in regard to interpretation that you place upon a certain Statute. Therefore I cannot see how this anomaly can be justified. It may be that you cannot vest the Federal Court Judges with the jurisdiction of a Criminal Court of Appeal, but what you can do is to have a Court of Appeal for all India, constituted, say, of the Chief Justices of all the High Courts. You can give this Court limited jurisdiction in criminal cases. You can define the circumstances under which an appeal shall be permitted to this Criminal Court of Appeal, and you can do this without amending the Government of India Act by amending the Code of Criminal Procedure. You do not want to go to Parliament for amending the Code of Criminal Procedure. All that you have got to do is to amend the Code of Criminal Procedure. I would urge that the Indian Legislature can establish a final Court of Criminal Appeal. A final Court of Criminal Appeal with revisional jurisdiction and with appellate jurisdiction would be very much appreciated. It would give some sense of security to the many persons who find themselves accused of crimes. It would secure some uniformity in the administration of law and in the interpretation of law. It is not therefore an extreme or extravagant request or demand that the Honourable Haji Syed Muhammad Husain has made. So far as the other part

of the Resolution is concerned, I have already said that there is no difference now in principle about it. The principle that there should be a Supreme Court in India has been accepted by the Government of India Act. In fact the Government of India Act itself contemplates that a time will arrive when the Federal Legislature will demand that a Supreme Court shall be established. Well, the legal interpretation that we place upon the various sections of the Government of India Act is that the Central Legislature, provided there is an Order in Council to that effect by the Secretary of State, can have the powers of the Federal Legislature in regard to this matter and that the establishment of a Supreme Court can be hastened; the establishment of a Supreme Court must not be made dependent on the establishment of Federation which may or may never materialise.

Sir, with these words, I give my strong support to the Resolution which has been moved by the Honourable Haji Syed Muhammad Husein and I hope, Sir, that Government will approach this Resolution in a sympathetic spirit. I hope, Sir, that they will not say "No" to this Resolution. I hope, Sir, that they will look upon this Resolution as a non-controversial Resolution; it is not a controversial Resolution; it is not a political Resolution. It is a Resolution directed to see that there is better administration of justice in this country. I hope, Sir, that they would look upon this Resolution as a Resolution intended to see that there is better administration of justice and give this Resolution their strong support.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, in spite of the assertion—

THE HONOURABLE THE PRESIDENT : I would like you to confine yourself to the question whether the Government of India have got the power under section 206 at this stage.

THE HONOURABLE MR. RAMADAS PANTULU : In spite of the assertion of my friend that the question is of a non-controversial character and that there is no difference of opinion, I regret to say that I have to contradict him. I myself am not in favour of this Resolution for more than one reason. First of all, Sir, it does not serve any very useful purpose at the present juncture apart from any constitutional difficulties. Section 206 of the Government of India Act permits the Indian Legislature to provide for civil appeals in cases involving disputes of the value of Rs. 50,000 or over. Of course the Indian Legislature is also empowered to reduce that sum to Rs. 15,000 in proper cases; but that leaves the jurisdiction of the Privy Council intact in regard to much of the litigation. In regard to all disputes below Rs. 50,000 or below Rs. 15,000 if the figure is reduced all appeals from High Courts to the Privy Council will be cut out if the jurisdiction of the Federal Court is extended. It is not to our advantage. It is a mistake to suppose that now appeals lie to the Privy Council only in matters involving disputes the subject-matter of which is Rs. 10,000 or more. In important questions of law of general applicability affecting a large number of cases, cases of very small value can be taken to the Privy Council and are being taken. I myself obtained leave to appeal to the Privy Council in matters which were very very small financially but which were important from a general viewpoint—matters of public importance. So the Resolution does not give us a scheme by which India will be self-contained in the matter of final appeals from High Courts: I would not give concurrent or even exclusive jurisdiction in different spheres of litigation to the Privy Council and to the Federal Court. Secondly, Sir,

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the jurisdiction of the Privy Council to hear appeals over the decisions of the Federal Court cannot be taken away. They have a prerogative right and appeal can be carried from the decision of the Federal Court to the Judicial Committee. Therefore my friends are providing for more litigation and more courts of appeal, which I consider are not in the interests of this country or the litigant public in this country.

THE HONOURABLE THE PRESIDENT : In the interest of the lawyers!

THE HONOURABLE MR. RAMADAS PANTULU : Though I am a member of the Bar, I think I ought not to look at it from the viewpoint of the lawyer but from the litigant public. I do not think it will be a blessing to them. Sir, the scheme of the Government of India Act is that normally the Federal Court shall not consist of more than six puisne Judges and one Chief Justice. Section 200 says that the normal strength is six puisne Judges and a Chief Justice and section 214 (2) says that no case shall be decided by the Federal Court except by a Bench of three Judges and it further says that if jurisdiction of the Federal Court is enlarged with regard to appellate matters, a separate Division Bench should be constituted to hear matters arising under the Act as it now stands without the appellate jurisdiction being enlarged. That means that all constitutional matters in which any question relating to the interpretation of the constitution or the validity of a Federal or Provincial Law have got to be heard and decided by a separate Division Bench of the Federal Court. Whether therefore it is worth while enlarging the jurisdiction of the Federal Court by increasing its strength from three to six or seven and creating two Divisions of the same is more than doubtful. It will take some time for appeals to reach the Federal Court. Nobody can directly go to the Federal Court. Suits must be decided by original Courts and appeals have got to be first brought before the High Courts and then to the Federal Court. Therefore it will take a long time before the Federal Court gets any work on its appellate side and my friends who complain that the Federal Court has no work will have to wait for many years more for appeals from High Courts in the normal course to reach the Federal Court. Viewed from the point of view of expediency or the interests of the litigant public, I do not think there is any need at present to enlarge the personnel of the Federal Court or to vest it with jurisdiction in civil appeals to some extent while retaining the appellate jurisdiction of the Privy Council to some extent.

Then, Sir, with regard to the second point, namely, criminal appeals, I do not think there has been any demand from any large section of the public that there should be a regular court of criminal appeal in this country to hear appeals from the judgments of High Courts in all criminal matters. At the Round Table Conference there was some discussion about appeals being allowed against sentences of death—capital punishment—by the High Courts. That is the only thing I have heard and it has been pointed out that even if a court is set up to hear appeals against the judgments of High Courts, sentences of capital punishment, the court should have a sufficient number of Judges to hear appeals normally. That has been said by many lawyers who attended the Round Table Conference. They pointed out that if criminal appeals from all High Courts are provided for, the Court should be 25 strong and if my friend's simple remedy that all the Chief Justices should sit and hear is adopted, I am afraid it will leave all the High Courts without a Chief Justice for the greater part of the year. The solution that my Honourable

friend offers is not so simple. The present position regarding criminal cases has been clarified by my friend himself. If in the Allahabad High Court cases are not heard by Division Benches, it is a matter within the competence of the Chief Justice himself to make rules with regard to making important cases to be heard by two or three Judges. In Madras not only cases in which sentence of capital punishment or transportation for life is given but cases in which any long term imprisonment is given are heard by the Division Benches and a single Judge sitting sometimes alone to hear appeals himself posts an appeal before a Bench if he considers the matter is one of importance. Therefore, without any amendment to the Criminal Procedure Code satisfactory arrangements could be made for the hearing of important appeals by Benches or even by full Benches if necessary.

Sir, with regard to cases involving capital punishment, in the mofussil they are tried by Sessions Judges only and no sentence of death can be carried into effect without the High Court hearing a referred trial, whether the accused is able to appeal or not; and in all cases where the man is too poor to appeal the Crown engages competent lawyers to argue the case before the High Court and there has been no complaint that referred trials or appeals in cases where capital punishment was given were improperly disposed of. Even there, there is a safeguard now, that if there is a misdirection to the jury in the original trial by the High Court in capital cases or even in certain other matters, the Advocate General can certify to the need for the case being sent to a full Bench. Several cases have been heard in the Madras High Court by five judges to set right if injustice was done. Therefore, there are, I think, several safeguards in the existing jurisprudence to protect the interests of the accused in criminal cases. There is no analogy between civil litigation and criminal cases and nobody would like protracted trials and appeals lasting four, five or six years before the fate of the man is decided; in civil cases it takes 10 years sometimes. Nobody would require such prolonged litigation in regard to criminal cases. I do not think there is a case made out for the establishment of a Supreme Court for Criminal Appeals or for the vesting of appellate civil jurisdiction in the Federal Court in regard to appeals from High Courts.

Sir, with regard to the power of the Indian Legislature to act under section 206, I think it has clearly power having regard to the very plain language of section 316 of the Government of India Act. It does empower the Federal Legislature, which in the transitory period is the Indian Legislature to take any action which the Federal Legislature can take. Therefore, we have only got to see whether the wording of section 206 of the Government of India Act empowers the Federal Legislature to take the necessary steps to give effect to a Resolution of the kind moved by my Honourable friend Haji Syed Muhammad Husain. The section says:

"The Federal Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court in British India without any such certificate as aforesaid, but no appeal shall lie under any such Act unless (a) the amount or value of the subject-matter of the dispute in the court of first instance, etc....."

Therefore, I think under section 206, the Federal Legislature can pass an Act to extend the jurisdiction in civil appeals under section 206. But, as I said, it can only do so under very very restricted conditions. It can only give very limited jurisdiction. But the question whether an appeal can be carried directly to the Privy Council in some cases or must go to the Federal Court alone is a matter that can be legislated on by the Indian Legislature. But, how far it can override the Privy Council's power to hear appeals

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from the Federal Court itself is a matter of some constitutional difficulty. I am not at present prepared to admit that the Indian Legislature can deprive the Privy Council of the right to hear prerogative appeals against the Federal Court. Therefore, Sir, having regard to constitutional and other difficulties, I do not think that the Resolution serves any useful purpose.

A great deal has been said about the absence of sufficient work for the Federal Court. I do not think that the criticism is justified. A Federal Court, in the beginning of any constitution, is bound to wait for work. But before the work comes, it has many important duties to perform. It has got to take all preliminary steps for the discharge of its duties when the time comes. Occasion may arise without any previous notice. For instance, tomorrow proceedings can be instituted to hear an appeal from the Madras High Court. I am informed that steps are being taken to bring a case before the Federal Court in regard to the Madras Debt Relief Act. In such matters the High Court can give leave even without waiting for the application of the parties in order to speedily settle constitutional questions.

One thing more, Sir. It is probable that the constitutional trouble in India between the Government and the people is coming to a head. When Federation is set up or attempted to be set up and the provinces do not co-operate, probably the Governor General may have to take up many of the administrative functions of the Centre and he may have to consult the Federal Court on many matters. There is the safeguard that the Governor General cannot suspend any of the provisions of the Act relating to the Federal Court nor can he assume any of the functions of the Federal Court in the discharge of his special powers. In such times the Federal Court may be of some use in safeguarding the interests and liberties of the people. Viewed from any point, Sir, therefore, I think the benefit of the proposal to increase the jurisdiction of the Federal Court over civil appeals is not very clear: it is doubtful at best. And this Resolution can serve no useful purpose. The Federal Court has real work in order to deal with all constitutional questions that will arise. My friend's Resolution is, I think, a little too premature. He might wait some time till the occasion for it arises.

With these words, Sir, I regret to say that I oppose the Resolution.

THE HONOURABLE MR. F. H. PUCKLE (Government of India : Nominated Official) : In spite, Sir, of the eloquent appeal addressed to the Government by the Honourable Mr. Sapru that we should take a sympathetic attitude towards this Resolution, by which I suppose he means that we should accept it, I am afraid that there are several reasons why the Resolution in the form in which it has been put cannot be accepted. Now, Sir, the Resolution has been admitted and therefore I cannot argue that it raises two distinct issues. But it certainly raises two distinct questions. One, the question of the establishment of a Supreme Court of Civil Appeals, has been accepted in principle and is in the Act. The other, the question of the establishment of a Supreme Court of Criminal Appeal, has been rejected in principle by the latest constitutional body which considered the matter, the Joint Select Committee, and forms no part of the Act. Now, it is quite possible for some Honourable Member to wish to accept the first part of the Resolution about civil jurisdiction and to wish to oppose the second part about criminal jurisdiction. It seems to me to be unfair to put him in this position where he would either have to accept or reject both parts of the Resolution.

THE HONOURABLE THE PRESIDENT: I propose to divide the Resolution into two parts in the exercise of the power granted me by Standing Order 67.

THE HONOURABLE MR. F. H. PUCKLE: Yes, Sir. An Honourable Member might wish to oppose the first part of the Resolution and accept the second, or he might wish to accept the first part and oppose the second. He has no option; he must either accept one thing that he dislikes or another thing that he dislikes. The Resolution is not a straightforward one at all and not one which Government can possibly accept in the form in which it stands.

Now, Sir, a word as to the constitutional position. On general principles I do not think that Government would be right to accept a Resolution where the ultimate responsibility of putting it into effect rests with some other authority, or that this Legislature would press a Resolution where the ultimate authority does not rest or cannot be made to rest with them. As regards the first part of the Resolution, namely, the proposal to set up a Supreme Court of Civil Appeals, this is provided for in section 206 of the Act. That Chapter of the Act is to be brought into force by an Order in Council, and the Order in Council is to be laid before Parliament. Therefore, even supposing we accept this Resolution, the ultimate power to give effect to it does not rest with us. As regards the second part of the Resolution, my submission is that there is no power in the Indian Legislature, given under the new Act, to create a Supreme Court of Criminal Appeals. I base this belief partly on the proceedings and the wording of paragraph 330 of Volume I of the Report of the Joint Committee on Indian Constitutional Reform. After recommending that there should be a Supreme Court of Civil Appeal, the Joint Select Committee turn to the question of criminal appellate jurisdiction and they say:

“The question then arises whether the Federal Legislature should be given power, if and when they thought fit, to set up a Supreme Court of Criminal Appeal in British India”.

There is only one inference from that, namely, that when the Joint Select Committee was sitting, the Indian Legislature had no power and would have no power under the new Act to set up such a Court.

THE HONOURABLE MR. P. N. SAPRU: Where is the limitation? Will my Honourable friend point out to me a single section which prohibits the setting up of a Court of Criminal Appeal in India?

THE HONOURABLE MR. F. H. PUCKLE: I arrive at my conclusions by a process of exclusion. If it was open to this Legislature or the future Federal Legislature to set up a Supreme Court of Appeal over-riding the ordinary High Courts, then there would have been no necessity for section 206. If a certain power is inherent in the Legislature, there is no need to put it into an Act. The Government of India Act does not include any power to set up a Criminal Court of Appeal and I come to the conclusion that no such power is in the Indian Legislature. Therefore, Sir, it would be futile for Government to accept this Resolution. I do not, however, wish to give Honourable Members the impression that Government is entirely unsympathetic towards the first part of this Resolution. It is in the Act. It is accepted in principle. The question boils down to this. It is a matter of expediency. It is a matter of policy whether the time has come now to introduce this Court or not. The question whether section 206 should be brought into force has been considered

[Mr. F. H. Puckle.]

twice, before the two Government of India (Federal Court) Orders in Council were promulgated. The first was promulgated in December, 1936, and the second was promulgated as late as July last. The question whether this particular section should continue to be excluded from operation was naturally considered, and the main reason for continuing to exclude this section was the new Constitution had hardly started, and the Federal Court was then not actually in being. Admittedly, the circumstances are now changed. The Federal Court is in being. I do not want to give the impression that the Government have not an open mind on the first part of the Resolution. But that does not make it in the circumstances any more easy for me on behalf of Government to accept the Resolution.

As regards the second part of the Resolution, the Honourable Member who spoke last has taken the words out of my mouth, and I think there is no necessity for me to repeat them. The question whether it was in practice desirable to add another Court of Appeal to the Criminal Courts of Appeal already existing in this country was considered by the Joint Select Committee, and after consideration definitely rejected. It seems to me that when Honourable Members try to compare the number of Courts of Civil Appeal and the number of Courts of Criminal Appeal, they are perhaps thinking a little confusedly. Civil justice is a private matter; criminal justice is a matter which concerns the community, and if the community considers there are at present enough Courts of Criminal Appeal in India, that seems to me, if I may say so, to end the matter, and as my Honourable friend who last spoke said, I know of no general demand in India for an additional Court of Criminal Appeal.

With these words, Sir, I oppose the Resolution.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I had no intention of intervening in this purely legal debate. The only reason why I now intervene is to discuss the constitutional issue which has been raised by the Honourable Member in charge of this Resolution on behalf of Government. He questioned whether this Legislature had power to create a Supreme Court of Criminal Appeal or not? On that issue we must abide by the practice of the world. Legislatures in an independent country have all the powers inherent in them, and therefore nothing can be said against their jurisdiction. But in a subject country the position is different. There we have the Statute to guide us—

THE HONOURABLE THE PRESIDENT : In this matter there is no question of subject country or independent country.

THE HONOURABLE MR. HOSSAIN IMAM : Because of the fact that the existence of the Government of India Act debars us from taking certain actions, does it mean that everything which is left out of the provisions is also barred to us? I rather think it is the other way round. If there is no specific bar in the Government of India Act—

THE HONOURABLE SIE DAVID DEVADOSS (Nominated : Indian Christians) : This is not a Sovereign Legislature.

THE HONOURABLE MR. HOSSAIN IMAM : As far as there is no bar in the Government of India Act, ours is a Sovereign Legislature. This is the constitutional point which we wish to stress. There is no check on the power

of the Indian Legislature except in so far as the Government of India Act has provide 1. The prohibition can only come in from the Government of India Act. When we find that the Government of India Act is silent, it is wrong to regard that silence as tantamount to prohibition. That was the main reason why I intervened in this debate.

Another matter to which I wish to draw the attention of the Honourable Mr. Puckle is that on the 20th September, 1937, the Honourable Mr. Maxwell moved a Federal Court Bill in this House in the Simla session. That Bill was called the Federal Court Bill, and in it provision was made for hearing appeals from the High Courts. During the discussion on that Bill a question was put to him whether provision has been made for the exercise of a power which does not exist at the present moment. At the present moment, the Federal Court did not hear appeals from the High Courts. The reply of the Honourable Member was, "It is always wise to anticipate". The intention of the Government then seemed to be that they would be willing to consider favourably the question of giving a right of appeal to the Federal Court in civil matters. The Act on this point is very clear. The

12 Noon. Central Legislature which takes the place of the Federal Legislature during the transitory period has the right to legislate for this purpose. Appeals valued at any thing above Rs. 15,000 to Rs. 20,000 can be heard by the Federal Court if the Central Legislature so desires. The minimum has not been fixed by Statute; they have simply given a guide that the minimum must be between Rs. 15,000 and Rs. 50,000. The only provision which they have made as a necessary corollary is that if an Act of that nature is passed it might be necessary for regulation of right of appeals to His Majesty in Council by suitable amendments. This is referred to in section 206 (2):

"If the Federal Legislature makes such provision as is mentioned in the last preceding sub-section, consequential provision may also be made by Act of the Federal Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts in British India to His Majesty in Council, either with or without special leave".

That provision refers only to necessary action; it does not contemplate that the Central Legislature is divested of this power. There is no bar under the Government of India Act for the acceptance of part 1 or part 2 of the Resolution of the Honourable Haji Syed Muhammad Husain. It is only the will of the Government of India and the discretion enjoyed by them which comes in the way.

Sir, I support the Resolution.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Sir, the points raised by my Honourable friend Mr. Ramadas Pantulu and the Honourable Mr. Puckle are such that they should not be passed over in silence. The most important question that has been raised by the official spokesman concerns the power of the Federal Legislature to pass laws setting up new courts. Now he argues that since no express power has been conferred on the Indian Legislature to set up a Supreme Court of Criminal Appeal, therefore it is debarred from establishing such a Court. Sir, the Government of India Act itself lays down the conditions which govern the passing of laws by the Federal Legislature. It prescribes which Acts cannot be repealed or amended without the previous sanction of the Governor General in his discretion. I take it that the restrictions laid on the legislative powers of the Federal Legislature by section 108 must contain a restriction debarring the Federal Legislature from setting up

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a Court of Criminal Appeal if Mr. Puckle's contention is correct. Now section 108 clause (1) (a) says :

" Unless the Governor General in his discretion thinks fit to give his previous sanction; there shall not be introduced into, or moved in, either Chamber of the Federal Legislature any Bill or amendment which repeals, amends or is repugnant to any provisions of any Act of Parliament extending to British India".

This, Sir, does not prevent this Federal Legislature from enacting any law on any subject at all. All that it requires is that the previous sanction of the Governor General in his discretion should be obtained to the introduction of a Bill dealing with certain subjects. Now when a Bill is brought forward on such a matter by a Member, it will be competent for the Governor General acting in his discretion to refuse to give sanction to its introduction. But if the Governor General allows its introduction, there does not appear to be anything in section 108 preventing the Legislature from passing any law. Again, I will assume that for the establishment of a Court of Criminal Appeal, a statutory power of the kind contended for by my Honourable friend Mr. Puckle is needed. I will also grant that no such power exists in the present Act. But it seems to me that under section 108 this power can be conferred on itself by the Federal Legislature, provided the Governor General agrees to it. This lends support to the view put forward that whatever is not expressly prohibited by the Act may be supposed to be within the competence of the Federal Legislature. This, in view of the terms of section 108, seems to be a sounder proposition than the one enunciated by Mr. Puckle.

Now, Sir, another objection to the establishment of a Court of Criminal Appeal was that criminal appeals were so numerous that it might require 20 to 25 Judges to deal with them. It seems to me that my Honourable friend Mr. Ramadas Pantulu was guilty of a great deal of exaggeration in trying to build up a case against the establishment of a Supreme Court of Criminal Appeal.

THE HONOURABLE MR. RAMADAS PANTULU : I said what was said by many people at the Round Table Conference. That was all.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Well, my Honourable friend should have known that when the matter was first discussed in the Round Table Conference the jurisdiction proposed to be given to the Court of Criminal Appeal was not definitely considered. It is consequently impossible for a man to say that a Court of Criminal Appeal which would be empowered to hear appeals in criminal cases from the decisions of the High Court under suitable safeguards would be overwhelmed with work and in order to cope with it might require about two dozen judges.

THE HONOURABLE MR. RAMADAS PANTULU : Is it definite in the Resolution ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Well, my Honourable friend has before now discussed many resolutions in this Legislature which have not been as definite as he would have liked them to be, but in view of the principle involved and in view of the fact that when the time came to translate them into action it would be in the power of Government and the Legislature to introduce the necessary restrictive provisions, he has accorded his support to them. On the same ground I accord my support to the

proposal enunciated by my Honourable friend Haji Syed Muhammad Husain. I can, however, go further and point out to my Honourable friend Mr. Ramadas Pantulu that the Honourable Mr. Sapru who preceded him pointed out that it was not desired to give the Criminal Court of Appeal a general power to interfere in all cases. He wanted that the right of appeal should be strictly limited. It might, for instance, be confined to cases in which a substantial question of law was involved or where there had been disagreement between the appellate court and the trial court, the trial court having acquitted the accused and the appellate court, that is, the High Court, having reversed the judgment. Another case in which jurisdiction may be allowed is that in which the verdict of the jury has been set aside. There may be practising lawyers who may be able to think of other cases also in which it would be desirable in view of the issues involved to obtain the opinion of a higher Tribunal than a Provincial High Court. Now, all the cases that I have given may not be acceptable to all Honourable Members, but they serve to illustrate what we have in mind. Nobody on this side who is in support of my Honourable friend Haji Muhammad Husain's Resolution contemplates an unlimited right of appeal from High Courts to the Criminal Court of Appeal. We all want that the right of appeal should be carefully restricted. But I do think that when this has been provided for the principle of having another Court of Criminal Appeal to hear appeals from the decisions of the High Courts will be conceded by those who have so far expressed their inability to accept the Honourable Haji Syed Muhammad Husain's Resolution because of the wide terms in which it has been drawn up.

Sir, with regard to the setting up of a Court to hear civil appeals from the High Courts, my Honourable friend Mr. Ramadas Pantulu said that there was a great deal of disagreement on the subject in India and that he personally was not in favour of it. The subject was considered at the Round Table Conference. If I may rely on what was said by Sir Tej Bahadur Sapru in his Memorandum to the Joint Committee, there was a general demand for the establishment of a Supreme Court, but Bengal was not in favour of it. I do not know that there was any other province which was not favourable to the establishment of a Supreme Court dealing with civil appeals. Several times it has been said during the course of the discussion that the proposal that has been brought forward is in the interests of the Bar. If it is in the interests of the Bar, that is no argument against the Resolution; but we know, Sir, that appointments in these days are made on communal grounds—appointments to the highest executive and judicial offices. There are persons who owe their appointment entirely to the fact of belonging to particular communities. If this is what is happening in regard to high appointments, I do not see why the Resolution of my Honourable friend Haji Syed Muhammad Husain should be objected to simply because it might benefit the Bar. The Bar is not confined to any community and to that extent the Resolution is better than measures prescribing a particular course simply in the interests of people belonging to certain communities. The only other ground on which the Resolution was opposed was that nothing that we may lay down can take away the power enjoyed by the Privy Council to give leave to appeal in special cases. This is not so. Section 206 to which reference has been made deals very clearly with this matter. It points out that if the Federal Legislature provides for the establishment of a court to hear civil appeals, it can abolish either in whole or in part direct appeals in civil cases from High Courts in British India to His Majesty in Council "either with or without special leave". Now, when this provision is there, I take it that the Privy Council can not

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by virtue of the prerogative right that it enjoys interfere with the judgments of the High Courts. I know that we have not got the rights that the Dominions enjoy to oust completely the jurisdiction of the Privy Council; but if the words that I have read out have any meaning, we may take it that the Privy Council can not set aside the powers purported to be granted to the High Court. Even if this be not the case it will not matter much. The power of the Privy Council, in theory is unlimited in regard to criminal matters, but the Council has made it a rule not to interfere in such cases unless a very important point regarding the failure of natural justice is involved. I have no doubt whatsoever that the Privy Council will in the same salutary spirit impose a check on its own action in future also so that it might not be inconsistent with the spirit of the provision which I have just quoted.

With these words, Sir, I venture to give my support to the Resolution moved by my Honourable friend Haji Syed Muhammad Husain.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, I am rather surprised that my Honourable friend Mr. Pantulu, the Leader of the Congress Party who advocates complete independence and economy in every department in this country and also advocates severance of the British connection....

THE HONOURABLE MR. V. RAMADAS PANTULU : On a matter of personal explanation, I said that if there is a scheme to oust the jurisdiction of the Privy Council completely and to make India self-sufficient in regard to final appeals, I would support it.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : I can quite understand that if that had been the principle of the Congress, it would have been quite consistent for my friend to oppose it on that ground. In spite of the fact that the Congress wanted to boycott the whole of the constitution they are willingly working it!

THE HONOURABLE THE PRESIDENT : Please stick to the Resolution; we have nothing to do with the Congress.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : What I say, Sir, is that it is rather unfortunate that on the merits my Honourable friend has not been able to meet the argument about criminal appeals from cases in which appeals should be, but have not been, provided, and yet he opposes the Resolution. He also referred to what happened in the Round Table discussion. There are so many things which were discussed in the Round Table Conference and "No" was said to them. I am not sure that my Honourable friend is satisfied with those "Noes". And another wonderful thing is that my Honourable friend does not deny that a good deal of money is being spent on the establishment of the Federal Court, yet my Honourable friend hesitates to try and get some return for that money. I wonder if my friend thinks that that department is in need of a rest cure. I am quite sure it is not. As to the argument of my friend that in cases below Rs. 15,000 there would still be an appeal to the Privy Council, I say "No". You have got provision in the same section that you can limit the amount and disallow any appeal from the High Court to any tribunal beyond a certain sum. Therefore, the Legislature has

power to say that there shall be no appeal below Rs. 15,000 and in cases above Rs. 15,000 the appeal shall lie to the Federal Court. Now, my Honourable friend thinks that there would still be the right of appeal to the Privy Council from the Federal Court and that would mean two appeals from the High Court. I can assure my friend that in cases like these and even in second appeals the courts are very very careful in granting leave to appeal or admitting second appeals. When once a case has been in appeal from a High Court to this Court, a litigant will not find it an easy job to obtain leave to appeal to the Privy Council unless the case is very very exceptional. Therefore a good deal of the expense and time of the litigants of this country will be saved and at least, to a great extent, the desire of my Honourable friend and his party that the cases should be finally decided by the highest Court in this country will be fulfilled.

Now, as to the legal question, I want my Honourable friend the Member in charge of this Resolution on behalf of the Government to see, who gives the powers of appeal to the High Court or from the High Court to the Privy Council? You have only to see the Civil Procedure Code and you will find it is there. Who has enacted the Civil Procedure Code? Not Parliament but the Indian Legislature. The Indian Legislature is also the final authority for amending the Criminal Procedure Code as well as the Civil Procedure Code. With a little amendment to the Criminal Procedure Code, you can establish a Supreme Court of Criminal Appeal and for that it will not be necessary for us at all to ask for an Act of Parliament or even an Order in Council. So far as civil appeals are concerned, there is absolutely no difficulty now. As I said in the very beginning, that merely an Order in Council, will do it and in view of the fact that the principle has already been accepted by the Act and the Federal constitution is not yet in sight, it is unnecessary to wait for an event which may or may not happen for years to come?

My Resolution was also criticised on the ground that it does not give sufficient details and that I meant that an appeal in every criminal case will lie to the Supreme Court of Criminal Appeals. I must say that my Resolution does not do anything of the kind. This Resolution was meant only to elicit whether the Government are prepared to accept these two principles or not. To put down all the details when we do not even know whether the Government would accept the principle or not or whether, other parties would accept the principle or not, it would have been quite a useless waste of time to put down all the details. But I am quite certain that once the principle is accepted, and you sit down to give the power of appeal from the High Courts, you will find that the matter would be as easy as anything. In six lines you could decide and limit the power of appeal in these cases. Therefore the fact that it does not go into sufficient details is no ground for your throwing out the principle.

Now, I must thank my Honourable friend on the other side that he did sympathise with the first portion of the Resolution and it is expected that the Government would consider it sympathetically. For giving effect to the first portion of the Resolution, it is essential that the Governor General in Council should move in the matter and obtain an Order in Council. So far as that is concerned, I am perfectly satisfied with the reply that my Honourable friend has given on the other side. So far as the second portion is concerned, this Legislature is competent to draft its own Bill and present it with details and that could easily be done. There is no doubt that two separate things

[Haji Syed Muhammad Husain.]

were mixed up in this Resolution but the object of this Resolution was, as I said, to know to what extent the Government are prepared to accept the principle. So far as the first part is concerned, I am satisfied and I hope that it will be done at an early date and that an Order in Council will be obtained. As for the second part, that is, the Supreme Court of Criminal Appeal, I do not need so much the sympathy of the Government as I need the realisation of the necessity of it by the House. No one in this House has been able to criticise the argument, so far as criminal appeals are concerned which I advanced in the beginning of my speech, or my Honourable supporters did. It is really unthinkable how it would be possible for anyone with any sense of justice to deny the right of appeal to accused persons in certain cases mentioned by me.

Now, since the matter has been fully debated and I am satisfied that so far as the first portion is concerned Government view it with sympathy and so far as the second is concerned, we can bring forward a Bill in the Legislative Assembly or here and when the details are given it will then be seen whether that Bill finds support or not, I am quite prepared to withdraw my Resolution with the permission of the House and the President, if that permission is granted.

THE HONOURABLE MR. F. H. PUCKLE : Sir, there is just one word I would like to say. As regards the first part of the Resolution, the principle that there should be a Court of Civil Appeal is accepted in the Act. When I said the Government is prepared to take a sympathetic attitude towards this part of the Resolution, I did not mean that we are going to take steps tomorrow or the next day or this year or next year. The question is mainly one of the right time and as to that Government has an open mind.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : No, I did not understand that.

THE HONOURABLE MR. F. H. PUCKLE : I say that we have an open mind on the subject. It is a matter of getting the correct time and making up our mind and also a host of preliminaries which will take any length of time to discover.

THE HONOURABLE THE PRESIDENT : Do you wish to withdraw your Resolution ?

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : Yes, Sir.
The Resolution was, by leave of the Council, withdrawn.

RESOLUTION *RE* SURCHARGE ON RAILWAY FREIGHT ON COAL, ETC.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to move the Resolution which stands in my name and which runs thus :

"That this Council recommends to the Governor General in Council that the surcharge levied on the railway freight for coal and hard coke be abolished forthwith."

Sir, the history of the levy of surcharge on coal is very interesting. It was levied at a time when railway finances were at their lowest ebb and the surcharge was put forward as a temporary expedient to tide the Railways over their financial difficulties. It was levied in 1932 at 15 per cent. by the then Railway Member Sir George Rainy who remarked that he was most unwilling to levy the surcharge and that he had to levy it because of the serious financial position of the Railways. I would quote his remarks :

"I have long held the view that it is in the interest of the Railways to keep coal freights at the lowest level commercially possible, because cheap coal is essential to industrial development and industrial development means increased traffic for Railways but on this occasion, circumstances left no alternative".

This will be found on page 1192 of the Assembly Debates, dated the 25th February, 1932. This surcharge continued to be levied for nearly three years and I understand brought in a revenue to the Railways of about Rs. 70 lakhs a year. The coal-mining interests at that time, realising the serious position of railway finances, were compelled to submit to the imposition of this surcharge with effect from 15th January, 1932. It was all along considered both by the coal-mining interests as well as by the consumers as a temporary measure and a demand for its removal was made by the coal-mining interests continuously since that time. In January, 1935, when the condition of the coal industry was causing grave anxiety, both to the industry and the Local Governments, the Government of India, in their communication to Local Governments, conveyed their decision to modify the surcharge from 15 per cent. to 12½ per cent. subject to a maximum of Re. 1 per ton irrespective of distance, and they expressed the hope that improvement in the financial conditions of Railways would make it possible for them to take further action in the direction of a major reduction in the surcharge.

During the year 1936, Mr. H. N. Colam, at the Autumn Conference of the Indian Railway Conference Association, stated that to compensate for the loss of revenue involved in the carriage of more valuable commodities and short distance traffic, charges on less valuable commodities and long distance would have to be increased, and in accordance with this, coal freights were raised on the average by 11 per cent.

In the year 1937, both the E.I.R. and the B.N.R. proposed to introduce a new scale of rates for coal traffic incorporating the addition of surcharge on freight with a view to make it a permanent part of the freight rate on coal. A strong protest was raised by all the coal-mining interests, both Indian and European, against this proposal. It is really surprising that when the surcharge was levied on the plea of the financial position of the Railways, it is sought to be amalgamated along with the railway freight rate at a time when there were definite indications about improvement in railway earnings.

Railway finances have now definitely much improved and I see no reason why the surcharge should continue to be levied on a commodity which creates power for practically all the industrial undertakings in the country. The Railway Enquiry Committee were frank in examining the case of this levy. The Committee stated that coal traffic was subject to road competition only to a very limited degree; therefore the railway exchequer would lose little through diversion to other forms of transport even if the present surcharge was increased from 12½ per cent. to 15 per cent. This recommendation of this Jo Hukam or Jee Hazur Committee is no doubt in keeping with the angle from which they discussed all the problems relating to Railways. Nobody expected from the Railway Enquiry Committee any relief directly or indirectly

[Rai Bahadur Lala Ram Saran Das.]

to industries of the country which are the greatest consumers of coal. It is time, therefore, that this surcharge, in view of the betterment of railway finances, be forthwith removed in order to honour the definite promise made by the Railway Member in 1932 when the surcharge was levied. It is in the interest of the Railways to keep coal freights at the lowest level possible as it would thereby stimulate a greater industrial production and the Railways would get increased traffic as a result of such development.

In 1934, when a Resolution was moved by Sir Abdul Halim Ghuznavi in the Legislative Assembly on the coal industry, Sir P. Raghavendra Rao, speaking on behalf of the Railway Boards stated :

"It was only owing to the serious financial position of Railways that the Government of India, much to their regret, sanctioned the imposition of a surcharge in 1932",

and again assured the House that coal would be among the first of the commodities to be considered when Railways would be in a position to reduce freight rates.

I am sorry, Sir, that that pledge has not been honoured. In other countries I understand that coal is carried on the lowest rates possible. But here, pledges are made and are not fulfilled, particularly in commercially run institutions. Sir, the figures which I have before me indicate that in 1935-36, the total weight of coal carried by the Railways was 3,28,60,000 tons, which provided an earning to the Railways of Rs. 11,41,44,000. In 1936-37, the total tonnage of coal carried was 3,32,38,000 tons and the amount of earning was Rs. 11,65,03,000. In case we work out this Rs. 70 lakhs of loss it comes to on y between 5 and 6 per cent. on total amount of coal freight. Perhaps, my Honourable friend Sir Guthrie Russell who seems to have purposely evaded a reply to my question, will now, when he is speaking on this Resolution, give all the information that I have asked for in my question, and justify how and why Railways have not fulfilled their solemn pledge. Sir, he put me a question as to what I meant by "short distance". He fully knows that before the percentage surcharge was put, there was a difference in freights and in the rate of surcharge when the coal was carried over a certain distance, which, if I mistake not, was 500 miles. However, Sir, that is immaterial. We have to take the total amount of loss which the Railways have to bear in this connection, and I hope he will also tell us whether or not that loss will be compensated by the increased traffic.

Sir, other countries, particularly Japan, are dumping goods into India and that dumping is caused by the encouragement which their respective Governments give to industrialists in order to develop their industries and to secure foreign markets. They give them bounties, bonuses and depreciate their currency. But in India things do not move as they ought to do. From the actions of the Government we are led to believe that the Government is not in favour of industrial development and growth.

I might also mention that it has become a habit of the Government to violate their pledges. Whenever a pledge has been given, efforts are made to violate it. I admit that in the diplomatic field treaties and pledges are treated as mere scraps of paper ; where might is right but in those institutions which the Government themselves admit are run on commercial lines a pledge should be honoured, particularly in these days of economic depression and competition with countries who dump goods in the Indian markets, which dumping has not yet been stopped by the action the Government has taken by way of

increasing import tariffs. It is right that pledges should be fulfilled and this surcharge which was levied only as a temporary measure to tide the Railways over difficulties ought to be forthwith abolished.

With these words, Sir, I commend this Resolution for the favourable consideration of this House.

THE HONOURABLE MR. J. REID KAY (Bengal Chamber of Commerce) : Sir, I rise to give every sympathy to this Resolution proposed by my Honourable friend Lala Ram Saran Das. The Group which I represent in this Honourable House gives every support to this Resolution. It is a matter which affects all industries, I submit, especially those far distant from the collieries. The surcharge was put on as one of several emergency surcharges and so far as I can recollect, all of those are still in existence except the income-tax one, of which only a portion still remains. The Wedgwood Committee recommended that the present surcharge should be put up, as far as I can remember, to 15 per cent. from 12½ per cent., and I am glad the Honourable the Chief Commissioner for Railways has not seen fit to accept this, but has rejected the recommendation. He has, however, still under consideration the general position in regard to railway freight on coal and coke, including the surcharge. I repeat, Sir, that we have every sympathy with the Resolution and support it and we appeal to Government to remove the surcharge, while at the same time appreciating that income from Railways is of great importance to the country. We also realise that railway freights on coal and coke are low and for that reason it may not be so easy to expect Government to remove this surcharge. I have much pleasure in supporting this Resolution.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways) : Sir, on the 15th March, 1933 the Honourable Rai Bahadur Lala Ram Saran Das moved a very similar Resolution. Speaking on that Resolution I said that I sympathised with him entirely but the time was not ripe for the removal of the surcharge. I realise quite as well as anybody else that coal is the lifeblood of industry and the cheaper you can get your coal the greater change there is of industry developing. But it also must be remembered that railway transport is an industry and Railways have quite as much right as any other industry to get a reasonable rate for their produce, and to my mind the rates we are charging today are certainly not unreasonable, specially considering this is a time of rising prices. Our stores are costing us more, our coal is costing us more, and this to my mind is not a time to reduce rates on coal.

The Honourable Mover has given in some detail the history of the surcharge. If the Council will bear with me I would like to go over that history again and give in some detail the reasons for the action which we have taken and the present position. As the Honourable Mover said, in 1931 owing to serious deficits Railways were in the position that they had to do something to increase their earnings. There are only two ways of increasing net earnings, by an increase in rates or by reducing rates in the hope that the reduction will increase traffic and give you greater net revenue. In our opinion at that time there was no prospect of reduced rates increasing our traffic by the amount which would have been required. We therefore fell back on the alternative of increasing rates. One of our reasons for selecting coal was this. Coal rates in 1926 were reduced by 10 per cent., and again in 1929 by 2 to 12½ per cent. for long distance traffic. Moreover the rates for long distance traffic were so very low that there was practically no margin of profit whatsoever. The original suggestion was to increase the schedule rates. If we had done that probably

[Sir Guthrie Russell.]

we would not have had quite so many requests for a reduction. A surcharge is such an easy thing to attack. However, we decided that an increase in the schedule of rates would cause considerable delay, and further, we intended that the surcharge should be temporary. As Sir George Rainy said in the other place, we regretted having to put it on and that the taking off of the surcharge would be the first major reduction in railway rates. The Honourable Mover suggested the Government have not kept their pledge. I hold that Government have kept their pledge. The time has not come for a major reduction in railway rates. But, despite this, in 1934 in view of a slight increase in railway earnings and in view of the Government's pledge, Government decided to reduce the surcharge from 15 per cent. to 12½ per cent. with a maximum of Re. 1 per ton. That was to help industries at long distances from the coalfields. Now, we did not rush into this surcharge. We took into confidence the Indian Mining Association and the Indian Mining Federation as my Honourable friend Mr. Reid Kay knows—they did not like it, but I do think they realised that we had to do something. I have already referred to the Resolution of the 15th March, 1933 which was withdrawn by my Honourable friend on an assurance I gave him to examine the position. We have carefully examined the position to see whether the surcharge on long distance traffic was reducing our traffic and damaging industry. I shall give you the results of this examination. It did not show that the surcharge had affected the movement of traffic in any way whatsoever. My Honourable friend has given us some figures about the movement of traffic for certain years. I can give him some more. I take eight months only as for last year we have only got figures for this period. From April to November, 1935, the tonnage carried was 13,231,378 and the earnings Rs. 4,32,44,644. For the same period during 1936 the figures were 13,013,575 tons and Rs. 4,20,63,093—a slight decrease both in tonnage and in our earnings, but for the same period during 1937 the tonnage carried was 15,069,160 tons and the earnings Rs. 5,18,45,192—an increase in tonnage carried over 1936 of 13·89 per cent., and in earnings of 18·89 per cent. Now, the estimated additional earnings based on the 12½ per cent. surcharge with a maximum of Re. 1 on the 1934-35 figures were estimated at Rs. 65 lakhs. On the basis of figures for 1937-38 this will be considerably more; I have not actually got the figure, but it should be somewhere in the neighbourhood of Rs. 75 lakhs.

Now, if we are running as a commercial concern, are we justified with an increasing demand for coal transport in reducing the rates? Are we justified in reducing the rates unless we can see by so doing it will improve the traffic? The figures that we have got have shown no indication of that whatsoever.

Before I sit down, there is one other point. The Honourable Mover said that in other countries in the world coal was carried at the lowest possible rates. I believe that is a correct statement and I maintain that is the position in India. Coal is being carried at the lowest possible rates in present conditions. Admittedly this year we have estimated for a surplus of Rs. 2 crores 83 lakhs, but with the world situation as it is, when we do not know what is going to happen today, when we do not know what is going to happen tomorrow, are we justified in relaxing our efforts to maintain a stable position. I do not think so. I oppose the Resolution.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, the speech which the Honourable Sir Guthrie Russell has made is most unconvincing. He has adduced arguments whereby he presumes to impress this House that the Government has not followed the pledg

because the time has not yet come to revise the rates. Sir, in law various interpretations can be given to the words in dispute. But here Sir George Rainy made a definite promise and he gave a definite pledge that when railway revenues improve the surcharge will be removed. Sir, when railway income has increased, and increased considerably, Sir Guthrie Russell cannot substantiate his opinion that the time has not yet come. The time has come, the condition which Sir George Rainy imposed has been fulfilled and in case the Railways do not withdraw the surcharge now, they will be purposely and deliberately breaking the pledge given. Sir, he says that the tonnage of coal has increased. Sir, everybody knows in this House that since the surcharge was put on coal freight, a large number of electric supply companies and steel, rolling mills and more than 175 sugar mills have been put up which consume a lot of coal. The House also is aware that owing to the insecurity in the rural areas people are migrating and concentrating themselves in the cities and building construction is going on in the cities for those who find their lives unsafe in rural areas. The Honourable Sir Guthrie Russell, if I mistake not, has apparently avoided giving the figures which I demanded in order not to weaken his defence. If he will give us separately the figures of slack coal carried, which is particularly demanded by the brick-burning fields, I shall be in a position to prove that what I say is right and that whatever he has said is wrong. He says that as the prices of various materials and stores have gone up, Railways are justified in increasing their earnings. I may mention for the information of this House that Railways have increased the classification of more than 100 articles, which are bringing Railways a bigger revenue. Why should that fact be concealed? I should like to know from the Honourable the Chief Commissioner for Railways what extra income they are getting from the increase which they have recently made in the classification of numerous articles? Then, I come to the rates that the Railways charge to the Defence Department. When the cost of stores and other materials has gone up, why have they not increased the rate of freight on military stores? Railways already are making a great sacrifice for the sake of the Defence Department in the losses which they bear on working of strategic railways and for the extra coaching and goods stock which is to be always kept at certain cantonment stations for their sake. He has also said that there has been a rise in the price of coal. I know that there has been a rise in the price of coal due to the labour legislation which was enforced some time back. That forced the price of coal to go up. The very fact that the price of coal has gone up, due to an indirect measure adopted by the Government is all the more reason that the industries cannot go on competing successfully with foreign dumping. Government cannot deny that there is dumping from foreign countries even now going on in India. The efforts of the Government to stop that dumping have entirely failed and it is high time when in case you do not encourage the industry you will

1 P. M. be doing the greatest disservice to India and to the solution of unemployment. Sir, pledges are pledges which are sacred and as Sir Guthrie Russell himself has interpreted the pledge of Sir George Rainy in a wrong manner, thus the pledge has been deliberately broken. The Government must honour it and must see that the industry in India is fostered because by the fostering of the industry you are bound to get compensated indirectly. He has given certain figures. That figure of Rs. 75 lakhs will mean a difference of about 6 per cent. in the total freight charges. What, Sir, is that amount? Last year we find that Government could afford to spend about Rs. 3½ crores on the North-West Frontier operations without enhancing any tax. Because the Government is continuing to stick to this

[Rai Bahadur Lala Ram Saran Das.]

surcharge, it distinctly shows that Government want to kill the industries and thereby create more unemployment and to add to discontent in the country.

THE HONOURABLE SIR GUTHRIE RUSSELL : Sir, I would just like to say as regards slack coal if I had had the figures I would have given them : I do not think we have separate figures for slack coal but if such are available I shall let the Honourable Member have them. Then the Honourable Member asked how much we expected to get from the increase in the classification. I think, speaking from memory, about half a crore.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“ That this Council recommends to the Governor General in Council that the surcharge levied on the railway freight for coal and hard coke be abolished forthwith.”

Question put and Motion negatived.

RESOLUTION *RE* GOVERNMENT RECRUITMENT AND UNEMPLOYMENT.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras : Nominated Non-Official) : Sir, I beg to move :

“ That this Council recommends to the Governor General in Council to take steps to introduce as early as practicable, in regard to the services and posts in the Government of India and the centrally administered areas recruitment to which is within the competence of the Government of India, the scheme of recruitment adumbrated in the letter from the Government of India, Department of Labour, No. L-1834, dated 20th January, 1938, to all Provincial Governments, with such modification and amplification as further consideration may necessitate, but without abandoning the two essential conditions laid down in the said scheme in regard to the age and the stage of education at which candidates will be entitled to appear for the proposed preliminary examination.”

I frankly admit that my Resolution is lacking in that quality which is the soul of wit! I can only plead that its dimension and detail are the result of an earnest attempt to compress within the conventional mould of a Resolution an essential sequence of ideas on a complicated issue. Whatever its defects may be, I hope it is intelligible, clear and definite. The proposal put forward in the letter of the Government of India is a very important, bold and far-reaching proposal and deserves wider public attention than it seems so far to have received. I shall be very glad if my Resolution can commend itself to the Council. But I shall not be any the less pleased if in the course of discussion opinions emerge which are divergent from my own, because I feel this is a matter which deserves very thorough examination. I venture to hope that the opinions of this Council will not be altogether devoid of interest to the Government. I also hope that our discussion will stimulate a wider interest among the public.

The title of the letter to which my Resolution refers is “ Government Recruitment and Unemployment”. Unemployment among the educated classes is not an entirely new phenomenon in this country. Official references to it have been found as early as 1889. But it has become very acute in recent years and at present is occupying the most anxious consideration of all Governments. Its solution is not easy. It is a very complex problem and does not admit of any simple solution. Its solution will have to be approached

from different angles, and various measures will have to be adopted, each contributing its own modest quota to the full solution. One method of approach to this problem takes us through higher education and Government recruitment. Though unemployment cannot be regarded as the direct result of higher education, there is practical unanimity of opinion among educationalists and others who have bestowed any thought on the subject that to some extent unemployment is the outcome of certain unsatisfactory tendencies in our present system of higher education and that these latter in their turn are directly traceable to the influence of the Government's policy of recruitment to its services. We are thus bound to admit that there is an interrelation between higher education; Government recruitment and unemployment. Quite recently very important proposals for the reconstruction of education have been put forward by competent bodies and have received official approval. The practical application of these proposals is now receiving the consideration of all Governments. These measures, when carried out, are expected to reduce the volume of unemployment. But that result can never be achieved unless and until the Government policy of recruitment is radically changed.

There are two important ways in which this policy can be changed. At present, University qualifications are considered essential for recruitment to superior posts generally. It has often been pointed out, and it is now generally admitted, that University Degrees are not necessary for the adequate discharge of the duties connected with many Government appointments. It is quite satisfactory to know that the Government of India are now examining their policy of recruitment to the non-gazetted posts with a view to eliminating, as far as possible, University qualifications from among those demanded of candidates, and to recruiting at an earlier age—at the age of 19—and by examinations conducted by themselves. This change is in conformity with the recommendations of the Sapru Committee and of the Central Advisory Board of Education and will be widely welcomed as a move in the right direction. But this change by itself will not be sufficient, because there will still remain the gazetted posts which will be open to University men, and there will still continue the large influx of students to the Universities in the vain hope of securing them. It is widely known that the annual vacancies in the Government service in the gazetted ranks are comparatively few and can only absorb a very small proportion of University graduates. But that does not in any way damp the ardour of these young men who flock to the Universities. The only remedy is to adopt a method of preliminary selection at a pre-University stage, which will clearly indicate the chances of a prospective University candidate's obtaining Government employment.

And here I may be permitted to observe, if I may do so without laying myself open to the charge of egotism, that a suggestion essentially similar to the proposal contained in the Government of India's letter was made by the speaker in an address which he delivered at the Madras University more than 10 years ago. That suggestion met with a very cold reception and was soon forgotten. It is a great pleasure to me to find that the idea embodied in that suggestion has now found its re-birth in the more congenial milieu of the Government of India Secretariat.

Coming to the actual proposal contained in the Government of India letter, my task in explaining it has been considerably lightened by the thoughtful action of the Honourable the Secretary of the Council, who was kind enough to procure and to get distributed to Honourable Members copies of that letter. The nature and scope of the scheme are fully and clearly set out in the letter,

[Dewan Bahadur Sir Ramunni Menon.]

In every way that letter is an admirable document and reflects the greatest credit on its author. I do not know whether Honourable Members have had time to study the letter in detail. I should like with your permission, therefore, to briefly state the nature of the proposal. It is proposed to have a preliminary competitive examination at a pre-University stage to which candidates of 17 years of age will be admitted. It has not yet been decided what the qualifications of these candidates should be. It is suggested that any candidate who applies may be admitted. On the other hand, it has also been suggested that admission may be restricted to people who have already secured school qualification; that is to say, to those who have passed the S.S.L.C. examination or some equivalent examination. But this, however, is a matter to be decided later. Then again, the nature of the examination is not quite settled. I shall come to this point again in a moment. The number of places, so to speak, that will be offered for competition at the examination will be comparatively small but will be large enough to provide for the annual requirements of the Government, after making due allowance for casualties and failures. Those who pass the examination will have no guarantee of getting a Government appointment. They will have to go through further courses of study and pass other prescribed examinations. But those who fail—and this is the important point—will clearly understand that they have no chance whatsoever of getting into Government service. Judging by the present tendency, the number of those who fail will be very large, and the great merit of the scheme is that at that early stage, that is, before they enter the University, these young men will be able to know for certain that they have no chance whatsoever of entering the Government service, and they will therefore be in a position to shape their future career or their further educational career according to their inclination, means and chances of securing alternative employment. That, I consider, is a very distinct gain. For these and for other reasons which I do not propose to detail here, the scheme of the Government of India deserves to be very heartily supported.

The letter goes on to discuss certain objections which might be raised to the proposal and tries to meet them. With regard to many of these objections, I am in full agreement with the arguments advanced for meeting them. But there are two or three points which demand a word of comment. To begin with, as the examination is evidently intended to act as a warning to candidates, who have no chance of securing Government appointments, against prosecuting a profitless University course of studies, it is obviously necessary to hold the examination at an early age, that is, before students generally enter the University. And therefore the age suggested, namely 17, seems quite suitable. But examinations like the S.S.L.C., the Matriculation and others are held, I believe, at different ages in different places; and therefore the age should be fixed with due reference to the ages at which these different examinations are generally taken. Then again—I am afraid I have no time to develop this point, but I should like just to mention it—it seems to me that it would be a very distinct advantage to restrict admission to the proposed examination to those who already possess a fair standard of school qualification. I do not propose to labour this point. One of the most important points requiring very full consideration is the nature of the examination. It is proposed to hold a very simple examination consisting of an intelligence test. Now it seems to me that such a simple type of examination is too inadequate and unreliable to furnish a fair test on which the chances of so many young men of securing a highly coveted Government appointment

can be made to hang. This however is a point which should be, and I hope will be, fully considered by those who will work out the scheme.

These are comments on some of the points raised in the letter. But there is a very important aspect which, I cannot understand for what reason, is not mentioned in the letter at all. I shall state it briefly. If the scheme is successful, and I hope it will be successful, its immediate effect will be to reduce the number of students going to the Colleges and the Universities. Now it is a notorious fact that Colleges and Universities depend very largely on their fee income and examination fees, and their reaction to a proposal which involves a threat to their income can be readily imagined. I do not know what attitude these bodies will take up, but it is quite conceivable that in the proposed scheme they will find a measure which imposes a barrier in the path of those who want to secure higher education. Personally I do not think there is any substance in that contention, because the Government of India's Resolution does not place any check on higher education and I do not think such a contention should for a moment be entertained. But in these democratic days we do not know what forces will be brought to bear upon Governments in a matter of this kind. I hope, however, that all Governments, Provincial as well as Central, will resist any unreasonable pressure exerted from interested quarters.

I am sorry I have very little time left, but I must come to the exact scope of my Resolution. My recommendation is that the Government should proceed with the scheme without undue delay. I do not know what action the Government of India propose to take. It is obvious that they are waiting for the views of the Provincial Governments and that they hope to secure their co-operation. That attitude is perfectly intelligible and commendable. I readily grant that the co-operation of the Provincial Governments would be most welcome in putting into practice a scheme of this kind. But we all know that Provincial Governments are now preoccupied with various important measures and I do not know whether this new method of recruitment is one of those objects to which they will be disposed to direct immediate attention. But I think it will be a very great misfortune if a scheme which has been evolved with very great deliberation and care were to be abandoned for lack of favourable response from the provinces, and I do not see any reason why the Government of India should not proceed on their own account. Fortunately in the province of Delhi the Government possess a very convenient experimental garden in which policies can be tested under suitable conditions and under competent control. It is clear from the letter that the Government are already contemplating the introduction of a new scheme of recruitment for non-gazetted appointments; and I believe—I am speaking subject to correction—that those measures of educational reconstruction to which I referred, including a very important measure for the provision of vocational and technical training at the pre-University stage, will be brought into operation immediately in the Delhi Province. If that is so, there is every reason why this other proposal, namely, the proposed new scheme of recruitment should also be tried in the same province. As I have already said, there is a relation between these three things, higher education, Government recruitment and unemployment, and as measures which are already related to unemployment are to be put into operation in the Delhi Province, there is a very cogent reason why this other proposal should follow suit. I hope the Honourable the Commerce Member will view this aspect of it with some sympathy.

[Diwan Bahadur Sir Ramunni Menon.]

I am very sorry that the way in which I have been proceeding has not enabled me to deal as fully with the subject as I would have liked, but as the Government of India's letter is in the hands of Honourable Members, I am sure the subject can be studied by them in detail, and therefore I hope the Resolution which I have moved will commend itself to the Council.

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

The Council reassembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, our Honourable colleague Sir Ramunni Menon has done a distinct service to the country in initiating a discussion of this very important letter which was issued by the Government of India in the Labour Department. Mr. President, it is quite possible, as the Honourable Member himself admitted, that there might be differences of opinion about the conclusions that have been arrived at in this letter, but there is no denying the fact that it wants to tackle a question which is of very great importance and to which all attention should be given. The fact that at the present moment Universities are multiplying and the numbers of graduates turned out by them are—on the general principle of mass production in the industries—making rapid strides, is all the more reason that we should consider what is the healthy part of this growth and what is the unhealthy part. Considering the fact that India is a poor country and while education is an expensive item the majority of people who go in for education are not those who live on other means than employment, it is necessary that we should really look at education with the eyes of the prospective students. Students,—at least a vast majority of them,—enter Universities not so much for enlightenment and for general good as a means towards an end. The end in view is mostly the services under the Crown. The reason for this is not far to seek. The remunerations offered by the Provincial as well as the Central Government for gazetted appointments are very high. They are absolutely far above the general market value of the educated youth. Nowhere in the world you will find so much premium placed on education as you find in India. In other countries, in the first place, the pay and emoluments of the gazetted officer are smaller than in India and in the other place the pay and emoluments of the lower paid staff—what you call menials—is much higher in other countries than in India. So the difference between the money which an educated person earns and what an uneducated person earns is not so great in other countries as in India. For instance, the I.C.S. is a Derby Sweep first prize. It is worth any day more than Rs. 10 lakhs if you have an actuarial valuation made. A Provincial Service is not worth less than Rs. 2 lakhs including pay and pensions. It is because of these facts, that you have such enormous attraction for the services that a large number of students go in for University education. Our politicians used to say that the Universities have succeeded only in turning out glorified clerks and that they are not educated in a manner to make them useful for the general welfare of the country. There is a great deal of truth in this statement. The number of subjects which are taught at the Universities has multiplied. Formerly there was not so much variety as there is at the present moment. But nevertheless the equipment given at most of the Universities does not fit them for a life much different from

desk work and therefore any effort made to divert the current from a useless source to a useful source should be welcomed. If this measure which the Government contemplate succeeds in regulating the supply, or rather in distributing the supply, in proper channels, towards Government services, towards public services, towards technology, towards industry, it ought to be welcomed. We cannot be certain in these days whether the result of the steps foreshadowed in this letter would give the very desirable ends which the Honourable Sir Ramunni Menon seeks to get.

Now, Sir, I should like to go a little into the details of this scheme. The age which has been suggested as the minimum for the non-gazetted appointments of Imperial Order is 19. However desirable it might be to lower the age, it is the duty of the Provincial Governments and of the Centre to give timely warning of their intention to change the age. People at the present moment are under the impression that they are eligible for Government service up to the age of 25. If all of a sudden one fine morning we find that the age is changed, it will be very hard on those who are looking forward to this employment. Therefore my first suggestion is that whatever action the Governments, Provincial and Central, contemplate, they should give at least a year's warning—(*Honourable Members*: "Several years".) Yes, they should give several years' warning. I was grieved to learn that some officials in the Provincial Governments have taken this letter too seriously and they have already started giving instructions that people who are above 19 and who were serving might not be confirmed or might not be given fresh employment. Then I come to the question whether 19 is the suitable age or not. The trouble at the present moment is that whenever there is competition you find that if you advertise for a Matriculate, you usually get quite a number of applications from graduates and a few from M.As. Now is it desirable that posts which had been reserved for lower educated persons should be thrown open to those who can compete for other and higher jobs? Now a Matriculate cannot compete for a post which is reserved for graduates; but his particular preserve is open to poaching by the graduates. I think that kind of thing should be checked. With a minimum there must be a maximum qualification. For instance, if you want matriculates as the minimum qualification restrict it to I.As. as the maximum. One higher and one lower. Then each category of candidate will have a fair field, then there may be a division of the favours of the Government. But there is one danger, Sir. If you do not fix the higher limit, what will happen will be that the poor children will have no time to remain children. From their very infancy they will be harnessed and they will be compelled to study so that they may pass the highest examinations before they are 19 and their childhood will be destroyed. Therefore, Sir, I strongly advocate a maximum as well as a minimum qualification as far as all Government employment is concerned.

Now, Sir, I come to the question of paragraph 7 of the letter, where the Government have suggested the most contentious part of their scheme. There may be a preliminary qualifying examination for those who desire to enter the higher Government services. I may frankly state, Sir, that on this question I have an open mind. But everything will depend naturally on the kind of examination which they propose to undertake, because it is the most material thing on that issue. If the examination is of a bookish type and one which will place a premium on cramming, Sir, this would not serve our purpose. It will induce, as I said at the beginning, compulsion by the parents on the children to become bookworms and waste their days of childhood in learning

[Mr. Hossain Imam.]

what will be of little use in their future life and there will be keen competition that everyone at the age of 17 should have as much knowledge as he possibly can. Here too, Sir, I must insist that there should be a higher limit above which candidates will not be permitted to sit for this examination. You say "pre-University age". If the meaning is before they enter the University that would be quite correct. Some may think it would be hard if you debar the graduates of a University, but you can do this that by pre-University age you might mean that you would allow people who have passed the matriculation examination but have not yet passed the first year or second year examination of the University. Whatever the limit. There must be an upper as well as a lower limit in this connection as well.

Now, Sir, there is another very important provision made in this paragraph in which it says that it would be possible at this stage to reserve a certain number of posts for adequately qualified candidates from the minority communities. I regard this, Sir, as a *sine quo non*. It is a very useful and necessary safeguard but may I suggest to the Government of India the advisability of considering also the provincial aspect. As you reserve quotas for communities it is only natural that in the future constitution when more and more will rest on the provinces you should make a conventional reservation for the provinces as well. The Government have themselves contemplated and rightly contemplated that there should be no exclusion either on the basis of higher qualification or on the discretion of the Provincial Governments. I approve of that action of the Government, Sir, but I should like that the examination should be held in as many centres as it would be possible to hold them because facilities must be given to the people everywhere. Wherever they usually hold the matriculation examination, the Universities should be the centre for this examination as well. I will also appeal, Sir, to the provinces that they should all come into any joint scheme which might be framed on this issue and if necessary the Government should form a committee from the Provincial Governments as well as of their own. It would be possible and advisable, Sir, that other bodies than the Provincial Governments should also be consulted in this matter.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, Sir Ramunni Menon's Resolution would commit us to the acceptance of the principle which is embodied in the Resolution of the Government of India on "Government Recruitment and Unemployment". My position is that I am not prepared at this stage to commit myself to the principle of this Resolution which is a very important one. It raises some very very difficult questions of educational reconstruction and we have not had really time to consider the Resolution in all its aspects. The Resolution affects large interests. It affects the Universities and it affects the general public also. It affects the parents who are responsible for the education of young men. We have not had any time for ascertaining the views of these interests and it would not therefore be proper for us at this stage to commit ourselves to any point of view. Unfortunately, in this country there has been a tendency in recent years to blame the Universities for unemployment. It has been left to this country to discover that there is a connection between unemployment and education. Unemployment, I should have thought, was principally an economic question. If you want to settle the problem of unemployment you are not going to settle it by any amount of educational

reconstruction alone. You can only settle it in a big way by economic reconstruction, by raising the standard of living of the people, by raising the purchasing power of the people. There is a connection between social development and unemployment. If you can raise the condition of the masses, you will have also created new avenues of employment, and people won't rush for Government service as they do now. It is often said that education is very cheap in this country and anybody can have a university education in this country. But I was in Australia and I noticed there that, at any rate, there is one University there which is free. In Western Australia university education is absolutely free and no one has suggested that some more restriction should be put on university education because there is some unemployment in Australia.

Sir, what is the scheme that the Government have put forward? The scheme that they have put forward is outlined in paragraph 7 :

"The Government of India believe that if it proved practicable to hold, at a pre-university age, an examination, success in which would be an indispensable preliminary to candidature for practically all official appointments, this would have most valuable results". And then they go on after explaining the scheme to say that "failure in the examination would constitute a definite and final bar to Government service".

That is to say, a young man of 17 appearing for this examination would be debarred from entering Government service for all time if he fails at this examination. He would not be permitted, as far as I have been able to understand their scheme, to sit for the Indian Civil Service examination; he would not be permitted to sit for the Indian Police Service examination; he would not be permitted to sit for any of the Indian or Provincial Service examinations, if he failed to satisfy the test of this preliminary examination at the age of 17. One's experience as an educationist is that sometimes people who get a third class in the Matriculation examination end up their careers as first class men in the University. I will tell you my own experience, Sir. In my Matriculation examination, I got a third class, because I was very weak in mathematics and in geography. In my B.A. examination, I got a first class, and I was the first man of the year. If I had sat at the age of 17 for a school examination, I should certainly have not come out successful. But if I had sat for any of the competitive examinations after I had taken my B.A., I am not sure if I would not have come out successful. I might have had a chance. I am not exceptional that way. I think there are many young men who do not start very well, who in their school days are not very bright, but when they go to the University and have more specialised studies, they do better. You will rule out the men who have inherent capacities from Government service for all time. If you rule out men of that type from Government service, the quality of Government service might suffer. I know, Sir, High Court Judges—very eminent Judges—who have had no university career at all, who have taken only a third class degree, and who have risen to the top and have distinguished themselves as great Judges. It will practically shut out all young men who cannot satisfy a test at the age of 17. Whatever effect it may have upon the fortunes of the University, I think its effect upon the fortunes of Government service will not be very good. I am not quite sure that you will have as intelligent a class of Government servants as you have today in the future if you have such a rigid rule. In fact, the Resolution itself recognises that they have gone much further than the Sapru Committee had contemplated. The Sapru Committee had only said, "Lower the entrance age for

3-5 P.M.

[M. P. N. Sapru.]

your Central and Provincial lower service". That was a proposition which one could understand. That was a proposition which might have had some support. I suppose in England for Class II Civil Service, you have a lower age, and there is no reason why you should not have a lower age here also for the ministerial service. But you have really gone much further than the Sapru Committee. So, it is a very serious matter from the point of view of those who are interested in education. In fact, I am not quite sure that this Resolution does not amount indirectly to an attack upon higher education, and knowing as well as I do the view of certain vested interests in India in regard to higher education, I am not prepared to commit myself in a thoughtless moment to a Resolution of this character.

The objections to the scheme are indeed anticipated in the very able communiqué which has been circulated to Provincial Governments, and I need not emphasise those defects too much. But there is one further point upon which I should like to dilate a little. The Resolution says :

" There is a risk that an examination which is an indispensable test for Government employment might exercise a dominating influence on school education and curtail the freedom of schools to modify their courses and experiment with new subjects and methods in endeavours to discover the best way of equipping their pupils to take their place in life ".

I am afraid that this is going to be the result if the scheme in its present form is accepted by the Central Government and the Provincial Governments. The idea of the requirements of Government service will begin to dominate our schools. All our teachers in our schools will begin to think in terms of the examination which is to be held at the seventeenth year of a pupil's life. The Matriculation examination will also be not a Matriculation examination required to fit a young man for entrance into the University, but a Matriculation examination designed to fit these young men for success in this examination which is to be a condition precedent to entry into Government service. Therefore, the quality of our school education will suffer. This Government examination business will dominate our school curricula. There will be little freedom for our schools to evolve their own educational systems, their own educational policies, their own educational curricula. If this happens to the school, the university standards too would be affected. The whole balance of education will thus be disturbed. It looks a very simple and innocent proposal but if one examines it carefully, one has to come to the conclusion that it is a proposal which may have far-reaching effects upon our educational system. I am not sure that you are going to prevent by this method the rush to the Universities. The young fellows who will know that they have no chance in Government service will continue to flood our Universities as they are doing now. They will flood the Law classes as they are flooding the Law classes now. It is not going to solve the problem of university education. The problem of unemployment is not going to be solved by it. What it is going to do is to dominate university and school education and therefore I think it is a Resolution which requires very careful consideration before we commit ourselves to it. I would therefore very much hesitate to give my support to the Resolution of the Honourable Sir Ramunni Menon. I am not prepared to accept the principle of the Government Resolution. I should like more time. I confess that I am extremely critical of the Government's proposal. I am rather alarmed at the Government's proposal. My fears may eventually prove to be unfounded but I must have more time. I would

therefore advise my Honourable friends here not to commit themselves to the principle of this Resolution. It looks as if it were an attack upon higher education.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official) : Sir, the circular letter of the Government of India is no doubt based on the recommendations of the Sapru Committee. The Honourable Mr. Sapru started by saying that there is no relation between the University and unemployment. On the contrary the Sapru Report has stated clearly that our university education and university system has brought a large number of unemployed into existence. The subject of this letter is "Government Recruitment and Unemployment", how far unemployment could be reduced by a new system of Government recruitment. It is no doubt open to every employer of labour, whether it be manual or intellectual, to fix his own standard for purposes of recruitment. Government as an employer may fix a preliminary examination and a certain age for its purposes, but the matter does not remain there; it is of much wider application and it is a question how far the educational and cultural standards of the country would be affected by such a system of recruitment. The Government is not merely in the position of an employer, nor are the people to be treated merely as employees. In this letter it is suggested that Government propose to have an examination, and of what kind—of persons who have already passed through a certain examination, the school final or matriculation, and not the ordinary standard of pass but of a high standard of pass in those examinations. And they are not going to be recruited by mere merit of that pass alone, but by selection also, not by the Government of India but by the Provincial Governments. (*An Honourable Member* : "No".) I would draw my friend's attention to paragraph 13, which says :

"The question which thus arises is whether it is desirable to have some preliminary process of selection or whether it would be possible for any organization to handle the numbers which would otherwise appear. Possible methods of selection which the Government of India have considered are (1) to limit entrance to the examination to those who have passed some other examination, such as a School Leaving Examination or Matriculation, and possibly to those who have distinguished themselves at that test; (2) an arbitrary limitation of the numbers in each province permitted to sit for the examination and the distribution of the places by provincial authorities".

Now those are the conditions which would place a brake upon the number of candidates for the examination. The idea is that in addition to the school examination which they have they would undergo immediately afterwards at 17 this further test, what is called an intellectual test. And the restriction placed on those who pass the S.S.L.C. and Matriculation is a high standard of pass. And it is claimed that this scheme will solve the unemployment problem.

Secondly, you have another important paragraph, paragraph 7, which was referred to but I will read the concluding lines :

"The number so offered would be based on Government's probable requirements. It would be possible at this stage to reserve a certain number of passes for adequately qualified candidates from minority communities. Success in the examination would give no right to a Government appointment; the ages and conditions of admission to the different services would be regulated as at present according to the needs of each type"

Those are the terms on which recruitment is going to be made. How does it improve the present position. That will not at all help the unemployed candidates who fail in this examination. They would naturally go on to their B.A. or M.A., and therefore the process will continue in spite of this

[Sir A. P. Patro.]

examination and this brake on candidates for Government services. Therefore the aim this has in view, that Colleges and Universities should not be crowded with useless material will not be achieved. Parents would continue to send their sons to the highest limits they could.

Then it is suggested that those who fail at 17 in this preliminary examination could go in for engineering, medicine, the law, and other technical vocations. There again the problem begins anew. You are not solving the problem. They will go to these technical institutions for the purpose of taking a degree, but where will be the employment for them. Is the country so organised that it will be able to absorb these people who pass out of the technical institutions? If not, where is the solution?

Then the Government of India are very wise. In this circular letter they do not commit themselves to any principle or policy. They say:

"I am to request that after ascertaining public and expert opinion on this subject, the views of the Provincial Government may kindly be sent so as to reach the Government of India not later than the 1st June, 1938. The main questions are:

- (1) Is it desirable to have a competitive test at a comparatively early age, success in which would be a necessary but not sufficient condition for entrance into Government employment?"

So they are very cautious. They do not say that success in this examination will guarantee a passport for Government service. Already we have seen that twice the number they require will be enlisted. Here again they say they do not guarantee appointments to any one, even of the successful candidates. Therefore what is the use of this preliminary test that the Government propose to have. And the Government realise the difficulties in holding these examinations, the places where they should be held, who should be in charge—these are all difficult details. They say another committee will sit with a view to offering solutions for these difficulties. This letter is only a preliminary with a view to ascertaining the views of persons interested in education. But, Sir, my own view is that the method which is proposed in this letter will not at all solve the problem of unemployment in this country. That problem will remain. It is not only a feature of this country but of every other country. Is there any country without this problem of educated unemployment? It will go on until the economic conditions of the country improve and until the people acquire greater self-reliance. Until there is development of that spirit of self-reliance among the people, the present condition of unemployment need not worry us too much. Of course at present we are in a period of transition. There is a great deal of agitation among the educated unemployed. No question of that. But that agitation is natural. In the state of the country where we are passing from one stage to another and where people have become more vocal than before, it is natural to hear such voices of discontent, but this is not the remedy. The remedy is worse. This will not change the situation because you have got an examination burden on the young men who is only 17 and you want to bar him from any prospects of entering into Government service. I do not think the Honourable Mr. Sapru is right in saying that it will preclude the failed candidate from entering into any service like the I.C.S. There is nothing in the circular to show that he would be precluded from appearing for any higher examination. When it is possible for him to go up for the B.A. he should also get into professional examination.

THE HONOURABLE MR. P. N. SAPRU : The circular says that failure in this examination would constitute a definite and final bar to Government service.

THE HONOURABLE SIR A. P. PATRO : This deals with only what is called the ministerial branches of service, because you find in paragraph 6 :

“ The exclusion from the Universities of the less qualified students has been discussed..... ”.

“ The colleges will continue to be the main avenue to the better-paid posts, and in consequence many will feel impelled to pursue a course of education which can yield an adequate material return only to the few ”.

That is in paragraph 6. In the light of that paragraph where opportunities are open to go to the college courses and thereby qualify themselves for the other examinations, it does not prevent them from going in ; but on the whole my view is that the letter is very cautiously worded. Government do not commit themselves one way or the other to any particular principle or policy ; they make a few suggestions out of the Report of the Sapru Committee. They do not want to neglect such an important Report as that of the Sapru Committee and in giving some kind of attention to that Report this circular letter has issued. As far as I can judge from this letter this will not at all help the solution of the problem which it aims at. The difficulties in regard to education will be very many arising out of this kind of treatment of education. For instance, it will be impossible hereafter to give any importance to higher education. People will more concentrate their attention from the early days and look forward to this competitive test that will be held by Government and not Matriculation or School Final Examination which is intended to develop faculties of mind and which will correctly help to attain that equipment and knowledge which will stand them in good stead in after life. That tendency, that attraction, for higher education as such will be very much minimised and a discount will be placed on that desire for higher education and culture. I therefore think, Sir, that it is rather premature that this Resolution should be discussed and it is better to hold it over until we receive the opinions of the country and public opinion and of Provincial Governments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Mr. President, the question of the educated unemployed has received anxious consideration of late in more than one province. There is unemployment everywhere both amongst the educated and the uneducated. But the unemployment of educated men has caused far more serious concern to Governments and the public than employment among those who are less fortunately situated from the educational point of view. What is the reason for this differentiation ? Sir, the ordinary man living in the village may be prepared to starve in patience ; he may be content to blame his *kismet* and pass his days in the squalor and misery to which men of his class have been used to for generations. The educated man, however, is not likely to be so patient. He is far more rebellious. His education provides him with a lever the value of which cannot be ignored by anybody. A hungry and educated man is an explosive force which might destroy the foundations of society. Efforts are therefore being made both to reduce the number of students going up to the Universities and to lessen the unemployment prevailing among the educated young men at the present time. The Sapru Committee, however, was not in favour of the restriction of higher

[Pandit Hirday Nath Kunzru.]

education notwithstanding the unemployment that prevails among educated men at the present time. Nor does the Resolution which we are discussing, judging from paragraph 6, expressly support any view which would place obstacles in the way of those seeking a liberal education. The second paragraph of the Resolution, however, refers to the relationship between Government employment and higher education in India. As my Honourable friend Sir A. P. Patro has shown, this Resolution will not lead to the creation of more employment. The problem of unemployment will not be solved by it. Consequently I can only conclude that its object notwithstanding paragraph 6 is somehow to devise means which would reduce the number of students at the Universities. I therefore approach it with suspicion. I will not, however, allow this suspicion to determine the attitude that I should adopt towards the specific recommendations made in it. I am prepared to consider them on their merits.

Sir, there is nothing wrong in prescribing the age for admission to subordinate Government service which would enable candidates who have not received a university education to compete for examinations regulating admission to it. Now, the first question that arises in this connection is whether the age of 17 suggested by the Government of India is a suitable one? I think, Sir, that the age should correspond to that at which one of the recognised stages of education is reached. We have at present the lower secondary stage, known as the middle stage, then the upper secondary stage which is reached at the end of the intermediate examination and then the university stage. Now to which of these stages does the age of 17 correspond? To none.

THE HONOURABLE SIR A. P. PATRO : They mean the high school.

THE HONOURABLE PANDIT HIRDAY NATH KUNZBU : Evidently it is meant that students who have passed the Matriculation examination or who are at the stage of education connoted by a Matriculation certificate should be able to take part in these examinations. Now this seems to me to be a matter of great importance. The Universities and the various educational bodies are trying to reorganise education in such a way as to make each stage self-sufficient and to correspond to a certain degree of mental development. Now, if Government, knowing that entrance to Government service exercises an important influence on the course of education, prescribe an age which does not fit in with the schemes put forward by educational bodies for the reorganisation of secondary education, I think they will be doing a great deal of disservice to secondary education.

Then, Sir, I turn to the age at which men are to be recruited to Government services. While the examination is to be confined to candidates who are not more than 17, the age applicable for admission to Government non-gazetted appointments would ordinarily be 19 and in other cases 21 according to paragraph 5 of the Resolution. Now, if you do not mean to take any candidates before they are 19 years old, why should you have an examination two years earlier? If you wait two years more, you will enable at any rate some candidates to complete their secondary education. But you prescribe an age which does not enable them to complete their secondary education and when they pass your examination you do not admit them to your subordinate services.

Now, what are the students who have been fortunate enough to pass the competitive examination to do between the passing of the examination and the securing of an appointment? Are they to go to some institution catering for higher education or are they to spend this interval in running about securing recommendations so that their chances of getting appointments might be as bright as in the circumstances they could be. Now, if this is the result of the difference between the age limit for the examination and the age limit for admission to service, it would be most unfortunate indeed.

Now, a third thing to be noticed is, as my Honourable friend Sir A. P. Patro pointed out, that the examination is not of a strictly competitive character. There will be a competition but appointments will finally depend on selection between the candidates approved in accordance with the results of the examination. It is suggested that ordinarily about twice the number of candidates required might be chosen. Now, what are the candidates who are unable to secure Government appointments to do? If they fail to get any appointment, then will not the time spent by them in waiting for Government appointments and in running about to secure recommendations be entirely wasted? That is another serious consideration which we must keep in view in making up our minds with regard to the scheme put forward by Government and the Resolution moved by my Honourable friend Sir Ramunni Menon.

There is one other thing, Sir, that ought to be prominently considered in this connection. Now, what are the services for which recruitment is to be made in accordance with the method suggested in the Resolution? This has not been made clear. The language used is exceedingly vague. It might cover services requiring different qualifications. If it applies to the higher services it must be uncompromisingly opposed. I will however proceed on the assumption that candidates are to be taken at the pre-university age for the subordinate services. I suppose this is what is meant by the non-gazetted appointments referred to in paragraph 5. If this is so, a very important question arises. The services are divided into various categories in England also. There are various divisions. There is the administrative class. Then comes what is known as the executive class. The posts in this class were classed before the war as intermediate division and second division. Now these people—I mean the people belonging to the executive class—belong to the subordinate services in England. The age for examinations relating to appointments in the executive class is between 18 and 19, and successful candidates got appointments straightaway. This age corresponds to the age at which secondary education is completed and the successful candidates have not got to wait. We seem to have copied England but have at the same time introduced features into our scheme which make the comparison between it and the English scheme very unfavourable to it.

Now, this is not all, Sir. There are other considerations also to be borne in mind. It is not stated anywhere in the Resolution that only those candidates will be allowed to appear for the Government examination who have passed some public examination, who have passed at least the Matriculation examination. As the Resolution stands, it is, therefore, possible for a student who has not passed the matriculation examination to appear for the competitive examinations for the subordinate services. I must candidly say that I do not approve of this feature of the scheme. In the first place, there is a danger lest coaching establishments should come into existence. Candidates are generally poor. Instead of first passing the matriculation examination and

[Pandit Hirday Nath Kunzru.]

then going through a coaching establishment they might from the very commencement entrust themselves to coaches. The result of this on the future development of education would be far from happy and the students themselves also would suffer. Those who have passed the Matriculation examination may in the event of their failure to get a Government post, go up for university education, and thus be able to find some means of entering a profession or one of the higher services. But men who have reached the age of 17 and even more without passing an examination will virtually be ruined if they do not succeed in getting admission into Government service. This feature of the scheme seems to me to be really aimed at curtailing education in the country. While Government profess that they do not desire to place any obstacles in the way of those seeking higher education, the feature that I have just pointed out seems to me to be in contradiction with this profession. Its direct effect would be a discouragement of education, particularly of higher education.

For these reasons, Sir, I think it would be better for us to wait before making up our minds with regard to the Resolution before us. Let the Provincial Governments and the educational bodies consider this question from all points of view. When we have the material requisite to the formation of a sound judgment, then will be the time for us to decide whether the Resolution should be accepted or rejected. In the meanwhile, however, we can only keep an open mind. My Honourable friend the Mover of the Resolution wants that the scheme might be introduced at once into the Centrally administered areas. I am not at all in favour of it. The disadvantage of such a course is recognised by the Government of India themselves in the Resolution. I am not at all in agreement with him when he says that Delhi should be regarded as an "experimental garden". The interests of Delhi must be considered as seriously by the Government of India as the interests of boys living within their own jurisdiction are considered by the Provincial Governments and we, in this Legislature, must not allow anything to be done which would lead anybody to think that the interests of Delhi can be easily ignored.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I am in entire agreement with the suggestion that we might wait till we receive the recommendations and the opinions of Provincial Governments on this very important matter and that it is too premature for us to commit ourselves to any particular scheme in regard to recruitment. But what I cannot understand is the suggestion that there is an attack on higher education in the circular of the Government. I find none. I have very carefully read the circular letter, and all that I find there is this. Many people enter the Universities in the hope of getting into Government service. Many of them are disappointed. If they had taken themselves to some other useful kind of education earlier, they would have been more successful in their life. But when they have passed through the University, it becomes too late for them to usefully employ themselves in any other vocation. I consider that a very fair statement. The circular says, that the conclusions of the Sapru Committee are shared by most of those who have intimate acquaintance with university education. I am one of those people who agree with that conclusion. I have had sufficient acquaintance with university education. I have been connected for a number of years—really two decades—with an important University and I am able to say that the general position is fairly and accurately stated in the circular letter. But the difficulty in accepting the Resolution arises from two circumstances. My Honourable friend Sir Ramunni

Menon wants that steps should be taken as early as practicable to give effect to the scheme, and secondly, he says that the two essential conditions laid down in the scheme, namely, the age proscribed for the preliminary examination and the stage of education at which a candidate will be entitled to appear should be adhered to. Speaking for myself, I entirely hate the idea of more examinations being introduced. We have too many examinations already in this country and after a boy has passed his Matriculation or S.S.L.C., that he should be asked to undergo another examination, if he wishes entrance into Government service, is cruelty. I do not think the youths of India should be subjected to more hardship than they are already. I would rather that they go without Government employment than add to the examinations to which young men in this country are subjected. That is really not a proper solution.

I see from the circular letter that Government have not committed themselves to any particular view. In fact, they have set forth the points in favour and against the suggestion. I think their arguments against the suggestion are more convincing than those in favour. As I read this letter, they have done a distinct service by putting the arguments against the scheme in a much more convincing and lucid form than the reasons urged in favour of it. Therefore, I congratulate the draftsman of this letter for placing our point of view much more clearly than we could probably ourselves have done.

Sir, there are two matters to which I would like to make a brief reference. One is that the Provincial Governments are now themselves fully alive to the economic and intellectual waste that is involved in the present system of education. Therefore, the Government of India are not saying anything which the Provincial Governments have not said, and many educationists have not said. There are schemes in all provinces for a thorough overhauling of the present system of education. One of the most important requirements is to create facilities at each stage of the education, elementary, secondary, and higher, in order to fit those who have undergone it to certain particular vocations. University education is good, but it is only for those who wish to have that education either for cultural purposes or to fit themselves for professions like Law, Engineering, Medicine. If it is only to enter into Government service or to get some employment in private service, whether a higher course is necessary or not is a matter for consideration at each stage. There are various schemes to improve education. Again, on the top of all this, there is the Wardha scheme adumbrated by Mahatma Gandhi and subsequently developed by an expert committee who sat on it, and many Provincial Governments are now considering that scheme. It affords a very reasonable solution to putting a stop to the economic and intellectual waste. In conjunction with literary education, from the early stages the aim is to fit the student to some vocation in life. But, as both my Honourable friends Sir A. P. Patro and Pandit Kunzru have said, vocational training without opportunities of vocation is not going to be of any use. You must create vocations before those who are trained in vocational education get employment. The Provincial Governments will be well advised to postpone their recommendations till they examine the various educational schemes in the provinces, to overhaul the present system of education and also see the potentialities of the Wardha scheme of education which the Congress is putting forth.

There is just one other matter with regard to Government recruitment. Some time ago I asked a question whether Government was considering the desirability of retiring men in Government service at an earlier age, either

[Mr. Ramadas Pantulu.]

after 25 years' service or at 50 years of age. That will create more room in the service for new entrants. They said they were considering the question and they gave no definite answer. Just as we want to create larger employment for labour by fewer working hours, short weeks and shifts, so I think we ought to create more room in the Government service by retiring men at an earlier age than they are now retired. I think if people are retired after 25 years active service or at 50 years of age there will be more room. (*An Honourable Member*: "What about the pension charges?") Yes, when our ideals of remuneration and pensions are put into practice and when everybody in India gets Rs. 500 normally, with a little more for experts, the question of costs will be solved automatically. In all the Congress provinces now you find all the eight or ten Ministers getting only Rs. 500 instead of Rs. 5,000 their predecessors were getting. The time is not far off when a reform of that sort will be effected in this country. Therefore I think that question has got to be considered along with recruitment, because that will really create more new places than any new system of recruitment can do.

Again, the question is whether the Government of India is contemplating in this circular only subordinate services or also the all-India services. It is not clear from the circular, but I believe they are thinking of both kinds of services. If so the objection to the scheme will be all the greater.

Sir, with these words I would advise the Government of India as well as the Provincial Governments to wait till they examine the various schemes of education that are being evolved, especially by the Congress Governments in their seven provinces, and also the Wardha scheme of education. I would also ask them to give consideration to my suggestion that men in Government service should be retired at an earlier age than at present. Therefore I cannot vote for the Resolution as it stands: but certainly it raises a very important question and with the general purpose of the circular I am in entire agreement.

THE HONOURABLE SIR MUHAMMAD YAKUB (Commerce and Labour Member): Mr. President, I have listened with great interest to the discussion and I am sure that it has served a useful purpose. The question of educated unemployment is generally recognised to be one of great importance and it calls for all the thought that can be given to it. It is not the view of Government that there is any simple or easy way out of the difficulties. The present situation is due to complex causes and remedies must be sought in various directions. The scheme embodied in the letter represents an attempt to deal with only one aspect of the problem, namely, the effects which Government recruitment has on unemployment. This is I think fully recognised in this House, but I stress the point because some of the discussion of the circular letter in the press appeared to have been based on the supposition that Government put forward the scheme as a comprehensive remedy for the present situation. Even if it were adopted and proved successful, it would make only a partial contribution to the solution of the vast problem of unemployment. At the same time most thoughtful persons are agreed that Government recruitment has an important bearing on the incidence of educated unemployment, and if that is considered then it becomes important in regulating the system of recruitment to consider the effects of the possible systems on unemployment. Some methods will undoubtedly have adverse effects and others beneficial effects. It is therefore surely desirable in selecting methods to prefer those which will have the best effect so long as it ensures a flow of efficient recruits.

So far I feel sure that those who have studied the question find themselves in agreement. I think it would also be admitted by most of those competent to judge by looking at the question purely from the point of view of unemployment, the earlier the age at which Government can recruit the better. In other words, the sooner a candidate can determine whether or not he will succeed in that line the less likely we are to create unemployment. This consideration led the Sapru Committee to propose a pre-university age for all subordinate services. But the Government of India's examination of this proposal has led them to the conclusion that it is in present circumstances hardly a practicable proposition. The main difficulty in the way is the requirement for many posts of a good command of English. At the same time the Government recognises that the ages at which they have been recruiting are in many cases unnecessarily high, and I hope that the next few years will see a general lowering of age limits. If this is achieved, many should be able to get posts at 18 or 19 and no one will feel that he must go on with studies up to 23 or 24 to have a chance of a good appointment. I hope therefore that both the Centre and the provinces will advance along this line.

But it is very doubtful if that is quite far enough, and the scheme which has been under discussion represents an attempt to carry a stage further the ideal of giving candidates and their parents means of estimating the future at a much earlier stage than is now possible. There are undoubtedly difficulties and objections. These have been nowhere more fully stated than in the circular letter itself. The Government of India have put forward the proposals tentatively at the present stage. They welcome both criticism and suggestions and have no intention of reaching final conclusions until they are in possession of views of Provincial Governments and the public. For that reason, while I think Sir Ramunni Menon has done a service by raising the question here, I suggest that the Council would be well advised not to reach a definite conclusion today. The proposal is a very big one and a very far-reaching one, and I feel sure that this Council, like the Government, would be in a better position to reach conclusions after they have seen and studied the replies to their letter.

The debate on the Resolution has naturally covered a variety of subjects the importance of which cannot be underrated and all of which deserve careful consideration. It would not however be right for the Government at this stage to commit itself to any line of action. The Honourable Mover would realise that a scheme of such great importance cannot be taken by piecemeal. It would create very great difficulties and complications if different methods of recruitment were adopted in different parts of the country. I would therefore appeal to Sir Ramunni Menon to withdraw the Resolution. If at a later date public discussion is desired I have no doubt that an opportunity will present itself, as it is our intention to publish the replies.

I would add only one further point. If a change such as is suggested in the circular were introduced suddenly it would deprive a lot of young men who have been studying for Government service of the opportunity of competing for it. I am sure, therefore, that if the principle is accepted, special consideration will have to be given to the claims of those who have already passed the age of the examination but who under the present rules are eligible to enter the service. The scheme could only be applied in fairness to exclude persons who were under the age selected at the time when the first preliminary examination was held.

4-5 P. M.

[Sir Muhammad Yakub.]

In conclusion I would only say that I hope the Honourable the Mover of the Resolution will not press it to a division, but if it is pressed to a division, the Government will remain neutral.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON : Sir, I feel extremely gratified that my Resolution has given rise to such an interesting debate. It would be quite impossible for me to cover the wide ground covered by the speeches of so many Members, and further it is not necessary for me to do so for the simple reason that much of it has already been covered by the Honourable Sir Muhammad Yakub in his speech. But there are one or two points which I should like to clear up. It has been suggested by two or three speakers that this proposal of the Government of India is an indirect attack upon higher education. Now that is a point of view which I cannot possibly accept. If it were in any way an attack on higher education, I would be the first to deprecate it most strongly. Between placing an obstacle in the path of those who want to secure university education and the removal of an artificial inducement to university education which is now provided by the lure of Government service, there is a vast difference. While I would strongly deprecate the former, I would as strongly support the latter. That is one reason why I support this proposal of the Government of India.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Does it apply to the superior and provincial services or only to the subordinate services ?

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON : I am in a difficult position. I am not the spokesman of the Government of India. I can only answer the question from the paper before me ; and judging from its contents, I conclude that it applies to all services.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Then it must be unhesitatingly condemned.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON : I am not prepared to argue that point.

There is another point to which I should like to refer. Some exception seems to have been taken to my suggestion that Delhi being a very suitable province for trying these experiments, we might pitch upon Delhi. I never made that suggestion in any slighting spirit. Delhi will be the first to get the first fruits of this experiment and further there are advantages in having these experiments in a compact area.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Ruinous.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON : I am as fully prepared to take up the cause of Delhi as my Honourable friend. I am living here for about three months in the year.

I do not know whether there is anything in the other points with which I should deal. It has been made perfectly clear in the course of the discussion that the majority of the Council is anxious to wait before reaching a conclusion on this matter. As my Resolution has served the purpose which it was intended to serve, I would gladly accede to their view-point, and if you will get for me the permission of the Council to withdraw my Resolution I shall be very glad.

At the same time if any Member presses for a vote, I am prepared to vote for my Resolution.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Before you ask the House for leave to withdraw the Resolution, may I ask my Honourable friend Sir Muhammad Yakub whether this circular letter applies to subordinate services only or whether it applies to the higher and superior and provincial services also ?

THE HONOURABLE SIR MUHAMMAD YAKUB : As I have said in my speech, Government have issued this letter only as a tentative measure and Government will not commit itself to say whether it would apply to all the services or to subordinate services only. Government will await receipt of opinions of Provincial Governments and the public.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : We understand Government now.

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

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Sir, Honourable Members are already in possession of the List of Business for the 22nd March and, with your permission, I propose that in the event of the Finance Bill being disposed of tomorrow, the following business may be taken up on Wednesday, the 23rd March and I therefore request that you may be pleased to direct that a meeting be held on that day for the purpose.

- (1) Motions for the consideration and passing of the Workmen's Compensation (Amendment) Bill ;
- (2) Motions for the consideration and passing of the Indian Tea Control Bill ; and
- (3) Election of Members to the Standing Committee for Roads.

The Council then adjourned till Eleven of the Clock on Tuesday, the 22nd March, 1938.