

Monday, 21st February, 1938

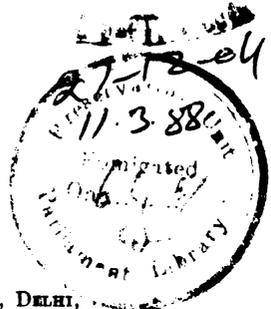
THE
COUNCIL OF STATE DEBATES

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 February, 1938.

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

MEMBER. SWORN

The Honourable Chaudhri Niamatullah (United Provinces East : Muhammadan).

QUESTIONS AND ANSWERS.

EJECTION OF STUDENTS FROM A THIRD CLASS CARRIAGE.

99. THE HONOURABLE MR. B. N. BIYANI: (a) Has the attention of Government been drawn to the news published in the *Times of India*, dated December 27th, under the heading "Ejection of Student Travellers"?

(b) Is the news correct?

(c) If so, what action has been taken in the matter?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Yes.

(b) No. From independent enquiries made by the Railway authorities and the Military authorities, it is clear that the facts are as follows:

A party of Indian regimental followers arrived independently by rail at the station in question and were to proceed onwards with an advance party of a British battalion that was in the process of moving from Waziristan to Bengal. I might mention that the British troops had their own reserved accommodation in military coaching stock and that the whole incident centres on the accommodation of the Indian followers. On arrival of the Indian followers, they were allotted third class carriage No. 2214 by the railway station staff. The carriage in question was standing on No. 2 platform. On its arrival on No. 7 platform it was found that it had been occupied by the hockey team. A military officer found three students in the carriage. He explained the position to them. At first the three students who were in the carriage refused to leave but after further argument, they left the carriage of their own volition. At no stage was any force used. As the train was about to leave, the military personnel were called upon to assist in moving out the students' baggage.

(c) Does not arise.

TRANSFER OF OFFICERS OF THE ROYAL AIR FORCE TO THE INDIAN ARMY.

100. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Has some agreement

been arrived at between the Air Ministry and the India Office, by virtue of which revised arrangements have been made for the selection of certain class of officers of the Royal Air Force for appointment to permanent Commissions in the Indian Army? Will Government make a statement on the subject and indicate the main outline of the arrangement with special reference to its financial aspect and the employment of Indian personnel?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: In order to replace a proportion of military officers retired under the War Block Scheme and to maintain the intake of British officers at the required figure, the Government of India, in consultation with the Secretary of State, sanctioned the scheme for the transfer of officers of the Royal Air Force to the Indian Army. The scheme, however, involves no extra cost to Government, nor does it affect the present pace of Indianisation.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: What is the total number of officers that will be so transferred?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I regret I cannot give you the actual number, but it is anticipated that not more than 10 such transfers will take place per annum.

NUMBER OF EUROPEANS AND INDIANS EMPLOYED IN VARIOUS DEPARTMENTS OF THE INDIAN ARMY.

101. THE HONOURABLE MR. G. S. MOTILAL: Will Government lay on the table a statement showing the number of Indians and Europeans employed in each rank of the army, showing separately the salary and allowances each Indian and European officer receives?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The number of Indians and Europeans employed in various departments of the Indian Army is given in the Return showing the actual strength of the Army and Royal Air Force in India. Their ranks are shown in the *Indian Army List* and the pay and allowances in the Pay and Allowance Regulations for the Army in India. Copies of all these documents are available in the Library.

I would also draw the attention of the Honourable Member to the statement I laid on the table on the 14th September, 1937 which gives the details of pay and allowances of British and Indian officers of the Army.

ECONOMIES AND RETRENCHMENTS EFFECTED IN THE ARMY IN INDIA.

102. THE HONOURABLE MR. G. S. MOTILAL: Will Government be pleased to state what economies and retrenchments have been effected in all arms of defence since the 30th November, 1935?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I presume the Honourable Member has perused the reports of the Army Retrenchment Committee which were published in 1931 and 1932. The rigorous economies and retrenchments which were effected both at that time and in the succeeding years narrowed very considerably the scope for any further savings. Since 1935, therefore, there has existed little opportunity for such savings. It was, however, possible to make a saving on kit and clothing allowance to the extent of Rs. 4½ lakhs per annum, and on a reorganisation of the Mechanical Transport Services to the extent of Rs. 2 lakhs per annum, during 1935-36.

In the same year also cavalry and artillery reorganisation schemes were responsible for annual savings of Rs. 2 lakhs and Rs. 7½ lakhs respectively. These merely indicate the more important items on which savings have been effected. For any further details, I would refer the Honourable Member to Appendix B of the Appropriation Accounts of the Defence Services that are annually laid before the Public Accounts Committee. As regards certain future economies, I refer the Honourable Member to the answer I gave to the Honourable Raja Yuveraj Datta Singh's question No. 1 on the 14th February this year.

NUMBER OF MILITARY AEROPLANES AND MILITARY AERODROMES, ETC.

103. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state the number of military aeroplanes and aerodromes existing in India ?

(b) Will Government place on the table a statement showing the various ranks in the aerial service and the number of Indians and non-Indians in each rank with their respective salaries and allowances ?

(c) What quantities and values of the stores required for the Air Force are indented from foreign countries and what part is purchased in India ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) It is not in the public interest to disclose the number of military aeroplanes. There are nine military aerodromes and 81 military landing grounds in India.

(b) I lay on the table two statements showing the comparative rates of pay and allowances of officers of the Royal Air Force in India and of the Indian Air Force. As regards the number of Indians and Europeans employed in each rank, I refer the Honourable Member to the Return showing the actual strength of the Army and the Royal Air Force in India, a copy of which is in the Library.

(c) The value of the stores purchased for the Air Force is as follows :

In India	Rs. 4,88 lakhs.
In England	Rs. 46,52 lakhs.
Other countries	No precise figures are available but the amount is negligible.

I regret that it is not possible to enumerate the various classes of stores as between 35,000 to 40,000 items are involved.

Those obtained in England fall under the following main headings and it is scarcely necessary to remark that they cannot be purchased in India :

- Aeroplane engines.
- Air frames.
- Cameras and connected equipment.
- W/T and R/T.
- Bowls and pyrotechnics.
- Special armament and ammunition.

As much as possible is purchased in India and the main items include :

Photographic equipment.

Non-technical spare parts.

Timber.

Petrol, oil and lubricants.

Rations.

Certain M. T. and spare parts.

THE HONOURABLE MR. HOSSAIN IMAM: Are the figures of the purchase given by His Excellency for the Royal Air Force as well as the Indian Air Force ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Both.

STATEMENT "A".

Comparative rates of pay of officers of the Royal Air Force in India and of the Indian Air Force.

Royal Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 2.)			Indian Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 17).	
Rank.	Pay per mensem.		Rank.	Pay per mensem (consolidated).
	Married.	Un-married.		
1	2	3	4	5
<i>General Duties Branch.</i>	Rs.	Rs.		
*Group Captain	1,910	1,755	Group Captain	Not yet laid down.
*Wing Commander after 10 years service in the rank.	1,695	1,545	Wing Commander.	Do.
*Wing Commander after 9 years service in the rank.	1,670	1,520		
*Wing Commander after 8 years service in the rank.	1,650	1,500		
*Wing Commander after 7 years service in the rank.	1,625	1,475		
*Wing Commander after 6 years service in the rank.	1,600	1,450		
Wing Commander after 5 years service in the rank.	1,580	1,430		

*These officers when holding authorised Command appointments get Rs. 200 per mensem extra as command pay.

STATEMENT "A"—*contd.*

Comparative rates of pay of officers of the Royal Air Force in India, and of the Indian Air Force—contd.

Royal Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 2.)			Indian Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 17).	
Rank.	Pay per mensem.		Rank.	Pay per mensem (consolidated).
	Married.	Un-married.		
1	2	3	4	5
	Rs.	Rs.		Rs.
<i>General Duties Branch— contd.</i>				
*Wing Commander after 4 years service in the rank.	1,555	1,405		
*Wing Commander after 3 years service in the rank.	1,535	1,385		
*Wing Commander after 2 years service in the rank.	1,510	1,350		
*Wing Commander after 1 year service in the rank.	1,490	1,340		
*Wing Commander	1,465	1,315		
Squadron Leader after 5 years service in the rank.	1,300	1,155	Squadron leader after 5 years service in the rank.	950
Squadron Leader	1,200	1,060	Squadron Leader	880
			Flight Lieutenant after 15 years service in the rank.	700
			Flight Lieutenant after 10 years service in the rank.	625
Flight Lieutenant after 6 years service in the rank.	970	835		
Flight Lieutenant after 4 years service in the rank.	925	790		
Flight Lieutenant on promotion.	880	745		
Flying Officer (2 years)	750	660	Flight Lieutenant	570
			Flying Officer after 2 years service in the rank.	500
Flying Officer	695	610	Flying Officer	465
Pilot Officer	605	520	Pilot Officer	385
Acting Pilot Officer	560	475		

*These officers when holding authorised Command appointments get Rs. 200 per mensem extra as command pay.

STATEMENT "A"—concl'd.

Comparative rates of pay of officers of the Royal Air Force in India and of the Indian Air Force—concl'd.

Royal Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 2.)			Indian Air Force officers (Pay and Allowance Regulations for the Royal Air Force in India and Indian Air Force, page 17).	
Rank.	Pay per mensem.		Rank.	Pay per mensem (consolidated).
	Married.	Un-married.		
1	2	3	4	5
	Rs.	Rs.		Rs.
<i>Equipment Branch.</i>				
Wing Commander (6 years)	1,420	1,270	Wing Commander (6 years).	Not yet laid down.
Wing Commander (3 years)	1,350	1,200	Wing Commander (3 years).	Not yet laid down.
Wing Commander . . .	1,305	1,155	Wing Commander . . .	Not yet laid down.
Squadron Leader . . .	1,105	965	Squadron Leader . . .	800
Flight Lieutenant (4 years).	905	770	Flight Lieutenant (4 years seniority).	550
			Flight Lieutenant (8 years seniority) . . .	650
			Flight Lieutenant (6 years seniority).	600
			Flight Lieutenant (2 years seniority).	500
Flight Lieutenant . . .	860	725	Flight Lieutenant . . .	450
Flying Officer (4 years) . . .	700	610	Flying Officer (4 years) . . .	400
Flying Officer . . .	655	570	Flying Officer . . .	350
Pilot Officer . . .	560	475	Pilot Officer . . .	300

STATEMENT "B".

Main allowances of the officers of the Royal Air Force and of the Indian Air Force.

Serial No.	Allowance.	R. A. F. officers.	I. A. F. officers.	Authority.
1	Outfit allowance.	Paid by the Air Ministry.	£50	Pay and allowance Regulations for the Royal Air Force in India and Indian Air Force (paragraph 30).

STATEMENT " B "—contd.

Main allowances of the officers of the Royal Air Force and of the Indian Air Force—contd.

Serial No.	Allowance.	R. A. F. officers.	I. A. F. officers.	Authority.
2	Separation allowance.	Sliding scale Rs. 40 to Rs. 265 per month.		Pay and allowance Regulations for the Royal Air Force in India and Indian Air Force (paragraph 7), Passage Regulations, India.
3	Travelling allowance.	Both the Royal Air Force and the Indian Air Force officers are under the same rules and scales.		
4	Leave travelling allowance.		Free first class travel for the officer himself, on warrant, at full tariff rates, by the main route to and from the nearest railway station to the officer's home (or, as a special case, to any other place provided the cost does not exceed the cost of a warrant to the railway station nearest his home) once after his first year of commissioned service and thereafter every second calendar year. Railway free allowance of baggage only is also admissible.	Royal Air Force Instruction (India) No. 4 of 1938.

STRENGTH OF THE INDIAN ARMY.

104. THE HONOURABLE MR. V. V. KALIKAR : (a) Will Government please state :

- (i) The total strength of the standing Indian Army excluding the British troops stationed in India.
- (ii) The number of sepoy, that is, rank and file ; the number of non-commissioned officers, Viceroy's commissioned officers and King's commissioned officers.

(b) Do Government propose after the inauguration of Federation to allot to the several autonomous provinces forming the Federation a fixed percentage for recruitment of sepoy in the Indian Army from those provinces ? If not, why not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) (i) and (ii). The required information is contained in the Return showing the Actual Strength of the Army and Air Force in India, a copy of which is in the Library of the House.

(b) No. As has been said on several occasions, in the matter of recruitment to the Indian Army, Government do not recognise territorial claims but obtain recruits from the classes which in the opinion of the Military authorities produce the most efficient soldiers.

CONSTRUCTION OF AN ORDNANCE FACTORY IN THE CENTRAL PROVINCES.

105. THE HONOURABLE MR. V. V. KALIKAR: (a) Has the Government of India ordered a preliminary survey of lands in five neighbouring villages of Jubbulpore district for ascertaining the prospects of constructing an Ordnance factory?

(b) What will be the cost of constructing the Ordnance factory?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) and (b). I refer the Honourable Member to the reply I gave on the 14th February, 1938 to the Honourable Raja Yuveraj Datta Singh's question No. 6.

SUPPLY OF RIFLES AND AMMUNITION TO CERTAIN SCHOOLS FREE OF COST.

106. THE HONOURABLE MR. V. V. KALIKAR: (a) Are service rifles with ammunition supplied by Government free of cost to some schools in India, other than the military schools maintained by the Army?

(b) If the answer to part (a) is in the affirmative, are those schools required to take out licences under the Arms Act?

(c) If not, under what rule do they secure exemption from the rule under the Arms Act?

(d) Will Government place on the table of the House a list of such schools with their addresses?

(e) What are the reasons for the issue of service rifles and the ammunition free of cost to those schools?

THE HONOURABLE MR. E. CONRAN SMITH: (a) to (e). I am making enquiries and will place a reply on the table in due course.

NOS. 1-UP MAIL AND 2-DOWN MAIL, A.B.R.

107. THE HONOURABLE MAULVI ALI ASGAR KHAN: Will Government state why Nos. 1-Up and 2-Down Surma Mail trains on the A.B.R. stop out of course at Bhanugach, Satgaon, Rasidpur, Shajibazar, Nayapara and Teliapara for first class passengers travelling to or from Silchar and Sylhet Bazar and do not stop at other stations out of course when there is a passenger holding a first class ticket who pays the train stoppage fee of Re. 1?

THE HONOURABLE SIR GUTHRIE RUSSELL: I have called for the information required by the Honourable Member and will place a reply on the table of the House when it has been received.

SARDAR AMIN JAN, AFGHAN STATE PRISONER.

108. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state how long Sardar Amin Jan, brother of ex-King Amanullah of Afghanistan, has been confined as State prisoner, and what is his present place of residence? What are the charges against him, and what allowance, if any, is paid to him every month?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sardar Amin Jan, brother of ex-King Amanullah Khan of Afghanistan, has been detained since 1930 under Regulation III of 1818. The reasons for his arrest and detention were that he was found to be preparing to lead a rebellion against a neighbouring friendly Government. He is at present residing in Kotagiri in the Nilgiris district and is paid an allowance of Rs. 250 per mensem for his maintenance plus Rs. 50 per mensem on account of house rent.

INDO-AFGHAN TRADE.

109. THE HONOURABLE MR. B. N. BIYANI: (a) Have the Government of India seen a message of the Associated Press in the *Free Press* of Bombay, dated 24th December, from Peshawar about a resolution of a public meeting held under the auspices of the Frontier Chamber of Commerce at Peshawar urging the Government of India to take early steps to safeguard Indian traders' interests in Afghanistan?

(b) Have Government made any enquiry into the matter?

(c) If so, with what result?

(d) If not, will Government negotiate with the Afghan Government asking them to recognise the rights of the Indian traders in Afghanistan?

THE HONOURABLE SIR MUHAMMAD YAKUB: (a) Yes.

(b) to (d). Government hope shortly to enter into discussions with the Afghan Government for improving trade relations between India and Afghanistan.

THE HONOURABLE MR. HOSSAIN IMAM: Are the Government aware of any restraint in the trade relations?

THE HONOURABLE SIR MUHAMMAD YAKUB: No, Sir.

COMMERCIAL LIBRARY IN CALCUTTA.

110. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state the amount of capital expenditure incurred in establishing the Commercial Library in Calcutta and the recurring expenses of maintaining it?

(b) Do Government propose to establish similar libraries in other commercial centres of India?

(c) Do Government propose to establish such a library in Bombay? If so, when?

THE HONOURABLE SIR MUHAMMAD YAKUB: (a) The information is being collected and will be laid on the table in due course.

(b) No.

(c) No. The latter part does not arise.

THE HONOURABLE MR. G. S. MOTILAL : Will Government be pleased to give us the reason why a similar library cannot be established in Bombay ?

THE HONOURABLE SIR MUHAMMAD YAKUB : Because we think that it is not so urgently needed at present.

GROWTH OF THE JUTE INDUSTRY.

111. THE HONOURABLE MR. G. S. MOTILAL : (a) What steps do Government propose to take for the development of the Indian jute industry ?

(b) Has Government's attention been drawn to the Resolution adopted by the House of Commons on the subject of the jute industry ?

(c) Do Government propose to make immediate representation to His Majesty's Government and themselves take such steps as will neutralise any move to hamper the development of jute manufactures in India ?

(d) What is the quantity and value of raw jute exported in the years 1913-14, 1918-19, 1931-32, 1932-33, 1933-34, 1934-35 and 1935-36 to the United Kingdom, Germany, France, U.S.A., Italy, Spain and other countries ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) The Honourable Member's attention is invited to the Resolution of the Department of Education, Health and Lands, No. F.-254/34-A., dated the 28th May, 1936, which was published in a Supplement to the Gazette of India.

(b) Government have seen press reports of a Motion moved in the House of Commons by a private Member on the 2nd February, 1938, urging the need of safeguarding the United Kingdom jute industry against competition from Indian jute goods. It also asked that this should be placed in the forefront in the resumed trade negotiations with the Government of India. The Government of India have received no official intimation of this Motion from His Majesty's Government in the United Kingdom.

(c) Government have noted the point for consideration in connection with the present negotiations for a new Trade Agreement with the United Kingdom.

(d) The Honourable Member is referred to the Annual Statements of the Sea-borne Trade of British India and the Statistical Abstracts for British India, copies of which are in the Library.

THE HONOURABLE MR. G. S. MOTILAL : Will Government tell us the purport of what has been published in the Gazette ?

THE HONOURABLE SIR MUHAMMAD YAKUB : You can find it in the Gazette. It is very difficult to repeat the purport of the whole thing.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable Member lay the Notification on the table of the House ?

THE HONOURABLE SIR MUHAMMAD YAKUB : It is a published thing ; it is in the Library.

COMPUTATION OF THE NATIONAL INCOME.

112. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state whether they have computed the national income of India for each of the last five years ?

(b) If not, do Government propose henceforth to ascertain it from year to year ?

THE HONOURABLE MR. J. C. NIXON : (a) and (b). The answer to both parts of this question is in the negative.

LANGUAGE TO BE USED IN THE PROVINCIAL LEGISLATURES.

113. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state whether they are aware of the desire of the members of the Provincial Legislative Assemblies to address the Houses in the vernacular of their respective provinces ?

(b) Have Government received any communication from the Provincial Governments in this connection ?

(c) If the answer to (a) and (b) be in the affirmative, do Government propose to make a representation to His Majesty's Government for amending the Government of India Act so as to permit members desirous of speaking in the language of the provinces or in Hindustani to do so irrespective of the consideration whether a member knows English or not ?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : (a), (b) and (c). Government have seen the reports in the newspapers on the subject and have also received communications from certain Provincial Governments. These have been forwarded for the consideration of the Secretary of State.

THE HONOURABLE MR. HOSSAIN IMAM : Have the Government made any recommendation on this ?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD : I am afraid, Sir, I must ask for notice and even if they had, as communications between the Government of India and the Secretary of State are confidential, I could give no information.

FUTURE CONTROL AND RECRUITMENT OF THE SUPERIOR SERVICES.

114. THE HONOURABLE MR. G. S. MOTILAL : Have the Government of India received any representation from the Provincial Governments in regard to the Covenanted Services under any one of the following heads since the Congress accepted office :

- (a) Need of reduction in the salaries of the Services.
- (b) Future control of the Services.
- (c) Future appointment of the members of the Services.

THE HONOURABLE MR. E. CONRAN-SMITH : (a) to (c). No.

ASSESSMENT OF INCOME-TAX IN THE BOMBAY PRESIDENCY.

115. THE HONOURABLE MR. G. S. MOTILAL : (a) Is there widespread complaint in the Presidency of Bombay that in the matter of assessment

of income-tax, the subordinate officers of the Department concerned often over-assess the income, which puts the assesses to the necessity of appealing against the initial assessments ?

(b) If the answer to (a) be in the affirmative, will Government state what steps they have taken to prevent this hardship ?

THE HONOURABLE MR. J. C. NIXON : (a) No.

(b) Does not arise.

DECLINE IN RAILWAY EARNINGS DURING THE LAST QUARTER OF 1937-38.

116. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state the amount of the fall in the railway earnings in the last quarter of the current financial year, and the cause of it ?

(b) What steps have Government taken to prevent the fall or intend to take in the future for checking the deterioration in the railway returns ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) The approximate gross earnings of the State-owned Railways during the three months ending the 31st January, 1938 fell by about Rs. 123 lakhs as compared with the corresponding period of the previous year. The decrease was entirely in goods traffic offset by a small increase in coaching traffic. Cotton (Rs. 76 lakhs) and oilseeds (Rs. 19 lakhs) were the principal commodities affected.

(b) Government do not consider that present conditions call for any special action, as the recent decline in revenue receipts in relation to last year's receipts is due to traffic fluctuations.

THE HONOURABLE MR. HOSSAIN IMAM : What about the February figures ? Has the February figure recovered ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I have not got February figures yet.

AGGREGATE MARKET VALUE OF SHARES IN VARIOUS PRIVATE AND PUBLIC COMPANIES.

117. THE HONOURABLE MR. G. S. MOTILAL : Will Government state the aggregate market value of the shares in various private and public companies working in India, held by Indians and others on the closing dates of their balance sheets, during each of the last three years ?

THE HONOURABLE SIR MUHAMMAD YAKUB : The information is not available with Government and they consider that the time and labour involved in its collection would be incommensurate with the advantage to be gained.

THE HONOURABLE MR. G. S. MOTILAL : Are Government aware that there is a widespread demand for these figures and they can provide tables by which this information can be collected ?

THE HONOURABLE SIR MUHAMMAD YAKUB : No such demand has yet been made to the Government and Government are not aware that there is any such demand as is described by the Honourable Member.

FALL IN EXPORT OF COTTON, JUTE AND OILSEEDS TO ITALY.

118. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state whether they have considered the report submitted by Mr. Ahuja, the Indian Trade Commissioner in Milan on the phenomenal fall in the Italian imports of cotton, jute and oilseeds from this country?

(b) If the answer to (a) be in the affirmative, what steps do Government propose to take or are taking to recover the lost ground?

THE HONOURABLE SIR MUHAMMAD YAKUB: (a) It is presumed that the Honourable Member is referring to the Report of the Indian Government Trade Commissioner, Milan, for 1936-37. If so, the answer is in the affirmative. I may however mention that India's exports of cotton, jute and oilseeds to Italy have considerably increased since April 1937. In this connection I would invite the attention of the Honourable Member to the Quarterly Report of the Trade Commissioner, for July to September, 1937, published in the *Indian Trade Journal* of the 6th January, 1938 and to the Accounts relating to the Sea-borne Trade and Navigation of British India for December, 1937, copies of which are in the Library.

(b) Government do not consider that any action is necessary.

RESOLUTION RE INDIANS IN BRITISH GUIANA.

THE HONOURABLE PANDIT HERDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I beg to move:

"That this Council recommends to the Governor General in Council to urge the authorities concerned to take active steps to facilitate the settlement of Indians on land in British Guiana and to discourage their repatriation to India."

Sir, under the British Guiana Immigration Law, every Indian immigrant who lives continuously in the Colony for ten years and fulfils certain other conditions is entitled to get an assisted passage back to his country. Male immigrants have to pay one-half the cost of the passage and female immigrants one-third. Indians have taken advantage of this right in the past to ask for repatriation from British Guiana to India. But unfortunately on their return to their country they have found themselves totally stranded. A large number of Indians came from Fiji and British Guiana in the years 1920 to 1922. We all know that soon after their landing in India they found themselves confronted with conditions which they had not dreamed of before leaving their Colonies. In the first place, the climate of India did not suit them. In the second place, the villages to which they and their ancestors belonged knew them no longer. Again, the members of the caste to which they belonged refused to recognize them. And, more than all this, they were unable to get occupation of the kind to which they had been accustomed in the Colonies, to which they had migrated. Some of them are still living in a pitiable condition in Calcutta. The reports that have been issued about them by Mr. Andrews and others show the depth of the destitution to which they have been reduced. The British Guiana Indians, however, fared better in one respect than those who came from Fiji. I gather from the Report of Sir Maharaj Singh which was published in 1925 that in 1921 and 1922 special arrangements were made for the return at their request of 270 and 160 repatriates respectively

[Pandit Hirday Nath Kunzru.]

by the British Guiana Government. Sir Maharaj Singh further states that in October, 1923 over 100 British Guiana Indians in Calcutta were anxious to be sent back to British Guiana. It is evident, Sir, from past experience that if Indians continue to be repatriated to this country they will be faced with a great deal of misery and unhappiness. It is true that the law gives Indians a right which they can exercise without any interference on the part of the British Guiana Government. But my Resolution does not ask that the repatriation of Indians should be prohibited. All it asks for is that the British Guiana Government by informing Indians of the conditions that would await them on their landing in this country and providing them with facilities for earning their livelihood in the land of their adoption should discourage them from coming back here.

What are the reasons, Sir, that make Indians desirous of returning to India? There is, first of all, Sir, the sentimental attachment to their country. Some of the Indians who left the shores of this country long ago have not been able to forget the ties that bind them to this country. Their longing to return to their motherland is pathetic. In the case of such people it is obviously the duty of the Government to assist them to return to the country which they long to be back in. But there are many others who come back here because of want of adequate opportunities for earning their livelihood in British Guiana. If they were provided with facilities for improving their economic condition there is little doubt that the number of those who want to be repatriated to this country would be greatly reduced. As we all know, Sir, the prices of rice and sugarcane in which Indians in British Guiana are principally interested have fallen considerably. Again, as the Report of the British Guiana Labour Disputes Commission indicates the number of Indian labourers is much larger than is needed in the sugar industry. Many of them are therefore unable to make both ends meet and in the condition in which they find themselves they think that if they return to their own country they might be able to find means of earning their livelihood which are not within their reach in British Guiana. They are also influenced by the fact that in order to return to this country they can claim half the cost of the passage from the Government of British Guiana. They are thus tempted in the condition in which they find themselves to ask to be sent back to India. If, however, arrangements were made for settling them on land it is believed that many of those who take advantage of the facilities provided for repatriation would continue to live in British Guiana.

Sir, the Indian Association of British Guiana has recently devoted a great deal of thought to this matter. It made representations to the Governor of British Guiana on the point that I have raised in my Resolution. But unfortunately its representations have so far not met with a favourable response. But it is interesting, Sir, to note that the Immigration Law of British Guiana contemplates active assistance being given to Indians in the matter of land settlement. Section 193 of the Immigration Law says that any immigrant may in consideration of a grant of land or of a money payment surrender his right under the immigration law to a return passage. It is true that this law confers no right on Indian labourers. It only authorises the Government to make land or money grants where they consider such a course proper. But it is clear that the Indians of British Guiana, in asking for facilities for settlement on land, are only asking for something which the authorities had in view when the immigration law was framed. Again, I gather from the information published in the *Indian Opinion* of British Guiana that certain settlements have been established in British Guiana in

the way suggested by me. That is, Indians, instead of being given half the passage money, have been given grants of land in certain places to enable them to settle down. I understand that these settlements are thoroughly prosperous. There is no reason, therefore, why similar action, if taken now, should not be attended with equally happy results.

There is another very important fact, Sir, which I think I should bring to the notice of Honourable Members. The Governors of British Guiana in the past have in many cases invited the Indians resident there to surrender their right to return to their country in lieu of grants of land. I understand that in 1929 the Governor, Sir Gordon Guggisberg, stated at a meeting at which Mr. Andrews was present that if the Indians gave up their right to return passages, he would try to give them lands instead. This further strengthens the position of those who desire that the Government of British Guiana should take steps to facilitate the settlement of Indians on land, and in view of the circumstances I have narrated, to discourage their return to this land.

In order to enable Indian emigrants to return from British Guiana to this country, the Government of British Guiana have established a fund, called the Immigration Fund, to which contributions are made by the planters. There is a sum of about 450,000 dollars or £93,000 in this Fund. Indians desire that the Government of British Guiana should take advantage of this fund in order to enable them to settle down in British Guiana. Apart from this, Sir, there is another fund, called the Colonisation Fund, the purpose of which, is well indicated by its name. There are about 875,000 dollars or £83,000 in this fund. This fund was split up into two parts in 1937. One part of it is meant to meet the expenses of any future colonisation scheme and the other part of it has been formed into a Development Trust Fund. Indians have represented from time to time that both these funds should be taken advantage of to settle Indians on the land and to provide them with the facilities that are due to them in view of the economic benefits that they have conferred on British Guiana by helping in its development. And what they are asking for is actually done in the neighbouring Colony of Dutch Guiana. There too, there exist the two funds to which I have just referred, namely, the Immigration Fund and the Colonial Fund. The Dutch Government give their labourers the option of repatriation and of settlement in Dutch Guiana. If the Indians elect for the latter alternative, they are given either cash or land grants in return for the passage money to which they are entitled. I understand from an article written recently in the *Servant of India* by Mr. Kodanda Rao, who is a member of the Servants of India Society and was in British Guiana two years ago that nearly 6,000 Indians have taken advantage of the option granted by the Government of Dutch Guiana. As regards the Colonial Fund, it has been the means of helping even a larger number of Indians. About 7,000 Indians have been enabled, with assistance from this fund, to settle down on the land. In asking, therefore, that the Government of British Guiana should take active steps to settle Indians on the land, we are not asking it to do anything that is either unreasonable or impracticable. We are only asking it to do what the law of the country contemplates, what the various Governors of British Guiana have publicly spoken of from time to time and what is being done in Dutch Guiana. What has been found possible by Dutch Guiana should be found equally practicable by British Guiana. As the Report of the British Guiana Labour Disputes Commission shows, the Indian labourers have not had a fair deal. They are faced with a serious situation. As long as they were given the necessary opportunities, they did all that they could to promote the economic interests of the Colony. But they find themselves now thrown out of employment for no fault of

[Pandit Hirday Nath Kunzru.]

their own. It is, I think, the moral duty of the Colony that has benefited by their work to provide for them now in the hour of their need, and to make them feel that the Colony recognises its indebtedness to those who have been its main economic stay in the past.

Sir, I do not think that I need labour this question any further. The point is a very simple one. Besides, I am certain that my Honourable friend Sir Jagdish Prasad, whose duty it is to concern himself with the interests of Indians abroad, is fully acquainted with the facts of the case. I hope, therefore, that the Government of India will sympathetically consider the request that I have made in the Resolution before the House and will use their best endeavours to persuade the Government of British Guiana to do justice to the Indians who were sent there at the request and to satisfy the urgent economic needs of the Colony.

Sir, I move.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Sir, I rise to support the Resolution which has been moved by my Honourable colleague Pandit Hirday Nath Kunzru. There is one Department of the Government of India to which we look more as a popular Ministry than as a bureaucratic department, and that is the Department concerned with Indians abroad. Since the time it was presided over by the Honourable Mian Sir Fazl-i-Husain we have found that this Department as far as it could go has tried to serve the cause of Indians abroad.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: For a much longer time than that.

THE HONOURABLE MR. HOSSAIN IMAM: I am speaking only from my personal knowledge. I was not here before that. At the present moment the condition of Indians abroad is very lamentable. India itself, like other countries in the world, is anxious to have a place under the sun. It is rather difficult to get that. The attitude of the British Government is unsympathetic towards us. When it concerns questions of Indians in the Dominions the British Government retort that they have no power. It is therefore essential that in the territories which are under the Colonial Office and where His Majesty's Government have full powers our interests should be served in the best way possible. The questions of Indians in British Guiana is peculiar inasmuch as it is one of the Colonies in which Indians have gone at the request and desire of the Colonial Administration. The Colonial Administration was anxious to get Indians, and it is therefore quite in keeping with equity and justice that we demand that we should get better treatment than we are receiving in other parts of the British Empire. As the Honourable Pandit has shown, in Dutch Guiana action on the lines which he wants to be taken in British Guiana has already been taken. That too shows that there is not only justice in his demand but a precedent for such action. On account of the trade depression the condition of labour has deteriorated in almost every country and this Colony is no exception to the rule. But there is no reason why an alternate source of employment which is available to the Colonial Administration should not be provided if they cannot give full employment in industries and the labour field. The number of Indians involved is not very large. If it had been the Administration may have said that their resources did not allow them to do justice to this problem. That is one of the excuses which is always trotted out by the British Administration in India as an excuse

*Not corrected by the Honourable Member.

for inaction—the magnitude of the thing involved. Here that lame excuse is non-existent. I hope in view of these things that the Government will see its way to accept this Resolution of the House and use its good influence to carry it forward.

Sir, with these words I support the Resolution.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I give my whole-hearted support to the Resolution moved by my Honourable friend Mr. Kunzru. The demand made by the Honourable Mover is only natural and very modest. We all know the conditions under which the people from this country emigrated to far-off lands overseas. The main reason was the lack of means of livelihood in their motherland. It was not a spirit of adventure which actuated them but merely the need for eking out a livelihood which caused them to migrate to places like British Guiana and other distant lands. And now we find that the conditions which then were unfavourable, have become much worse. Therefore it is quite obvious that the present is not at all the moment at which repatriation should be encouraged, for if they are brought back to their motherland they will find themselves in much more difficult circumstances than they were in at the time they left. There is also another factor to be considered in this connection and that is the question of the absorbability of these repatriated people in the motherland. We know that nearly 60 to 70 per cent. of the Indian population in British Guiana is colonial born. From reports published now and then by people who have visited British Guiana, it is patent that the majority of the Indians living there are those who have been born in that Colony. It is said that three generations have grown up there who have never had any contact with India. Moreover, having been born and bred in those foreign lands, these Colonial-born youths have taken to the ways and habits obtaining in those regions. Most of them have adopted what might be termed as a hybrid half-baked Afro-American culture. They are neither Indians nor are they Americans in the full sense of the term. However, they have come to adopt a mode of living which is not at all similar to that obtaining in this country. For these reasons, it is very difficult for these people when they come back to India to get easily absorbed into the Indian population here. This also is one of the strongest reasons for which it is not desirable that repatriation should be allowed on any large scale. Again, Sir, my Honourable friend Pandit Kunzru has shown how this repatriation could be discouraged and how the Indian population in those Colonies could be induced to stay on in the land of their adoption. He has given instances of the ways and means by which the Indian population in Dutch Guiana have been provided with lands in order that they may continue to stay in that part of the country, without finding it necessary to come back to India. I hope, Sir, that the Government of India will also see their way to make similar arrangements. The Honourable the Leader of the House, the Honourable Kunwar Sir Jagdish Prasad, who is in charge of Indians overseas and who has always evinced keen sympathy and genuine solicitude for Indian nationals abroad, I am sure will certainly find some way to see that Indians are given some means to settle themselves in those lands without having to come back to India, where they cannot hope to receive a cordial welcome, and find themselves practically as strangers in the motherland.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so well moved by my Honourable friend Pandit Kunzru who, in his speech,

[Rai Bahadur Lala Ram Saran Das.]

has not left much for others to say. I want simply to put a few points before this House which I think ought to receive the early consideration of the Government. Sir, the unemployment question in India is a very important one now. Various Committees have sat for the solution of the problem and have submitted their reports to the Governments concerned. I also find that due to this unemployment question the question of unrest in the country is daily demanding the serious attention of Government. Those people who migrated from India and helped in the development of certain colonies do deserve that the Government of those Colonies should give them fair and due consideration. Sir, we hear often of the plight of Indians overseas. We know that in certain Colonies there is racial discrimination and for that racial discrimination laws are being enforced in those Colonies which are likely to result in the repatriation of Indian. Sir, every civilized country in the world whose population is increasing is hankering after new colonies and new possessions. Germany is also seeking its way now to regain the foreign possessions which it has lost. That has also been the case with Italy and all such countries hold that they must have colonies for their increasing population. Why should not India urge the British Government to throw open certain Colonies exclusively for Indians if they consider that the question of black and white is paramount and cannot be solved? Another point which I wish to make is that in these Colonies other Asiatics who have migrated there are receiving better treatment than Indians. That is a point which I cannot understand and which so far the Government of India has not explained. Why should they not exert their best to put Indians on the same level as other Asiatics? Sir, I do not want to take much time of the Council, but only to emphasise that if there had been work for them in India they would not have migrated. The population of India is fast increasing and their employment is a very acute question and must be solved and this is one of the best ways of solution.

With these words, Sir, I support the Resolution.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) : Sir, I rise to give my whole-hearted support to the Resolution moved by the Honourable Pandit Kunzru. Sir, while I appreciate the efforts made by the Government of India in the cause of Indians abroad I am unable to agree with my Honourable friend's remarks that this Department at any rate is one which can be considered or regarded as a Department which is in charge of a responsible popular Minister. With all my appreciation of their efforts, I am unable to agree with this remark. I am sure that had this Department been in charge of a Member responsible to the Legislature Pandit Kunzru would not have had to come up here and plead the cause of Indians overseas before this House in the way he has done. Government would have taken up that question and it would have been very much nearer solution than it is today. These Indians who have been taken to British Guiana are indentured labourers and they have gone there to help with their labour the development of the Colony. To European countries there are a number of places which are open for emigration and settlement. Few places are open to Indians. Indians who were taken as indentured labourers may as well be given facilities to settle there. They have helped in the development of the Colony and is it not fair that they should also get an opportunity of reaping the fruits of their own labour. Should they be merely taken there to work and as soon as the work is finished and the country has been developed they should be asked to go back to their country. Should they be told : "You have got the return passage ; go back to your country". The population of India, as my Honourable friend Lala Ram

Saran Das has said, is increasing. This is not a phenomenon peculiar to India. In other countries also the population is increasing. We know how the population of England has increased. It has increased enormously during these 50 or 100 years. But they have emigration open to them. India also wants emigration. It is the duty of the Government of this country to find places where Indians can emigrate and those that have migrated and developed Colonies should have opportunities of settling there and Government should do everything possible to obtain facilities for their settlement.

Sir, with these few words, I support the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, my Honourable friend Pandit Hirday Nath
12 NOON. Kunzru has moved this Resolution with his usual thoroughness and moderation. He has stated the difficulties which people who come back after a long sojourn in the Colonies meet with when they return to their own country. They are out of touch with the social usages of this country and with their friends, and they find great difficulty in adapting themselves to the conditions in India. He has stated that we have a striking example of this in the repatriates who have been living in Calcutta, who want to be returned to the Colonies, and the difficulties that have faced the Government of India and the Local Government in providing for these people. I hope the House will excuse me if I confine myself strictly to the terms of the Resolution. I do not propose today to take up the question of the disabilities of Indians in the Colonies. Nor do I propose to take up the question suggested by my Honourable friend the Leader of the Opposition of moving the British Government to allot certain Colonies for the exclusive colonization of Indians. I quite agree with my Honourable friend Mr. Motilal that, if there had been a responsible Minister here in this House, perhaps things might have moved more to his satisfaction. I am even humble enough to think that, even if there had been no responsible Minister, anybody else occupying this place would, I am sure, have done much better than I have been able to accomplish. But I shall now deal with the Resolution.

I may say at once that the Government of India propose to accept the Resolution. It is therefore unnecessary for me to go into the details. I can assure my Honourable friend that we shall take up this question with the Colonial Office.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir, I am thankful to my Honourable friend for having accepted this Resolution. As he knows there are about 600 Indians awaiting repatriation in British Guiana and I hope that, as he has accepted this Resolution, he will now take steps to enter into communication with the Government of British Guiana and ask them at least for the time being to postpone the repatriation of these people so that the problems concerned with land settlement might be discussed between the Indian Government and the Government of British Guiana. This is an urgent matter to which I think the Government of India ought to attend immediately.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, may I inform my Honourable friend that the Government of India have already been in communication with the Colonial Government in regard to the chartering of a ship for bringing back the repatriated Indians. We have already suggested to them to enter into no irrevocable commitments as we propose to make a representation in the matter.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“ That this Council recommends to the Governor General in Council to urge the authorities concerned to take active steps to facilitate the settlement of Indians on land in British Guiana and to discourage their repatriation to India.”

Question put and Motion adopted.

CUTCHI MEMON BILL.

THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR
(West Bengal : Muhammadan) : Sir, I beg to move :

“ That the Bill to make it obligatory for all Cutchi Memons to be governed in matters of succession and inheritance by the Muhammadan Law be referred to a Select Committee consisting of the Honourable Sir Muhammad Yakub, the Honourable Mr. Conran Smith, the Honourable Mr. A. deC. Williams, the Honourable Haji Syed Muhammad Husain, the Honourable Saiyed Mohamed Padshah Sahib Bahadur, the Honourable Mr. Hossain Imam, the Honourable Khan Bahadur Shams-ud-Din Haidar, and the Mover, with instructions to report on or before the 7th March, 1938, and that the number of members, whose presence shall be necessary to constitute a meeting of the Committee shall be four ”.

As Honourable Members are aware the Bill was circulated for eliciting public opinion and the opinions that have been received, have all been printed and circulated to Honourable Members. From a perusal of these opinions, Honourable Members would have seen that the whole of the Cutchi Memon community with the exception of only one individual, is solidly in favour of this measure. Not only have they expressed their whole-hearted approval but they have also declared that this reform which is being proposed is one which has long been overdue and that it is an anomaly that the Cutchi Memons, who are otherwise as good Muslims as any others of the Muslim community, should be governed by any law other than the Islamic Law and the objection of the solitary gentleman must be ignored in face of the desire of the rest of the community.

There was a time when a few of the members of the community being in the majority in certain *jamaths*, managed to prevail upon their *jamaths* to oppose the Bill and that is why at the time of introduction of the Act of 1920, there was a small minority who wanted to maintain the old customary law and it was on account of the opinions obtained in 1920, that a reference to minority was made in the aims and objects of the present Bill. In fact, today there is no question of minority. Almost every Cutchi Memon male adult belongs to one or the other *jamath* and it is very significant that today not a single *jamath* has opposed the Bill. The *jamaths* who have given their whole-hearted support to the Bill are great representative bodies. The most important *jamath* amongst Cutchi Memons, is that of Bombay Province, where the majority of the community resides ; then comes the next important *jamath* of Sind where the one solitary opposer resides. *Jamaths* in other provinces have also unanimously supported the measure. Thus, it will be seen that today, the entire community is desirous of being governed by the *Shariat* in the matter of succession and inheritance. It was 17 years' experience of working the Act of 1920 which proved that Islamic Law was acceptable to the community and hence the unanimous support.

The reason of introducing the present measure in spite of the Act of 1920 is that while on the one hand it has enabled the Cutchi Memons to be governed by the Muslim Law, it has, on the other hand, created other undesirable confusion. I am giving an instance of confusion, namely, that in one family, the

members are being governed by two laws directly opposed to each other and it has become difficult to have smooth dealing with members of such family which cannot be done without careful investigations. It is only one of many instances of confusion.

As I am at present requesting the House to send the Bill to a Select Committee, I hope the Honourable Members of the House will give me their support without the least hesitation and leave it to the Select Committee to consider the wording and the technical side of the Bill. I am sure that the whole of the community who are affected by the Bill will be grateful.

Sir, I move.

The Motion was adopted.

RESOLUTION *RE* MILITARY TRAINING FOR INDIANS.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal : Non-Muhammadan) : Sir, I move :

“That this Council recommends to the Governor General in Council that full military training be given to all physically fit Indians between the ages of 21 and 30 and that they be admitted to permanent units of the Indian Army irrespective of caste or creed.”

Sir, my Resolution is a very legitimate and appropriate one and made at a very opportune moment when practically all the countries in the world are arming themselves. I think the greatest disservice that Great Britain has done to India is disarming practically the whole of India's population. We now read as legends of the bravery and military prowess of our forefathers. A story is often put forward that men belonging to these non-martial races as we are called will not come forward to join the Army in appreciable numbers even if facilities are given to them and they will not do the menial work necessary during training and are not fit either. Sir, I deny the charges. In 1918, when the Great War was going on, a volunteer cavalry corps by the name of the Bengal Light Horse was started in Calcutta and a large number of Bengali young men belonging to the highest class of society joined the said corps for military training. I myself was a student then and joined it. We had to live in camp for four months and as a part of the training had to do even menial work like grooming horses and cleaning saddles. We all did it very gladly and in the said corps there were men holding very high stations in life—and if I am not wrong we have here present in this House—I do not find him here now though—one who was the first to join the said corps and received his training in the batch previous to mine. I mean Mr. S. N. Roy, the Secretary of Communications. Then there was the Bengali Regiment and the Calcutta University Corps. Recently also two urban infantry units had been raised near Calcutta and they were a great success. I understand many applications for enrolment had to be rejected as the number sanctioned for enrolment was limited. I say, Sir, our young men are fine young men and they are quite capable of the hardship of military life. We who have seen the route march of nearly about 6,000 students, Hindus and Muhammadans, on the Calcutta University Founder's Day will admire the fine gait and bearing these young men have and given military training they will be second to none as a fighting unit and I am sure this is applicable to young men of all other provinces. Sir, I would appeal to the Government to give our young men military training and thus form a national militia and also to admit those who are desirous to join the permanent units irrespective of caste and creed. The British Prime

[Mr. Susil Kumar Roy Chowdhury.]

Minister has said that he wants to make Great Britain so strong that any one will be afraid to attack her. The same should be applicable to India. The Government of India should make India so strong that no one will dare attack us. Please do not keep us in a helpless position. I hope my Resolution will have the sympathy and consideration of the Government Benches as the aim of my Resolution is to enable the Indian to protect himself, for, after all, a man is not worth the name if he cannot protect his hearth and home and fight and die for his country.

With these words, Sir, I move my Resolution.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support this Resolution. Our military expenditure at present is so enormous that the country is unable to bear it. Therefore, in the interests of economy and in the interests of making the people military-minded, as they were in the past, this Resolution ought to be accepted. Sir, as regards the so-called martial classes, I must say that this is a thing which is confined only to India. In every other country in the world, there is no martial class as such. I know that in the King's British commissioned officers, there are sons of tailors, sons of cobblers, and so on, and so forth. If I am wrong His Excellency will put me right, when I will be in a position to give him certain names of officers who belong to such classes as I have mentioned above. However, Sir, the policy of the Government of India as regards the promotion of Indians to the senior ranks of the army has of late received a set-back. The product of the Royal Military Academy at Dehra Dun is now being given dignified posts of jemadars and subedars and so forth. The very fact that the Viceroy's Commission has been abolished is a matter on which even the so-called military martial classes deplore. Sir, if I am wrong, His Excellency will put me right. The Government of India is retiring many men from the Viceroy's Commission of the army and not replacing even a fraction of it every year by enlisting the product of the Indian Military Academy. So, Sir, a time will come when hundreds of Viceroy's commissioned officers will have gone and their places will have been filled by comparatively a fraction thereof. Sir, even in the University Corps, enough encouragement is not being given to Indians. I know of a case, Sir, which recently happened of a Punjabi, one with an exceptionally good career and certificate and good medals won for the knowledge and training he had in the military. But it displeased the Commanding Officer to find him giving too much history of himself and his achievements that debarred him from getting his Commission. I do not think I need mention the name of the particular person, because I do not know him, but my friends have told me about it, that there has been such a case in which a very brilliant student, who qualified himself and who was highly spoken of by the military officers, was condemned because of the displeasure of a certain officer.

Sir, I should like to know from His Excellency the Commander-in-Chief in plain words what the policy of the Government of India now is as regards drawing Indians to the Army and as regards their training for higher ranks. This proposal, Sir, practically amounts to a sort of conscription excepting that certain age limits have been chosen for those who offer themselves. The time has now come when in order to save expenditure Government ought to give training to Indians to the extent that Mr. Susil Kumar Roy Chowdhury desires. Sir, there is a feeling among the public, rightly or wrongly, that the Government of India do not trust Indians in the Defence Department to the

extent that they ought to do. In case I am wrong, His Excellency the Commander-in-Chief will put me right. We come to this conclusion from bare facts which cannot be denied. A fact is always a fact. Sir, if the Government is keen to save expenditure and to make India military-minded as it was in the past they ought to accept this Resolution.

* **THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan): Sir, I rise to support this Resolution. At the present moment the whole world is thinking of strengthening its defences and efforts are being made throughout the world to increase armaments, to increase the fighting forces and in other ways to make themselves invulnerable. India's position at present is, if anything, worse than it was formerly. At one time the only danger which we could see was from the north-west, but now the north-east has become even more dangerous. Our poverty makes it impossible for us to go in for mechanization as other European countries are doing. Our only wealth is man power. In that God has endowed us with a wealth which is unequalled by any other first class power. But that wealth has become something of a curse. With the rapid advance of mechanization we are finding that our man power instead of helping us is acting as a brake and retarding our advance. In these conditions the Resolution which my Honourable colleague has moved offers a cheap method of increasing the effectiveness of our defence. A country which is enslaved cannot dream of being imperialistic. Its only desire is to safeguard itself, and from that restricted angle of vision I think that it is necessary that it should be able to defend our hearths and homes from foreign aggression, whether from the north-west or the north-east. The danger is no longer an academic danger. The preparations and the aggressive attitude of a neighbouring country should make every cautious man take timely care to safeguard India. I know that the wording of the Resolution is rather wide.

THE HONOURABLE THE PRESIDENT: Not only wide but vague. I have not yet been able to understand from the Honourable Mover or yourself whether you want compulsory training or conscription ?

THE HONOURABLE MR. HOSSAIN IMAM: We cannot talk of conscriptions because conscription in a slave country may make the slavery even worse. We want a voluntary organisation and readiness on the part of Government to train people in the art of defence, an organisation on the lines of the Territorial Army in England might suit our purpose. The Resolution does not bind the Government to any definite line of action, whether it should be compulsory or voluntary. It gives a latitude to the Government to decide whatever may appear proper to them in their wisdom. That is the cause probably of the vagueness of the Resolution. Our idea is that things should be allowed to go on on a voluntary basis until we are compelled to make it compulsory. It is only if the voluntary basis was about to fail that I would bring an element of compulsion. The less we have of regimentation of the people the better for the country, so that it may get into the habit of thinking for itself and doing things without compulsion.

THE HONOURABLE THE PRESIDENT: Are you sure that on the voluntary basis the people will be forthcoming ?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the Congress and the Muslim League can arrange to revive the spirit of the people if the Government will consult those bodies. But if they wish to carry on as they have

*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

been carrying on with committees of their own composed of unrepresentative people who have no knowledge of the countryside and who have no influence in the country except in the counsels of the Government, they will always fail. It is only the people who have the support of the masses behind their back who can deliver the goods and not those who are in the good books of Government. The times have changed and if Government wishes any action to be taken it must consult the people who have a following in the country. In the days of armchair politics it was all right for the Government to rely on those easy people who were recently portrayed by Shankar in a cartoon announcing that the Governor General wanted Ministers, who should apply with photographs showing that they have no spine.

THE HONOURABLE THE PRESIDENT: Order, order. Please do not bring in the name of the Governor General into this debate.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, I was dealing with this Resolution when I digressed. The Resolution wants the Government to take initial steps to inform Indians that it is wise to the anxiety of the situation and that it is going to implement the promises made at the Round Table Conference that the defence of India will be more and more the concern of the people of the country. That was the assurance which was given to us and which heralded the new constitution. But all the promises which the British Government make at the time of getting our consent to measures are forgotten as soon as the consent is given. There is no continuity in the policy of Government. My complaint against the Government is that instead of its being a body corporate it is a league of individuals. A member makes a promise not as part and parcel of the Government but as an individual, and as soon as he goes the promise goes by the board. The position of Indians in the matter of the defence of their own country is very unfortunate. My complaint has always been that even our executive heads have not full control over their departments. They are subject to restrictions and control by authority residing 6,000 miles away. For instance, in the matter of defence what should be the responsibility of the Army in India and of the Imperial Government? The dictum has been laid down that the defence of the country against any outside invader so far as the time taken for the Army from the Imperial country to come to India is concerned and to make an impression on the country which is the aggressor will be the duty of the Army in India. Keeping that in view it is necessary that our Regular Army should be freed from the responsibility of maintaining internal peace. The internal security troops can no longer in case of a major war be left in India in the provinces to take care and to keep the peace of the country. As soon as a major war breaks out it will be necessary for His Excellency the Commander-in-Chief to call all his troops and keep them at the frontier wherever this untoward happening might take place and it is for this purpose all the more necessary that he should have a voluntary territorial force of sufficient strength available to him to keep the peace in the provinces. And another aspect of the question also deserves consideration. We have popular ministries at the moment in the provinces.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Non-violent!

THE HONOURABLE MR. HOSSAIN IMAM : Non-violence does not mean that one can be dishonoured. Non-violence means that they should not be the aggressors.

Mr. President, I was saying that as there are already popular ministries in the provinces it is necessary that the Army at least should be given a local bias. India is too big a country to be regarded as a country. It is a continent and provinces deserve to have a share in the defence. You have been so long depriving the other parts of British India of the right to enter any defence course that it is necessary that you should now supply them with means of serving the country. If they cannot be taken in the Regular Army this portion should be there in order that the people of the provinces may become military-minded and be able to safeguard themselves. The British Empire in India did not start from the Punjab. It started first of all in Madras and then in Calcutta. It was the Madras Army and the Bengal sepoy who were able to conquer the rest of India and not the Punjab Army which conquered India. But the tables have been turned. They are more reliable, they are more subservient, they are more trustworthy from the point of view of the Imperialistic Government.

THE HONOURABLE THE PRESIDENT : Will you please stick to the Resolution ?

THE HONOURABLE MR. HOSSAIN IMAM : The Resolution says that we should be admitted to the permanent units irrespective of caste and creed. That brings in the question of admissibility of people residing in provinces other than the Punjab to service under His Excellency the Commander-in-Chief. That is what the last two lines of the Resolution say. It is part of the Resolution that the doors of the Army should be open to what are now technically called the non-martial races of India, to which I have the honour or the dishonour to belong. The Defence Department thinks that the Sayyids and the Pandits are unfit for the Army. We are in the same boat. We who are supposed to be the repository of learning are not fit to fight. (*An Honourable Member* : "March with a rifle on your shoulder!") That day will soon come, Sir. Sir, I was referring to the fact that at the present moment the Army is a closed door for certain classes and for certain communities and certain provinces. Is it not a tragedy that right at the frontier of my province of Bihar and in Bihar there should be a recruiting centre where people outside British India are eligible for recruitment but not British Indians of Bihar ? I refer to the Gurkha recruiting stations where you receive mercenaries who are not even under the Crown of Great Britain ; they are eligible for admission to the Army. There is a white army of occupation which we all know and there is a brown army of occupation, of mercenaries, who have no interest in my country and they are recruited, but the people of the soil have no place in the army of their own country. Can anything of that nature happen in any other country ? This is a matter in which the Imperialistic powers are not even willing to allow us to take a part and a share in the defence of our country. The fine army which conquered the North-Western Provinces and the Punjab has now been relegated and stigmatised as unfit and unable to supply sepoy for the Army. I do not know, Sir, whether it is done by precise rules or it is done by convention ; but whatever it might be there used to be some people from Bihar of every caste and creed and from the *Army List* I find that even

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Sayyids are still present in the Army, but the intake has been stopped. Whatever little opening there was in former years is being shut down progressively year after year and our position is deteriorating. It is not that we want something which had not been done by the Government to be done now and that we should be accused of being unpractical, but what we complain of is that whatever little the Government was doing in former—

THE HONOURABLE THE PRESIDENT: May I tell the Honourable Member that this is not the time. We are not dealing with the general military policy of the Government of India. We are dealing with a particular Resolution and I would advise him to stick to that Resolution. He will have ample opportunity at the time the Budget is debated to discuss the general military policy of the Government.

THE HONOURABLE MR. HOSSAIN IMAM: Very well, Sir, I shall confine myself to the Resolution. I need not dilate on this point. Suffice it to say that this Resolution as it is worded is a very militant demand and it does not in any way hamper the discretion of His Excellency the Commander-in-Chief; acceptance of it would not necessarily involve him in a very huge expenditure. A gesture might be made and a beginning made in small units, so that we may know from fact; whether people of other provinces are fit.

Sir, with these words, I support the Resolution.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official): Sir, no patriotic Indian would differ from the principle which the Honourable the Mover intended to convey, namely, that an Indian should be able to defend himself and that when opportunity arises he should contribute his mite and strength for the defence of the country. That proposition is undisputed, but the Resolution as it stands conveys no meaning. It is not only vague but it is impracticable. When I first entered the House I asked the Honourable the Mover whether he means to carry this Resolution by conscription or by compulsion; and what are the means which he would adopt in order to bring about 200 millions of people who will come under this Resolution. He said he would leave it there vaguely and His Excellency the Commander-in-Chief would have to decide in what manner it was to be done.

THE HONOURABLE MR. G. S. MOTILAL: Sir, on a point of information. Will the number of Indians who will come under the Resolution be 200 millions?

THE HONOURABLE SIR A. P. PATRO: I do not yield, Sir, to such an irrelevant interruption. Now, the wording of the Resolution is:

“This Council recommends to the Governor General in Council that full military training be given to all physically fit Indians between the ages of 21 and 30”.

AN HONOURABLE MEMBER: Does it include women also?

THE HONOURABLE SIR A. P. PATRO: Of course, under the present ideas that we have in our heads today, it would mean men as well as women. That is what the proposal indicates. Full military training. We do not know how many years it takes in order to qualify an individual to be a soldier. Perhaps His Excellency may be able to say how long it takes a man fully fit to be a soldier? Possibly one or two years regular training. And then it is to apply to everybody between the ages of 21 and 30. That means nearly half

the adult population of India. Half the adult population of India will have to be fully trained and all physically fit persons should be admitted to the permanent units of the Indian Army. That is the whole problem. Not only are you to undergo enormous expense to train them to fight our battles against all aggressors, but what the Resolution wants is that all these people should be admitted to the permanent units of the Indian Army irrespective of caste or creed at huge expense. That, Sir, shows the impracticability of the whole Resolution. It is no doubt very good imagination and that imagination is indeed creditable to the Mover, that he should have the idea that the whole nation should be a nation of soldiers. But when it comes to practical politics, Sir, there are many very hard facts we have to face. In the first place, there is the question whether this training has to be undertaken by compulsion or conscription and at whose expense? If it is to be voluntary, I am to say that it will be a thorough failure. As far as my knowledge and information goes, in Southern India when the urban units were first started, at least when the Military Department proposed that in every city urban units should be formed, 310 were required in order to form a unit, for one full year some of us worked hard to enlist volunteers. Sir Sivaswamy Aiyer, who, as you know, has taken a great deal of interest in military matters, and myself and one other interviewed every person who could be enlisted for the urban units, but we could only get an infinitesimal portion of the required number. All the youths wanted to be officers and not to be soldiers and work! That was the difficulty. It is the same in regard to the unemployed people. They do not want to work with their hands. They want to be officers, to command! Because they are accustomed now in the voluntary organisations, as we see, under the Congress in different places, every one is a commander, every one is a captain. And therefore they think it will be the same in the Regular Army. It would be as easy to become this kind of captain or lieutenant or colonel in the Regular Army also. And the full training that this Resolution implies is not to be considered. It is enough if he wears a kind of khaki uniform and a kind of cocked hat. That furnishes the figure for a soldier or captain or commander. Now, in order to have leadership in military matters it not only requires sufficient training, but it requires also initiative and capacity. Look at what happened in the University Training Corps. Some time back there was a great desire to enter the University Training Corps on the part of young men because those who had gone through this kind of training had that recommendation in their favour for the purpose of appointments. Now, gradually the officials ceased to give any encouragement to those who underwent this kind of training in the University Training Corps. The result of this was that there was a considerable fall in enlistment.

THE HONOURABLE THE PRESIDENT: What about Dr. Moonje's Training Corps?

THE HONOURABLE SIR A. P. PATRO: Well, Sir, I am not conversant with all the details of Dr. Moonje's scheme. Dr. Moonje is a very clever and able man and would not make such an impracticable proposal as this Resolution makes. Therefore, we need not, Sir, think of Dr. Moonje's scheme. The great difficulty in this is to find the necessary funds and the necessary men to carry it out. Therefore, while I sympathise with and support the desire to prepare our people for defence purposes, I am unable to understand this Resolution as it is worded and I consider that the Resolution is not practicable and it cannot be carried into effect. It does not say whether it is by compulsion or by conscription or by voluntary agency. Anyhow, all the persons between

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the ages of 21 and 30 are to be trained. And it does not say how long the training would be for. I suppose it implies training for the purpose of being a complete soldier to be able to be enlisted into the permanent units of the Indian Army. Therefore, Sir, on these grounds it seems to me that, while one would very heartily support any scheme for the purpose of training Indians to defend themselves and it is necessary that facilities should be provided by the Military Department to give training to all classes of people irrespective of caste or creed, it seems to me that this Resolution is not practicable and will not help to achieve anything under it even if accepted.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) : Sir, I rise to support this Resolution. I regard it as the most important of the Resolutions which have been so far moved in this House during this session. It is possible to pick holes in the language and the phraseology of the Resolution, to take one word here and take another there and say it is impracticable, it is ununderstandable, it is unintelligible. And yet there is plenty of sympathy with the spirit of the Resolution. If you do not understand, Sir, the spirit of the Resolution, words by themselves will not help the House much.

THE HONOURABLE THE PRESIDENT : Do you understand it ?

THE HONOURABLE MR. G. S. MOTILAL : I do understand the spirit of it, Sir, and I shall explain what it is. If any Honourable Member objects only to the language of the Resolution, let him suggest what change he wants. One who has real sympathy with the spirit of the Resolution—and every patriotic Indian it is admitted has that sympathy—instead of arguing that it is impracticable or that he does not understand the language, or it is not put in the language of a very clever lawyer like my Honourable friend Sir A. P. Patro, will not go to the length of saying that the Resolution itself should be condemned. It is a very important Resolution, for the nation is anxious to depend on her own strength for her defence. We have been claiming self-government. We want to be self-governing—I suppose Sir A. P. Patro will also have sympathy with me ; he is not prepared, I believe, to say that he does not want self-government for his country. If so, we must have the training in the art of defending the country. It is the right and duty of every Indian to stand up and bear arms and go to the field whenever he is called to the colours. One of my friends observed : " Yours is a non-violent movement ". I admit that it is a non-violent movement. But he has forgotten completely that the apostle of the non-violent movement, Mahatma Gandhi, was one of those who in the last war, not only for the defence of India but for the defence of England, in order to assist England in her hour of need, went round and carried on propaganda for recruitment to the Indian Army. Again, that very national organisation of which he is the moving spirit has been asking for facilities to be given to Indians for equipping themselves for the defence of the country. The Congress, ever since it came into existence, has been putting forward that claim. Non-violence, it has adopted, but it is in regard to this particular struggle for obtaining self-government for this country. Some people may believe in this method while others may not, I have no quarrel with those who do not believe in it. We believe that even by this method we shall be able to win our rights and if we can avoid violence, we shall avoid it, and we believe that by avoiding violence—

THE HONOURABLE THE PRESIDENT : This is not a Congress pandal !

THE HONOURABLE MR. G. S. MOTILAL: This is a question which has been raised, and so these remarks are pertinent. Some Members at any rate are not very much familiar with our trend of thought. Therefore, it is necessary to lay stress on it. Anyway, Sir, it is not merely on the grounds of economy that I want this Resolution to be adopted. (*An Honourable Member* : "The Leader of the Opposition put it on grounds of economy".) I know the Leader of the Opposition did say that, and he wanted to be put right by His Excellency the Commander-in-Chief. I would be put right myself, and I think he would be put right also, if I am given military training, and even at this age he is given military training! It is a misfortune that some of us are classified as people belonging to martial races and others as belonging to non-martial races. Whatever might have been the justification for such a distinction in the past, it does not exist today. The youth of the nation, to whatever class it belongs—may be a Sayyid or a Brahman—wants military training. There have been Sayyids and Brahmans who played their part as great soldiers in our history. I know in the Army there were Sayyids and Brahmans who made very good generals.

THE HONOURABLE THE PRESIDENT: Don't forget the Marwaris!

THE HONOURABLE MR. G. S. MOTILAL: Who does not know the history of Merwar. Its manhood has borne the brunt of fighting for a number of years, and they will I have no doubt do their duty by their country. They have produced some of the finest soldiers and they will play their part in the future too. It is not because a man comes from any particular province, north or south, east or west, that he imbibes the military instinct. It is not that. It is his environment. If he is given the training, he does get into it. But if he has not the opportunities of training, he will turn to some other walk of life. Sir, whatever may be the cost, assuming that this Resolution involves heavy expenditure, we shall willingly accept the burden and will be prepared to be taxed. What the Resolution wants is this. It does not say categorically that there should be conscription. The spirit of the Resolution is that Indians should get the training. It may be that Government have not the money nor the resources to train every one of them. But that is the ideal. If it is necessary that every one should be trained and equipped for military purpose, then, whatever may be the cost, we should be prepared to shoulder the cost and get the training. Sir, it has been said that mechanization will dispense with a large army. But mechanization alone will no help the army. If you do not have men equipped with knowledge and training, whatever may be the amount of mechanization, that will not by itself solve the problem.

THE HONOURABLE THE PRESIDENT: Your time is up. Will you please bring your remarks to a close?

THE HONOURABLE MR. G. S. MOTILAL: I have taken only five minutes, Sir.

THE HONOURABLE THE PRESIDENT: You are mistaken.

THE HONOURABLE MR. G. S. MOTILAL: I am sorry, Sir. So many countries in Europe are preparing unfortunately for war. I would not like to see them plunged in war —

THE HONOURABLE THE PRESIDENT: Please do not go into extraneous subjects. We have nothing to do with war.

THE HONOURABLE MR. G. S. MOTILAL: If you had only heard the next sentence, you would have seen the relevance of my remark. If you prepare the manhood of India for defence and be prepared to meet the menace, you will be able to prevent such a calamity. If India and the Indian people were prepared, an enemy whether in Europe or Asia would have to think not only twice but ten times before she challenges us.

Sir, there is one more point to which I would with your indulgence briefly refer. One Honourable Member said that some years ago some efforts were made to form urban units and those efforts did not materialise. He has not realised the circumstances and he himself furnished me with a very good answer. Look at the response which national institutions have received to the call for volunteers. If recruiting for the urban units had been conducted with the co-operation of the leaders of Indian thought the response would have been as satisfactory as it has been in the case of national institutions. Look at the response which the Congress gets to an appeal for volunteers. I say, Sir, that there will be the same response if India knows that it is for her defence, and it is for a just cause that she has to fight.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, when the Honourable Mover's Resolution reached me, I examined it with a view to ascertaining what he had in mind. The literal meaning of the Resolution as it stands is that an incredibly vast permanent Indian Army should be created in which every fit Indian between the ages of 21 and 30 should be called upon to serve. The result would be a standing army approximately 200 to 300 times as large as the present one. I came to the conclusion, however, that he could not possibly mean this and that what was in his mind was, that military training should be given to all Indians who were physically fit and that the permanent units of the Army should be recruited from them without regard to race. Doubt is still in my mind but I think it is clear from his speech that this was the intention. Even so, the Resolution means that the whole of India's youth should be conscripted, and that there would be, therefore, in practice, a vast conscript army in addition to a permanent standing one. Full military training cannot be given in less than a year and a soldier nowadays cannot acquire the rudiments of his profession until that period has elapsed. Specialized training would, of course, have to be ignored, but granted that the material is good, reasonably efficient cavalry, infantry and artillery can be produced in a year's time provided that they are efficiently trained and led. If they were to receive complete training in all arms and be capable of producing formations for active service, they would have to be compelled to serve for not less than two years. No question of rank, class, creed, or private circumstances would be allowed to intervene, and the vast army which would result from the acceptance of the proposed measure would have to be housed, fed, clothed and equipped. The bill for this would be prodigious. It should be remembered that these items, including pay, account for at least 80 per cent. of any military budget. Both initial cost and recurring expenditure would be literally colossal. From the financial point of view only, such a scheme is so manifestly impossible that I need not dwell any further upon it.

Let me suppose, however, that all that is really required is that some kind of military training should be available for those of India's millions who are fit for it and would like to have it. Even so, the numbers would probably be very large, and, in consequence, a large cadre of regular officers and N. C. Os. in addition to those serving with the permanent forces would be necessary for training these levies and leading them in war, if they were to reach any military

standard at all. They would also have to be equipped and even if they were to be limited to infantry, and it is doubtful whether such training as it would be possible to give them would enable them to master the intricacies of the other arms, they would have to have uniform of some sort and be provided with rifles and machine guns. Now, this is the point I want to make. What practical use would an enormous army of levies have? The answer is that they could only be employed to guard their homes against the attacks of enemies less well armed and trained than themselves. For the purposes of modern warfare they would I am afraid be simply cannon fodder, and to send such forces into the field against a modern professional army would amount simply to sending sheep to the slaughter: the more there were of them, the greater would be the death roll.

I will read to the House the opinion of one, who, in his day, knew as much about national levies as any man—George Washington.

“Regular troops alone are equal to the exigencies of modern warfare, as well for defence as offence, and when a substitute is attempted it must prove illusory and ruinous. No militia will ever acquire the habits necessary to resist a regular force. The firmness requisite for the real business of fighting is only to be attained by a constant course of discipline and service. I have never yet been witness to a single instance that can justify a different opinion, and it is most earnestly to be wished that the liberties of America may no longer be trusted, in any material degree, to so precarious a dependence”.

What was true in Washington's day is ten times truer now, and for the business of modern war you must not only have regular troops, but they must be equipped in accordance with the most modern developments of military science, must be fully trained in the use of their arms, and must be led by professional officers who understand their business. Mere numbers and courage are not enough as everyone can see from a study of the recent events in the Far East. The best we can say of such formations would be that such of them as happened to be good military material would undoubtedly form a very valuable reserve if they were made liable to permanent service and available in the event of general mobilisation, and were well stiffened with regulars. The cost, however, would be prohibitively great and it is a remarkable coincidence that Resolutions have been tabled in this present session to reduce our defence expenditure on the one hand, and to multiply it enormously on the other. Our present system whereby we have a small regular army capable in the event of war of considerable expansion from its own reserves and supported in the second line by territorial battalions, by urban battalions, by Army in India Reserve of Officers, and University Training Corps, gives us the most efficient war machine that can be designed with due regard to the over-riding need for economy. If, as I hope, the enthusiasm for volunteer soldiering grows in this country and a genuine demand for more territorial and urban battalions and more U. T. Cs. is voluntarily forthcoming and if these formations are trained to an adequate degree of military efficiency, I should always be delighted to increase their numbers provided that the financial situation allowed of it and that the regular forces, without which all schemes are utterly vain, did not seriously have to be reduced in any way.

I now turn to the question of the admission of all the classes and races of this sub-continent to the permanent units of the Army. A little reflection will, I am sure, convince the Members of the House that, unless the Army is to be enormously larger than it is at present, which possibility is ruled out by financial considerations, any such scheme must be utterly impossible. As my predecessor once said, imagination would boggle at the thought of a unit composed of 30 or 40 or even more different classes and races, all speaking

[His Excellency the Commander-in-Chief.]

different languages, possessed of different qualities, both physical and mental, eating different food, habituated to different climates, and accustomed to wholly different types of social life. An efficient military unit must be reasonably homogeneous and therefore units must be raised on a class basis. The reason why recruitment is at present restricted to the classes whose names appear in the *Army List*, is simply that we must, for reasons of economy, keep our Army as small as possible. It must also obviously be as efficient as we can make it and experience has shown that the present enlisted classes do in fact, taken as a whole, provide the best military material. If it be granted that we cannot increase the size of our Army, it must surely be accepted as reasonable that we should decline to disband units which experience has shown are made up of the best material available and substitute for them others of inferior quality.

I must now make a short digression. I have always great pleasure in hearing the views of the Leader of the Opposition on the Army. He has however raised points this morning which have no bearing on the Resolution we are discussing. I do not therefore propose to deal with such points; but I can tell him that he is mistaken in all the points he referred to me by name.

I will conclude by quoting a statement made by my predecessor in a debate on a similar Resolution before this House, words with which I entirely agree :

" I should like no one to think that I do not approach this Motion and try to answer it without feeling very considerable sympathy towards it. Nobody can say that the wish that every man in a country should be liable to serve that country if the necessity arose is not an absolutely unanswerable argument. It is absolutely unanswerable. But that does not mean that people who have to do with the forming of the best army they can get at the moment should be able to fulfil those aspirations. You might just as well say that when I was at one time responsible for the recruiting of the Army in England if I took a man from Leicester who was fit in every way, I should therefore take a man from Manchester who was not fit. The argument does not hold "

With these words, Sir, I oppose the Resolution.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY : Sir, Sir A. P. Patro has said that everyone wants to be an officer. That is not so. I have said that in Bengal we received training as ordinary soldiers in the Bengal Light Horse and did even menial work during our training. The Honourable Mr. S. N. Roy, Secretary of the Communications Department, also did receive his training as an ordinary soldier and he was then a member of the Indian Civil Service and he did not want to be an officer in the army. I have said about permanent units, because now the so-called non-martial races are debarred from joining the same. What I want is that every one irrespective of caste or creed should be admitted to the permanent units provided they are desirous to do so. His Excellency the Commander-in-Chief has said that it is the regular troops who really fight during any war. Well, may I ask His Excellency the Commander-in-Chief whether it was the regulars or the volunteers who won the last war for the Allies? About the expenditure, may I say, that the volunteer recruitment in the end will reduce the army expenditure?

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

THE HONOURABLE THE PRESIDENT : Do you wish to press the Resolution to the vote?

AN HONOURABLE MEMBER : Withdraw the Resolution.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY : I do not want to withdraw it.

THE HONOURABLE THE PRESIDENT : Resolution moved :

"This Council recommends to the Governor General in Council that full military training be given to all physically fit Indians between the ages of 21 and 30 and that they be admitted to permanent units of the Indian Army irrespective of caste or creed."

Question put and Motion negatived.

CRIMINAL PROCEDURE CODE AMENDMENT BILL.

(Jury trial in sedition cases.)

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (Bengal : Non-Muhammadan) : Sir, I beg to move :

"That the Bill to provide for jury trial in sedition cases be taken into consideration."

"Historical writers", as I once quoted before, says D. G. E. Hall in his English Constitutional History "are probably amply justified when they affirm that the use of the jury system, which means the co-operation of ordinary men in the securing of justice, was the real beginning of self-government among us". Now that self-government is alleged to have been introduced in this country, it is time that we should have the law of sedition so amended as to make sedition cases triable by jury. The system of trial by jury is a valued right in all civilized countries and India has also adopted this system of trial for all serious offences. As a matter of fact, all the offences against the State which are embodied in the same chapter with the offence of sedition are triable by jury except that of sedition. The right of giving vent to one's opinion is one of the essential rights of a human being as such and is one of the valuable rights of the people for purposes of ventilating their political grievances. It is all the more valuable because of the nascent growth of public opinion in the country when we are on the threshold of a democratic form of government. It is therefore necessary that jury trial should be provided for such offences.

Moreover, the nature of the offence of sedition is a peculiar one and must change, as already indicated by various Provincial Governments, with the changed political condition of the country. It is very difficult to define and depends upon the effect it has upon the minds of men of ordinary common intelligence. Therefore, these are the men best fitted to express an opinion whether the offence has been really committed. The officers presiding over criminal courts in this country are either foreigners who do not know the language in which the offensive words are used and have to rely upon the evidence of witnesses only, or they are the natives of the soil and not fully conversant with the true import and bearing of words when they are expressed in a foreign tongue. Moreover, so long as there is no separation of the judicial from the executive and officers under the control of the executive preside over courts with the tradition of no conviction, no promotion, it is absolutely necessary that trial of offences under section 124A should be placed in the hands of a jury.

Sir, when I moved a similar Resolution in this House several years ago, I was met with a reply by the Government Member that trial by jury was not

[Mr. Kumarsankar Ray Chaudhury.]

the best method of trial for the effective administration of justice and though it had worked well in England it has not generally been found very successful in India; and he quoted the opinions of two judges of the United Provinces High Court whose names he did not mention. They were perhaps two civilian judges, for aught I know, and referred to cases other than sedition when they made those observations. The offence of sedition depends upon the interpretation of languages and sufficient intelligent people are available in the country for the purpose and matters of law are under the law absolutely in the hands of the courts subject to a right of appeal. Moreover, in spite of their observations to the contrary, trial by jury has been substituted for trial with the aid of assessors in most provinces in cases where the law of the land provides for such a change. He then said that trial by jury prevails in England because it is based on a different theory of the administration of justice to that which prevails in India, viz., the principle that criminal cases of importance in England should have one single and final decision. I do not really understand why, if final decisions of jury could be satisfactory for England, that principle cannot be adopted in this country instead of harassing and protracted trials from court to court being conducted against an accused? The jury can as well be perverse in England as they are alleged to be here. And perversity is not likely to be the monopoly of the jury only, and courts as they are not independent of the executive, may and will be perverse. Moreover, the English law has also latterly been changed and provided appeals in criminal cases without doing away with trial by jury and appeals are allowed against jury trials in this country also, so if the jury or the court is perverse, the appellate court may correct them. When confronted with all these arguments he rose finally in reply to say that sedition cases were the most serious of all offences against the State and were therefore not made exclusively triable by jury. So that, of course, I had then no right of reply, but I now venture to say that considered from the people's point of view it is one of the most important sections of the Indian Penal Code, difficult to interpret, difficult to decide without the aid of jury and vital to the interests of a rising people as it gags their mouths in giving expression to their grievances.

With these words, Sir, I commend my Motion for the acceptance of the House.

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

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

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muham-madan): Sir, I would first like to explain the implications of this Bill before I speak on its merits. The position now is this. Sedition cases are now tried, not exclusively by the Courts of Sessions, but also by Presidency Magistrates in Presidency towns and by First Class Magistrates elsewhere. The provision in the Code of Criminal Procedure which deals with this matter is contained in Schedule II, and against item 124A, which is Sedition, the last column, "By what court the offence is triable"—says:

"By a Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the First Class specially empowered by the Local Government in that behalf".

In almost all the provinces, Magistrates of the First Class have been empowered as a rule to try sedition cases. The Honourable Mr. Kumarsankar Ray Chaudhury's Bill contains two clauses. The second clause of the Bill

seeks to amend this particular article in the Schedule of the Criminal Procedure Code by substituting for the words which I have read, namely, "Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the First Class specially empowered by the Local Government in that behalf" the words "Court of Session". That is the effect of the amendment, because all the items above are by "Court of Session" and he wants to put in the word "ditto" in place of these words. Therefore, the first change he wants to introduce is that all sedition cases should be tried only by a Court of Session, and not by any Magistrate of any description. Now, with regard to trial by a Sessions Court, he wants it to be always with the aid of a jury and not with the aid of assessors. Trials before Courts of Session now take place either with the aid of a jury or with the aid of assessors. The Sessions Judge never tries any case, as a magistrate does, sitting alone. He always sits with a jury or with assessors. What cases should be tried with the aid of a jury and what cases with the aid of assessors is provided for by section 269 of the Code of Criminal Procedure. The power is given to the Local Government to notify as to what cases should be tried with a jury and what cases with assessors. I shall read that section.

"The Local Government may, by order in the official Gazette, direct that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any district, and may revoke or alter such order".

Before 1920, this section had some additional words, namely, "with the previous sanction of the Governor General in Council". The Local Governments could then notify only with the previous sanction of the Governor General in Council. After the Devolution Act of 1920, these words have been deleted from section 269, and so it is now in the absolute discretion of Local Governments. So, the present position is that it is the Local Government that decides what cases should be tried by a jury and what by assessors. The Bill seeks to amend this provision. Coupled with the second clause, the Bill says that all sedition cases should be tried only by Sessions Courts and that only sitting with a jury. That is the effect of the present Bill.

Sir, I am fully alive to the fact that trial by jury is a very fundamental item of civil liberties. In many countries, people are asking for trial by jury as a safeguard and there is much to be said in favour of it. But, in this country, trial by jury is confined only to High Courts and Courts of Session. Magistrates are not asked to sit and try cases with the aid of a jury. Unless the jury system is extended very widely in this country, I am doubtful about the utility of a Bill like this. I do not want every sedition case to go before a Sessions Court. As a matter of fact, it is only very, very serious cases, in which a Magistrate thinks that a punishment of more than two years, coupled with a fine of Rs. 1,000 or in default imprisonment for another year or two, that are committed to sessions.

THE HONOURABLE THE PRESIDENT : It is also a question of expense.

THE HONOURABLE MR. RAMADAS PANTULU : I quite agree it is also a question of expense. But if trial by jury is absolutely necessary to safeguard the civil liberties of the people, I would not mind the expense. I would then ask the Government to undertake the full expense if justice cannot be done except with a trial by jury in a Sessions Court. I would vote for such expenditure, even if it involves additional expenditure. But the question is whether in the present circumstances, the Magistrates should be deprived of jurisdiction to try sedition cases? Many of them are of a paltry nature. Of late, we have seen many of them in which ordinarily imprisonment for more

[Mr. Ramadas Pantulu.]

than six months or one year is not given. Why should these go before a jury? I personally do not see the reason for changing the provisions of the Criminal Procedure Code in regard to, first of all, the Court by which the offence is to be tried. That is a fundamental objection. If any particular Local Government wishes that all sedition cases which are committed to Sessions should be tried by jury, there is no impediment now under the law. The old restriction that the Local Government should obtain the previous sanction of the Governor General in Council has been removed. Therefore, any Local Government can notify that sedition trial hereafter should be held, if tried by Sessions Court only with the aid of a jury. I am told by the Mover of the Bill that in Bengal all offences under Chapter VI of the Indian Penal Code, which deals with offences against the State, are being tried only with the aid of a jury, except this particular offence, namely, sedition. It is stated that other offences under Chapter VI are being tried in Bengal at any rate with the aid of a jury. I do not know. That is not so in Madras, where offences under Chapter VI are tried with the aid of assessors. Therefore, there is divergence in this matter between the provinces. Perhaps, the reason why in Bengal also sedition cases are not tried with the aid of a jury is because these trials take place before Magistrates and not always before a Court of Session. Therefore, the Bill introduces far-reaching changes. The changes also impinge against the right of the Provincial Governments to determine the best form of trial in such cases. After provincial autonomy, all the provinces have got their own Governments which function as responsible Governments subject to the control of the Legislature. I think no legislation should be undertaken at the Centre which will materially and vitally affect the powers of Local Governments. Now, by notification they can do what they like with regard to trial by jury. Therefore, on both these grounds, namely, that the Bill seeks to do away with the jurisdiction of Magistrates to try sedition cases, and puts the Governments to the necessity of taking every sedition case to a jury and a Sessions Court, which involves expenditure, as you have already said, Sir,—

THE HONOURABLE THE PRESIDENT : You say that it also deprives the Provincial Governments of their option?

THE HONOURABLE MR. RAMADAS PANTULU : Yes. At present, there is the option to Local Governments.

THE HONOURABLE THE PRESIDENT : And this legislation will deprive the Local Governments of that option?

THE HONOURABLE MR. RAMADAS PANTULU : Yes, I object to that. The Local Government can now exercise the option without the concurrence of the Central Government. I do not see why an option like that should be taken away by any legislation at the Centre. I also do not see the necessity of every sedition trial going before a Sessions Court. It is a very expensive matter. Even the accused will not be glad to have that doubtful privilege. If every accused person demanded it as a valuable civil right, I would certainly vote for it in spite of any inconvenience; but I do not think that small sedition trials should go before the Sessions. There is already the safeguard that before a Magistrate can take cognisance of these cases the previous sanction of the Local Government has to be given. No man can be tried for sedition without the Local Government giving previous sanction. Now that responsible Governments are functioning in the provinces, they can be trusted

to deal with sedition cases properly, and I do not think that legislation of this sort is called for, and therefore I am sorry to say I am constrained to oppose the Bill though it is moved by a member of my Party.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians): The jury system is not an unmixed blessing. From my long experience at the Bar I know that in the mofussil, at least in the Madras Presidency, the jury system is not a great success. The reasons are these. First, we do not get the proper men as jurors. Respectable people try their very best to get out of the jury list; they make all kinds of applications urging all sorts of reasons to get out of it. The second is that undesirable people get on to the jury list. They are either open to corruption or to influence. And the third reason is that, even if respectable people are on the jury list, at the time of the trial they find some excuse or other not to be on the panel of jurymen. That being so, it is very difficult in the mofussil to get a satisfactory jury in important cases. No doubt in the High Court of Madras there are two kinds of juries, the special jury and the common jury, and in the case of trials by a special jury my experience is that the verdict is always a satisfactory one. But to urge that in all cases a jury should sit I think would not serve the ends of justice, for in some cases at least bias is alleged against jurymen however honourable and impartial they may be. Parties are prepared to allege bias against them, and you know, Sir, that in many trials against European British subjects a charge has always been brought that the verdict, if in favour of the accused, was a biased verdict. That being so, in sedition cases if a verdict is given in favour of the accused we may be sure that at least one side would say the jury was a packed jury or a biased jury. No doubt the jury system is prevalent in England, but that is due to a historic fact. Ever since the Magna Charta the people of England wanted to be tried by their peers. But the system even there has not been a great success, as anybody who is acquainted with the history of the jury system in England would know. Juries sometimes give a verdict on very flimsy grounds either for or against the prosecution, and about 30 or more years ago the law was amended in England in order to enable the Appellate Court to upset the verdict of juries. But being unable to interfere on a question of fact the Judges always tried to see whether there was a misdirection. Of course on a clear question of law the Appellate Court can interfere. But the system even in England has not been very satisfactory.

THE HONOURABLE THE PRESIDENT: It has been held that a misdirection is a question of law.

THE HONOURABLE SIR DAVID DEVADOSS: Oh, yes, we can always go into misdirections by the lower Court, and Judges always try to pick holes in the direction of the judge in the lower Court. I would rather have an Appellate Court going into the question of fact in any judgment of any Court rather than leave it to a jury of laymen to decide important questions.

Then as regard sedition, Sir, sedition cases are not merely questions of fact. It is different in the case of dacoity or murder or robbery or grievous hurt, things of that kind which are only questions of fact. In sedition cases very important questions of some intricacy are often involved, for instance, whether a speech contains seditious matter or whether a particular thing comes within the law of sedition and so on. There very technical knowledge is required and very elaborate arguments are urged on both sides and it would be difficult for laymen to understand and follow the arguments and give a satisfactory verdict,

[Sir David Devadoss.]

Sir, with these words I strongly object to the proposal that all cases of sedition should be tried by juries. If a case is important enough to be transferred to the High Court, the accused or the prosecution may move the Judges of the High Court to transfer a case. The High Court has that jurisdiction at least so far as Madras is concerned. When a very important case or a case likely to evoke local feeling has to be tried, the High Court exercises its extraordinary jurisdiction and calls up the case from the mofussil before it. I could give a number of instances but I do not want to take up the time of the House. Further, this system would not, as the Honourable Mover thinks, be very pleasing to the people themselves. If the jury system were extended it would mean that the people would have to serve on the jury in every such case and people in this country would not like to sit on the jury box for a number of days and hang about the Courts for probably 15 to 20 days in the month. For these reasons, Sir, I think this Bill ought not to be passed.

THE HONOURABLE MR. E. CONRAN SMITH (Government of India : Nominated Official) : Sir, my task in opposing this Bill has been considerably lightened by the two previous speakers who have covered some of the ground which I should otherwise have had to cover. As the Honourable Mover of this Motion has reminded us, the principle which he seeks to embody in his Bill formed the subject of a Resolution which was moved by the same Honourable Member and defeated on the floor of this House in the year 1929. Sir, I think the long period of incubation of this Bill has not improved its prospects, nor has that period served to weaken the arguments which were advanced by Government on the last occasion against the principle of the Bill. If I have understood the Honourable Mover correctly, his reasons are grouped under three main headings. Firstly, the merits in general of the jury system as in force in other countries and in India. Secondly, the reasons given in the Statement of Objects and Reasons attached to the Bill. And thirdly, the particular suitability of the offence of sedition for trial by jury. I would deal with the second reason first, because the prominence given to it in the Statement of Objects and Reasons leads me to believe that the Mover attaches particular importance to it. Unfortunately I think the Honourable Mover has either misread or misinterpreted the relevant provisions of the Criminal Procedure Code. His contention is that all offences against the State except sedition are triable by jury. This is not correct. Section 268 of the Criminal Procedure Code, as my Honourable friend Mr. Pantulu has pointed out, provides that trial before a Court of Session shall be by jury or with the aid of assessors. Section 269 empowers the Local Government to direct what offences should be tried by jury before Session Courts. In accordance with Schedule II a number of offences under Chapter VI of the Indian Penal Code are triable exclusively by a Court of Session. This does not necessarily mean that they are tried by jury. The Honourable Mover therefore proposes to pick out one particular offence from Chapter VI of the Indian Penal Code and make that offence triable exclusively by jury. In regard to that one offence he proposes to fetter the discretion given to Provincial Governments to direct in what cases trial by jury shall be applied. If therefore this measure is to stand or fall by the Statement of Objects and Reasons, I submit, Sir, that it must fall.

Secondly, the Honourable Mover has based his case on the general merits of the jury system both in England and in other countries and has quoted from one authority in his speech to prove that the jury system is the real beginning of self-government. I fear the

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Honourable Member here was slightly inconsistent, for he gave us to understand that in his view self-government in India was only alleged to exist. My Honourable friend cannot have it both ways. If self-government in India is only alleged to exist, his argument is considerably weakened. If, on the other hand, it does exist, then the jury system is not required to begin it. However that may be, the Honourable Mover has apparently remained unconvinced by the arguments advanced on the floor of this Honourable House in 1929 against the principle of this Bill and he has in his remarks this morning explained why those arguments are not convincing. He has, however, if I heard him correctly, not quoted all the arguments which were put forward by Government on that occasion, nor I think has he fully understood them. It was explained on that occasion that the system of trial by jury as worked in England is based on different principles from those operating out here and that the jury system in India is not universal but is extended experimentally in particular classes of cases under particular conditions. He did not quote one observation which was made on behalf of Government and that was that a unanimous verdict is not insisted on in India as it is in England. His contention was that if the jury system worked well in England it should work equally well in India. Well, Sir, granting his contention to be correct, the first duty of the Honourable Member would be to see that the jury system prevailing in India was altered and brought into conformity with that prevailing in England, before he seeks to introduce a Bill based on that contention. The Honourable Mover has also made the statement that trial by jury in this country has been substituted for trial with the aid of assessors in most provinces. Here I think he has been misinformed, for I have before me the replies to a reference made to Local Governments which show that in certain districts of one province only have the Local Governments used the power given by section 269 to direct that offences under Chapter VI of the Indian Penal Code shall be tried by jury. I believe my Honourable friend Mr. Pantulu also said that in Bengal all offences under Chapter VI except sedition were triable by jury. I might have misunderstood him, but if that was the statement he made I think it is not correct. Our information is, as I said, that Provincial Governments except in Bombay have not issued a direction that offences under Chapter VI shall be tried by jury. The Honourable Mover has also quoted from the speech made on behalf of Government in 1929 the observation that sedition offences are the least serious of the offences against the State and for that reason were not made exclusively triable by jury. Here again I am afraid the Honourable Member has not fully appreciated the force of this observation nor realised the implications of his own Bill. Clause 3 of his Bill provides that the offence of sedition shall be tried only by a Court of Session and shall not as now be triable also by magistrates. In suggesting this provision I think the Honourable Member has overlooked the object with which the amendment of section 124A was originally made making offences thereunder triable by magistrates as well as by Courts of Session. The amendment was designed to change the position, as here again I think my Honourable friend Mr. Pantulu has pointed out, under which the importance attaching to a trial before a Sessions Court invariably attached to the trial of an offence under section 124A. It was felt that the ends of justice would be better served in suitable cases by the more speedy trial before a magistrate and by the lighter punishment which a magistrate could inflict, and that is the point which I want to make as regards this Bill. I do not know whether the Honourable Mover has realised what its implication is, namely, that sedition should be treated as a more serious offence and that lighter punishment should not be awarded.

[Mr. E. Conran Smith.]

Finally, the last reason given by the Honourable Mover in promoting this measure was that sedition is above all other offences peculiarly suited to trial by jury. That, Sir, I cannot for one moment admit and I am confident that those who have had experience of the working of the jury system in India would not support that contention. Political pressure and sentiment must often be associated with sedition cases and it is with this interference with the free administration of justice that juries have most difficulty in contending. The effect of this Bill—in justice to the Honourable Mover I do not say the object of it—would be to import political sentiment into the administration of justice and I feel sure that the Honourable Mover himself would be the first to admit that if a jury system is to work properly and if a jury is so to discharge its functions that justice is done as between the State and the accused, it is essential that it should be employed in conditions in which it can function free from, and unfettered by, bias or outside pressure.

I hope, Sir, I have said enough to show that neither the principle of this Bill nor its provisions should commend themselves to this Honourable House and that no case has been made out for interference with the free exercise of their discretion by Provincial Governments.

Sir, I oppose the Motion.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Sir, I want to make a few observations. With regard to the observation of Mr. Pantulu about interfering with the option of the Provincial Governments, I have to make this observation. Section 269 gives an option to the Local Government to direct whether a trial should be with the aid of assessors or a jury only in cases which are triable by a Sessions Court. But, as a matter of fact Schedule II, Chapter 6, of the Criminal Procedure Code, says that sedition, cases are triable either by a Sessions Court or by a Presidency Magistrate or a Magistrate of the First Class authorized in that behalf. But, as a matter of practice, sedition cases are hardly tried by the Court of Session. So, as a matter of fact, no interference with the discretion of the Local Government is concerned so far as my Bill goes, unless and until sessions trial is made compulsory in a case of sedition, there is no scope for the operation of section 269 and the direction of the Local Government as to whether the trial should be held by a jury or with the aid of assessors.

Then, with regard to the observations made by the Honourable Sir David Devadoss that juries are not available and that intelligent juries are necessary for a trial of sedition cases, my submission is that jury trial has been extended and is being extended in many cases and that is no doubt because of jury trial being satisfactory. Otherwise, there was no case for their extension in many other cases. And then, as regards the intelligence of the jury, my submission, is that it is in cases of sedition that intelligent juries are the most necessary and therefore, though jury trial in ordinary cases may result in miscarriage of justice, in cases of sedition intelligent juries are not liable to commit that mistake. And then he said important cases might be transferred under the extraordinary jurisdiction of the High Court and made triable by a Sessions Court with the aid of a jury. That is a matter very hard to obtain for an accused, as we all know.

So far as the reference to section 268 is concerned, I speak subject to correction but my impression is that in the Province of Bengal trial with the aid of assessors has been removed in almost all cases and jury trial taken its place. Then, as regards the point made as to lighter punishment being available for

sedition cases when the trial is held by a magistrate, my submission is that if a trial takes place in a Sessions Court, there is no bar to a sentence being light. It does not follow that if a trial is taken to a Sessions Court the sentence will be a heavy one. That is all my submission.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to provide for jury trial in sedition cases be taken into consideration."

Question put and Motion negatived.

DURGAH KHAWAJA SAHEB (AMENDMENT) BILL.

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

"That the Bill to amend the Durgah Khawaja Saheb Act, 1936, as passed by the Legislative Assembly, be taken into consideration."

The Bill, Sir, which is before the House is a simple one. It has been brought forward with a view to remove some of the difficulties which had remained untouched with the last Act. The great mistake which was committed by ourselves in drafting was that we did not make it clear whether the representatives of the Legislatures in the Provinces and at the Centre should be men from Ajmer or outsiders and the interpretation was made that only people who are enrolled as voters in the Ajmer Municipality would be eligible for election. And other such troubles arose. It was therefore decided that an amending Bill should be brought forward. This Bill, in addition to clarifying that situation, has also taken advantage of the opportunity to introduce certain provisions which would make the working of the management easy and less cumbersome. We are grateful to the gentlemen who were responsible, Dr. Ziauddin Ahmed and our friend Syed Ghulam Bhik Nairang, who have done yeoman service in bringing forward this Bill and getting it passed in the Assembly in such a short time. As is well known, Sir, it takes very long to get any Bill through the Assembly and this Bill has rather established a record. It was on the point of being passed in the Simla session, and would have been passed had it not been for an untoward circumstance which prevented its passage at the last minute. But for five months it was held up and brought forward before the Assembly this session. I should like to mention, Sir, in this connection that I have given notice of some amendments, which are merely verbal amendments, except one, which is of some substance. I am mentioning these facts, Sir, because I do not propose to make any speech in moving these amendments. The last amendment, Sir, is a necessary provision which has been incorporated in order to provide for a contingency which we hope will not come but which may come in spite of our hopes. I refer, Sir, to the fact that—

THE HONOURABLE THE PRESIDENT : As a Member of the Council you ought to know that at this stage you should only discuss the principle of the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : I was only going into these details, Sir, because, as I said, I do not propose to make any speech in moving the amendments. However, I will make my speech at the proper time.

*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

Mr. President, it pains me to find in the general discussion which ensued on the Motion that the Bill be passed in the Assembly that a reference was made to an incident which had absolutely no connection with the Bill. A respectable member of our community, who is rightly honoured, lent his support to a statement of things which had no substance behind it. Maulana Murtuza Sahib Bahadur, in his speech, referred to certain matters which had absolutely no bearing on this. The fact that certain people were criminally assaulted and they had something to do with the Bill, is not pertinent to this discussion. I am not going to be guilty of the same charge myself and bring that in. I simply mention it, and with the exception of that speech, there was general support for this, both from Hindus and Muhammadans. Mr. Lalchand Navalrai gave his support to this Bill. He made a speech on the subject. That shows that this Bill is a non-contentious Bill. I therefore need not detain the House with any detailed discussion.

Sir, I move.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I rise to support the Motion that has been moved by the Honourable Mr. Hossain Imam. Sir, as has already been said, the amendments proposed are only of a verbal character, designed only to cure some defects that have crept into the Bill owing to the hurry in which the measure had to be drawn up on the last occasion. As most of my Honourable friends are aware, the original Bill that was introduced in the Council was of such a nature that it roused great controversy, and consequently, very protracted negotiations had to be held in order to come to a compromise, so that all conflicting schools of thought could come to some agreement upon the measure. These negotiations were prolonged, Sir, until the time when the term of the Council of State had drawn nearly to its close. If within the few days that were left for the Council, the Bill could not be modified in the light of the compromise that had been arrived at, there was a possibility of the measure lapsing on account of the pending termination of the Council of State. Consequently, this measure was drafted in great haste, and these errors were overlooked. We are really grateful to the Honourable Members of the Legislative Assembly, Dr. Ziauddin Ahmad and Syed Ghulam Bhik Nairang, who brought this measure in the other House and had these defects removed. Since these amendments are mostly of a verbal character, we do not think there can be any objection to the acceptance of the Motion that has just been made. As has been pointed out by my Honourable friend Mr. Hossain Imam there is only one amendment which appears to be an amendment of substance. But even this amendment does not change the nature of the compromise. The understanding at the time of the compromise was that in this Committee which was proposed the outside element should predominate, and it is with a view to carry out this object that this amendment is also being moved.

Sir, I support the Motion.

The Motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I rise to move :

“ That in clause 3, in proposed section 5—

(a) in sub-section (1)—

(i) for the words ‘ Hanafi Muslims, of whom ’ the words ‘ Hanafi Muslims, namely ’ be substituted;

- (ii) in clauses (a) and (b) the words 'one shall be' be omitted ;
 - (iii) in clauses (c), (d), (e) and (g) the words 'shall be' be omitted ; and
 - (iv) in clause (f) the words 'may be' be omitted ; and
 - (b) after sub-section (3) the following sub-section be added, namely :—
- '(4) If any authority or body entitled to elect, nominate or co-opt a member fails to do so within six months, the Central Government may nominate a member to fill the vacancy from among persons qualified to be elected, nominated or co-opted in respect of the vacancy ;'

Sir, the first few amendments are of a verbal nature and for improving the language. The only substantial amendment is the last one. That has been brought forward with a view to providing for a contingency which we hope may not happen, but our hopes may not be realised. I refer to the fact that Provincial Governments, at the present moment, are in a flexible condition. The Provincial Legislatures might not be in session and may not be called in session for long periods. We want that the representation of neutral interests should have a predominance. It is for this reason that we provide a machinery whereby if any one fails to elect or nominate, this failure may be made good by the Central Government.

Sir, I move.

THE HONOURABLE THE PRESIDENT : All the amendments have been moved in a body. Has any Honourable Member any objection to my putting the Motion for passing them in a body ?

HONOURABLE MEMBERS : No, Sir.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) : Have these amendments been accepted by the Muslim Members of the Assembly ?

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN (United Provinces : Nominated Non-Official) : Yes.

THE HONOURABLE MR. G. S. MOTILAL : The Honourable Member did not tell us that.

THE HONOURABLE MR. HOSSAIN IMAM : The Bill will have to be returned to the Assembly for their concurrence.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : We want to know whether there is any compromise between the Muslim Members of the Legislative Assembly and the Muslim Members of this House over these amendments ?

THE HONOURABLE MR. HOSSAIN IMAM : I have not consulted the Members of the Assembly as they did not consult us in the drafting of the Bill.

THE HONOURABLE THE PRESIDENT : You are inviting trouble, you know.

The Question is that these amendments be adopted.

The Motion was adopted.

Clause 3, as amended, was added to the Bill.

Clauses 4 to 13 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I rise to move :

“ That the Bill to amend the Durgah Khawaja Sahab Act, 1936, as passed by the Legislative Assembly and as amended by the Council of State, be passed.”

The Motion was adopted.

STANDING COMMITTEE FOR THE DEPARTMENT OF LABOUR.

THE HONOURABLE THE PRESIDENT : With reference to the announcement made by me on the 17th February, regarding nomination to the Standing Committee in the Labour Department, I have to announce that the following Honourable Members have been nominated for election to that Committee :

The Honourable Sir Ramunni Menon and

The Honourable Khan Bahadur Syed Ihtisham Hyder Chaudhury.

There are two candidates for two seats and I declare them duly elected.

The Council then adjourned till Eleven of the Clock on Thursday, the 24th February, 1938.