

Monday, 15th March, 1937

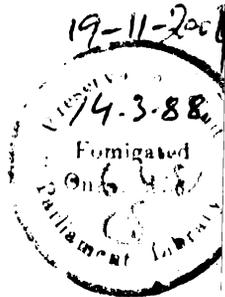
THE  
COUNCIL OF STATE DEBATES

VOLUME I, 1937

*(16th February to 8th April, 1937)*

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FIRST SESSION  
OF THE  
FOURTH COUNCIL OF STATE, 1937



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# COUNCIL OF STATE.

*Monday, 15th March, 1937.*

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 Sir Rahimtoola Chinoy (Bombay : Nominated Non-Official).

## RESOLUTION *RE* INDIANISATION OF THE GOVERNMENT OF INDIA SECRETARIAT—*contd.*

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian): Mr. President, I had barely time before the House rose last Friday to move the Resolution that stood in my name. Perhaps the House would like me to repeat the terms of the Resolution. It runs as follows :

" This Council recommends to the Governor General in Council to take immediate steps to increase the number of Indians occupying the higher posts in every department of the Secretariat of the Government of India so that the increase may be commensurate with the new constitutional status of India."

I shall endeavour today to explain to the House the scope of my Resolution and the reasons that have impelled me to bring it up again. I say " again ", for the question with which the Resolution deals is not new to this House. It has come before it more than once during the last 15 or 16 years. It was discussed in 1921 and again in 1923 and I believe that it was discussed last in 1934. If I may say so, Sir, you took a prominent part in the discussions of 1921 and 1923 and it was with your valuable support that the Resolution of Mr. Sastri asking for the appointment of at least one Indian as Secretary, Joint Secretary or Deputy Secretary in every department was carried in 1923. I wish, Sir, that I could today enjoy the advantage which Mr. Sastri did in 1923 and have the valuable support that you accorded to his Resolution.

Sir, all these Resolutions to which I have drawn the attention of the House just now related to the higher personnel of the Secretariat, that is, the Secretaries, Joint Secretaries and Deputy Secretaries. It is to these, the officers of and above the rank of Deputy Secretary, that my Resolution refers today.

Now, Sir, the Resolution refers to the new constitutional status of India. I am not one of the admirers of the new constitution. I am one of those who think that the present constitution is a lesser evil than the one that will unfortunately soon be imposed on us. But we have been told on high authority that the view that we take of the constitution at the Centre is absolutely mistaken. We have been asked to believe more than once that it takes us a long way on the road to self-government, and that, if properly worked, it will enable us to realize our highest ambitions. If those who ask us to believe

[Pandit Hirday Nath Kunzru.]

that the new constitution is designed to place real power in the hands of India are sincere in what they say, it is incumbent on them to see that the constitutional status which they say India has gained by the new Act is reflected in the higher personnel of the Secretariat. If you transfer political control into Indian hands it is anomalous that executive and administrative control should continue as before in non-Indian hands. I suppose it follows from the change of political control that those who are concerned with the supervision and direction of policies throughout India, who will be the right hands of the future Ministers should belong to this country and should be in a position to enjoy the confidence of our people. That is why I ask those who lay stress on the reality of the new constitution to prove their claim at least partially by taking steps to alter the composition of the Secretariat, so that Indians might have a larger share in the preparation of the material which will enable future Ministers to lay down policies. Sir, the importance of the higher posts in the Secretariat requires no emphasis at my hands today. It is well known that the increasing means of communication which have made it possible for the higher authorities to centralise all control of policies and administration has enabled the Central Secretariat to acquire considerable power and in a real sense to hold the destinies of India in their hands. I well remember, Sir, that in the discussion that took place in 1921 Sir James Cramer said that the occupants of the higher Secretariat posts were in a special degree responsible for the highest interests of the public and the State. Nothing more is needed to justify the insistence that we have placed from time to time on the importance of making over the higher Secretariat posts to Indians. Now, Sir, in view of the importance of the matter which my Resolution deals with it is necessary for us to see how far our position in the Secretariat has advanced during the last few years. It is not my purpose today to take up every higher post and to say whether it is occupied by an Indian or by a non-Indian. But I shall deal with the broad features of the composition of the Secretariat today, so that the House might see to what extent its desire that the Secretariat should be speedily Indianised has been carried out, say, during the last 10 or 12 years.

I shall take up first the Home Department. The Home Department, Sir, is one of the most important Departments of the Government of India. It virtually controls the All-India services; it supervises the maintenance of law and order throughout the country and since the days of the Risley Circular up to the present time it has been responsible for laying down political policies which have been binding on all Local Governments. Now, if it is true, as it is contended, that in future Indian Ministers themselves will be responsible for the maintenance of law and order, it is necessary above all that the Home Department should be so organised as to be placed under the control of Indians. But hitherto no Indian has held the post of Secretary or Joint Secretary in this Department. Some time ago there was a Joint Secretary in the Department, but I believe that at the present time the Secretary, Joint Secretary and Deputy Secretary are all Europeans. I know that it has been stated in this House more than once that the Government of India choose for their Secretariat men who have had experience of the provincial Secretariats and who are of a certain standing in their services. Now, Sir, what is the experience that the Government would expect of a holder of the post of Secretary of the Home Department? I take it that it would be expected that he should have dealt with service questions and questions of law and order in the provinces. I do not know what the situation so far has been in other provinces, but in the United Provinces, to which I belong, there have been two Indians who have

held the post of Chief Secretary and who therefore will be admitted to have possessed in a full degree the qualifications required of a Home Secretary of the Government of India. Those Indians, I am glad to say, have risen to high positions. One of them we are glad to see here today as the Leader of this House. But it was open to the Government of India if it really desired to place Indians in a key Department to choose one of these officers before they were appointed to the Memberships of the Executive Council of the Viceroy to act as Home Secretary. Nothing of the kind however was done, and even today, as I have said, not even the post of Deputy Secretary is held by an Indian in this Department. Now, Sir, take the Defence Department. When the question of appointing Indians to the Defence Secretariat was considered in 1921, it was pointed out that till recently the superior Secretariat posts had been held by military men and that if the new experiment of appointing civilians was continued there was no doubt that Indians would be eligible just as much as Englishmen and in time would rise to these posts. So far I do not think that a single Indian has been appointed to any of the posts which my Resolution deals with. At present the Secretary and Deputy Secretary are both Europeans. Indeed I think it would be correct to say of the Defence Department that, except for an officiating appointment of Under Secretary held once by an Indian, no Indian has occupied any post in its Secretariat. When I say any post I mean posts of the rank of Under Secretary and the higher posts. We see thus that, notwithstanding the importance attached by this House to the question of the Indianisation of the Secretariat, the position in the Home and Defence Departments is today exactly what it was in 1923. Now, Sir, take the Foreign and Political Department. I have had some difficulty in obtaining information with regard to this Department. I asked, Sir, the Secretary of the Political Department to be good enough to supply me with the *communiqué* issued by the Government of India in 1921 in accordance with the promise given by Sir Tej Bahadur Sapru in the Legislative Assembly that steps would soon be taken to appoint Indians in substantial numbers to the Foreign and Political Department. To my surprise, Sir, the Political Secretary, who first said that he had not got the *communiqué*, asked me to make a request in writing for what I wanted. I endeavoured to explain that my request was a perfectly simple one, yet he insisted that I should write. What the cause of the insistence was I do not know, but I must confess, Sir, that it produced a painful impression on my mind. I should have thought, Sir, that with your example and that of the Leader of the House before them, the officials would vie with one another in being courteous and helpful to Honourable Members. Yet, it is a matter of great regret to me to have to say that in the particular case which I have brought to the notice of the House, the Secretary concerned has fallen far short of the standards which you and the Leader of the House have set in your dealings with the Members of this House. I hope, however, Sir, that no Member of this House will have any unpleasant experience of this kind again in future.

**THE HONOURABLE THE PRESIDENT :** But is not there a rule that all applications for information should be made in writing to the Department ?

**THE HONOURABLE SIR BERTRAND GLANCY :** On a point of explanation, Sir, may I say that when Mr. Kunzru wrote to me explaining that he would like a copy of the *communiqué*, a copy of the *communiqué* was sent to him.

**THE HONOURABLE PANDIT HERDAY NATH KUNZRU :** Yes, Sir, but I only got it yesterday. Had the Resolution been debated on Friday,

[Pandit Hirday Nath Kunzru.]

I would have been without the *communiqué* that the Honourable Member has now sent. He has not endeavoured to deal with the point I made, namely, his insistence on request in writing.

THE HONOURABLE THE PRESIDENT: You are quite right, but it would take some time to search for a *communiqué* 15 years old in the Department.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I would have been perfectly satisfied if he had said he would try to send it. My complaint is that he should have declined to do anything at all till he had a written request from me. I have certainly had no such experience at the hands of any other Secretary. I hope that this will prove exceptional.

Sir, I was dealing with the Foreign and Political Department. Now, I have already told the House that Sir Tej Bahadur Sapru promised in 1921 that steps would be taken by the Government of India to introduce a substantial Indian element into this Department. A *communiqué* was subsequently issued which fixed no proportions but which simply laid down that Indians would be recruited to this Department in substantial numbers. It appears, Sir, from the debate that took place in 1921 that the Government of India provided not merely for the admission of Indians to the Foreign and Political Department but also for appointing them to a proportion of the superior posts in the Political Department including two appointments, one of Secretary and one of Deputy Secretary. This information, Sir, was given to the House by the Home Secretary who at present holds the portfolio of the Home Department. In the *communiqué* that I have received from the Political Secretary nothing is said about the provision relating to the appointment of Indians to a Secretaryship and a Deputy Secretaryship. Now, let us see, Sir, to what extent in this Department, to admission into which Indian opinion attaches considerable importance, the appointment of Indians has been facilitated. According to the figures that I have been able to compile, Sir, the Foreign Secretary, the Political Secretary, the Additional Political Secretary, two Deputy Secretaries and a temporary Joint Secretary, are Britishers. There are two posts held by Indians. There is a Joint Secretary for Federation and there is an Additional Deputy Secretary. Now, I understand that both these posts are temporary. So it appears at any rate, Sir, from the classified list of officers in the Foreign and Political Department. I take it, Sir, that these men will soon disappear and the Secretariat of the Foreign and Political Department will in its higher ranks be without any Indian. We thus see, Sir, that in the Foreign and Political Department the position is today practically the same as in the Home and Defence Departments. I could take up the other Departments similarly one by one and point out how unsatisfactory the position of Indians was in regard to all of them. But I will not deal with them individually. I will merely point out that in the Commerce Department there is just one Indian Deputy Secretary, while the Secretary and Joint Secretary are Europeans. In the Industries and Labour Department there is an Indian Joint Secretary. It is in the Education Department alone that we have an Indian Secretary and an Indian Joint Secretary.

If we were, Sir, now to sum up the position, I think it would be seen that in regard to several Departments the position is practically what it was 10 or 12 years ago. Three of these Departments are practically without any Indian occupying any higher posts in the Secretariat and in the rest of the Secretariat, with the exception of the Education Secretariat, Indians occupy the lowest posts that could be given to them.

Perhaps, Sir, I might, before I pass on to other points, deal with the Finance Department, which I have so far omitted to refer to. This Department too is one of the most important Departments of the Government of India. If Indians are to be masters in their own house, they must assuredly be able to control finance. Yet, what is the situation in regard to this important Department? The Secretary, Additional Secretary and Joint Secretary are all Britishers. The Deputy Secretary, who is also the Budget Officer, is an Indian. My Honourable friend Mr. Sapru says that he will soon be replaced by an Englishman. If this is so, if he is replaced either wholly or in part by a Britisher, the Indianisation of the Secretariat will, I daresay, have proceeded a step further in the opinion of the Government of India.

So far, I have dealt with what I might call the Secretariat proper. If I were to deal with certain other Departments which form part of the Secretariat, the story would be exactly of the same kind as that which I have related in regard to the main Departments of the Secretariat. Take, for instance, the Railway Board, which forms part of the Commerce Secretariat. Honourable Members are well aware of the insistence of both the Assembly and this House on the appointment of Indians to this Board. I remember, Sir, that Sir Basil Blackett said 10 years ago that when appointments came to be made in the future, the scales would be weighed in favour of competent Indians. Yet, only twice have Indians been appointed to the Railway Board so far and after the termination of the period of office of the present Financial Commissioner, not a single Indian will be left on the Board. This is how Government have responded to our desire for the appointment of Indians to the Railway Board. There are some responsible posts under the Board and some of these are held by Indians. For instance, the Director of Establishment and, I believe, the Director of Traffic are Indians. But the fear is that they will on the expiry of their term of office be replaced by Europeans. (*The Honourable Mr. P. N. Sapru*: "Certainty.") My Honourable friend Mr. Sapru says that that is a certainty. I am not in the secrets of the Government of India and I do not know what they propose to do. But if the apprehensions of my Honourable friend prove true .....

**THE HONOURABLE THE PRESIDENT:** The Honourable Mr. Sapru is not in the secrets of the Government of India either.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** Not at all, Sir. He is in the same unfortunate position as myself. I say, Sir, if his apprehensions prove true, I for one would not be surprised. Then, take the Central Board of Revenue, which is under the Finance Department. Here, both the Members are Britishers, while both the Secretaries are Indians. Indians have from time to time held officiating charge of the post of Members, but no Indian has so far been permanently appointed as a Member. Take now, Sir, the Financial Adviser of the Army. It was understood some time ago, when the Assembly asked Government to control military expenditure strictly, that the officer appointed to this post would belong to the Finance Department and would be a civilian. But today we find that this post is held by a Major-General, who, as far as one can judge from questions put about him last year in the Assembly, has not shown himself particularly competent in the handling of financial matters, and it has been held by him for nearly a year. The Finance Department could find no competent Indian in the Audit and Accounts Service to hold this post even temporarily. They found it necessary to appoint to this responsible post an officer who had no experience of accounts work and who is under the direct control of the military authorities. This is one more example

[Pandit Hirday Nath Kunzru.]

of the way in which the Government of India have tried to conciliate public opinion by appointing Indians to responsible posts in the Secretariat. Now, take the Imperial Council of Agricultural Research which is under the Education Department. Till recently, the posts of Vice-President and Secretary were filled by Indians and judging from the praise which these officers received I am justified in concluding that they proved thoroughly efficient in the discharge of their duties. Yet, when the term of office of the Vice-President expired, a non-Indian was appointed in his place.

Let me take another post under the Education Department. We have a right to expect that Indian views will prevail here more than in any other Department. I refer, Sir, to the post of Director General of Medical Services. A senior Indian has been passed over in favour of a Britisher. I have seen no justification put forward in favour of this supersession. I trust that the Honourable the Leader of the House will at any rate today take us into his confidence and let us know the reasons which led the Government of India to supersede a senior and meritorious officer and prefer a man who was junior to him.

Take again the post of Educational Commissioner. I do not know whether there is anything in the rules to compel the Government of India to choose the occupant of this post from amongst service men. I understood some time ago that there was no such compulsion. A Central Board of Education has been recently established. Its object is to help Provincial Governments to keep in touch with new developments in education and to co ordinate as far as possible the policies that might be pursued in different provinces with regard to the improvement and diffusion of education.

**THE HONOURABLE THE PRESIDENT:** May I draw your attention to the fact that you have already spoken for 35 minutes?

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** Very well, Sir, I will soon come to a close. It was necessary therefore that in the Educational Commissioner we should have a man who would be able to sympathise with Indian aspirations, who would be a man of wide vision and who would be able to command the confidence of the Indian Ministers of the future. But, notwithstanding the change of times, notwithstanding the political awakening that has taken place, notwithstanding the professed desire of the Government of India to take the people of the country along with them, in this post again a Britisher has been appointed, and so far as I know no attempt was made to select a competent Indian.

And there is just one more post under this Department which I should like to draw attention to before I deal with the one or two points that remain yet to be dealt with. We all know that the Agricultural Institute, which was formerly at Pusa, has been recently transferred to Delhi. The permanent Director of the Institute has not yet been appointed but I understand that it is proposed to appoint a European to this place. Indeed, so far has the eagerness for appointing European officers gone, that I understand that in the Commerce Department, while an Indian will be retained as Director General of Commercial Intelligence, an Economic Adviser, who will be a Britisher, is to be appointed to interpret the information and statistics compiled by the Director General of Commercial Intelligence.

Sir, it is evident from the rapid review of the figures relating to the composition of the higher personnel of the Secretariat that I have just made that not only is the position of Indians virtually what it was, say in 1927, but that

there is no indication that the policy that has been followed hitherto will undergo any radical change in future.

**THE HONOURABLE THE PRESIDENT:** Will you please bring your remarks to a close.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** I have only one point more to deal with before I bring my remarks to a close. I said earlier that whenever discussions with regard to the appointment of Indians to higher posts in the Secretariat had taken place, the Government of India had always put forward the excuse that they could select men only from among those who had experience of Secretariat work in the provinces. Well, during the last 12 or 13 years I am sure that the number of Indians with the requisite experience has increased considerably. I do not wish to give names, otherwise I could have mentioned the names of a good many Indians capable of holding any post that the Government of India might have decided to appoint them to. I cannot therefore accept at its face value the contention that Indians cannot be appointed in larger numbers to the Secretariat because men possessing the requisite experience in the provinces are small in number. Apart from this, Sir, the method of recruiting the staff needed for the Secretariat might not in future be what it is at present. A Committee known as the Wheeler Committee was appointed to consider this question. Its report has not been published, but while it was sitting various alternative methods of filling up the Secretariat posts were considered. It may be that the British model of appointing men permanently to the Secretariat posts will be adopted, or it may be that the Government of India will have a pool of higher officers here from which they might distribute officers from time to time among the various Departments. If any of these methods is adopted, the argument that has so far been used by the Government of India will lose further in force. I hope, Sir, that the facts and the arguments that I have placed before the House will be sufficient to convince it that no appreciable progress has been made in regard to the Indianisation of the Secretariat so far and that it is necessary that this subject should be pressed once more on the attention of the Government of India, so that justice might be done to our claims. But, more than all administrative reasons, Sir, is the ground of policy which requires that a change should be made in the existing practice. The Lee Commission said that, while formerly the question often asked with regard to appointment to the higher services was to what extent Indians should be appointed to them, the question at the time that it sat was, what should be the minimum proportion of Britishers to be appointed.

**THE HONOURABLE THE PRESIDENT:** I would advise you not to go into a new point.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU:** I am not raising any new point, Sir. Today the question has gone even beyond that and we have to ask ourselves whether in the new order of things which you claim to be a great improvement on the present situation it is at all desirable that the control of large departments of administration and policy should be in the hands of those who may not always be in sympathy with the aspirations of the country and the views of the Ministers. For these reasons I press my Resolution on the attention of the House and I shall consider myself more than fortunate if it receives the support that Mr. Sastri's Resolution did in 1923.

**THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan):** Sir, I beg to move:

"That all the words after the words 'Government of India' be omitted".

[ Mr. V. Ramadas Pantulu. ]

The words to be omitted are—" so that the increase may be commensurate with the new constitutional status of India ".

I shall now proceed to state as briefly as I can my reasons in support of the amendment. I feel that the main demand made by my Honourable friend, namely, the rapid substitution of Indian element for the European element in the Central Secretariat, will be greatly watered down, if not made wholly illusory, by his further request to make the pace or measure of the increase commensurate with the new constitutional status of India. I feel that his demand if coupled with that further request will be met by the plain and simple answer that no new constitutional status is conferred on India, either in relation to England or in relation to other countries. India now is and will continue to be a dependency of Great Britain under the Government of India Act. And I for one am unable to perceive any new constitutional status that is conferred on India upon which to base a demand for the rapid Indianisation of the Central Services. I do not think that the most profound constitutional lawyer can find any evidence in the new Government of India Act to prove that a new constitutional status has been conferred upon India by the Reforms Act. I am aware, Sir, that a former Secretary of State for India speaking in the House of Commons once said that India which demanded Dominion Status had in practice actually enjoyed that status, because she was an Original Member of the League of Nations. Of course it was a huge joke for if he were speaking today he could have similarly said that Abyssinia enjoyed complete independence because she still continues to be a Member of the League of Nations. But the question is not what constitutional status India had enjoyed hitherto. What is relevant for the purpose of the Resolution is, what new constitutional status she has acquired now so as to enable us to demand greater Indianisation of the Central Services. From my reading of the Government of India Act, I find that the only constitutional change in regard to the services is this. Now the Provincial Services as well as the Central Services and the services of the Secretary of State for India are all essentially Crown Services. In other words, Provincial Governments, that is to say, Provincial Governors as representatives of the Crown, derive their power now to recruit and regulate the conditions of service not from the Government of India as before but directly from the Crown, that is to say, from the same source from which the Secretary of State for India receives his power to recruit and regulate the conditions of service. That change in the constitutional position of the authorities for recruiting men to public services does not imply any change whatever in the constitutional status of India. Therefore I am unable to find any connection whatever between our demand for the Indianisation of the Services and the constitutional status of India either under the old régime or under the new Government of India Act.

My second objection to these words which I seek to delete by my amendment is this. Whether my Honourable friend did intend or not, those words carried the clear implication that the existing Indian element in the Secretariat, though it might be commensurate with India's present political or constitutional status, would not be commensurate with the new status which she acquired under the Government of India Act. I am unable to subscribe to a proposition of that sort. Again, assuming that India has acquired a new political status or constitutional status under the Government of India Act, is there any indication in that Act to show what the measure of Indianisation should be so as to make it commensurate with the new status? I find no indication in the Act. But there are certain significant passages in the Report of the Joint Parliamentary Committee which throw considerable light upon

this aspect of the question, which is very relevant to my Honourable friend's Resolution. It is enough to quote one sentence from that Report. The Joint Parliamentary Committee Report says :

"The system of responsible Government to be successful in practical working requires the existence of a competent and independent Civil Service staffed by persons capable of giving successive ministries advice based on long administrative experience"

and they proceed to say—

"We are convinced that India for a long time to come...."

—mark the words "for a long time to come"—

"...will not be able to dispense with a strong British element in the services."

This passage is certainly not in favour of the view that the new constitutional status of India under the Government of India Act contemplates any rapid Indianisation of the services. On the other hand, not only the implication, but the express language of the recommendation is the other way round. For a long time to come the strength of the British element should be kept unimpaired to give advice to successive ministries. This recommendation of the Joint Parliamentary Committee has been very carefully implemented by able draftsmen by means of the provisions, which are now contained in the Government of India Act. The chapter on Civil Services is one of the most carefully drafted chapters and that chapter deals with the future recruitment of the services and regulation of the conditions of those services. According to the new Government of India Act the powers of the Secretary of State are made paramount and he can assume many powers that the Governor General now exercises in regard to recruitment to services and the regulation of the conditions of those services. I will content myself with referring to only one section of that chapter, namely, section 244, which will give some idea as to the nature of the changes that the new Government of India Act has made in the constitutional position with regard to appointment to the various services. Section 244 says :

"As from the commencement of Part III of this Act...."

—that is, the Provincial Chapter—

"...appointments to the civil services known as the Indian Civil Service, the Indian Medical Service (Civil) and the Indian Police Service (which last-mentioned service shall thereafter be known as 'the Indian Police') shall, until Parliament otherwise determines, be made by the Secretary of State.

Until Parliament otherwise determines, the Secretary of State may also make appointments to any service or services which at any time after the said date he may deem it necessary to establish for the purpose of securing the recruitment of suitable persons to fill civil posts in connection with the discharge of any functions of the Governor General which the Governor General is by or under this Act required to exercise in his discretion.

The respective strengths of the said services shall be such as the Secretary of State may from time to time prescribe, and the Secretary of State shall in each year cause to be laid before each House of Parliament a statement of the appointments made thereto and the vacancies therein."

Lastly it says—

"It shall be the duty of the Governor General to keep the Secretary of State informed as to the operation of this section, and he may after the expiration of such period as he thinks fit make recommendations for the modification thereof.

In discharging his functions under this sub-section, the Governor General shall act in his discretion."

These words "in his discretion" mean "under the direction of the Secretary of State for India".

[ Mr. V. Ramadas Pantulu. ]

Sir, this provision read along with the other sections of the chapter on Civil Services in the Act will clearly indicate that the intention of the framers of the new constitution is to strengthen and increase the control of the Secretary of State over the services and also to maintain the British element undiminished. In fact, the whole aim of the chapter is two-fold, namely, to make the conditions of the services such as to attract and hold able Britishers to the services in India and to ensure that the powers of Parliament are maintained in full vigour to see that no Britisher is deterred from entering Indian services by any apprehension with regard to his prospects or his career in this country ; and one of the apprehensions entertained by the framers of the Act and the Joint Parliamentary Committee is undoubtedly an apprehension of the kind which is embodied in the Resolution moved by my Honourable friend. A demand from a Member of even the Council of State for the immediate Indianisation is one of the apprehensions which apparently the framers of the Act had in their mind when they drafted those sections with regard to civil services. Therefore I think it is futile, it is a folly, to base our claim for Indianisation on any provisions contained in the Government of India Act or any supposed new constitutional status which is conferred on India by that Act. In fact none is conferred. The truth of the matter is that our demand

12 Noon. for the Indianisation of the Services must rest and can only rest upon the right of India to govern herself with the aid of the sons of the soil and without a single foreigner in her Services. India is capable of governing herself and if her aim of self-government is to be achieved it must be not by an appeal to the new constitution but by constant efforts to get rid of this constitution which perpetuates the political slavery of India and makes her more and more abjectly dependent on Great Britain. Therefore, I was really sorry when I found that my Honourable friend based his demand for the Indianisation of the Services on a constitution which takes us back miles away even from the present position and when the authors of the constitution made it clear that it was not their intention to Indianise the key Services but to perpetuate the British element in those Services. Sir, with these words I commend my amendment to the acceptance of this House.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That all the words after the words ‘ Government of India ’ be omitted.”

The debate will now proceed simultaneously on the original Resolution and the amendment.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadian) : Mr. President, I desire to give my support to the Resolution which has been moved so ably by the Honourable Mr. Kunzru. I think, Sir, there is in fact no difference between the Honourable Mr. Kunzru and the Honourable Mr. Ramadas Pantulu in regard to the nature of the new constitution. The Honourable Mr. Kunzru was President of the Liberal Federation at the Poona session and the verdict of the Liberal Party in regard to the new constitution at Poona was clear and unmistakable. Liberal opinion in regard to the new constitution is just as firm as it was when we met at Poona. There has been no change, no modification in our attitude towards the constitution. We said then that the new constitution was entirely unacceptable, that we in fact preferred the present position to the position which is visualised by the new constitution. We stick by that decision absolutely. The reason why Mr. Kunzru preferred to put the Resolution in

the way in which he has done it is that he wanted to give a chance to the Government to show that they meant what they said, namely, that there was a new constitutional status being conferred upon India. That was the reason why Mr. Kunzru put his Resolution in the form in which we find it. Therefore, there is no difference between him and Mr. Pantulu in regard to the main point and we have, if that will please Mr. Pantulu, no objection to accepting his amendment.

Then, Sir, so far as the question of Indianisation of the Secretariat is concerned, Mr. Kunzru has given us certain facts and figures. During the last 15 years there has been hardly any progress in the Indianisation of the Secretariat. He has pointed out, Sir, that in the Home Department, which is a key Department, which is from our point of view perhaps the most important Department excepting the Defence Department, there is no Indian today. There was an Indian Joint Secretary in the Home Department at one time. Even he has disappeared from the Home Department. Why is there no Indian in the Home Department?

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, may I explain that there is an Under Secretary in the Home Department who is an Indian?

THE HONOURABLE MR. P. N. SAPRU: Sir, Under Secretaries and Assistant Secretaries you can always have, but so far as Joint Secretaries and Secretaries are concerned, those posts must be reserved for Britishers. This, Sir, is the policy of the Britisher. I refuse to believe that in the Indian Civil Service among Indians you cannot find persons fit and competent to hold the position of Joint Secretaries and Secretaries.

Then, so far as the Defence Department is concerned, the policy of the Defence Department is well known. They do not want Indianisation at all there and it is not therefore surprising that there is no Indian in the Defence Department. We have no Indian Secretary we have no Indian Deputy Secretary in the Defence Department which is one of the most vital departments from our point of view. No, not a single Indian is to be found in it.

Sir, so far as the Foreign and Political Department is concerned, it is again a very important department from our point of view. It is a Department which has relations with our foreign neighbours, with Afghanistan and the frontier tribes. It is a Department which has relations with Indian States and yet we find that in this Department there is no Indian Secretary or Deputy Secretary. I believe there are two Indians in this Department and one of them is a very able man, an Indian Additional Deputy Secretary.

Then, Sir, there is the Commerce Department. That again is a very important Department from our point of view. It is presided over by a very distinguished Indian but it is a matter for great regret and a matter for comment that even that great and distinguished Indian has not been able to get more Indians admitted into this Department. There is only one Indian Deputy Secretary in the Commerce Department.

Then, Sir, we have the Industries and Labour Department. There is one Indian Joint Secretary in the Industries and Labour Department. Of course, the Education Department is better in this respect and I think a good deal of credit for that goes to the late Sir Fazl-i-Husain who was a very keen advocate of Indianisation.

Sir, so far as the Finance Department is concerned, there again we have the same tale. The Secretary is an Englishman. The Additional Secretary

[ Mr. P. N. Saprú. ]

is an Englishman. The Deputy Secretary is an Englishman. There is an Indian Budget Officer but he too is to be replaced by an Englishman if the press reports are to be believed. Then, Sir, take again the Medical Department. The new Surgeon General is an Englishman. I have got nothing to say against him. I have no doubt that he is a very competent Englishman—probably a very distinguished doctor. But we know that the claims of a very distinguished Indian Surgeon General were overlooked when the appointment was made. I am referring to Surgeon General Goil. I do not reflect upon the present incumbent of that high office when I say that we are not convinced that Surgeon General Goil should have been superseded as he was superseded.

Then, Sir, we come to the Railway Board. And here I think, Sir, that some plain speaking is necessary. There was an assurance given to us in 1924 that one of the Members of the Railway Board shall be an Indian. Well, we have at present a very distinguished Indian, Sir Raghavendra Rau, on the Railway Board. He has held that office with great distinction. He will be going away shortly and his place will be taken by a European Civil Service Officer, I believe a Mr. Staig. I have no doubt that Mr. Staig is a very efficient man. I have no doubt that he deserves his promotion. But the question is—was there no competent Indian available? Could you not get a competent Indian to fill the post? After all, India is for the Indians. It is our land. We do not want to be unfair to our British friends but we want fairness for our people and for our Indian servants also. Therefore, Sir, the question has got to be looked at not from the point of view of the British vested service interests. It has got to be looked at from the point of view of India and the Indians. The Financial Adviser, Sir, to the Army is a Britisher. We are very much interested in these Army questions. We should have thought that that was a post which should have been given to an Indian but we find that the Financial Adviser to the Army is a Britisher.

Then, Sir, there is going to be (so we hear) a new post to be created—the post of Economic Adviser to the Government of India, and that post is going to an Englishman. Well, Sir, we know that on these economic questions we have our own point of view and if there is one post which should have gone to an Indian, it is this post of Economic Adviser to the Government of India. Who can say after all this that there is any reality in this talk of leading India on to self-government? If your intention is to lead India on to self-government, then implement the pledges that you have given to this country in 1917. If your intention is to strengthen your power in this country, then say so, and let us be quite clear about your intentions. Let there be straightforward dealing. If you want this country really to progress towards self-government, then you must adopt a different attitude towards Indianisation. Our British friends are no doubt very competent people, but when they retire from this country they go back to their homes and all the experience that they gain during the 30 or 35 years of their official life in this country is lost to the country. We therefore want a type of Indian to grow up who knows the difficulties of administration in this country. We cannot get that type of Indian unless the Indian is given a chance of serving in these key positions. These Secretariat appointments are selection appointments. They do not go by seniority, and therefore, it is very necessary for us to insist that in these key positions there should be Indians. We want Indians to acquire experience of administrative affairs. We want these Indians to be able to contribute that administrative experience after their retirement to their country. If we have Europeans in the Secretariat, the difficulty is that these gentlemen

retire and go back to England and all the experience that they gain is lost to the country.

There is another point of view from which we must approach this question. There must be some harmony between the legislative and executive organs of Government. You are going to have shortly some sort of what you call responsible Government at the Centre. It is clear that that responsible Government at the Centre must have power to have men whom it can trust. You have today European Members and European Secretaries. If the Member and Secretary are Europeans, then, so far as that Department is concerned, it goes without Indian opinion being placed before it in the formative stages of a policy. An Indian, under the present position, has no chance of contributing anything substantially towards the formulation of policies. If you have Indians in larger numbers in the Secretariat, it will be possible for Indians to have some share in the formulation of policies. That is the main ground for Indianisation of the Secretariat. We know, Sir, that under any system of responsible Government, the permanent services play a very great part. Even in England, which is a highly democratic country, the Services play a very important part. They are very often invisible—the real men behind the scenes. Therefore, this question of Service Indianisation is a very important question from our point of view and we must press for a larger Indianisation of the Secretariat of the Government of India. It is a matter of great regret that hardly any progress has been made during the last 15 or 16 years. We would therefore request the Government of India to take early steps to rectify the mistakes of the past and Indianise the Secretariat as early as possible. With these words, Sir, I desire to give my general support to the Resolution of the Honourable Mr. Kunzru and also to the amendment of the Honourable Mr. Ramadas Pantulu.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the Resolution which our Honourable Colleague Pandit Kunzru has moved is the inevitable development and natural sequence of what the Government of India and the British Government have been doing during the last 15 or 20 years. Time was when it was thought that only Britishers could discharge the responsible duties which befell to the lot of the I. C. S. and the higher offices. But the revolutionary changes which took place during the war period changed the angle of vision of the British Government and the people of India. We ceased to regard ourselves as unfit to discharge higher and greater responsibilities. We have proved amply that Indians are capable of holding the highest post under the Crown in India and with credit, whether they belong to the Services or are men from public life. We have both types of Indians in the Governor General's Council, and I challenge any one to prove that they have not proved themselves as capable and fit to hold their positions as the European and Service men. In all these higher Services, Indianisation has been accepted as the settled policy. Even in the I. C. S., a 50—50 position has been accepted as the principle on which Government will work. The difference between the Government and the people of India is as to whether the pace should not be accelerated. Even Government have not so far suggested that the pace should be retarded and that Indianisation has proved a failure. If you admit that it is not a failure, if you admit that the country belongs to India and that Indians have a right to govern themselves, and govern through their own men, then the present method of keeping out Indians from the key positions is most unfortunate. It may be that the present position has arisen quite unintentionally—if I am wrong, the Government Member will correct me—I believe that there is no intention on

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behalf of Government to keep out Indians. The only matter at issue is whether the policy has been followed fully or there has been a bit of what I may call vacillation about the pace. There is nothing wrong with the Government except that they are not in the same hurry in which we want them to be. Now, there are a few matters on which I wish to say something. The Honourable Pandit Kunzru has given such details of each and every department that it would be a waste of time for me to recapitulate them. Suffice it to say that he has brought forward a definite indictment against the Government, that they are neither keeping to the spirit which ought to be there in following the announcements of Governments nor are they moving with the spirit of the time. The fact that the Honourable Mr. Pantulu wants to delete all references to the future constitution is nothing unusual. We all know the opinion of the Congress, and if we did not know, today's paper in bold headlines gives us the opinion in what I think will not be parliamentary for me to repeat, *consigning the constitution to an un-namable place*. Knowing that and knowing also that people in India almost universally agree that the future constitution is not very rosy, to put it very mildly, I say, why make it worse? If you do not increase the pace of Indianisation even when the new constitution is coming, you are yourself condemning the future constitution as something not more than moonshine, with nothing in it, a mere continuation of the present order at best, and that it will change nothing in the new order of things. (*An Honourable Member*: "It has been made worse.") Well, Sir, we personally all hold the view that it is a retrograde constitution, in the Centre at least; the House has heard our verdict on that.

Sir, the methods of Indianisation are there, but the Government have been going outside the usual run of the services to get their men. Sometimes they import men from British countries, sometimes they take men who do not usually go into that line of services, for instance, men are taken from the Army. Similarly, I have been advocating in this House that nowhere except in the Government Secretariat do we find that the system of listed posts has been a dead letter. All the provinces have practically completed their quota of 20 per cent. of the higher posts as listed with the single exception of the Government of India Secretariat. Here, it is only in the Law Department, which is under the control of an Indian Member, that so far two men have been appointed to a listed post who did not belong to the I. C. S. from the Provincial Service, and the rest of the posts are held by I. C. S. men. I have urged before that posts under the Government of India should also go to the Provincial Service men, and the only way in which you can bring them in is first of all to appoint them to the post of Under Secretary, and when they gain experience you can put them in the higher posts. Because the position is that the listed post holder can only come in after he has got his post in the province to which he belongs, and there they are not confirmed in the listed post until they are about to retire. So that before that they do not get any experience of Secretariat work and therefore they never qualify. You first stop them from coming up, then place before us the poser that there is no qualified man. Secondly, Sir, the present position of Indians in the Provincial Services is such—I mean they have now come to nearly 40 per cent. of the whole—that there is no dearth of officers if you want to get them. We know that I. C. S. officers are regarded and are sometimes found to be fit to hold any post, whether they have experience of the department or not. If this golden rule is fit enough for European members, I hope it will prove equally good

enough for the Indian members of the service. The question is whether you have the desire to have Indians or not. If there is a desire I do not think that there is any dearth of officers and I refuse to believe that Indian I. C. S. officers are not fit enough to hold a post which falls under the Government of India. Personally I believe that the Government would do well to accept this Resolution, and if they find that any word in it would force them to take too precipitate action we might be prepared to change that word and make it more acceptable to Government. My desire is that the Government should go as far as possible to meet the wishes of the non-officials and non-co-operation should not start from the Treasury Benches. It is fit enough to be started by the Honourable Mr. Pantulu's Party. I do not wish the Government to copy the Congress in this respect at least. Sir, I support.

**THE HONOURABLE MR. R. M. MAXWELL (Home Secretary):** Sir, I should like to begin by saying that I do not approach the discussion of this Resolution in any unsympathetic spirit. There is much in the idea underlying it which must commend itself both to the Government and to every Member of this House. The Honourable Mover at the beginning of his speech alluded to the discussion of Mr. Shastri's Resolution in 1923. That Resolution led directly to the following order, which is incorporated in the present Secretariat Instructions. The order runs :

"In filling vacancies in the posts of Secretary, Joint Secretary and Deputy Secretary the possibility of obtaining suitable and competent Indian officers from the Provincial Secretariats should be definitely considered."

I am going to maintain, Sir, that Government have been and are taking all possible steps to carry out the orders that were passed on that Resolution. That Resolution still represents the policy of the Government. But before I go on I think it would be advisable to clear our minds as to what exactly we are talking about. In the first place, the Honourable Mover of the Resolution has brought into the discussion a variety of officers and offices, many of which are not properly classified as Secretariat appointments. The Resolution itself in terms says :

"to increase the number of Indians occupying the higher posts in every department of the Secretariat of the Government of India".

Such posts as Director-General, Indian Medical Service, or the Educational Commissioner with the Government of India, are not properly ranked as Secretariat appointments. If the Honourable Mover had wished to discuss generally the Indianisation of all posts at the headquarters of the Government of India, he should have framed his Resolution differently. But as the Resolution stands before the House I am afraid I must hold him to its terms in that respect and discuss the appointments in the Government of India Secretariat, including certain posts which are ranked as posts of an equivalent status. Another point on which I should like to correct the Honourable Mover is his allusion to the position of the Home Department, my own Department, under the future constitution. He represented that the Home Department was a key department, so also did the Honourable Mr. Sapru, largely on the ground that the Minister in charge of the Home Department under the Federation would be responsible for law and order. That, however, is a misapprehension. Under the new constitution law and order will be a Provincial Subject. It occurs in Item 1 of List II of Schedule VII to the Government of India Act, and the Home Department will not as such be directly concerned with the supervision of matters affecting law and order over India as a whole. I am afraid I cannot follow the Honourable Mover

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in dealing individually with the particular departments which he has mentioned. He has gone through the Defence, Foreign and Political Departments, the Railway Board and various other Departments. He alluded to all of them individually. It would take the House too long to enter in detail into the considerations which affect the choice of officers who now hold posts in those departments even if I were able to do so. But there is one point that I should like to make with reference to what the Honourable Member, Mr. Pantulu, said in moving his amendment. He quoted the Joint Parliamentary Committee's Report in which it mentioned the requirement of a strong British element in the Services for a considerable time to come and he represented that this showed that it was the intention of Government to perpetuate a system—I take it that is what he means—a system of discrimination against Indians in staffing the public services. I would like the House not to allow any such considerations to weigh with them in considering the present Resolution, because it is not the point of the Resolution. If there were any desire to make a representation about the further Indianisation of all Services under the Crown, then it should have come before this House by way of a Resolution to that effect. At the present moment we are asked to take immediate steps to increase the number of Indians in a particular set of offices and that means that we must consider this Resolution in terms of the existing composition of the Services, the existing field of choice from which these appointments could be staffed, and I hope that the House will agree with me in trying to consider the Resolution from that point of view.

Now, firstly, the proposition is that Government should take immediate steps. I hope to be able to show from the figures which I am about to give to the House that no such sweeping proposition is at all possible in a matter which depends on the utilisation of the actual cadre of the services. When it comes to making a particular appointment, the question is simply one of the material available at that moment, the moment when the appointment is to be made; and if it is desired that at this or at any particular moment a certain class of material should preponderate, this object can only be attained as the result of steps taken long before—not at the moment. There is no such thing as taking immediate steps to fill any class of appointments. The whole matter is a question of the time required to realise the results of a previously determined policy and I hope to show that the steps required to yield those results in future have already been taken and are in the normal course of fulfilment. But such steps could only be accelerated by the device of exercising deliberate discrimination in favour of Indians regardless of considerations of relative fitness among the men actually eligible by their seniority and experience for choice for a particular post. Now, I take it that the Honourable Mover would not urge this House to recommend any course so derogatory to the self-respect of Indians as to suggest that they should not be selected for the posts on their merits or in fair competition with other members of the service to which they belong. I take it really that what the Honourable Mover wishes to urge is simply that there should be no discrimination against Indians who are qualified by their position on the cadre to which they belong. If the Honourable Mover will accept that version of what he wishes to urge, then I am in sympathy with the idea underlying his Resolution, but I cannot accept its actual terms for the reason I just pointed out, namely, that immediate steps are not possible in such a case. Now, I think the principle will not be contested that all posts in the Government of India Secretariat are essentially selection appointments, that is to say, not all officers, either Europeans or Indians, are equally suitable for this very exacting type

of work. Some of them, both Europeans and Indians I repeat again, are better fitted for outdoor duties and for district work. Therefore the principle of selection must be admitted in the filling of these Secretariat appointments. But I should be the last person to say that among men of a similar standing the percentage of suitable Indians is in any way less than the percentage of suitable Europeans for Secretariat appointments. That is not what I wish to urge. Nor on the other hand should I say that the percentage of suitable Europeans is less than that of suitable Indians. In fact I propose to assume for the purpose of discussing this Resolution that among the members of the same service the percentage would probably be very much the same. Well, Sir, if that general proposition is granted, it must follow that in the absence of special discrimination, which I take it this House does not wish to urge, in the absence of that in filling any given class of Secretariat appointments, the number of Europeans or Indians will be in fairly close proportion to the actual number of each sort on the cadre within the limits of seniority applicable to the particular post. And so we must therefore examine the cadre of Indian Civil Service, which is the main source of recruitment to the Secretariat posts which we are talking about, in order to test whether there has been any discrimination or not and form an opinion about the possible speed of Indianisation in the absence of such discrimination. These things depend on facts and figures. They cannot be argued by means of generalisations and I shall have to, I am afraid, trouble this House with a certain number of figures relating to the constitution of the Indian Civil Service before I come back to the Secretariat generally. As the House knows, there have been several changes in the method of recruitment to the Indian Civil Service during the last 17 years. The first big change was as a result of the Montagu-Chelmsford Report and it was applied with effect from 1920 onwards. That is to say, it would affect officers who entered the Indian Civil Service in the year 1921 onwards because those who were selected in 1920 would not come out till 1921. Therefore, the officers now in the Indian Civil Service who entered as a result of that first big change in the method of recruitment will be officers already available for posts of Under Secretary in the Secretariat, but they will only just be coming into the field of selection for the post of Deputy Secretary in the Secretariat. Now, the House will begin to understand what I meant when I said that immediate steps are not possible and that anything that can be done at this moment must depend on things that happened a considerable time ago. Now, after the Montagu-Chelmsford Report the next advance was in the Lee Commission's Report, the recommendations of which took effect from 1925 onwards, that is to say, only 12 years ago. That Report established the present ratio of 50—50 in the recruitment of Indians and Europeans and that ratio of recruitment was to continue until the whole service was staffed by half Indians and half Europeans. The Commission, I understand, expected that this result would be complete about the year 1939.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May I interrupt the Honourable Member for a second? Does the ratio 50—50 include recruitment from the Provincial Services or is this ratio only as between directly recruited candidates?

THE HONOURABLE MR. R. M. MAXWELL: It excludes the recruitment from the Provincial Services. There is a proportion of recruitment for the listed posts from the Provincial Services and the remaining posts are 50—50.

Well, this anticipation that the Indian Civil Service would be staffed by half Indians and half Europeans by about 1939 seems to me likely to be

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fulfilled. I can give the House one or two figures. In fact, I gave the Honourable Mover a few figures the other day. In 1925, which was the year in which the Report of the Lee Commission took effect, the percentage of Indians in the Indian Civil Service was 20·3. By the 1st of January 1937 the percentage had risen to 45·5—very nearly half. But we may expect that the attainment of that remaining 5 per cent. will be a comparatively rapid matter as will appear from certain figures that were laid on the table of the Assembly—I think it was during the present Session—in answer to some question showing the number of Europeans and of Indians respectively who have been appointed to the Indian Civil Service and have retired from the Indian Civil Service during the last five years. That was for 1931-35, I see. Well, these five years give rather remarkable results and I should like the House to pay attention to them. The number of Europeans who were appointed during those five years in the Provinces was 91. The number of Europeans who retired during the same five years was 194. During the same period, the number of Indians appointed was 150, and the number of Indians who retired was 11. If the House will weigh these figures they will see that they illustrate very strikingly the fact that beyond any manner of doubt the Indian Civil Service will soon be Indianised up to the stage contemplated by the Lee Commission Report; and the proposals of the Report were accepted both by the Indian Statutory Commission and by a majority of the Services Sub-Committee of the Round Table Conference.

Well, Sir, assuming that by 1939 the proportions of half and half will be duly attained, we must again go back to 1921 for the purposes of this Resolution. That was the year in which recruitment of Indians into the I. C. S. very largely increased and assuming that a Secretary to the Government of India would not be selected from men with below about 25 years service, it will be 1946 before the Indianisation of the Indian Civil Service is distributed equally over the cadre up to the probable stage of selection for the appointment of Secretary to the Government of India. That is an important point that I wish the House to observe, that Indianisation is not at once complete through all ranks of the Service. We may have figures to show that the proportion in the Services from the first to the 35th year is half and half. But still until that extra recruitment of Indians during the more recent 12 or 17 years has worked its way to all ranks, you don't get it equally distributed over the whole cadre and therefore when you have to select for an appointment in a particular place in the cadre you have not necessarily got that 50—50 to select from. I shall be able to illustrate that point, Sir, from actual figures. A statement was prepared in October 1935—I think it was prepared for the Wheeler Committee as a matter of fact—which shows the numbers of Europeans and Indians in each year of their service on that date. It is rather remarkable to look at a progressive statement of that kind because it shows that up to the year 1921 the number of Indians in the various years were generally 2, 3, 1, 5, 7, figures of that sort, and after that they go into 20's and 30's at once. In other words, the Indian proportion of the cadre was definitely within the first 13 or 14 years of the cadre as it then stood. Whereas the European element extended into the years beyond the 15th year and up to the 35th year—because they were recruited during the time before the Lee Commission's recommendations and the Montagu-Chelmsford recommendations were implemented. Now the effect of these various changes in recruitment on the cadre as it stood in October 1935 was this, that officers up to their 14th year of service then numbered 297 Europeans and 356 Indians; that is to say, there was considerably more than 50 per cent. of Indians in

those 14 years. After the 14th year, that is, from the 15th to the 30th year of service, the opposite position obtained. In 1935, the number of officers between their 15th and 30th year of service was 369 Europeans and only 33 Indians. That illustrates the point of the unequal distribution of Indianisation due to the fact that the changes have not taken full effect. I can give the House more specific illustrations of the difficulty of applying immediate Indianisation to all stages in the Secretariat from the figures of the same year. Supposing in 1935 it had been desired to recruit a Secretary between his 26th and his 30th year of service. The number of officers in the I. C. S. available for selection at that moment would have been 93 Europeans and only 12 Indians. Again, supposing in that year it had been intended to appoint a Joint Secretary to the Government of India. The number of officers available would have been 155 Europeans and only 11 Indians. Again, supposing we had been trying in 1935 to select a Deputy Secretary of, say, 12 to 17 years of service; the officers available for selection would have been 143 Europeans and 88 Indians. As the House will observe, Indians are only just at that stage entering the full field of selection for posts of Deputy Secretary. If we go to more junior officers,—those who would have been eligible for selection as Under Secretaries—we find that the officers between their 6th and 10th year of service would have been 117 Europeans and 109 Indians; that is to say, the field of selection from Indians and Europeans would have been approximately equal. Let us go still lower and take those between the 1st and 5th year of service. Although those officers would not yet have been fit to be selected for Government of India appointments, there would have been 110 Europeans and 159 Indians. Let us take those figures. Those were the number of officers between their 1st and 5th year of service in 1935. Those would, 20 years hence, represent the numbers available for selection for the post of Secretary. That is what I want the House to observe, that whereas in 1935, to appoint a Secretary of 25 to 30 years of service there would have been available only 93 Europeans and 12 Indians, 20 years hence, 110 Europeans and 159 Indians would represent the proportion available for selection for the appointment of a Secretary. From those figures we see that the percentage of Indians available for a post of Secretary in 1935 would have been 11, whereas the actual percentage of Secretaries' appointments and posts of equivalent status which were held by Indians in 1937 is 19—19 against 11. Similarly, in the case of Joint Secretaries, the percentage of Indians available for selection in 1935 would have been 7, but actually 30 per cent. of Joint Secretaries' appointments and posts of equivalent status were held in 1937 by Indians. As regards Deputy Secretaries, the percentage of Indians available for selection would have been 38 according to the actual position of the cadre, but the percentage of Deputy Secretaries' appointments and posts of equivalent status held in the Government of India Secretariat in 1937 was 44. Coming to posts of Under Secretary or posts of equivalent status, the percentage of Indians available would have been 48 according to the cadre, but the actual percentage of appointments held by Indians was 64. In other words, according to the strict state of the cadre of the Indian Civil Service, in every case the percentage of Indians holding Government of India Secretariat appointments is in actual advance of the Indianisation of the cadre—slightly in advance.

The natural consequence of the gradual effect of Indianisation of the cadre, as I said before, is that it will first become apparent in the lower grades and will spread upwards, and that is actually what we find to be the position at the present moment; that is to say, the percentage of Indian Under Secretaries is 64, of Deputy Secretaries 44, of Joint Secretaries 30, and of Secretaries 18, including posts of equal status. That is to say, you can see

[Mr. R. M. Maxwell.]

Indianisation creeping up the ranks, from rank to rank, from Under Secretary onwards, and there is no reason whatever to suppose that when these Under Secretaries, who are now serving the Government of India, reach the stage of seniority in which they will be eligible for selection to the post of Joint Secretary or Secretary, they will not actually be selected. But I will ask the House to note one thing, and that is, that if we disregard all notions of discrimination, there is not very much more room for advance in the total of Indianisation of the Government of India Secretariat, because as I said, supposing your cadre is 50—50, and supposing the number of officers suitable for Secretariat appointments is approximately the same for both Europeans and Indians, then it must naturally be supposed that the Indianisation of all Secretariat posts will itself be 50—50 unless you have exercised discrimination. But there is no reason to suppose that the process of Indianisation will not proceed quite normally in the future in accordance with the undertaking so often given by Government. All I wish to urge is that a Resolution which demands an immediate increase commensurate with the new status, a dimension which it is difficult very easily to identify, and which the Honourable Mr. Ramadas Pantulu has moved to omit in his amendment—any such immediate and indefinite increase it is impossible to accept as a general proposition. I may say that the method of recruitment to posts in the Government of India Secretariat is at the present moment under very careful consideration. The Honourable Member has alluded to the Wheeler Committee's Report, and as has been said before in this House, that Report is under the consideration of Government. I do not propose to make any announcement regarding it at this moment. It has dealt with subjects of that character and I hope that one of the results of the discussions which are going on will be that it will be possible to devise more suitable ways of exploring the field of recruitment, and this will make it easier to ensure the object of Government, namely, that Indians who are well qualified for Secretariat work will not be overlooked. Nobody wishes more than the Government of India to

1 P.M. find out the men who are going to be suitable for Secretariat work and any improvement in the machinery which will enable us to make sure of getting them will be very welcome.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : When will the Report of the Wheeler Committee be published ?

THE HONOURABLE MR. R. M. MAXWELL : When these various details arising out of it have been properly worked out. As I said just now, these matters have been under very close consideration ever since the Wheeler Committee report was received, but they require detailed examination. Anything in the nature of a scheme of recruitment or method of obtaining officers for Secretariat appointments needs very careful discussion, and until we are able to say what general lines will be followed it is useless to put the report on the table and possibly provoke a large amount of speculation and discussion which would not materially advance the consideration of the subject.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : So the Report will be published after Government have arrived at a decision ?

THE HONOURABLE MR. R. M. MAXWELL : That has been stated repeatedly in answer to questions both in this House and in the other House.

The only other thing about which I would like to assure this House is that there is not one word in the Wheeler Committee Report or in subsequent discussions of it which is in any way designed or calculated to frustrate

the declared policy of Government in regard to recruitment of Indians into the Secretariat ; and I hope therefore that the Honourable Mover after these explanations will find it possible to withdraw his Resolution ; because he must see and the House must see that there is nothing in the nature of immediate drastic steps which is possible, and everything possible is already being done.

**THE HONOURABLE MR. HOSSAIN IMAM :** Will the Secretary tell us what is the total number of posts of Secretary, Joint Secretary, Deputy Secretary and Under Secretary, and how many are Indians ?

**THE HONOURABLE MR. R. M. MAXWELL :** Excluding the posts of Assistant Secretary in which I think the House is not interested, in 1937 the total Secretariat posts, including posts of equivalent status, was 65. The number held by Indians was 26, that is 40 per cent.

**THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muham-madan) :** The Honourable Mover of this Resolution has put forward his case in a very able, clear and forcible speech, and we are obliged to him for having brought forward this matter for the consideration of this House once again after a number of years. If I rise to say a few words it is because I feel it necessary to do so after the speech made by the Honourable Home Secretary.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir David Devadoss.)

In the first place, we are obliged to the Honourable Mr. Maxwell for the very sympathetic reply that he has given. According to him very considerable progress has been made since the reply given by the Honourable Mr. Crerar in this House in 1923. This does not however appear to be so to judge from the figures which the Honourable Mr. Kunzru read out. (*An Honourable Member* : "Which have not been contested".) As however those figures have not been contested by the Government Member, we on this side cannot but assume that Mr. Kunzru's figures are quite correct. Having to follow Mr. Maxwell immediately after he sat down, it is hardly possible for me to comment upon the wealth of figures he has given, either favourably or adversely. I know that his figures will be published in our debates, but if I may be allowed to make a suggestion to Government I would much rather that they issue a communiqué giving all the details which Mr. Maxwell has presented to the House this morning. If he does so I am sure all those who criticise Government, if they find that they are in the wrong, will be prepared to admit that Government is doing something tangible. I trust therefore that my suggestion will be duly considered and that in the interest of Government themselves.

Referring again to Mr. Maxwell's remarks, he found fault with Mr. Kunzru for referring to some of the appointments which he said cannot be called Secretariat appointments, as for example the Director Generalship of Medical Services and the Educational Commissioner. I am glad however that Mr. Maxwell admitted that these officers were equivalent in status to the high positions held by several in the Secretariat. Mr. Kunzru referred to them in passing to show that in those cases the claims of Indians were ignored.

Again, the Honourable Mr. Maxwell referred to the fact that there is no discrimination against Indians. Well, so far one can judge, one does not know what exactly is the case. I quite admit that length of service is a necessary qualification in the case of a Civil Servant appointed to the position of Secretary, Joint or Deputy Secretary, and Mr. Maxwell has explained the

[Sir Phiroze Sethna.]

number of years service required for the incumbents of those posts. If that be so, and as Mr. Maxwell said that the percentage of Indians and Europeans in the Civil Service so far as ability is concerned is almost equal, may I ask why there should be so few Indian Deputy Secretaries in the Secretariat as compared with British members of the I. C. S. holding these appointments? But all that could be cleared up if the facts are given to us in a manner which can be appreciated not only by the legislators but by the public at large.

The Honourable Mr. Ramadas Pantulu referred to a passage in the Joint Parliamentary Committee's report in which they say that for a long time to come the British element is bound to continue in the services. Mr. Maxwell criticised this statement. May I point out that the manner in which the appointments are filled up today lends support to the theory which Mr. Pantulu explained, namely, that Government are determined to keep out Indians from the higher positions for as long a time as they can though it is bound to come in the end; but the attitude of Government is to put off the evil day as long as possible. In confirmation of what I say, let me refer to one instance, namely, that of nominated members of the Indian Civil Service during the last few years. Because British youths do not like to come forward to compete in the open examination, Government resort to the method of nominating them, which goes back to the old Haileybury days. I do not say that nominated members will not come up to the scratch and some of them prove as efficient as the others, but it cannot be denied that in all probability, not having passed through the same test, most of them will not do as well. I for one have always held that if the British Civil Service is the best paid civil service in the world, it is perhaps the most efficient by reason of the fact that it goes through a very crucial test. These nominated members do not go through that crucial test. Why then admit them when there are not dozens but hundreds of Indians who are quite prepared to go through the test and appear for the examination? That, I say, gives colour to and helps to support the argument advanced by Mr. Pantulu, and that is one of the things that Government should take care to see that they do away with nominated members in the Indian Civil Service at the earliest possible opportunity.

Again, Sir, there is the question of seniority. I quite admit that if an Indian is junior and if a European is senior and if they are both equal in merit, surely the European cannot be passed over. I am glad that the Honourable Mr. Maxwell thinks that as a rule Indians are not incompetent. I hold with one of the speakers who preceded me that an Indian is competent for any position in which you place him. I know my Honourable friend His Excellency the Commander-in-Chief and the Military Department will not agree with me so far as increase in the number of Indian military officers is concerned. We are however just now talking of civilian appointments. May I refer to the appointments which the Government of India have made during the last few years of Indians in the higher posts and ask whether such Indians have discharged their duties to the satisfaction of Government or not? Reference was made to the Department of Education, Health and Lands. That is the only Department of Government in which at one time there were all Indians and today the great majority of them are Indians, and I am sure that no officer of Government will say that the Department of Education, Health and Lands is inferior to any other Department of the Government of India.

One other argument in favour of having an Indian, at least one Indian, in the superior appointments as Secretary, Joint Secretary or Deputy Secretary, in each one of the Departments, is the one which I referred to on a previous

occasion when speaking on the Resolution of the Right Honourable Srinivasa Sastri in 1923. It is this. The head of the department, I mean the Honourable Member, may be an Indian or a European. If all the members, the Secretary, Joint Secretary and the Deputy Secretary, are Europeans and they are asked to express their opinions on questions which come up before the Honourable Member—they are expected to write their Minutes—if all of them are Europeans, the view they will take will be from the European point of view, and if the Honourable Member is a European, he will simply endorse the same and the Indian viewpoint will not be considered. Assuming that the Honourable Member in charge is an Indian and he has all European members under him, namely, Secretary, Joint Secretary and Deputy Secretary, then if all the three, because they are Europeans, hold identically the same opinion, it stands to reason that the Honourable Member, who is an Indian, however strong and efficient he may be, may turn down their proposals once, he may turn them down twice, but he will not always do so, and consequently Indian opinion will not be before the Honourable Member. These are reasons why at least one of the three in each Department of the Government must surely be an Indian and I do trust that in making future appointments the Government of India will take this into consideration.

**THE HONOURABLE MR. GOVINDLAL SHIVLAL MOTILAL (Bombay. Non-Muhammadan):** Sir, I rise to support the amendment of my Honourable friend Mr. Ramadas Pantulu. There is not much difference between the viewpoints which some Members on this side of the House and the Mover of the Resolution have put before the House. Because Government claim that an advance has been made, therefore, it is admitted for the sake of argument only by the Mover of the Resolution that the advance in Indianisation should be commensurate with the new constitutional status of India. In the course of the debate it has, however, been made clear that so far as the new constitutional status of India is concerned, there is hardly much difference in all material respects. Therefore I am glad that the contrary is not insisted upon and the view taken by the mover of the amendment is more or less accepted. Sir, for a long time, even prior to 1921 or 1923, Indian opinion has insisted that the services should be Indianised and rapidly Indianised. Propositions were moved in the Indian Legislatures by the representatives of the people. In 1921 and in 1923 the question was discussed in this House. Some policy was laid down by Government from time to time with regard to Indianisation. Judging by results, we say that this policy has failed. For a number of years since 1921 or 1923, some proposal was accepted and a policy laid down in pursuance of that, but if we judge by results today, what do we find? So far as the Secretariat is concerned, there are very few Indians who hold the higher posts. Therefore it should not be said that this policy was laid down and according to that policy the number of Indians in a particular year will be so many and therefore there is no discrimination. As a matter of fact the discrimination is at the bottom of it. If there are Indians who are capable of holding the positions creditably and they are not taken in the service of the country but someone is imported from thousands of miles—this is where the discrimination begins and that discrimination we want to be discontinued. If this discrimination is discontinued, whatever the policy may have been in the past, the policy must now change, so that there is rapid Indianisation. Why should it be confined to merely 50 per cent. of the recruitment of new posts and then wait until you get to the seniority post and until it is reached the number of Indians must necessarily be low? This policy of gradual and slow Indianisation, judging from the results, we say has failed. Therefore there must be now the policy of immediate Indianisation of the higher services.

[Mr. Govindlal Shrivall Motilal.]

Unless that is done—the reasons have been examined, I will not go into every one of them—but unless that is done the country will not feel satisfied, the country will feel—the experience of these years clearly proves—that the viewpoint of the Indian is different from the viewpoint of the European in the services. One who is born here, lives and dies here, in this country, his viewpoint is bound to be different from one who comes here only to serve and then retire from India. His associations, his ideas, are not the same as those of Indians. Therefore it is all the more essential that the Indianisation should be rapid, particularly for the reason that the Indian Ministers administering the Departments should not feel that they have not got in the non-Indian element that responsive, that sympathetic feeling, that grasp of India's needs and requirements necessary for the purpose. Therefore the policy of judicial replacement which has been laid down some years ago will not now satisfy. It does not satisfy India. What India wants is an immediate adoption of another policy of Indianisation, much quicker and much more rapid, so that it may not be said that even after two or four years of the working of the present policy, only one or two posts could go to Indians and therefore you can have no complaint. We attack this policy; we are dissatisfied with this policy and therefore we support the Resolution with the amendment.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Mr. President, I listened with great attention to my Honourable friend Mr. Maxwell and took due note of the sympathy which he expressed with the object of the Resolution before the House. I wish that his sympathy had taken some tangible shape but unfortunately immediately after sympathising with our aims and aspirations he dealt with the whole question in such a way as to make us see that we cannot expect any large alteration in the composition of the Secretariat for the next 20 or 25 years. He asked us to consider two questions on which the selection of men for the Secretariat of the Government of India had to be based—(1) that of seniority, and (2) that of fitness. Speaking of the question of seniority, he elaborately analysed the figures relating to the seniority of Indian and European members of the Indian Civil Service and said to us: "If you will only wait 20 or 25 years things will right themselves. Why are you impatient? Indians are being recruited in larger numbers. For a century and a quarter nearly you had no representation in the Indian Civil Service. What is time for you who believe in eternity? And if you will only wait about half a century more you will get your due share of the higher appointments that you claim now". Now, Sir, that was not an alluring prospect that could satisfy Members on this side of the House. Indeed, if anything, it was calculated to enhance their keenness in pressing this Resolution and bringing pressure to bear on the Government of India to move much faster in the direction in which we would desire it to go.

Another observation made by my Honourable friend related to the seniority of Indians appointed since the introduction of the Montagu-Chelmsford Reforms. He said: "Well, they are only of 15 years' standing and they are just fit to be chosen as Deputy Secretaries. If therefore you find Indians practically only as Deputy Secretaries in the Secretariat you have no reason to complain. That is all that their seniority in the Service entitles them to". Now, the Honourable Member appealed to our sense of justice and asked us to say whether we would like the senior men who were British to be superseded for no fault of their own merely in order that Indians might be appointed in their place. Is the long service of European Members to count for nothing? Is their fitness for high positions in the Secretariat to be

disregarded? I appeal to the sense of fairness of my Honourable friend and those who sit behind him and ask him to take a historical view of this question. Why is it that the composition of the Indian Civil Service is of the particular character which it bears today? Who decreed that the examination for the Indian Civil Service should for a long time be held in England? Who decreed that only a certain proportion of Indians should be admitted into the Service annually? Who has laid down that if British youths are not willing to enter the Indian Civil Service by competition they should be got in by means of nomination? Were all these steps taken in utter disregard of political considerations and simply in order to choose the fittest men for the posts included in the cadre of the Indian Civil Service? It would be idle to contend—and I am sure my Honourable friend Mr. Maxwell will not contend—that all these steps were taken merely on grounds of justice and fairness and had nothing to do with political or—to speak bluntly—with racial considerations. Well, then, if you have followed racial considerations in determining the present character of the Indian Civil Service, it does not lie in your mouth to say: “We want only to be just and to avoid any unfairness to the senior European members of the Service”. The question is at bottom a political one and it is not our fault that it is a political one. It is you who have made it a political question. And it is up to you to deal with the question on grounds which are not purely departmental and which take into account the situation created by you and the awakening that has taken place in the country of the issues the solution of which will be determined by the relations that prevail in future between Indians and Englishmen.

Sir, my Honourable friend speaks of justice and fairness. I ask him to lay his hand on his heart and tell me whether it is entirely on grounds of fitness and justice that no Indian has been appointed as Finance Secretary or Commerce Secretary or Army Secretary. You have twitted us for a long time with being fit for nothing but following the legal profession. Have you had a single Indian as Secretary in the Legislative Department? One would have thought that in this Department of all others an Indian would have been chosen long ago to serve as Secretary. Indians have been Judges of High Courts. They have held other responsible legal positions but not one of them has been found fit by the Government of India yet to hold charge of the post of Secretary in the Legislative Department. (*An Honourable Member*: “Or of Joint Secretary”.) Yes, it is perfectly correct to say that there has been no permanent Joint Secretary even in the Legislative Department.

Take another illustration. Take the Foreign and Political Department. There was a communiqué issued by the Government of India on the subject to which I referred in my opening speech. Some time later came the Lee Commission recommending that 25 per cent. of the annual recruits should be chosen from Indians. And what is the actual state of things? From 1924 to 1930 (I gather this from the classified list of the Foreign and Political Department) about 47 men were admitted to this Department and of these only 5 were Indians. And since 1931 I do not find from this list that a single Indian has been admitted. Where are justice and fairness here? Is it entirely on grounds of justice and fairness that you have not implemented the promises made in the communiqué of 1921, and not carried out the recommendations of the Lee Commission which you accepted?

Take another thing—it was stated in the communiqué of 1921 that Indians chosen for the Political Department would be selected from the Indian Civil Service, the Indian Army and the Provincial Service. There are 12 Indians

[Pandit Hirday Nath Kunzru.]

in this Department but of them only one belongs to the Indian Civil Service. Is this a proper method of selection? Yet, if the number of Indians is low in a Department or some of them are not found fit for the discharge of the responsibilities entrusted to them, you say that you are not responsible for it and that you are compelled because of the situation that exists to give preference to Europeans over Indians. I say, the responsibility is yours and that the present situation is entirely due to the policy followed by you in the past, to the policy that continues to inspire your conduct even now. You should therefore not ask us to be patient and indulge in formulas and shibboleths which have ceased to have any practical meaning for us. . . .

**THE HONOURABLE THE CHAIRMAN** (The Honourable Sir David Devadoss): Will the Honourable Member be much longer?

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU**: I cannot speak much longer, Sir. I have got only 15 minutes.

**THE HONOURABLE THE CHAIRMAN**: It is already 1-30 P.M.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU**: I shall speak only for five minutes more, Sir. I put a question with regard to certain specific posts. My Honourable friend the Leader of the House has cleverly evaded the reply that was due to me by asking the Home Secretary to say that the post of Director-General of the Indian Medical Service is not a Secretariat post. When his ingenuity discovered that this post was not included among the Secretariat posts, I do not know. But this will not remove from the Education Department the blot that justifiably rests on it owing to the supersession of a senior and meritorious Indian by a comparatively junior Englishman.

Sir, my Honourable friend Mr. Maxwell implied, though he did not say so expressly, that if we wanted to be logical and have a large Indian element in the higher Secretariat posts, we should have asked for the Indianisation of the Civil Service, which issue has not been raised by this Resolution. I know, Sir, that that would have been the most logical thing to do. But had I brought forward a Resolution for the more rapid Indianisation of the Indian Civil Service, the Government of India would have said, "That question has just been decided, it has been ruled by the higher authorities that the Lee proportion shall continue for the present. If you like we shall forward this debate to them, but we can do nothing". That is why I have not raised the larger question today and have contented myself with bringing up the smaller question with which the Government of India are perfectly competent to deal. The spirit of the new Act is certainly that pointed out by my Honourable friend Mr. Ramadas Pantulu. Hitherto it was possible for the executive authorities to lay down any proportion for the recruitment of Indians to the Indian Civil Service. Hereafter, owing to this Act which, forsooth, advances our constitutional status, there can be no progress in this matter except with the consent of Parliament, that is, of both Houses of Parliament, including the House of Lords. In other words, British policy in India is to be regulated, in the matter of admission into the Indian Civil Service, not in accordance with the views of the British electorate, but in accordance with the views of one party, the British Conservative Party.

Sir, I have already explained the ground on which I gave my Resolution in the form in which it stands. My object in wording it as it is was to say to the Government of India, "We take you for the moment at your word";

you have an opportunity of justifying your claim in one important department of the administration. Let us therefore see whether you are prepared to increase the Indian element here and then we may have some grounds for believing that the new Act is really meant to give us greater opportunities of managing our own affairs and of widening our liberties". I personally think that that is for the moment a stronger ground to take than the ground which my Honourable friend Mr. Ramadas Pantulu would like us to take. But there is no difference at all between his point of view and mine. Whether we take the Act or the Public Services, our points of view are, I venture to think, identically the same. I leave it to him, therefore, to decide whether he would insist on his amendment or whether he would accept my language, because of the tactical advantage that it gives us. If he insists on his own amendment, I shall have no objection in accepting it.

One word more, and I have done.

**THE HONOURABLE THE CHAIRMAN** (The Honourable Sir David Devadoss): You have already exceeded your time limit.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU**: My Honourable friend Mr. Maxwell said that the Government of India would be prepared to review the situation, in view of the dissatisfaction with the present state of things, and explore—I think that was the word he used—further opportunities of admitting Indians into the Secretariat. If that is so, if he and we mean the same thing, if the Government of India are prepared to display the spirit that we would like them to be inspired with, there is no reason whatsoever why my Honourable friend should oppose my Resolution. I know that a large increase in the Indian element will take some time to be effected. I do not want that every European officer should forthwith be superseded and Indians should be appointed to their places. What I do want is that the Government of India should set their faces in the right direction, take determined and quick steps to achieve the result which we all of us would like to attain, and which we have a right to attain. In the new constitution the appointment of Indian Secretaries would be more essential than it has been in the past. I do not know whether what I have said will have any weight with my Honourable friend. If he is actually prepared to adopt the same point of view as we have adopted, if we mean the same thing, Government should have no difficulty in accepting my Resolution . . . . .

**THE HONOURABLE THE CHAIRMAN** (The Honourable Sir David Devadoss): I think the Honourable Member has considerably exceeded his time limit.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU**: If he is unable to accept my Resolution, then I am afraid I shall have no option but to insist on a division.

**THE HONOURABLE MR. R. M. MAXWELL**: Sir, I won't detain the House long as it is getting late. I am afraid I did not succeed in conveying my meaning fully to the Honourable Mover if he quotes me as having said that we must wait for 20 or 25 years before any progress in Indianisation can be seen. I actually pointed out to the House—I did my best to prove it—that by 1946 the Indianisation already determined by the rules and regulations would spread throughout the ranks of the Indian Civil Service, and that yearly as we approach that date the proportion of Indians available for the higher appointments will be larger and larger. There is no question of

[Mr. R. M. Maxwell.]

waiting for 20 or 25 years. The longest any one would have to wait for complete equalisation for consideration for the post of Secretary to the Government of India would be until 1946, and even before that Joint and Deputy Secretaries would be 50 per cent. Indians. I hope the House has followed my arguments in that respect and will not be misled by this idea that nothing is going to happen during the next 20 or 25 years.

Sir, I do not wish to add much to what I have said. I had attempted to put the case to this House not as a matter involving what I might call racial or political discrimination but as one of hard fact, the practical possibilities of the existing cadres and the normal means by which the measures now in progress must inevitably lead up to the object which the Honourable Members have in view. So far as the recruitment of the I. C. S. is concerned, that is the proportion of 50—50, that is not the subject before the House at the moment and I am afraid that we cannot allow it to influence our view of the Resolution. All that I have attempted to show is that immediate steps mean nothing in this connection unless the Honourable Member is prepared to press for racial discrimination in the making of these appointments, and I think that I have the whole House behind me when I say that it is not the feeling of Indians that discrimination should be introduced into the filling of these appointments.

There is one point on which the Honourable gentleman misquoted me. He said that I had said the Government of India would review the situation in order to get more Indianisation or words to that effect. That was not exactly what I said. What I said was that the whole system of recruitment and measures to systematise it were under consideration so that Indians suitable for Secretariat work would never be overlooked, and this would normally lead to their full representation up to the extent of their representation on the cadre. Actually as they preponderate in the lower ranks we may expect they will preponderate in a very short time in the lower ranks of the Secretariat in consequence of such measures. At any rate there is no reason to suppose that any Indian who is fit for this work will not have his claim fully considered. But there is no use in being impatient for these results. We must give these younger Indians time to grow up and not attempt to pitchfork them into the posts of Secretary and Joint Secretary. Let them get their experience and show their fitness and I have no doubt the Government of India or any other Government will be extremely glad to have their services.

I hope that in view of what I have explained the Honourable Member will decide not to press this Resolution to a division.

**THE HONOURABLE THE CHAIRMAN** (The Honourable Sir David Devadoss): To the original Resolution an amendment has been moved, namely:

“That all the words after the words ‘Government of India’ be omitted”.

The Question is:

“That that amendment be made”.

The Motion was adopted.

**THE HONOURABLE THE CHAIRMAN**: The amended Resolution now reads:

“This Council recommends to the Governor General in Council to take immediate steps to increase the number of Indians occupying the higher posts in every department of the Secretariat of the Government of India”.

The Question is:

“That that Resolution be adopted”.

The Council divided.

AYES—18.

Abdus Sattar, The Honourable Mr. Abdur Razzak Hajee.  
Ataullah Khan, The Honourable Chaudhri.  
Chettiyar, The Honourable Mr. M. Chidambaram.  
Govindachari, The Honourable Rao Bahadur K.  
Hossain Inam, The Honourable Mr. Kaitkar, The Honourable Mr. V. V.  
Kunzru, The Honourable Pandit Hirday Nath.  
Mahapatra, The Honourable Mr. Sitakanta.  
Mahtha, The Honourable Rai Bahadur Sri Narain.

Mitha, The Honourable Sir Suleman Cassum Haji.  
Motilal, The Honourable Mr. Govindlal Shival.  
Muhammad Hussain, The Honourable Khan Bahadur Mian Ali Baksh.  
Pantulu, The Honourable Mr. V. Ramadas.  
Ram Saran Das, The Honourable Rai Bahadur Lala.  
Ray Chaudhury, The Honourable Mr. Kumarsankar.  
Sapru, The Honourable Mr. P. N.  
Sethna, The Honourable Sir Phiroze.  
Yuveraj Datta Singh, The Honourable Raja.

NOES—26.

Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.  
Basu, The Honourable Mr. Bijay Kumar.  
Charanjit Singh, The Honourable Raja.  
Chinoy, The Honourable Sir Rahimtoolah.  
Clow, The Honourable Mr. A. G.  
Commander-in-Chief, His Excellency the.  
Dow, The Honourable Mr. H.  
Ghosal, The Honourable Sir Josna.  
Glancy, The Honourable Sir Bertrand.  
Haidar, The Honourable Khan Bahadur Shams-ud-Din.  
Ihtisham Hyder Chaudhury, The Honourable Syed.  
Jagdish Prasad, The Honourable Kunwar Sir.

Kay, The Honourable Mr. J. R.  
Khurshid Ali Khan, The Honourable Mr.  
Kirke Smith, The Honourable Mr. A. Maxwell, The Honourable Mr. R. M. Menon, The Honourable Diwan Bahadur Sir Ramunni.  
Nihal Singh, The Honourable Sirdar.  
Nixon, The Honourable Mr. J. C.  
Parker, The Honourable Mr. R. H.  
Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.  
Russell, The Honourable Sir Guthrie.  
Siddiqi, The Honourable Khan Bahadur Shaikh Muhammad Bashir.  
Singh, The Honourable Raja Devaki Nandan Prasad.  
Todd, The Honourable Mr. A. H. A.  
Williams, The Honourable Mr. A. deC.

The Motion was negatived.

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

The Council re-assembled after Lunch at a Quarter Past Three of Clock.

### RESOLUTION *RE* RELEASE OF POLITICAL PRISONERS AND DETENUS ON THE OCCASION OF HIS MAJESTY'S CORONATION.

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

"This Council recommends to the Governor General in Council to submit to His Majesty the King Emperor of India the most earnest and humble prayer of this House that His Majesty should be graciously pleased to direct the release of all political prisoners and those detained without any trial on the happy occasion of His Coronation."

The object of this Resolution, as is quite apparent, is to inaugurate the reign of the new Sovereign which is synchronising with the inauguration of the Reforms in as happy circumstances as possible in this country. However sham and unsubstantial it may be, we are getting some vestige of democratic and responsible Government in the country now and no country which has

\*Speech not corrected by the Honourable Member.

[Mr. Kumarsankar Ray Chaudhury.]

such a form of Government, far less one that is just being initiated into it, can tolerate for a moment the existence of such repressive measures as are now found to be prevalent in this country and the indefinite and prolonged detention of people beginning from an Indian Prince like the *Ex-Maharaja* of Nabha down to the humblest individual without any trial whatsoever merely on the strength of untested and unchallenged testimony of the police, bringing in its trail breakdown in health, untimely death, suicide and ruin of many families. The verdict of the people on the point has been clearly expressed during the last general election by the return in overwhelming numbers of candidates standing under the Congress banner and it is time that the officials of the Government should take note of the fact and put their house in order so as not to bring about an early collapse in the successful working of the reforms.

The bureaucracy in India has so long been irresponsible, unresponsive and coercive and have flouted public opinion with impunity, but that state of things will no longer continue and for their very existence it is necessary that they should change their angle of vision and feel and realise that they are no longer the masters of the people of India but their servants, however much their position may be sought to be safeguarded by the niggardly granted Reforms.

The Honourable the Home Member in the other House reminded us the other day that the 1st of April is fast approaching, but he carefully avoided mentioning what would happen thereafter with the bureaucracy in India. Knowing his views and attitude towards public opinion as ventilated in the Legislatures, I presume what he would have said was, "After me the deluge" but that will not be the case with other British bureaucrats who have yet some lease of life in this country, and I may remind them that it is repressive measures and indefinite detention without trial and such other terroristic measures adopted by Czars and Dictators in the name of law and order that have been responsible for the introduction and continuance of terrorism in their countries and it was the introduction of similar measures in India for the suppression of public feeling ever since the partition of Bengal in the name of law and order that has been responsible for a similar situation arising in this country and no substantial results can be expected to be achieved until that policy is reversed and a policy of real conciliation is adopted. Democracy when and wherever fully established has other and well recognised methods of maintaining law and order and public opinion and ameliorating measures which have not been allowed to have free scope in this country until quite recently but tardily by the Government of Bengal will assert themselves for its maintenance.

With these few words I commend my Resolution for the acceptance of this House and I hope, now that the situation, as admitted by the Home Member in the other House, is much improved, the official block with which this House is so heavily weighted will set an example to the provincial officials of their changed angle of vision by not standing in the way between His Majesty and his subjects in India and blocking his way from winning their hearts.

**THE HONOURABLE MR. GOVINDLAL SHIVLAL MOTILAL (Bombay : Non-Muhammadian) :** Sir, I rise to support this proposition. The terms of the proposition, if I had my way, would have been different. But the Honourable Mover, coming as he does from Bengal, naturally wants that these political prisoners should be released and has framed his Resolution in such phraseology as may appeal to the Members of the Government. There have been a number of people who have been detained indefinitely without trial and

the tale of their suffering, as told in the other House, has been told by others from time to time, and it is not necessary for me to go into great detail with regard to that. Some persons who have been under detention, if they fall sick, cannot get adequate medical treatment. The members of their family are stranded. There is no one to support them. But the very detention of persons without trial is really abominable. It denies them the liberty a subject enjoys under every civilised Government. If a person is alleged to be guilty of any conduct, he should be brought up for trial, and if he is prosecuted for it the court must judge whether the executive or the prosecution has proved its case. If the prosecution is unable to prove its case it is its fault. I believe, Sir, that in most cases, if not in all, if a man does something which is really reprehensible and renders him liable to prosecution under the provisions of any of the criminal laws, then there will be evidence enough and when he is brought before the courts, the courts convict him. Occasionally it may happen that evidence is not sufficient or the judges may not take the same view as the prosecution takes, but it is not only in one section of cases alone such as political cases but there have been as we know cases of other types where the man has escaped conviction. But such cases are few and far between. We cannot therefore accept the principle that because in every case conviction does not result therefore even without trial the men must be detained. He must not be detained if you cannot get them convicted. Apart from that, there are a number of persons who have been convicted under the special laws such as the Criminal Law Amendment Act for political offences. Although it may be asked, what are political offences? It is very well known what political offences are. It is time that those who have been convicted of those offences should be released. The civil disobedience movement has been at any rate suspended, and once there is a suspension of that movement, those who were convicted of offences concerned with that movement should be released.

I am wondering whether Government Members will rise and say that the Party to which I belong has now been elected in a majority to the various Provincial Legislatures and it would be for that Party to consider the matter, and, if they take such a view, it would be open to them to release these political prisoners. No doubt, if the Congress takes office, it will have to consider very seriously whether the political prisoners should be released. But our fear is that it would also be open to the Government, as the constitution stands, to come in the way of the Congress. I would therefore, in supporting the Resolution, ask the Government Benches to consider and give a sympathetic reply and indicate that if the Congress takes the responsibility of the administration, it will realise that it has got to maintain law and order consistently with its object of achieving Swaraj, and still if the Congress decides to release the prisoners it would be open to them to do so, and Government will not stand in the way.

**THE HONOURABLE MR. P. N. SAPRU** (United Provinces Southern : Non-Muhammadan) : Mr. President, I desire to support this Resolution, and in doing so I should like to say a few words about the detenues whom it mainly affects. Most of the other prisoners have been released and this Resolution mostly affects the detenues of Bengal. There is no one on this side of the House who is in sympathy with terrorism or murder. We all detest terrorism, anarchism and murder. But the question that we have got to ask ourselves is, "How long are these men going to remain in prison without any trial?" These men have now been in prison for several years. You cannot indefinitely

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keep them in jail. You must either bring them to trial or release them. Some of us have got a very uneasy feeling in regard to this matter. When the Criminal Law Amendment Bill was before the House, we on this side of the House opposed it mainly on the ground that it dispensed with judicial procedure and that it was not in our opinion going to provide any permanent or lasting remedy for the problem of terrorism. Sir, it is a reflection on your administration that you can maintain order only by methods which one can regard as un-British. We have our concentration camps in India and most of these concentration camps are in Bengal. Some of these detenus have even committed suicide. How long do you propose to keep them? When do you think conditions will improve? Do you think conditions will improve if you maintain your present policy? What is your constructive policy in regard to terrorism? Certainly maintain order by all means, but you cannot cure the disease by maintaining order only. You have to evolve a constructive policy, a policy which will give to the youth of this country the vision of freedom within their lifetime. The problem of terrorism is partly political and partly economic and if you tackle this political and economic problem with courage and vision, I think you will have no terrorism in this country, because I have no doubt that terrorism is against the genius of the Indian people, against the better instincts of the Indian people. There is a belief that we can achieve moral ends by immoral methods, and terrorism stands for immoral methods. Therefore, while we on this side of the House have no sympathy with terrorism, we cannot also approve of methods which we cannot regard as moral methods. You can certainly maintain order, but maintain order by methods which public opinion can recognise as just and humane. If you keep a man in jail for an indefinite period, then you alienate large sections of public opinion also. You make the position of officers who have to administer a law like the Criminal Law Amendment Act difficult. I think some of them are most excellent men. They become targets of attack by assassins and murderers. Revise your present policy in the light of these considerations and release these men and give them a fresh chance. If you think you cannot release them, then bring them to trial. There are among the detenus some very distinguished men. There is Mr. Subash Bose, who is one of the detenus. I do not know all the facts in regard to Mr. Subash Bose, but I think one is entitled to assume that if there was any case against him, he would have been brought to trial by this time. He has not been tried by any court of law, and therefore one is entitled to assume that the evidence against him is of such a character that no court of law would act on it. He has been in detention for a fairly long time—I think for about 6 years. The Honourable Mr. Pantulu will be able to correct me if I am wrong.

THE HONOURABLE MR. V. RAMADAS PANTULU: Six years.

THE HONOURABLE MR. P. N. SAPRU: That is a long enough period for any man to be in prison. How long do you propose to keep him in prison? Do you propose to keep him indefinitely? Even a dacoit is sentenced only to 5, 6, 7 or 8 years. There is a limit to the punishment which a dacoit receives. There is a limit to the punishment which a murderer receives. It may be transportation for life, it may be death, but there is some limit to the punishment which a man who undergoes a normal trial receives. There is no limit to the punishment which these men are receiving and these men have had no chance given to them of clearing their conduct. No court of law has examined their cases. I know that you have a system of having their cases examined by

Sessions Judges. But after all these Judges, who act as advisers to the Executive Government, have to depend upon evidence which is not tested by cross examination, evidence which has not stood the test of certain tests which are recognised by our system of jurisprudence. We must remember that conditions appear to have improved. They appear to have improved in Bengal where there has been no terrorist crime for a long time and fortunately there has been no terrorist crime in any other part of the country. I think therefore that this is a suitable time for you to take action. My Honourable friend Mr. Ray Chaudhury would like these men—political prisoners and detenues—to be released on the happy occasion of His Majesty's Coronation. It would be a very suitable time indeed to release these men. I am sure the clemency of Government will not be misappreciated. It will have a salutary effect upon the political and economic situation in the country. With these words, Sir, I would give my strong support to the Resolution which has been moved by my Honourable friend Mr. Kumarsankar Ray Chaudhury.

**THE HONOURABLE MR. V. V. KALIKAR** (Central Provinces : General) : I have great pleasure in supporting the Resolution moved by my Honourable friend Mr. Ray Chaudhury. I am extremely glad to find that the Resolution comes from a quarter from which we would least expect it to come in this particular form. That shows that even the Congress Party here in this House does want to make some constructive suggestions to Government. They have practically I may say stretched their hand of co-operation, and it is now for the Government to respond. If the Government fail to accept the hand of co-operation, I submit we will think that the Government is not acting in the interests of the country. My Honourable friend has suggested the release of political prisoners on the happy occasion of His Majesty's Coronation, and he said in his speech that it would be a good augury for the Reforms. He further stated that the Government should take this occasion of gaining public confidence so that the Reforms may not collapse. If I understood him aright, I understood him to mean that the release of political prisoners will to some extent help the working of the Reforms. If that is the position, I think it is the duty of the Government to think seriously over this matter and release all detenues and political prisoners if there are any. We on this side of the House have stated at various times in unequivocal terms that we cannot under any circumstances appreciate terrorism. When we discussed the various Criminal Law Amendment Bills in this House we stated our position clearly and I remember once saying that terrorism was a thing foreign to India. But at the same time we cannot and we do not appreciate the attitude of the Government in passing emergency legislation which substitutes the power of the executive for the judiciary which deprives the accused the elementary right of getting a fair trial in open court. We have heard from high authorities, especially from the Honourable Home Member recently, that the position in Bengal has improved. We submit that if the position has improved there is no case for detaining the political detenues in Bengal or in any other province. I may cite the case of Mr. Sarat Chandra Bose who was detained for a long time and after he was released we find him taking an active part in political life and no danger has come upon the British Government in Bengal or in India. His Excellency the Governor of Bengal has to some extent analysed the position in Bengal in this connection and has come to the conclusion that terrorism would be stamped out if these detenues are given employment. Sir, on former occasions I submitted in this House that it was the duty of the Government to give employment to these misguided youths. The Government failed in their duty and to my mind it appears that one can accuse the Government to some extent for creating terrorism in Bengal. Then, we

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understand that the emergency laws that have been passed during the last 5 years have been applied in that unfortunate part of India with such great oppression that people say that terrorism has increased on account of the oppressive ways in applying those laws. Whatever it may be, the position now is that terrorism has completely disappeared in Bengal and the position has improved. If that is the case I submit it is the duty of Government to release all those detenus who are kept in detention without trial and help them to get employment and act as good citizens of India. Sir, I support this Resolution, because I feel that unless a criminal is brought into court and is given the opportunity of having an open trial, injustice is done to him, and therefore I support the Resolution with a view that Government at least on this occasion would reconsider their former decision and release detenus.

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, I am afraid I could not entirely follow the Honourable Mover while he was reading his speech and I am not aware whether any valuable argument has escaped me. But I should like once more to draw the attention of the House to the scope of this Resolution. It is to submit to His Majesty the prayer to be pleased to direct the release of all political prisoners and those detained without any trial on the happy occasion of his Coronation. I notice that speeches from the benches opposite have dealt mainly with the question of prisoners detained without any trial, and particularly of the Bengal detenus. I propose to come back to that subject later; but all I would point out here in regard to that is that it is not now a question of the principle of detention without trial. That is not what the Resolution says. It does not do to argue, as the Honourable Mr. Sapru did, that such detention without trial is a reflection on the administration and that such prisoners should be brought to trial and should not be detained unless they are convicted in a court. That is not what we have to consider now. What the Resolution proposes is that apart from the merits of such cases, apart from any question of whether detention without trial is a justifiable way of dealing with the situation, His Majesty's Coronation should be made the occasion for their release. That is the gist of the Resolution and I take it that the whole question of whether detention of prisoners without trial is justifiable or not is not strictly germane to the matter before the House. However, I will return to that point after a few minutes. I will begin with the first part of the Resolution which applies its recommendation to persons called political prisoners. These at any rate will satisfy the requirement mentioned by the Honourable Member opposite, that they have been convicted in court, they have been convicted in impartial courts on evidence placed before those courts. There should be no question that we can consider here as to whether those convictions were justified or not. We have to assume that the evidence was such as to satisfy the courts that these persons were guilty of offences under the Indian Penal Code and other Acts. But given that we have a certain number of persons now undergoing sentences for offences for which they have been convicted by courts in the ordinary course of law, we still have no known definition of a "political convict," and I should like to know a little more about this and I think the House should know what the Resolution means. For instance, are persons convicted of murder or dacoity in pursuance of terrorist conspiracy, are they political convicts? We are aware that in 1919 a certain number of persons were convicted and sentenced for murder during the political riots in Ahmedabad and in other places. Or again, are persons convicted of attempted assassination to be called political? Or criminal conspiracy: is that to be called a political offence? Or offences against the Arms Act, or the possession of bombs and explosives? Are these persons

to be called political convicts? I would like to ask the Honourable Member who moved the Resolution whether bribery at the elections could be called a political offence. Undoubtedly it is in pursuance of a political object. Or take rioting during elections. It would be interesting to know whether all persons who take part in riots during elections are to be called political offenders. In fact the question is whether anyone who pretends to be taking part in a political movement is to have liberty to commit criminal intimidation or mischief or defamation of his neighbour or wrongful restraint or criminal force or assault. I should like to know that. I regret to say that all these and many other offences have been committed in the name of politics in recent years and if they are to be regarded as justified by that, I think we are going to proceed a long way from the basis of the Indian Penal Code. I trust the House by now will see how dangerous it is to try and set up a distinction of this kind between political and non-political offenders, and I should like to know, supposing we wish to set up such a distinction, who would interpret it. Would it be open to any convict to claim the benefit of a Resolution such as this on his own certificate that the motive which inspired him was political, that he was actuated solely by the laudable desire to overthrow the Government? What sort of a blank cheque are we going to give to the jails or to the convicts themselves on a Resolution like this? I would submit to this House that this is a Resolution recommending certain action to the Government. When action is recommended the nature of the action should at least be specified precisely in the terms of the Resolution. Yet we have at least this part of the Resolution entirely vague. How are Government to know what interpretation they are to place on the term "political prisoners"? I suggest that it would help discussion if we dropped this meaningless term "political prisoners" altogether and tried, perhaps, if we do drop it, to understand what is really in the Honourable Mover's mind. Perhaps the theory underlying this Resolution is that anyone who commits an offence against the State, whatever its form or its likely consequences, is to be regarded as in a class by himself. That seems to me to be the theory underlying this Resolution. Well, are we to assume that no other prisoners are to get the benefit of the Coronation, however small their offence may be? Is a person who has been convicted of the possession of explosives with the intention of taking life for what he calls a political object, is he to have preference over a poor man who has stolen a handful of rice because he was hungry? Well, this is the kind of preference we are asked to give to political prisoners. These specially privileged prisoners, whose only claim to consideration is that they have tried to overthrow the State, are to be released, I take it, in order that they may participate in the Coronation celebrations. It seems to me that these are the last persons whom this House would wish to be released on the particular occasion of the Coronation. I cannot imagine them joyously participating in these festivities.

Now, Sir, let us consider the nature of some of these offences against the State which are regarded as specially privileged. Because it is important when we are considering a Resolution of this kind to have some definite fact in our mind. One of these offences against the State is:

"Whoever conspires to deprive the King of the sovereignty of British India or of any part thereof, or conspires to overawe by means of criminal force or the show of criminal force the Government of India or any Local Government, shall be punished, etc."

That is the offence described in section 121A.

Now, let us turn to section 124A.

"Whoever by words either spoken or written, etc., brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection against His Majesty or the Government established by law in British India shall be punished, etc."

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And the Explanation says :

“ The expression ‘ disaffection ’ includes disloyalty and all feelings of enmity ”.

I should like the House to think of the possible consequences if success were attained by a person convicted of such an offence. Let the House think of what the consequences might be if a person succeeded in exciting hatred against the Government established by law or overawing by means of criminal force or show of criminal force the Government established by law in India. Nothing but widespread disaster could arise from the success of such an attempt and therefore these offences are regarded as serious by the framers of the Indian Penal Code and are awarded a long term of imprisonment. It is amazing to me that a Resolution should be put forward asking that persons proved in the courts to be guilty of offences of the nature which I have just read out should be given the special benefit of the Coronation of the King.

Now, Sir, in order to pursue the logic of the Resolution, let us turn to another section of the Indian Penal Code, persons convicted under which would not get the benefit of this Resolution. I refer to section 153A.

“ Whoever by words either spoken or written promotes or attempts to promote feelings of enmity or hatred between different classes of His Majesty’s subjects shall be punished ”

and so forth.

Now, Sir, it is rather extraordinary to me that a person convicted under section 153A, who would probably not be classed as a “ political ” offender, should remain in jail on the occasion of the Coronation although as between classes of His Majesty’s subjects he has tried to do the same thing which Section 124A makes punishable as against the State.

Let us again compare offences against religion. Many offences punishable under the Indian Penal Code have at one time or another

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been committed in the name of religion. I would ask this House : Is not religion a higher motive than mere hatred of Government ? If motive is to be the criterion as to whether a person should be placed in a special class by himself, surely those who commit crimes in the name of religion should be given preference over those who commit crimes in the name of a political movement. Yet the measure does not propose that persons convicted under section 295A should receive any amnesty. Has the Honourable Mover forgotten this class of cases ? The fact is, it is very easy to be generous when you yourself are not the injured party, or perhaps when you even sympathise with the offender. It occurs to me to wonder what the Honourable Mover would say if any of his own party has been beaten by their political opponents at the elections. For the persons convicted of such political offences would he pray that His Majesty should release them, or are we now probing to the roots of the matter and coming to the conclusion that the real meaning of this Resolution is that there should be one law for the Congress and another for all other political parties and the public ?

I leave now, Sir, the question of the meaning of “ political prisoners ” whose cause we are asked to take up today and go back, as I said I would, to the question of persons detained without trial. I have already pointed out that the Resolution does not rightly raise the question whether that detention is justified or not. What it raises is whether the Coronation should be made the occasion of their release apart from all other considerations. Now, Sir, whatever might be said for an amnesty for convicted prisoners, that is, for some

kind of relaxation of purely punitive action, I can see far less to be said for the abandonment of action the whole purpose of which is to prevent the commission of very terrible crimes. We may conceivably forgive a man who is already undergoing a sentence, but when the whole object of shutting a man up is to prevent him from taking life or from committing other wicked crimes, surely the whole purpose would be frustrated by releasing a man unless we are perfectly sure that there is a change of heart on his part. Not a change of heart on the part of the Government but of those who are detained. And I would remind this House that on two previous occasions in Bengal a relaxation of these admittedly very unpleasant measures has been followed by a fresh outbreak of serious crime, and that it is only since the measures were taken that these terrorist crimes have been reduced to reasonable proportions during the last few years. I should like to remind the House, because memories are short, of how this terrorist movement has been reduced in Bengal since the last outbreak in 1930. In 1930, Sir, 11 officials were killed and 12 injured in terrorist crimes; 10 non-officials were also killed and 14 injured. In 1931, 5 officials were killed and 13 injured; 4 non-officials were killed and 3 injured. In 1932, 6 officials were killed and 10 injured; and 6 non-officials were killed and 27 injured. In 1933, one official was killed and one injured; and no non-officials were either killed or injured. In 1934, no officials or non-officials were killed or injured. In 1935, one official was killed and 2 non-officials were killed and no non-officials injured. And in 1936 no officials or non-officials have been either killed or injured. (*An Honourable Member*: "So the position has improved?") That is my point, Sir, and it is as a result of the measures that the Government has taken. And it has been twice proved before that when these measures were relaxed before the improvement had become permanent, similar outbreaks occurred. The 1930 outbreak which resulted in this loss of life of so many officials and non-officials was definitely the result of the release of prisoners detained in previous years. Perhaps it would tire the House too much if I gave figures of attempted murders, attempted dacoities, attempted robberies, bomb throwing, armed raids and so forth. I have all these figures here. But in the face of these figures it is perfectly useless for this House to talk as though Government were doing anything that was unnecessary in taking the most stringent measures to cope with a movement that produces such very dangerous results. The Honourable Mr. Kalikar said that terrorism had completely disappeared in Bengal. But that is not entirely the case. During 1936, there was one dacoity and two robberies committed by terrorists, 5 cases of revolvers and pistols being found, 9 cases of possession of revolver ammunition, 2 cases of possession of guns, 15 cases of possession of gun ammunition, 2 cases of possession of bombs, 2 cases of possession of bomb materials and 2 cases of possession of daggers. So, it is not entirely correct to say that this movement has completely disappeared or reached the stage at which these measures can be thrown overboard without reckoning the consequences. I maintain, Sir, that the action that has been taken of detaining a certain number of these people is in any case better than allowing murder and violence to flourish unchecked. The measures we have taken are justified by their results. We may hope—I am sure the House will join with me in hoping—that the success which these measures have attained will be permanent and that it will be possible to accelerate the rate of release of these unfortunate persons. But the matter is too serious to embark lightly upon a general policy of release, without reference to the merits of the situation. What I would submit to the House is that this matter must be left to the Local Government which is in touch with all these manifestations of violence and knows at what stage in the light of past experience it is possible to accelerate the release and let these people go. At any rate, I hope I have

[Mr. R. M. Maxwell.]

established sufficiently to the satisfaction of the House that to use the Coronation as the particular occasion for letting these people go regardless of the situation in the provinces is entirely inappropriate. That, Sir, is all that I have to say about this Resolution, except that in regard to amnesties generally. There have been one or two amnesties in the past but not since our jail regulations were so altered that the cases of prisoners are reviewed regularly by a committee and those who are fit for release from time to time are released long before the expiry of their sentences. There is something not altogether just about an amnesty which takes place at a particular moment. All it means is that those in jail at that moment get the benefit of it. Those who have served their jail sentences and perhaps been released the day before get no benefit; those who are convicted and sent to jail the day after for similar offences also get no benefit. Where is the fairness in this? What particular point is there in associating a measure of this sort with the Coronation? I think that the House will agree with me that no case has been made out for the release of detenus on the occasion of the Coronation, and that so far as the Resolution applies to persons called political prisoners, no definite meaning or only a very dangerous meaning can be attached to it. (Applause).

**THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA** (Bihar & Non-Muhammadan): May I know from the Honourable Mr. Maxwell, before he sits down, whether any political prisoners are now in jail who were detained under the Ordinance?

**THE HONOURABLE MR. R. M. MAXWELL:** No, Sir, none at all.

**THE HONOURABLE MR. V. RAMADAS PANTULU** (Madras: Non-Muhammadan): Sir, I regret to find, in this House, the development of a supertechnical mind by the Government Members. They begin to construe Resolutions moved by the non-official Members as if they were statutes. Everybody in the House knows exactly the scope of a Resolution of this kind and what it is intended for and I think like the Honourable Mover of the Resolution the Honourable Mr. Maxwell also knows exactly the scope of the demand contained in the Resolution. But he subjects it to very skilful legal anatomy and dissects it in such a way as to expose the Resolution to some amount of ridicule from a purely technical point of view. That, I submit, is not the spirit in which Resolutions moved from this side of the House ought to be dealt with by the members of Government. The net impression left upon me after very carefully listening to the very legal and erudite speech of the Honourable Mr. Maxwell is that he has not answered the demand made by the Honourable mover. Of course he quoted profusely, from his memory, several dozens of sections of the Indian Penal Code, convictions under which might be legally classed as convictions for political offences, and asked us, "Does the Honourable Member intend that all the people convicted for such offences should be released? If all those sections are really intended to cover political offences, there are many thousands of people in the Indian jails who were convicted for what may be called political offences". So, the question asked by the Honourable Mr. Maxwell is, "Is it your intention that all these thousands of people should be released?" Surely, he ought to have known that that was not, and could not be, the intention. Sir, the release of political prisoners is not a new demand. The expression "political offence" itself is not a new one. It has very often been used. I know that politicians and statesmen like Mr. Montagu have used it on several occasions and I daresay they knew what they were talking about. I know constitutional lawyers

like the Right Honourable Sir Tej Bahadur Sapru have also used that expression. I cannot really believe that the Honourable Mr. Maxwell does not know the import or the scope of a Resolution like this or the meaning of the expression "political offences". He asks us to define what a political offence is. Surely, he has heard this expression several times and by now he ought to know what it means. We, Sir, made it very clear that we did not associate the demand with cases which are connected with acts of violence. Offences which are connected with violence have not been included in our demand at any time. Therefore, if my Honourable friend wants a definition of political offences, I say that they are that class of offences which did not involve any moral turpitude, but in which the gravamen of the charge is the excessive patriotism of the person convicted. National aspirations have been sought to be suppressed by such prosecutions under the name of law and orders. The Honourable the Home Secretary has laid great stress upon the fact that an offence against the Government established by law in this country is a grave offence. Of course offence against the State is a political offence no doubt. But there are grades of political offences. Offences in which people are convicted for waging war do not stand on the same footing as a conviction under section 124A for a speech which is mainly directed against the Government's policies. These are all matters of common sense and to try to raise legal quibbles and say that the Resolution is so vague and ununderstandable to the intellect of the House is, to say the least, playing the role of a petty fogging lawyer and not to answer points straightly and in the spirit in which they have been urged. Sir, the implications of the Resolution are far-reaching. There is a feeling in the country, a very wide-spread feeling, that the civil liberties of the people have been trampled under foot by these political prosecutions. The Government may have been established by law, but in order to command the affections of the people it must not only be established by law, but also establish its own moral right to govern the people. It must earn the esteem and confidence of the people. The real basis of many of these political prosecutions is either a suspicion of the people or the fear that if they were allowed full play for their civil liberties, then the foundations of the British Government would be somewhat shaken. That kind of suspicion or fear leads to these political prosecutions in most cases. And if we take statistics of the number of convictions for political offences from time to time, we find that the largest number of these prosecutions follow or precede some measure of political reform. The dual policy, as they call it, of giving some reform with one hand and tightening the hold of Imperialism over India with the other hand, is so implemented that every measure of reform is preceded or succeeded by a crop of political prosecutions. If statistics are collected of the prosecutions launched and convictions secured in these cases, with reference to time they will prove that such prosecutions and convictions are most prolific at times when constitutional reforms are or are about to be inaugurated. It was so in 1920-21; it has been so in the last few years. Therefore it is no use pretending that the Home Secretary does not know what exactly we mean on this side by a political offence. Everybody knows it; it has been used both by statesmen and lawyers on more occasions than one. I might in my turn ask him what kind of prisoners he is prepared to release. If he cannot release all political prisoners, will he tell us what kind of political prisoners he is prepared to release. Of course I understand there is some substance in his objection that the term political offence may be vague but let him tell this side of the House what class of offences he is prepared to class as political offences for the purpose of exercising this particular clemency. Are there any cases at all in India which are proposed to be dealt with under the prerogative of the Viceroy to be exercised on an occasion like this? That is the question

[Mr. V. Ramadas Pantulu.]

one would have liked him to throw some light upon, and not merely content himself with saying "your wording is so wide I do not know what you mean". Analyse it if you like, but tell us how many cases you will include among those which can be dealt with under your clemency powers. If you tell us that you are prepared to go to some extent and if we are satisfied with that, for our part we may not proceed with this Resolution. But your answer is a blank negative. "No, we are not prepared to consider any case in this class of offences except through the machinery we have set up to revise the sentences in these cases from time to time". That is with reference to actual convictions for political offences.

So far as arrest and detention without trial are concerned, the less said the better. The Home Secretary has not made out any case for keeping these people in jail indefinitely for years without bringing them to trial. The first principles of criminal jurisprudence of every civilised country are opposed to such action—and England has a very civilised jurisprudence, and in that country nobody would have tolerated anybody being kept in jail without trial indefinitely for a number of years. My province has been presented by the Government of India with a Princely internee who has been lodged in Kodaikanal for the last 9 years. He was sent there in February 1928 and he is still there, the Maharaja of Nabha. He was not prosecuted; no case was launched against him nor are we told why he has been made a present of to the province of Madras and lodged in the cool heights of Kodaikanal. There is the case of Subhas Chandra Bose and hundreds of others. We are entitled to know why the Government is keeping them in jail for indefinite periods. My Honourable friend the Home Secretary claims that it is the repressive policy of the Government of India that has been responsible for the improvement of the conditions in Bengal and for the suppression of terrorism. I doubt it very seriously. I do not think the Honourable Mr. Maxwell can quote the example of any country which has been able to suppress terrorism by counter terrorism. The repression of the Government of India is only organized and legalised suppression of civil liberties, and in every country where it has been tried crime of that kind has increased instead of decreasing. I claim that the decrease in terrorism and violent crimes is due to the gradual leavening of the moral influences of the Indian National Congress and the policy of non-violence of Mahatma Gandhi. I think in course of time this great moral influence and the preachings of the Congress and of its chief apostle of non-violence will produce the desired effect, and no amount of counter terrorism by Government is likely to lead to good results.

Sir, I am sadly disappointed with the very stiff attitude of the Honourable Home Secretary in this matter. My friend Mr. Ray Chaudhury might have put his demand merely on the right of the people of this country to demand that suppression of political thought by prosecutions and convictions was unjustified, and that prisoners convicted for offences which did not involve any moral turpitude but are only technically political offences under the Penal Code ought to be released as a matter of right and not of clemency. However, he thought that if the executive of this country had done something wrong, they might take the opportunity of the coming Coronation for undoing the wrong they have done. But they have failed to take advantage of it and failed to appreciate the gesture. The Honourable Mr. Maxwell asked, is it the intention of the mover that the people released from the jails should participate in the Coronation of His Majesty the King Emperor? Well, whether the people who are released participate or not, I know that

such a gesture will appeal to the goodwill of the people of India and many more of the people of this country will participate in the Coronation, whether the *ex-prisoners* do it or not. We for the present are not interested in the Coronation, but the Government of India can enthuse the people of this country over the Coronation of His Majesty by proving their moral right to govern the people of this country not by methods of repression but by methods of goodwill and conciliation. I find a total absence of any such spirit in the Honourable Home Secretary's reply to the Resolution, and I can only express my sincere regret at the attitude of the spokesman of the Government of India in this debate. I hope, Sir, that in spite of all that he has said, he will consider in his calmer moments whether there is a case for releasing many people who are convicted for sedition and such offences not involving any moral turpitude or violence, whose only fault was probably their patriotism and their love of their country.

With these words I support the Resolution and I hope that the Government will not take a merely technical view of the matter but take the spirit of the Resolution and do something to satisfy the legitimate claims of the people of this country.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian) : My Honourable friend Mr. Maxwell used great ingenuity in twisting the Resolution from its natural meaning. He asked us what the word "political" meant. He dealt with a number of crimes of violence, dacoity and murder and so on. He asked us whether we wanted men who had committed such offences, who should be regarded as enemies of society, to be treated as political offenders deserving of clemency. He suggested that there were at present under detention only men who had been guilty of serious offences of the kind I have mentioned. Nobody doubts that in the jails of Government there are a good many people who must be regarded as wicked and whom it is the duty of the State to shut up. But the mere fact that there are men who have committed crimes of the kind mentioned by my Honourable friend Mr. Maxwell does not prove that all the men who have been detained without trial or who have been sent to jail during the last 4 or 5 years have been guilty of such crimes. He ought to have stated how many prisoners came at present under the category of men who had been guilty of serious crimes and whose release ought not to be asked for and what was the number of men of the other kind, men who had been guilty of such offences as sedition, guilty of inciting people against the State, who had been convicted of doing something which can be called rash in the furtherance of the political interests of the country. I am sure that my Honourable friend himself as a private individual often uses the word "political" and attaches a definite meaning to it. Why should it be impossible for him then as an official to understand the significance of the word "political". Why should he then argue that by asking for the release of political prisoners we are putting a premium on crimes of all sorts? The fact that he is an official ought not to prevent him from being a man.

Now, my Honourable friend argued as if no meaning could be attached to the word "political", that it was a word which was exclusively used by Indian agitators and which had no place in official parlance. Well, my Honourable friend himself admitted that a general amnesty had been given to prisoners on two previous occasions. I remember, Sir, that on the eve of the introduction of the Montagu-Chelmsford Reforms, Mr. Montagu in order

[Pandit Hirday Nath Kunzru.]

to create a moral atmosphere in this country favourable to the reception of the Reforms advised His Majesty to release all those people who had been guilty of political crimes. I do not remember now the exact phraseology of the Proclamation that was issued at that time, but it is enough for our purpose to know that action of the kind now suggested was taken in the year 1920 or 1921. Now, I have yet to learn that the action taken by Mr. Montagu was followed by any undesirable consequences. So far as I know India was quiet for a number of years afterwards. There was recrudescence of crime only when serious political discontent once more began to spread in the country. The action of Mr. Montagu ought to suggest to the officials of the present day what are the lines on which they can usefully take action in the best interests of Government and the country at the present time.

Sir, my Honourable friend gave some statistics with regard to the diminution of terrorist crime in Bengal and triumphantly asserted that the decrease in crime conclusively showed that the action taken by Government had been effective. Was it reasonable to ask to advise Government to abandon their policy just when it had proved most effective? Let us see what is the reply that not a non-official agitator like me but a responsible administrator like the Governor of Bengal gives by implication to the question put by my Honourable friend over there. The Governor of Bengal has not taken the line that the time has not come for the release of any detenus. He of all people ought to know what the effect of the policy of detention without trial has been. Yet, recognising the causes that are at work, seeing that one of the main causes of the present discontent is economic depression, he is taking steps to give such training to the young men under detention as will enable them after their release to earn their livelihood. A number of young men have been already released in Bengal and the authorities issued a statement the other day, I believe, indicating the policy which the Government propose to follow in regard to the further release of prisoners who were still under detention. It is obvious, Sir, from the action that the Governor of Bengal has taken, that he does not think that, whatever the original justification for the policy of detention might have been, it can be adhered to indefinitely.

Now my Honourable friend may say this is all very good. It is true that the detenus in Bengal were released some time ago. It is also true that political prisoners were released before the introduction of the Montagu-Chelmsford Reforms. But is not there a great difference between the situation that prevailed in 1920 and the situation that prevails now? There was some prospect of political peace then. Have we any political peace now? Well, it was problematic in 1920 whether the action taken by Government would succeed in reconciling the people. As a matter of fact it did not, yet nobody has yet asserted—I have not heard any official say in public or in private—that the action taken by Mr. Montagu in any way jeopardised the maintenance of law and order in this country. Besides, as I have said, the Governor of Bengal is at the present time releasing detenus knowing full well what the situation in the country is. With these examples before them, I cannot understand the hesitation of the Government of India in taking generous action on the lines suggested by the Honourable Mover. Nobody suggests that men guilty of crimes of violence should be released. Nobody says that those who have been guilty of throwing bombs and committing dacoities should be shown any leniency. But there are other men who misled by the highest motives adopted wrong courses of action. At the present time, Sir, crime is not supposed to be due to the inherent viciousness of any man. It is largely supposed to be due to the circumstances in which a man lives. In India such

political offences as we have witnessed during the last few years are due partly to political and partly to economic causes. Now, you may succeed in stamping it out by policies of the right kind, by making my countrymen feel that they are in a fair way of realising their aspirations and making young men see that Government are prepared to help them in following useful careers. If the policy of release is coupled with a recognition of these facts I have no doubt, Sir, that the acceptance of the Resolution moved by my Honourable friend to my left will have the effect of producing tranquillity and gratitude in the country. I therefore give my support to the Resolution of my Honourable friend in the sense which I have attributed to it and in which I am sure he wishes it to be taken.

**THE HONOURABLE MR. KUMARSANKER RAY CHAUDHURY:** Sir, I do not want to add much after what the Honourable Mr. Ramadas Pantulu and other speakers have stated on the subject of my Resolution. I will simply add that the Honourable the Home Secretary showed some solicitude for those who commit communal offences or offences in the name of religion. I hope it is not due to the fact that these offences are incited by people for whom he might have some sympathy. He then dealt with those who have been detained without trial and wanted to know if they are to be released irrespective of the merits of their case. Our contention is that their cases should have been decided on merits in court and it is for a long time that they have been denied this right by the Government. Then he says amnesty granted on previous occasions have failed. This proves our contention that mere counter-terrorism will not succeed and what is wanted is a removal of the grievances in a generous mood but not in a tardy manner as has been adopted heretofore.

**THE HONOURABLE MR. R. M. MAXWELL:** Sir, I am glad to hear the Honourable Mr. Pantulu's definition of a political offender. I must say that if we attempted to apply that definition as stated by him to the Indian Penal Code we might find ourselves in considerable difficulties. One of the parts of the definition is moral turpitude. I am wondering at this moment whether the offence of libel would involve moral turpitude or not. I am afraid I am unable to answer that question. Also I am unable for the reasons given in my former speech to accept patriotism as the particular differentia of political offences. It seems to me that, if you allowed any person to defend himself on the ground that any offence he liked to commit was due to the motive of patriotism, you would get back very soon to the position which I described in which any convict convicted by a court would be at liberty to give himself a certificate stating that his motives were excellent. Now, Sir, the Honourable Mr. Pantulu remarked that the improvement in the situation in Bengal was largely due to the association of those formerly professing the terrorist movement with the Congress. I should like therefore to point out certain instances which indicate that this kind of association has not been altogether so desirable. In 1924—this was during the lull which followed the last release of detenues and preceded the further outbreak of terrorist crime which began in 1923-24—in 1924 the Bengal Provincial Congress passed their famous Gopi Mohan Saha Resolution eulogising the man who was executed for assassinating Mr. Day in Calcutta in mistake for Sir Charles Teggart. Later in 1930, again during the lull which preceded the next outbreak, the terrorists in Bengal succeeded in penetrating the Congress in the province and in many places controlling the local Congress Committees. In April 1930 a further outbreak of terrorism was launched by the commission of the Chittagong Armoury Raid.

[Mr. R. M. Maxwell]

and this raid was organised and led by a gentleman named Surja Sen, the Secretary, and 5 members of the Chittagong District Congress Committee. That, I think, should be enough to dispose of the suggestion that association with the Congress has been wholly beneficial to the terrorist movement in Bengal.

Now, Sir, I turn to the remarks of my Honourable friend, Mr. Kunzru. He referred to an amnesty of some kind which he says took place on the introduction of the Montagu-Chelmsford Reforms in 1919. The only amnesty that I have been able to trace about that date was an amnesty in 1919 but the occasion for it was the signature of the Peace Treaty. If, however, there was any release of which I am not aware—the Honourable Member can correct me if I am wrong—if there was any release about that time which was definitely associated with the introduction of the new constitution in 1920, I should like to ask the House to what extent those releases succeeded in pre-disposing the persons affected by them to co-operative work in the new constitution. At any rate, so far as the detenus were concerned, the releases of 1919 were due to the expiry of the Bengal Criminal Law Amendment Act and they were followed after an interval by one of the fresh outbreaks which I referred to in my earlier speech. That was one of my arguments—that the release at that time of these persons was not followed by a complete disappearance of terrorism and as far as I can make out from the arguments on the other side it should have been followed by that very desirable result.

THE HONOURABLE MR. P. N. SAPRU: The effect of those releases was undone by O'Dwyerism.

THE HONOURABLE MR. R. M. MAXWELL: There is very little more to say, Sir. My Honourable friend Mr. Kunzru also spoke in terms of praise of the action of the Governor of Bengal, and I am glad to see that the Honourable Member appreciates so much the steps which have been taken in Bengal to relieve the lot of these detenus and to use their detention as an occasion for training them to be useful citizens. But if he quotes that against me and says that what I said was that no releases were possible, he has misunderstood what I said. All I said was that the matter must be left to the Local Government, that releases must not be made in an indiscriminate manner merely because there was a Coronation on that date. I am quite confident that if the further handling of the matter is left to the Bengal Government with its very sympathetic Governor, who understands the requirements and is not merely concerned to exercise repression on civil liberties, as one Honourable Member said, but wishes at the same time to improve the lot of these men and make them fit to earn their own living, the House may be satisfied that the matter will be properly dealt with by the local authorities.

THE HONOURABLE THE CHAIRMAN (The Honourable Sir Phiroze Sethna): Resolution moved:

"This Council recommends to the Governor General in Council to submit to His Majesty the King Emperor of India the most earnest and humble prayer of this House that His Majesty should be graciously pleased to direct the release of all political prisoners and those detained without any trial on the happy occasion of His Coronation."

The Question is:

"That that Resolution be adopted".

The Council divided.

AYES—11.

Girdhardas, The Honourable Mr. Narayandas.  
 Hossain Imam, The Honourable Mr. Kalikar, The Honourable Mr. V. V. Kunzru, The Honourable Pandit Hirday Nath.  
 Mahapatra, The Honourable Mr. Sitakanta.  
 Mahtha, The Honourable Rai Bahadur Sri Narain.

Motilal, The Honourable Mr. Govindlal Shivalal,  
 Pantulu, The Honourable Mr. V. Ramadas.  
 Ray Chaudhury, The Honourable Mr. Kumarsankar.  
 Sapru, The Honourable Mr. P. N. Yuveraj Datta Singh, The Honourable Raja.

NOES—28.

Akram Hussain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.  
 Basu, The Honourable Mr. Bijay Kumar.  
 Buta Singh, The Honourable Sardar Charanjit Singh, The Honourable Raja. Chinoy, The Honourable Sir Rahimtoola.  
 Clow, The Honourable Mr. A. G. Commander-in-Chief, His Excellency the Devadas, The Honourable Sir David.  
 Dow, The Honourable Mr. H. Ghosal, The Honourable Sir Josna.  
 Haider, The Honourable Khan Bahadur Shams-ud-Din.  
 Hissam-ud-din Bahadur, The Honourable Lt.-Col. Sir S.  
 Ihtisham Hyder Chaudhury, The Honourable Syed.  
 Jagdish Prasad, The Honourable Kunwar Sir.

Kay, The Honourable Mr. J. R. Khurshid Ali Khan, The Honourable Mr. Kirke Smith, The Honourable Mr. A. Maxwell, The Honourable Mr. R. M. Menon, The Honourable Diwan Bahadur Sir Ramunni.  
 Nihal Singh, the Honourable Sirdar. Nixon, The Honourable Mr. J. C. Parker, The Honourable Mr. R. H. Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.  
 Russell, The Honourable Sir Guthrie. Siddiqi, The Honourable Khan Bahadur Shaikh Muhammad Bashir.  
 Singh, The Honourable Raja Devaki Nandan.  
 Todd, The Honourable Mr. A. H. A. Williams, The Honourable Mr. A. deC.

The Motion was negatived.

RESOLUTION *RE* TAKING OVER OF THE BENGAL NAGPUR RAILWAY UNDER STATE MANAGEMENT.

THE HONOURABLE MR. SITAKANTA MAHAPATRA (Orissa : Non-Muhammadan): Sir, I beg to move :

“ That this Council recommends to the Governor General in Council that steps be taken as early as possible to bring the Bengal Nagpur Railway under State management ”.

Sir, the Secretary of State entered into a contract with the Bengal Nagpur Railway Co. incorporated in England for the first time on the 9th March 1887. In this original contract there was a clause, clause No. 89, which was of more importance than any other clause in the whole contract. Under this clause the Secretary of State had ample powers to take over the administration of the Bengal Nagpur Railway from the Company under State management whenever he considered this step desirable. Clause 89 read like this :

“ The Secretary of State may, if this contract shall not have been previously terminated, terminate the same either on the 31st day of December 1913 or on the 31st day of December of any succeeding tenth year by giving to the Company in England not less than 12 calendar months' previous notice in writing of the termination of this contract. The Secretary of State may also, if default be made by the Company in duly paying any sum or sums payable by the Company under the 36th or 38th section of this contract or

[Mr. Sitakanta Mahapatra.]

in the construction and completion in conformity with this contract of any part of the undertaking or any of the stations or other works therein or in the due equipment pursuant to this contract of the undertaking or any part thereof of the rolling stock, machinery or plant, or in case there shall be any breach on the part of the Company, whether by act of volition or default of any of the stipulations or provisions of this contract, or in case the undertaking or any part thereof shall at any time in the opinion of the Secretary of State be in course of gross mismanagement or being or be worked at a loss as shown by the revenue account and have been so worked for not less than 3½ years continuously down to the time at which the Secretary of State shall give to the Company the stipulated termination notice under this present power to terminate this contract by giving to the Company in England 6 calendar months' previous notice in writing of the termination of this contract".

According to this clause the contract would have in the ordinary course terminated on the 31st December 1913 unless renewed on good grounds. Also the Secretary of State had wide powers under the clause to terminate the contract by giving 6 months' notice only. The Bengal Nagpur Railway is working at a huge loss for many years past, but, the Secretary of State is absolutely powerless at present to take any drastic step. The catering department of the Bengal Nagpur Railway is being hopelessly mismanaged, but the Government can only depend on the goodwill of the Company. Why? Because although according to this clause the contract would have terminated on the 31st December 1913, on the 5th November 1912 the then Secretary of State was pleased to hastily revise the terms of the contract, and this most valuable clause was replaced by a clause of the most mischievous character. The new clause 89 which replaced the old clause reads like this :

"The Secretary of State may terminate this contract on the 31st day of December 1915 or on the 31st day of December of any succeeding 5th year by giving to the Company in England not less than 12 calendar months' previous notice in writing of the termination of this contract".

So the Secretary of State waived all his rights under clause 89 of his own free will. He waived his rights to mend the B. N. Railway administration if the administration indulged in extravagance and placed the Indian exchequer in heavy losses year after year as is the case at present. He is now powerless if the B. N. Railway goes beyond the contract.

Sir, certain facts which came to my knowledge while trying to investigate the facts of this strange action on the part of the Government were a revelation to me. In 1912 the President of the Railway Board in India was a public servant of great eminence, Sir Trevelyn Rashleigh Wynne. He was President of the Railway Board in India from 1908 to 1914, that is for 6 years he acted in as high a position as the Honourable Sir Guthrie Russell occupies today. He retired from Government service in 1915 and immediately after was appointed the Managing Director of the Bengal Nagpur Railway Company. He is still the Managing Director of the Company and also the Chairman of the Board of Directors. Although Sir Trevelyn was perhaps as President of the Railway Board in India in 1912 mainly responsible for the cancellation of the old clause 89 and the substitution of the new clause and although he was on retirement taken in as the Managing Director of the B. N. Railway Company, I do not cast any aspersions on him. I believe he did it on honest motives. I can go further and say that he might have arranged some monetary gain for the Government of India. But what I say is this. Such a thing as this does not look nice. Outsiders, laymen and many people like me who have no experience of big administration might put 2 and 2 together and make 4, I mean 5. Sir, another public servant by name Sir Ernest Bell, who was also a Member of the Railway Board in India, is a Director of the B. N. Railway Company today. Sir George

Godfrey was a very well known figure in the business circles of Calcutta. He too served as a Member of the Railway Board in India for some time. He is also a Director of the Company now. An *ex*-Governor of the Central Provinces who served as a member of the Indian Council for 5 years is a Director today. Sir Charles Stewart Wilson, who was Director General of Posts and Telegraphs in the Government of India in 1912, the year the clause was changed, is a Director now. Sir, I could get hold of a copy of the latest B. N. Railway time tables only where the names of the present Directors of the Company are given. I believe during the past 50 years many high European officials in India must have found places in the Board of Directors of the B. N. Railway Company. This may be true to the fullest extent in the case of other Railway Companies working in India. Is the reason why the persistent demand of the people of India that the railways in India shall be nationalised and the recommendations of the Aoworth Committee in favour of it are turned down by the Government very difficult to find out? I know the Government of India is powerless today to take over the B. N. Railway under State management, but they can tell the House today that there has been no departure from the policy under which the East Indian Railway and the G. I. P. Railway were taken over under State management and assure the House that the earliest opportunity to take over the B. N. Railway under State management will be availed of.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Mr. President, I do not think at this hour I shall be justified in making a long speech on the question which has been raised by the Honourable Mr. Mahapatra, but, Sir, I desire to just say one or two things in regard to the management of the Bengal Nagpur Railway and it is those things which determine my attitude towards the Resolution of the Honourable Mr. Mahapatra. I desire to refer to the recent strike on the Bengal Nagpur Railway and the way in which that strike was handled by that Railway Administration. It took that Railway Administration 60 days to have the strike settled and after the strike was settled recognition from the Union was withdrawn. The Administration had no objection to negotiating with the Union while the strike was going on. It negotiated with Mr. Giri while the strike was going on. Mr. Giri is a most moderate man and I have full confidence in Mr. Giri, but the point remains that Mr. Jarrad, the Agent of this Railway, had no objection to negotiating with Mr. Giri while the strike was going on. He approached it with certain terms and after those terms had been arrived at, after the strike was over, after the men had resumed their work, he withdrew recognition from the Union. Well, Sir, I say—and I say deliberately—that this is not playing the game. I say, Sir, that an administration which can treat its workers in that fashion does not deserve the confidence of the public or of this House. The administration of the Bengal Nagpur Railway, from all that one hears, is run in the interests of exploiting interests; it is not done in the interests of the tax-payers or of the workers of this country. Sir, I know—and I have been supplied with—a number of facts. I would not like to weary the House with a recital of these facts, but I can supply these facts to the Honourable the Chief Commissioner after the Council sitting. Workers who took part in the strike are being victimised. They were told that there would be no victimisation after the strike was over. Why cannot the pledges be kept? Why did you make promises when you had no intention of fulfilling those promises. That is not the way in which the Administration of a big Railway ought to behave towards its workers. Sir, these are reasons which determine my attitude towards the Bengal Nagpur Railway. Now, Sir, I have, as I said, a long list of grievances. I find that leave is not granted

[Mr. P. N. Saprú.]

to the staff in time in even urgent cases. There have been cases when a man's father has died or when a man's mother has died and when he wanted leave the leave was not granted because he happened to be what the Agent considered a rebel. He was a Trade Union official. What is the policy of this company towards their unions? Do they want to encourage collective bargaining or not? I think the policy which the Railway Administration should follow towards unions was laid down by the Whitley Commission and I should have thought that this Administration would follow those recommendations, but the spirit of the Whitley Commission's recommendations are being violated by this Administration. Also, Sir, as far as I know this Administration has taken no steps to implement the Washington Convention in regard to hours of work. Workers on this Railway cannot get leave on occasions of marriages. I am told that at one particular station there was no holiday given to the workers on the occasion of the Shivrathri. Shivrathri festival is a very important festival. It is one of the most holy days among the Hindus and that is how the Administration is behaving towards workers. This Railway has no confidence so far as the Indian public is concerned. Our men in Northern India suffered very heavily on account of the strike. Cawnpore merchants were all the time grumbling at the way in which the strike situation was being handled. The sooner the Administration is taken over by the State the better for all concerned. I wish therefore to give my very strong support to this Resolution. Contract or no contract, period or no period, we want this Administration to be brought under the control of the Government of India and if the Government of India are wise, and if they care for Indian opinion at all, they will take it over immediately. Sir, with these words, I give my strong support to the Resolution.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Mr. President, I do not wish to prolong the discussion. The only matter which emerged from the debate is the question as to the real basis on which the contract was changed in 1912. It may seem, Sir, very late in the day to ask in 1937 what had happened in 1912. But the reason why we have brought this Resolution is that a contract can be entered into between the Secretary of State and the Railway Companies even before the date of the termination of the original contract. It is always within his purview to enter into a contract and being responsible to nobody in India, he sells our birth-right without even informing us that such and such thing is happening and the reasons thereof. If this thing happened in 1912, there is nothing which can prevent him from doing a similar thing in 1937. We want an assurance from the Government that no contract will be entered into giving further lease to the Bengal Nagpur Railway until this House and the other place has had an opportunity of discussing the contract that might be proposed. This is our first demand. Our second demand is that in the matter of administration and amenities for passengers as well as in the fixation of rates, the Railway Board and through them the Legislature should have some voice in this company-managed Railway. On a Railway on which crores and crores of Indian money are at charge, we have no voice. The company has contributed scarcely even one-tenth of the capital that is lent by the State; now, a person who has contributed less than a tenth part cannot say to the 9/10ths holder that you can have no say in the matter. If it is not possible to do so under the present contract, it is always open to the Secretary of State to negotiate with the company to get some control, because whenever companies are in trouble the Secretary of State is very obliging and will accommodate the companies. The question is whether the Secretary of State is going to be as obliging to the

Indian public or not. If the Honourable the Chief Commissioner will tell us that it is impossible, we will know that our fears were right ; but the Secretary of State can never be moved in the interests of India and that will give some handle at least to the Party to which my Honourable friend Mr. Pantulu belongs. Mr. Sapru has brought forward some points about labour. They also want some assurance from the Chief Commissioner that things like that will not happen in the future. With these words I support the Resolution.

**THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS** (Punjab : Nor-Muhammadian) : Sir, I rise to support the Resolution. My object in supporting the Resolution is that now as we are having a new constitution and as the Railways will not be under the control of either of these two Houses, I think it is our duty to impress upon the Government that every company-managed railway ought to be purchased by them because money is very cheap now and the cheapness of money in England in particular is unprecedented.

Sir, we want the country to develop and Railways should not be treated as purely money-making machines. The object of the railways is to develop the country agriculturally as well as industrially and when all the railways will be owned by the State, it will be very easy for Government, in case they do really mean to develop the country in the interests of India, to have railway freights under their own control. As far as the question of premature purchases is concerned, I am not a lawyer and so cannot throw any light on the subject, but in case there is any flaw in the agreement you should buy it at once. It is a great pity that the Government for reasons best known to them have not seen their way to acquire the B. & N.W. Railway and the R.K. Railway and the Southern Marhatta Railway, for which Government of India will soon repent.

**THE HONOURABLE SIR GUTHRIE RUSSELL** (Chief Commissioner of Railways) : Sir, after hearing the Honourable Mover's speech I felt rather mystified why he had moved the Resolution because he stated right away that the Secretary of State was powerless to terminate the contract. Actually the contract cannot be terminated till 1950, and well, we can do nothing. Then he started off by asking for the reasons why in 1913 the contract was altered and extended to 1950. That happened 25 years ago and I do not know the reasons but I have no reason to disbelieve that it was done for what were considered good and sufficient reasons at that time.

Then again I wondered why this Resolution had been moved. For a moment I thought it was to cast aspersion on Sir Trevedyan Wynn, who was Chairman of the Railway Board at the time and who is now Managing Director of the Bengal Nagpur Railway. But again the Mover said—no, he quite believed that at the time the contract was altered by Sir Trevedyan Wynn for quite honest reasons. Then he talked of Sir George Godfrey. To the best of my knowledge Sir George Godfrey was never a Member of the Railway Board. (*An Honourable Member* : "He was for a time—in 1919".) Then he talked of Sir Benjamin Robertson. Presumably the point he wished to make was that retired government officials could not run a railway. Now, as to the policy of Government. I think it was Mr. Hossain Imam who said, before any extension of this contract was given this House and the other House should have an opportunity of discussing the policy. Well, I am afraid it is quite impossible for me to commit Government 13 years ahead. But as the House knows, the policy of Government is, when a contract is about to fall in, to go into the pros and cons and decide whether it would be advantageous from the financial point of view, the administrative point of view and other

[Sir Guthrie Russell.]

points of view to take it over and place the railway under State management. This was done in the case of the M. and S. M. Railway. We gave the M. and S. M. an extension of 8 years and for that 8 years we get about 20 lakhs more than at present. We also considered the contract for the Bengal and North Western and the R. and K. Railway. We failed to get any better terms and we decided that it was advantageous to let them carry on for another 5 years.

Then Mr. Sapru made an attack on Mr. Jarrad and the administration of the Bengal Nagpur during the recent strike. I may tell the House that I have had complaints myself that the terms agreed upon have not been implemented and I am waiting for certain information and I can assure the House that if there is any conclusive proof that the terms have not been implemented, that will be taken up with the Agent of the B. N. Railway to see if things can be put right.

Now, Sir, I do not think I need say very much more. As I have already said and as the Mover has himself explained, we can do nothing. We cannot take over the Railway unless by private negotiations and as far as I can see I do not think we could get any terms which would pay Government. Therefore, I am afraid I must oppose the Resolution.

**THE HONOURABLE MR. SITAKANTA MAHAPATRA :** Sir, I have very carefully listened to the speech of the Honourable the Chief Commissioner for Railways. It seems the speech was given to Sir Guthrie Russell to conceal his thoughts. The other day.....

**THE HONOURABLE SIR GUTHRIE RUSSELL :** Sir, the other day the Honourable Mover said he was not going to move this Resolution.

**THE HONOURABLE MR. SITAKANTA MAHAPATRA :** The other day I had the privilege of hearing the Honourable Mr. Nixon in his reply to the Resolution moved by my esteemed friend the Honourable Mr. Sapru. I thought that that speech would be a record for a reply containing airy nothing. But another distinguished Member of this House from the Treasury Benches has successfully challenged the record within three days. I sincerely congratulate him.

Sir, this time I am not surprised at the reply of the Honourable the Chief Commissioner. He could not possibly have told us anything else or anything more. The Railway Board or for the matter of that the Government of India are mighty afraid of the very powerful Directors of the Bengal Nagpur Railway. It is possible that some of them might be personal friends of the Right Honourable Lord Zetland. I fully realise the position of the Honourable the Chief Commissioner.

Sir, as for Mr. Sapru's question. I think from personal knowledge Mr. Jarrad is a good but very weak man. He has two very bad advisers in Mr. Gahan, the Commercial Traffic Manager, and his Secretary, Mr. Upsdell. I am sure Mr. Jarrad would never have had recourse to victimisation had he his own way but he is always overwhelmed by these two persons.

Sir, I do not wish to press my Resolution as I do not expect anything from the Honourable the Chief Commissioner. With your permission, therefore, I would beg leave of the House to withdraw my Resolution.

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

## **RESOLUTION *RE* INDIANISATION OF THE ROYAL INDIAN NAVY.**

**THE HONOURABLE THE CHAIRMAN** (The Honourable Sir Phiroze Sethna): I may inform Honourable Members that it is already 1½ hours more than the regular time for which we sit, which is 4 O'clock. Honourable Members have other engagements. In the first place, the elected members have to meet and elect two out of their number to serve on the Court of the Delhi University. That has to be done immediately after this meeting. Again, Honourable Members have two other engagements, one this afternoon and another early in the evening. I think therefore that perhaps this will be the appropriate time to close our proceedings. But before doing so, I will call upon the Honourable Mr. Kalikar to read the Resolution which stands in his name, No. 4 on today's agenda paper, so that if he moves it today, he will be able to speak on it at the next meeting of the Council.

**THE HONOURABLE MR. V. V. KALIKAR** (Central Provinces : General): Sir, the Resolution that stands in my name runs thus :

“ This Council recommends to the Governor General in Council to take necessary steps to accelerate the pace of Indianisation of the Royal Indian Navy. ”

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The Council then adjourned till Eleven of the Clock on Wednesday, the 17th March, 1937.