

Monday, 20th February, 1939

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THE
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VOLUME I, 1939

(23rd January to 18th April, 1939)

FIFTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1939

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COUNCIL OF STATE.

Monday, 20th February, 1939.

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

QUESTIONS AND ANSWERS.

SETTLEMENT OF JEWS IN KENYA.

99. THE HONOURABLE MR. B. N. BIYANI : Will Government please state :

(a) Whether it is proposed by the British Government to settle the Jews in Kenya Highlands with extra facilities which are not open to Kenya Indians there ? If so, have Government made any representation to His Majesty's Government in this connection to avoid this discrimination ?

(b) If the representation has been made, have Government received any reply from His Majesty's Government ? and

(c) If a reply has been received, do Government propose to acquaint the House with the present situation ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) and (b). The attention of the Honourable Member is invited to the replies given in the other House on the 14th November, 1938 to starred questions Nos. 1212 and 1223 and the supplementaries thereto. His attention is also invited to the supplementaries arising out of Mr. Satyamurti's starred question in the same place, No. 1373 on the 22nd November, 1938.

(c) The policy of His Majesty's Government regarding the settlement of refugees in the Empire was set forth in the statement made by the Prime Minister in the House of Commons on the 21st November, 1938. The Government of India have been informed that in view of that policy it is not possible to reconsider the plan under which a small number of Jewish refugees will be settled in Kenya.

STOPPAGE OF ASSISTED EMIGRATION TO MALAYA.

100. THE HONOURABLE MR. B. N. BIYANI : Will Government state :

(a) Whether Government have received any communication from the Central Indian Association of Malaya as well as from the Agent to the Government of India in Malaya about the conditions of Indian labourers there ?

(b) If so, has the Association as well as the Agent drawn the attention of Government about the stoppage of unassisted emigration to Malaya from India ? And if so, what steps have Government taken in the matter ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Yes.

(b) Both have referred to the stoppage of assisted emigration from India to Malaya. Government's action will depend upon the course of events.

RIGHTS OF AUSTRALIANS, NEW ZEALANDERS AND CANADIANS IN INDIA AND
DISABILITIES OF INDIANS IN AUSTRALIA, NEW ZEALAND AND CANADA.

101. THE HONOURABLE MR. B. N. BIYANI : Will Government state :

(a) Whether the Australians, New Zealanders and Canadians can acquire immovable property and carry on trade in any part of British India without any restrictions ?

(b) Whether they have a right of franchise and if so, when do they become *bona fide* residents of India ? and

(c) Whether Indians are free to carry on trade, to settle down in any part of the above countries and to acquire immovable property without any restrictions ? If not, what are the restrictions imposed upon Indians in the above countries ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Yes.

(b) Yes, provided they satisfy the other requirements prescribed in the Government of India Act, 1935, such as age, residence, education and ownership of property. The residential qualification is prescribed in the Sixth Schedule to the Act and varies from province to province.

(c) The attention of the Honourable Member is invited to the statements laid on the table of the Legislative Assembly on the 31st August, 1936, and 8th August, 1938, in reply to Mr. Hussenhoy A. Laljee's unstarred question No. 141 asked on the 18th February, 1936 and Mr. Govind V. Deshmukh's unstarred question No. 50 asked on the 7th September, 1937, respectively. I may add that Indians are not allowed entry into these three Dominions for permanent settlement.

INDIANS AND THE BURMA RIOTS.

102. THE HONOURABLE MR. B. N. BIYANI : (a) How many Indians were injured in the recent riot in Burma ? And how many of them died ?

(b) How many Indian refugees have returned to India at the time and after the riot ?

(c) Who paid the expenses of the voyage and of the inland journey up to the native places of these refugees ?

(d) What is the approximate cost of the loss of property of Indians in the riot ?

(e) Have the Government of India rendered any help to these refugees ? If so, what is it ?

(f) What steps did the Government of India take to secure the lives and property of the Indians in Burma ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The attention of the Honourable Member is invited to the reply given on the 19th September, 1938, to Mr. Amarendra Nath Chattopadhyaya's starred question No. 1120 in the other House.

(b) The attention of the Honourable Member is invited to the reply given on the 18th November, 1938, to Messrs. Abdul Qaiyum and T. S. Avinashisingam Chettiar's starred questions Nos. 1214 and 1228 in the other House.

(c) The expenses of the voyage were paid by the Relief Committees and the Burma Government, those of the journey in India are expected to be met by the Provincial Governments.

(d) No official figures are yet available. It is presumed that the investigation which the Braund Committee have been asked to make, *inter alia*, into the question of the loss to life and property will produce an authoritative estimate.

(e) The Government of India issued orders for the issue of free railway tickets to the homes of the refugees; the question as to who should bear the cost of the journey inside India is under consideration.

(f) The Honourable Member is referred to the statement which I made in this House in reply to the late Sir Phiroze Sethna's question No. 101 on the 9th September, 1938. Since then, an Agent has been appointed in Burma and the Indian claim for compensation has been supported to His Majesty's Secretary of State for India who is also Secretary of State for Burma.

INDIAN ASSOCIATIONS IN THE COLONIES AND DOMINIONS AND HOW AGENTS IN THE COLONIES KEEP IN TOUCH WITH INDIAN OPINION.

103. THE HONOURABLE MR. B. N. BIYANI: (a) Will Government state how the Agents General of India in the colonies keep themselves in touch with the Indian population of the colonies concerned?

(b) Are there any representative advisory boards of the Indian people in the colonies to acquaint the Agents General of the respective colonies with the grievances of the Indian settlers there?

(c) If so, how these advisory boards are constituted?

(d) If there are no such boards, do Government propose to direct the Agents General in the different colonies to form such boards?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) By making and maintaining contact with leaders of Indian opinion and representative Indian Associations.

(b), (c) and (d). It is not understood precisely what the Honourable Member means by advisory boards. Indians in all parts of the Empire have their own Associations with which Agents of the Government of India are in touch. The Government of India have received no representation that any other form of organisation is required.

DISABILITIES OF INDIAN COMMERCIAL TRAVELLERS IN THE UNION OF SOUTH AFRICA.

104. THE HONOURABLE MR. B. N. BIYANI: (a) Are Government aware of the correspondence which has passed between the Indian Chamber of Commerce, Madras, and the Agent General to the Government of India in South Africa on the subject of removing the disabilities of commercial travellers in South Africa?

(b) If so, have any steps been taken by Government or by the Agent General in the matter? If not, why not?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Yes.

(b) The Agent General has been instructed to make necessary representations to the Union Government and the result of his representations is awaited.

LOSS OF INDIAN LIVES AND PROPERTY IN THE BURMA RIOTS.

105. THE HONOURABLE MR. RAMADAS PANTULU: (a) Has there been any improvement in the anti-Indian situation in Burma since the arrival of Mr. Henderson, the Agent, appointed by the Government of India?

(b) Was there any loss of life among Indians or damage to their property as a result of riots since the Agent's arrival? If so, what is the extent of such loss or damage?

(c) Has the Agent sent any reports to Government after taking charge of his office? If so, will Government be pleased to place them on the table of the House? If they cannot be placed on the table, will Government state the substance thereof?

(d) What is the term of appointment of the present Agent?

(e) Does the Agent intend to go on leave? If so, will the Government of India consider the desirability of appointing an Indian as Agent in his place?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) So far as Indians are concerned, except for isolated incidents, the situation in Burma has been generally quiet since September, 1938, when the Agent was appointed.

(b) There was a riot in Monywa town in Upper Burma on the 18th January. One Indian cotton mill was burnt. Twenty Indians were assaulted and five seriously injured. Some 12 Indian shops and houses were looted. Additional police were sent immediately and it is reported that the situation is quiet since the 22nd January. The Agent has been asked to report on the question of loss to property resulting from these recent disturbances.

(c) The attention of the Honourable Member is invited to the reply to supplementary questions to Mr. T. S. Avinashilingam Chettiar's starred question No. 1377 on the 22nd November, 1938, in the other House.

(d) and (e). The Agent has been appointed temporarily and the suggestion made by the Honourable Member will be considered at the time his successor is appointed.

SURCHARGE ON RAILWAY FREIGHT ON COAL.

106. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether they propose to withdraw surcharge on railway freight on coal? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: Government do not propose to withdraw the surcharge at present as the financial position has not improved to the extent which would justify the sacrifice of revenue involved in the withdrawal of the surcharge.

THE HONOURABLE MR. HOSSAIN IMAM: What would be the loss?

THE HONOURABLE SIR GUTHRIE RUSSELL: About Rs. 80 lakhs.

INTRODUCTION OF FIRST CLASS AIR-CONDITIONED COACHES ON THE N. W. R. AND E. I. R.

107. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether they propose to introduce air-conditioned first class coaches on the N. W. R. and E. I. R. on sections between Lahore and Peshawar, Lahore and Karachi, Delhi and Howrah and Lahore and Howrah *via* Saharanpur on the Mail trains? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: The introduction of first class air-conditioned accommodation on the services referred to by the Honourable Member is at present under examination.

CONTRACTS FOR LICENSED COOLIES ON THE N. W. R.

108. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether on the N. W. R. they have decided to give contracts for licensed coolies for the carriage of passengers' baggage from railway platforms on the existing rates of portage? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: No. The Administration do not consider that the existing arrangements result in any inconvenience or worry to passengers. On the contrary, it is considered that if this were to be replaced by contract system, it would lead to malpractices, profiteering and extortion which would probably cause inconvenience and worry to passengers.

MAINTENANCE OF OAK GROVE SCHOOL AND INDIAN HIGH SCHOOLS BY THE E. I. R.

109. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru): Will Government state:

(a) Whether the E. I. R. maintains schools at Oak Grove, Mussooree and other places for the education of the children of its European, Anglo-Indian and Indian employees?

(b) If so, what was—

(i) the number of pupils in the Oak Grove School and

(ii) the number of pupils on rolls in each of the Indian High Schools maintained by the E. I. R. on 31st March, 1938?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Yes.

(b) The numbers in the various schools for the year ending 31st March, 1937, the latest year for which I have figures are:

(i)	.	.	.	.	.	.	.	.	.	.	443
(ii)	Asansol H. E. School	.	.	.	.	.	.	.	.	.	504
	Indian H. E. School, Jamalpur	.	.	.	.	.	.	.	.	.	370
	H. E. School, Sahibganj	.	.	.	.	.	.	.	.	.	329
	H. E. School, Khagaul	.	.	.	.	.	.	.	.	.	403
	E. I. R. School, Tundla	.	.	.	.	.	.	.	.	.	298

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: What is the number of Indian boys at Oak Grove?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am afraid I have not got the figures, but there are a certain number.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Oak Grove School is open to Indian boys ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Yes, Oak Grove School is open to Indian boys.

EXPENDITURE INCURRED FROM RAILWAY REVENUES ON OAK GROVE SCHOOL AND INDIAN HIGH SCHOOLS MAINTAINED BY THE E. I. R.

110. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru) : Will Government state the total direct expenditure from railway revenues on Oak Grove School at Mussooree and on each of the Indian High Schools maintained by the E. I. R. during 1937-38 ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am laying on the table a statement showing the total expenditure (i.e., net cost debitable to railway revenues) for 1936-37, the latest year for which I have this information.

<i>Statement.</i>	<i>Rs.</i>
European and Anglo-Indian Railway School, Oak Grove .	2,32,820
Asansol H. E. School	13,722
Indian H. E. School, Jamalpur	6,479
H. E. School, Sahibganj	11,951
H. E. School, Khagaul	12,323
E. I. R. High School, Tundla	15,560

ASSUMPTION OF DIRECT CONTROL OF OAK GROVE SCHOOL AND INDIAN HIGH SCHOOLS BY THE E. I. R. ADMINISTRATION.

111. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru) : (a) In October, 1935, did the Railway Administration assume direct control of all the schools maintained by the E. I. R. ?

(b) Earlier in the same year, did the Railway Board become responsible for the expenditure on the railway schools which, was, not, covered by school fees and grants from Provincial Governments, if any ?

(c) Have the Railway Board since refused to sanction any expenditure on capital account for the normal development of the Indian schools ? If so, what is the reason for this change of policy towards the Indian schools ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). Yes.

(c) The reply to the first part is in the negative : the second part does not, therefore, arise.

ACCOMMODATION IN THE RAILWAY INDIAN SCHOOL, ASANSOL.

112. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru): (a) Is it a fact that the Committee of the Sahibganj Railway School asked for the provision of a gymnasium and additional class rooms and that their request has been refused?

(b) Is it a fact that on account of the introduction of science as a compulsory subject in the Matriculation examination and in consequence of an increase in the number of pupils the Committee of the Asansol Indian School have been asking for a room for the Science Laboratory and for an additional class room for more than a year?

(c) Is it a fact that the Education Department considers these additional rooms necessary for the purpose of the Bengal Education Code and the revised curriculum of the University?

(d) Is it a fact that in consideration of the urgent necessity for additional rooms the Bengal Government have sanctioned a capital grant amounting to half the estimated cost, as a special case, though the usual contribution is one-third of the cost?

(e) Is it a fact that, in spite of the recommendation of the Education Department and the contribution by the Provincial Government of half the cost, the Railway Administration has refused to sanction the other half? If so, why?

(f) Are Government aware that owing to failure to provide a room for the science laboratory the School is likely to lose its recognition and with it the right of sending up candidates for the Matriculation examination?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) No such request has been received by Government.

(b) to (f). A proposal for additional accommodation in the Railway Indian School at Asansol, supported by the considerations mentioned by the Honourable Member, has been received and is under consideration.

AMOUNT OF SURPLUS FUNDS TAKEN OVER BY THE E. I. R. ADMINISTRATION ON ASSUMING DIRECT CONTROL OF OAK GROVE SCHOOL AND INDIAN HIGH SCHOOLS.

113. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru): (a) When the E. I. R. Administration took over the direct administration and control of these schools (referred to in the preceding questions) in September, 1935, from the hands of committees, were the surplus funds at the credit of these schools amounting to several thousands of rupees in some cases credited to the Railway Administration?

(b) Will Government state separately the amounts thus taken over by the Railway Administration from the Oak Grove and the Indian Schools in October or November, 1935?

(c) How does the E. I. R. now propose to utilise these sums? Is it proposed to spend the amounts for the benefit of the schools concerned?

(d) Did the Committee of the Asansol School ask that half the expenditure on account of the proposed additional rooms be met out of the balance at the credit of the School which was as stated above made over to the Railway Administration? If so, what orders have been passed in the

matter? If no orders have been passed, will Government state the reason for the delay?

(e) Are Government aware that unless the grant sanctioned by the Provincial Government is drawn before the end of March, 1939, the grant will lapse?

THE HONOURABLE SIR GUTHRIE RUSSELL: I am obtaining the information asked for and will lay a reply on the table of the House in due course.

LEAVE RULES APPLICABLE TO TEACHERS IN STATE RAILWAY SCHOOLS, ETC.

114. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Pandit Hirday Nath Kunzru): With reference to the answer given by Government to question No. 259 on 1st April, 1938 in the Council of State, is it a fact that Government teachers in schools under the United Provinces Government are allowed leave on full average pay on medical certificate even when they have fully availed themselves of the summer vacation, but teachers in the E. I. R. Schools who have availed themselves of the vacation are denied a similar privilege? If so, do Government propose to revise the recently promulgated leave rules in order to enable teachers in the Railway Schools to enjoy the same right in respect of leave on full average pay on medical certificate as are enjoyed by the teachers in the Schools controlled by the United Provinces Government?

THE HONOURABLE SIR GUTHRIE RUSSELL: Government have no information about the leave allowed to Government teachers in schools under the United Provinces Government. So far as teachers in State Railway schools are concerned, the position was fully explained in the answer given to the question referred to by the Honourable Member. The rules have since been amplified to make the intention clear and Government feel that there is no justification for going beyond this.

RULING—THAT THE QUESTION WHETHER A BILL IS *ULTRA VIRES* OF THE CONSTITUTION SHOULD BE DECIDED BY THE HOUSE.

THE HONOURABLE THE PRESIDENT: Honourable Members will doubtless remember that on the 9th September, 1938, at Simla, the Honourable Mr. Susil Kumar Roy Chowdhury moved:

“That the Bill relating to the Shebaitry right and the office of Shebaites and the devolution of such right or office in Hindu Debutter endowments in favour of family deities be circulated for the purpose of eliciting opinion thereon”.

Mr. Roy Chowdhury submitted that this was a very important piece of legislation concerning properties dedicated by Hindus to family deities and he further contended that in the past there had been numberless litigation and conflicting decisions over the matter and therefore he had brought forward that Bill in this Council. The Honourable Mr. J. A. Thorne who was then a Member of this House contested that the subject matter of the Bill fell within the expression “Charities and charitable institutions, charitable and religious endowments” which is item 34 in the List 2 in the Schedule 7 of the Government of India Act. The ground of opposition to the Bill was that it

is not within the competence of the House in the Central Legislature. He did not deny that the Central Legislature has a limited power of legislation as regards subjects included in the Provincial List, but that power is specifically restricted by provisions of section 100 of that Act. He said that subject to the two sub-clauses of that section the Provincial legislator has and the Federal has not power to make laws for a province or any part thereof with respect to any of the matters enumerated in the List 2 in the said Schedule called the Provincial Legislative List. His main point was that the context of sub-section (4) shows that the province undoubtedly means the Governor's province and that in respect of charitable and religious endowments the Central legislator has not power to legislate for the whole of British India and that the term used in clause I of Mr. Roy Chowdhury's Bill and to circulate a Bill which on the face of it the Council of State and the Central Legislature has not power to pass would be a most unreasonable course to adopt and one which would damage the repute of this Chamber. He was further of opinion that the best course for the Mover of the Bill was to withdraw his Bill in its present form and if he was so advised to bring another Bill which is within the scope of the Central Legislature, but if the Honourable Mover was not prepared to adopt that course Government had no alternative but to oppose the Motion. In reply the Honourable Mr. Roy Chowdhury submitted that under section 100 sub-section (4) his Bill was quite *intra vires* as it does not relate to any particular province but to the whole of British India and contended that sub-section (4) of section 100 lays down that—

“ the Federal legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a province or any part thereof ”.

The Honourable Sir David Devadoss said that since the objection was taken and evidently the other side was not prepared to meet it, requested the Chair to postpone the Motion till some other date. As the question raised was a very important and complicated one and as I understood that a large number of Honourable Members desired to study the question I requested the Honourable Mr. Roy Chowdhury to accept my suggestion to postpone the discussion of the Motion, and bring it up at a later stage to allow the Honourable Members to have an opportunity of studying this very important objection that was raised. The Bill was postponed with the leave of the House till this session.

The important question that I have now to decide whether it is competent to the President and also whether it is his duty to refuse to allow this Chamber to entertain a Bill the enactment of which is in his opinion beyond the jurisdiction of the Central Legislature. If I answer that question in the affirmative it would be necessary for me to determine whether on notice being given of a Bill which in my opinion is not within the jurisdiction of this Chamber I should allow any Motion with reference to the Bill to be placed on the list of business and on the Motion being reached in its turn in the House I should hear arguments before giving my decision whether the Motion could not be made. In other words, the question is whether it is within the competence of the Chair to give a decision or he should leave the House as a body to decide whether the particular Bill is *ultra vires* of the Constitution. I may mention that on this important question two views have been expressed in the past. On the one hand it has been contended that it is the province of the Federal Court to interpret the Constitution and that the President howsoever convinced that the Bill sought to be introduced is beyond the jurisdiction of the Legislature should not take it upon himself to kill the Bill on a point of order, but

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should leave the Bill as presented to the vote of the Legislature with the effect of leaving the question regarding the validity of the Bill in the event of its enactment by the House to be determined by the Federal Court. It would be a denial of this right if the Chair were to rule out a Bill as *ultra vires*, for in that case the question can never be taken to the Federal Court. On the other hand, with great force the view has been expressed that a Bill sought to be introduced is *per se* falls within the purview of subjects exclusively included in List 2 the obvious course for the President to adopt is to prevent waste of public time to permit the Chamber to entertain the Bill. The point to be decided is the same whether the Bill is a private Bill or a Government Bill.

I am fully aware that there have been some occasions in the past on which Presidents and Speakers of the Central Legislature had to decide and give their rulings whether a particular Bill was *ultra vires* or not of the Constitution, but all those cases were decided under the Government of India Act of 1919. It is well known to the Honourable Members of this House that in those cases the Chair gave its ruling and owing to the nature of that ruling being final the Bill was either killed or allowed to proceed. In view of the passing of the Government of India Act, 1935, Schedule 7, and the incorporation therein of the three legislative lists, List No. 1 being the Federal Legislative List, List No. 2 being the Provincial Legislative List and List No. 3 being the Concurrent Legislative List, a different aspect altogether has been given to this question and the Federal Court has been constituted for the decision of all questions affecting all these three lists. It is needless therefore to refer to any previous decisions under the Government of India Act of 1919. The question for my decision now is what course I should follow in the event of a private Member of the Indian Legislature seeking to introduce a Bill which in the opinion of the President is not within the jurisdiction or competence of the Central Legislature as determined by the Government of India Act, 1935. I may, however, refer the House to the Manœuvres and Field Firing and Artillery Practice Bill which was discussed in the Legislative Assembly on the 7th October, 1937. In that case the question arose whether the President had the power to stop a Bill himself, or whatever the nature of the consideration may be, it was the duty of the House to come to the conclusion whether a legislative measure was *ultra vires* of the Constitution and should be passed or not. It was admitted by the Speaker then that the practice had been hitherto for the Chair to decide such questions, but under the Act of 1935 this question was of special importance and the more so because similar questions were likely to arise in the future with respect to legislation in the Assembly and perhaps in other legislatures. In that case, that Bill was introduced before the present Government of India Act, 1935, came in force, but the Bill came up for discussion on the 7th October, 1937. But the decision of the vital question on that occasion was averted by a compromise arrived between the Government and the Leader of the Opposition that whatever the difficulty was in the matter would be removed if Government undertook themselves to obtain orders from the Governor General in respect of all amendments standing on the order paper or all amendments of which notice may be subsequently given. So that decision does not help us in any way and in view of the provisions of the 7th Schedule of the Act of 1935 I doubt very much that the Government of India will make any attempt on any future occasion to secure the killing by Presidential or Speaker's ruling of a private Bill which in their opinion is *ultra vires*, while if such an attempt is made by a private Member in respect either

of a Government Bill or a private Bill the view which they will most likely submit would be that the Chair should not assume jurisdiction to decide questions of competence. Of course, our difficulty mostly arises in case of private Bills. It is obvious that the Government would not deliberately seek to introduce a Bill which is plainly *ultra vires*. On the other hand, it is reasonable to expect that the Chair would not take upon itself the serious responsibility of killing a Bill which is arguable and capable of interpretation that it is *intra vires*. So far as the question of *ultra vires* is concerned it is impossible to draw any distinction in principle between the treatment of private and Government Bills, but if the Government elected to deliberately introduce a Bill which is obviously *ultra vires* of the Constitution they would by their own action invite trouble and the President would be obviously doing his duty by advising the Legislature from taking cognizance of a Bill which in his opinion was beyond its competence, but in such a case it is wise to remember that there is always a grave responsibility of the House in agreeing on all occasions with the opinions of the Chair.

I would like at this stage to take a brief survey of the practice and procedure adopted by the Dominions and to see if I could get any assistance from them. It would not be unreasonable if there are any definite precedents in Dominion Legislature to secure a corresponding practice in India. I find that there is no machinery in the Commonwealth of Australia which can be adopted for declaring *ultra vires* any Bill at its earliest stage which is clearly outside the competence of the Legislature nor does the Speaker possess any special powers in this connection under Standing Orders, but it is said that it would be in accordance with the principles of Parliamentary practice there for the Speaker to take such action when the Motion is made for leave to introduce a Bill or at the first reading stage when the contents of the Bill are known to the Senators to reject a Bill as out of order on the ground that such legislation was beyond the scope and competence of the Parliament. It has been held that "the initiative in raising the question of order could be taken by the Speaker, a Minister or a Member of the House". But it has likewise been laid down that it would of course be competent for the House to altogether or partially dissent from the Speaker's ruling. But this practice in the House of Representatives and Senate in Australia would scarcely help us because there the House would be competent to dissent from the Speaker's ruling. In India the decision of the Speaker or the President is final and cannot be questioned by the House, and as the practice in Australia empowering the House to dissent from a ruling of the Chair it is obvious that there can be no room in India for any counterpart of that practice. As regards Canada it is said that it is open to any Member on the Motion for first or second reading of any Bill to question the legislative competence and if the objection to the Bill is upheld the Bill would not on constitutional grounds go through the second reading. On the other hand, a Government measure may be passed there even in the face of opposition based on constitutional grounds. The only remedy is to question the validity of the legislation. It may also be pointed out that in that Dominion there are no Standing Orders dealing with the question of *vires*, but if any opposition is offered to any particular Bill on the ground of competence that question is to be settled by the final vote of the House. In short, it may be said that in the Commonwealth of Australia and Canada the Speaker could not finally rule out of order any Bill on the ground of competence unless the Standing Orders of the House empowered him to do so. I would cite here only one instance from Bourinot's Parliamentary Practice and Procedure in Canada (page 670). When the Canadian Insurance Bill was before the Dominion Parliament the whole question of the

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jurisdiction of the Dominion Parliament over the subject of Insurance came up for discussion on a Motion for the second reading of the Bill. The question was however raised not on a point of order, but as an argument against the Bill on merits and the House decided by a large majority that the Bill was not *ultra vires*.

It is unnecessary to refer to the practice prevailing in Great Britain as no such contingency has arisen there in the past nor it is likely to arise in future. The Constitution of England is based on quite a different footing. There are no Federal ties, constitutional conflicts or differences. The Constitution is one for the whole United Kingdom and the laws are framed for the country by the integral Government through Parliament. Both the Houses of Parliament possess unlimited and unrestricted powers for framing laws suitable for the requirements of the country. There is no question of a Bill being introduced there which would be *ultra vires* of the Constitution. If any such enactment is passed by one House the other House would doubtlessly veto it. We cannot therefore find any solution of our difficulty by reference to the British Constitution. However, the Constitution of the Dominions of Australia and Canada closely resemble that of India and there would be no justification in my opinion to create a position in India either by framing fresh standing orders or rules which would enable the President or Speaker of the Central Indian Chamber himself to rule out of order any Bill on the ground of *ultra vires*. Having carefully considered all these matters I have come to a definite decision that as long as I occupy this Chair I shall not make any attempt now or on any future occasion to secure the destruction of a private or Government Bill which is *ultra vires* by Presidential ruling. I shall be quite content to follow the practice prevailing in the two Dominions stated above and leave to the combined judgment and experience of this House to decide whether any particular Bill is legally valid or not or offends against the Constitution of the country. If the House passes any Bill which is either a private or Government one, it is clearly open to Government or any Member of the House or the public to question the legality of the enactment in the Federal Court established under the Act of 1935. There is a distinct advantage in relegating the decision upon such a question to the House itself. Conflicts of this kind between Central and Provincial legislative powers are often likely to arise in a Federal Constitution and if the decision goes up for determination to the Federal Court ample justice will be done to the question. As Sir Maurice Gwyer, the Chief Justice of India, remarked the other day the Federal Court

“is the guardian and interpreter of the Constitution,—its main function is to interpret the Constitution Act so as to keep the units of the Federation within their proper spheres and avoid conflicts of powers and jurisdiction”.

That Court will decide questions of *ultra vires*

“in accordance with well-established canons of law regardless of other considerations or motives”.

Indeed I should regard it as a grave and unjustified interference with the powers and privileges of this House for the Chair to arrogate to itself the function of adjudicating upon questions of constitutional law for which a special tribunal under the Act has been created. In fact it would be a negation of that right if the Chair were to rule out a Bill as *ultra vires*, for in such a case the Bill would be permanently barred from the jurisdiction of the Federal Court. For the reasons stated above I shall abstain from giving my ruling

whether the Bill is *ultra vires* of the Constitution or not and safely leave the decision in the hands of the Members of this House some of whom are distinguished lawyers and they will be at liberty to discuss this question on merits and give their decision later on when the Bill comes up for consideration before this House.

The Motion for the circulation of the Shebait Bill will therefore be placed at the end of the agenda for the next non-official day for further discussion.

RESOLUTION *RE* EXCLUDED AND PARTIALLY EXCLUDED AREAS.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhamadan) : Sir, I move :

"That this Council recommends to the Governor General in Council to intimate to His Majesty's Government the wish of this House that all the partially excluded areas and excluded areas within the boundaries or adjoining the boundaries of the provinces in India be converted into normal areas governed by the normal administrative machinery of the respective provinces and declared as parts of the province concerned as soon as possible."

THE HONOURABLE THE PRESIDENT : I presume that you only wish to annex these excluded areas to provinces to which they are adjacent. I take it that that is the real object of your Resolution. You are not going to speak upon the administration of the excluded areas, I take it, because under rule 23 (2) (b) you will be debarred from doing so.

THE HONOURABLE MR. RAMADAS PANTULU : I quite appreciate your point, Sir.

Sir, this Resolution deals with a very important question which affects a population of 15 millions inhabiting about 210,000 square miles of this country. I feel that the provisions of the Government of India Act in regard to excluded and partially excluded areas are on the whole indefensible. Sir, the history of these areas is a somewhat complicated and long one. Therefore, I shall not attempt to trace the history from the very beginning. I shall content myself with stating very briefly the legislative enactments that preceded the Government of India Act of 1935. Sir, from the very earliest times the Indian Statute-book contained what are known as de-regulationising enactments by which the application of ordinary law and procedure was barred and certain areas were put outside the applicability of the ordinary law and procedure. Till 1874 when Act XIV of 1874, called the Scheduled Districts Act, was enacted, the position was indeed very baffling and unsatisfactory. But that Act put an end to the controversy about the legality of some of the notifications issued regarding these areas and gave power to the Governor General to notify certain areas as Scheduled Districts and Scheduled Tracts in which the applicability of the Acts passed by Provincial Legislatures or the Central Legislature was made to depend upon executive orders passed by these Governments. These Acts may be made either wholly applicable or partially applicable, or applicable with modifications but they can be only made applicable by some executive order. The position remained much the same till 1919 though there was a slight change made in the procedure by the Act of 1915. By section 71 of that Act the Governor General was given power to notify certain tracts as Scheduled Tracts. But, under the Government of India Act of 1919, the old provisions were abrogated and a new provision

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was introduced, section 52A by which the Governor General in Council would notify what are called "Backward Tracts". The denomination "Scheduled Tracts" was abandoned and a new nomenclature "Backward Tracts" was created. Subject to such modifications as the Governor General in Council may impose, the Government of India Act of 1919 and the Central Acts were applied to those backward tracts. In notifying the backward tracts, the Government of India did not distinguish between the various classes of backward tracts, except by the notifications themselves which stated the extent to which the ordinary normal law and procedure is to be modified. In some cases, that law and procedure was wholly barred from application to these tracts. In certain other cases they were partially applied and various distinctions were made. But the distinctions were to be found only on a perusal of the notifications with respect to each area. There was no distinction in the nomenclature itself between the various kinds of backward tracts. After the coming into force of the Act of 1919 and before the passing of the Act of 1935, inquiries were held with regard to the procedure to be adopted in the future. The Simon Commission examined the whole question with some care. They devoted a great deal of space in their Report to this question. They first of all advocated the substitution of the phrase "Excluded Areas" for the phrase "Backward Tracts". But they did not distinguish between the different kinds of areas to be excluded. They dealt with the question more or less as the Act of 1919 dealt with it and it was left to notifications to make the distinction between the various excluded areas. On the whole, the Simon Commission were in favour of transferring the administration of these areas to the Central Government. So, the old arrangement by which these excluded areas are to be administered by the Governor of the province within whose geographical boundaries they are situated has been changed under the recommendations of the Simon Commission. It remained a recommendation, because it was not given effect to. The Simon Commission were also distinctly in favour of narrowing down the area of these excluded tracts to the minimum possible necessitated by the requirements of the case, and to entrust them to the administration of the Central Government. I may quote one sentence from the Simon Commission's Report. They say :

"Only if responsibility for the backward tracts is entrusted to the Centre, does it appear likely that it will be adequately discharged. The outlay which is necessary for administration and development ought to fall upon Central funds in so far as they do not pay themselves."

When the opinions of the various Local Governments were ascertained by the Simon Commission, more than one Local Government advocated that some of the areas then treated as backward should be brought under the normal administration of law and procedure. For instance, the Local Government of Bihar and Orissa said that part of the Sonthal Pargannas, Manbhumi, Hazaribagh, Palamau, Singhbhum and perhaps Sambalpur and Angul districts need not be retained in their special position, but owing to a large proportion of non-aboriginal population should take their place under the Government of Bihar and Orissa. And when a Committee was set up to mark out the boundaries of the new Orissa Province, that Committee also said that more than three-fourths of the population of Angul speak Oriya, which is replacing the Khond language, and the geographical position of both tracts Sadr and Khondmals makes it inevitable that they should be included along with the districts of Orissa. In the same way several other Provincial Governments did not favour the extension of the areas classified as backward

or excluded and pleaded for some of them being brought under normal administration.

Sir, so early as 1927 the Legislative Assembly here passed a Resolution in these terms :

" This Assembly recommends to the Governor General in Council that he may be pleased to take immediate steps to bring about the withdrawal of the Chota Nagpur Division, the districts or divisions of Angul, Sambalpur and the Sonthal Parganas in the Province of Bihar and Orissa from the operation of section 52A of the Government of India Act, 1919, and to amend the Schedule to the Act accordingly."

Public opinion has expressed itself against the idea of cutting out large parts of territory and millions of population from the operation of the normal law and procedure of this country. Sir, these recommendations had some effect upon the framers of the Government of India Bill of 1935. To the Bill of 1935 a Schedule called the Sixth Schedule was attached in which the excluded and partially excluded areas were distinguished and catalogued. There were only four excluded areas and about eight partially excluded areas mentioned in that Schedule. For the first time a very definite distinction was made between the excluded areas and the partially excluded areas, which till then merely rested on the whim of the Executive, which issued notifications relating to them. Instead of stating the distinction between the excluded and partially excluded areas in my own words I would just like to read one short paragraph in the Report of the Joint Parliamentary Committee which sets out the distinction clearly. Paragraph 144 of that Report states :

" It is proposed that the powers of the Provincial Legislature shall not extend to any part of the province which is declared to be an excluded area or a partially excluded area. In relation to the former the Governor himself will direct and control the administration. In the case of the latter he is declared to have a special responsibility. In neither case will any Act of the Provincial Legislature apply to the area unless by direction of the Governor given at his discretion with any exceptions or modifications which he may think fit. The Governor will also be empowered at his discretion to make regulations having the force of law for the peace and good government of any excluded or partially excluded area. We have already expressed our approval of the principle of excluded areas, and we accept the above proposals as both necessary and reasonable, so far as the excluded areas proper are concerned. We think, however, that a distinction might well be drawn in this respect between excluded areas and partially excluded areas, and that the application of Acts to, or the framing of Regulations for, partially excluded areas is an executive act which might appropriately be performed by the Governor on the advice of his Ministers, the decisions taken in each case being, of course, subject to the Governor's special responsibility for partially excluded areas, that is to say, being subject to his right to differ from the proposals of his Ministers if he thinks fit."

So the partially excluded areas are merely a subject of his special responsibility, while the excluded areas he administers directly under his own control. This distinction is now embodied in the Government of India Act in sections 91 and 92. So the present position is that certain areas are called excluded areas and certain areas partially excluded areas. Apart from the legal implications the distinction between them is this : that all enclaves or definite areas inhabited by aboriginal races mainly are called *excluded* ; where the aboriginal population is intermingled with agricultural communities of a more advanced civilisation they are called *partially excluded* areas. That seems to be the distinction observed. But, Sir, when the original Sixth Schedule which is a very limited one, was placed before Parliament, at the Committee stage of the House of Commons there was a very exciting debate in the House of Commons over its provisions. Curiously enough, even Members of the Party to which the Government belonged, who usually supported the Government in relation to its policy towards Indian reforms, pleaded for a very large extension of the Schedule. They said it was very meagre and that a

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sufficient number of tracts and that a sufficiently large proportion of the population had not been brought under the excluded or partially excluded areas. I really do not know what the motive of those people was, but judging from the speeches which the Secretary of State made in the House of Commons to placate this section of his critics, it appears that there were imperialistic and exploitative motives behind the suggestion. He was very apologetic and he had to convince them that every precaution would be taken to see that as many areas as possible would be brought within the scope of this provision and that no area would be removed except by another Order in Council which has to obtain the sanction of Parliament. And so the original Sixth Schedule to the Bill was withdrawn with the assurance and an Order in Council will deal with the matter. Until 1935 the Government of India could notify the scheduled districts or backward tracts or excluded areas, and now such areas can only be declared by Parliament, for after introduction of partial responsibility Governments in India cannot be trusted. So it has become the special responsibility of Parliament. I fail to see, Sir, why after 100 years of administration, during which the power has been exercised by the Government of India and certain Provincial Governments should have been withdrawn and why members of Parliament of a particular political persuasion should have been so insistent upon the power being vested in Parliament. As a result of the agitation the Secretary of State altogether withdrew Schedule VI with a promise that he would bring forward another Schedule or he would take power to specify the areas by an Order in Council which he would place before Parliament later. As a result a new Schedule appears under section 91 and it is very much wider. In place of the original four excluded and eight partially excluded areas, we now find eight excluded areas and 28 partially excluded areas. The population coming under this Schedule will be considerably over 13 millions which the Simon Commission estimated would be the population affected. I think it will be more than 15 millions now and even the area which is estimated by the Simon Commission to be 207,900 square miles would be over 215,000 square miles. So there must be some very definite motives for this very drastic change in the law as well as the classification and the enumeration of these excluded and partially excluded areas. Sir, I will only read one small passage from the debate in the House of Commons on this question. When the Members of the House of Commons evinced some anxiety about future changes that may be made in the Schedule and the Government of India or the Secretary of State cutting down the Schedule, this is what the Secretary of State said :

"It might well be that in the course of time, even though the more conservative of us might not wish to see it, that changes will take place in some of these areas. There is bound to be infiltration from one district to another, and in the course of time, we may be able to bring certain of these districts under the ordinary administration. In that case, there ought to be power to make the transfer and the powers ought to be exercised in such a way that there is Parliamentary protection behind the transferred area. We ensure that the transfer can only be undertaken by an Order in Council, which has to obtain the approval of both Houses."

So he is very anxious to assure the Members of Parliament that nothing will be done in the future to remove these areas from the category of excluded and partially excluded areas without the previous consent of Parliament. Sir, what is the policy behind this? Sir, I fail to see that it is really intended for the benefit of the people of the wholly or partially excluded areas. If that is so, the easiest thing to ascertain is whether these areas have improved politically, socially or economically during the last 150 years during which

they have been administered under the special powers of the Central and Provincial Governments. Far from being so, we find that they are in a much worse position today. Sir, I can quote any number of authorities to show that the position of these people is rapidly deteriorating. Educationally they are ignored and economically they are exploited. The Director of Public Instruction, Madras, Mr. Statham, recently visited some of these areas in the Madras Presidency and reported that education does not really exist and where there are schools there are no books or slates and attendance registers are bogus registers and he said that something should be done by the Provincial Government to see that partially excluded areas in their jurisdiction should receive the benefits of at least elementary education. That is the position of so many similar areas administered by the Governors. Sir, in most of these areas, the people occupying the lands are placed under the exploitation of middlemen. Varieties of middlemen have been introduced of a feudal type who are exploiting these people, zamindars of various kinds, middlemen who are merely parasites. In some areas they are called muktheers while from the economic standpoint their position is getting worse day by day, the way in which the position is envisaged by the authorities is somewhat curious. They seem to think that the longer these people are kept in this isolation in secluded areas and do not come into touch with the more civilised people, the better for them. I have found a very interesting passage in the Census Report of 1931. Mr. Hutton was Superintendent of Census. I will read it out because it may prove interesting to the House. He says :

"A tribe living in comparative isolation will usually be found to have developed an adaptation to its environment which within certain limits approaches perfection, an adaptation which may have taken many millenia to accomplish, and the breakdown of which may be the ruin of the tribe, for it is likely to proceed at a far greater rate than either the gradual change in physical environment or than the still slower process of adaptation to that change."

Mr. Hutton goes on to describe the harmful consequences of bringing the tribal people within the sphere of civilised administration and observes :

"In the alternative they may retain a sort of emasculated tribal life, deprived of the customs and festivals that gave it meaning and cohesion and fall into that physical apathy and physical decline which has decimated so many tribal communities in the Pacific and elsewhere ; and this decline is accelerated in another way by the opening up of communications."

Mr. Hutton adds :

"Education in itself is a doubtful blessing in so far as it is apt to unfit them for their environment. The real problem would appear to be to create self-governing tribal areas with free power of self-determination in regard to surrounding or adjacent provincial units."

So definitely the policy seems to be to segregate them for ever and keep them in isolation so as not to be contaminated by any of the influences of modern civilised life ; and I am led to suspect that this is really the idea underlying the segregation. The practical serfdom of those people can be seen from the description of the various excluded areas in the Simon Commission's Report. I have no time to refer to more than one passage relating to one particular area. With regard to the Bihar and Orissa area the description of the Simon Commission is very elaborate. I shall only read a few lines. Referring to Chota Nagpur and other areas they say :

"These backward areas are commonly supposed to be remnants of pre-Aryan autochthonous peoples into whose strongholds in the hills and forests the invader found it difficult and unprofitable to penetrate. Some of them live by hunting, and by a type of shifting cultivation which we have described in writing of the backward tract of Chittagong

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in Bengal. In the valleys, the tribes have with great labour terraced isolated fields, producing abundant crops, but at no time before the establishment of British rule were these plots coveted by the plainmen for he could not have collected his rents from the occupiers. But the moneylender and the trader took advantage of the new reign of law to reduce the aboriginal owners to practical serfdom."

It is therefore admitted that protection by the Government has not resulted in these people being prevented from exploitation by middlemen and money lenders. The Report speaks of rebellions and says that they should be put down by the use of military force. I will quote another small passage dealing with religious amelioration :—

" Christianity has made much progress among them, and we are greatly indebted for our information about this country to the representatives of the three important missions—Anglican, Roman and Lutheran—who gave evidence before the Joint Conference. Between them these three missions claim 280,000 converts, drawn almost entirely from the aboriginal population, in the Ranchi district alone. The missions have made some inroads on the illiteracy of the aboriginals. The present position would seem to be that the protective measures taken, though by no means adequate, in the eyes of many of those who know the aboriginal tribes best, have given him a breathing space and stemmed the tide of exploitation, but that the constructive work of so educating him as to enable him to stand on his own feet has scarcely begun."

Then they give some tempting descriptions of the picturesqueness of these people and ancient tribal customs and so on, with a jest which must be a matter of shame and humiliation to the Indian people. Fifteen millions of their fellow countrymen are subjected to this treatment and the Government propose to keep them for ever in this condition in pursuance of their policy. Sir, it is high time that this scandal is ended. In many areas the forest and mineral wealth of these excluded areas is being utilised to advance foreign interests. In Darjeeling and other places where plantations have grown, tribal people have been dispossessed of their lands which have been leased to European planters at nominal rates. Then the forest laws are so enacted as to classify forests hitherto enjoyed by these tribal people as unclassified state forests. And gaming laws are enacted which are very stringent. The excise laws are also very stringent. In Assam I have read in one of these reports that the tribal people who hold lands are even

12 Noon.

prevented from quarrying stones which exist in abundance in the sub-soil of their holdings and they are asked to pay heavy licence fees for the quarrying of stones. These people get no education, no sanitation, no medical relief or any of the amenities to which the civilised population of India are entitled. Sir, I have read in the memorandum submitted by the people of Angul a distressing account of the kind of exploitation to which they are subjected. Demands for supplies and forced labour are officially issued to the people to cater to the needs of the authorities. Usually a purwana (order) goes that Huzoor Bahadur is coming on such and such a date, so send so many fowls, etc. I tried to find out who the Huzoor Bahadur was. It is the Deputy Commissioner. I will read only one or two of these with your permission. It says :

" Whereas Sree Huzoor Bahadur (Deputy Commissioner) will arrive at Puranagarh on the 7th of April, 1930 and whereas he will require coolies in order to beat round the Langalmunda Hill, you are hereby ordered that you are to present 70 coolies from amongst the different mouzas of your circle on the evening of the 8th of April, 1930 at the Circuit House at Puranagarh and to take note that you do not neglect this."

So here in this document I hold in my hand about 20 such purwanas (orders) are presented. (An Honourable Member : " On payment : not free ". The payment is there. But the Government rates are so low that it does not

cover half the cost of the articles of life, and payment rarely reaches the actual supplier. It is even doubtful on reading some of these notes whether any payment is intended at all. The Huzoor Bahadur asks for all sorts of things, even bullocks for his garden.

I thought, Sir, that the least influential of officials, in the matter of getting supplies, was the Registrar of Co-operative Societies. But in the excluded areas he is also a Huzoor Bahadur. Listen to this purwana :

"Whereas the Registrar (Co-operative Department) has arrived at Angul, you are hereby informed that immediately on receipt of this purwana, you are to supply three rohits, bhakurs or some other big fish from your village tank and present the same without delay at the Nazirkhana. You are warned that you are to treat this as very urgent."

In asking for milch cows they say "milch cows must yield so many mans of milk". These extracts are very interesting, but I have no time to read others.

Sir, I gather there is a very deep imperialistic and almost wicked policy underlying the segregation of these areas. And I can now understand the anxieties of some of the Conservative leaders in the House of Commons for enlarging the Schedule, for adding more excluded and partially excluded areas to the Schedule.

Sir, may I ask whether after 150 years of British rule it is to be expected that the areas and the population subjected to special treatment should grow less or more? In 1935 the area has increased and the population withdrawn from the benefits of civilisation also increased. I can only say that this is a very sad commentary on the manner in which the backward areas were administered. Perhaps there is some other motive behind the move to enlarge the areas. I prefer to believe the latter alternative.

Sir, in these areas the Deputy Commissioner is the highest authority. He is the administrative and judicial head, and he is the arbiter of the destinies of the people. Every petty official seems to be a tyrant. I have examined most of the regulations applying to these areas. One important feature of these regulations is the wide discretionary powers vested in the officials who administer these areas. Sir, you know what discretion is. Discretion leads to arbitrary exercise of power. As Dicey says :

"Whenever there is discretion there is room for arbitrariness, and discretionary authority on the part of the Government must mean insecurity for legal freedom on the part of its subjects."

That maxim seems to be fully illustrated in the administration of these areas.

Sir, I shall now refer to one matter which specially relates to my province before I close. Recently, in connection with the inquiry into the zemindari areas, the working of the Madras Estates Land Act, a committee was set up under the chairmanship of the Revenue Minister. He took a great deal of trouble to visit the partially excluded areas, where he found that not only were other conditions bad but that the oppression of the zemindars was intolerable. He recorded specific evidence on that matter. I shall read just one passage in which the findings of the committee are recorded on the conditions in the agency tracts of Ganjam, Vizagapatam and Godavari. The Report says :

"Today practically all over the partially excluded areas, the rent collection is made by muttadars to whom sanads have been granted by the Government. As they are not permanently settled estates the sanads granted to the muttadars are somewhat similar

[Mr. Ramadas Pantulu.]

to the sanads granted to zemindars by the East India Company before the Permanent Settlement (1802). The muttadars stand in the same position as the landholders on the plains. In other words, they are also collectors of revenue. Their administration is described by the hillmen who have given evidence before our Committee as very oppressive and their tenures are most uncertain. Some of the witnesses examined on behalf of the ryots gave a graphic description of their sufferings at the hands of the landholders even with reference to the exercise of their primordial rights. All this was due to the fact that those zemindars and muttadars have been led to believe that they are the proprietors of the soil and that they could deal with the ryots in any way they like. Hillmen have deposed that the officers who have been going there or even other visitors have been compelling them to do service without remuneration and that illegal exactions had been made at every turn."

So these landlords who are set up to attend to the revenue collection and the officials who administer the areas join hands in exploiting these unfortunate people. Sir, is it possible for the House to view with equanimity such a state of things? It has stirred up discontent in the country. The Indian National Congress is not unmindful of this position and therefore at the session at Faizpur the Congress passed a Resolution bearing on this subject, and this is bound to loom large in the future agitation because we feel that these excluded areas are being utilised more or less for the same purposes as the feudatory states. I will read the Resolution of the Congress which is significant :

" This Congress is of opinion that the creation of ' excluded ' and ' partially excluded areas ' and Chief Commissioners' provinces, including British Baluchistan, from the 1st January, 1937, and covering the area of 207,900 square miles and inhabited by 13 million people is yet another attempt to divide the people of India into different groups with unjustifiable and discriminatory treatment and to obstruct the growth of uniform democratic institutions in the country.

" This Congress is further of opinion that the separation of these ' excluded ' and ' partially excluded areas ' is intended to leave a large control of disposition and exploitation of the mineral and forest wealth in those areas and keep the inhabitants of those areas apart from the rest of India for their easier exploitation and suppression.

" This Congress holds that the same level of democratic and self-governing institutions should be applicable to all parts of India without any distinction."

I need not suggest the particular legal method of abolishing these areas for sections 91, 92 and 290 of the Government of India Act lay down the procedure. I want that this state of things should be ended and that excluded and partially excluded areas should no longer exist and their inhabitants subjected to the exploitation of the federal chieftains, parasitic middlemen sitting upon the land, and to the arbitrary and discretionary rule, rather misrule, of the officials.

With these words, Sir, I commend the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, my Honourable friend Mr. Ramadas Pantulu has moved this Resolution with his usual thoroughness and his customary moderation. He has traced the history of the legislative measures adopted to distinguish between what I might call the civilised and the aboriginal inhabitants of India. He has told us that there was a Scheduled Districts Act of 1874. Then he has informed the House that in the Act of 1919, there was a section, section 52A, by which any territory could be declared as a " backward tract ". He has then gone on to point out that on the recommendation of the Simon Commission, the expression " backward tract " was changed to " excluded areas ". But I fear that in tracing the history of the legislation dealing with these backward areas, he has not mentioned the very important Despatch.

which was received by the Government of India in June, 1935. That Despatch along with the Despatch of the Government of India of December, 1935, and the views of Provincial Governments was laid as a White Paper before Parliament in January, 1936, and a copy of these Despatches is, I think in the Library of the House. The Secretary of State's Despatch explains why Schedule VI of the draft Government of India Bill was dropped and why it was decided that these areas should be treated by Order in Council. I think the House would like to know the reasons which actuated the Secretary of State and Parliament to adopt this method and why they wanted that a further examination should be made of this question. I would read out a small portion of the Despatch of the Secretary of State of June, 1935. It goes on to say :

" This change (that is to say, the dropping of the Schedule and dealing with the question by Order in Council) in the provisions of the Bill as introduced was due to a doubt very generally expressed by members of all parties whether the areas enumerated in the Schedule and particularly those to be treated as partially excluded would be sufficiently comprehensive to include all the aboriginal and other backward tribes which ought not to be subject to the normal consequences of popular government ; there was also some feeling that the proposals contained in the Schedule were the result of insufficient examination of the needs to be met."

The reasons, therefore were—I am now stating the reasons given by the Secretary of State in a Despatch which is now public property—that the House of Commons felt that the areas included in the Schedule were not adequate, that it was probable that sufficient examination had not been made and they felt that the normal consequences of popular government should not be extended to these people. The Government of India, as I said, were instructed to make a *de novo* examination and the principles which they were asked to follow in determining what areas should be classed as " excluded " and what areas should be classed as " partially excluded " were as follows. I shall explain in a moment the distinction between " excluded areas " and " partially excluded areas ". The criterion for classing an area as " excluded " was that these areas must be based upon strict necessity and must be as limited in scope consistently with the needs of the aboriginal population. Therefore, these areas have been confined to the frontier and border tracts in Assam and such other areas, for instance the Laccadive and Minicoy Islands off the West Coast of Madras, and Lahaul and Spiti in the north of the Punjab, " whose geographical position isolates them from the normal life and administration of the province in whose territories they lie " ; that is to say, we have the border and frontier areas in Assam and certain isolated areas. The House will probably like to know what is the actual area and population of the excluded areas. These are only rough figures but I may say that the areas which are now classed as excluded areas are about 30,000 square miles and the population is less than 700,000. As regards the partially excluded areas, the criteria which were laid down for classifying such an area were :

- (1) that it shall be inhabited by a preponderance of backward or primitive peoples ;
- (2) that it shall be of such a size that special legislation can conveniently be applied to it ;
- (3) that it shall be susceptible without inconvenience of special administrative treatment ;
- (4) that the boundaries of such areas shall be defined in easily intelligible terms ; that is to say, the boundaries shall be easily recognisable.

[Sir Jagdish Prasad.]

These were the four conditions laid down for classifying areas as "partially excluded areas". As regards the extent of the areas which have been actually so classified, they are less than 100,000 square miles, and their population is about 15 million; that is to say, about 50 per cent. of the estimated population of the primitive and aboriginal tribes of India. The point that I wish to stress before the House is that the areas which were actually included in the Order in Council were the result of a very close examination by Local Governments; and the reasons given by the Government of India for including them are already given in the White Paper. I would just read out what the Government of India say in regard to these matters. Before I do that, I should like the House to realise what is the distinction between an "excluded" and a "partially excluded" area. The distinction is that as far as excluded areas are concerned the administration is reserved exclusively to the Governor. He will be acting in his discretion, or in other words in responsibility to Parliament. So far as partially excluded areas are concerned, he will consult his Ministers and seek their advice but will not be bound to act upon it. The particular effect of partial exclusion is simply to subject the normal legislative and executive jurisdiction of the province in selected areas to a degree of personal control by the Governor. In the despatch in dealing with the recommendations of the Local Governments the Government of India stated that they have practically accepted the recommendations of most provinces and that the only province from whose recommendations they have differed was Bombay. And the principles which they followed in regard to including these people in the excluded areas are—I am afraid I shall have to read again from the Despatch :

"In our selection of areas for partial exclusion we have kept prominently, but not exclusively, in mind the general distribution of aboriginal and primitive peoples through the uplands and forests of the Indian continent. These peoples survive in great numbers in all the less developed parts of the Province of Assam and the North-East Frontier tract. They reappear in the highlands of Chota Nagpur, and are found throughout the Central Indian Plateau stretching through the Central Provinces and on from there to the Western Ghats in the Presidency of Bombay. In Madras large numbers survive in the hills of the Agency tracts in the north of the Presidency which are themselves an extension of the Central Plateau and again, though not in such numbers, in the more scattered ranges further south. There is also a fringe of comparatively primitive and undeveloped people in the sub-Himalayan belt."

I have explained to the House the extent of the areas and populations involved, the different criteria laid down for treating certain areas as excluded and certain areas as partially excluded and the administrative restrictions involved in such classification. My Honourable friend during the course of his speech said that there was some imperialistic design behind such a classification, and he further went on—I suppose obsessed by the iniquities of landlords—he went on to say that, not only that, but that perhaps this is a design to keep landlords in certain areas in power, so that they may be able to retain their feudal privileges. I think he quoted from a certain, now famous, Report in Madras in regard to the zemindari areas of that province. Well, I do not think that, considering the small areas involved, there is any imperialistic design or that by this means zemindars will be able to retain certain iniquitous privileges. My Honourable friend has not emphasised the fact that no such area can now be increased. As laid down under section 91 (2) of the Government of India Act, the areas which are already in the Order in Council cannot be enlarged. Further, it is not possible for Government to transform a partially excluded area into a wholly excluded area.

All that will happen will be that as education spreads amongst these aboriginal tribes, as they are regarded as able to bear the burden of democracy—and I think it is well recognised that in order that a democratic government may be successful there must be a certain amount of training in citizenship, and I think even my Honourable friend will agree that some of these backward people cannot be said to have the same sense of democratic institutions as the other peoples of India, these areas will gradually be treated as the rest of the country. I think, without anybody being accused of imperialistic tendencies, it is recognised that there are stages of civilisation in this vast country. As the Secretary of State said during the course of the discussion in the House of Lords, some living in certain areas are in the stone age, while others are in the most advanced stage of civilisation. But there is no doubt that there is a gradation. Even my Honourable friend will admit that some of the hill tribes in Assam are headhunters and so on. Their ideas of democracy are not the same as those of my Honourable friend opposite. They would probably find it rather difficult to abide by a vote which I or he may cast rather than by some more violent methods. Anyhow, the important point is that this Order in Council was passed in March, 1936 after a great deal of inquiry and investigation. I ask my Honourable friend is it likely, when you have hardly had three years' experience of the working of this Order, that there would be any change. And my Honourable friend, like the clever Parliamentarian that he is, would not suggest how this should be done. He said, "I will not mention that". If he had mentioned it he would probably have had to recognise that there is such a thing as a Government of India Act and that it would have to be amended. He said I think that these areas should be removed, but of course he would not tell the House how. The only way it can be done is by another Order in Council and I wish to ask the House, when so little time has elapsed, is that likely? I fear I must oppose the Resolution, mainly on the ground that there has not been sufficient time for the people of England to decide whether further areas should or should not be removed.

THE HONOURABLE SIR RAMUNNI MENON (Nominated Non-Official): Sir, the Honourable the Leader's speech has considerably lightened the burden of those who want to oppose the Resolution. I should like before proceeding further to underline the argument that the Honourable Leader has advanced against the proposition being accepted. As he said, the Order in Council embodies the decision of Parliament, arrived at not in haste or after imperfect consideration, but after a prolonged, full and careful deliberation on a very important subject. Now it is unreasonable to expect that a responsible body like Parliament would be prepared to rescind or modify its deliberate decision without fresh and cogent reasons for modification.

THE HONOURABLE MR. RAMADAS PANTULU: You say Parliament is a responsible body. To whom is it responsible?

THE HONOURABLE SIR RAMUNNI MENON: I will put it that they are a body of people who have a sense of responsibility. Well, now, has anything happened since this Order in Council came into force which would justify the assumption that Parliament is likely to reconsider the matter? Has there been any change in the situation since then? Has the attitude of civilised nations towards aboriginal tribes changed? I was very interested to note in the paper, yesterday I think it was, that the Aboriginis Protection Society of Great Britain has sent an appeal to the Premier pointing out

[Sir Ramunni Menon.]

that in disposing of the question of the transfer of colonies the primary consideration should be the welfare and happiness of the aboriginis themselves. That, I think, indicates the attitude of civilised races towards aboriginis. There has been no change in regard to that matter. Has there been any discontent among the people of these excluded areas? (*An Honourable Member*: "Plenty".) Have they expressed any wish to come back, or rather to be taken into the sphere of normal administration? (*An Honourable Member*: "They have".) Has there been any hitch or deadlock in the administrative machinery of the province owing to the existence of these excluded areas? I am not aware of any such developments. As far as I am aware there have been two occasions, quite recent occasions, in the local Legislatures when the question of these excluded areas came up for discussion and disposal. One was in Bihar in the Legislative Assembly and the other in Orissa. These two happened this month and my impression from the newspaper reports is that on both occasions the issue that was raised and decided was not the de-exclusion of these areas but the question of ownership of the areas and their inhabitants. I think Bengal wanted to claim the areas in Bihar; Orissa wanted to claim the areas in Bihar, the Central Provinces and Madras. There was no anxiety, as far as I could see, to be placed in a position to serve the interests of these aboriginis, as far as I could gather from the reports of the discussion. I feel therefore, Sir, that it would be futile for us to expect that on an important issue like this Parliament would be prepared to reconsider the matter.

Now, I should like to say a few words on the merits of the question of exclusion on which the Honourable the Mover spent some time. I think he seemed to me to be obsessed by the idea that the motives lying behind the scheme of exclusion are really Imperialistic. At the same time, may I venture to point out that the Honourable Member himself seems to think that the whole attitude in this matter should be political. I venture to say that it is not a satisfactory method of approach. Every question must have an appropriate background for its proper understanding. Now, this question of exclusion involves the welfare and happiness of 15 millions, as the Honourable Member said, of the inhabitants of this country, and these people, I may remind the Honourable Member and the Council generally, represent the shrunken and shrivelled remnants of what at one time must have been an immensely larger and more extended population of this country. They are now confined to the dense jungles and semi-open parklands of India. Writing about a type which is represented by several hill tribes in the south and in the Eastern and Western Ghats and which is very closely akin to the numerous tribes which occupy the excluded areas in Central India, that is to say, in Bihar, Orissa, Bombay and the Central Provinces—

THE HONOURABLE THE PRESIDENT: Are they in a position to pay any taxes?

THE HONOURABLE SIR RAMUNNI MENON: No. I was going to say writing about this type, Professor Eickstedt, who is a great anthropologist and a great authority on Indian Anthropology, has said that we have in these people one of the most primitive races of man that we can now find on the face of the earth. They are so primitive. I think it is well known that in their mode of life, in tribal organisation, in religion, in social customs and in various other respects they are quite different from the people of the plains, and their simplicity and backwardness coupled with the low state of education

among them makes them particularly liable to be exploited by outsiders. It will be recognised by everybody who has devoted any attention to this question that these are people who are in the childhood of civilisation and that they should have a very large measure of protection. Once that position is granted, the scheme of exclusion can be easily understood. As the Honourable the Leader has already fully explained, every one of the areas included in the scheme of exclusion is amply justified. I think we should really endeavour to bring pressure upon the Local Governments to make special efforts and to allocate adequate funds for the amelioration of these people. We shall certainly be able to shorten the waiting period if we do that. It is no use saying that democratic institutions should be applied throughout the whole of India impartially. That, as the Honourable the Leader of the House has already pointed out, is an absolute impossibility. I am very glad that in the interests of these people Parliament has retained in its own hands the final control of their destiny, because I very much doubt whether, in the conflict of political passions which is now going on in this country and which is sure to continue for a long time to come, these people will have fair treatment if they are left under the control of the ordinary administration. I therefore very strongly oppose this Resolution.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-madan): Mr. President, the Honourable Mr. Ramadas Pantulu gave us a learned discourse on the past history of these areas and added to our knowledge a great deal of how and why they were created. The Honourable the Leader of the House traced how this provision for exclusion came to be incorporated in the Government of India Act. I was waiting, Sir, to listen to more recent facts and arguments. As it happens that the Party of the Honourable Mr. Ramadas Pantulu controls the provinces in which the majority of the excluded areas and partially excluded areas happen to be, I had expected to be enlightened by him how, at the present moment, the popular Governments are being hampered in the discharge of their duties. Unfortunately I have not got that material before me. I had the misfortune or good fortune to represent an area in which there is a great deal of partially excluded area—Chota Nagpur and Sonthal Parganas in the Province of Bihar and Angul and Khandmal in the Province of Orissa. I have no personal experience about Orissa, but as far as I know of the Chota Nagpur Division and the Sonthal Parganas, I can say that the people living there are not fit to run the Government by their own unaided efforts. They require a sort of protection which has been admitted so far by the Legislatures themselves, by the introduction of different measures where tenancy is concerned, where the transfer of land is concerned, where money-lending is concerned; in all these matters special protection has been given to the people living in these areas. That makes out a *prima facie* case for the maintenance of a distinction between what he terms the normally administered areas and the areas which are not so fortunately placed. Now, the question is, whether the Governors who have a special responsibility in this matter have so far interfered and hampered the Governments in the discharge of their duties or not. I have no private information of what happens behind the scenes but, as far as one could know and one could learn from the matters that have come up before the public and in the limelight; one feels that such safeguards have now become dead letters. Until a flagrant necessity arises, the special powers of the Government are not being used. In that sense, Sir, I find that a convention is growing up which may in time controvert the statute itself. Is it wise, I ask, that the Honourable Member should interfere now and stress the aspect of the statute which is becoming a dead letter? We know, Sir, that the

[Mr. Hossain Imam.]

present alliance between the Imperialistic powers and the Congress is not only a guess work but one which has been announced from the house-tops by Mahatma Gandhi and other leaders. In the face of that, the reason or the necessity for making any provision and a change in the statute is not established. The gentlemen's agreement which was entered into by these two high authorities, one controlling the National Congress and the other presiding over the destinies of the Government of India, is guarantee enough that these powers will be used discriminately. Rather my complaint is that many of the essential safeguards are not being used to protect the minorities both religious and economic. In face of all this, Sir, I do not find that there is any necessity for this Resolution being placed. Further, the argument which has been made by the Honourable Sir Ramunni Menon that the space of time was very short, the necessity for change has not been shown, confirms the view that the necessity has not arisen. I am not one of those who are opposed to democracy, but democracy in the hands of those who do not know what democracy is would be a dangerous thing. We have heard, Sir, from high authority, Mahatma Gandhi himself, that political institutions, and even Congress, is not free from defects,—I will put it very mildly. There are irregularities, there is corruption. Therefore, in face of all this, if there is a statutory safeguard which has not so far in nearly two years been used to the detriment of the people living in these backward areas, why ask for a change? It will be time enough when the Provincial Governments have educated these backward people; when they have given them an understanding and these people come to realise what is meant by a vote, then we will be justified in demanding it. I have before me the return showing the election of India for 1937. I wanted to consult this book to find out how far these backward areas had exercised their right. Unfortunately, this book does not give the figures separately from that of the general constituency. They have given the figures for the depressed classes but not for the backward classes. But I find, Sir, that in most of the cases of the backward classes, there has not been a contest. People have been returned uncontested or with a very mild contest which shows that the parliamentary system has not taken any root in these areas. And even where they have voted, they have voted not on any political issue but on fetishes, and the votes that have been obtained are not so much an indication of their political preference as a symbol of their devotion to certain personalities. For these reasons, Sir, I do not see my way to support this Resolution.

THE HONOURABLE MR. N. K. DAS (Orissa : Non-Muhammadan) : Sir, I rise to give my whole-hearted support to the Resolution so ably moved by the Leader of my Party, the Honourable Mr. Ramadas Pantulu. In supporting the Resolution, Sir, I would just make a few points, and I hope you will allow me to trace the history of how these excluded and partially excluded areas started. I would, in speaking on these matters, Sir, just like to meet the arguments of my Honourable friend Mr. Hossain Imam and say that it is not that the time is not opportune. It is simply this : that there was no justification for including certain areas in the category as has been done by the Government of India Act, 1935.

Sir, way back on the eve of the British occupation of this land, these areas, mostly made up of inaccessible and inhospitable tracts full of hills and covered over with jungles and inhabited by mostly aboriginal people, were divided into small independent states. They had their own laws and their own administrations. The British people when they came to occupy the

land started to administer these areas under the same form of administration as they extended to other parts of India. This went on for a pretty long time, until these aboriginal people, who were not quite so tame as their civilised brethren in other parts of the country, would not suffer their own laws to be broken or their age-long tradition trampled down and rose in frequent rebellions in order to overthrow the unwelcome yoke. And it was in order to put down these small bickerings so often repeated ; more for this purpose than for the purpose of respecting the indigenous laws and varied customs and different kinds of administration obtaining in these areas that the British Government wanted to have undisputed sway and unfettered powers over them and that is how the Scheduled Districts Act of 1874 came into being. These areas were differentiated and called as non-regulated or scheduled tracts and were governed more according to the whims and caprices of the Officer-in-charge than under the above Act. There was no legal recognition of this differential treatment until as late as 1919 when the Government of India Act gave these areas a different constitutional status. The British administrators have all along professed to be extra-solicitous about the people living in these areas inasmuch as the Special Officers placed in charge of these areas have no knowledge of law, have behaved as independent chiefs and have up till today indulged in exacting forced and unpaid labour for protracted periods of months and rashads or free rations, and have lorded it over the people in a hundred different tyrannical ways. Sir, I will not elaborate on this ; the less said about it the better. This is how the British administrators have behaved with the people—innocent guileless people—and this is how they have afforded them special protection against what they have called the persistent exploitation of these people by their more civilised brethren. If these artificial barriers and limitations were not put on these people and if they had been allowed to fuse freely with their more civilised brethren, it requires no imagination to see that long long ago these people would have undistinguishably merged into one with the common people, as has been the case in normally administered areas of the country. It is the British administrators, Sir, who are responsible for keeping most of these people in the same state of “ backwardness ” today—after these 150 years of their anxious care and solicitations for these people.

In 1919, Sir, the number of backward areas were around nine. When the Government of India Bill of 1935 professed to give a larger measure of constitutional reform and provincial autonomy, the Sixth Schedule of that Bill changed the nomenclature of these areas to “ excluded ” and “ partially excluded ” areas and increased the number to 4 plus 11 or 15 ; the Order in Council as submitted to Parliament multiplied the number to 8 plus 26 or 34, until finally in the Government of India Act it was still further increased and stands today at 8 plus 27 or 35. Progressively, therefore, as the period of British administration in this country increased, the number and area of the tract that must be denied the normal administration and advancement increases in geometrical progression, until a day may come, Sir, when perhaps the whole of the country is designed by our present administrators to be thrown into the abyss of darkness and classed as a backward continent ! And when I say this, Sir, I say with good reason, for whoever followed the proceedings of the Parliament during the discussions about the excluded and partially excluded areas will know what Mr. Winston Churchill said about it. He said :

“ I should be very glad indeed if the Under Secretary were to accept the amendment, and if my Honourable and gallant friend cared to add other districts to it, I should not object. I should not object indeed to including in it the entire soope of the Great Indian Peninsula.”

[Mr. N. K. Das.]

This was what he said, and it is abundantly clear from this that simultaneously with giving a larger measure of reform to India, the English people wanted to bring into the fold of excluded and partially excluded area as large a portion of the country as possible. In other words, Sir, having by force of circumstances been compelled to give a larger measure of reform to India, they wanted to deny it to as many of her people as possible. This is the mischief that prompted the Secretary of State to enjoin the Government of India for an examination *de novo* by each Provincial Government of this question. There is a very significant passage in his letter which I must read, Sir, and that is this. He says in the same letter that was referred to by the Honourable the Leader of the House :

" But he is satisfied that the nature of the powers conferred by the Bill upon the Governors of provinces in relation to the administration of areas to be classified under the Bill as ' partially excluded ' are not such as to necessitate hesitation to include in that category any area containing a preponderance of aborigines or very backward people which is of sufficient size to make possible the application to it of special legislation, and to be susceptible without inconvenience of special administrative treatment."

He goes on to say :

"any area which satisfied the conditions just stated, or to which it has in the past been found necessary to apply the provisions of the Scheduled Districts Act, ought *prima facie* to be classified as partially excluded, even though it may not have been treated as a ' backward tract ' under the present Act. "

It is abundantly clear, therefore, Sir, that he gave specific direction to increase the number of partially excluded areas, if not of the totally excluded ones. Why and wherefore he did so is exposed from what Mr. Churchill said in Parliament. It is, therefore, with a view to maintain and hold fast the British despotic rule in India, as has been said by the Leader of my Party, that they carved out of her as many excluded and partially excluded areas as possible. It is not with any intention of benefiting the people concerned in any way—neither to afford them any protection from exploitation from non-aboriginal people.

Sir, there is however a relieving interlude to this paragraph in the Secretary of State's letter just referred to in which he says :

"and if not, to what extent the areas in which such classes predominate can be brought, without administrative disadvantage or without countervailing disadvantage to the remainder of the inhabitants of the area, within the special provisions of Chapter V of Part III of the Bill "

I maintain, Sir, that the Government of India have deliberately neglected to attend to this part of the letter under reference, and have in their over-enthusiasm to serve their masters betrayed the people. They have included in the category of partially excluded areas portions of the Provinces of Bombay, the Central Provinces, the United Provinces and the Punjab, which have never been so included since the British came into India.

Sir, let us now turn to see what 150 years of British rule or British exploitation has brought to these backward people. On their own testimony, Sir, in the testimony of no less a person than Sir John Simon—they have utterly failed in their duty. At page 109 of his Report he says :

" The responsibility of Parliament for the backward tracts will not be discharged merely by securing to them protection from exploitation or by preventing those outbreaks which have from time to time occurred within their borders. The principal duty of the Administration is to educate these people to stand on their own feet and this is a process which has scarcely begun "

That is the verdict of Sir John Simon and the Britishers still must needs pose as guardian angels of the excluded and partially excluded areas.

Sir, I will now turn to my province, the Province of Orissa, which I have the honour to represent in this House and give you a few facts about the partially excluded areas there. They are five in number, namely, Angul district, Sambalpur district, Khariar and Padampur zemindaris taken from the Central Provinces, Ganjam Agency Tract and part of Vizagapatam Agency Tracts taken from Madras. Sir, I will read from the Report of the Commissioner of Orissa, dated the 21st September, 1935. He says about Sambalpur :

" Actually that power has been exercised since then only for the purpose of withholding the Bihar and Orissa Village Administration Act ; and this not so much for the reason that the district is ' backward ' as that it has an individual form of village administration with which it would be difficult to reconcile the provisions of that Act " .

He goes on to say :

" It is worth observing that in the domain of Local Self-Government, the Central Provinces introduced the elective system and non-official chairmanship much earlier than Bihar ; so that there was no case of withholding Bihar Acts on the ground that the district was not sufficiently advanced for self-government " .

This shows, Sir, that the Commissioner realised in his heart of hearts that Sambalpur was advanced enough to be on a par with other normally administered areas. Still that tip conveyed through the Government of India from the Secretary of State left him no choice but to recommend it as a partially excluded area. Sambalpur, Sir, I should say is advanced.

1 P.M. The Local Self-Government Acts of the Central Provinces were applied to it earlier than the Bihar Acts were applied to the other districts of Orissa. The people are educated, advanced and are on a level with people in the normally administered areas. One of the three Ministers of the province hails from Sambalpur and there are a large number of people holding responsible and high posts under Government and other institutions. It cannot be set down as an excluded area because it happens to have a distinct system of land tenure and village administration.

THE HONOURABLE THE PRESIDENT : Your time is up. You must bring your remarks to a close.

THE HONOURABLE MR. N. K. DAS : I will conclude in two minutes, Sir.

These were evolved by the people and for the people. I think it is in their own interest that they should be brought out of the category of partially excluded areas.

Then again, Sir, this is also the case of Angul. It is a Government estate having been acquired in 1840. It has now been made a sub-division of the district of Cuttack, but is still in the category of partially excluded areas. There is absolutely no justification for keeping Angul under that stigma of backwardness.

The cases of the agency areas of Ganjam and Vizagapatam Agency Tracts are slightly different, but I do not see by the furthest stretch of my imagination how these partially excluded areas are going to develop if they are not placed under normal administration of popular and responsible Ministers and if the people are not allowed to mix freely with their non-aboriginal brethren and imbibe their habits and customs and absorb the civilisation of their more

[Mr. N. K. Das.]

civilised brethren. Sir, 150 years of exploitation has availed them nothing, and I am confident that they will be still in that most unenviable position if normal administration is not extended to them at once.

Before I conclude, I may point out for the information of the Honourable Sir Ramunni Menon that this question of partially excluded areas was debated upon in the Bihar Council in 1923, in 1927, and in 1933 and 1935. In 1935 the Resolution was moved by one of the Members of the Bihar Council who hailed from the aboriginal people. Again in 1936 a Resolution was moved by Mr. Ram Narayan Singh in the Central Legislative Assembly; and as he said, Sir, this matter has not been raised and discussed once or twice, but it has been a consistent and persistent demand from the people who have been affected.

THE HONOURABLE MR. B. N. BIYANI (Berar : General) : Sir, I rise to support the Resolution moved by my Honourable friend Mr. Ramadas Pantulu. Sir, I can not but begin by saying that British imperialism divides to rule. It has not only attempted to foster and perpetuate communal differences in India but has also divided the entire territory into different political compartments. Firstly, there is British India which is marching fast towards responsible government. Secondly, there is Indian India in the form of States. One-third of India is entrusted to feudal princes who are supported by the Government in maintaining their autocratic rule and in denying their subjects even the most elementary democratic rights, and thirdly, there is excluded and partially excluded India, areas which are unaffected by social and political forces at work in other parts of the country.

We find today that Indian India is having a political upheaval and is trying to march with the popular India. We shall see some day the same upheaval, the same agitation in these excluded and partially excluded areas to march with the rest of India. The Indian freedom shall be the freedom of the entire nation. India shall be one and indivisible howsoever the Britisher may try. Let him take a timely hint. The problem of excluded areas has begun to attract the public attention that it deserves. It is only year before last that the Indian National Congress has at its Faizpur session declared its opinion that the creation of excluded and partially excluded areas is an attempt to divide the people of India under different groups with unjustifiable and discriminatory treatment and to obstruct the growth of uniform democratic institutions in the country. The Congress further expressed that their separation is intended to leave a larger control of disposition and exploitation of the mineral and forest wealth in these areas and keep the inhabitants of those areas apart from the rest of India for their easier exploitation and suppression. The Indian National Congress further opined that the same level of democratic and self-governing institutions should be applicable to all parts of India without any distinction. Sir, there are in India today about 25 millions of tribal people nearly half of whom have been excluded from the scope of the ordinary law and administration of the land.

Under the India Act of 1874 all these areas were "scheduled districts"; they were raised to "backward" tracts under the Government of India Act, 1919; and under the provisions of the Act of 1935 they have been promoted to "excluded" and "partially excluded" areas. This is their evolution, if not in human and administrative department, at least in the department of nomenclature. Under the new Constitution there will be eight excluded and 28 partially excluded areas, having in all a population of 15

millions. The excluded tracts will be directed and controlled by the Governor himself, while partially excluded areas will be administered under the special responsibility of the Governor. No legislative enactments, federal or provincial, will be applicable to these areas unless the Governor so directs. The Governor will also have the authority to make laws and also to repeal and amend any federal or provincial laws in force in these areas. The Governor will entirely act in his discretion and the validity of his acts shall not be called in question on any ground. The expenditure for these areas shall not be sanctioned by the Legislatures.

Sir, the main argument of the Government to keep these areas from the normal administration is that the elaborate system of law would not be comprehended by backward tribes and would not suit their cultural level. It would bring about a complete breakdown of the primitive communal organisation and will sap the economic and moral life of these tribes. Exploiters coming from more advanced territories would disturb their moral and material welfare. These arguments are straightforward expressions of an essentially reactionary nature of British rule in India. The lives of the tribal people of the country, to say the least, is as short and brutish as they were when over 150 years ago the British assumed political power over them is one of the strongest condemnation of the present system of government. Nearly 15 million inhabitants of India have been preserved in the state of semi-barbarism, denied education, medical facilities and other amenities of civilised life.

The argument that the primitive people would be best allowed to remain in their natural isolation under the protection of the British law is the pretence to hide the innumerable economic wrongs which are inflicted on these people by the British administration. Special forest and game laws and a number of other enactments are hitting at the very root of the economic lives of these people, virtually reducing them to a position of chattel, slaves or serfs of big landowners, tea planters and other European adventurers. In all these areas big landlords are powerful and oppressive. In several parts large estates have been granted at nominal prices mostly to Europeans for tea plantation. In Darjeeling and other areas the tribes having disposed of their lands are obliged to work on plantations on starvation wages. Forest laws are the standing grievance in most of the tribal areas. This grievance is the acutest in the tribal area of Assam where recent regulation prevents a person from quarrying a stone for his own use on his own land unless he pays Rs. 10 a month or Rs. 100 a year as permit fee on the ground that the land belongs to an unclassified State forest although actually that land may have belonged to that person's family for generations. Excise, salt and distilling laws weigh heavily on these poverty-stricken people. Game laws are no less oppressive. The *bigar* and *zulum* of officials defy all description. The administration in all the tribal areas is highly autocratic. All executive and judicial powers are concentrated in the hands of a few Government officials usually headed by the Deputy Commissioner who is vested with almost dictatorial powers in all matters. The administration of justice is crude and speedy. In short, the lives of these people in these tracts is on verge of barbarism and they are kept under a form of military occupation. Deprived of their lands and liberty, over-burdened by feudal and official exactions, harassed by unsympathetic and autocratic administration, the great majority of the tribal people have degenerated physically and morally. That this should be so in an age when avenues of richer, brighter and more rational life are opening out before mankind shows how the grip of imperialism is today the drag on the progress of humanity. British imperialism refuses to recognise even the humanity of

[Mr. B. N. Biyani.]

over 15 millions of inhabitants of India. It is up to us to see that their natural and inalienable right to be treated as human beings is vindicated and the barriers which separate the excluded areas from the rest of India are broken down and the excluded areas brought within the scope of civilisation. In short they should be allowed to become in every sense an organic part of the more developed areas which surround them.

Sir, at present India is having popular government in the provinces and Indians are ruling India partially, if not wholly. The argument of the Britishers is that if these backward tribes are allowed to be ruled and administered by Indians, they would be exploited and their lives would become miserable. May I ask if these people are less exploited by foreigners than they would be exploited by their own Indian brothers ? I say not the least. Out of the 25 million of these tribal people 10 million are under provincial administration. Are they less happy ? Are they more exploited than those who are administered by Britishers ? If Britishers say that we Indians are not fit to rule these backward people, may I rebut the argument by saying that British people are only fit to rule the backward and uncivilised people.

Some Honourable friend has asked if these people want a popular rule. My reply is, that if our rulers have the conviction that their rule in these backward areas is preferred by these tribes to the rule of Indians, I give them an offer. Let the principle of self-determination, the principle of allowing the people to find their ruler, be applied to these excluded areas. Let there be a plebiscite of these backward people on a definite issue whether they want British administration or Indian administration. If our rulers have the courage of their conviction, and think that their benign rule is liked by these people, let them accept the challenge. India, on her part, will be ready for it. If they do not accept the challenge, let them have the human courtesy of allowing these areas to be included in the provinces of which they form part. Sir, much criticism has been made by friends who oppose the Resolution, my only reply to them is that we differ in fundamental outlook.

I hope, Sir, that the House will accept the Resolution in the name of humanity, justice and fair play.

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

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

THE HONOURABLE THE PRESIDENT : The debate will now proceed on Mr. Pantulu's Resolution.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, the question before the House should be looked at from a broader point of view. I look at the question from a different angle and I want to submit, Sir, that the House should decide whether the excluded areas or the partially excluded areas can be well administered by the elected ministries in the provinces or not ? I am not looking at the question from the point of view that because in a particular province a ministry happens to be a Congress ministry or a non-Congress ministry, therefore the areas should be administered not by the ministries in the province but by the Government. I am looking at this question from the standpoint whether we Indians are capable of looking carefully to the interests of our backward people or not. In this connection, Sir,

I may just cite a sentence from a letter of the then Governor in Council in my province. He stated, Sir, that—

“ The Governor in Council is strongly of opinion that under the new Constitution the more backward areas will receive much more attention and assistance if they are administered on the advice of elected ministers than if they are entirely divorced from the more advanced areas by which they are surrounded ”.

The aim of Government should be a levelling between the different races^s rather than a perpetuation of their differences and their backwardness. I submit, Sir, that, if under British rule over the last 150 years these backward areas have not been able to come up to the level of the civilised areas, that speaks of no credit to the rule of the British Government in India. Do they think, Sir,—those of my friends who oppose this Resolution,—that our ministry will be able to look to the interests of these backward tribes? Do they really think that they will not take into consideration the backwardness of the area in education? Do they really think that if these backward areas are administered by the ministry, there will be chaos? I suppose, Sir, the question has to be looked at whether we are competent or not competent to administer our own countrymen, whether they are backward or whether they are forward? To my mind and according to my own experience in some of the backward parts of my province, I find that their customs, their beliefs and their language, they are constantly changing under the impact of civilisation and if these backward areas are brought under the administration and control of the various ministries in the provinces they will gain much and in the course of a very few years I submit we shall see that the so-called backwardness will disappear and they will be brought to the level of the civilised area. They should not be kept segregated, if I may say so, but every attempt should be made to remove their backwardness and that can be done only if the ministries who are interested in the administration of the provinces are given charge and control of these backward areas. It is not Whitehall which can really decide this point but it is we who can really help in removing the backwardness of our tracts. I therefore submit, Sir, that if it is possible by an Order in Council to remove these partially excluded and excluded areas from the control of the Governor and to hand the administration of these areas to the charge of the ministry, it will ultimately end in reforming the habits and also in bettering the condition of the backward tracts. I therefore submit, Sir, that the Resolution should be supported from all sides of the House.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, it is very difficult to differ from the principle underlying this Resolution. So far as the principle of the Resolution goes, I think it must be supported. But there is one very important aspect that we have to consider at the present time. The Resolution says that the people of backward areas should be transferred and be brought under the administration of the provinces near by. Now, we have to see, while approving of the principle, whether in practice we will be doing something better for the people who inhabit that area or whether we will be putting them from the frying pan into the fire. In my opinion, the experience of the recent administration of the provinces, particularly the provinces administered by the Congress, has shown that no civilised, backward or even an animal ought to come under the administration which is being done there. My experience of the Congress-administered provinces is that it has resulted in chaos, riot, murder, loot, and yet we are told that it is the administration of the people for the people in the United Provinces, Bihar and the Central Provinces. There is no doubt that one would very much wish that a backward area should be brought at par with the

[Haji Syed Muhammad Hussain.]

civilised area but let us see what a civilised area really means to millions of the people. Not a single person is safe while he is walking on the street in the United Provinces and Bihar, whether he is a Muslim or a Hindu. Communalism is so acute that, speaking frankly, this is the beginning of civil war, at least in the United Provinces and Bihar. Religious liberties are restricted and the resources of the provinces and the taxpayers' money are spent in propaganda and demonstrative work which is probably meant for the next election. Let us see if we can bring those poor beggars, whom we call backward classes, under the administration of the people who are fighting like cats and dogs. The administration of those areas under whom we want to put these people is such that no person is satisfied with it—not even the Congressmen themselves are satisfied with it. I will tell you why. Among the Congressmen, you have got the depressed classes also. What the depressed classes say from their platform as to how they are treated by the Congress, the resolutions which they pass in their own conferences can better illustrate than I can say. They are absolutely dissatisfied with the Congress rule in the provinces. Take other interests. You find there is fight between the employers and the employees. You find that the Congress has set up class against class, such as the zemindars against tenants and tenants against zemindars. The less said about the communal disturbances and the feeling between Hindus and Muhammadans the better it is. It would be a fortunate day which passes without news of a riot in one district or another. It can be said that these happened even before the Congress administration. But then they were not matters of every day. Is there peace anywhere now? The answer from the Congress benches ought to be, "No, there is no peace anywhere".

THE HONOURABLE MR. B. N. BIYANI : If you take statistics you will find that there were more occurrences before.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : My friend does not know the statistics at all. If you compare the death roll and the injured, since the time the Congress has taken over the administration, and in the pre-Congress period, you will find that they have doubled now, if not more. Before the Congress administration there were communal disturbances no doubt; but was the British administration alone responsible for those disturbances? No. It was more the Congress propaganda and Sangathan. It was the policy of the Congress to establish a particular kind of Raj, which was resented by so many other people and communities. Thus even those disturbances were due more to their Congress propaganda and policy. If these people—the backward classes—come in, what will be the result? Most of them have now got separate electorates. They have got 24 seats in the local Councils, seven in Bihar, five in Orissa,—those two provinces are represented by my Honourable friend Mr. Hossain Imam—nine in Assam and three in the rest of India. Their separate electorates will disappear. Mahatma Gandhi threatened the people with starvation to death and out of that produced the Poona pact. What is the result of that? Are the depressed classes satisfied with the Poona pact? What will happen if these people come under the administration of the provinces? They are not even capable of coming to any pact and their interests will not be looked after even as much as the interests of the depressed classes and other minorities. They are much happier and much better where they are today. I admit that it is a question of choosing the lesser of the two evils. If, as my Honourable friend Mr. Biyani has described, the British rule is responsible for so many bad things, what do we

find now in the provinces ? We find a combination of two vices, the Congress rule plus the British rule. Why should you bring these people under two fires ? We only read on the 5th of this month, Mahatmaji writing with his own pen that an alliance exist today between the British Government and the Congress, etc. Between the two allies, they will be between the two mill stones and what will happen to these poor beggars ? I would rather let them remain where they are under one fire alone. If they had been under the administration of the Congress, I would not have recommended that they should be transferred from there to the British rule. But there they are not and I can only say, let us hope that the British will do their utmost to ameliorate their condition and improve them. To put them under double fire will be absolutely unfair. Therefore, I oppose this Resolution.

***THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY** (East Bengal : Non-Muhammadan) : Sir, I rise to support this Resolution and at the same time to request that if this Resolution is accepted, the districts of Manbhum, Purulia and Singbhum should be joined to Bengal.

THE HONOURABLE MR. H. G. STOKES (Bengal Chamber of Commerce) : Sir, in speaking in support of this Resolution, various Members have made certain charges against the present administration. I would like to refer to just one of these charges made, if I remember, by the Honourable Mr. Biyani. The Honourable Member stated that these backward people are forced to work on tea gardens for a starvation wage. Well, Sir, as one who has fairly extensive interests in both Assam and in the Dooars I would like to assure the Honourable Member that he must have been very incorrectly informed. We do not starve our labour ; we do not pay them a starvation wage. If only for one reason, that if we do, they would not stay with us. Put, Sir, apart from that, I would like to be allowed to give just three instances of the rates of pay that are paid in various districts. First, in North Assam or the Doom Dooma district, the rates are eight annas a day for a man, six annas for a woman and three annas for a child. In the mid-Assam, on what we call the north bank, that is, the Tezapore district and in the Dooars, the rates are six annas, four annas, and three or two annas. By themselves those rates may not appear very much. But in addition the labour, or practically every family, receives an area of khet land on which they can grow their *dhan*.

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Apart from that, they receive free firewood and free housing. They also have small vegetable gardens attached to the lines where they can work. Their hours extend approximately to six per day. Starting at eight, they can usually finish by two. In the plucking season they go on to piece-work rates and a good plucker can earn over one rupee a day, and it is earned.

Well, Sir, I think the best testimony to our rates is that we cannot get our people to work long enough. We cannot get them very often to work more than three or four days a week. They say they have earned enough money and don't want to work. So I do not think we can be accused of paying them a starvation wage.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, before I come to the Leader of the House and deal with his defence of the existing system, I may say a few words with regard to what fell from some of the other Members. Sir Ramunni Menon attaches great weight to the deliberate way in which the Parliament has acted. I do not deny that they acted very deliberately, but when he stated that they acted with a sense of responsibility I entirely differ.

*Not corrected by the Honourable Member.

[Mr. Ramadas Pantulu,]

They did not feel themselves responsible even to the majority Party of whom the Government was composed. On that occasion they felt more responsive to the die-hard section which was so valiantly led by Mr. Winston Churchill, that is to say the anti-Indian freedom section of the British House of Commons. So I will ask Sir Menon to notice the heat and passion put into the debate on the Sixth Schedule of the Government of India Bill of 1935. He will realise the pains which the Secretary of State took to assuage the angry folk who were against this meagre list of excluded areas and wanted a great part of India to be included in the Schedule. In fact it looks as if they wanted the half of India to be included in it.

With regard to his contention that there was no deep agitation or discontentment in these areas, I must say that he is not well informed as to the strength of public opinion outside and inside those areas. There have in the past been many rebellions in those areas, and if only there were an enterprising historian those rebellions would furnish him material for a very exciting history of the way in which these areas have been administered for over 100 years.

I think of the Provincial Governments concerned with such areas the Orissa Government alone have appointed a special committee to inquire into the economic and social conditions of the partially excluded areas of their province—a committee presided over by that well-known social worker Mr. A. T. Thakkar. The committee have issued a questionnaire and I have seen a few of the answers that they received from people in the partially excluded areas in Orissa. They tell a tale of great woe and misery. I will commend that questionnaire and the answers received from responsible people living in those areas to Sir Ramunni for his perusal and then ask him to re-state his conviction about there being no grievances in those areas. Coming nearer home, I would ask Sir Ramunni to read the Report recently submitted by Mr. Statham, Director of Public Instruction in Madras, who was a colleague of Sir Ramunni, who is himself a distinguished educationist. I know he is anxious to promote the educational interests of these areas. Mr. Statham's Report will completely disillusion him.

Coming to Mr. Hossain Imam, what he said did not apply to the excluded areas, because those areas are directly controlled and administered by the Governor. Even the expenditure on them is non-votable and is charged to the revenues of the province. But so far as the partially excluded areas are concerned I am afraid he was arguing contrary to the case of those who created these areas. It has been said that the people of these partially excluded areas will suffer if they are brought within the control of popular governments, which are run on more up-to-date lines with elections and run on political issues and so on, and the people of those areas would therefore be at a disadvantage if they were brought under the control of the popular regime. That was the main reason for segregating them. But my friend said that there is no interference by the Governors and the Ministers are administering those areas, and so long as the Governor does not interfere and his special responsibilities created by the Statute remain a dead letter the people of these areas can have no grievance. It is a very ingenious argument but it is certainly not the argument of those who created these areas. They did not want these areas to be subjected to the political whims and fancies of the popular Governments because that kind of government was not in accord with the tradition, mentality and social habits of those people. So he is arguing something against the wishes of the framers of this scheme, and therefore his argument does not touch the matter. I must say that he is generally logical and coherent. It is only when

he is up against the Congress Governments in his own province and in the other seven provinces that he goes off the track and lands himself in obvious inconsistencies, and a staunch fighter for democracy and people's rights as he is suddenly loses the faith in democracy and lapses into autocracy. That is unfortunate.

THE HONOURABLE MR. HOSSAIN IMAM : Has any Government complained yet that the Governor is interfering in the administration of the partially excluded areas ?

THE HONOURABLE MR. RAMADAS PANTULU : I have not said he is interfering. My point is, no one does any thing to help the people of these areas.

I may dispose of my friend Mr. Muhammad Husain in one word, because the charges he has made in this House have been made with greater persistency and vehemence, with greater detail of figures and facts in his own province, and every one of the charges brought forward here by him have been categorically answered and their exponents silenced by the Premier of the United Provinces.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : By mere denial.

THE HONOURABLE MR. RAMADAS PANTULU : The real forum is there, and the only remedy my friend has lies in dismissing the Congress Government, which according to him is so wicked and satanic, through an appeal to the people. The one thing the Government of India Act has given us is to give us 60 million voters. Therefore this is a matter for the electorate of the United Provinces to deal with and not for the British Government or the Members of this House. So let him try his luck there ; let him stand for the United Provinces Council on this programme of his to perpetuate excluded and partially excluded areas among other items.

THE HONOURABLE SIR A. P. PATRO : Yes, you and I know those elections.

THE HONOURABLE MR. RAMADAS PANTULU : Yes, we both know very well but with different results. Sir, I say no more for the United Provinces Government can take care of itself.

With regard to the question put by you, Sir, *viz.*, what about the taxes, which was answered by Mr. Hossain Imam, I admit that they cannot pay taxes on the same level as people in the normally administered areas. But what are they getting ? If taxes have any meaning, I have always understood them to have some relation to the services that the taxpayers get and the protection that is given to them. These people get neither protection nor essential services like education, medical relief, sanitation, health, local self-government, and how are they to pay taxes ? As for the land, the land is not directly held under the Government ; it is held by feudal chieftains who have no rights in the soil but they nevertheless exploit these people. It is not known what cultivators are paying the landlords. I do not know if Government have got records to show that the rent that is being paid is very low. As I already said, recently there was an inquiry in Madras and it has come to the notice of the Madras Legislature that very excessive rents are being levied and they are paying more on the land than their neighbouring tenants in the ryotwari tracts are paying. It is not as if they are not paying taxes. In addition to the legal taxes, they are rendering forced services and also supplies mamools, as the few instances which I have cited in my opening speech clearly show.

THE HONOURABLE MR. HOSSAIN IMAM : In Chota Nagpur the tenants pay less than in any other part of the province.

THE HONOURABLE MR. RAMADAS PANTULU : Probably so ; but what about illegal exactions ? Have they no economic value ? If you compute in money, what will they come to ? Unless my friends have made any inquiry into the economic position of these people, their arguments do not convey conviction to my mind. Sir, it is futile to deny or dispute the fact that there is maladministration.

THE HONOURABLE SIR A. P. PATRO : Question.

THE HONOURABLE MR. HOSSAIN IMAM : Due to whom now ?

THE HONOURABLE MR. RAMADAS PANTULU : If you question facts and every sensible proposal, what can I do ?

THE HONOURABLE SIR A. P. PATRO : Everything that comes from you is subject to question.

THE HONOURABLE MR. RAMADAS PANTULU : There is the testimony of people who have gone into these matters. I am not citing my own opinion.

One word, Sir, with regard to the point raised by Mr. Stokes, namely, about tea planters in Assam. That the tribes are exploited by the tea planters is not an accusation of mine. The Simon Commission, speaking of the Assam tribes, say :

" These races must be among the most picturesque in the world "—they are picturesque " and until their energies are sapped by contact with civilisation they remain among the most light-hearted and virile. To the economic self-sufficiency of the indigenous hill races—the Nagas, Kukis, Mishmis, and the rest—the tea planter and the immigrant Bengali alike constitute a real danger ".

I commend this passage to the perusal of Mr. Stokes.

Coming to the Leader of the House, who has opposed my Resolution, if from his place as a responsible Member of the Government of India he had been able to assure me that these areas are better administered than normally administered areas, that there is no maladministration there, that they have made economic progress—I do not speak of political progress, but social and economic progress—under the special responsibility of the Governors, I should certainly have withdrawn my Resolution, because all that I am interested now is to see that these people are helped to develop socially and economically. But facts and figures have not been adduced by him, nor has he ventured in his reply to say that they are better administered than normally administered areas.

Sir, I admit that these people require some amount of protection against themselves. There are a number of people in the normally administered areas also who require protection against themselves. In Madras the Debt Relief Act was passed, as a very beneficial measure to help the general body of agriculturists. There was some difficulty in having it extended to the agency areas of Vizagapatam and Godavari, but after a good deal of trial the Governor of Madras has extended it to those areas. Similarly, we have got many other measures of a similar protective character. We have protected people in the plains against moneylenders by legislation to regulate moneylending, tenants

against contracting out of their rights with landlords by suitable provisions in the Tenancy Acts and so on. Therefore need for protection does not necessarily imply that people who need protection should be put outside the scope of ordinary law. Ordinary law can give protection. Look at the depressed classes in India who were very backward. By their contact with civilised elements in the community and by making the same laws applicable to them and the Government taking special care for their progress, they are coming to the level of the others, and I have no doubt that the people of the partially excluded areas would come up to our level if similarly treated and governed. The areas in Madras are fairly advanced. I would like Honourable Members who have any doubt in the matter to visit some of these parts ; they are civilised members of the agricultural communities.

Sir, with regard to the statement of the Honourable Leader that Parliament had taken considerable trouble and the Government of India had taken considerable trouble in ascertaining the standards of the various people in order to include them in the excluded and partially excluded areas, I admit that they have done so, but I want to know, why the Government of India and Provincial Governments suddenly changed their views after receiving very broad hints from the Secretary of State with regard to the expansion of the famous Sixth Schedule. I ask him to draw up in parallel columns the list of *scheduled districts* under the Act of 1874 of the *backward tracts* according to the Act of 1919 and then excluded and partially excluded areas included in the Sixth Schedule of the Government of India and finally of those now found in the Eighteenth Schedule to the Act. I ask how these other areas not hitherto included in those categories have now come to be included in backward areas ? Have the Government of India neglected their responsibility all these years, or did they suddenly find them to be backward after receiving a broad hint from the Secretary of State in response to the agitation of Winston Churchill and others ? Therefore, I maintain that behind all this there is a definite political and imperialistic motive and it is not intended for the benefit of the tribal people. If so they should have been much better administered than the people in the other areas.

My Honourable friend Mr. Hossain Imam said that if the figures of voting in elections is taken into account it will show that these people have no sense of political responsibility. I would rather prefer the men living in the partially excluded areas not being allowed to vote than being allowed to vote, because the vote there is really influenced by the petty official clothed in brief authority and who exercises arbitrary power over these people. Therefore, I maintain that excluded areas are the last vestige of a dyarchical system wholly unsuited to modern conditions. There is no help for the people in the areas. On the other hand they are being utilised to foist on them a feudal system by parasitic landlords and of exploiting middlemen perching upon them and having all the protection of British law for exploiting them. The sooner the system is abolished the better.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : First of all, Sir, before I come to reply to my Honourable friend the Mover of the Resolution, I should like to clear a misunderstanding under which my friend Mr. Kalikar is labouring. He read out from the opinion of the Central Provinces Government and I think he wished to convey the impression that the Central Provinces Government were opposed to classifying any areas, as excluded or partially excluded. He quoted from paragraph 2 of the letter but if he had read a little further he would have found that the Central Provinces Government was opposed to total exclusion and not to partial exclusion

[Sir Jagdish Prasad.]

If he will kindly see the Order in Council, he will find that there are no areas in the Central Provinces which are totally excluded. There was no difference of opinion between the Government of India and the Central Provinces Government as regards the question of the classification of partially excluded areas.

I am sure the House would not like me to intervene in the somewhat domestic quarrel between the Members opposite and those led by my Honourable friend Mr. Hossain Imam. From the speeches that were delivered there, I thought that they looked somewhat wistfully at the provisions under which excluded areas are formed. They probably thought that, if certain provinces which are under certain Governments were treated entirely as excluded areas, that that would be the best solution of the difficulty. But, as I said at the beginning of this discussion, no areas can now be added to those that are either totally or partially excluded. Therefore, that solution is not possible.

I congratulate my Honourable friend Mr. Pantulu for fighting to the last ditch in a lost cause. He still maintains that all this device is to bolster up parasitic landlords and feudal customs. I need not repeat what I said at the beginning. All that I wish to say is that on this question of the iniquity of the landlords he and I might agree to differ. I do not know whether the iniquities are on one side or the other. That is a matter on which there will always be a certain amount of disagreement. As I said before, Sir, after the very elaborate inquiries that were made and as the Order in Council has only been in operation for less than three years, in the circumstances it is not possible, I do not think it is likely that Parliament will reconsider their views. I have already stated that these areas are now limited. It is not possible to add to them. I quite agree that as time goes on these areas will gradually be taken out and will come under normal administration and all that I ask my Honourable friends opposite is to have a little patience. I think that is a virtue of some consequence in dealing with large political issues. Nothing that my Honourable friend has said has convinced me that the position that I took up earlier is not the correct one. I therefore must oppose this Resolution.

THE HONOURABLE THE PRESIDENT: Resolution moved:

"That this Council recommends to the Governor General in Council to intimate to His Majesty's Government the wish of this House that all the partially excluded areas and excluded areas within the boundaries or adjoining the boundaries of the provinces in India be converted into normal areas governed by the normal administrative machinery of the respective provinces and declared as parts of the province concerned as soon as possible".

The Motion was negatived.

HINDU POLYGAMOUS MARRIAGE RESTRAINT BILL.

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

"That the Bill to regulate (restrain) polygamy in British India be referred to a Select Committee consisting of the Honourable Mr. Ramadas Pantulu, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Rai Bahadur Sri Narain Mahtha, the Honourable Sir David Devadoss, the Honourable Rao Bahadur Govindachari, the Honourable Mr. Biyani, the Honourable Mr. Hossain Imam, and myself, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be four".

*Not corrected by the Honourable Member.

I admit, Sir, that the drafting of the Bill is defective but if this House accepts my Motion of referring the Bill to a Select Committee, the Bill may have to be recast keeping in view the main principles of the Bill.

Sir, I find from the opinions received and from the attitude my Muslim colleagues took in this House at the time of the introduction of the Bill that they are absolutely against this measure. So in the Select Committee it may be made clear that the Bill should apply to non-Muslims only. From the opinions received, it is evident that the majority of Hindu public opinion is in favour of a measure like this. Some of course have suggested very healthy amendments such as making provision for the first wife and allowing the husband to marry again when the first wife is barren. These are suggestions which can be incorporated in the Bill at the Select Committee. I am reading out, Sir, the volume of opinion received in support of the Bill—

THE HONOURABLE THE PRESIDENT: Please do not trouble to do so.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY—and I should say a surprising amount of support from very responsible and influential quarters. Of course, there is opposition also but in a measure like this there will always be some amount of opposition. But I venture to submit that so far as Hindus are concerned the opinion is largely in favour of this measure. Sir, I would appeal to the Government and to my Muslim friends that, if they cannot support my Motion they should remain neutral when I have given the assurance that Muslims will be excluded from the operation of the Bill in the Select Committee.

Sir, I submit my Bill is a very moderate measure and may not meet with the approval of the very advanced section of the Indian public as it does not propose to do away with polygamy altogether but polygamy in a restricted form is allowed under the Bill, but this is in consonance with the Hindu Shastras because, according to Manu, a male can marry during the lifetime of his wife only in the circumstances mentioned in section 4 of my Bill. Sir, I admit that the percentage of polygamous marriages among the Hindus is very small but, as I have stated in the Statement of Objects and Reasons, the very possibility that a husband can marry during the lifetime of his wife without any reasonable and valid cause, in my opinion, lowers the position of women in this country. Sir, I submit that, though polygamous marriages are rare, one does come across cases where the first wives have been discarded by their husbands for no fault of their own and I would ask the Honourable Members to imagine the miseries of these poor girls. Sir, this Bill is devised to restrict and regulate a custom which has already become unpopular with the spread of education and on account of economic exigencies and the necessity for legislative intervention by means of social legislation arises just when a custom loses its popularity.

Sir, I may mention that from a perusal of the opinions received I find that the majority of those who have opposed my Bill have said that this Bill should not apply to Muslims. If you leave out those opinions you will find that by far the vast majority have supported my Bill either *in toto* or with concrete suggestions.

Sir, with these words, I commend my Motion for acceptance by the House.

THE HONOURABLE SIR RAMUNNI MENON (Nominated Non-Official): Sir, I beg to congratulate the Honourable the sponsor of this Bill on having introduced a measure which has fluttered the dovescotes of orthodoxy, and if

[Sir Ramunni Menon.]

I cannot support his Motion for a Select Committee, it is for reasons which I shall state presently. But, before going into that aspect of the question, I should like to say that it has been of very great advantage that the Government undertook to collect local opinion, because we have before us now a considerable body of opinion which probably represents public opinion. But I think we shall have to exercise considerable judgment in assessing the value of these opinions. Just to illustrate my point, I shall refer to one particular opinion. It is a far cry from Noakhali in Eastern Bengal to Malabar on the south-west coast of India, and yet it is interesting to note that Malabar has furnished the District Magistrate of Noakhali with his last, and presumably his most crushing, argument against the Bill, an argument which, along with his other arguments, has been specially commended by the Commissioner of Chittagong. The argument is made very effective by the simplicity of its wording, and is made more effective by its being given an entire paragraph to itself—

THE HONOURABLE THE PRESIDENT: Is it necessary to dilate on it? The Honourable Mover has himself admitted that opinions are against him.

THE HONOURABLE SIR RAMUNNI MENON: I should like to call attention to this particular opinion, Sir—and it is made the last paragraph so that it shall catch even the casual eye. This particular argument is on page 36, last paragraph of the District Magistrate's opinion, and reads thus:

"And who is to stop polygamy among the Nairs of Malabar?"

I should like to ask another question, which is a very close relative of this: "Who is going to exterminate all the snakes in Iceland?"

I should now like to come to the merits of the Bill before us.

THE HONOURABLE THE PRESIDENT: Be as brief as possible, because you will have another opportunity of speaking when the Bill comes up again.

THE HONOURABLE SIR RAMUNNI MENON: I am against the fundamental principles of this Bill and that is why I am opposing this Motion. This Bill is not along the right lines, as far as I can see, because, in the first place, it is not for the abolition of polygamy nor is it for applying its principles to both sexes. Polygamy is not defined in the Bill. As ordinarily understood, we know that it applies to a man who marries two or more wives—

THE HONOURABLE THE PRESIDENT: The Bill only gives the right to a woman to separate from her husband.

THE HONOURABLE SIR RAMUNNI MENON: My contention, Sir, is that this Bill is not on the right lines—

THE HONOURABLE THE PRESIDENT: But the Honourable Member stated that you can put it on the right lines in the Select Committee.

THE HONOURABLE SIR RAMUNNI MENON: Can the Select Committee change it into a Bill for restricting polyandry also?

THE HONOURABLE THE PRESIDENT: That, I do not know.

THE HONOURABLE SIR RAMUNNI MENON: That is my point. I say this should be a Bill for restricting not only polygamy but polyandry also.

THE HONOURABLE THE PRESIDENT : You can bring in a Bill to that effect.

THE HONOURABLE SIR RAMUNNI MENON : I am coming to that suggestion. My position is this. I consider that we can have no solution of the Hindu marriage difficulties unless and until we have a root and branch alteration of the whole system. We must destroy that conception of marriage which makes it a religious sacrament. Until we are prepared to do that, it is perfectly useless to go on with a measure of this kind.

THE HONOURABLE THE PRESIDENT : That won't come in our lifetime.

THE HONOURABLE SIR RAMUNNI MENON : It is coming. In the Lower House it is very near. There is a Bill introduced in the other place which fulfils many of the conditions which I have in mind. There are two Bills there. There is one to facilitate divorce and another to prohibit not only polygamy but also polyandry. If we can combine these two Bills and lop off the redundancies, we shall probably be producing a measure which is the best that we can get in this generation. But, unless we can do that, it will be a retrograde step to proceed along the lines of the present Bill. I personally feel that the best solution of the marriage problem in Hindu society is something which will approach closely or as closely as it can the system that prevails in Malabar. In Russia, after a violent reaction against the prevailing usage of the country, they are now coming back to a system which is very close to the Malabar system. It is not a loose system. It is a well-known and recognised system, and it has been in existence among the people for ages and it has proved extremely satisfactory. I am not advocating it simply because it is my system. I am advocating it because it is a civilised system and is in the opinion of great thinkers one of the best systems in the world. My objection to the present Bill is that we cannot by any means alter it along the proper lines in the Select Committee. I should very much like, therefore, that this Bill be withdrawn at present and opportunity be given to other people. There are, as I have already said, two Bills in the Lower House. When these Bills come up here, if we can put our heads together, ours as well as other people's, it may be possible to produce a consolidated measure providing for all the difficulties which we wish to see removed. That will be very much better. There are two fundamental things. You must provide for divorce and you must legislate against polygamy and polyandry as well. I therefore feel, Sir, that for these very general but, in my opinion, important, reasons, I must oppose the Motion for sending the Bill to a Select Committee.

THE HONOURABLE MR. F. H. PUCKLE (Home Secretary) : I think it is only fair, Sir, to tell the House now at once what the attitude of Government is towards this Bill. The attitude of Government is to oppose any further Motion on this Bill. The reason is perfectly simple. It is the established policy of Government in matters like this, which involve legislation which goes to the very root of the social habits and indeed in some cases to the religious beliefs of the people of this country, not to encourage legislation until it is shown clearly and unequivocally that the majority of the communities who will be affected by the legislation demand it. Well, you have only to look at the opinions which have been received on this Bill to note that that criterion is not fulfilled here. I will go no further than to refer to the opinions of Provincial Governments. Provincial Governments are now drawn from the Provincial Legislatures and they are men who have been elected on a much wider franchise than at present is the case with Members of the Central Legislature. I think

[Mr. F. H. Puckle.]

we must take it that they know what they are talking about when they express an opinion on a subject like this. No Provincial Government has unequivocally supported this Bill. It is true that Sind considers the principle sound and that Bombay are in favour of enforcing monogamy by legislation provided women have obtained relief by divorce. That is a very strong point made by the Honourable Member who just sat down. Of the other Governments the Central Provinces consider that public opinion is not sufficiently advanced for this legislation. The North West Frontier Province consider it an unnecessary encroachment on Muslim rights. Bengal say that the Bill is vehemently opposed by nearly all sections of the public and is premature. Bihar say that polygamy should be dealt with by the spread of modern ideas and that legislation at present is premature. Orissa report a strong volume of opinion against the Bill. The Punjab say it is wholly unacceptable to Muslims and go on to say that the Bill is crude and does not, as it stands, even provide a basis for the discussion of the subject. The United Provinces are opposed to the Bill and consider that legislation in British India should not be too much in advance of public opinion. And that is the whole story.

In the circumstances Government cannot support any further Motion on the Bill, and if I may, might I suggest to the Honourable Mover that, having elicited so much very interesting and useful public opinion on the subject, he should now withdraw his Bill and devote himself—I think it will take him some years—to following the advice that was given us on the last Resolution by Mr. Pantulu, to let the backward people have the chance of talking with more progressive people and to educate them up to social progress of this kind.

Sir, I oppose the Motion.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY : Sir, I want to withdraw the Bill, with the leave of the House.

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

INDIAN SUCCESSION ACT (AMENDMENT) BILL.

THE HONOURABLE MR. M. N. DALAL (Bombay : Non-Muhammadan) : Sir, I ask for leave to introduce :

“ A Bill to amend the Indian Succession Act, 1925, as respects intestate succession among Parsis.”

Sir, at this stage may I request you to allow me to explain very briefly, in not more than five minutes, the reasons for introducing this Amending Bill.

Seventy-four years ago, an Act was passed in regard to intestate succession among the Parsis, known as the Parsi Intestate Succession Act (XXI of 1865). This was repealed by the Indian Succession Act (XXXIX of 1925). This, however, created no difficulty as the sections of the former Act were bodily incorporated without a change in the Indian Succession Act (XXXIX of 1925).

On the 20th September, 1937, the late Sir Phiroze Sethna introduced an Amending Bill to the Indian Succession Act (XXXIX of 1925), which was being considered under reference to the Select Committee at the time of his sad demise.

The Bill I am introducing now is in a form identical with the Bill introduced by the late Sir Phiroze Sethna.

The Parsi community is of the opinion that the existing Act (XXXIX of 1925) requires to be altered in form and substance for different reasons, explained in the Statement of Objects and Reasons attached to the Bill. The changes suggested and the additions made are with the general support of the community. They have been endorsed by the Trustees of the Parsi Panchayet, which body takes the lead whenever required in all matters affecting the community, and in whose judgment the community as a whole lays great reliance. At a conference held by the Trustees of the Parsi Panchayet in Bombay on the 8th January, 1938, all the important representative associations, societies, and bodies of the community were called and they have agreed on this Amending Bill. This Bill, therefore, may be said to have the general support of the entire Parsi community.

I will not take the time of the House by repeating the arguments in favour of this measure. The House has already approved of the principles of this Bill, when it agreed to refer the identical Bill introduced by the late Sir Phiroze Sethna to the Select Committee.

With these words, Sir, I ask for leave to introduce the Bill.

The Motion was adopted.

THE HONOURABLE MR. M. N. DALAL : Sir, I introduce the Bill.

RESOLUTION *RE* INLAND WATER COMMUNICATION, IRRIGATION AND PREVENTION OF FLOODS.

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

" That this Council recommends to the Governor General in Council to take steps to have the Government of India Act, 1925, so amended as to allow them to deal with matters relating to inland water communication, irrigation and the prevention of floods as a central subject ".

The object of this Motion, as is apparent, is to cause the river system of India and its proper working to be dealt with as an all-India concern. Almost all the big rivers of India flow through more than one province and through their vagaries affect them in various ways and nothing can be done to save them from such ravages unless conjoint action can be taken by the various provinces. It was with this view that recently a conference was held by the United Provinces, Bihar and Bengal Governments to consider the question of floods that had overtaken the Provinces of Bengal and Bihar. But if we study carefully the causes that occasion such floods it will appear that conjoint action between different provinces is not easy to adopt and is well high impossible because their interests clash with one another. Already some proposals made by the Bihar Government have been turned down by the United Provinces Government and there was a great controversy between the Punjab and Sind when the Sukkur Barrage scheme was adopted. The task is also too stupendous for the Provincial Governments with their limited resources to tackle.

Now let us consider the cause of these floods. They are, I venture to submit, due first to deforestation of the country. This leads to dryness of atmosphere which renders rainfall less evenly distributed throughout the year and causes sudden and heavy downpours during the end of the rainy season. This deforestation not only causes sudden and heavy rainfall but it also cause

*Not corrected by the Honourable Member.

[Mr. Kumarsankar Ray Chaudhury.]

the uncovering of and a heavy washing off of the surface soil, so choking the river channels more quickly. The uneven flow of water through the river throughout the year is further aggravated by the irrigation policy of the upper regions, which drains away the scanty flow of the river during the dry season and prevents the proper scouring of the river channel. The beds of the rivers thus gradually rise and get choked, and during late and sudden downpours of heavy rains when irrigation canals are also closed and no longer needed for irrigation purposes, there is such a rush of water through the dried up rivers as to cause them to overflow the entire countryside. In order therefore to regulate an even flow of the rivers throughout the year what is needed first is that the forest policy of all Provincial Governments should be so regulated as to cause the improvement of the hygroscopic condition of the atmosphere. Furthermore, water should be stored in various parts of the country during the rainy seasons so as not only to improve the hygroscopic condition of the atmosphere during the dry seasons, but also to prevent its overflowing the country during the rains. The water thus stored during the rains can also be released for irrigation purposes and for purposes of scouring the river channels during the dry season. This cannot properly be done unless the face of the entire country is surveyed and dealt with by a central authority. Big rivers of Europe flowing through different countries such as the Danube and the Rhine are not only a national but an international concern and recently on account of difficulties felt by the Government of the United States these questions are now being treated as federal matters and not as appertaining to the States. Investigation should also be held to find out a crop that can be raised before heavy rains begin to fall so as to cover up the surface soil and prevent its being washed away too rapidly.

Objection might be raised to provincial matters under charge of responsible Ministers being taken away from them and placed in the hands of irresponsible members of the Central Government, but that will soon be obviated, I venture to submit, by the Central Government being made responsible to the people of India at no distant time. Sir, if we study the history of civilisation, we find that it is a history of dying rivers. Civilisations in Mesopotamia and Egypt and in India have risen along flowing rivers and had died on account of the rivers not being properly looked after. The history of the seven cities of Delhi is a history of the shifting of the River Jumna, India being mainly an agricultural country, her prosperity greatly depends on the maintenance of her river system and unless the Government of India tackles her river problem in right earnest India will have to rue the result in no time. Inland water communication was also recommended by the Acworth Committee to be taken up as a central subject and placed in charge of the Member in charge of Railways and other means of communications, but the Central Government for reasons known to them did not accept that recommendation. The construction of railways also has aggravated much the drainage problem of India and particularly in Bengal and should be taken up conjointly with the river problem. We have heard much of rail-road competition of late and the Motor Vehicles Act has been passed with hot haste to meet the problem. Lastly, several Members of the House spoke about the E. B. R. and the A. B. R. being run at a loss for a long time. They run through provinces rich in agricultural produce, jute and tea being two of the largest exports of India. The Honourable Member in charge of Railways offered the explanation that the A. B. R. runs through difficult country. What about the other? The real reason to my mind for both the railways is the carriage of most of her goods by steamers and although the two lines are working at a loss for years, not

a whisper had been raised against the competition between the steamer companies and the railways. If the Government has to yield before the steamer companies they should require the steamer companies to maintain the water communication in proper condition just as motor service has been laid under various obligations as to load and tyres, to maintain the roads in good condition.

THE HONOURABLE MR. M. S. A. HYDARI (Labour Secretary): Sir, in rising to oppose the Resolution, I feel rather like Cæsar refusing the Crown. My Honourable friend opposite wants to undo a thing which was done as far back as 1920. In that year irrigation, which covers most of the points which the Honourable Member has raised, was made a Provincial but a Reserved Subject. By the Act of 1935 the whole subject was made Provincial. Now it is barely two and a half years since that Act came into operation and what my Honourable friend would like is that the Centre should take steps to bring back that subject into its own responsibility. I think he will himself agree that that is not practical politics. But even if it were practical, is there any necessity for taking this step? For such co-ordination as is required provision has already been made in the Government of India Act. I would refer my Honourable friend to the chapter dealing with administrative relations between the Federation, Provinces and States, Chapter VI, and especially section 130 onwards, which deal with interference with water-supply. Ample provision is made there for co-ordination. In so far as assistance to the provinces is concerned, the Central Government have two organisations. One is the Central Board of Irrigation which is composed of Chief Engineers of Provinces. They meet regularly to discuss technical matters connected with irrigation works. That Board also serves as a bureau of information and from the way in which its work is carried on and its popularity with engineers, it seems to be performing a useful function. Then the Honourable Member referred to floods. In spite of the financial stringency the Government of India are continuing to maintain their research station at Khadakvasala which is doing extraordinarily good work in advising Provincial Governments, corporations, railways, etc., in regard to the course of rivers and causes of floods. It will probably be within the Honourable Member's recollection that last year when the Orissa Government appointed a Committee they asked for the services of the head of this hydrodynamic station and I believe work is still going on.

I therefore suggest, Sir, that it is not practical to do what the Honourable Member wants. Secondly, it is not advisable, because all that the Centre should do in this regard is provided for. I hope therefore that the Honourable Member will not press his Resolution.

The Motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): We meet again on Thursday, the 23rd February, which is a non-official day.

We shall also be meeting on Friday, the 24th, on which day two Government Bills will be on the Agenda, namely, the Indian Naval Forces (Discipline) Bill and the Employment of Children Bill.

The Council then adjourned till Eleven of the Clock on Thursday, the 23rd February, 1939.