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Legislative Assembly.

The President :

THE HONOURABLE MR. V. J. PATEL.

Deputy President :

DIWAN BAHADUR T. RANGACHARIAR, M.L.A.

Panel of Chairmen :

MR. K. C. NEOGY, M.L.A.

SIR DARCY LINDSAY, M.L.A.

LALA LAJPAT RAI, M.L.A., AND

MR. ABDUL HAYE, M.L.A.

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MR. L. GRAHAM, C.I.E., M.L.A.

Assistants of the Secretary :

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CAPTAIN SURAJ SINGH, BAHADUR, I.O.M.

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COLONEL J. D. CRAWFORD, M.L.A.

MR. JAMNADAS M. MEHTA, M.L.A.

MR. ABDUL HAYE, M.L.A.

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LEGISLATIVE ASSEMBLY.

Tuesday, 9th February, 1926.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

REFUSAL OF NATURALIZATION TO INDIANS IN THE UNITED STATES OF AMERICA.

724. ***Sir Hari Singh Gour:** (a) Will the Government be pleased to state whether it is a fact that Indians in the United States of America are now no longer held eligible for naturalization and that the colour bar precludes their acquiring land or living otherwise than as casual visitors in that country?

(b) Will the Government be pleased to state whether they propose to take action by adopting the proper legal procedure with a view to secure a reversal of the decision of the Supreme Court, and thus ensure the right of Indians to naturalization as heretofore?

(c) Will the Government be pleased to state:

(i) the number of American residents in this country; and

(ii) whether they suffer from all or any of the disabilities imposed upon Indians in America?

Sir Denys Bray: (a) Yes, under a ruling of the Supreme Court of the United States of America dated 19th February, 1923, Indians have been declared ineligible for United States citizenship under the terms of the American constitution itself. As a consequence they are unable under the local law in certain States, notably California, to possess real property, ownership of all land being reserved to persons eligible for citizenship. And they are not permitted to enter America for other than temporary visits unless they are ministers of religion, professors or *bona fide* students.

(b) I fear there is no legal proceeding open to us. The Supreme Court is the final federal Court of Appeal in the United States of America and its decision is final.

(c) (i) Statistics are not available, but I notice that 750 persons declared their birthplace specifically as the United States at the last census.

(ii) No, Sir.

Sir Hari Singh Gour: May I beg to inquire whether it is not a fact that a previous decision of the Supreme Court of the United States was in favour of the view that Hindus, by which term were designated Indians belonging to the Caucasian race, were Aryans, and, therefore, entitled to the full rights of citizenship in the United States, and whether the later decision does not conflict with the earlier decision of that Court?

Sir Denys Bray: I have not the slightest reason to believe that the facts are as stated.

Sir Hari Singh Gour: Is the Honourable Member aware that this is not the first decision on that subject. Has he made inquiries on the question?

Sir Denys Bray: I have given the Honourable Member the facts regarding the final decision of the Supreme Court. I cannot conceive myself how—I see the Honourable Member shakes his head: if he can give me the judgment it will be of supreme academic interest but of more than academic interest it cannot be. I have told the Honourable Member that the Supreme Court has given its final decision on the interpretation of the American Constitution itself. That a lower court may have held otherwise is highly probable; but that the Supreme Court on a previous occasion gave a different decision is highly improbable. I know nothing about it. All I can say is that the facts I have given relate to the final decision of the final Court of America.

Sir Hari Singh Gour: May I ask the Honourable Member if he is prepared to make inquiry into this question?

Sir Denys Bray: It would have academic interest only, I fear.

Sir Hari Singh Gour: I beg to ask how it will have academic interest only when two decisions of the same Court given in two different cases conflict with each other. The Honourable Member is well aware of the legal position that when one decision conflicts with another decision of the same Court, a test case is the proper method and should be instituted by the British Government for the purpose of upholding the rights of Indians in the United States of America. My question has not been answered yet.

Sir Denys Bray: If the Honourable Member will assist me in delving into the legal archives of the United States, I will do my best to help him.

Sir Hari Singh Gour: Will the Honourable Member put me in communication with the British Ambassador at Washington to enable me to do so?

Mr. B. Das: What happens to the British Indians who are no more Americans? Do they remain British Indians or have they no nationality at present?

Sir Denys Bray: I should require notice for a firm answer to the question but I understand the position is something like this. The decision of the American Supreme Court is tantamount to this, that the naturalisation of these Indians as American subjects was null and void *ab initio*; ergo, as I understand it, it is held that those Indians have never lost their British nationality. That I believe is the position, but if my Honourable friend will put a question down on the paper I will endeavour to give him a more authoritative answer.

Sir Hari Singh Gour: May I beg to inquire whether the Honourable Member has seen a copy of the judgment?

Sir Denys Bray: Yes, Sir.

Dr. S. K. Datta: May I ask whether the Honourable Member knows of the decision of the United States Federal district court which held that an Indian was eligible for citizenship?

Sir Denys Bray: I have not, I think, stated that I had no reason to believe that the lower courts may have given that decision, but I am speaking now of the Supreme Court and the final decision of the Supreme Court. I understand of course that the lower courts may well have held a different opinion.

Sir Hari Singh Gour: May I repeat my question whether the Honourable Member is prepared to make that judgment available to Members of this House?

Sir Denys Bray: I have forgotten for the moment how long it is, but I will gladly show it to the Honourable Member himself; and if it is not too long I will make it available to other Members.

Sir Hari Singh Gour: Will the Honourable Member investigate whether there are not means within the constitution of the American States, to get that judgment reversed by instituting a test case or otherwise?

Sir Denys Bray: I am sure the Honourable Member knows much better than I do there are no such means, no legal means at all. Of course it is open to America to alter its own constitution, but I think my Honourable friend again knows much better than I do how extraordinarily difficult and laborious the process of amending the American constitution is.

Sir Hari Singh Gour: May I ask whether the British Government will make representations to the American Government to see that Indians are not placed under the disabilities in which they have been placed in consequence of the decision of the Supreme Court, in view of the fact that Americans are not only treated like British Indians here but given certain privileges which are not available to other nationalities?

Sir Denys Bray: If I have left the Honourable Member under the idea that His Majesty's Government have taken no steps in this matter I have been very grievously at fault. The matter has been the subject of very close diplomatic correspondence for a very long time. His Majesty's Government have availed themselves of every possible opportunity to represent the hardships under which Indians have suffered and have seized every possible chance of endeavouring to alleviate the hardships under which they have suffered.

Sir Hari Singh Gour: Sir, it is not merely a case of hardship. I am referring to

Mr. President: Order, order.

RESERVATION OF RAILWAY COMPARTMENTS ON THE EAST INDIAN RAILWAY.

725. ***Mr. Bipin Chandra Pal:** (a) Is there any rule in the departmental code of the East Indian Railway which makes the production of the requisite number of tickets needed for the reservation of any railway compartment in consecutive numbers, obligatory? If so, will the Government be pleased to state the reasons for it?

(b) Is it against this rule to include holders of return tickets in the party for whom the compartment is reserved along with those holding only single-journey tickets? If so, what is the object of this restriction?

DUTIES OF THE SUPERINTENDENT OF MOVEMENT AND THE REGISTRAR
OF BERTHS AT HOWRAH.

726. ***Mr. Bipin Chandra Pal:** Is there an official designated as Superintendent of Movement at Howrah; and if there is, what are his special duties and what is his pay? Is it a fact that reservation of berths and compartments is part of his duty? Is it a fact that berths are reserved at the Howrah station or in the city offices of the East Indian Railway in Calcutta by the officials in charge of this duty, and that in the office of the Superintendent of Movement a lady clerk is put in charge of this work under the designation of Registrar of Berths? If so, what is the pay of this official and what are her duties and what is the connection of the Superintendent of Movement with this official? Do the Government propose to inquire what the qualifications of this official are and whether she has an intimate knowledge of the rules she is expected to work in connection with the registration of reserved berths or compartments?

ACCOMMODATION FOR FIRST AND SECOND CLASS PASSENGERS FROM
HOWRAH TO DELHI IN CARRIAGES MARKED "HOWRAH-DELHI
SECTION."

727. ***Mr. Bipin Chandra Pal:** Are there first and second class carriages attached to the Up Punjab mail from Howrah that are meant especially for passengers to Delhi? Is it a fact that they are detached at Delhi and that passengers travelling in these carriages are entitled to stay therein till next morning? Is it a fact that these carriages are marked in bold letters as Howrah-Delhi Section? Is it the duty of the Superintendent of Movement in Calcutta to see that first and second class passengers travelling to Delhi by the Up Punjab mail from Howrah, who asked especially for reservation of berths or compartments in this section of the train, do get them and are not forced to get down at Delhi at 1 A.M. and be subjected to all the inconvenience and discomfort which they wanted to avoid, and for which this Howrah-Delhi section is provided in this train?

Mr. G. G. Sim: I propose to answer questions Nos. 725 to 727 together. In so far as they are requests for information as to the procedure in force on the East Indian Railway for reserving accommodation on the route from Howrah to Delhi, the Government of India have no exact information available except that published in the time-table and guide. If, however, the inspiration for these questions comes from some unfortunate experience of the Honourable Member himself, I would suggest that he should supply me with the details and I will undertake to send the complaint to the Agent. I would, however, suggest to the Honourable Member that the interests of the travelling public generally would be best served if such complaints were made direct to the Agent immediately the incident occurs.

Mr. Bipin Chandra Pal: Have I no remedy, Sir, from the railway administration, which is a part of the Government of India, in regard not to me personally but to a complaint which is very general?

Mr. G. G. Sim: I suggested, Sir, that the Honourable Member should take the remedy open to him of applying first of all to the Agent. The Government of India do not and cannot undertake to lay down instructions from Delhi as to the exact arrangements to be made on a particular railway for passenger traffic between two particular stations. I recognise, Sir,

that the Honourable Member does not usually put forward questions of this nature, and for that reason I am quite prepared, if the Honourable Member will supply me with details regarding his own experiences, to send it to the Agent and take the matter up with him.

Mr. Bipin Chandra Pal: I want to know whether the rules framed from time to time by the different railways are sent up to the Railway Board for their consideration and sanction?

Mr. G. G. Sim: I do not quite understand what the Honourable Member means by rules. If he means the arrangements made by the Agents of individual railways for the regulation of traffic on particular railways, these matters are not sent to the Government of India; they are left to the discretion of the local authority.

Mr. Bipin Chandra Pal: Has no change occurred in regard to these matters since the transfer of the East Indian Railway directly to the Government of India?

Mr. G. G. Sim: Not so far as I am aware.

Mr. Bipin Chandra Pal: Is the Honourable Member aware that, when the East Indian Railway was managed by the Company and not as a department of the Government of India, passengers received greater consideration than now?

Mr. G. G. Sim: No, Sir, I am not aware of that.

Mr. Bipin Chandra Pal: Are all my questions answered?

Mr. G. G. Sim: Yes.

THE INDIAN REGISTRATION (AMENDMENT) BILL

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Diwan Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Registration Act, 1908.

RESOLUTION *RE* REDUCTION OF THE INLAND POSTAL RATES.

Mr. President: Mr. Ahmad Ali Khan.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir,

Mr. President: The Honourable Member was not called. Mr. Ahmad Ali Khan.

Mr. K. Ahmed: Sir, I have been authorised by Mr. Ahmad Ali Khan to move the Resolution standing in his name.

Mr. President: The Chair does not know anything about it.

(At this stage Mr. Ahmad Ali Khan entered the Chamber.)

Mr. President: It is very improper on the part of an Honourable Member to say that he has been authorised to move a Resolution when he has not been authorised to do so. Mr. Ahmad Ali Khan is present here and it could not be that the Honourable Member has been authorised by him.

Mr. K. Ahmed: At the time you called, Sir, . . .

Mr. President: If the Honourable Member was authorised he should have sent in the written authority to the Chair.

Mr. K. Ahmed: Very well, Sir; I shall do so next time.

Mr. Ahmad Ali Khan (Assam: Muhammadan): Sir, I move the Resolution standing in my name. It runs as follows:

“This Assembly recommends to the Governor General in Council that the Inland postal rate on postcards be reduced to 3 pies and on envelopes to 9 pies and that the Budget for next year, 1926-27, be prepared accordingly.”

The circumstances in which the increase in postal rates occurred are very familiar to the Honourable Members of this House. The increase took place in the year 1922. Prior to 1921, there had been for many years a surplus of some lakhs in the postal budget, but in that year there was a deficit of about 46 lakhs of rupees, which increased to 57 lakhs in the next year. These deficits were chiefly due to a general rise in prices of stores and services and to a large increase in the pay of the subordinate staff. With a view to increasing the revenue of the Post Office, higher postal rates were introduced with effect from April 1922. It was estimated that as a result of the higher postal rates, the Postal Department would enjoy an additional revenue of over 160 lakhs. But as the results show the additional revenue did not come to anything more than about 79 lakhs. Sir, it was in that year 1922 that the Government of India were faced with a very large deficit amounting to no less than 88 crores, I believe; and the increase in the postal rates was one of the measures adopted with a view to meet the deficit in the general Budget and also cover the deficit in the postal Budget. I seek the indulgence of the House to place before them a few figures relating to the sale of postcards and the number of letters that have passed through the Post Office in the last ten years. Taking postcards first, between 1914-15 and 1920-21 the sale of postcards increased from 470 millions to 685 millions. I may inform the House that I have got these figures from the administration reports and I consider that my reading is fairly correct. Between these years therefore there was an increase of 165 millions in postcards. In 1922 as a result of the enhanced postal rates the figure fell to 505 millions. My point is this, that but for the increased rates it might well be assumed that the sale would have been in the neighbourhood of what it actually was in 1924-25, namely, 545 millions *plus* 165 millions, that is to say, about 710 millions. Similarly in the case of letters. The number of letters that passed through the Post Office in 1914-15 was 450 millions. In 1920-21 it was 610 millions; in 1921-22 it was about the same. Therefore there was an increase in those five years of 160 millions. Last year, in 1924, the sale was about 530 millions. So if you had an increase according to the previous five years, we may assume that the sale in 1924-25, but for the enhanced rates, would have been 530 millions *plus* 160 millions or 690 millions. That is a very close approximation to the sale of postcards. The sale of postcards, I take it, would have been 710 millions and the number of letters that passed through post offices 690 millions. Now, it seems to me that, in the light of the figures I have submitted, we are in a position to judge the extent

of the loss that will be incurred by the Government if the rates were brought back to the old figures, namely, in the case of letters to half an anna and in the case of postcards to one pice. I have calculated, and I find that the loss that will be incurred over the letters will be over one crore, and in the case of postcards it would be in the neighbourhood of about 25 lakhs. Whatever differences of opinion there may be as to the practicability of reducing the rates on letters, I venture to hope that in regard to postcards, at any rate, we are fairly unanimous that the rates should be reduced. In this connection I may also submit a series of figures giving the amounts of surplus that the Postal Department has been enjoying during the last three years:

In 1922-23, I take it, there was a surplus of	35 lakhs.
In 1923-24, " "	42 "
In 1924-25, " "	15 "

So, if the Honourable Member in charge is not prepared to reduce the rates on letters, I think he should at least consider the desirability of reducing the rates on postcards, and I think the loss at the most would be about 10 or 11 lakhs this year. It has to be remembered, Sir, that the enhanced rates have fallen very largely on the poorer classes, and it is they who use postcards more than any other people. Government have obtained a very large amount during the last five years, from 1922 and onwards, and they would be doing an act of justice if they were to give the relief that we are asking for in this Resolution. At the time the higher rates were introduced, Sir Malcolm Hailey, then Finance Member, made this statement. He said:

"I admit now, as I admitted then, the enormous advantage to a country of a cheap postal service. Nor do I underestimate in any way the strong sentimental attachment that must exist to the pice postcard".

Sir, the enhancement of the postal rates was only one of the series of measures taken in 1922 to meet the heavy deficit of that year. There were also other measures adopted, and they were, as Honourable Members are aware, the increase in the salt duty from Rs. 1-4-0 to Rs. 2-8-0, the increase in the railway fares and enhanced customs duties. It is, however, gratifying to find, Sir, that the Honourable the Finance Member has succeeded in bringing the salt duty down to the old rate; he has also given us relief in the matter of railway fares, and lastly we have a temporary remission of the cotton excise duty preparatory to its permanent abolition. I will quote just a few lines from the speech of an Honourable Member, who is also a Member of this House. He said, referring to the increased taxes, "your salt is taxed, matches are taxed, kerosine oil is taxed, railway fares are increased and the post is taxed." That gives us, Sir, an indication of the manner in which increased postal rates are being looked upon by the public. Sir, only a few days ago I had a conversation with an Honourable Member of this House, who is a recipient of a recent title. He told me that the increased rates are felt even by the middle classes and the lower middle classes and he gave out to me incidentally that some friends or relations of his—I forget which—have ceased to correspond or made their correspondence much less frequent than before. The Honourable Member, I certainly think, belongs I will not put it any higher at least to the middle class, and he seems to think that the increased rates are felt not only by the poor people but by the other classes as well who are not classed as poor. In conclusion, Sir, I will only say this. The Honourable the Finance Member has signalled his tenure of office by doing a

[Mr. Ahmad Ali Khan.]

good many things such as reducing the salt duty and abolishing the cotton excise duty—a long standing grievance—and I hope he will further signalise the remaining period of his office by giving us the old rate of one pice on post cards.

Sir, I may be permitted to say that I regret very much that Mr. G. P. Roy is not here to take part in the discussion but I hope he will soon be here. I understand he is suffering from a serious illness.

Mr. K. Ahmed: Sir, I rise to support the Resolution and urge the attention of this House and the Government to consider the feeling of the people with regard to the rates of postage. The condition of the country is such, Sir, that the people cannot afford to pay the higher rates any more. After the Western war, the condition of the people now is not in any way better and it is high time that the Government met the wishes of the people of the country. The income of the people has gone down. There is trade depression in the country and there is no business going on in full swing as it was carried on at the time when the cost of inland postage was increased in 1922-23 in the last reformed Council.

Khan Bahadur Saiyid Muhammad Ismail (Bihar and Orissa: Nominated Non-Official): And to which you were a party.

Mr. K. Ahmed: I was a party to it because I thought it was absolutely necessary, but at present, as the Honourable the Mover has enlightened the House, the rates have been decreased in the matter of other taxation, as for instance, the salt duty, railway rates and some other rates and taxes, and the Honourable Member in charge will probably agree to-day that it is high time that the postal rates also should be reduced. The dumb millions and the mute agriculturists in the villages cannot afford to spend money to write letters. Therefore reductions are absolutely necessary for the benefit of the poor people of this country.

Besides, Sir, I desire to place before the House that according to the budget estimate presented at the beginning of the last financial year, it was estimated that the total loss on the working of the Postal and Telegraph Departments amounted to Rs. 60,000. The Honourable the Finance Member roughly estimated that the working of the Postal Department itself gave a net profit of Rs. 29,28,100. The loss incurred on account of the Telegraph Department was Rs. 26,15,430 and on account of the Telephone Department Rs. 3,72,670. I mention the Telegraph and Telephone Departments as my friend the Honourable Member in charge of the Department, I am sure, Sir, will try to mislead the House—(Laughter)—will try to mislead the House by mixing it up with these Departments. Sir, it is quite obvious that there is an ample profit on the Postal Department and I am simply asking for the reduction of the postal rate on post-cards and envelopes. I have not bothered the Government at present about the reduction of Parcel, book-post, and money order rates at all; and the telegraph rates ought to have been reduced as well, as the Telegraph Department brings loss to the Indian revenue to the extent of such an enormous sum, on account of their luxurious and enterprising communications for the strategic lines, Military Foreign Departments, etc., etc. The principle "to rob Peter to pay Paul" which has hitherto been adopted by the Government in spending money from the Postal Department

in the account of the Telegraph and the Telephone Departments is not a businesslike principle. It is neither commercial nor a sound policy for the Government to act upon. The profit of Rs. 29,28,100 made on the Postal Department being devoted to make up the deficit under the head of Telegraphs including radio and telephones is not a fair proposition and the muddling harangue of Sir Geoffrey Clarke last year and the trick of three cards played in the answer of mixing together, given by Sir Bhupendra Nath Mitra in his reply to my friends Messrs. Duni Chand, Ramachandra Rao and Sarfaraz Hussain Khan, will have no more effect whatever. "Hope deferred maketh the heart sick."

I know, Sir, that during the Budget when the motion for the reduction of postal rates on postcards and envelopes comes up for discussion in the House, we generally pack up for returning home and at that time we have as a matter of fact very little energy to discuss the subjects at the fag end of the Session. This year, Sir, before we came up, made up our minds to tell the Government to prepare the Budget according to the terms of this Resolution.

Then, Sir, my Honourable friend Dr. Gour (now Sir Hari Singh Gour), the famous and redoubtable Member of this Assembly, and probably notorious to the Government, while exploring the subject, put questions Nos. 181 and 197 on the 5th February, 1924, why the postal rate for a letter from India to England is two annas while a letter from England to India costs only $1\frac{1}{2}$ annas. It is rather tantalising to appreciate the fallacy how the Government are right in asking the people from India to spend two annas while an English letter comes to India at a cost of $1\frac{1}{2}$ annas. But that is not the question before the House to-day. I have given the figures of income or profit of the Postal Department of every year and that is a sufficient reason why there should be a reduction of the inland postal rates for postcards and envelopes.

It is the duty of every civilised Government to afford facilities in the matter of communications and necessities of life and the Government of India, I hope, will provide the people of this country with the same at the cheapest rate. The Government must pay some attention to public feeling in this matter. No doubt, Sir, since the rates on postcards and envelopes were increased, the Government had an additional revenue of about Rs. $1\frac{1}{2}$ crores. But then, thereafter one-fifth of the postcards and one-fifth of the letters and envelopes have been reduced in sale from the post office list. On a comparison of the postcard figures of 1922-23 and 1921-22, and the figures of 1923-24, for which we have got actuals, and taking also the revised estimates of 1924-25 into consideration for postcards, it will be clear that postcards have fallen off in numbers from one million and one million and a half. Ordinarily, before 1921-22, if you take the figures for ten years, you will find that the total number of postcards had been steadily increasing, so much so that the average increase of the Postal Department, although there was no change in the taxation, came to 30 lakhs extra. But since 1922-23, when the rates on postcards and envelopes were doubled, it has steadily fallen except that now, taking all postal articles into consideration, there is an excess of 1 per cent. and odd only in postal articles ultimately. So, by reduction, you will increase the sale of the number of postcards and envelopes. And since it is a commercial department, you must give credit to it and allow reduction without any further delay. The sooner it is done, the better it is both for the people and the Government. Is that not so? (Laughter.)

[Mr. K. Ahmed.]

I hope, Sir, a very strong case has been made out and that the Government have no reply (Laughter)—I am waiting certainly if there is any—and I appeal to this House that each and every Member will vote in the same lobby remembering that the country, and each and every constituency that we have the honour to represent, is watching our activity here in the Assembly. We need not take into our consideration any telegram which Sir Bhupendra Nath Mitra has got in his hand from Unions—Labour Unions—of clerks and servants of the Postal Department as they do not understand anything on the subject except their own salaries (Laughter) which need not be reduced by the reduction of the postal rate. We have got an ample profit in the Post Office to pay their salaries. They need not be afraid of it, and need not trouble to seek the protection of the Government by sending telegrams to my Honourable friend in charge of the Department.

With these few words, Sir, I support the Resolution and commend it for the acceptance of the House.

Mr. K. C. Neogy (Dacca Division: Non-Muhammudan Rural): Sir, I am in sympathy with the underlying object of this Resolution, for although I do not know whether this House will be well advised to accept the Resolution as it stands, I think there will be a perfect unanimity of opinion that the postal rates should be reduced. Sir, declarations have before now been made in this House as to the policy which governs the administration of the Postal Department, and we have been told more than once that the Postal Department is looked upon by Government as a public utility department and that no consideration of revenue is allowed to interfere with the fixing of the postal rates. But, Sir, I think that although that policy is given expression to in this House by the Honourable Member in charge, the spirit in which that policy used to be worked in the past has been departed from in recent years. During the last three-quarters of a century the position taken up by Government has been that they would be prepared even to subsidise the Post Office, if need be, for the benefit of the public. Sir, we got declarations made by responsible Members of Government in 1856 and 1860 in which this has been only too clearly stated to be mistaken. But, Sir, what is the present declared policy? The present policy, as enunciated by the Honourable the Finance Member last year, is that the Postal Department must at least pay its way. I think that declaration was made also in the year previous by the Honourable Mr. Chatterjee who was then in charge of the Department. Here is certainly a departure so far as the spirit in which this policy is worked, is concerned. Sir, it is more a question of the spirit in which you interpret a policy than the letter of the declaration itself that matters in these questions. When in those early days of 1856 and 1860, responsible Ministers of Government made that declaration, they were anxious that the Post Office should function as an engine of civilisation. They were not at all troubled as to how far the revenue that they might derive from the Post Office might suffice to run that Department.

There is another aspect of the question to which reference has been made by my Honourable friend, Mr. Ahmad Ali Khan, and that is the amalgamation of the accounts on the postal side with the accounts on the telegraph side. The Honourable the Finance Member attempted to justify this, in connection with the last Budget, on the ground that there is

some amount of competition between the telegraph, the post and the telephone, and in that view of the matter he said that these three accounts could not be altogether separated. But, Sir, I know that whereas that principle of amalgamation holds good in regard to England, there is absolutely no competition between these three departments so far as India is concerned. Having regard to the vast rural areas of the country, where telegraphic facilities are not available or are not availed of to the extent that they are in the urban areas, having regard also to the little extent to which telephones are in use in the country, you cannot say that there is any real competition between the Postal Department on the one hand and the Telegraph and the Telephone Departments on the other. Therefore, it is that I demand that the postal accounts should be treated separately for the purpose of arriving at a decision as to whether there is any case made out for the reduction of postal rates. If you try to bring in the question of subsidising the Telegraph and the Telephone Departments out of the surplus that you have after working the Postal Department, then certainly a very grave wrong would be done to the tax-payer of this country.

There is a third matter in which I maintain that the Government are guilty of a breach of the understanding that used to be observed in these matters during the recent past. Sir, we have a system of commercialised accounts with regard to this department with effect from last year. One of the results of this system of commercial accounts has been to charge interest on the capital of the Posts, Telegraph and Telephone departments which was in past years contributed out of the revenue of that very department. The amount of interest stands in the neighbourhood of Rs. 60 lakhs, if not more. The Honourable the Finance Member justified this policy in the Public Accounts Committee. He said:

“The whole capital whether advanced out of capital or out of revenue is, so to speak, an advance from the tax-payer to the Post Office. It is liable for interest if we want commercialised accounts.”

Sir, I think shopkeeping principles should not be allowed to interfere with the government of the country. I do not certainly object to commercialising our accounts so far as some of the departments of the Government are concerned, but that should not necessarily mean that you should be charging interest on capital which has been provided by the department itself out of its surplus revenue in past years. I do not care whether the Honourable the Finance Member considers that to be a correct principle of commercialisation of accounts. It may be in accordance with a very strict principle of commercialisation of accounts, but having regard to the circumstances of this country, and having regard to the enunciation of policies in the past that the Postal Department shall not be worked in a spirit of shopkeeping, may we not hope that the Honourable the Finance Member will forego this interest charge on the capital contributed by the Postal Department out of its revenue.

Sir, the next point which I want to refer to is with regard to the question as to how far a reduction in rates will influence the traffic of the Postal Department. I maintain that if you were to reduce the rates to a certain extent, it would be immediately reflected in a larger traffic which the Postal Department would have to handle, and that would mean an additional revenue and not necessarily a reduction in the revenue. I know that it is maintained by the department that traffic in the Postal Department depends not so much on the rates as on the condition of trade and

[Mr. K. C. Neogy.]

commerce in the country. On this point the Public Accounts Committee, which had to deal with the accounts of 1922-23, had the advantage of examining the then Director General of Post Offices. The question was put to him as to how far the income of the Postal Department depends upon the prosperity or depression of trade and how far it is influenced by the rates. The Director General tried to maintain that the traffic is influenced not so much by the rates as by the condition of trade. When we make a reference to the charts which are appended to the Annual Report of the Post and Telegraph Department we find that although packets and parcels are steadily going up in number, the traffic in letters and postcards has suffered a decline simultaneously with the raising of the rates. Certainly the number of packets and parcels handled has a good deal to do with the condition of trade and commerce in the country, and if we find that although traffic in these two departments has gone up steadily, that on letters and postcards has gone down or at least has not revived, then certainly we are entitled to argue that so far as postcards and letters are concerned, their traffic depends on the rates more than on the condition of commerce and trade in the country. When we had the Director General of Post Offices before us in the Public Accounts Committee, he took time to examine this question, and when he appeared before the Public Accounts Committee, a few days later, this is what he said. He was asked to give an idea of the effect of the increase of postal rates on postal traffic. Mr. Sams replied:

"I tried to get it but I am afraid I failed, chiefly because the statistics kept relate to articles delivered and not to articles issued. It would be extremely difficult, in fact almost impracticable, to have statistics as to articles issued. We can only do so in the case of articles delivered."

Then he said that he tried to compare an agricultural province like the Punjab with a trading province like Bombay, and said:

"If I had figures of issues we could perhaps say whether the traffic was due to the condition of trade or to rates. I cannot for the moment say how it can be tested and if anybody can suggest a method I should be only too happy to apply the test."

Then, further questions followed, and the Chairman, who was none other than the Honourable the Finance Member, said:

"We do not want to get into argument with the Director General as to how far it is due to trade or increased rates. What we asked him was whether he had any statistics which could throw light on it. His answer is 'I have not'."

Mr. Sams said:

"Yes. I cannot think of any test to see whether it is due to depression of trade or to the increased rates."

So, there the position stands, and I will not have the Honourable Member in charge stating to us to-day that the traffic in letters and postcards is influenced by the condition of trade and commerce in the country. Therefore, the remedies which I suggest, if we are to adopt this proposition or any other proposition that might be adopted as an amendment, are these. You must not charge interest on the capital which has been contributed by the department itself out of its revenues in the past. That would knock off something like 60 or 70 lakhs of rupees annually. Secondly, you must separate the postal accounts from the telegraph

accounts, for the purpose at least of judging whether your rates are justified so far as the Postal Department is concerned; and the third is that reduced rates will bring in increased traffic and compensate you to a large extent for the loss that might otherwise occur. With these words I have great pleasure in supporting the underlying principle of this Resolution.

Lala Duni Ohand (Ambala Division: Non-Muhammadan): I rise to move the amendment that stands in my name, namely, that for the figure and word " 9 pies " the figure and word " 6 pies " be substituted, or in other words that the postal rate on envelopes should be reduced from one anna to half an anna. It appears to be quite unreasonable that while the postal rate on postcards should be reduced from 6 pies to 3 pies the postal rate on envelopes should continue to be 3 times the postal rate that is proposed on postcards. It is reasonable that postal rates on envelopes should be reduced in the same proportion in which the postal rates are proposed to be reduced on postcards. I understand we have got a better financial prospect. Though I am not in the know of the Honourable the Finance Member, I have good reasons to believe that the finances of the country this year are much better or likely to be much better than last year. When the finances of the country are such that the Government can afford to give relief the Government should grant the relief which will beneficially affect the largest number of people. If the postal rates are reduced to the previous level this will benefit all classes of people, the richest and the poorest. The Government should bear in mind the principle of doing good to the largest number of people. Last

12 Noon. year also in the course of the budget demands I had raised this question. My motion was defeated by a small margin of votes then and I have every hope that this motion will not share the same fate that it did last year. I am more hopeful for the reason that even Mr. K. Ahmed has come forward to support this Resolution. It is really an act of self-sacrifice on his part in denying himself the pleasure of indulging in frequent interruptions on popular Resolutions as he generally does. The Honourable Member in charge last year in the course of the discussion stated that the postal rates in England are one anna on postcards and an anna and a half on letters. I take that to be a fact and if it is a fact I want to submit that comparatively the postal rates charged on letters and postcards in India are much higher than the postal rates in England. Why do I say this? I say it because the average income of an Englishman is far greater than that of an Indian in this country. I cannot give the exact figure, but probably it is as much as twenty times. I therefore say that from the point of view of this criterion the demand that has been made in my amendment is a very moderate demand. The masses of this country for very many years had enjoyed the payment of moderate postal rates on envelopes and postcards and they are very anxious that the same facilities and privileges should be restored to them again. It will be an act of bare justice on the part of the Government towards a large number of people if this Resolution is carried out by the Government as modified by my amendment. I cannot possibly think of any cogent argument that can be advanced on the side of the Government to oppose this Resolution. When there was financial stringency there was some justification for the Government in enhancing the postal rates. But now I understand the Government are not confronted with any financial stringency and therefore it becomes a bare act of justice that the people should be afforded this relief. With these words, Sir, I support this Resolution as modified by my amendment.

Mr. M. K. Acharya (South Arcot *cum* Chingleput: Non-Muhammadan Rural): Sir, I desire to move the amendment:

"That all the words after the words 'reduced to three pies' be omitted."

In other words I desire if possible to-day to confine our attention to the rate on postcards to the exclusion of the rate upon other postage; and I do so not because I am less keen than my friends upon other postage but that I am far more keen on the matter of the postcard. I have also another object in view, namely, to test if possible whether we can get the Government to be reasonable even on what we may call the very barest and minimum demand from this side. We want the postcard rate to be reduced; we want the rest of the postage also to be reduced and nobody will be gladder than myself if the Resolution as amended by my friend Lala Duni Chand can be accepted by the Government Benches. It will be I believe very right and very desirable if we can go back to the old rates, both on postcards and letters and so forth. It has been already pointed out how in 1921 it was necessary in a general way to raise the taxation on many things and postage also came into this scheme of a general rise in taxation. There was also some attempt made at retrenchment in various ways in order to bring the finances of the country into stability. That is the genesis of the rise in postage rates. Now that we have returned to normal conditions the many considerations that induced our predecessors four years ago to raise various items of taxation have not the same force to-day as they perhaps had then. The reduction of the salt tax from Rs. 2-8-0 to Rs. 1-4-0 was perhaps the first step in the right direction. It has to be followed by a reduction in the postage rates and a very large reduction in railway fares also. Now, some statistics have already been given and I believe the contention is on the whole right that after the rates on postcards and other items of postage were raised there was a fall in the general traffic. It is a pity that I am not able to get the detailed figures; and I may take this opportunity therefore to suggest the desirability of furnishing in the annual reports some detailed figures, such as, for instance, the amount realized every year on postcards, postal stamps, service stamps, money order commissions, parcels and so forth. I took some little pains to turn over the pages of what is called Appendix A. given along with the general Postal Budget at the time of the Budget, but all the various items are put in together under the head of "receipts", receipts from all kinds of postal work, and it is very difficult for a layman like me to make out what exactly has been the amount realized on any one of those various items. It would be desirable hereafter to furnish this information under the various heads, how much has been received on postcards, how much on postal stamps, on service stamps, money order commission and things of that kind. That would help us much better to deal with each item, because very often the cheap criticism is hurled at us from the other side that our statistics are not always correct. So I would suggest that these various items may be given in greater detail so as to help us. Now with regard to the statistics gained from the facts and figures we have at our disposal it has been well contended that it is the Telegraph Department that is the white elephant which eats away whatever savings the Postal Department is able to make. We have the right in this House to claim that we should get over this anomaly of paying the Telegraph Department from the savings from the Post Offices. I am aware, Sir, when we deal with this question and when we try to press upon the Government this great need of the reduction in postage.

what arguments will be advanced against us. Firstly will come this argument, "We must make both ends meet; we must make the post office commercial. We must see that we are able to meet the expenditure that will have to be incurred upon the Postal Department." And I know also—and in fact the past two or three days I have been flooded as I have no doubt that every Member of this House has been flooded, with telegrams from every post office in the country saying that the postal employees here, there and everywhere are greatly disappointed—that this would be advanced. The postal employees feel it as a very great injustice done to them. They have been long expecting very large satisfaction of their grievances. They think that their grievances stand to-day not redressed and they add that in certain respects the proposals that are likely to come at budget time are likely to be of a very retrograde character. I have received shoals of these telegrams and I am sure other Members have also received similar telegrams. This would be adduced against us from the opposite side. Here you want postal rates reduced and postal employees want their salaries increased. They want very many improvements in their lot. How can we meet both? How can we with one hand reduce postage and with the other increase the expenditure on the Postal Department? That I expect will be the argument that will be advanced against us. I am trying to put the argument of the other side and meet it. I am ready to meet it. I will just ask the Government if only they have the will whether they cannot meet both? Whenever they have the will they do find lakhs and lakhs for the benefit of whom? Not of the low-paid postal peons and sorters and men of that kind, but of the highest officers of the Government. They find lakhs and lakhs when they want to find the money. Only yesterday they came to us for Rs. 37 lakhs for the benefit of 400 or 500 very highly paid railway employees; for the benefit of 400 or 500 superior officers in the Railway Department they wanted Rs. 37 lakhs yesterday, and I dare say that even though this House has rejected it, the Government—the autocratic Government that we have in this country—will find the money. That is my reply to the argument of no money. When you want it, it is not one or two lakhs but many lakhs that you are able to find. If we reduce postage from 6 to 3 pies,—I shall meet the argument for the benefit of the other side—you may have to make up Rs. 50 or Rs. 60 lakhs. You cannot terrify us with this question of how to find Rs. 60 lakhs until you tell us whether you are justified in coming to this House and asking for Rs. 37 lakhs for a few superior railway employees and in finding perhaps Rs. 2 crores altogether for the concessions recommended by the Lee Commission. You can find Rs. 2 crores for the benefit of these few men who draw Rs. 2,000, Rs. 2,500, Rs. 3,000 or Rs. 4,000. You can find crores and crores and lakhs and lakhs when you want. But when we come to the question of giving relief to poor men, you cannot find Rs. 60 lakhs. That is my reply. This argument is advanced by those who *will not* move in the matter. If the Government have the mind, if they have the will, they know how to find the money. It is not for me, it is not for my friends on this side, to find the money, because we have not got the control over the purse. If you put the Finance Department in the hands of one of my friends here, Mr. Neogy or Mr. Rangaswami Iyengar, I daresay they will be able so to manipulate the figures as to show enough savings not only to meet the reduction in postage from 6 to 3 pies but also to meet every other item in which the people are interested. But you keep it all in your hands. You keep it all safely under lock and key. You say "Point out

[Mr. M. K. Acharya.]

the sources from which we could find money in order to meet this reduction." That is absolutely unfair. The very fact that you do find money when you want it shows that you can find the money for this also if you have the mind. When you want the money, any amount of money is forthcoming, money then flows like the floods in the Jumna when the ice melts on the Himalayas. When it is a question of our wanting the money for poor people, you say there is no money. Railways have been making huge profits and yet the Railways will not reduce third class fares by more than half a pie. In my province they have reduced by $\frac{1}{2}$ pie the rate for third class passengers, $\frac{1}{4}$ pie, a very magnificent sum. When we come to a reduction in the postal rates, from 6 to 3 pies, Government say they are very poor and cannot afford it. This is mere hypocrisy. To say that you can find any number of lakhs where bigger men, richer men, superior service men are concerned, but that you cannot find Rs. 60 lakhs for the sake of the poor men in my country who want the rate on postcards reduced to 3 pies is mere hypocrisy, and therefore that argument cannot stand for a moment. I will take up the next point also. What about the men who are grumbling for more salary? If really it comes to this alternative, either to have 3 pies rate for postcards, or to give these men the increase in salary which they ask for, even at the risk of not giving those men the increases and the relief that they deserve if it is an absolute necessity for us to choose one of the two alternatives, I would rather ask the men to wait for a little time longer to have their increases rather than say that the poor man shall not have his quarter anna postage. As my friend rightly says, cheaper postage may mean very much larger traffic and possibly we shall not have the very large decrease that we fear. In any case therefore these two arguments first, that the postal people are very anxious to get their salaries increased and therefore postage cannot be reduced and secondly that there will be still further huge deficits, these are merely sham arguments so far as we on this side can see. They are not arguments worth a moment's thought. That is exactly the great difficulty that troubles us, the obstinacy of the opposite benches. I know that when I am moving this amendment I have to speak with the full conviction that I am appealing to deaf ears. I know I am appealing to Benches which are not reasonable except when they want to be reasonable. They claim to be all-wise; they claim to be all-sympathetic. The last claim is absolute bunkum. Sympathy on the side of the Government towards the poor people of this country is hypocrisy in my humble opinion. I have therefore thought it right to press the minimum demand. I have already stated that I will certainly vote for the amendment of my friend Lala Duni Chand. If the House will pass that amendment, nobody will be more glad than I. But I want this at least that postcards must be reduced to 3 pies. When you find ample money to give to highly paid men, it is ample proof that the money is there to be found for this purpose if only you have the will. I am moving this amendment not because I expect anything will be done by the opposite side; I only want to test their sympathy, I want to test if they really have the sympathy of which they talk so very grandly on grand occasions, as especially people do who are not liable to criticism on the floor of this House. I want to put their sympathy to the test, and I therefore move this amendment that all the other words be omitted, so that on this small question of the rate on postcards being reduced to 3 pies, I would like to see whether the opposite Benches are really reasonable and

sympathetic, whether they are the very good men that they always claim to be. Sir, I move my amendment.

Mr. B. Venkatapatiraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, the amendment which stands in my name was put in to test the sincerity of the Government. On all occasions whenever we suggest the reduction of taxation on communications, they plead want of funds or they say that they cannot afford to lose revenue. My amendment, taking it separately, would not cause any loss of revenue at all but only an equitable adjustment of taxation. The suggestion which I have made is not a novel one; it has been made from the year 1921. It is that revenue will not be lost if only there be adjustment of taxation in the matter of letter postage. And what was suggested was to reduce one anna to 9 pies on letters weighing 1 tola and to keep 18 pies up to $2\frac{1}{2}$ tolas. If there be two-thirds of letters weighing one tola and one-third weighing above, there would be absolutely no loss of revenue. Now, I ask, taking it separately, are the Government prepared to examine this question and to see whether they could possibly reduce one anna to 9 pies and increase it to 18 pies in case of letters weighing up to $2\frac{1}{2}$ tolas, so that there may be no loss of revenue and there may be some relief to the tax-payer. It is generally said, Sir, that after all you are paying only half an anna for postcards. If that were so, how do you account for the fall in postcards to the extent of 110 millions? Is it not because the people cannot afford to pay even that half an anna that the number of postcards was reduced by 110 millions? Similarly, how do you account for the shortage of 85 million letters on account of this higher rate? If the people are rich enough why should they not communicate in the same way in which they have been doing in the past? We do not find the same increase in the later years that we used to notice in previous years, leaving out the years 1920 and 1921. The Government should look into this matter with a more sympathetic eye. It is true that, when we raise the question of attending to the grievances of the postal officials, the Government say that on the one hand you ask for the reduction of the rates and on the other you ask for an increase of salaries of the officials. It is true, Sir, that whenever a legitimate grievance is placed before us by these officials, we try to give them relief. As a matter of fact,—and I do not think it is a secret because it has been circulated to all the Members—the Finance Committee have agreed to increase the salaries to the extent of $18\frac{1}{2}$ lakhs over and above the ordinary expenditure to meet certain grievances of the staff and they have done it most ungrudgingly. Now, we ask whether it is not possible, instead of finding out some method or other to utilise every available surplus on some pretext, to do something to utilise that amount for the reduction of taxation in one respect or another. I shall just refer to one of the statements made in the latest Annual Report of Posts and Telegraphs for the year 1924-25. It says:

“The financial position showed a surplus of 19 lakhs as compared with the surplus of 35 lakhs during the preceding year. This smaller surplus is accounted for chiefly by the fact that the civil department share of the sale of postage stamps was raised from 19 lakhs in the preceding year to 47 lakhs in the year under report.”

I humbly ask how these 19 lakhs were raised to 47 lakhs in order to reduce the surplus? After all there must be some reason why a smaller amount was only calculated as the revenue from stamps. We have not

[Mr. B. Venkatapatiraju.]

got the figures for the later years. Perhaps they might have increased by much more. We apprehend that the Government do not wish to show any decent surplus under this head because they fear that we would demand further reduction of taxation. I ask Government, therefore, to say definitely whether they could not make any proposal in order to reduce the taxation on communications. I may just remind the House that when they increased the tax on postal rates they promised to reduce it on a suitable occasion when the finances permitted them to do so. Now, I ask, are they going to wait for another 10 years before they are in a position to reduce the taxation? But from what I know of the attitude of the Government, they do not propose to reduce this taxation at all. If that is their attitude, why not say once for all openly on the floor of the House that whatever be the circumstances, we shall never reduce the tax because it is so very handy and because the amount available will be so useful in so many directions. It has already been pointed out by Mr. Neogy that Government want to take interest on the amount spent from their revenues. Why should you take it? Why should you increase it with reference to stamp revenue from stamp revenue for postal purposes and why should you not reduce the expenditure not by reducing the pay of the lower staff but of the higher staff if possible? There are a hundred and one ways of meeting the wish of the people to reduce the tax on communications. I wish therefore that the Government should not only pay lip sympathy by saying that they are sympathetic towards the people but that they should show a genuine sympathy by reducing the tax in one way or another. It is with that object, Sir, that I move my amendment. My amendment does not in any way enhance the trouble of the Government, but it only suggests the equitable adjustment of taxation on communications. My amendment runs as follows:

"That after the words and figures 'envelopes to 9 pies' the words and figures 'when weighing one tola and 18 pies over one tola up to 2½ tolas' be inserted."

Mr. Ohaman Lall (West Punjab: Non-Muhammadan): Sir, I notice that my friends Messrs. Acharya and Raju want to test the sympathy of this Government. (*Some Honourable Members*: "Sincerity of the Government.") I want to test the sympathy and the sincerity of the Honourable the Mover of this Resolution. (Hear, hear.) Now, Sir, I want to say at the outset that we are in entire sympathy with the desire to reduce postal rates. Every one of us who sits on these Benches is in entire agreement with that desire. But, Sir, what is the position? Last year, when the Finance Bill was under discussion, my friend Lala Duni Chand raised this question and he made a very nice little speech as a result of which many of us were convinced and we voted with him. But where was my friend Mr. Ahmad Ali Khan? You will find that amongst those who voted for Lala Duni Chand's amendment were the Swarajists and the Independents and amongst those who voted against it is the name of Mr. Ahmad Ali Khan. And what was the amendment? It ran as follows:

"That in Schedule II to the Bill, for the entries under the head 'postcards' the following be substituted, namely:

"Single

Reply

Quarter of an anna.

Half an anna."

That was a demand made by Honourable Members on this side of the House for a reduction in postal rates—and what was Mr. Ahmad Ali Khan doing at that time? He actually voted against us then. (*Some Honourable Members*: "He has grown wiser since.") I am going to give the reason why he has grown wiser since. It was my friend Mr. K. Ahmed who very pertinently let the cat out of the bag when he said that each and every constituency regards this question as of great importance. Of course each and every constituency regards this question as of great importance. No constituency it would appear regarded this question as of importance last year or the year before. But this matter is to-day of grave importance to every constituency.

Mr. K. Ahmed: He did not regard this as a matter of importance last year because provincial contributions, education, health and sanitation were at stake. (Laughter).

Mr. Chaman Lall: My Honourable friend will be on safer ground if he discusses education and sanitation than if he discusses postal rates, because I fear he is treading on very delicate ground in this matter. (Laughter.) Now, Sir, in 1924 when the Finance Bill came up for discussion Honourable Members will remember that this very matter was raised in the House and it was pointed out that the question of reduction could be raised on the Finance Bill. When the voting took place, where was my friend Mr. Ahmad Ali Khan? He was found not to be in favour of this proposition which he has brought forward to-day but against it. I want, therefore, as I said in the beginning, to test his sincerity and his sympathy.

Mr. Ahmad Ali Khan: I rise on a point of personal explanation, Sir. I voted against the reduction of postal rates in 1924 because there were other questions before the House. For instance, the reduction of the salt duty was more important and urgent in my opinion than the reduction in postal rates.

Mr. Chaman Lall: Sir, the Honourable Member's memory is failing. May I remind him to read the volume of debates relating to this matter?

Mr. K. Ahmed: There is no time to read here.

Mr. Chaman Lall: Perhaps if the Honourable Member had had time to read, he would not have got up and made a speech to-day. (Laughter.) If he will read that particular amendment moved by Lala Duni Chand, he will find that that amendment was separate and asked for a reduction in the rates charged for postcards. Mr. Ahmad Ali Khan opposed that. He cannot come to us now and sing a different song. (*An Honourable Member*: "Why not?") The point is that he cannot come to us now and say that there was any question of the salt duty involved in this. There was no question of the salt duty. It was separate and by itself, and the Honourable Member, in spite of knowing perfectly well the feeling in the country in regard to this matter, voted against that particular proposition. Whatever it might be I now appeal to Honourable Members . . .

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Postal accounts are commercialised now.

Mr. President: Order, order.

Mr. Chaman Lall: The Honourable Member interrupts me and knows perfectly well that his interruption is absolutely irrelevant. I wish to appeal to Honourable Members to realise that we are going to discuss this very matter in a few days at the time of the Budget, and consequently, why, I ask, should we waste the time of the House in discussing this proposition now when in a few days we shall be discussing it again? Then will be the time to find out

Mr. K. Ahmed: Sir, I rise to a point of order. Is it not said already that at the fag end of the Session people are tired and are busy packing up their luggage in order to return home? And like last year provincial contributions

Mr. President: Order, order. Will the Honourable Member resume his seat?

Mr. Chaman Lall: The time is not far when Honourable Members will have an opportunity of discussing this proposition. Why cannot Honourable Members wait till then? I appeal to Honourable Members to realise that though this matter is really urgent and important, still it is not so urgent and important that it cannot wait for a few days. When that time arrives when the Budget is being discussed, then the Honourable the Mover of this Resolution can take his stand with us. He can then come into the same lobby with us and vote with us and not against us as he did in 1924 and again in 1925, in spite of the declared wishes of the people of this country. I move, Sir, that this debate be adjourned.

Mr. President: Does the Honourable Member move that the further discussion of this Resolution be adjourned?

Mr. Chaman Lall: Yes, I move that the discussion of this debate be adjourned.

The Honourable Sir Bhupendra Nath Mitra (Member for Industries and Labour): Sir, as has been pointed out by several of my friends, we discussed this matter very fully on the floor of this House just about twelve months ago, and the House decided by a majority that no reduction should be made in postal rates.

I have listened to all that has been said by the speakers who have spoken before me, and I am sorry I have not heard any new arguments justifying a reconsideration of this matter.

Mr. K. Ahmed: You have put cotton in your ears.

An Honourable Member: Is the Honourable Member speaking on the adjournment motion?

Mr. President: As soon as the Honourable Member has concluded his remarks, the Chair will put the adjournment motion to the vote.

The Honourable Sir Bhupendra Nath Mitra: If it is your intention to put before the House the motion for adjournment, it is hardly necessary for me to make any long speech, because if this motion is to be discussed again in connection with the Budget, it would be better for me to reserve my remarks for that occasion.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): It might help the House if we were to know what you are going to do.

The Honourable Sir Bhupendra Nath Mitra: If the House does not accept the motion, may I not speak then? I submit I will be wasting a good deal of time of the House if I speak now.

Mr. President: The question is:

"That the further discussion of this Resolution be adjourned."

The Assembly divided:

AYES—39.

Acharya, Mr. M. K.
 Ariff, Mr. Yacoob C.
 Bray, Sir Denys.
 Carey, Sir Willoughby.
 Chaman Lall, Mr.
 Chetty, Mr. R. K. Shanmukham.
 Clow, Mr. A. G.
 Cocke, Mr. H. G.
 Crawford, Colonel J. D.
 Das, Mr. B.
 Duni Chand, Lala.
 Duft, Mr. Amar Nath.
 Ghose, Mr. S. C.
 Ghulam Abbas, Sayyad.
 Gidney, Lieut.-Colonel H. A. J.
 Gulab Singh, Sardar.
 Hussanally, Khan Bahadur W. M.
 Iyengar, Mr. A. Rangaswami.
 Lajpat Rai, Lala.
 Lohokare, Dr. K. G.
 Majid Baksh, Syed.

Mehta, Mr. Jannadas M.
 Murtuza Sahib Bahadur, Maulvi:
 Sayad.
 Mutalik, Sardar V. N.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Piyare Lal, Lala.
 Rangachariar, Diwan Bahadur T.
 Ranga Iyer, Mr. C. S.
 Roffey, Mr. E. S.
 Sadiq Hasan, Mr. S.
 Samiullah Khan, Mr. M.
 Sarfaraz Hussain Khan, Khan:
 Bahadur.
 Sinha, Mr. Ambika Prasad.
 Sinha, Mr. Devaki Prasad.
 Sykes, Mr. E. F.
 Yakub, Maulvi Muhammad.

NOES—45.

Abdul Qaiyum, Nawab Sir Sahibzada.
 Abul Kasem, Maulvi.
 Ahmad Ali Khan, Mr.
 Ahmed, Mr. K.
 Aiyangar, Mr. K. Rama.
 Ajab Khan, Captain.
 Akram Hussain, Prince A. M. M.
 Alimuzzaman Chowdhry, Khan:
 Bahadur.
 Badi-uz-Zaman, Maulvi.
 Bajpai, Mr. R. S.
 Bhone, Mr. J. W.
 Burdon, Mr. E.
 Calvert, Mr. H.
 Chanda, Mr. Kamini Kumar.
 Dalal, Sardar B. A.
 Datta, Dr. S. K.
 Donovan, Mr. J. T.
 Ghulam Bari, Khan Bahadur.
 Gordon, Mr. R. G.
 Graham, Mr. L.
 Hezlett, Mr. J.
 Hira Singh Brar, Sardar Bahadur:
 Captain.
 Hudsop, Mr. W. F.

Ismail Khan, Mr.
 Jatar, Mr. K. S.
 Jeelani, Haji S. A. K.
 Joshi, Mr. N. M.
 Kidwai, Shaikh Mushir Hosain.
 Lloyd, Mr. A. H.
 Macphail, Rev. Dr. E. M.
 Muhammad Ismail, Khan Bahadur:
 Saiyid.
 Naidu, Rao Bahadur M. C.
 Neave, Mr. E. B.
 Owens, Lieut.-Col. F. C.
 Rahman, Khan Bahadur A.
 Rajan Bakhsh Shaik, Khan Bahadur:
 Makhdum Syed.
 Reddi, Mr. K. Venkateramana.
 Sim, Mr. G. G.
 Singh, Rai Bahadur S. N.
 Singh, Raja Raghunandan Prasad.
 Stanyon, Colonel Sir Henry.
 Tonkinson, Mr. H.
 Varnon, Mr. H. A. B.
 Vijayaraghavacharyar, Sir T.
 Wajihuddin, Haji.

The motion was negatived.

The Honourable Sir Bhupendra Nath Mitra: Sir, just about 12 months ago this House had before it the question of a reduction in the postal rates in connection with the Finance Bill for the current year and it decided by a majority not to make any reduction in those rates. So far as I am aware, since then no new factors have arisen which would justify a reconsideration of the question and I have failed to find any new arguments produced before this House by the various speakers who have preceded me.

Now, Sir, one of the arguments which is generally used in this connection is that we are taxing communications. I definitely repudiate that statement. My friend Mr. Neogy said that years ago we used to spend money on postal communications without caring whether there was an adequate return for it. I think he will admit that we used to do the same in connection with railways. We used to run our railways also at a loss and did not mind it. There is a perfectly good explanation for this. In those olden days it was essential to develop communications and the Government of the day placed that need in a higher order of precedence to questions of development of education, sanitation, etc., in the country. But things have now changed. Communications have been established, to a certain extent at least. On the other hand, the need for promoting education and sanitation and building up the nation-building services has become more urgent. I repeat again, Sir, that this is not a question of taxing communications

Khan Bahadur W. M. Hussanally (Sind: Muhammadan Rural): What is it?

The Honourable Sir Bhupendra Nath Mitra: It is a question of making an adequate charge for services which the Indian Postal and Telegraph Department renders to the public. In fact, we have several times said on the floor of this House that it is not the policy of the Government that the Indian Postal and Telegraph Department should be a revenue-producing department.

Khan Bahadur W. M. Hussanally: Why do you couple up the two?

The Honourable Sir Bhupendra Nath Mitra: I am coming to that presently if my friend will wait a bit. Our policy is that, taken as a whole, that Department should not be receiving, carrying and delivering the letters and mails and telegrams of the Indian people at the expense of the general tax-payer. In other words our aim is that an adequate charge should be made to the public for the cost of the various services undertaken by the Department for the public. Well, the same principle is accepted in England and I trust that the House, or at least several Members of it, will continue to express the admiration which they expressed yesterday for English principles.

Lala Lajpat Rai (Jullundur Division: Non-Muhammadan): The principle of pick and choose.

An Honourable Member: They have reduced rates.

The Honourable Sir Bhupendra Nath Mitra: They have not up to now.

I know that some of the speakers who preceded me even went so far as to question the *bona fides* of our accounts. I have heard it stated that sufficient credit is not given to the Indian Postal and Telegraph Department for various services undertaken by it for other Departments. I have also heard that there is an overcharge made to the Department in regard to certain items of expenditure, the whole object being, so to say, to reduce

its surplus or to disperse it. Mr. Neogy referred to the charge for interest on debt and he brought out the point as to why interest should be charged on expenditure incurred out of revenue. Now, Sir, the capital on which we charge interest to the Department is the depreciated value of the block account on the 1st April 1925, and what we are doing has the approval of the Inchcape Committee. It has also the approval of our Auditor General. It may be that years ago the Department used to produce some surplus, but even that is not an ascertained fact because the accounts of the Department in those days were kept on a different basis altogether. Further, if there was any such surplus, well it went to benefit the tax-payer of the day, who was justly entitled to it, and that is how it was disposed of.

Now another point, that was raised, I think, by my Honourable friend Mr. Raju, is that we have suddenly developed the practice of making larger payments to Provincial Governments for their share of revenue from unified stamps which are used both for postal and revenue purposes, and that that practice also was started to disperse the surplus of the Postal Department. Now, Sir, the amount which used to be paid to Provincial Governments on account of their share of the combined revenue stood at about 19 lakhs to the end of 1923-24. But that figure was fixed as far back as 1906. In 1923 the Provincial Governments represented that they had not been receiving their share of the large growth in the combined revenue which had been taking place since 1906, and further that as a result of the existing arrangement they were not even getting the benefit of the increase made in 1923 in the rates of stamp duty on certain classes of documents, in so far as the duties were paid through these unified stamps. It was after a very careful examination of the position that this additional credit had to be afforded to Provincial Governments. There is no question, so to say, of dispersing any portion of the postal surplus.

In fact, as an instance of the extent to which interested people may go in their efforts to try to prove that we are manipulating the accounts in such a manner as to disperse the postal surplus, I may mention that I have seen it stated that we do not give the Department credit for the difference between the interest on the balances held in the Postal Savings Banks and the amount actually paid to depositors in the Post Offices. The people who use this argument overlook the fact that these savings bank balances are largely in the nature of till money and that where they can be looked upon as fixed deposit, interest is paid to the depositors themselves. The Department has a large number of post offices spread all over the country and naturally requires a considerable amount of till money for its day to day operations, and we do not charge the Department with any interest on this working capital.

We have also been told that the result of our looking upon the Department as a whole in the matter of the application of the policy to which I referred a little earlier is that the postal branch of the Department is subsidising the telegraph and connected branches and that we are robbing the poor people who are contributing to the postal surplus in order to benefit the rich who take advantage of the telegraph and connected services. There is no doubt that there is some surplus in the postal branch. (*Sir Hari Singh Gour*: "How much?") I am coming to it presently. It is not large enough to meet the cost of even the least expensive proposal now before the House. But our view is that the various services rendered by the Department are so intimately connected with one another that we must look upon it as a whole and not deal with it in its several compartments. The telegraph, telephone and radio services only

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provide for a more expeditious method of communication than the postal service. It is hardly correct to say that the surplus in the postal branch is contributed to by the poor man. As has been pointed out by Sir Geoffrey Clarke several times on the floor of this House, our rural post offices do not pay. According to the figures placed by him before this House, the rural post office brings us Rs. 15 or Rs. 20 a month, but it costs us at the present day Rs. 24 or Rs. 25 a month to pay the postmaster and runner for that post office, apart from the connected charges relating to the conveyance of the mails and their delivery at the other end, overhead expenses, etc. The surplus in the postal branch must therefore be contributed largely by men living in the big cities and urban areas who are the very people interested in the telegraph and connected services. Further, as was pointed out by the Accountant-General in his Appropriation Report for the accounts of 1923-24, the deficit in the telegraph and connected branches is largely due to concessional rates for press telegrams. The concession helps to foster the growth and circulation of newspapers and it tends to bring additional revenue to the Post Office. It also helps the diffusion of knowledge among the rich and poor alike. Moreover there can be little doubt that rich and poor alike are interested in the development of these expeditious methods of communication, for they help materially the development of the country which benefits the poor man also by providing him with avenues of employment and by enabling him to raise his standard of living.

Now, Sir, I have dealt with some of the general considerations. I shall not dwell at length at the present moment on questions of further economy, because it is possible that I may have to deal with the matter at a later stage. I may, however, say this definitely, that we have in fact given effect to all the Incheape Committee's "cuts." In the Budget for 1923-24 we brought down the estimate of working expenses to the level of the figure recommended by the Incheape Committee. I am taking the whole thing together. Since then there has been an increase of expenditure. That is obvious because there has been a growth in the revenue, and the point is this: We have reached a stage where, taking the Department as a whole, all these rates just suffice to pay for the cost of the services rendered. It is not an economic proposition now to reduce the rates. If we make any reduction, the result will be that we will not receive adequate return for the services which the Department renders. The same is the position in England. There, successive Governments,—Conservative, Labour and Conservative—have refused to accede to the demand for a reduction in the postal rates back to the pre-war level, though they are in a much more favourable position than we are, because their surplus in the combined account amounts to several millions, while our Budget for 1925-26 showed a small deficit in the combined account.

Sardar V. N. Mutalik (Gujarat and Deccan Sardars and Inamdars: Landholders): Has there been absolutely no reduction in England in the postal rates?

The Honourable Sir Bhupendra Nath Mitra: No, Sir; they have not yet gone back to the penny postage.

Sardar V. N. Mutalik: They may not have gone back to the penny postage, but has there been absolutely no reduction at all?

The Honourable Sir Bhupendra Nath Mitra: Nothing important in the last two or three years.

Mr. A. Rangaswami Iyengar: May I know whether there were not certain proposals before the Chancellor of the Exchequer for the reduction of postage?

The Honourable Sir Bhupendra Nath Mitra: He may have been pressed for a reduction, but nothing has come out of it so far.

Mr. A. Rangaswami Iyengar: Did he not promise to reduce the postage?

The Honourable Sir Bhupendra Nath Mitra: I have no information on the subject, Sir. I know that reductions have not been made.

Now, Sir, I shall proceed to examine the specific proposals which the House has got before it. The first proposal is to reduce the postal rates on postcards from 6 pies to 3 pies. Now, various estimates have been given of the loss which this measure will involve, but I will give the estimate as I have been able to work it out. The number of inland postcards posted in the current year is estimated at 550 millions. The loss of revenue on this volume of traffic will amount to 80 lakhs. That is a definite fact.

Mr. N. M. Joshi (Nominated: Labour Interests): Traffic will be increased.

The Honourable Sir Bhupendra Nath Mitra: Please be a little patient, I shall come to it presently.

Another proposal before us is to reduce the postal rate on envelopes from one anna to 9 pies. The present rate is one anna up to a weight not exceeding $2\frac{1}{2}$ tolas and one anna for every additional $2\frac{1}{2}$ tolas. If the intention of my Honourable friend Mr. Ahmad Ali Khan is to reduce one anna in each case to 9 pies, the loss of revenue on 545 millions of articles that are likely to be carried in the current year would amount to 85 lakhs of rupees.

Mr. K. Ahmed: There will be a larger sale then.

The Honourable Sir Bhupendra Nath Mitra: I shall deal with that matter presently.

My friend, Lala Duni Chand, wants to reduce the postal rate on envelopes from one anna to six pies. If his intention is as just stated, the loss of revenue involved in his proposal will be Rs. 170 lakhs.

Then my friend Mr. Venkatapatiraju comes forward with a proposal to reduce the postal rate on envelopes from one anna to 9 pies up to a weight not exceeding one tola, and raise it from one anna to 18 pies for weights exceeding one tola but not exceeding $2\frac{1}{2}$ tolas. At the present day, letters weighing not more than a tola are about 65 per cent. of the total, that is, they amount to 354 millions. The loss of revenue on this would amount to 55 lakhs of rupees. This is the estimate of the loss on the assumption that on the reduction of the postal rate on letters weighing not more than a tola the proportion of such articles to the total volume of letters would continue at 65 per cent. But we have got to remember that whatever the initial weight of the postal article is, the public will accommodate themselves to it immediately, and if we reduce the initial weight of letters to one tola, we will find that in the course of one month 80 per cent. of the

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letters would come within that initial weight. This is a proved postal fact all over the world. The loss of revenue which will result from the reduction of the initial weight and the rate of postage for that weight will, therefore, be nearer 70 lakhs than 55 lakhs.

Then in regard to the question of revenue which will result by raising to 18 pies the rate on letters weighing more than one tola but not more than $2\frac{1}{4}$ tolas, it has not been possible for me to collect in the course of three days accurate statistics for letters coming within these limits. Assuming, however, that with the changes proposed in the initial weight and in the rate of postage for that weight the proportion of such letters will be about 10 per cent. of the total carried, the gain in revenue will amount to about 17 lakhs.

I shall now sum up the result of the various proposals. My friend Mr. Ahmad Ali Khan's proposal is to reduce the postal rate on postcards from 6 pies to 3 pies, and to reduce the postal rate on envelopes from one anna to 9 pies. These two together will mean a loss of revenue amounting to one crore 71 lakhs.

Lala Duni Chand: From where have you taken these figures?

The Honourable Sir Bhupendra Nath Mitra: I have been explaining the figures all this time. There is only one further aspect of the case to which I shall come after I have given all the figures.

My Honourable friend, Lala Duni Chand, wants the postage on postcards reduced from six pies to three pies and that on envelopes from one anna to six pies. The loss of revenue involved in this reduction would be Rs. 256 lakhs.

We next come to the third proposal, that of my Honourable friend, Mr. Acharya. He is very modest and wants us to reduce only the postage on postcards. That will cost us Rs. 86 lakhs.

Lastly my Honourable friend Mr. Raju's proposal with its various implications will cost us Rs. 139 lakhs a year.

I have given you the figures and now I shall refer to another aspect of the matter. Many of my Honourable friends here have said that if we reduce the rates the traffic will go up. I entirely agree that the traffic will go up. But is it seriously contended that it will be possible to deal with that additional traffic with the staff that is there at present? No, Sir. The point is this. I admit that there will be a large increase in the traffic, but that additional traffic will be wholly unremunerative and it will go to add to the figures of loss that I have given already to the House. My friends do not certainly seriously urge that the traffic can be increased 10 per cent. or 20 per cent., or whatever it may be, and it can still be handled with the present amount of expenditure. Leave aside the additional amount that we will have to pay to railway companies, steamship companies, etc., for the conveyance of the additional mails. But what about the staff? Is it seriously urged that we should sweat the staff? I refuse to be a party to any desire to sweat the staff. No, Sir. I am one of those who feel,—I may be entirely wrong,—that if we had any small surplus on the postal side we must first try to set right the various disadvantages under which the staff at present labour. I am grateful to my Honourable friend, Mr. Jinnah, for having more or less forced me last year to look into the grievances of the staff. I have been looking into them for the last six months

and though the minimum demands of the staff are in my opinion a gross exaggeration, there is behind that exaggeration a substratum of genuine grievances which I am trying my best to remedy. I hope there will be no question of any reduction in the postal rates until we have set our house in order. When we have reached that position it may be possible to consider the question of reduction of postal rates. I cannot do better than repeat the words of Sir Geoffrey Clarke last year when he said that the name of the Post Office in India stands high all over the world. These may not be the exact words he used, but that is the substance of what he said. Let us not do anything which will in any way bring down that reputation. I have heard talk about the reduction of the supervisory establishments. I hope the House has not forgotten what Sir Geoffrey said in that connection. I cannot agree to any measure of short-sighted and fictitious economy which will ruin the efficiency of the Department. That being so, and in view of the loss of large sums of money which I have already referred to, it is impossible for me within the finances of the Department itself to agree to any reduction in postal rates. Whether it is possible to make any such reduction by giving a large subsidy from other sources, that is, by the general tax-payer coming to the help of the Postal and Telegraph Department, is a matter which I shall leave to my Honourable Colleague the Finance Member, as I do not want to encroach on the realms over which he rules.

(Mr. K. Rama Aiyangar and several other Honourable Members rose in their places.)

Mr. President: Does the Honourable Member want to make a speech? The Honourable Member in charge has already replied.

Mr. K. Rama Aiyangar (Madura and Ramnad *cum* Tinnevely: Non-Muhammadan Rural): It is the first speech of the Honourable Member in charge. He has not replied yet.

Mr. President: The Honourable Member in charge waited and waited till no other Member got up to speak. But the Chair has no particular objection if the House desires to continue the debate any longer.

Mr. K. Rama Aiyangar: I purposely waited for the Government Member to speak on this Resolution

Mr. President: It was the duty of Honourable Members who wanted to speak, to rise from their seats before the Honourable Sir Bhupendra Nath Mitra got up.

Mr. K. Rama Aiyangar: It is not the second speech of the Honourable Member. The Resolution was a Resolution of Mr. Ahmad Ali Khan. Some of us have spoken. Then the Government Member gets up and makes his first speech. He has not yet made the closing speech at all. In fact, the discussion has to proceed both before and after the Government Member has spoken.

Mr. President: If Mr. Ahmad Ali Khan has not spoken in reply, it is his fault. It was his duty to rise to reply before the Honourable Sir Bhupendra Nath Mitra got up. However, as the House is desirous of continuing the debate, the Chair does not want to stand in its way. Mr. Jinnah.

Mr. N. M. Joshi: I rise to a point of order, Sir. (*Cries of "Order, order."*)

Mr. President: Mr. Jinnah.

Mr. N. M. Joshi: I rise to a point of order

(Cries of "Order, order.")

Mr. President: Order, order. Mr. Jinnah.

Mr. N. M. Joshi (sitting): You cannot shut me out like that. It is all nonsense.

Mr. President: The Honourable Member cannot cast any reflection on the conduct of the Chair.

Mr. N. M. Joshi: I did not cast any reflection

Mr. President: Then what did he mean by using the word "nonsense"?

Mr. N. M. Joshi: It was not directed towards the Chair.

Mr. President: Will the Honourable Member withdraw that word "nonsense"?

Mr. N. M. Joshi: If the Chair thinks that it was directed towards the Chair

Mr. President: Will the Honourable Member withdraw that word or not?

Mr. N. M. Joshi: I withdraw it.

***Mr. M. A. Jinnah** (Bombay City: Muhammadan Urban): I have listened to the reply given by the Honourable Member in charge on behalf of the Government, and we have been given some very dazzling figures as to what it will cost us to meet this Resolution or the various proposals which have been made in the amendments. Now, Sir, if he had definitely said that he was not going to do anything at all, I for one would not have certainly pressed the Resolution to a division. But the question whether the postal rates should be reduced should not be mixed up with the question of the grievances of the staff. It is always very cleverly put by Government, and what is really sought to be done in this House is to set one section of the House against another. We are told that if we reduce the postal rates we shall not be able to meet the grievances of the employees

The Honourable Sir Bhupendra Nath Mitra: I did not say so. Please excuse me.

Mr. M. A. Jinnah: The Honourable Member implied as much. The Honourable Member is rightly now in love with labour grievances. I congratulate him. As he admitted, there are very sound and serious grievances, may be as he said they are exaggerated to a certain extent, but I want to make it clear to the House that the one question has nothing whatever to do with the other. Then, Sir, a great deal of confusion was

*Speech not corrected by the Honourable Member.

created by Mr. Chaman Lall's speech when he said that the Mover of this Resolution took up a particular attitude when we were discussing the grants and he is taking up a different attitude now. Now, that is not quite fair. The position is this. When the Honourable the Finance Member presents his Budget to us we have to consider what is the surplus and there are various claims which assert themselves for the purpose of distribution of that surplus. The House is always in a very difficult position as to which is the best claim and which claim should have precedence over the other. There are so many, the salt tax, reduction of postage, and various others.

The Honourable Sir Basil Blackett (Finance Member): Why do you assume a surplus?

Mr. M. A. Jinnah: I am not assuming it at all. The Finance Member did not follow me. When we discussed the Budget last time, there were several claims—reduction of provincial contributions, the salt tax, reduction of postage, and so on. You cut your coat according to your cloth. Therefore, if any Honourable Member thought he could not support the reduction of postal rates he would be perfectly justified. We are not very far from that day when the Honourable the Finance Member will reveal his secrets in this House and will pour his millions of surplus in front of us. Then will be the time for us to consider the various claims and see which are entitled to the first call. I would therefore ask the Honourable Member who has moved his Resolution (Mr. K. Ahmed: "No.") The Honourable Member who interrupts me is not the Mover of this Resolution. He tried really to be the Mover of the Resolution, but he failed. I appeal to the Mover of the Resolution not to press this Resolution to a division but withdraw it. When the Budget is presented to this House, we shall be in a far better position to deal with this question than we are to-day.

Mr. K. Rama Aiyangar: With respect to the position taken up by the Honourable Sir Bhupendra Nath Mitra, I have to bring to the notice of the Assembly that some of his statements are not very accurate. In fact he said that the Inchcape Committee cuts had been fully given effect to in the Postal Department and that the expenditure had since grown. While some of the recommendations were given effect to, to the tune of the figure recommended, they were not given effect to in their entirety. In fact much effect was not given to them on the telegraph side or on the postal side and officers' side. Actually about 60 lakhs of rupees that were asked to be retrenched were not given effect to for one reason or another. However, as a statement of fact I may mention it.

The Honourable Sir Bhupendra Nath Mitra: That statement of fact is incorrect, Sir.

Mr. K. Rama Aiyangar: We join issue there. I certainly stand by my figure. The Honourable Member was not present when the previous discussion took place. If he analyses the figures he will find that only 70 out of 135 lakhs had been given effect to in the matter of the detailed cuts that were asked for by the Retrenchment Committee. That is a point

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that I wanted to mention. Another is there has been extra expenditure because we have had increased revenue. That was the statement made by my Honourable friend. There again he is wrong because the Inchcape Committee had taken the actual receipts of 1922-23 at over 10 crores but the present income is 9'82.

The Honourable Sir Bhupendra Nath Mitra: My friend is again wrong.

Mr. K. Rama Aiyangar: I have given it in the statement. If my friend looks into the papers he will find that the actuals for 1924-25 only amount to 9'82 crores.

The next point that I want to mention is this. The Honourable Member said that if we have an increase in letters and postcards, we will have to increase establishment. That again is not accurate. In 1922-23 he will find that we had 610 million letters while actually we have to-day only 545. As regards postcards he will find that we had 650 millions in 1922-23, while actually to-day we have only 540 millions. So that we are having less by more than 100 millions of these articles, and therefore for some years to come, according to the present rate of increase, he will not require the staff that he now has.

The Honourable Sir Basil Blackett: Does the Honourable Member think we have not reduced staff?

Mr. K. Rama Aiyangar: I do not follow. In fact you are unnecessarily employing extra staff now and that is a fact.

The Honourable Sir Bhupendra Nath Mitra: That is a fiction. (Laughter.)

Mr. K. Rama Aiyangar: As the Honourable Mr. Jinnah pointed out there is a conflict of interests, and we should certainly not introduce these elements of conflict here. Let us understand the position as it is and then proceed

Pandit Shamlal Nehru (Meerut Division: Non-Muhammadan Rural): What was the staff before?

Mr. K. Rama Aiyangar: Yes, the staff ought to have been reduced by 10 per cent. in all. (An Honourable Member: "Who said that?") According to the Retrenchment Committee recommendations, and the actual reduction in the total postal articles handled is more than 10 per cent. Leaving all that aside, as I say, the actual retrenchment recommended has not been carried out. All these are points which I raised only for the Assembly to follow the actual position, but the question that has been raised now has nothing to do with any one of these, and I want to place my views on that before the House. I should certainly ask the Assembly for the present to confine itself to and support the amendment of the Honourable Mr. Acharya. I had worked out the figures and I thought the diminution on account of reduction of the postcard rate to three pies would be 90 lakhs, but my friend has said it will be only 86 lakhs, so that his calculation is more accurate than mine. So if postcards only are reduced to 3 pies the loss will be 86 lakhs. If Lala Duni Chand's proposal is taken up we will have to find two and a half crores and if

my friend Mr. Venkatapatiraju's proposal is adopted we will have to find about one and a quarter crores. So that actually it will be well for the time being to confine our attempt to the postcard, which will certainly give the relief that we desire.

An important point that I want to mention before the Honourable the Finance Member and the Honourable Member in charge of this Department is this, that it would be very proper because of the commitments on account of the Telegraph Department if they treated the Postal Department separately. Then there will be no difficulty. At page 50 of last year's postal budget you will see that of the 66 lakhs of rupees which has to be paid to interest on capital the telegraph side has to contribute 46 lakhs, radios 2 lakhs and telephones 9 lakhs; together making about 57 lakhs and actually the Postal Department has to contribute towards that only 8 lakhs. Thus the total annual income of the Department is eaten up by this 57 lakhs which have to be paid by the Telegraph and Telephone Branches. So that you have in that alone 57 lakhs of money which you ought not to charge to the Postal Department. From the actual increase of postcards that will be sold if you reduce the price to 3 pies,—taking it at the rate of 1921-22, 1923, you will have another 25 lakhs income from the sale of extra postcards; so that altogether you will have about 75 or 80 lakhs under this head and the postcards may be reduced without any difficulty. Ponder over the position I place before you; you will find that you will not be able to fall behind. You can easily say that you ought to keep up this taxation. But it is absolutely unnecessary. It is unjust. In fact my Honourable friend Sir Bhupendra Nath Mitra began with the statement that it is practically charged for services rendered to the public. I agree with him that it is so. But the public that is served by the post offices is not the public that is served by the telegraph offices

The Honourable Sir Bhupendra Nath Mitra: It is.

Mr. K. Rama Aiyangar: It is to some extent. It may be 1 per cent. and nothing more, but the Postal Department serves the masses most and the whole country is served by it. It should not be argued that they can be actually combined together for purposes like this.

Then the question has been raised by my friend Mr. Neogy which was raised while we were in the Public Accounts Committee, namely, how far actual revenues have contributed to the capital charge to which interest is charged to the Department. You will find that the 8 lakhs relating to the Postal Department will be wiped out. It is the Postal Department that actually has found the revenues for all the capital expenditure which had been previously incurred by the Department. The Honourable Sir Bhupendra Nath Mitra said that the balances of the Department went also to General Revenues then. It went after paying this capital charge. Whatever capital expenditure was incurred in the Department was charged to revenues and if there was a balance it went to general balances. Similarly, when there were deficits in the Department, it was met from general revenues. Whatever it is, so far as revenues have contributed to the capital expenditure it is not right to charge interest on that capital expenditure, and I say the portion that is now charged to Postal Department, about 8 lakhs, would not be chargeable to it if only you give credit to capital expenditure which has come out of revenues and that has come only out of postal revenues. Till the year before last the contention of the

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Department was that the Postal Department was working at a deficit and that the Telegraph Department was working at a gain.

The Honourable Sir Bhupendra Nath Mitra: Question.

Mr. K. Rama Aiyangar: It was put forth before this House more than once and it has since been withdrawn. Actually it has been found that the Postal Department works at a profit while the Telegraph Department works at a loss and it is the Telegraph Department which has a staff which will admit of considerable reduction. That will be a matter to be taken up separately. If the present Resolution is confined, as I say it must be confined for this year, to postcards alone, the reduction in postcard rates will require Rs. 85 lakhs which is available with the Honourable Sir Bhupendra Nath Mitra without even the consent of the Honourable the Finance Member.

The Honourable Sir Bhupendra Nath Mitra: No, no.

Mr. K. Rama Aiyangar: The money is there. He has to find the portion relating to the charges for interest on capital of the Telegraph Department. If that is separated, you will get Rs. 57 lakhs which must be available and that is the balance of the Postal Department, and that together with the increase in income which will result from the ordinary extra sales of postcards, not to take into account the percentage of increase which ought to exist if these 8 years have shown a growth of sales, will be much more. Whatever is wanted to meet this deficit will be met. I submit, Sir, under these circumstances it will not be proper that the country and the poor people should not be allowed the chances of having their communications sent at the usual charge which was the original charge. It is a fallacy to argue that this increase should be maintained, because there is need for it. As I said, with a proper adjustment there is considerable scope for giving satisfaction to the employees and it is quite possible that if the whole thing is properly managed, extra revenue will be found. I have said that I shall not interfere for this year, till we know the circumstances are better, with reference to letters, envelopes and other things. If that is done, I submit there is no reason why the Government should not accept this Resolution.

(Several Honourable Members moved that the question be put.)

The Honourable Sir Alexander Muddiman (Home Member): Sir, I intervene in this debate because I think there is a general feeling that this is rather an infructuous discussion. It may be said that if that is so, why did not the Government vote for the adjournment? The point then was that the Honourable Sir Bhupendra Nath Mitra had not had an opportunity of replying to the various criticisms which had been made by previous speakers. We, therefore, felt that it was essential that he, on behalf of Government, should be given an opportunity, at any rate, of making some statement on the subject. The position now is that I think we are agreed on all sides that this debate cannot usefully proceed. And, if the Honourable Member who moved the Resolution is not prepared to accede to Mr. Jinnah's well-grounded appeal that he should withdraw his Resolution, I shall, with your permission, be prepared to move that the debate be now adjourned.

***Mr. N. M. Joshi:** Sir, I support this motion for adjournment but, while supporting it, I wish to make one or two observations. My observations are that in the course of the discussion the Member in charge of the Department ought to speak a little earlier so that those Members who want to reply to his criticisms may get an opportunity to criticise and reply to him also. I have observed that during the last few days

Mr. President: Order, order. The Honourable Member is not speaking on the motion for adjournment.

Mr. N. M. Joshi: You will give me some opportunity, Sir. I am appealing

Mr. President: The Honourable Member is entitled to speak on the motion for adjournment.

Mr. N. M. Joshi: If you think, Sir, that no other remarks should be made, I will submit to your ruling. But I feel that my remarks are justified because the Honourable Member in charge of the Department who ought to have spoken earlier has not done so.

Honourable Members: Order, order.

Mr. President: I cannot allow the Honourable Member (Mr. Joshi) to go on.

Mr. Amar Nath Dutt: On a point of order, Sir. May I know whether two motions for adjournment can be made?

Mr. President: It is perfectly open to any Honourable Member to make any number of motions for adjournment of the debate, but it is entirely for the Chair to decide whether reasonable time has elapsed since the last motion was made. (Hear, hear.) If there is considerable feeling in the House to allow the Honourable the Home Member to move his motion for adjournment, the Chair does not propose to stand in the way.

Mr. N. M. Joshi: I want to offer one word of personal explanation: Only a few minutes ago you asked me to withdraw certain words

Mr. President: Order, order. The Honourable Member ought to know that we are discussing quite a different matter now. There can be no personal explanation at this stage.

Mr. N. M. Joshi: I have a right of personal explanation.

Mr. President: Will the Honourable Member resume his seat? He will have his opportunity later.

The Honourable Sir Alexander Muddiman: Sir, I move that this debate be now adjourned.

Mr. President: The question is:

“ That the further discussion of this Resolution be now adjourned.”

The Assembly divided:

AYES—49.

Abdul Haye, Mr.
Akram Hussain, Prince A. M. M.
Bajpai, Mr. R. S.
Bhore, Mr. J. W.
Blackett, The Honourable Sir Basil.
Bray, Sir Denys.
Burdon, Mr. E.
Calvert, Mr. H.
Carey, Sir Willoughby.
Clow, Mr. A. G.
Cocke, Mr. H. G.
Crawford, Colonel J. D.
Das, Mr. B.
Donovan, Mr. J. T.
Ghazanfar Ali Khan, Raja.
Ghose, Mr. S. C.
Ghulam Abbas, Sayyad.
Gidney, Lieut.-Colonel H. A. J.
Gordon, Mr. R. G.
Gour, Sir Hari Singh.
Graham, Mr. L.
Gulab Singh, Sardar.
Hezlett, Mr. J.
Hira Singh Brar, Sardar Bahadur.
Capt'n.
Hudson, Mr. W. F.

Hussanally, Khan Bahadur W. M.
Innes, The Honourable Sir Charles.
Jatar, Mr. K. S.
Jinnah, Mr. M. A.
Lindsay, Sir Darcy.
Lloyd, Mr. A. H.
Mitra, The Honourable Sir Bhupendra
Nath.
Muddimar, The Honourable Sir
Alexander.
Naidu, Rao Bahadur M. C.
Neave, Mr. E. R.
Owens, Lieut.-Col. F. C.
Pal, Mr. Bipin Chandra.
Rahman, Khan Bahadur A.
Rangachariar, Diwan Bahadur T.
Roffey, Mr. E. S.
Sadiq Hasan, Mr. S.
Sim, Mr. G. G.
Singh, Rai Bahadur S. N.
Stanyon, Colonel Sir Henry.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Vernon, Mr. H. A. B.
Vijayaraghavacharyar, Sir T.
Yakub, Maulvi Muhammad.

NOES—15.

Abul Kasem, Maulvi.
Ahmad Ali Khan, Mr.
Ahmed, Mr. K.
Alimuzzaman Chowdhry, Khan
Bahadur.
Datta, Dr. S. K.
Dutt, Mr. Amar Nath.
Ghulam Bari, Khan Bahadur.
Ismail Khan, Mr.

Jeelani, Haji S. A. K.
Kidwai, Shaikh Mushir Hosain.
Muhammad Ismail, Khan Bahadur
Saiyid.
Nehru, Pandit Shamlal.
Rajan Bakhsh Shah, Khan Bahadur
Makhdum Syed.
Wajihuddin, Haji.
Willson, Mr. W. S. J.

The motion was adopted.

ANNOUNCEMENT REGARDING THE ROYAL INDIAN NAVY.

Mr. President: I understand that His Excellency the Commander-in-Chief desires to make some very important pronouncement. Before I allow His Excellency an opportunity to make that statement, I desire to make it absolutely clear that this is one of the few days allotted by His Excellency the Viceroy for the purpose of non-official business, and if I allow this opportunity to His Excellency the Commander-in-Chief to make a pronouncement, which is really a part of the official business, I do so with the consent of the House, and I hope the Government will not site that as a precedent in future.

His Excellency the Commander-in-Chief: Sir, His Excellency the Viceroy has this morning made an important announcement in the Council of State, and it seemed desirable to His Excellency that I should come here as soon as possible, and with your permission, Sir, repeat the substance of what His Excellency then said.

It is this: [that His Majesty's Government have, subject to the undertaking of the necessary legislation on the subject, agreed to the reconstitution of the Royal Indian Marine on a combatant basis to enable India to take the first step towards providing for her own naval defence in the future.] (Applause.) It was with this object in view that His Excellency the Viceroy early last year assembled a Committee under the presidency of my very distinguished predecessor, Lord Rawlinson, in conjunction with the Naval Commander-in-Chief, Admiral Richmond, and it is as the result of the recommendations made by that Committee that the present decision has been arrived at. Subject to the sanction of His Majesty the King-Emperor, the new Service will be known as the Royal Indian Navy, and, together with the ships of His Majesty's Navy, will have the great privilege of flying the White Ensign, a privilege which I might mention is most enormously valued by the Royal Navy; in fact I think I might say there is no privilege more jealously guarded than the flying of the White Ensign. The report of this Committee will I hope be in the hands of all the Honourable Members of this House either this evening or to-morrow morning, and they will see from that what the purport of it is and what the strength and duties of the Navy will be in the future. I may mention here that Indians will be eligible to hold commissioned ranks in the Royal Indian Navy (Applause). It will of course be necessary for us to take the necessary steps, and we shall do so, to provide for their education and training. You will recognize, it is essential that the organization of the new Service should be entrusted to the existing personnel of the Royal Indian Marine, subject to any necessary re-adjustment of cadre. The changes involved are of course very great indeed, but as soon as we can possibly get into touch with the necessary organization, administration, finance and education, in consultation where necessary with the Admiralty and other authorities involved, the necessary steps will be taken. I would only add, Sir, what great pleasure it has given me personally to have been the means of making this announcement to my Colleagues here in the Legislative Assembly, and I believe I am right in saying that there is no single Member here present who will not whole-heartedly rejoice with me that this new career of national service is now to be open to Indians (Applause).

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

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

Mr. President: I do not want any Honourable Member to feel that he has been unnecessarily gagged. I have noticed that my friend from Bombay has that feeling and, therefore, I propose to allow him to make any explanation he wishes to make.

***Mr. N. M. Joshi** (Nominated: Labour Interests): Sir, I thank you very much for the permission which you have given me to make a personal explanation. Sometime back I used an expression which I do not wish to defuse. I admit it was a wrong expression but I want to explain to you that that expression was not used towards you at all. I used that expression because some Members on the Government Benches and some Members on my left tried to interrupt me when I was speaking and my expression was directed towards their conduct. I again say that even in their case I do not defend the use of that expression at all; I feel that the expression was wrong.

Mr. President: I congratulate the Honourable Member from Bombay for having realised that the use of that particular expression was unjustifiable.

Maulvi Abul Kasem (Bengal: Nominated Non-Official): May I suggest, Sir, that the whole of these proceedings, from beginning to end, be incorporated in the records of the Assembly.

THE LEGAL PRACTITIONERS (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Alexander Muddiman (Home Member): With your permission, Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Legal Practitioners Act.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 103.)

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Mr. H. Tonkinson (Home Department: Nominated Official): Sir, with your permission I beg to present the Report of the Select Committee on the Bill further to amend the Code of Civil Procedure, 1908.

RESOLUTION RE THE BURMA EXPULSION OF OFFENDERS ACT, 1925.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadian Rural): Sir, the Resolution which I beg to move for the acceptance of this House runs as follows:

"This Assembly recommends to the Governor General in Council that the Government do immediately move the Secretary of State to disallow the Burma Expulsion of Offenders Act, 1925, or, in the alternative, to take immediate steps to introduce a Bill in the Indian Legislature to repeal the said Act."

This Act which was passed on the 28th September, 1925, by the Burma Legislative Council and has received the assent of the Governor General in Council has been aptly described as the Black Act, a thing which has come more in evidence in these days than heretofore. A cursory glance at the few sections of the enactment will convince every one that the description of Black Act is not only appropriate but very mild. The

*Speech not corrected by the Honourable Member.

Preamble of the Act begins with the usual words "Whereas it is expedient" without mentioning how and why it is expedient except the very meagre Statement of Objects and Reasons to the effect that the Crime Enquiry Committee of 1923 recommended a measure like this and that Burma should not be allowed to remain the happy hunting ground of criminals from all parts of the British Empire. If the Honourable the Home Member of the Burma Government has not thought fit to state more than what is in the Statement of Objects and Reasons we have nothing to complain of, for we, unfortunate Indians, know to our cost that expediency in the bureaucratic dictionary means that which prolongs the life of foreign domination and foreign exploitation. If I am correct in my meaning then certainly it is expedient, as the enactment will perpetuate Burma's subjection to foreign domination by creating bad blood between the Indians and Burmans, and leave the doors of foreign exploitation wide open.

The Bill provides that persons convicted of most trivial offences may be deported from the country provided they are non-Burmans. Consequently there has been a good deal of bitter feeling against the Act throughout the length and breadth of the country. The definition of the word "non-Burman" speaks of domicile, but the Act does not provide how to acquire a domicile in Burma. As the definition stands, the word "non-Burman" applies to Indians even if they have resided in the country for generations and have occasionally come to India, as a sort of pilgrimage, to the land of their ancestors. The "Soorties", as people who emigrated from Surat are called in Burma, is an instance in point. As for other people who come within the purview of the definition of the word "non-Burmans", there is a vast body of Indian clerks who were brought by the Government themselves to Burma and the Indian merchant and Indian labourer who went there at the instance of the Government and who helped them a good deal in the growth and making of modern Burma.

Sir, it is said that the object of the Bill is to prevent crimes. If it is really so, what justification is there for applying the Act to non-Burmans only? I would request this House to keep in view the meaning of the word "non-Burman" which is an euphemistic expression for "Indian". I ask the Government, do the General Administration Reports of the Province prove that the only criminal in the country is of Indian origin, or at least a majority of them? Their own police and jail reports will belie such a hypothesis.

Then, again, it may be said that Burma is the home of the Burmans and they can not be deported. May I inquire, have not many of the Indians, who may be dealt with under the Act, made Burma their home and have as much stake in the country as any Burman? If you but tell us frankly that we Indians are not wanted there, that Indian labour is a menace to the progress of the country, I would ask you to consider the case of settlers from Chittagong and Noakhali in Akyab who carry on agricultural pursuits, and have contributed greatly in making Burma a vast rice-producing country. Then, there are the traders from various parts of India, on whom the Act will have a disastrous effect even if they are not expelled. A man has simply to trump up a false case against his rival in business and he will be a ruined man in no time. For as soon as a criminal case is instituted, although it may eventually end in his acquittal or non-expulsion, his creditors will at once swarm round him to get back their money, fearing that he might be expelled just as it

[Mr. Amar Nath Dutt.]

happens in the case of a bank which must fail because the depositors have all made a rush to withdraw their deposits on rumour (no matter however baseless) of the Bank's impending failure. When I say this, I am not drawing from imagination but speaking from experience of what actually happened in the case of the Central Bank. The same thing can happen to any Indian merchant in Burma. As far as cases of this kind are concerned, the question is, what would be the consequence to the persons who are likely to be the victims of such prosecutions? Sir, real statesmanship lies in preventing such a catastrophe to a man, be he a Burman or a non-Burman. The Act affects the Indian community in Burma but will react upon the Burmans by retarding the political progress of the country which is dependent upon the co-operation of the Indian communities. The Act presumes that Burma without Indians would be a very peaceful country without any criminals, and, if you examine the Act, you will find that most of the sections of the Indian Penal Code have been incorporated either in Schedule I or Schedule II of the Act together with the Security sections of the Criminal Procedure Code, which will enable the Government to expel Indians from Burma. The Act has rightly given the Indian community cause to think that it denounces the Indian community, that it is the only community which contains criminals and that if it had not been for the criminals of India, Burma would have been without criminals. Sir, I say it is an aspersion on Indian civilisation and culture. The Act is bound to give Indians the idea that wherever they have gone either to conquer or to subjugate any country or to bring any country under settlement for the British Empire, after a time there the fate of the Indians becomes more and more intolerable under the British flag. This has happened in South Africa, this has happened in Kenya, and it is also going to happen in Burma. (*An Honourable Member*: "Why?") If the Government of India can assent to an Act like this within the Indian Empire all their lip sympathy for Indians in the Colonies appear to be nothing else than sheer hypocrisy. Burma is a part and parcel of the British Indian Empire. Why should a provincial Government be allowed to enact a law which empowers them to deport people of other provinces. (*An Honourable Member*: "What about the *goondas*?") So long as Burma continues to belong to the British Indian Empire should it be allowed to legislate against the people who form part and parcel of the same empire?

Sir, I believe that the law has been enacted for purposes which indicate political cunning and not political wisdom. For sometime past, the Indians in Burma have been an eyesore to the Government for various reasons and feelings of jealousy and hatred have been attempted to be roused between Indians and Burmans in Burma by various means, and the cry has been raised "Burma for the Burmans". It is said that the Government of India treat Burma as the Cindrella province of the British Indian Empire. If the Burmans really feel like that, how much more cause have the Indians in Burma to feel like that at the treatment that is being meted out to them in the Province? The present policy of the Burma Government is to exclude Indians from all services even at the sacrifice of public interests to gratify its dislike of Indians. I do not much care for the services, but what I want to assert is the right of the Indians to live in the province on a footing of complete equality without restrictions and the badge of inferiority. Will the Government of India

set their seal of approval to this reprehensible legislation and thus lay itself open to the charge of want of political sagacity and statesmanship? Considering that the Government of India have been exerting every effort in their power to obtain fair and equitable treatment for Indians in the Colonies and the Dominions, I hope the Government of India will try to prevent this colossal impudence of the Government of Burma. If the Government of Burma wants to expel the Indians from Burma let it clearly lay down its policy, instead of resorting to such camouflage and underhand dealings. We shall then know where we are. I assert that the Government of India are bound to safeguard the interests of all communities and to preserve their rights in the province of Burma and to give them a complete security on a footing of complete equality, in the same manner and to the same extent as Indians residing in the provinces of Bengal, Madras or Bombay or any other province in British India. The attempt to find an analogy to this extraordinary piece of legislation in the Bengal Goonda Act will not bear a moment's scrutiny, for that Act does not make any discrimination about race or colour and is directed against the activities of a certain class of criminals whose ways and habits make them a danger and a standing menace to civilised society. But, Sir, the non-Burman Offenders Expulsion Act brings all Indians within its clutches and places them in constant terror of penal law and of expulsion, so much so that Indians feel that life is unbearable and not worth living in Burma. If you look at the two Schedules of the Act, for which a non-Burman can be expelled from Burma for offences mentioned therein, you will find that very few sections of the Indian Penal Code have been left out. Then again, as you all know, false cases are not rare and can be got up easily by the Executive with the help of an unscrupulous police and may lead to conviction. From my own experience of nearly a quarter of a century at the Bar, I have come across several cases in which innocent persons have been convicted. The Act places powers in the hands of the Executive to such an extent that it will kill all political life in Burma, for it is a matter of common knowledge that public men are liable to be hauled up before courts of law in this country under various provisions of the criminal law, if they happen to incur the displeasure of the all powerful executive. The Act places very great powers in the hands of the magistrates without any right of appeal against the orders of expulsion

Mr. H. Tonkinson (Home Department, Nominated Official): Sir, as a point of fact I should like to say that the Act does provide for

Mr. President (to Mr. Amar Nath Dutt): Will the Honourable Member resume his seat?

Mr. H. Tonkinson: I only wish to correct a mistake which the Honourable Member has made in stating that the Act does not provide for a right of appeal. The Act does provide for a right of appeal.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): Does the Act provide for a right of appeal against an order of expulsion?

Mr. Amar Nath Dutt: I was going to say that no right of appeal has been given to the people who are convicted under the Act.

Sir Hari Singh Gour: There is no appeal at all against an order of expulsion."

Mr. Amar Nath Dutt: I am going to say that. The Act places great powers in the hands of the Magistrates without any right of appeal—I do assert it again—against the orders of expulsion, for the only right of appeal that has been given under sub-section (4) of section 4 is on the question whether the offender is or is not an offender within the meaning of the Act. But no appeal lies as to the propriety or otherwise of the order of expulsion. That is my point.

3 P. M.

Sir Hari Singh Gour: As to the desirability of expulsion.

Mr. Amar Nath Dutt: When a man is convicted, does it require any great intelligence to discover whether he is an offender as defined under the Act? For the word "offender" has been defined as any person against whom any sentence or order of the nature mentioned in the definition has been passed, so that when a man is convicted, you have only to see whether he has been convicted under any of the sections mentioned in the Schedule or whether any order has been passed under section 118 of the Criminal Procedure Code from the records of the case, but the High Court has no power under the provisions of this section to examine the correctness or otherwise of the sentence or order. Such provision, I am bound to say, is not only an insult to the dignity but also an insult to the intelligence of the Judges of the High Court, for you have to remember a Magistrate may pass a very light sentence upon an accused to deprive him of the right of appeal. To deprive the High Court of the powers of supervision in matters which involve the expulsion of a man from a country, and to place such enormous powers in the hands of magistrates, is nothing but a denial of justice, the birth right of every human being, so that the executive may maintain their tyrannical sway over the people who have the misfortune to be placed under their administration.

Sir, I therefore ask the Governor General in Council to take immediate steps to request the Secretary of State for India to disallow the Burma Expulsion of Offenders Act, 1925, or to repeal the same by an Act of the Indian Legislature, and I urge this on the ground of our inalienable right and privilege to live in any part of the British Empire, on which our allegiance to the Crown is based. Sir, such an Act of a Provincial Legislature, in one part of the British Indian Empire, is not only absurd and fraught with danger but is also most inopportune at the present moment when we are trying to secure for His Majesty's British Indian subjects the rights of citizenship in South Africa. I therefore ask the Government to take steps, so that the Act may be disallowed by the Secretary of State for India, or to repeal the same by an Act of Indian Legislature as indicated in my Resolution and protect the rights of Indians in Burma so that they may live there with all the rights of citizens of a great empire.

Rao Bahadur M. C. Naidu (Burma: Non-European): Sir I had not intended to intervene in this debate, but when I vote against the Resolution, I may be misunderstood. To explain my position, I now rise to say what I consider about this 'Expulsion of non-Burman Offenders Act'.

The various objections that were set forth against this Act are:

- (1) That it was aimed against Indians.
- (2) That it would have the effect of setting up racial feeling.
- (3) That non-Burman trading communities would be subjected to very serious disabilities.

- (4) That a measure of this description has not been enacted in any other part of the world.
- (5) That there is no necessity for such a measure.
- (6) That the Act did not afford facilities to non-Burmans for proving their domicile in Burma, and
- (7) That it is a Black Act.

With regard to the first objection, I have to state that it is entirely a misconception. In Burma, there are not only Indian residents but a large number of other British subjects from places other than India, who are also affected by this Act. If the Act is aimed against ordinary Indian citizens only, certainly I would oppose it at least on principle. But the Act, as passed, is only intended to be directed against a class of criminals who are a menace to society. So, I think the respectable Indians should only be too glad to get rid of such criminals who remain in their society to spoil the fair name of their community; peace and prosperity can only be ensured so long as law and order are maintained.

With regard to the second objection, I say that the purpose of this Act seems apparently to be that the Government of Burma are not saying to Indians or to any other British subjects or foreigners that they shall not reside in Burma, that they shall not follow their ordinary pursuits in Burma, but what they say is, once you are here we expect you to conform to the laws of the land, and if we find that you persist in a career of crime, then we shall turn you out. What is there wrong with such an Act? I think the Government of Burma would like to make this Act refer to Burman criminals as well to prove that they did this with the best of intentions, if they could only have the power to send them away. But obviously they cannot do so, until some country is willing to accept Burman criminals. I may also say that Burmans will never attempt to turn out Indians under any circumstances, as they know that the Buddhist faith only passed from India to Burma, and as hospitality seems to be one of their born qualities; I really do not see therefore how this Act would have the effect of setting up racial feeling. Would any one desire to welcome the criminals to make it their business to prey on their fellow beings.

With regard to the third objection, I would like to quote the very words of one of the Members of the Select Committee. He says:

"This Bill will have disastrous effects on non-Burman traders in Burma, even if they be not subject to expulsion. A man has simply to trump up a false case against his rival in business and make him a ruined man in no time; for as soon as a criminal case is launched against him (although it may eventually end in his acquittal or his non-expulsion) his creditors fearing that he might be expelled will all at once swarm round him to get back their money just as it happens in the case of a Bank which must fail because the depositors have all made a rush to withdraw their deposits on rumour (no matter how baseless) of the Bank's impending failure."

Well, Sir, if we assume the existence of such people, is it not an argument, Sir, for such an Act as this, and should not Government take power to deport persons who are in the habit of bringing false charges against prosperous traders? Apart from that, even without an Act of this kind, is it not the case, Sir, that if a false charge is brought even under the present law against any trader, the creditors come down on him to get back their money before he is convicted? This objection, which appears at first sight to be really a serious one, is merely a bogey.

[Rao Bahadur M. C. Naidu.]

With regard to the fourth objection, I may say that this is not a novel one. I think a somewhat similar Act was passed in Bengal, known as the Goondas Act, which was directed against non-Bengalis. One of the sections of that Act is:

“Whenever it shall appear to the Commissioners of Police that any person :

(a) is a goonda or a member of a gang or body of goondas;

(b) is not a Bengali by birth; and

(c) is residing within or habitually visiting or frequenting the town of Calcutta; and that such person or that such gang or body is committing or has committed or is about to commit an offence, he may be deported.”

Even assuming that there is not a single precedent to be found anywhere in the annals of legislation, what harm is there to pass any Bill in any Province, so long as the provisions of the Bill are reasonable and they are really meant to protect the best interests of the people. I think that the Government of Burma will readily accept a measure of this kind if it be passed in any Province in India for the expulsion of Burman offenders from that Province.

With regard to the fifth objection, I say that the necessity for such a measure is only on the recommendation of the Crime Committee of 1923 to protect society from the depredations of habitual criminals, and for the advantage of criminals themselves. Because, in Burma, there is already an Act in force, namely, the Habitual Offenders Restriction Act. Under that Act, Burmans, or any one residing in Burma or domiciled in Burma, may be restricted to certain areas. In restricting a man to a particular village other than his own, a magistrate must restrict him to a village where he has a reasonable chance of finding work, in order to earn an honest livelihood. It is almost impossible to comply with this condition in regard to non-Burmans. Is it not therefore advantageous to them if they were sent back to their own home?

With regard to the sixth objection, I say that the Act provides facilities to prove domicile, and it is not an easy thing to expel any one under this Act, as will be seen from the procedure laid down therein. To establish that a person is an offender within the meaning of this Act, it will have to be proved, first of all, that he has not acquired a domicile in Burma. The District Magistrate will then record his finding stating his reasons as to whether he should make the recommendation to the Local Government or not. If the offender is aggrieved on any point of law, all he has to do is to say so, and the Act provides that the District Magistrate shall, without any further application, submit the proceedings to the High Court for decision, so that there will be very little risk of any legal error being committed. It is only after the High Court has confirmed the finding of the District Magistrate, that the recommendation will be submitted to the Local Government. The Local Government will then have to consider whether it is desirable in the best interests of the community to expel him. It is only after very careful examination of the surrounding circumstances, i.e., after careful consideration of the offender's life, of his tendencies, of the effect that his presence in Burma will have on other citizens, that the Local Government will pass an order for his expulsion.

With regard to the last objection, I would say that if the Act be examined in the cold light of reason, with the explanation I have offered on each objection, it will be found that it is pure white, white as the eternal snows on the summits of the Himalayas.

Sir, I can safely say that there is no fear whatever that Indians will ever be turned out of Burma, for Burma cannot do without Indians, as Indians are everywhere and in all departments in Burma, and the progress of Burma is mainly due to Indians. What the Government of Burma and Burmans say is that they do want Indians but do not want habitual offenders and persons who have committed serious crimes; perhaps they want to keep the country as pure as possible, and if possible, to convert the "Province of Burma" into a "Province of Brahma". Let them please themselves. Why should any law-abiding citizen need worry his head over this Act?

I oppose the Resolution.

Sir Hari Singh Gour: I am somewhat amused and I must confess somewhat amazed at the extraordinary statement of law and fact that have emanated from my friend Mr. Naidu (*An Honourable Member*: "Rao Bahadur") and the interjection of the Honourable Mr. Tonkinson has taken me completely by surprise. Now what are the facts relating to this Burma Non-Burman Expulsion of Offenders Act. The facts are briefly these. I speak from official papers and from a certain amount of local knowledge which I have derived when I happened to be in Rangoon at the time when this Bill was actually before the Select Committee. This Bill is the outcome of a certain amount of agitation raised in the country against Indians. The position of Indians in Burma is as follows: Rangoon, which is the capital of Burma, is a very large city with a population of over 8½ lakhs; and my Burman friends who are here will bear me out that the majority of them happen to be Indians, while the trade and the banks are in the hands of Indians. Now a feeling has been aroused in the minds of my Burmese friends and others that these Indians are plundering Burma, why not expel them? I do not for a moment believe that right-minded, thoughtful Burmans would like to expel any Indian. On the other hand I have the authority of some of the leaders of the new Burma-movement that they would welcome Indians in Burma because without their co-operation and support the advance of Burma in the path of political progress is impossible. Now, Sir, this is the atmosphere of suspicion in which this Bill was launched; and let me remind this House, it has received the opposition not merely of Indians but of the representatives of the European community resident in Burma. The President of the Burma Chamber of Commerce, speaking on behalf of the European community whom he represented in the local Council, pointed out in language clear and unmistakable that the one effect of this Bill would be disastrous to the solidarity of the races and the good feeling that has prevailed hitherto in Burma between members of the various races and communities. Let me give to the Honourable Members his exact words in opposing this Bill, as I have said, on behalf of the European mercantile community of Burma. Sir Adam Richey said:

"Sir, I am not a lawyer though it may be that I am able to distinguish the dangers lying behind the provisions of this Bill. One thing I notice is that the Bill has undergone very considerable change after its last entry in this House. The wording has been altered, clauses have been added and safeguards have been introduced and I accept the assurance of the Honourable the Home Member that it would be quite impossible for any one individual to do his neighbour any harm. I really therefore have an open mind as to the provisions of this Bill both for and against it. I think if it is put on the Statute-book it will practically be unused. Holding that opinion, what is the use of pushing this Bill through the House and creating inter-racial feeling? I say that if the benefits which would accrue by the Bill do not outweigh the disadvantages and difficulties which will be set up later through lack of co-operation and racial feeling the Bill in my opinion is not worth the candle."

[Sir Hari Singh Gour.]

And he goes on in the same strain. Now, Sir, a very casual examination of the Bill will convince this House that Sir Adam Richey was well justified in characterising it as a Bill which has the ultimate result of arousing inter-racial hostility. Let me give to the Honourable Members briefly the provisions of the Bill. It is a very short Bill but it contains within its short compass germs of great potentiality and mischief. First of all, Sir, we have the Preamble, and the Preamble says:

“Persons who are non-Burmans and not domiciled in Burma shall be subject to the operation of the Bill.”

Now, Sir, the one question I should like to ask, and the one question which has never been answered either by the lawyer or non-lawyer Members of the Burma Legislative Council is, what is the meaning of the word “domicile”? My lawyer friends will know that this word has been a battle ground in England and in this country for several generations and up to date the judges are not agreed as to when a domicile begins and when it ends. Now, Sir, in the Code of Civil Procedure there is such a word, but it has not been defined for the very simple reason that it is undefinable. The Select Committee themselves confess their inability to define this word. In clause 2 of their Report they say:

“We are of opinion that ‘domiciled’ cannot be defined, but that the question whether a man is or is not domiciled in Burma must be left to the Courts to decide on the particular facts of each case and on the basis of existing rulings.”

This is, therefore, a great element of uncertainty. It is using in an Act of the Legislature a word which is undefined and which the Legislature confesses is undefinable. But that is not all. Honourable Members will find in the conglomeration of offences for which a person may be expelled from Burma there occur offences which are universally regarded as political offences. offences like sedition or allied offences. Then, in the second class are offences against person and against property. If this Bill were confined merely to offenders under what is known to the lawyers as offenders under Chapter XII and XVII of the Indian Penal Code, I would say with Sir Adam Richey that the Bill was either useless or at any rate harmless. But I ask my Honourable friends and the protagonists of the Government to justify on the floor of this House a measure which is calculated to expel political offenders from the province of Burma.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Any offenders.

Syed Majid Baksh (Burdwan and Presidency Divisions: Muhammadan Rural): Offenders even under section 302.

Sir Hari Singh Gour: That is my first point. I am talking of political offenders for the present. You have not defined the word ‘domiciled’ and you have cast into your net criminals who are undoubtedly criminals because they have committed offences against the law of property and person. and side by side with them you have placed political offenders or so-called political agitators. Sir, those who are suspicious about the underlying principle of this Bill justify their suspicion on the ground that this will be used as a weapon for political oppression of the people who are waking up their fellow subjects in Burma to the recognition and

assertion of their political rights. Sir, though I have not had the pleasure of consulting Mr. Naidu in Rangoon, I have consulted all shades of political opinion, Burmans and non-Burmans, European and indigenous, and they were unanimously of opinion that this Bill is a Bill which should be opposed and should not be pushed on with. If this opinion were an unreasoned opinion, I submit I was not bound to carry it out, but having made a close study of the Bill, I feel that their opinion was justified, nay amply justified, because I find that if this Bill is put into practice, it might be used as an engine of oppression against those who wish to wake up Burma to realise their political rights and responsibilities.

Now, Sir, it has been said, and my friend the Mover of this Resolution has said, that there was no appeal against this arbitrary order passed by the District Magistrate. The Honourable Mr. Tonkinson warmly (*An Honourable Member*: "Wrongly") rose up ejaculating—"No right of appeal! There is a right of appeal". Now, Sir, I give him a friendly challenge. If my copy which I have received from his own Department is correct, and if my reading of the Bill is correct, there is no right of appeal at all. There is a reference on two and two stated points only. Let me give to the Honourable Members the exact words of that section which is called an appeal. It is section 4. Honourable Members will find that if a person has been once convicted of an offence in the first Schedule—and a political offender is an egregious offender—his first conviction suffices to justify his expulsion; or, if he is convicted on two occasions under the second Schedule, in that case the District Magistrate may immediately take action under this Expulsion Act. He is merely to find three facts and I hope the House will now carefully listen to the very guarded language, the very cautious language used by the Legislature in connection with the initiation of the first two principles, leaving out the third principle for the sole and unfettered judgment of the District Magistrate. The first is whether he is a non-Burman. The second is whether he is an offender—two very simple facts. The third is whether it is desirable to expel him. If the District Magistrate is of opinion that all these three conditions concur, then he may pass an order. Now, Sir, having passed an order, this is the sole right which the unfortunate offender has under the Act. I will give to the House the exact words with a view to enable it to judge whether the offender has any right of appeal within the meaning of law or for the matter of that any right of revision as recognised by the Code of Criminal Procedure. The section says:

"The offender may within 15 days of the receipt of the copy of the order require the District Magistrate to refer for the determination of the High Court the question whether the offender is or is not a Burman or is or is not an offender within the meaning of the Act, and, on receipt of such requisition, the District Magistrate shall forward the proceedings together with the requisition to the High Court which shall deal with the reference as far as possible in the manner provided by the Code of Criminal Procedure for the disposal of an appeal."

That is all that the District Magistrate is obliged to do. That is all that the High Court is entitled to go into. That is to say, the two facts, namely, whether you are a Burman and secondly whether you are an offender. Now, the third point and the most important point of which the executive has been made the sole and uncontrolled judge is whether it is desirable to expel him from Burma. On that point the High Court has been given no discretion and that, I submit, is therefore the crux of the whole matter.

Mr. President: Order, order. The Honourable Member has already exceeded his time limit.

Sir Hari Singh Gour: I will wind up in a few minutes. Now, Sir, I submit that there is no justification for the argument that there is a right of appeal to a judicial tribunal.

Sir, reference has been made to the Goonda Act. I do not say that my friend the Honourable Mr. Naidu has misread it because I do not think he could have ever read it at all.

His paraphrase of that Act is so widely different from the language of the Act that I feel astonished. A goonda is defined as a hooligan or other rough, and Bengalis are not excluded. If a Bengali is a goonda he comes also within the purview of the Act. It is an Act which recognises no denominations or races or classes and is circumscribed as regards its operations to the town and purlieu of Calcutta. (*An Honourable Member:* "Section 6 of the Goonda Act.")

Mr. President: Order, order. The Honourable Member cannot now discuss new points. The Chair thought he was going to sum up.

Sir Hari Singh Gour: In a few seconds, Sir. Under the Goonda Act the executive officer is to act with the advice of two advisory judges of the rank of Additional and Sessions Judge. Well, I need not labour this point. I support the motion and oppose this Bill on the following grounds. I submit it is against the policy of British legislation to introduce inter-provincial legislation placing disabilities on the residents of one province from settling down and residing in another province. Burma is part of the Indian Empire, therefore I submit that the people of India as much as the people of Burma have the right of free settlement in any part of the Indian Empire where they choose to live. If they are offenders they pay the penalty for their offences, but that is no reason to deny them the right to reside in the country where they live and have the right to live.

My second submission

Mr. President: Order, order. The Honourable Member must put a restraint on himself.

Sir Hari Singh Gour: I am about to finish. That Act violates international law and the right of asylum. Political offenders and political refugees are admitted into all countries and I, therefore, submit that the punishment of political offenders entitles the Government to expel non-Burmans from Burma, and this offends my notion of international comity.

My third objection is to the word "domicile" and to the fact that there is no right of appeal. I submit, therefore, that the House should support the motion moved by my Honourable friend. *

Lieutenant-Colonel F. C. Owens (Burma: Nominated Official): Sir, I oppose this Resolution on behalf of my Government and I also oppose it because it is the desire of the Burman people that it should be opposed. They regard the tabling of this Resolution as an unnecessary attempt at outside interference in their domestic affairs. (*Some Honourable Members:* "Certainly not. Inside affairs.") There has been a great deal of misapprehension about this Act. The Burma Expulsion of Offenders Act is, I contend, a measure of purely domestic legislation. Its aims, its objects are very reasonable. I have been amazed at the interpretation that Indians in Burma have placed on this Act and on its intention, but I

have never been so amazed by anything that has been said against this Act by Indians in Burma as I have been by what has been said here to-day. The statements that I have heard from the last speaker have amazed me. I am sure that the majority of Members of this House have never read the Act. (*Several Honourable Members*: "You are not right; we have all read the Act.") In the Statement of Objects and Reasons the Home Member of the Burma Government stated that there was a general demand in the country that Burma should no longer be allowed to remain a happy hunting ground for criminals from other parts of the British Empire. It was considered desirable that Government should be authorised to remove from Burma any non-Burman convicted of a serious offence, or who was bound down to be of good behaviour, or against whom an order of restriction had been passed under a local Act known as the Habitual Offenders' Restriction Act. I submit, Sir, no honest, law-abiding citizen can really take exception to these aims and objects.

Mr. A. Rangaswami Iyengar: That is always the tyrant's plea.

Lieutenant-Colonel F. C. Owens: The House has heard what two speakers who have spoken on this motion have said. I confess I did not expect to hear in this House the arguments that were raised in the Burma Council by the opposers of this Bill. I should just like to examine some of the arguments. Now, Sir, the first speaker on this Bill said that, if the Bill was passed, it would hurt the feelings of Indians, and that its mere introduction into the Council raised the presumption that, without Indians, Burma would be a very peaceful country without any criminals. Well, legislation directed against criminals should not hurt the feelings of any honest man. And as regards this presumption, the Bill makes no such presumption whatsoever and nobody who had the slightest experience of Burma would make any such presumption. Our crime figures in Burma are appallingly high and we who live in Burma, Burmans included, freely admit that for the bulk of that crime Burmans themselves are responsible

Diwan Bahadur T. Rangachariar (Madras City: Muhammadan Urban): Why not expel them also?

Lieutenant-Colonel F. C. Owens: We have undertaken special legislation in the shape of that Offenders' Restriction Act which I have just mentioned, and although that Act applies to all persons living in Burma, all offenders, it is not well suited to dealing with criminals who at the same time are not Burmans. Now another Indian said regarding this Act that the Indian newspapers have described the Act as the thin end of the wedge of separation and thought it was aimed at Indians. Well, I quite admit that it is aimed at Indian criminals, in common with other non-Burman criminals. Out of a population of just over 13 millions, the Indians in Burma number not quite 900,000. The Chinese number very nearly 150,000. Practically all the Indians are British subjects and a great many of the Chinese are also British subjects. I am referring to those Chinese who were born in the Federated Malay States and the Straits. Now it is quite clear, having regard to these figures, that Indian criminals outnumber the criminals of other non-Burman races, but I do not think even this is necessarily a fact, and personally I would back the Chinese. Now, I do not know why this Act should be regarded as the thin end of the wedge of separation, and even if it is so regarded, I cannot see why on that account it should be considered objectionable. Separation is a question, I take it, which will be decided on economic and not

[Lieut.-Col. F. C. Owens.]

on racial issues. But the most ardent advocate of separation does not hold that when separation comes to pass all Indians must live on one side of the Bay of Bengal and all Burmans on the other. Now the same speaker went on to say that he was of opinion that no offender ever came to Burma to earn his livelihood by foul means. Well, Sir, I doubt that. Any way the Act is not concerned with the intentions of would-be immigrants. It is only concerned with their actions after they have arrived in Burma, and there can be no doubt that a certain number of Indians in Burma do earn their livelihood by foul means. I should like to quote to the House what a Burman Judge of our High Court in discussing this Bill had to say on the matter. He said:

"The Burmese people will welcome the proposed legislation; they cannot understand why notorious smugglers, keepers of houses of ill-fame and gambling dens and other undesirable persons of races foreign to Burma have been suffered to thrive in this country."

Well, now, Sir, the next critic of this Bill remarked that even members of Indian criminal tribes when they come to Burma become such reformed characters that they do not commit crime. Well, that is very interesting but, I would point out, the Act is not directed against even members of Indian criminal tribes so long as they behave themselves. The same critic went on to ask why in Burma it should be presumed that all Indians are born criminals. Well, Sir, the Act makes no such presumption at all and I can assure the House that we in Burma make no such presumption either. Now, this gentleman in the course of the same speech went on to remark, that since the introduction of the Reforms in Burma he had noticed that Indians had been kept out of public offices and that now plans were being formulated to keep them out of the country also. Well, I deny the latter part of the assertion

Mr. A. Rangaswami Iyengar: We did not say that.

Lieutenant-Colonel F. C. Owens: And as regards the former, I would remind the House that at least two eminent Indians occupy very high offices in Burma and that both these gentlemen obtained their appointments after the introduction of the Reforms. I am not aware, Sir, that any Burman sits as a Judge on the High Court of any Province in India. I am not aware that the Mayor of Calcutta is a Burman; but I do know that the President of the Corporation of Rangoon is an Indian. Another Indian Member of our Council said that this Bill, if it was placed on the Statute-book, would earn for Burma the hatred of all Asia including that of the Chinese and Japanese peoples, Anglo-Indians and Indians, but the Burma Legislature in its law-making capacity could not hurt either the Chinese or the Japanese or Anglo-Indian—apparently because these people could retaliate. He then remarked: "I will at once say there is no foolish person who dares to go to Burma to break your law." Well, on that latter point of course I disagree with him, and as regards the first part of his remarks, if there is any meaning in them, they only go to show that this gentleman knew nothing whatever about the provisions of the Foreigners' Act. The Foreigners' Act is as drastic a piece of legislation as you will find anywhere. Now that Foreigners' Act has been on the Statute-book for a long time. It is directed against all Asia, including the Chinese and the Japanese, except of course British subjects, and yet it has not earned the hatred of those people for India. Now, after all this, the Bill went to

Select Committee and it was very much altered there. The Home Member on reintroducing it, or resubmitting it to the Council said that it had been trimmed down to the narrowest possible limits consistent with its aims and objects. Now, Sir, the Bill was again attacked by the Indian Members. It was denounced as a Bill which "attaches a stigma to the Indian community in Burma and brands Indians as criminals by birth, a Bill which denounces the Indian community as the only community which contains criminals, a Bill which asserts that had it not been for Indian criminals there would have been no criminals in Burma, a Bill which was a foul calumny on the pure reputation of Indians who claimed that they should be allowed to reside in Burma as self-respecting citizens, a Bill that was a gratuitous insult which the Government of Burma had sought to place upon Indians, a Bill which infringed one of the most fundamental rights of a loyal citizen," namely, the right that my friend has just pressed to remain in any part of the Empire in which he desired to remain. Well, Sir, this right is infringed every time a magistrate sends a thief to jail; the thief may be a perfectly loyal citizen, but I venture to assert the part of the British Empire which he desires to remain in is that part of it which is outside the four walls of a jail. It is further described as a Bill the professed object of which is not its real object, which real object was to drive Indians out of Burma as branded criminals. An Indian Member who was a member of the Select Committee stigmatised the Bill as repulsive and humiliating to Indians, a Bill of which the underlying principle was iniquitous, a Bill that was itself atrocious in character. Now, Sir, I have given you specimens of the criticisms that were directed against this Bill in our local Council. I am quite willing to admit that all this denunciation may be classed as pretty hot stuff; but I refuse to admit that it contains either reason or argument. I am quite satisfied, Sir, in my own mind that there is no sinister movement on foot either in this Act or in Burma or anywhere else to expel and to exclude Indians from Burma, and I hold that assurance for a very simple and a very patent reason. The reason is so patent that I am surprised that Indians have lost sight of it. That reason is that Burma could not do without Indians. Sir, God Almighty made Burma and He placed in it the people who are now Burmans. Then the British came along and took over the administration of the country. It was after this that Indians entered Burma, and ever since they have been coming into and going out of the country freely in their thousands. I assert with confidence that Indians in Burma have had and do have a very good time for it is a happy country and I do not grudge them that good time at all; I think they thoroughly deserve it, because in my opinion Indians have done their full share in the development of the country. What is the position of Indians there now? They adorn with distinction our bench and our bar. Many departments of the public service in Burma are staffed by Indians. They prosper as merchants and traders in our towns. They hold land all over Burma. You will find them engaged without let or hindrance in the various pursuits of life which go to make up the economy of a civilised country. (*An Honourable Member*: "Have they had domicile?") Now, I just want to picture to the House what the consequence would be if we expelled and excluded Indians from Burma.

Mr. A. Rangaswami Iyengar: That is what this Act will do.

Lieutenant-Colonel F. C. Owens: Our railway trains would come to a standstill. The great fleet of steamers belonging to the Irrawaddy Flotilla

[Lieutenant-Colonel F. C. Owens.]

Company, which cover our waterways and which form practically the only means of communication in the rich and prosperous delta of the Irrawaddy from where I have just come, would cease to run; our rice mills would cease working; ocean-going steamers in our ports could neither load nor unload; public works activity would be paralysed; hospitals and dispensaries would close down, sanitation would disappear.

Pandit Shamlal Nehru (Meerut Division: Non-Muhammadan Rural): You have forgotten law and order.

Lieutenant-Colonel F. C. Owens: We could not keep up our public accounts and Government officials, including myself, would not be able to draw our pay. In addition I should be deprived of my cook and butler and various other servants, and the Burmans would no longer be able to ride in rickshaws. Events which took place only in last September will show that I have drawn no exaggerated picture to this House. In September last the crews of the steamers of the Irrawaddy Flotilla Company—all of them Indians—went on strike. For the four or five weeks during which that strike continued communication in a greater part of Burma was by foot only. At that time I was in Bassein, the Divisional headquarters of Irrawaddy or the Delta Division of Burma, and I can personally testify to the great inconvenience and the great loss which was caused by that strike to all sections of the community. I received numerous petitions imploring me to induce Government to put an end to the strike and to cause the steamers to run again. So universally were the effects of this strike felt that even small fishing hamlets in my Division were affected for they could not get their fresh fish to Rangoon markets. Now, I ask this House, can any one seriously imagine that we in Burma are so foolish as to take action which would bring about these consequences?

Mr. A. Rangaswami Iyengar: That all depends.

Lieutenant-Colonel F. C. Owens: Now, Sir, I pass to the Act

Mr. President: The Honourable Member being new, the Chair has allowed him sufficient latitude by giving him five minutes more than his time. Will the Honourable Member now please bring his remarks to a close?

Lieutenant-Colonel F. C. Owens: Now, Sir, I should like to make a few more remarks. Our crime figures in Burma are very high. For the last ten years, they have been going up at an alarming rate, and every one admits in Burma that for the bulk of our crime the Burmans are themselves responsible. (Hear, hear.)

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): How many Indians?

The Honourable Sir Alexander Muddiman (Home Member): I would appeal to the House not to interrupt the Honourable Member as this is his maiden speech.

Lieutenant-Colonel F. C. Owens: And one of the recommendations that Committee made was to amend our Habitual Offenders Restriction Act, so as to provide for a person not domiciled in Burma but who came under that

Act being sent back to the country from which he came instead of his being restricted to a place in Burma. It was held that the suggested amendment went beyond the scope of the Offenders' Restriction Act which provides for supervision of a restricted person, and obviously the Burma police could not supervise a person restricted to some village in India.

In order to give effect to the recommendation it was necessary to have a new Act and the Act now under consideration is this new Act. Had we been able to amend the Offenders Restriction Act we should have attained our object just as well as we shall do under the new Act and I venture to suggest that the amendment would have excited no comment. There can be no doubt that Indian Members in Burma completely misrepresented the Act in our Council. I do not for a moment think that they have wilfully done so. Rather I think they have genuinely misunderstood it. As soon as they found we were enacting new legislation which did not include Burmans they at once suspected a plot against Indians.

Sir Hari Singh Gour: What about Europeans and Anglo-Indians?

Lieutenant-Colonel F. O. Owens: There was and there is no such plot. We desire to treat our Burman and our Indian criminals alike, so far as it is in our power to do so. We are quite willing that any province in India should take measures such as we have to send back to Burma all Burman criminals. This Burma Act is part of an attempt by the Burma people to put down crime in the province and no member of any other province has any right to put an obstacle in the way of that effort. This Act was passed by 56 votes to 15. The minority consisted of 10 Indian Members and 5 European non-officials. The only reason why the Europeans voted against the Act that I have been able to discover is the reason mentioned by my friend Sir Hari Singh Gour and that was that the Bill as it emerged from the Select Committee had been so revised that it was innocuous. (Laughter.) We had that point before, but it is a matter of opinion. Government and every Burman Member present at the division, and they numbered 41, voted for the Bill and I claim that this is an Act wanted not only by Government but also by the Burmese people. Legislation in the shape of Bengal Act No. I of 1923, similar to that under discussion, has been passed in India without interference and without raising a murmur. Why then should Indians assert that the Burma Act is an insult to Indians? I am quite satisfied that no Member of this House really regards it as such. The Resolution before the House asks us to recommend that this Burma Act be disallowed or repealed. I regret to say, Sir, but I cannot hide from myself the fact, that a racial complexion has crept into this matter and I have no doubt in my own mind that in legislation directed against criminals racial issues should find no place. I must face facts as I find them and I confess I agree with the Home Member of my Government when he said that if racial issues had been introduced into this matter, their introduction was due to the extraordinary interpretation which Indians had placed on this Act. The fate of this Resolution, like the fate of all Resolutions in this House, depends on the Indian Members. Though I am a Government official, an agent of a much criticised bureaucracy, I do not address this House as a wholly irresponsible person. At least it must be conceded that I have lost the irresponsibility of youth and that I have some experience of Burma. I say to my Indian friends, why should you quarrel with Burma?

Mr. A. Rangaswami Iyengar: We do not.*

Lieutenant-Colonel F. C. Owens: What will you gain by carrying this Resolution? And I answer, you will gain a reputation for upholding criminals.

Mr. A. Rangaswami Iyengar: No, no.

Lieutenant-Colonel F. C. Owens: That is not desirable. You will also gain another victory over Government. You have gained many such victories. One more or one less, does it matter? Sir, anything may happen within the next few years. Swaraj may be in full swing, or it
 4 P.M. may be, British officials will still be associated with Indians in the administration of this Empire. But whatever the circumstances, the facts of Geography will still stare us in the face, and Burma will still be India's next door neighbour.

Mr. President: Order, order. Considering that this is the Honourable Member's maiden speech, the Chair did not want to give him repeated warnings.

Lieutenant-Colonel F. C. Owens: May I bring this to a close? I assume, whatever the circumstances, all Indians desire to live in amity with that neighbour. Friendship is not a trifling matter. Friendship is desirable, not to be thrown lightly away. I do not stand here to threaten. Such an attitude would be distasteful to me; it would be disowned by my Government and repudiated by the people that I represent. But I stand here to set out the facts of this matter fully and freely before this House and I have endeavoured to do so. I also stand here to assert the right, the reasonable right of Burmans to manage their own affairs and to assert their reasonable claim that in matters of domestic legislation they shall not be dictated to by Indians. In this matter the Burmese people have arrived at a decision and they will tolerate no interference, and I say to my Indian friends here, if you carry this Resolution you may gain another victory over Government, but at the same time you will incur and deservedly incur the resentment of the Burmese people. Therefore, I invite my Indian friends to join with me in opposing this Resolution.

Mr. M. A. Jinnah: Will you allow me to ask one question of the Honourable Member? I did not want to interrupt him. Will he kindly tell us, as he represents the Government of Burma, how many Indians were convicted of the offences mentioned in Schedule I and Schedule II in the preceding two years?

Lieutenant-Colonel F. C. Owens: I should like to have notice of that question.

U. Hla (Burma: Non-European): Sir, I rise to oppose the Resolution on the ground that this Bill was passed in the Burma Legislative Council by a majority of 56 to 15 and those who voted against the Bill were non-Burmans. It shows that the people of Burma, particularly the Burmans, are in favour of the Act. I oppose the Resolution also on the ground that the interference of the Central Legislature in a matter like this is repugnant to the principle of provincial autonomy. This Act does not in any way prejudice the legitimate interests of Indian residents in Burma and is essential for the promotion of law and order in that province. Sir, with these few words I oppose the Resolution.

Diwan Bahadur T. Rangachariar: It is difficult to speak with restraint on a motion like this supported as it has been by a Government representative. It is a sad irony of fate that at this particular moment we should be debating this elementary proposition. We are now supposed to be in conflict and correspondence with the South African Government for trying to put on its legislative Statute-book a measure denying to Indians there the elementary rights of Empire citizenship. As I said, it is a sad irony of fate that we should be discussing this question as if it was open to discussion that an Indian citizen living under the same Central Government in one part of the country should be denied the rights of citizenship by that Government in another part. That Britishers should solemnly stand up here and defend this proposition amazes and astonishes me. Let my English friends understand a parallel situation. What will be the ire roused in Scotland, for instance, if London undertook legislation saying that if a Scotchman committed an offence in London he is not only to be punished with the ordinary punishment of imprisonment or fine, as the case may be, but that he should also be punished with the punishment of expulsion from England because he is a Scotchman. That is exactly the analogous position here. Just as Scotchmen in England are aliens, so Indians in Burma or any other of His Majesty's Indian subjects are aliens. Welshmen for instance. Are they to be treated in England in the way in which Indians are sought to be treated in Burma?

Pandit Shamlal Nehru: Will the Honourable Member tell us who made England?

Diwan Bahadur T. Rangachariar: I am not concerned whether anybody made England or not. They are His Majesty's subjects owing allegiance to one Government. This Bill stinks in my nostrils. What is the meaning of talking of domicile in one part of the country all under one Government. You may then talk of district domicile. You may talk of provincial domiciles. Have I got my domicile in my Tanjore District or have I got my domicile in India? Is Burma part of India or not? (An Honourable Member: "No.") Who says "No"? (An Honourable Member: They say it.) I have my domicile in every inch of India. I cannot understand any lawyer permitting this piece of legislation to go in. I can speak of aliens having acquired domicile. Are we aliens in India? Has it come to that? Is that the trusteeship of the British Government? Is that the way they are discharging their duties here? I am ashamed to ask Britishers to protect Indian citizens in India itself. How can the Indian Government stand up to-day on the floor of this House and defend this measure and at the same time be cabling to the South African Government? I hope this debate will be communicated to the South African Government in full. South African Government representatives are up in the gallery I am sure. I hope, Sir, when the Government Member does rise to support this Act, the whole of his speech will be transmitted to South Africa. With what sense of justice, with what face, can you appeal to the South African Government not to pass their laws for their domestic control? If you stand up here and defend this Act, then why not confess that South Africa is justified in taking the measures she is taking. Are we sincere in our protests? If you allow this measure to be enacted, what will happen? My friends the Pathans are not welcome in Bombay, not the Afridis from across the border, but the Pathans who are subjects of

[Diwan Bahadur T. Rangachariar.]

His Majesty in British India. The Bombay Government can pass a Bill saying: "These people commit crimes in Bombay and we punish them, fine them, put them in jails and bind them over for good behaviour, but these steps are not enough: over and above we want the power to expel them from Bombay". If they were to say that I would be the first to protest. If you want the power of protecting your own province against your own citizens you have no business to send them out of it. It seems marvellous to me that a Government cannot only punish its subjects for the crimes they commit but add to the punishment in another shape simply because the offender does not happen to belong to the province. Why that course may very well be adopted by many a District Board or Local Board. I know across the border of my own district of Tanjore there are many criminal tribes in Bellary, and the District Board of Tanjore might very well ask for legislation by which a Bellarian who commits a crime in Tanjore should not only be given the usual punishment but should be expelled as well. That is racial discrimination. Sir, the Government which does that is an impotent Government. It does not deserve the name of Government if it cannot take care of its own subjects. I do not know whether this Act is directed against Indians or others, but it is aimed at the subjects of His Majesty, His Britannic Majesty, for whom I have the greatest respect and loyal love. Sir, if this piece of legislation is to be tolerated by that Government, I must take leave to say that I can no longer love that Government.

U. Tok Kyi (Burma: Non-European): Sir, I feel bound to say a few words on this Resolution for it is the direct outcome of the legislation in the province from which I come. Some time during last year two Bills were introduced into the Burma Legislative Council,—one is to impose a tax on passengers that come into Burma by sea and the other is the Bill now under discussion in this House. These two Bills have been described, and I think rightly described, as the Black Bills of Burma, as they have done grave injustice to Indians and have also outraged their self-respect. Of course there are some Indians who think that the Expulsion of Non-Burman Offenders Bill is not objectionable. (*An Honourable Member*: "Black sheep.") Yes, there are black sheep everywhere, but I think every Indian with self-respect and with the right sentiments will object to it. Sir, I, as a humble public man, have condemned both these Bills publicly at two huge meetings. The first meeting was held soon after these two Black Bills were introduced into the local Council, and the second meeting was held soon after they were passed, but before the assent of the Governor General was given. But the resolution passed at the second meeting seemed to have no effect whatever on His Excellency the Viceroy so far as the Expulsion of non-Burman Offenders Bill was concerned. His Excellency the Governor General has withheld, and I think rightly withheld, his assent to the Burma Sea-Passengers Tax Bill.

Diwan Bahadur M. Ramachandra Rao (East Godavari and West Godavari *cum* Kistna: Non-Muhammadian Rural): May I ask the Honourable the Home Member, Sir, whether the information is correct?

The Honourable Sir Alexander Muddiman: That is not my information, Sir, but my Honourable friend may be in closer communication than I am.

U. Tok Kyi: Sir, I, as a humble man, am not initiated into the mysteries of the offices of the Government of India, but according to the public press I understood that His Excellency the Viceroy had withheld his assent to the Sea-Passengers Tax Bill or refused to give assent, but he had been pleased to give his assent to the Bill which is the subject of this Resolution. Sir, from what I know of these two Bills, I think they both of them are anti-Indian. It has certainly been admitted by the Government that one of the Bills was directed against the Indians especially. With your leave, Sir, I should like to read out a portion of the Statement of Objects and Reasons of the Bill:

“ * * * the present Bill, which, if passed, will impose a tax on all adult persons entering Burma by sea with such saving provisions as will have the effect of broadly limiting the effect of the Bill so that it will be preventive of evasion of the payment of capitation-tax and *thathameda*-tax. The vast majority of these persons are temporary immigrants who arrive from India to take employment as labourers in Burma for a few months, when they return to India, taking with them substantial sums which they have saved from their earnings in this Province.”

From this extract it is quite clear that one of the two black Bills was aimed at the Indian. But in the case of the other Bill, that is, the Expulsion of Non-Burman Offenders Bill, the Government spokesman has denied that it was directed against the Indian. My Honourable friend Colonel Owens said that the Bill was aimed not only at Indians but also Europeans and other foreigners who live in Burma. Sir, whatever he might have said, I think both the Bills are directed against the Indian and Indian alone. For the other non-Burmans we have got the Foreigners Act of 1864 (III of 1864), and that Act has been used against other foreigners, especially Chinamen. Many Chinamen have been and are being deported from Burma. Unfortunately, this Act cannot be applied against Indians because they are British subjects. Therefore, the Government have invented a new measure so that they may use it against Indians in the same way as they use the Foreigners Act against Chinamen and other foreigners. Sir, if the Bill under consideration is meant for all foreigners as in the case of the two enactments mentioned in the “Statement of Objects and Reasons” of the Expulsion of Non-Burman Offenders Bill, I think no one could have raised any objection. Sir, let me quote a portion of the Statement of Objects and Reasons of the Expulsion Bill. It runs follows:

“ There is a general demand that Burma should not be allowed to remain the happy hunting-ground of criminals from other parts of the British Empire and that the powers of removal already possessed in respect of persons twice convicted of the offence of begging in Rangoon (section 41B of Burma Act IV of 1899), of persons of European extraction convicted of certain offences under the Burma Suppression of Brothels Act (section 17 of Burma Act II of 1921) and of European vagrants should be extended so as to cover any non-Burman convicted of a serious criminal offence or bound over to be of good behaviour.”

Sir, if the Bill under consideration is meant for all the foreigners just as the two enactments for the Suppression of Beggary and the Suppression of Brothels—if the Expulsion Bill is really meant for all offenders as the two Acts I have just mentioned,—I shall be in a position to support it, but as it is the Bill has created racial distinctions and no man with a sense of duty to his fellow beings can give any support to it.

Sir, the Bill is a negation of justice to Indians and is based on principles entirely unground and openly mischievous. The very fact that the two anti-Indian Bills were introduced about the same time in the Burma

[U. Tok Kyi.]

Legislative Council undoubtedly shows that there is an unworthy attempt to set up Burmans against Indians. To expel non-Burmans from Burma indeed! I am afraid the day will soon come when non-Bengalis will be expelled from Bengal! Non-Madrassis will be expelled from Madras! Non-Punjabis will be expelled from the Punjab! (*Several Honourable Members*: "Non-Biharis from Bihar! And a Meerut man from Delhi! Create more provinces.")

Sir, as I have said, the Bill is based on mischievous principles. It will be presumptuous on my part to go into the legal aspects of the Bill. Eminent lawyers, like my Honourable friends Sir Hari Singh Gour and Mr. Rangachariar, have gone fully into the legal aspects; but, Sir, the constitutional aspect of the Bill has presented some difficulty. As my Honourable friend U. Hla has pointed out, the Resolution before the House is certainly repugnant to the principles of provincial autonomy. My Honourable friend Lieutenant-Colonel Owens too has pointed out that this Bill was passed in the Burma Legislative Council by a large majority, 53 against 15. I think it is inadvisable,—nay, it is wrong, to interfere with the decision that has been arrived at by so large a majority in a Provincial Legislature. I have given days to this question, but eventually I asked myself: "What are you going to do in the case of anti-Asiatic Bills in South Africa that will soon be coming up before this House?" In half a second I could answer the question. Sir, I prize great principles of justice and liberty better than mere economical advantage and I think my duty is obvious. I will vote for the Resolution even if Burma be enjoying a provincial autonomy which she is not.

Before I sit down, Sir, I should like to join issue with Colonel Owens on one point. He said that this Bill was passed with the desire of the bulk of the Burmese people. I deny it with a full sense of responsibility. This Bill was passed by the first Legislative Council in Burma which, as everybody who takes an interest in Burma knows, was boycotted by the majority of the people, and we cannot say that it represents the wishes of the people of Burma. On the contrary, Sir, this Bill, together with the other Black Bill, has been condemned by U. Chit Hlaing whom I may not be wrong in describing as the Gandhi of Burma in respect of his influence over the mass of the people. He has publicly condemned the Bills. And another popular leader who is well known in India is the Rev. U. Ottama. Of course he is in jail now, but though he is in jail, he commands a great deal of influence still. I see Mr. Tonkinson laughing. He could not afford to laugh three years ago, but now he does! Though Rev. Ottama is still in jail, I am almost sure that he would never support the Bill; in fact he would have opposed it, as I am doing now. My Honourable friends close by are asking me to say something in reply to Rai Bahadur Naidu, but I want to leave him severely alone this time. Sir, I support the motion.

Dr. S. K. Datta (Nominated: Indian Christians): Sir, there must be some hiatus in our quasi-federal constitution which permitted a Bill of this kind to be introduced into a Provincial Legislative Council. I do not know whether this Bill on its own merits ought to have the opposition that it has had. I am ignorant of the problem which the Government of Burma is faced with. On the other hand, I am concerned with the very grave constitutional issues which, as far as I know, have not yet been touched upon. All modern constitutions, and particularly federal constitutions,

insist on equality of all citizens, it does not matter whether resident or domiciled, in whichever of the component States they might be. That is fundamental to a federal constitution. Now Sir, if you will permit me, I will ask the House to follow me while I refer to an Act passed by the New South Wales Legislature, which is one of the States of the Commonwealth of Australia. This Act was termed the Influx of Criminals Prevention Act of 1903, (N. S. W.). It laid down that:

“If any person other than a person who has been resident in New South Wales has been convicted in any other State of an offence for which in such State he was liable to suffer death or to be imprisoned for one year or longer and if before the lapse of 3 years after the termination of any imprisonment suffered by him in respect of any such offence such person comes into New South Wales he shall be guilty of an offence against this Act.”

There is the case (a celebrated case) of John Benson, an inhabitant of the State of Victoria, who had been convicted in Victoria and proceeded to New South Wales. He was arrested under this Act and sentenced to imprisonment. He finally appealed to the High Court for the interpretation of the law, and here is the decision of the High Court of Australia: It was held by the High Court that:

“the conviction was had on the ground that the power of the Parliament of a State to make laws for the exclusion of persons whom it thinks undesirable immigrants is limited to the making of laws for the promotion of public order, safety or morals and that the exclusion of a person convicted of such an offence as that of which the accused was convicted in Victoria was not within the power as so limited.”

Mr. Justice Isaac, another of judges, held:

“As to section 92 ‘(of the Australian Commonwealth Act)’ which is the only section I find it necessary to deal with, the applicant contends that the word ‘intercourse’ is unlimited, and refers to all transit of persons, and that the words ‘absolutely free’ are so large as not to be susceptible of reduction by exceptions.”

Then he goes on to say:

“In my opinion the guarantee of inter-state freedom of transit and access for persons and property under section 92 is absolute—that is, it is an absolute prohibition on the Commonwealth and States alike, to regard State borders as in themselves possible barriers to intercourse between Australians.”

That was the law laid down by the High Court of the Commonwealth of Australia. Not merely that. I have taken the trouble to consult the constitution of the United States of America. I have also referred to the text of this constitution as quoted in Bryce’s “American Commonwealth”, as also the constitution of the State of Oklahoma. States are prohibited from embarking on differential legislation and that to my mind is a much greater issue than the particular issue raised on this particular Act. May I also point out further that if the Honourable the Home Member will give me the assurance that he will move through whatever authority there may be to bring about such a change in our constitution that the freedom of a subject and his equality in the law of British India is guaranteed, I for one will vote against this particular Resolution, provided he will give me a guarantee to ensure in our constitution that any Provincial legislation which differentiates between His Majesty’s subjects in India will be void. As I said before, I am not sufficiently in touch with the circumstances which led to the passing of this Bill. I have not had enough of information one way or the other, but what concerns me is the constitutional issue, and I would ask, indeed I would urge upon this House, that if it does vote for this Resolution it may be with the higher purpose of obtaining

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a guarantee that no section of British Indian subjects within the Indian Empire may be differentiated against. I may say that the fear of the passage of this particular Bill is not inherent to the Bill itself. The fear is that this Bill might lead to further differential legislation and give sanction to the principle of differentiation and it is this issue I would bring to the notice of this House and of the Honourable the Home Member who represents the Government of India.

The Honourable Sir Alexander Muddiman: Sir, I think this is one of the most interesting debates I have ever listened to in this House, for the House is here debating both a practical problem and a constitutional issue. It is not often we have the advantage of obtaining the attention of this House to Burman affairs. In a long connection with the Legislature of this country I can hardly recollect any occasion on which Burma has taken up so much of the time of the House. We have further had the opportunity of hearing, I think, every Member who comes from Burma on the issue under consideration.

Now, Sir, I should like to bring the House back to what the Resolution actually asks for before I deal with certain other aspects of the case. The House asks the Governor General to either move the Secretary of State, and presumably through him His Majesty, to disallow the Act or to bring in legislation in this Legislature to repeal it. In other words this House proposes to sit in judgment on an Act passed by a local Legislature. Now that is a proposition to which I shall revert in a short time. It needs careful consideration, and I might point out to the House that it will have reactions of an important character. There is a big constitutional issue on that point.

I come to the further point, the merits of the Bill. I shall deal with that first. Now, I may say that, as my Honourable friend who has just sat down (Dr. Datta) frankly admitted, very few Members of this House can have the slightest idea of what the condition of affairs is in Burma and they are not in a position to form a judgment as to the necessity or the reverse of this Act. He admitted that very frankly and that is the position in which I think many other Members of the House will find themselves. But we have had the advantage of reading the debates in the Burma Council, and we have had the advantage fortunately of hearing every Member who comes from Burma, on the practical issue. Now, I notice that the Bill was introduced in the Burma Council by the Burma Home Member who is himself, I am informed, a Burman. Therefore, there can be no question of his not being fully convinced of the desirability, from his point of view at any rate, of the legislation. It was no case of the Home Member being a non-Indian which unfortunately afflicts the Government of India; it was a case of a son of the soil speaking on behalf of, and to the sons of, the soil. That is one point.

The next point is this. All the Members from Burma have spoken—and here I turn aside to congratulate Colonel Owens on his excellent and eloquent speech which to me was full of interest. The speech of a man who spoke obviously from his heart and with a full knowledge of the people for whom he was speaking. We have also had a speech from an Indian, who represents a Burman constituency in this House who was quite clear that as far as he was concerned he could see no objection to the Bill. We

have had the speeches of two Burman Members. They were divided in view; one was in favour of the Bill, and the other was not. The other who was not, has, I understand, not been very fortunate in suffrages of his own countrymen. . . .

Mr. A. Rangaswami Iyengar: That is wrong; he has been returned to this Assembly twice.

The Honourable Sir Alexander Muddiman: I am told that it is wrong; I understood he was somewhat unfortunate in the local elections.

Mr. A. Rangaswami Iyengar: That may be because of the boycott.

The Honourable Sir Alexander Muddiman: Somewhat unfortunate in the local elections. Sir, I have endeavoured to examine the evidence which has been supplied to us by those who have acquaintance with the habits and customs and the interests of Burma; in so far as the Members who have spoken are Burmans or have Burman experience, the majority is clearly in favour of action such as has been taken. I do not here, Sir, propose to consider, nor is this a debate, I suggest to the House, in which we have to consider the provisions of the Bill in detail. Some of the speeches really suggested the thought that the House was itself taking a new Bill into consideration. Surely, I think there can be no one who imagines that an Act of this kind can be debated either usefully or properly in this Assembly at this stage. I quite see there may be points of constitutional importance which justify and require a debate in this House. I do suggest myself that we should not attempt to go through the details of the Bill,—I shall not certainly do it,—nor do I think the House as a whole would wish that I should do it.

We then come to another aspect of the case, and that is the practical position. Here you have the fact that extraordinary measures have been taken in Burma, whether justified or not, against persons who are non-Burmans. Now the House must clearly understand that the problem of dealing with criminals who come from another part of the country at times is very difficult for the local authorities. The Bengal Members here will agree with me, and I should think that the Bombay Members would also agree, when I say that if you have persons who belong to a different race, who have different customs and habits and who have a different language and are forcible in their methods, they may involve the province which they invade in considerable trouble. I myself have seen, and my Honourable friend the Mover of the Resolution may recollect it, that a great deal of trouble was caused in a certain bazar on the banks of the Hooghly by certain persons who proceeded to collect debts in a somewhat forcible manner with what in those days were known as *lohabundis*. I am not at all prepared to subscribe to the proposition that special measures are not justifiable against persons who come from other provinces, whose language and habits are unknown to the local police and whose methods and forms of crime differ entirely from those adopted by the indigenous population.

The next point I wish to bring before this House is this. It has been found necessary to enact this legislation in other places, and that legislation has not attracted the unfavourable criticism which this legislation has. It has been found necessary in Bengal, and it is possible under the

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Goonda Act, in spite of what was said, to exclude from Calcutta a Bengali, and to exclude from the Presidency, a Bengali not born in Bengal. There is in fact in Calcutta

Mr. A. Rangaswami Iyengar: You cannot exclude a Burman under this Act from Burma.

The Honourable Sir Alexander Muddiman: There is in fact in Calcutta deportation not only outside the province but within the province. Why have my Honourable friend, who comes forward with such enthusiasm to protect the Indian in Burma, and his people taken such precautions to protect themselves and their homes within the Presidency area in Bengal? I have no doubt that my Honourable friend thoroughly approves of it, at least he does not deny it. That is the case as regards the Goonda Act]

[Now, there is a further difficulty in dealing with which I should like to meet my Honourable friend Diwan Bahadur Rangachariar. He said, "Good gracious, what a dreadful thing is this; how would you like Scotchmen who have been convicted to be sent back from England to Scotland?" Well, Sir, it would be a harsh thing to do for any man. I agree (Laughter). But the analogy is incomplete. I understand that most Scotchmen, at any rate, now-a-days speak English. Therefore, they are in a position to be dealt with by the local police far better than

Sir Hari Singh Gour: I am very sorry to interrupt the Honourable the Home Member, but may I point out that the police in Burma is mainly manned by Indians. Is the Honourable Member aware of that? Most of the police in Burma are Indians. Is he aware of that?

The Honourable Sir Alexander Muddiman: We shall be glad to have information from Sir Hari Singh Gour on any subject, but I have considerable reason to believe that it is incorrect. As I said, the analogy of Scotland and England is not complete.

Diwan Bahadur T. Rangachariar: It will break the Union.

The Honourable Sir Alexander Muddiman: I have not yet attempted to touch on the constitutional side. On the practical side I fail to see why any province should not take measures to deal with offenders of a particular class who are unusually difficult and unusually dangerous to be dealt with by the local police, and the time may yet come when the inhabitants of Madras city will be passing a Bill similar to that which we are now discussing.

Diwan Bahadur T. Rangachariar: I would cry "Shame on them".

The Honourable Sir Alexander Muddiman: The Honourable Member may cry shame for that matter on the Mover of this Resolution. He has had to do it in his own province.

Now, my Honourable friend Mr. Rangachariar raised a very dangerous ground, one which I myself consider a very serious ground. He said, "Good Heavens, if you do not absolutely recognise the appalling nature of this Burman legislation, you will be endangering our position with the South African Government". That, Sir, is a very important point

indeed. If it were really so we should have to proceed with great caution. I myself believe that it is not so. I believe there is no parallel between the two cases.

Diwan Bahadur T. Rangachariar: They will catch hold of this as an argument against us.

The Honourable Sir Alexander Muddiman: Mr. Bore will say a few words to the House on this subject and as my own time is limited, I will leave that point for him to dispose of.

Now, we come to the constitutional issue. It is suggested, as I understand the argument, that the correct scope of the Provincial and Central Legislatures is such and is so conceived that this legislation, if enacted at all, should have been enacted in the Central Legislature.

Mr. A. Rangaswami Iyengar: Quite so.

The Honourable Sir Alexander Muddiman: That is the first point. It is one of great interest. The House is well aware that a correct definition of the spheres of the Provincial Legislatures and the Central Legislature with the Provincial Governments and the Central Government is one of the most important steps that must be taken before any great advance can be made in the direction which is so dear to the hearts of many in this House. It therefore becomes necessary that we should scrutinise with some accuracy the arrangement which exists under the present constitution, and here I should like to make it quite clear that Dr. Datta was apparently arguing on the analogy of the Australian constitution. There is no such analogy. You may have divided spheres of legislation in several ways. It is not for me at this moment to contend which is the best or the right one. It is sufficient for me to explain what the system at present adopted under our own system is.

Dr. S. K. Datta: May I interrupt, Sir? I did not contend that there was any analogy. I held that in our constitution there was this grave omission.

The Honourable Sir Alexander Muddiman: Well, Sir, it may be so. The Honourable Member will perhaps permit me to proceed in my own way. The present arrangement is this. You may define the subjects which the Provincial Legislature may take up by Act or statutory enumeration or in any way you like, and you may leave the remainder to the Central Government. That is a method which, if pursued, leads to litigation to an extent which is almost intolerable. It nearly always results in the first point being taken on every appeal that the provincial Act was *ultra vires* of the constitution. You may also proceed as in India, whereby there are certain subjects where previous sanction is required. The previous sanction is not of the Governor General in Council, but it is the previous sanction of the Governor General.

Mr. A. Rangaswami Iyengar: That is the mischief.

The Honourable Sir Alexander Muddiman: That may be so, Sir, but that is not the point we are discussing at present. I am merely pointing out that that sanction, which is necessary for a Provincial Legislature to get seisin of a Bill such as this, was given. That sanction having been given, the Provincial Legislature proceeded to discuss the Bill and

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discussed it under circumstances which are far more favourable to the consideration of its details than can possibly be the case in this House. They discussed it at great length. They enacted it by a considerable majority. And now I should like to refer the House to a document that is often quoted—I refer to the report of the Joint Select Committee in which they laid down that in provincial matters which are reserved where the Provincial Government and Legislature are in agreement they should ordinarily be allowed to prevail. Whether that is or that is not a complete and exhaustive statement of the constitutional relation I am not prepared to say, but it is, at any rate, an authoritative pronouncement which merits attention. I do not place it higher than that. Therefore, I say that it would have been an extremely strong step for any authority having before it a Bill of the provincial Council duly enacted, duly assented to by the executive Government and by the executive authority who is empowered to give final assent in India to interfere. This Resolution in effect asks us to revise the deliberate judgment of a provincial Legislature on a provincial subject after the sanction required by the law had been duly obtained, and therefore, both on the merits and the constitutional position, I trust the House will consider very carefully before it passes judgment on this very important Resolution

Mr. A. Rangaswami Iyengar: May I know whether, in regard to this previous sanction given by the Governor General under the previous sanction rules, the Government of India have not had instructions generally issued to Provincial Governments as to the manner in which previous sanction should be obtained in respect of laws which have got to be previously sanctioned by the Governor General, and whether these instructions were followed in this case?

The Honourable Sir Alexander Muddiman: I do not know what the Honourable Member wants. I have not the faintest idea of contending that the sanction required by the previous sanction rules is not the sanction of the Governor General. If he is inquiring of the procedure, the sanction required under the previous sanction rules is the sanction of the Governor General

Mr. A. Rangaswami Iyengar: I want to know whether there are any set of instructions issued by the Government of India to the Local Governments in regard to obtaining this previous sanction.

The Honourable Sir Alexander Muddiman: My Honourable friend behind me is more familiar with these details and if he is in possession of them he will be able to supply the answer. I was endeavouring to point out to the House that while I in no way attempt to defend the individual provisions of this Bill,—that is no part of my business and I suggest it is no part of the business of this House to consider them—I assert that on the merits there is nothing unreasonable or improper in a Provincial Legislature in taking action against criminals coming from other provinces where special conditions exist. I cannot admit that that is in any way an infringement of the ordinary right of free movement which I agree with Dr. Datta should exist between provinces under one Central Government. I do not admit that there is any infringement in this case. I contend that constitutionally this House would be wrong, it would be taking a very dangerous step if it

attempted by its verdict on this Resolution to indicate that it is prepared to revise an Act of a Provincial Legislature which has been passed by a large majority in that Provincial Legislature. On these grounds I am afraid I must, though reluctantly, oppose this Resolution.

Mr. O. Duraiswami Aiyangar (Madras ceded districts and Chittoor: Non-Muhammadan Rural): I only want to ask the Honourable Member one question

Mr. President: Is the Honourable Member (Sir Alexander Muddiman) prepared to answer a question?

The Honourable Sir Alexander Muddiman: I am not prepared to answer a question. If the Honourable Member is prepared to make a speech, I am quite prepared to deal with it in my reply as far as I can.

Mr. Bipin Chandra Pal (Calcutta: Non-Muhammadan Urban): I desire to say just a very few words. The first thing that strikes me is this, that whatever may be the exact constitutional position of this House, this House has no justification as a Central Legislature representing the whole of India and all the provinces unless it is fit to intervene in quarrels between one province and another or between one province and the rest of the Indian Empire. And the issue here is really between the Government of Burma—

5 P.M. I will not say the people of Burma because that may be or may not be true—but the issue here is between the Government of Burma on one side and the people of India on the other. Mr. Rangachariar has drawn attention to the analogy of South Africa. That struck me also. If we are excluded for whatever reasons it may be from one Indian province by the local Legislature on the strength of its right of provincial autonomy which was advanced by my friend there, I do not see how we can oppose justly and reasonably the action of the South African Government. That is one point.

In the next place, Sir, what I find is this. I have read this law with some care and I find that it is a very wide law. Reference has been made to the Goonda Act in Calcutta. Now the provisions of the Goonda Act are not so wide as this Burma Act. The *goonda* is defined there. He is defined as a hooligan and a rough. That is one thing but here the undesirable Indian is not defined at all except that he has committed an offence and has been punished under a number of sections of the Indian Penal Code. One of these sections is 124A. Now, if I went to Burma and made a speech which was considered by the Local Government as coming within the purview of section 124A—and we know, Sir, the great latitude that has been given to the interpretation of this section by Indian courts—and that section applied to me, I commit an offence. I deliver a speech and I am convicted of sedition, and I am classed as those who have made Burma the happy hunting ground of their criminal activity. Now that is one thing. There are several other things also. I will not trouble you with my own opinion which may be partial. I will quote to you the interpretation which was given by the representative of the Burman European community to the provisions of this Act. If you will kindly bear with me for a few minutes, I will tell you what he thought of this Act. Mr. d'Granville says:

“When I read the Statement of Objects and Reasons attached to this Bill I was very pleased indeed. When I looked at the Bill itself I find that persons convicted of the most trivial offences may be deported provided they are non-Burmans.”

[Mr. Bipin Chandra Pal.]

That is not my opinion. It is the opinion of the representative of the Europeans in Burma. He goes on to say :

"The Statement of Objects and Reasons talks of vagrancy. It talks of serious criminal offences. Yet, the Bill itself extends to such petty things as insults. A man calls another a liar. That is an insult likely to cause a breach of the peace and if he is a non-Burman on conviction by a first class magistrate he can be fined Rs. 5 or he can get two years and incidentally he may be called upon to show cause why he should not be deported."

Mr. H. Tonkinson: May I point out that my Honourable friend is reading from Mr. d'Granville's speech on the motion for introduction. That speech was dealing with the Bill as introduced. My friend, Mr. d'Granville, was not dealing with the Act as passed.

Mr. Bipin Chandra Pal: Now the Act as amended contains these Schedules.

The First Schedule :

"Any offence punishable under any of the following sections of the Indian Penal Code, namely :

sections 121, 121A, 122, 123, 124, 131, 131A . . . "

and so on ;

"any offence punishable under any other law with death, transportation or imprisonment for 7 years or upwards ; abetment of any of these offences, etc."

The Second Schedule :

"Any offence punishable under any of the following sections of the Indian Penal Code :

124-A . . . "

with which we are all more or less familiar :

"153-A, 215 . . . "

I do not know what that is, and there are other sections of the Indian Penal Code. Now, we have to look into all these sections to understand the wide scope of this measure, and in view of that I think, Sir, this measure ought to be opposed by this House and the Government ought to be asked to intervene to protect the people of India who go to Burma for their livelihood or for other purposes against this insult. I could well understand the case of a habitual criminal, but it is not said that only habitual criminals will be brought under the operation of this Act, and any one who commits an offence which is liable to be punished with two years or who commits an offence under these sections can be hauled up and sent out of Burma as a habitual criminal.

One word more, Sir, with regard to the Goonda Act. [The Goonda Act applies only to Calcutta and its suburbs. It has no application outside Calcutta and you ought to remember the cosmopolitan character of Calcutta in considering the merits or demerits of the Goonda Act. If such an Act had been passed in Rangoon, for instance, I might well understand, because people of all kinds, good, bad and indifferent, congregate in a capital city and you can understand the complications of the criminal section of a population in a big capital and cosmopolitan city like Rangoon or Calcutta. But what justifies this kind of legislation in Calcutta or Rangoon or Bombay does not justify it in a big province like Burma, urban and suburban.] For these reasons, Sir, I lend my hearty support to the Resolution of my friend Mr. Amar Nath Duft.

Pandit Motilal Nehru (Cities of the United Provinces: Non-Muham-madan Urban): Sir, I have been waiting with all the patience that I could command to listen to the Honourable the Home Member upon this Resolution and my patience has at last been rewarded. But I must confess to a sense of disappointment at his reasoning when I heard him. The way in which he dealt with the question would no doubt do credit even to a man of my profession, but the case was so hopelessly bad that he could not even preserve the semblance of a plausible argument in support of it. My Honourable friend divided the question before the House into two parts. One related to the merits and the other to the constitutional issue involved. He first took up the question on the merits and I must here admire the way in which he dealt with it. He said, "I am now going into the merits", and he ended by saying that it is not for this House to go into the merits of the Bill at all because he said we were not sitting in judgment over a provincial Council, and that it was the business of the provincial Council alone to go into the merits

The Honourable Sir Alexander Muddiman: The details.

Pandit Motilal Nehru: The details, if you like. You say that it is the business of the provincial Council and that we are not concerned with them. Well, Sir, when we are attacking a legislative measure as a most atrocious one, as I have not the least hesitation in calling it, we cannot justify ourselves unless we point out to the House the grounds upon which our charge rests. It is impossible to do so until you examine some of the leading provisions of the Act. Therefore, I submit that we are perfectly within our rights in criticising the various sections of the Act to show that it is a measure which will be a disgrace to any civilised Government. Let us now consider the arguments on the merits which have been advanced. The first is "Oh, let us not meddle with this Act; we are entirely ignorant of the conditions in Burma; we do not know what the Burmese Government, I mean the Government of Burma—I wish I could call it the Burmese Government,—we do not know what dangers this Government of Burma, such as it is, is confronted with." My answer is let it be confronted with all the dangers in the world; there can be no justification whatever to pass such a lawless law as this is. We have to examine the law on the merits and if human ingenuity and legal acumen have failed in other parts of the world to discover a remedy except expulsion in cases like this, we are not ready to credit the Government of Burma with having made a new discovery in the art and science of legislation. What is the next point? My Honourable friend says the Bill was introduced by the Home Member who was himself a Burman. Now, without any disrespect to my Honourable friend, I suppose it is rather late in the day for him to doubt that we consider Home Members with mixed feelings. Whether he is in Burma or in Delhi, and whether he is an Indian or not does not matter in the least. The third argument on the merits was that the three Burma Members in this House have spoken, out of whom two have opposed the Resolution and the third supported it. The Honourable the Home Member doubts the representative character of one who has supported it. Now, Sir, I call your attention to that argument and I put it not only to the House but to you also, whether it is at all constitutional to challenge the representative character of one Member by another Member of the House. I consider it is contrary to the etiquette

[Pandit Motilal Nehru.]

of any house of representatives. However, there he is, elected by his constituency and he has as much right to speak as any other elected member which right, I submit, stands on a superior footing to that of any of those who occupy and grace the Government Benches. Then, my Honourable friend said "Well, it is a special measure against outsiders" and he met the argument of my Honourable friend Diwan Bahadur Rangachariar on the ground that there was no analogy really between the case of a Scotchman in London and an Indian in Burma, because he presumed that the Scotchman probably knew English. Well, Sir, if ignorance of the language disqualifies a person from entering that country or remaining in it

The Honourable Sir Alexander Muddiman: I must interrupt the Honourable Member. I did not suggest that ignorance of the language disqualifies a man from entering the country. I said it might create more difficulties in dealing with crimes by the indigenous police. That is my argument.

Pandit Motilal Nehru: Do I understand the Honourable the Home Member to mean that crime which consists of acts of a language of its own? I can understand him if I take his remark with the observations of my friend Mr. Bipin Chandra Pal. There indeed language is of the greatest consideration. Is it the aim and object of the Bill—or one of the aims and objects of the Bill—to get hold of people in Burma and those who go from this country to Burma to educate the Burmans in their political rights and expel them from the country if they address them in a language which the Burmans understand all right but perhaps the officials there do not. Sir, I submit that there can be no reasonable ground to put ignorance of the language of the country as a crime over and above the actual criminal act.

The last argument was: Look at the Goonda Act? This is not the first Act of the kind! Now, Sir, it is not for me to defend the Goonda Act. My answer is a short one. I say that two wrongs do not make one right. If the Goonda Act is wrong and if any Member from Bengal will bring it before this House in the proper manner, I hope this House will be very glad to go into it. But, as a matter of fact, I see nothing in the Goonda Act which is analogous to the Burma Act which we are considering. The Goonda is defined to include a hooligan or a rough. I see no mention of a Bengali or of a non-Bengali or of any race in the definition.

Mr. H. Tonkinson: See section 6, clause (b)?

Pandit Motilal Nehru: That has nothing to do with his being or not being a *goonda*. In certain cases a certain special procedure is adopted instead of sending the man out of the province. That section has no bearing at all.

Now, Sir, my short answer is that two wrongs do not make one right. Besides, I see that there is absolutely no racial distinction except perhaps in the manner of treatment as to where the man is to be sent after he is found to be a *goonda*. I am not concerned with that. The Bill was passed by the Bengal Legislative Council and it is a good law so far as the area to which it applies is concerned.

Now, Sir, let us see what the real merits of the question are. These are all the arguments that have been advanced by the Honourable the Home Member on the merits. But when I go into the merits, I must look into the provisions of the Act itself. And what do I find there? The very first provision that stares me in the face is the definition of a non-Burman, which is as follows:

"A non-Burman means any person neither of whose parents is or was a member of the race indigenous to Burma and who, in addition, is not himself domiciled in Burma."

Here we have a definition of a non-Burman which includes a Burman because a non-Burman is a man who is not only a non-Burman but being a non-Burman has also not acquired a domicile in Burma. Well that, as has been pointed out by my friend, Mr. Rangachariar, is a new invention or new discovery in the law of domicile. If a man has acquired a domicile in Burma he is not for the purposes of this Act a Burman. He must also be the son of a Burman father or mother, one of the parents must be a Burman otherwise he is a non-Burman. It says:

"any person neither of whose parents is or was a member of a race indigenous to Burma, and who in addition is not himself domiciled in Burma."

that is to say that the two conditions must co-exist that he must be a person who is not born of Burman parents and must not in addition have acquired a Burman domicile, that is to say if he has acquired a Burman domicile it is not enough. He must also be the issue of a Burman. However, Sir, let us read this in the light of my Honourable friend Mr. Rangachariar's illustration of Scotland and England. I shall read the section substituting Englishman for Burman:

"A non-Englishman is any person neither of whose parents is or was a member of a race indigenous to England, and who in addition is not himself domiciled in England."

I should like a definition like that to be put before any English lawyer and have his opinion on it. (*Some Honourable Members*: "And a Scotch lawyer. What about the Scotch Home-Member?")

Now, Sir, the real difficulty in this is, as has been pointed out by previous speakers, that this is an inter-provincial Bill which the Legislature of one province has taken upon itself to pass. This I say in answer to the remarks made by my learned friend on the constitutional issue. I say that the mere fact that in dealing with certain matters it is necessary for a provincial Legislature first to obtain the sanction of the Governor General and then deal with certain matters does not invest that Legislature with any finality about the law it may enact. The Central Legislature is not deprived of its authority and the fact that the Governor General has given assent cannot, if I may use the language of lawyers, operate as an estoppel against us to consider whether it was a right decision or not. That being so, I say there is no bar to our coming to a decision on this question at all. What does this legislation amount to, what is the sum total of it? It is simply this. There are certain offences made punishable by the Indian Penal Code. There are certain punishment provided for those offences. The Burma Legislature says, "Quite true those are offences punishable by the Indian Penal Code and the Indian Penal Code provides punishments, but we in Burma will impose further punishments on such persons as may incur our displeasure, as may come within a certain artificial definition which we are

[Pandit Motilal Nehru.]

giving." What is expulsion but an additional punishment? And I say that it is really an amendment of the Penal Code by introducing an enhanced punishment for certain offences for which there is absolutely no warrant in the Penal Code itself. Now, Sir, when the analogy of South Africa was given by my friend Mr. Rangachariar, my friend the Home Member took a very serious view of it and he was quite right in doing so. It is really a very serious matter. But no amount of disassociation of Government from this analogy will save them. I say there is no getting out of it. You who profess much righteous indignation at the treatment which the South African Union Government proposes to accord to us, you who profess so much sympathy with us, you who claim to have as strong feelings as ours on the subject and assure us that you are fighting our battles in South Africa, what answer have you to the charge that you, in your own jurisdiction, in the territories administered by yourself are doing something which is not worse than what the South African Government is doing

The Honourable Sir Alexander Muddiman: Not worse?

Pandit Motilal Nehru: I say not worse; it is equally bad.

Colonel Sir Henry Stanyon (United Provinces: European): The African Indians are not criminals.

Pandit Motilal Nehru: You say here, "We are dealing only with criminals, the South African Government is dealing with all Asiatics," but no one at this late hour of the day will be satisfied by being told you are dealing only with offenders. That is the stock argument of the bureaucracy; why are you afraid of the Ordinance, surely the Ordinance is not intended for any but those who are guilty, or those who are dangerous to society? And yet we know, and have had the sad experience of knowing, most of us personally, that it has been resorted to in the case of persons whom the whole country believes to be as honest as any one else. However that is no answer to the charge. The criminal too as a criminal, Sir, has certain rights and the law is as jealous of protecting criminals as innocent persons. You have no right to treat a criminal as a worse criminal than he really is, and when you do so you are simply extending the criminal law of the land to an extent for which you have no warrant. Now the real fact is that we in this House, at least I personally, look upon this legislation by the Legislative Council of Burma as merely the thin end of the wedge. We do not know what is coming next, but I feel that there is something which is coming next and we must nip this mischief in the bud. Sir, one is now tired of speaking of disabilities within the Empire, and now we have been supplied with a new topic, disabilities within British India and Burma. I do not think that the language used by my friend Mr. Rangachariar was a bit too strong for the occasion. The most peculiar argument that has been addressed to us is: you who are claiming provincial autonomy; is that the way that you would give provincial autonomy to your provinces when you are going to interfere with their legislation in this manner? That argument, Sir, I say adds injury to insult. You have a thousand arguments for withholding provincial autonomy. When it comes to our questioning the jurisdiction of a provincial Legislature, you say that because we claim provincial autonomy we must accept provincial legislation as if it had autonomy. Why? Because it has passed a law which has received the assent of His Excellency the Governor General. That is the whole argument. I need not deal with the arguments of the Honourable Members from Burma. "M:

friend Mr. Tok Kyi has shown that there is nothing in the assertion that the Burmans voted for the measure and that it was only non-Burmans who voted against it. We know the reason for that. It is common knowledge how the Councils were constituted at the time.

Now, Sir, I do not wish to take up the time of this House any more. I will simply ask the House, I will appeal to all Members, Indian as well as European, to vote solidly in support of the Resolution. This law which is sought to be upheld by the reasoning advanced here to-day is nothing short of a monstrosity.

***Mr. M. A. Jinnah:** Sir, I listened to the speech of the Honourable the Home Member on behalf of Government when he entered into this constitutional question. He said that according to our present Act what was done, according to him, was perfectly authorised; and I see, Sir, that the previous sanction of the Governor General was obtained under sub-section (3) of section 80A of the Government of India Act. Well, Sir, I do not wish now to discuss this constitutional question; but if Honourable Members will look at the section it is extremely doubtful whether such a sanction can be given, or even if it can be said with authority that it is valid for this reason. The Honourable Member said that the Provincial Government is within its rights to legislate so far as the provincial Legislature is concerned, but in this particular case it will be admitted that this legislation goes outside the province inasmuch as it affects every British Indian throughout India and every British Indian comes under this Act which has been passed by the Burma Legislature. Now, Sir, that undoubtedly is a central subject and I personally feel very grave doubts whether sanction can be given under the provisions of sub-section (3) of section 80A. I have tried carefully to consider the matter as far as I can, and I do not find under what sub-clause of sub-section (3) such a sanction can be given. But, I will assume for the purpose of my argument that I am wrong. Sir, does it lie in the mouth of the Honourable the Home Member, speaking on behalf of the Government of India, to say that although the local Legislature would not have undertaken this piece of legislation without previous sanction, that although the Governor General was pleased to give his previous sanction, he did so without consulting the Government of India? Did the Government of India examine the case? Did the Government go into the justification before they gave the sanction, because without previous sanction the Burma Provincial Council could not have enacted this law. Did you consider all that? I suppose you did. I take it as a responsible government you did. Now, Sir, what is the ground that is put forward? It is this. It is stated in the Statement of Objects and Reasons which was quoted by the Honourable Member from Burma. The only ground put forward, as far as I can see, is this:

"On the other hand there is a general demand that Burma should not be allowed to remain a happy hunting ground for criminals from other parts of the British Empire and that the powers of removal already possessed in respect of persons twice convicted of the offences of begging and so on should be extended."

Now, Sir, that is the very reason why I asked the Honourable Member who spoke on behalf of the Burma Government this question: "You say that this is intended for the purpose of curing that danger, namely, that Burma is made a happy hunting ground by criminals from India. Will you tell

*Speech not corrected by the Honourable Member.

[Mr. M. A. Jinnah.]

me how many men, how many Indians were convicted by the courts in Burma for any of the offences which are specified in the Schedule to this Act?" The Honourable Member thought he was very clever, being in the company of the Government of India and sitting there, in giving the answer that he wanted previous notice.

The Honourable Sir Alexander Muddiman: Surely my Honourable friend does not expect an answer to be given to that sort of question without previous notice.

Mr. M. A. Jinnah: I do, Sir.

The Honourable Sir Alexander Muddiman: The Honourable Member is extraordinarily hopeful, that is all that I can say.

Mr. M. A. Jinnah: It is all very well for the Honourable the Home Member to crack jokes. It will not do. I maintain here that you gave the previous sanction and without that previous sanction the Burma provincial Council could not have undertaken this legislation.

The Honourable Sir Alexander Muddiman: If the Honourable Member will permit me to interrupt him, which I dislike exceedingly to do, I would point out that I did not give the previous sanction; it is not in my power to give it. On the second point I should like to point out that if the Honourable Member had asked me for those figures I would have tried to obtain them; but it is not reasonable to expect me to carry them in my head.

U. Tok Kyi: I can give the figures: about five per cent. of the convicts are Muhammadans and six per cent. are Hindus: that is among the convict population in Burma.

Mr. M. A. Jinnah: Sir, I am much obliged to the Honourable Member; but my quarrel is with the Government of India. I do not wish the Government of India to run away from this debate on the floor of this House. The Honourable the Home Member tried first to say "Oh, but the Government of India do not give sanction. It is only the Governor General." We all know that. I have known that now ever since the Act of 1919 was passed. But the second proposition is this: was the Government of India consulted? Did you examine this case? Was it not incumbent upon you to do so? You are handing over the power by this previous sanction to the provincial Legislature to do what? To enact a law which not only affects a province but the whole of India. Did you have any materials before you, and what materials were there before you? My Honourable friend the Home Member says "Oh, but you had not asked for it." We have brought this Resolution. We say that you had no business to allow this law to be passed. You ought not to have given previous sanction. Now you justify it. Will you then satisfy us on what materials you gave previous sanction? Nothing. You have not got anything at all. Very well. Then what do we get to? We get to this, Sir. It is suggested on this side that your whole object was not to deal with cases of habitual criminals, it was not intended to deal with criminals; but it is suggested, and not without some reasons and grounds, that your intention was to hold the sword of Damocles over those men whom you thought to be undesirable in the political world of Burma. And, Sir, you have got section 124A included. You have got section 153A included. What are they intended for? For habitual offenders? Are the

men who make Burma their happy hunting ground to be called criminals and are they to come under sections 124A and 153A? Why have you included those sections? Sir, this law is a most dangerous law for any man who wants to carry on his public and political life in Burma. What will happen? I put it to this House, what will happen? Supposing there was a man carrying on his business or profession as a doctor, as a lawyer, as an engineer or as a merchant, and if he happened to make a speech and if it happened to fall under the terms of section 124A, he is convicted; although he has been there carrying on his business lawfully and peacefully; but if he happens to make a foolish political speech which brings him under the terms of section 124A, would he or would he not be expelled under this law? I see Mr. Tonkinson shakes his head; he has not understood. . . .

Mr. H. Tonkinson: May I explain, Sir? A single conviction under section 124-A, does not make him liable to be expelled.

Mr. M. A. Jinnah: I never said a single conviction. Supposing a man makes two such speeches, he will be expelled from Burma. . . .

Mr. H. Tonkinson: He is liable to be expelled.

Mr. M. A. Jinnah: The Honourable Member admits that if the man makes two such speeches he will be liable to be expelled from Burma. I dare say you would like to expel him even if he made only one speech. I admit that you have given him two chances; but my point still remains. The District Magistrate will report and the Local Government will say to a man that he has made two speeches which are objectionable and he must suffer for them. The District Magistrate may say: "You have been a lawful citizen, you have been carrying on your business for 15 years; it does not matter. You are a criminal, you are a habitual offender; you want this place to be a happy hunting ground, and I will not allow you." I say, Sir, the merits of the Act are obvious.

Now, Sir, the Government first of all gave their previous sanction. The Government have put forward no materials to make out a case as stated in the Statement of Objects and Reasons. But we go further and ask, why did you give your assent? Again, it was said that the Governor General gave his assent and the Honourable the Home Member had nothing whatever to do with it, he never knew anything about it.

The Honourable Sir Alexander Muddiman: Of course he did, but he did not give the assent.

Mr. M. A. Jinnah: By "you" I mean the Government of India. The Government of India knew perfectly well, they must have had sufficient materials before them. Did you not see what opposition there was to this Bill? What materials had you? Why did you not then advise the Governor General not to give his assent? If you did not so advise him, you failed in your duty. I ask now what right had you to give the assent? I say I dispute the soundness of the assent being given by the Governor General. Am I not entitled to appeal to a higher authority under the constitution? Even the Governor General is not the last word under the Government of India Act. We in this House stand on the floor of this House, and we say: "Never mind, the Governor General was wrong in giving his previous sanction. The Government of India failed in their duty in not advising the Governor General properly." We appeal now to the highest tribunal that this Act should be disallowed. That is our case

[Mr. M. A. Jinnah.]

and I am sure that my European friends also will realise that this is a most dangerous Statute in principle, and in its provisions and I ask them not to support the Government. The Honourable the Home Member said that the Home Member in Burma agreed with this principle and that he was a son of the soil. But we know what Home Members are. (Laughter.) They have no individual opinion.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): They have no home.

Mr. M. A. Jinnah: They have no individual conscience. What is the good? I am often very sorry for my friend the Honourable the Home Member. But he represents the Government. What can he do? He has got to carry on. So, Sir, this argument is of no use and I hope that every one will really vote in favour of this Resolution. We do appeal to the highest authority even now to disallow this Act.

I will only say one word, Sir, before I sit down. I see the distinction between this measure and the situation in South Africa. I will not put both on the same footing. There is a very great difference between the two. Here, the case that is sought to be made against us on the merits is on the ground that Burma is infested with criminals. That is a very different thing altogether. Burma forms an integral part of India. The South African question, I agree, stands on a very different footing altogether and I would rather not drag that into the issue with which we are concerned this evening.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 10th February, 1926.