

*Wednesday,
28th February, 1912*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. L

April 1911 - March 1912

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO
1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4)

The Council met at Government House, Calcutta, on Wednesday, the 28th
February 1912.

PRESENT :

The Hon'ble SIR GUY FLEETWOOD WILSON, G.C.S.I., K.C.B., K.C.M.G., Vice-
President, *presiding*, and 56 Members, of whom 50 were Additional Members.

SPECIAL MARRIAGE BILL.

The President : "I desire to remove a misapprehension in regard
to yesterday's debate on the Indian Marriage Bill.

"What occurred exactly is this: I did not see the Hon'ble Mr. Jinnah
rise, but my eye caught the Hon'ble the Law Member resuming his seat. I
therefore assumed that he had concluded his remarks. I then heard Mr. Jinnah
raise a point of order.

"Believing that the Hon'ble Mr. Ali Imam had concluded his remarks,
which were in the nature of a personal statement, and mindful of the fact that
the legal aspect of the question had been debated at great length, I considered
that the time had arrived to call on the mover to reply on the general question.

"It was not my intention to curtail the remarks of the Hon'ble the Law
Member, and had I understood that he had more to say, I should have dealt
with the point raised by the Hon'ble Mr. Jinnah and called upon the Hon'ble
Mr. Ali Imam to resume his speech.

"We will now proceed to the business of the day."

INDIAN LUNACY BILL.

The Hon'ble Sir Reginald Craddock : "Sir, I beg to present to the
Council the Report of the Select Committee on the Lunacy Bill. The Select
Committee's Report, which is an unanimous one and which was arrived at
after many days of discussion, sets forth all those various particulars in which

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the Bill as introduced is proposed to be modified. Those modifications are sufficiently explained in this Report, and all I need say at this time is that their general direction has been first merely taking out archaic expressions from the old laws which have been consolidated without making a radical alteration in their letter and their spirit, and in adapting such provisions of later English Statutes on the subject as are suited to the circumstances prevalent in India. The only really new feature in the Bill, as amended by the Select Committee, is a provision which enables the reception into a lunatic asylum of a voluntary boarder. This has been based on a similar provision in the English and Scotch laws. I believe that the number of voluntary boarders is not likely to be great, but at the same time there are certain people who may suffer from temporary attacks of insanity, who may feel these coming on, and who may desire the shelter and treatment of a lunatic asylum, and it has therefore been considered advisable to include this measure in the Bill which I present to this Council.

"On some suitable day later on, I shall move that the Select Committee's Report be taken into consideration, and, subject to that consideration, that the Bill be passed."

PRISONERS' INCOME.

The Hon'ble Mr. Dadabhoj : "Sir, I beg to move—

That this Council recommends to the Governor General in Council that a portion of the income from the sale of jail products be credited periodically to the individual prisoners concerned, and the accumulations be given to them at the time of release with proper safeguards.

"To a penologist this Resolution would appear as only a palliative, a mere tinkering at prevention of habitual crime. Recent investigation into criminality has suggested a more effective cure, and philanthropic and executive efforts have been directed towards the suppression of the evil at its source. The Borstal System of treatment founded upon American experience, indeterminate sentences, industrial schools, tickets-of-leave, segregation of hardened criminals in 'convict prisons', and the establishment of Discharged Prisoners' Aid Societies are some of the means adopted in England for a satisfactory solution of the momentous problems connected with crime. The British conscience is fairly roused; in the words of Sir Rider Haggard, 'prison reform is in the air'; the hereditary idea that justice is only retributive and deterrent is giving place to the nobler and more humane principle that 'the real end for which "the system" is established . . . is not punishment . . . but prevention and, still more, reformation.' Upon this enlightened principle, many suggestions for prison reform in India, more or less ambitious in scope, might be made; but the prudent course is to make a beginning and to attempt something which will not cause a violent disturbance of existing conditions.

"In India, notwithstanding public apathy, much has been effected, of late more than before, in the way of prison reform by the authorities on their own initiative. A system has been evolved which is not without its good points; jail mortality has gone down considerably; more humane considerations inspire the present-day jail administration. It would be unjust not to acknowledge with gratitude all that Government, in spite of the absence of informed criticism and the co-operation of the public, has so far done to ameliorate the condition of the prisoner; at the same time the truth must be told, and it should be pointed out that we here have not kept ourselves abreast of the times.

"Sir, great things have been and are being done in the West with a view to keep down habitual crime. New organisations have come into existence; the whole subject is being scientifically examined and treated. In England, Act has been piled upon Act; the Inebriates Act, the Probation of Offenders Act, the Prevention of Crimes Act and the Children Act testify to the concern which the Legislature feels for the criminal population. The quinquennial International Prisons Congress, which held eight sessions between 1872 and

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1910 and is expected to meet in England in 1915, affords clear proof of the increased interest which the civilised world has come to take in the prevention of crime. With years the nations joining the Congress have gone on increasing. Instead of 24 nations represented at the London Congress in 1872, 28 nations sent representatives to the Buda-Pesth Congress of 1905 and 80 nations to the Washington Congress of 1910. This is a hopeful sign. India, it is hoped, will be represented at the next Congress. It is perhaps too early yet to come to definite conclusions about the result of all this activity, but it is undeniable that it has on the whole been salutary. Even so far back as 1891, Mr. Escott, the historian of England, observed :

'Although during the last decade the number of our convicts has remained practically stationary, the general population has increased by between 4,000,000 and 5,000,000, and the proportion of those who are under thirty years of age is something like a third less now than it was at its commencement. Sentences to penal servitude are at present, too, fewer by almost a half than they were a quarter of a century ago, and for a couple of years have been fewer than they ever were before. As to the population of our local prisons a series of diagrams, published in the annual reports relating to them, has given prominence to the curious circumstance that it has risen and fallen with marked regularity since the middle of the century in cycles of six or eight years From 1877 onwards the tendency has been to fall When the Prisons Act came into force the population of our local prisons numbered 21,000, and it now numbers a little more than 17,000. The reduction among prisoners as among convicts is greater among those who are under than among those who are over thirty years old, the percentage being some 55 in the former to 45 in the latter. Among those whose age is less than sixteen the decrease is more remarkable.'

'Recidivism is still appallingly high in England, especially among 'convicts' or long-term prisoners, the latest figure being 88·3 per cent.; but when criminality has been checked at its source, i.e. among young people, through the operation of the various measures recently taken by Government and the public, the supply will be stopped. Time must be allowed for this slow evolution. This Government will earn the gratitude of the people in a greater degree by introducing in India such of the reforms suggested by Western experience as are consistent with local conditions.

"Sir, the Resolution before the Council relates to one of the details of prison reform which might well be introduced here. The termination of a sentence of imprisonment, especially a long one, although looked forward to with almost impatient interest by the prisoner, in the majority of cases launches him in the world absolutely destitute, without means and without friends. The incidental social degradation again places in his way difficulties of an exceptional character which sooner or later force him back to his former criminal ways and to the prison as a natural consequence. The historian has well described his predicament :

'The attitude of the world towards him when he is once more free is perhaps a little too absolutely repellent and unrelenting. It is not only that he has been photographed and his *signalement* widely distributed among the police, that he has had to submit to inspection at the hands of the detective, and that he may expect a further continuous surveillance, but he will in most cases find it extremely difficult to earn an honest living, however desirous he may be to do so. His honest associates—if he has any—will shun him, employers will not care to engage him lest their other workmen should take offence. Most doors are closed to him; he is a suspicious character, not to be trusted even when in sight. What wonder that he soon again falls away !'

"Government, however, in the present state of social development in India might plead inability to set up the released prisoner in life, or even to introduce him to a likely employer. This part of the work must for a long time to come be left to be done by philanthropic associations. But Government can reasonably be expected to see that the discharged prisoner does not go out to the world absolutely destitute. The responsibility of the State in this matter has been recognised in most civilised countries. In England,

if at the time of his release he is destitute, he is clothed decently, provided with food, and a railway warrant to pass him on to his home, if it is far from the prison.

"The system of awarding gratuities to prisoners also prevails. The underlying principle is that no prisoner on release should find himself absolutely

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destitute. The total amount spent annually by the Imperial Government on this account is £16,500. The individual sums allowed are not large. The maximum of gratuity that can be earned is fixed for each institution. In 'convict' prisons it is £6, in Borstal institutions £2, and in 'local' prisons 10s.

"In Germany, the arrangement is more liberal. Physical ability and mental fitness premised, prisoners have to work at the jail industries. A minimum of daily outturn is insisted on, but any excess is credited to the individual prisoner. The amount so earned is *absolutely* his, and he can at his will either spend it on his personal comforts during incarceration, or lay it by as deposit in a sort of savings bank account, the accumulations of which he is paid at the time of release. Railway tickets up to the place of domicile, food and clothing are supplied to short-term prisoners. In the United States of America, payment of gratuities to convicts is very common. In many of the States the prisoner is sent out of prison properly dressed. Certain other necessaries and sometimes an extra suit of clothes are supplied. The policy is to give the released convict a chance in the world by humane, and even generous, treatment, and to enable him to secure employment. He is made to feel that he is once again a free citizen, with equal rights with others, to work on his own account and to take his place in society. The United States prisoner receives the same treatment as a State prisoner. Many of the States even find employment for the discharged convict.

"In France also certain 'concessions' are given to prisoners of both classes — convicts undergoing imprisonment with hard labour and ticket-of-leave men. Under the rules, the details of which it is not necessary to set forth here, both the classes can earn by good conduct certain privileges and land for cultivation for which rent has got to be paid to Government. The holding becomes gradually the prisoner's on payment of the capitalised value of the rent. The prisoners enjoying 'concessions' are given agricultural tools, dresses and bedding. They are also given a subsistence allowance either in kind or in money both for themselves and their wives and children.

"In Japan, a certain amount of money is handed over to the prisoners at the time of release 'for the work they have done during the term of servitude in prison.' The English practice is perhaps better in that the amount is made over to the Discharged Prisoners' Aid Societies, and not to the prisoners themselves. There is some risk of money in the hands of the prisoners being misapplied. But safeguards for the proper application of the accumulations can be provided. Even a few rupees judiciously spent for the relief of the discharged prisoner mean a real help, as the experience of the Calcutta Prisoners' Aid Society, the only society of its kind in India, owing its origin to the thoughtful initiation of the Hon'ble Mr. Justice Stephen, shows. Timely help of this nature has enabled a few at least among the released prisoners to regain a footing in society, and to find out honest means of livelihood. Such gratuities, small though they be, will be appreciated, and may retrieve many a lost character. I do not refer here to the Claude Martin Fund as the relief given therefrom is negligible.

"A resolution in the following terms was adopted at the last International Penitentiary Congress on the subject of gratuity :

'It is desirable that the State should allow payment to be made to prisoners, and that steps should be taken to provide that any sum of money credited to prisoners should be available for the assistance of their families if in need.'

"This is the ideal to be worked up to. The detention of a criminal in prison need not involve his family in ruin. He may continue to work for his wife and children, only in order to do that effectually he must be more industrious inside the jail.

"In India, the system is unknown to jail administration. The only rule of the Central Government, sanctioning payment to discharged prisoners, is embodied, among others, in Article 590 of the Bengal Jail Code, and under it payment at the rate of 2½ annas for every 15 miles can be made where the individual has

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his home at a distance of over 5 miles from the jail. In the Punjab, I understand, gratuity used to be paid formerly on a limited scale, but the practice has been discontinued. By the Resolution I move I request Government to introduce the system of gratuities in Indian jails. Such gratuities must in all cases be earned during the term of imprisonment by good conduct and hard work. The total expenditure will not be large, and even if it were, the money should be found.

"Sir, in the Resolution I refer to the source from which the gratuity can be paid. Jail manufactures yield some income to which the prisoners employed contribute. The introduction of the system of gratuity will be an incentive to the convict artisan to do extra work, and thereby to shorten his stay in the prison, as also to insure himself against absolute destitution at the time of release. In the absence of detailed statistics, it is impossible to say if there is any profit from the sale of jail products. The report is, jail manufactures do not pay. The products are not easily saleable; the market is limited; the manufactures are viewed with jealousy by private manufacturers. But greater difficulties were experienced in England before; the various organisations for the protection of manufacturing interests agitated against jail manufactures; but at last the Prison Committee of 1894, in conformity with the views of the Trades Unions, decided upon lines of manufacturing activity inside prisons which were acceptable to all.

"Conflict with vested interests is not inherent in the situation, and if only Government departments use more jail products, the manufactures will not only prove productive, but will provide large scope for expansion. Jail industry in England has attained remarkable development through the support of the consuming departments of Government; and if in this country the result is not satisfactory, the apathy of Government is largely responsible for the ill-success. For some reason, which is not very clear, Government departments object to consume jail products. This repugnance is recorded in the Annual Reports year after year. Why this should be so, is unaccountable. With greater co-operation of the other departments, the Indian jails would be kept fully busy and their products would yield a large income. There must be something radically wrong in the system when even cordage and oakum are imported from England for consumption by Government. *Thalis*, *ballis*, and kit-bags are also imported. And yet these articles can be easily and economically manufactured in Indian jails. In America, the Board of Charities and Correction have the oversight of prison industries, and, according to the Howard Association --

'by law, they can compel the Departments of Public Service to buy what commodities and articles they require. As the Board of Charities and Correction also controls hospitals, asylums, poor-houses, schools, and all offices used for public educational purposes, it follows that they possess a large and varied field for prison labour, with power to ensure a constant demand for the goods they themselves manufacture. Hence we find all sorts of industries carried on in a State Prison, and also that a staff of experts outside the prison walls are employed to enforce the sale and direct the distribution of prison-made commodities.'

"Sir, the present condition of jail manufactures is capable of considerable improvement—an improvement which is quite within the power of Government to effect. More determination and active support will bring about a wholesome change soon. In time a larger amount of prison labour can be utilised in manufacturing useful articles, instead of the 50 per cent. now employed. And Government will find little difficulty in introducing the most comprehensive system of gratuities in jail administration."

The Hon'ble Sir Gangadhar Rao Chitnavis: "I am in a manner glad the Hon'ble Mover has drawn the attention of the Council to this subject, and in a general way the suggestion is worthy of consideration. While destitution is a predisposing cause of crime and recidivism, the sudden possession of cash may, and as often as not will, lead to excesses. The Hon'ble Mr. Dadabhoy has himself admitted the existence of some risk of misapplication of the funds the discharged convict may have at his disposal at the time of release. It is

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not, however, waste of money only that is to be feared, but the manner of the expenditure might involve the man in future trouble, and it will depend upon its gravity whether he is sent back to jail or not. In the West also, with all the considerate treatment and moral training he receives during incarceration and the solicitude for him evinced by Discharged Prisoners' Aid Societies, the expenditure of the gratuity in drink is not unknown. It must be so. The released prisoner has generally a weak intellect and a weak moral fibre. He cannot be trusted to overcome temptation. His future good can best be secured by thoughtful 'after-care' supervision. In India we have no machinery for this supervision. Even Prisoners' Aid Societies, bating the one in Calcutta, are absent. The difficulty is therefore great. At the same time it is undoubtedly desirable that some arrangement for the acquisition by the prisoner of marks and bonus by hard work should be made. It will be quite in keeping with the excellent record of Indian jail administration. The Hon'ble Mover has referred to the good work done by the authorities on their own initiative. In the Central Provinces at any rate the Inspector General, Colonel Lane, has done much to relieve the distress and to minister to the moral wants of the jail population. Payment of gratuities is bound to come in these circumstances. The only point I would request Hon'ble Members to bear in mind is that any large concession cannot be made all at once with any prospect of permanent good. Doubtless a beginning may and should be made, but unless Discharged Prisoners' Aid Societies or some such agencies are established all over the country, any large scheme of pecuniary relief to a released prisoner with a view to set him up in life stands little chance of success. Western methods, in the matter of jail reform also, should be cautiously introduced and made to suit the peculiarities of the Indian situation. In my humble opinion, the Resolution may be given a trial, but care must be taken for the present to put the money allowed him under the rules in the hands of the relations of the prisoner or societies, if any, which promise to help him. With these observations I beg to support the Resolution."

The Hon'ble Sir Reginald Craddock: "Sir, it has been rather an unkind fate that, during the first very few days that I have had the honour of holding the appointment of Home Member, it has fallen upon me to oppose the proposals which Hon'ble Members have brought forward. It is much more pleasing to agree than to disagree, and although I shall always, even though the task be distasteful, uncompromisingly oppose any proposal which appears to be unsound or dangerous, yet it is a particular pleasure on this occasion to be able to go as far as is possible not with this very particular method that the Hon'ble Mr. Dadabhoj has suggested towards the end he desires, but to go as far as is possible to meet him half way to show that the Government fully sympathise in the movement to which he has drawn attention. The Hon'ble Mr. Dadabhoj's speech has alluded to the various efforts that have been made in Europe and America to enable discharged prisoners to comply as far as may be with the grand injunction 'let him that stole steal no more.' And, Sir, it is clear that a Government like ours cannot but be in full sympathy with any such movement. But we are bound to say that these measures which have been evolved in America and Europe are at present still in the experimental and tentative stage. There is always some risk that a desire to benefit the prisoners and to mitigate the severity of their punishment may among the classes concerned only prove a temptation to them to indulge further in crime. Particularly is this the case in this country, where the risk of encouraging habitual prisoners is so great that it may be extremely dangerous to embark on any policy which might render prison life insufficiently deterrent and even an encouragement to certain classes of prisoners to break the law. I daresay Hon'ble Members are aware that among the habitual prisoners it is no uncommon thing to describe the jail as their *sasural* (father-in-law's house), a place where they receive a certain amount of honour. Well that description may be very sarcastic, but from the point of view of habitual prisoners there may be something in it, and we should be very cautious before we do anything to encourage any notion of that kind. At the same time I most readily recognise the manner in which

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the Hon'ble Mr. Dadabhoj has given credit to the Government for moving in these matters spontaneously and without any pressure from the public. There has been, although the advance may not be very great, but there has been some considerable advance in the desired direction. The reformatory schools that have been established are a case in point. The youths who leave the reformatory schools are in some Provinces at least looked after not by the police but by the Education Department, and provision is made in these schools to teach them some useful industry and to secure employment for them as apprentices and even to start them with a small stock in trade. As the Council will recognise, the youthful offender is the one who offers most hope of being won over from his ways while he is yet young. This step is carried a little further by movements that are on foot in various Provinces to separate the adolescent prisoner from the adult and to avoid as far as possible any contamination which the contact might cause. Now the case of the habitual prisoner stands on a different basis. It is very difficult to reform him. You cannot relax the deterrent character of prison discipline and prison labour. If you do, you fail in your object, which is to reduce crime, and although it might be desirable as some might think to provide even habituels with some money when they are released from jail, yet one cannot help feeling that in a great majority of cases any such generosity would probably be of no value. It is not a case of supporting a habitual prisoner for a few days only; it is a case of reforming his whole character.

"Then, Sir, I think Hon'ble Members of this Council will recognise that there are considerable differences between the West and East in this matter. In India we have not that same problem of unemployment which is so prominent in England where there are thousands of men seeking employment in vain. It is obvious that those to whom any stigma attaches have very little likelihood of succeeding in the attempt. But in this country, although we have our times of unemployment during famines and scarcities, yet I think the general experience of this Council is that there is no serious problem of unemployment; in fact, it is more the other way, the difficulty of obtaining labour. This is one difference. In the East there is no difficulty about obtaining employment. There is another difference which amounts to a greater obstacle in the West than in the East, and if I allude to this I feel sure that Hon'ble Members will not misunderstand me. In England undoubtedly a greater stigma attaches to a prisoner when he rejoins society, and as the quotation from the eloquent work (passages of which the Hon'ble Mr. Dadabhoj has read to us) has shown, the position of a man under that stigma is most unfortunate and disheartening. Well, Sir, in this country, the view of the East is somewhat different. Far be it from me to suggest that crime is regarded so lightly by the people that the nature and gravity of the offence is not recognised. The theory seems to me to be somewhat different. Their theory is that an offence against the State has been expiated when the sentence has been undergone, and that subject to ceremonial purification society should now pardon the offender. Well, Sir, there is a good deal to be said for that view. I am not at all sure that in this matter the East is not really wiser than the West. But, however that may be, the different point of view from which these matters are regarded makes all the difference to the way that Government have to face the question. The Hon'ble Mr. Dadabhoj has put forward one possible suggestion to meet the difficulty. There is no doubt something to be said on the side of allowing prisoners to feel that the work they are doing in jail brings them some reward. Well, Sir, that feeling is secured by the mark system, which enables prisoners who work hard and observe the regulations to earn a remission of their sentences and to make earlier the period of their return among their fellowmen. On the other hand, if we were to attempt any system of endeavouring to calculate the earning due to each particular prisoner based on the profits of the particular work he has done, the calculations would be almost hopeless. To begin with, prisoners are necessarily constantly changing their work and a particular piece of work may be the joint work of a number of prisoners.

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There are other difficulties, as for instance the fact that some prisoners do not do productive work at all, which render it almost impossible to meet this particular object which Mr. Dadabhoy has suggested to us. And again there is another disadvantage that if we are to give any sort of pecuniary reward to prisoners, public interests certainly demand that in the first instance it should be confined to those who are really poor and needy, as there would be no object in giving small sums in this kind of charity to well-to-do or wealthy men. When a man on release from jail is going to spend a very large sum in order to be received back into his caste, money given to such prisoners would of course be thrown away. And then there are a great number of prisoners who return at once without any difficulty to the place in society which they formerly occupied; the cultivator goes back to his fields and the artisan to his loom or whatever may be the employment of his labour. But, as the Hon'ble Mr. Dadabhoy has pointed out, there are already in some of the Provinces provisions for giving a little assistance to prisoners on release or to enable them to earn something while in jail. One of these is the payment of wages, very small wages I admit, but still a payment of wages, to prisoners employed in some position of trust as convict warders or convict overseers. Now that is a very excellent provision, because any long-time prisoner who shows that he means to behave himself well is almost certain to be selected for a post like that of convict warden or convict overseer, and in that way he is able to secure something against the time of his release. Then in one Province, the Punjab, to which the Hon'ble Mr. Dadabhoy has alluded, there is a provision under which small gratuities can be earned and needy prisoners are given a small sum, not exceeding ₹2, to enable them no doubt to get back to their homes and to give them a few days' subsistence. Well, Sir, we are not prepared at this moment to suggest any definite means or to incur any definite financial responsibility in the matter. Although there are such things as 'jail profits,' they do not really amount to profit in the strict sense of the term; they are merely intended as some sort of indication that jail industries are carried on in a reasonably business-like manner and not at a dead loss on account of the high cost of raw materials or special expenditure on supervision.

"The jail expenditure proper is roughly about 79 lakhs, of which about 14 lakhs are returned to the State. Consequently any measure in the direction that the Hon'ble Mr. Dadabhoy suggests is merely a matter, not in setting aside actual profits, that are now applied to another purpose, but merely one of increasing our total jail expenditure; and, with the large demands that there are now for the requirements of the free population—the non-criminal population—we might hesitate perhaps to add any substantial sum to our present expenditure on prisoners and convicts. But at the same time it is quite reasonable to ask, and we are quite prepared to discuss the matter with Local Governments, as to how far their present rules are liberal enough in paying convict warders, and how far arrangements are really satisfactory to enable an indigent prisoner on release to go back to his home and have at least a day or two's subsistence by him so that he may look round and find employment, which, as I have said, will probably not be at all difficult for him to do.

"So far we are anxious to meet the Hon'ble Member in the way. I have suggested. Then comes the case of reforming habituals. There have been efforts made and small experiments started in some Provinces to try to appeal to the better nature of the habitual criminal by means of moral or religious instruction; but this is a very difficult matter, and one cannot at this stage express much confidence that it will be a success. We must, in a matter of this kind, look to the establishment of philanthropic agencies such as those which exist in Europe and of which, I believe, a solitary example is afforded by the Prisoners' Aid Society in Calcutta to which the Hon'ble Mr. Justice Stephen has so generously devoted his time and trouble. Well, Sir, if such philanthropic societies can be started, the Government will certainly do all in its power to co-operate with them. I is too early yet to say what form of assistance can be given, but there seem

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to be little doubt that Local Governments will be quite ready to help in the matter, and if well-organised societies of this kind are brought into existence societies which can be trusted to secure the objects that we want them to secure, namely, the reformation of the habitual prisoner, I think it is extremely probable that Local Governments will be sympathetic in the way of giving assistance to such societies either by offering employment or possibly by small grants-in-aid or other measures of co-operation. These, Sir, being the general lines on which the Government of India are ready to act to meet the Hon'ble Mr. Dadabhoj's wishes, I think, perhaps, it is not unlikely that in the circumstances he will not insist upon pressing to a division the particular kind of remedy which he has brought to the notice of the Council."

The Hon'ble Mr. Dadabhoj: "Sir, I must express my gratitude to the Hon'ble Home Member for the very sympathetic manner in which he has approached this important question and the promise he has given on behalf of the Government of India to inquire most carefully into the question. My object in bringing forward this Resolution before this Council was to bring to the prominent notice of the Government some of the disagreeable features of the present prison system. Under the regulations I could not do so unless I worded my proposal in some definite shape, and it was for this reason I had to word my Resolution in the manner I placed it before the Council. However, after hearing what has fallen from the Hon'ble Home Member, I entirely see the propriety of many of his observations, and in view of his assurance that the matter will be referred to the Local Governments and their opinions taken, and that some system will be devised for affording relief to prisoners, I have decided to withdraw my Resolution and not press it to a division."

The Resolution was withdrawn.

POLICE ADMINISTRATION.

The Hon'ble Mr. Bhupendranath Basu: "Sir, the Resolution which stands in my name is as follows, that this Council recommends to the Governor General in Council that a committee of officials and non-officials be appointed to inquire into police administration in India and the necessity for amending the law relating to confessions in criminal cases.

"The Hon'ble Home Member has just now said that he felt himself in an awkward position in having to oppose the motions brought forward by non-official Members. I hope that he will not be in that awkward position with reference to my motion, for it is not only humanitarian in the sense in which the motion that he has just now been withdrawn could be construed; but it is more than that. It seeks to confer a positive boon upon humanity in India. In rising to move this Resolution, I am sure that from my past utterances on this subject, which may have come to the notice of some Members of this Council, it will be apparent to my friends that I do not intend to make any sensational statements or pass a general condemnation on the Indian police or its methods. I have taken occasion, whenever necessity has arisen, to vindicate the police against exaggerated and unjust attacks. It is a great institution which has been of immense service to the country. At the same time its strongest defenders must admit that there are drawbacks and abuses in the system which require correction. I do not propose to go into an exhaustive analysis of the circumstances which have led to the existence and prevalence of these drawbacks and abuses; but I feel it my duty to place before the Council a general outline of the more striking features of the police administration—features which have made it unpopular in the past and threaten to detract from its usefulness in the future. On the occasion of the Budget debate of 1902, Sir John Woodburn, then Lieutenant-Governor of Bengal, observed:—

'The first and commanding requirement is the reform of the police. The police bears sorely on the people: they harass them; police exactions, police apathy, police inefficiency, are the universal complaints.'

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“As my friends are aware, Sir John Woodburn was known as one of the most sympathetic rulers who have ever come to Bengal. Following this remarkable statement, coming from the head of one of the most responsible Provincial Administrations in India, the Government appointed a Commission with Sir Andrew Fraser at its head, known as the Indian Police Commission. The deliberate and unanimous opinion of that Commission was (I am quoting from its language),—

‘The police-force was far from efficient: it was defective in training and organisation; it was inadequately supervised; it was generally regarded as corrupt and oppressive; and it had utterly failed to secure the confidence and cordial co-operation of the people.’

“The Commission found corruption rampant in the police even in the higher grades and dwelt specially upon their oppressive conduct towards the people; and in the summary of their general impressions, the Commissioners stated that there could be no doubt that the police-force throughout the country was in a most unsatisfactory condition. I am quoting them again:— ‘That abuses are common everywhere; that this involves a great injury to the people and discredit to the Government, and that radical reforms are urgently necessary.’ These reforms, they say, will cost much. The reforms were estimated to cost 150 lakhs; many of them have been introduced, and a considerable portion of the estimated cost provided. The question arises—has the time come since 1904 to review the operation and effect of the reforms which have been so introduced, and if the time has come, what is the general effect of such a review as regards the police administration of the country? We have now an Imperial Criminal Investigation Department with a Director at its head. We have got Inspectors General of Police in all Provinces with an adequate staff under them. We have got Deputy Inspectors General recruited from England; but I will put the question—and I put this question with some amount of confidence to the Hon’ble the Home Member: Have we got rid of the abuses? Has the police succeeded in making a better impression upon the public? Have its methods improved? In answer to these, bitter complaints still fill the columns of our Press, lamentable failures of justice in important cases, which unhappily have also been sensational, lend strength to the belief that the police are as ready to-day as before the reforms to act upon unreliable evidence, and confessions disregarded in Courts of Justice throw a lurid light into those dark corners where unhappy victims are put on the rack. More than this, organised raids have been made upon the innocent public in the metropolis of India, and the city of Calcutta was given over to hooliganism by the police for three days in succession, on the 2nd, 3rd and 4th October 1907. The Provincial Government of the day deputed an officer to hold a private inquiry which proved, as all private inquiries are bound to prove, wholly unsatisfactory, and the public of Calcutta appointed a commission of its own, presided over by a gentleman who commanded the confidence of the people and the Government alike—my friend the late Rai Bahadur Narendra Nath Sen, who was subsequently chosen by Government as the responsible head of that ill-advised and ill-starred venture, a subsidised newspaper for Bengal. The disturbances began on the night of the 2nd October and the finding of the People’s Commission was to the effect that a large number of innocent persons were brutally assaulted or otherwise subjected to insult and rudeness without any provocation or justifiable cause. The report goes on to say: ‘The incidents of the following day were without a parallel in the history of Calcutta. There was no meeting or gathering on that day, yet the fact remains that some fifty shops were broken or trespassed into, catables and valuable articles including cash were looted or damaged, and further that innocent passers-by and tramway passengers were attacked, beaten and robbed. The evidence is conclusive and the offenders in some cases were groups of constables in their uniforms’ In the main, the Government of Bengal, it is thought, though prepared to concede that some constables and head constables—they use peculiar language—‘got out of hand,’ the Government upheld the action of the police. This was followed by an unparalleled midnight raid on the town of Mynensingh in East Bengal by the police, acting under the direction of their superior officers. It read like a romance, but nevertheless it was a fact. Houses and shops were looted and

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the people brutally assaulted. There also, in the absence of any outward indication of any action by the Local Government, a People's Commission sat, recorded the evidence of the sufferers and submitted a report to the Government of Eastern Bengal and Assam, where no doubt it was thrown into that contemptuous oblivion to which popular representation in this country have generally been relegated. The case of Gulab Bannu in the Punjab must be in the recollection of many of our friends here. She was charged with having poisoned her husband. She had made a confession admitting her crime, which she retracted, first before the matron of the jail, then before the hospital assistant and the Civil Surgeon, and formally before the District Magistrate. She stated that she had made the confession under excruciating torture of the most revolting kind. The woman was found guilty of having murdered her husband and was sentenced to death by the Sessions Judge. On appeal, two English Judges of the Chief Court set aside the conviction, and in their judgment they referred to the confession which they said was most probably extorted by torture which would be unmentionable except in a legal document or a legal journal. They commented on the circumstance that the evidence that was favourable to the woman was held back, and they recommended an inquiry into the conduct of the police. Nothing was heard of this inquiry until nine months later; the Executive Government of the Punjab issued a Resolution discrediting the views of both the Judges of the Chief Court and the testimony of the jail doctor and completely exonerating the police. The enquiry held was private and the world outside knows nothing as to how it was held or who were examined. The Hon'ble Judges of the Punjab Chief Court took the almost unprecedented course of saying that they would reply to the inquiry in open Court. On the 20th of November 1909, five years after the reform of the police had been instituted, a carefully prepared order recapitulating the facts and asserting that the inquiry had not been conducted in the way suggested by them was issued by the Chief Court. They particularly noticed that for three or four days the poor woman was taken by the police away from the jail without any warrant and was returned to the jail in a deplorable condition. Let us hear how the Executive Government treated the pronouncement of the Chief Court. It said: 'If Your Lordships find yourselves unable to concur in his decision, the Lieutenant-Governor regrets that it should be so, but so far as the Government is concerned, his decision is final and as such has been communicated to the head of the police.' In the meantime the poor woman had died within a month of her acquittal by the Chief Court in January 1909, and the public knew nothing of it until nine months later. I do not seek to go into this gruesome history of particular cases, for if I attempted it I would tire your patience and exhaust my energies. I took these cases at random as an illustration of the general attitude of the Government of this country towards the police, an attitude which was given expression to by the Under Secretary of State for India, the Master of Elibank, in February 1909 in the House of Commons:

'The number of punishments inflicted appeared to show that the responsible officers are exercising proper supervision and enforcing discipline over the force drawn from an Oriental population. That being so, the Secretary of State deprecates inquiries which may have the effect of lowering in the public estimation a body of men who were really doing their best in difficult circumstances and upon which the public rely for their security.'

"I may observe in passing that some stress was laid in this statement on the fact that the force was drawn from an Oriental population. There are other bodies of Oriental people even in India where it has not been found difficult to enforce discipline. We have not heard of complaints in this respect of the Indian Army or the Indian labourer. The true explanation must be found elsewhere. Take again the prosecutions which the police started. They must have taken—they should have taken—more than ordinary care in the prosecution of political or semi-political cases. For apart from their general importance, these cases have a great significance, namely, that there was something wrong somewhere in the body politic which led to these political crimes. In these cases it was not only the accused that were on their trial, but the Government also, if I may say so respectfully, was on its trial, and it was so felt by the Government, for during the last three years the Government of Bengal spent about

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9 lakhs and the Government of Eastern Bengal 8 lakhs of rupees. I shall not refer to the salient features of the Midnapur case, some aspects of which are still before Law Courts for decision, but I hope I shall be permitted to refer to facts which have become matters of history and have been disposed of by Courts already. There was an information laid against a large number of people—154 I believe; 24 of these were proceeded against. I make no other charges against the police in this connection except that of carelessness in not verifying with sufficient care the information given by the informer upon which they relied, for, as it must be in the recollection of my friends here, after the examination of the informant in the Lower Court, the Learned Advocate General applied to withdraw the case against the 24 men against whom it had been instituted, except three men who were convicted on their own confessions, but even they were acquitted by the High Court. I shall not refer to the language of the judgment. It has become almost historic. In one part of the judgment, referring to the general character of the evidence upon which the conviction had been secured, 'who would be safe,' says the High Court, 'if we were liable to be convicted on a charge so wide and supported by evidence so indefinite.' In the Howrah Gang case, to which I may refer with a sense of greater security, out of the 36 people, I believe only 5 or 6 were convicted. My friend the Advocate General may correct me if I am wrong, because I am speaking from memory. In the Barrah Dacoity case, the perpetrators of the crime—my friend Mr. Lyon is here, he can correct me—the gang committed a dacoity in a house in Barrah in Eastern Bengal in the course of which they killed two men. They seized a boat in the village in which they made a river trip of 70 miles; they were pursued by 60 villagers and the chase lasted a whole day. The police produced four suspected persons, all of whom were acquitted by the Special Tribunal which under a special Act and under special circumstances had been provided by this legislature. I need not recall the horrors of the Rawalpindi case, where elderly and respectable persons were kept in confinement for many months during the hottest part of the year before they were honourably acquitted by the trying Magistrate. If in the case of these men the police put forward evidence which was treated as manipulated, one can easily imagine that in ordinary cases, which do not attract any attention, the practice may be pushed too far. It can be said that in these cases the subordinate police was alone responsible: for having regard to the seriousness of the charges and importance of the cases and their effect upon the public mind, the higher police-officers must have been guiding their course. Passing from this class of cases where evidence is more or less put forward and proved to be unreliable, we come to a very large class of cases where convictions are mainly obtained upon confessions. In the ordinary criminal cases of the country, their name is legion; only here and there and now and again a story of an extorted confession comes to light, where probably the victims have suffered severe injuries which could not be concealed, or where, as in the recent case at Poona, the victim pays the forfeit of his life. In delivering judgment on September 6th last year against the policemen in the Poona case who were put on their trial, the Sessions Judge said that such cases were usually difficult of detection and Indian experience must bear him out; in a few cases, though they come to light, many pass unnoticed and unheeded. I am afraid that the Hon'ble Mr. Montagu, relying on the rarity of torture cases, wrote his letter in which he says that these cases were very rare exceptions in the Court and every effort was made to prevent recurrence. He lost sight of the fact that they were like small flotsams indicating an immense wreck swallowed by the silent waters of the sea. It may be asked what may be the motive of the police in subjecting the poor victims to torture. The answer is plain, to lighten the work of the police, to get an easy conviction and escape the consequences of non-detection of a crime; in fact the police are so put out if a case, say, of ordinary theft in a house, is reported to them for the worry it involves in finding out the culprit and recovering the property and they make it so uncomfortable for the house-holders who venture to report, that it is a matter of common experience in this country that many such cases are not reported at all. It may be asked, it has been asked by a European gentleman unacquainted with

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the conditions of our country, as to why, if there are cases of torture, they are not reported to the Magisterial Courts. It is a proverb in my country 'that if you are living in the water, do not quarrel with the crocodile.' It is seldom that the police apply their methods of torture in the public gaze. Unlike Absalom, they do not commit offences on the housetops of Jerusalem; they are practised in the enclosures of the police-stations, in secret chambers or cells, and if a case were laid, it would be impossible to get evidence, and if evidence were available, where would the poor man in this country go to lodge his complaint? Which thana would take down his complaint, and if the complaint could not be proved for want of evidence - for it is just as easy for the police to procure evidence as to shut it out - what would be the fate of the poor man and his friends? Apart from open violence, they will be subjects of frequent reports and they will soon be reduced to a state of outlawry. It is only as in the recent Poona case that a man ends his life by jumping into a well to escape torture, that a case comes to the notice of the superior authorities. In dealing with another aspect of the question of the reform of the police, I shall refer to a case not very long ago disposed of by the Chief Court of Burma known as the Kirwan Murder case. Four persons were accused of having murdered a man named Kirwan and convicted by the Sessions Judge of Tenneserim and sentenced to death. Sir Charles Fox, the Chief Justice, observed that the first statements of the Burmese villagers were correct, and the judgment goes on to say 'if they were correct, the circumstances of the blood, etc., found in the jungle and the box containing Kirwan's remains lying in the Chaung were manufactured and suspicion arose that all the manufactured evidence was an appalling mass of perjury.' There is a significant passage in the judgment which is worth considering: 'If there had been', says the learned Judge, 'any real investigation into the case and if there had been some one to recognise the intelligent consideration of the evidence which had been brought forward by the subordinate police and the courage to decide that such evidence was of such a dubious character that no reasonable person would act upon it, probably the real facts attending Kirwan's death might have come out later on and the four men who, I cannot think, had nothing to do with it would not have been deprived of their liberty for over five months with a charge of murder against them. The *Statesman* newspaper, which until the recent announcement regarding the change of capital was one of the greatest exponents and most capable supporters of existing institutions, in noticing this judgment, observes:—

'The Chief Justice of Burma here indicates that had the superior police been capable and firm the case would not have been sent before a Magistrate. But it is equally clear that if the Magistrate had been a trained lawyer accustomed to weigh evidence dispassionately and carefully, the case would have gone no farther. It is certain, moreover, that if the Sessions Judge had performed his duties satisfactorily, he would have dismissed the charge with a severe rebuke to the police. The same thing may be said of scores of cases which come before the High Courts on appeal. The appeals would be quite unnecessary if we had Magistrates and Judges who had been trained for judicial work. Hence the separation of judicial and executive functions, and the special officers, must be regarded as essential to the reform of the police. As long as the police find that perjured evidence and extorted confessions will answer their purpose, they will resort to these methods instead of making any attempt to investigate crimes, and when they discover that half of the cases are invariably shattered by learned Judges who care only for the legal merits of their evidence, slowly and surely they will learn that honesty is the best policy. We hope that when the Government of India take into consideration this pressing problem of the police reform, they will give due regard to the close connection between judicial competence and police inefficiency.'

"I am nearly coming to the end of my speech. Coming to the Criminal Intelligence Department or Investigation Department, the successor of the Thagi and the Dacoity Department, the public are only able to see its operations in regard to political crimes--deportations without trial, house searches without any success, prosecutions ending in acquittal in the more important cases, surveillance without any apparent cause, espionage even in the zenanas, domiciliary visits at all times of the day and night, shadowing of respectable people, quartering of the punitive police, and generally the creation of unrest. These are the features so far as we public are able to discover of the Criminal Intelligence Department. I am glad that the gentleman now at the head of

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Mr. Madge.]

this Department has done all that man can do to control the work of the Department and to check abuses; but he is one among an army and I am not quite sure if he will not frankly admit that he is often times misled. The recent visit of the King-Emperor must have clearly demonstrated to the outside world that the thing called 'unrest' that loomed on the Indian horizon for the last five or six years and that shadowed the life of the people and was responsible for the passing of measures so un-English in their character was more or less a by-product of the armoury of repression. I have referred only to a few instances in the police administration of the country: It is no use multiplying them, it is no use laying the colours too thick. I have gone into them to the extent that I felt was absolutely necessary. It may be a vain hope in this country to expect the realisation of the ideal that the policeman should be regarded as a friend and not as a dangerous individual not to be talked to except when absolutely necessary; but I know that Government is sincerely anxious to work for this ideal. Those who accuse the Government as such of desiring to shield the iniquities of the police are guilty of the grossest calumny. It is difficult, however, to separate the instrument from the hand that yields it, the tree from the fruit; and the mass of people to whom the police is the embodiment of Government naturally ascribe their ill-fortune at the hands of the police to the Government itself. This is after all not an altogether unjustifiable idea, for if the machinery is defective the manufacturer cannot escape the responsibility. In India, especially in ancient times, any calamities like famine and pestilence were ascribed to the sins of the rulers. This feeling must be exceptionally strong in the paternal form of government which prevails and which is the pride of the Anglo-Indian official. The Committee I have suggested would look into the question in the light of experience gathered since the last Commission sat and suggest further remedies to remove defects which are candidly admitted."

The President : "I must now ask the Hon'ble Member to stop."

The Hon'ble Mr. Bhupendranath Basu : "I wanted to read a quotation from a Government publication, but as my time is up, I stop."

The Hon'ble Mr. Madge : "Sir, there can be no doubt whatever that the dark places of the earth are full of the habitations of cruelty, and I should not be worthy of my place in this Council if I withhold my sympathy from the victims of such cruelty, whether they were reported from Siberia or from the hamlets of Bengal. The difficulty which men of open mind have in dealing with a double-barrelled proposal of this kind, when an attack is made upon the subordinate police, and rather serious reflections are also cast upon the British Government, is just this. We are dealing with conditions in this country in which, at least as Englishmen believe, a higher standard of morality has been applied to a lower. Whether this is true or not is a different thing. People may differ in opinion, but that, I believe, is the feeling of English officials in this country. Now, Sir, the police in this country, as I have had occasion to remark before, cannot be expected to have a morality above the class to which they belong in this country, and the offences that come to our notice in connection with the police are not worse than the dacoities which have occurred and are committed by the educated young gentlemen who speak in English and who go to villages in Bengal armed with good weapons and commit riot amongst their own countrymen, and rob them and ill-treat them. Whose fault is it, Sir, that the educated young men of this country who commit these crimes have no higher standard of morality than the lower orders of this country? I wish to be as inoffensive as I can in dealing with a difficult subject of this sort, but what those of us who ponder these deep problems are forced to consider is that public opinion in this country does not stand by the Government in great and serious crises such as those which occurred two or three years ago. Would things have occurred here if the whole of Indian society had stood by the side of Government and come forward boldly and denounced and helped to detect all the crime that was then committed, whether in the police or in higher

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grades? I stand in a sense between the two classes with a real, an earnest and sincere feeling for both, and I must say that the opinion is very general in among thinking men in this country that a very great deal of the crime which is committed by persons who are not in the police would not have been committed if educated and intelligent gentlemen came forward boldly, and courageously stood by the Government, and did their very best to suppress all manner of crime. My reason for recalling an unpleasant occasion is this I think if the police of this country are to be improved, it will not be by foreigners passing laws—no man can be made an angel by Act of Parliament—but by the people themselves, the educated men in this country, doing their very best to raise the standard of morality all along the line, and they will succeed in doing so if they will import more moral earnestness into social life and concern themselves less with political lights. I do honestly believe, Sir, that a very great deal of energy is thrown away in what are considered political reforms that are really not adapted to this country and that, if it had been directed to the raising of the moral standard of this country, far greater happiness would have been secured to all classes. I know of course that in making remarks of this sort here I lay myself open to severe criticism; but that is a sort of criticism to which men accustomed to stand alone do not attach the slightest importance. Nothing would please me better than to see all classes in this country, even the very lowest, adopting higher standards of morality than those which may prevail among them. Only yesterday frank confessions were made by Indian Members of evils pointing to not very high standards prevailing among persons not of the lower orders. They have thus themselves pointed to the low standard that does prevail somewhere, and until some organised effort in social reform is seriously taken up by the Congress and bodies of that sort, which devote too much attention to political reform, I think very little good can be expected from the handful of Englishmen trying to do their best for the millions of this land. As regards the quotations that have been made from Sir John Woodburn and earlier papers, I think they are rather irrelevant on an occasion like this because they were followed by the Police Commission and the reforms that have since been undertaken; and it is premature, I should say, to judge the whole effect of those reforms until some few more years have passed. But here I must repeat that no reforms that are imposed upon people from outside are likely to have a lasting result unless the people of the country help in carrying out true reforms all over the country. We have been reminded just now that it is not only the weapon, but the hand that wields it, that is responsible; but we have also been reminded that we must judge matters not only by the fruit, but by the tree. What is the tree upon which acknowledged evils grow? Is it the foreign Government of the country? I think that if some of our able Members, with many of whose remarks here I thoroughly sympathise, were to go a little deeper into some of these questions, they would find that the tree from which a good deal of evil results in this country is not the foreign Government that labours under enormous difficulties, but something much nearer home."

The Hon'ble Malik Umar Hyat Khan: "Sir, I will only say briefly what I think about this Resolution. No doubt the necessity is felt that there should be a marked change in the way of carrying justice, and that is why one feels necessitated to bring this matter up, now and then in the form of such Resolution or otherwise. As there is something wrong somewhere, people begin to differ in their views.

"Some accuse police, some accuse Magistrates, some accuse witnesses, some accuse the lower standard of the morality into the country, some think that it is from want of education, but I attribute it to the defective law and procedure now exercised in the Courts which is unsuited in many ways for the needs of our country and its present stage.

"A law of a separate nation based on separate sentiments and devised for a separate age or for people of different ideas and religions cannot suit another which differs up to some extent in every form.

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"When such a law is being practised, no wonder all those connected in carrying it out in their respective capacities in turn have to suit to its requirements and unfortunately get blamed. To prove this I can easily get into the details, but the experience of Members of these last few days is contrary to making long speeches. I do not think there is very great necessity for inquiring into the police administration after the Police Commission, but I do feel the necessity of a thorough inquiry into the whole administration, particularly the law and procedure.

"As the inquiry proposed may lead to throw some light on the matter that I have just said, I am ready to vote for it though even the overthrow of the Resolution may be a foregone conclusion."

The Hon'ble Mr. Mudholkar : "Sir, in making a speech on this Resolution, I would like to say that as the facts are so patent and many of the evils which have been pointed out by my friend the Hon'ble Mr. Basu are so well known, it only needs a reply from Government as to the action they propose to take. I feel compelled to take part in the debate only on account of certain considerations advanced by my friend to my left. I do not know, Sir, how the fact that the people of this country are wanting in public spirit, that they have not got moral courage or that the standard of morality amongst them has not advanced sufficiently, that the tree is to be judged by its fruits, and that the Indian police are vicious, because Indian society practically is vicious. I say I cannot understand how these assertions can help practical administration. Government, Sir, have to take the people as they are. They have to face the problem of the existence of very serious difficulties. Nobody denies the necessity of the police; nobody denies that in the majority of cases they are of the utmost help; nobody denies the necessity of reposing very great trust and confidence in them. In spite of these facts, we have to remember that there occur very serious scandals which the Government have got to face. And amongst them one which has come into very great prominence of recent years is the very great resort that is made to confessions and the very great resort that is made to suborning of evidence. Will it at all help the purposes of Government, if the complaints which are made in regard to this matter are brushed away by the argument that the people are wanting in public spirit or in moral courage? The Government, as my friend has pointed out, have to bear the blame for the defective working of the police. As one who feels that his whole life and the life of everyone who has an interest also goes with the Government, I consider that it is their duty to face the question boldly. I think it is a very serious state of things when you find that a solemn statement, a pronouncement, made by such a high body as the Chief Court of the Punjab is discountenanced by the Head of the Executive Government. That is not at all a desirable state of things. And if anything demonstrated the need of a free, open and public inquiry, it was this kind of thing which took place in the Punjab. I do not wish, Sir, to trouble the Council by saying anything more, but I do think that a case has been made out for a thorough inquiry and alteration of the law under which confessions made by persons while in the custody of the police are admitted in evidence."

The Hon'ble Mr. Dadabhoy : "Sir, I came to this Council this morning with an open mind, and if there was any bias it was a bias in favour of the Hon'ble Mr. Basu. If he could have convinced me that the suggested inquiry would be a panacea for all the evils connected with police administration, I should certainly vote for his Resolution. I myself do not hold the police administration of the country in the highest admiration. I know there are several matters connected with that which are capable of reform. I am fully conscious of that. But I do not for a moment believe that an inquiry of the nature suggested would be of any value, or that it would be productive of any practical results. I am in entire sympathy with the latter part of the Resolution as regards the necessity for amending the law relating to confessions in criminal cases. And if the Resolution were broken up, or if the Hon'ble Member referred to only that part of the matter, I should have certainly supported it. I have

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no doubt the Hon'ble the Legal Member, who has had large and very extensive criminal practice, will also bear with me when I say that the law relating to confessions, at any rate, requires immediate amendment; at any rate, a fuller investigation into the matter is necessary. I do not agree at all that a Committee would be very necessary for that. My friend has no doubt pointed out some of the worst features of the police administration. But I say that an examination of the criminal administration of the various countries would probably shew the presence of the same features in all of them. You cannot, unless you have a very high standard of morality in the service—and in the present state of Indian conditions it is absolutely impossible—you cannot expect that high standard of morality in the service; and unless that is attained, it is impossible that any great reformation would be achieved.

“There is only one observation of the Hon'ble Member with which I must entirely dissociate myself. The description which he has given of the Criminal Investigation Department is one which I am not at all prepared to accept. At any rate, I would not be doing my duty to my constituency of the Central Provinces if I omitted to state here that the Criminal Investigation Department in the Central Provinces did excellent service by breaking the backbone of sedition under the energetic control of Sir Charles Cleveland. Any general observations of that nature, condemning a whole department, would be most undesirable, and would not be conducive to any good results. As I said, Sir, if the Resolution had only consisted of the latter part relating to confessions, I would have warmly supported it. But as I feel confident that a Commission will not be productive of any material good, that it will involve the country in a huge expense, that even if a Committee is appointed, proposals will be made which will not be practical, and that, after the full report of the Police Commission presided over by so able and energetic an officer as Sir Andrew Fraser, much scope has not been left for further inquiry into the matter, I consider it my duty to oppose the Resolution.”

The Hon'ble Mr. Lyon: “Sir, when I came to the Council to-day I had no intention of addressing it on this subject, but with reference to one particular case that has been dealt with by the Hon'ble Mr. Basu I feel it necessary to say a few words. I do not think that any official Members of this Council or any other Members who have had anything to do with police administration can be out of sympathy with the general wishes expressed by the Hon'ble Member. But the action of the police in all countries is constantly being brought into question, and I think that it is unavoidable, when we consider their responsible and dangerous duties and the class of people with whom they are constantly brought into contact, that they should frequently be subjected to public criticism. We need not feel surprised, therefore, that we have also the same public criticism to deal with in India, and I am sure that the Hon'ble Member would not wish to conceal the fact that in other countries we meet with the same phenomenon, or to suggest that the Indian police, manned and officered as it is mainly by his own countrymen, is possessed of a double dose of original sin. But while the Indian police thus do their responsible work amidst many difficulties, the Hon'ble Member has himself acknowledged how valuable that work is and how much we are indebted to them. We can surely claim, therefore, that we and all other Hon'ble Members who deal with charges against the police should exercise the greatest care and circumspection in dealing with the evidence upon which those charges are based, and it is for this reason, Sir, that I have risen to recount certain facts with reference to one of the cases referred to by him.

“The Hon'ble Member briefly referred to this incident, which he described as an unparalleled midnight raid by the police on the peaceful people of Mymensingh, during which houses and shops were looted. He went on to say that no action was taken by the Local Government, and that it was consequently necessary for a People's Commission to be appointed to inquire into the matter, that they inquired in the absence of any inquiry by responsible authorities—

[Mr. Lyon].

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and made a report to the Government which was treated with silence and contempt. The Hon'ble Member is incorrect in saying that no action was taken by the Government, and I think that if he refers to his notes of the case, he will be able to verify this himself. Long before the People's Commission appeared on the scene, full inquiry had been undertaken by a magisterial officer in Mymensingh—an officer whose sympathetic treatment of other similar cases has met with the approval of Indians and Europeans alike. This officer took all the evidence available relating to the incident in question, listened to all complaints, and made careful local inquiries, during which he recorded everything shown to him as evidence of damage or disturbance caused by the police. It was subsequent to this inquiry, I think about ten days, or perhaps a little longer, after the occurrence of the incident, that the self-appointed People's Commission came up to Mymensingh to make its inquiry. I say 'self-appointed' merely as stating a fact. It had in the nature of the case to be self-appointed, unless its nomination by a well known Calcutta newspaper may be held to constitute appointment. It was a Commission of two, one of whom, the *magna pars*, was the Hon'ble Mr. Bhupendranath Basu. They came up and made their inquiries in Mymensingh, but they were busy gentlemen and they could not apparently give very much time to the matter, and I believe I am correct in saying that they were in Mymensingh for two days or two and-a-half days only. They recorded an enormous number of depositions, and a careful calculation made at the time suggested that they were only able to give from two to three minutes to each witness. The witnesses were examined in a private house, surrounded by the gentlemen who had interested themselves in making some clamour about these events; there was no cross-examination of the witnesses, and the record of the evidence itself shows that no attempt was made to test or check their statements in any way. A local inquiry was also made by the People's Commission during their stay, and with reference to that local inquiry, I need, perhaps, relate one story only. The magisterial officer who made the inquiry for Government was asked by a shopkeeper to examine his house, which he alleged to have been visited and looted by the police. The man pointed out the destruction and confusion that he attributed to the police, and this was duly noted. On the next day, when the Magistrate was going to Court, the shopkeeper asked him, now that his house had been examined, if he might put his things in order and go on with his business. He was told that he certainly might do so, and he accordingly put his things in order and went on with his business. Some days later, however, it was stated that the shop would be visited by the People's Commission, in order that they might see the damage which had been wrought by the police; the shopkeeper then obligingly disarranged his furniture again and the house was examined by the People's Commission, the damage and confusion being recorded by them as having been caused by the police. That, gentlemen, I know to be a fact, and indeed, with reference to all these matters with which I am dealing, I think I may say that I am dealing with facts within my personal knowledge, as the whole case was gone into by myself immediately afterwards with the report of the People's Commission before me.

"Now, Sir, I will not say to this Council *ex uno disce omnes*, or suggest that the other cases which have been referred to by the Hon'ble Member rest on similar evidence, but there can be no shadow of doubt that the facts in this particular case are entirely different from those which the Hon'ble Member would wish the Council here to believe.

"I do not know what reply will be given by the Government to the Resolution which has been proposed, nor will I weary the Council with my own personal ideas on the general question; but I thought it my duty to lay the facts of this particular case before the Council and to demonstrate that the Hon'ble Member has not exercised his customary sobriety and legal acumen in dealing with it. And with reference to the Hon'ble Member himself, I may add that I will not libel his high reputation as lawyer by suggesting that he himself believes that the evidence recorded on this occasion by the People's Commission was worth more than the paper upon which it was recorded."

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[Mr. Carr.]

The Hon'ble Mr. Carr: 'Sir, this Council is asked to recommend to the Governor General in Council the appointment of a Committee to inquire into police administration in India and the necessity for amending the law relating to confessions in criminal cases. The appointment of such a Committee presupposes the existence of very grave abuses and drawbacks, and in the opening of his speech the Hon'ble Mover referred to these abuses. No one, I think, will deny that such abuses do exist, and the Hon'ble Mr. Basu quoted, in support of his statement, a paragraph from the Indian Police Commission Report in which these abuses were referred to. I think it would have been well had the Hon'ble Mover gone on with the same paragraph, because the words in that paragraph would in my opinion have answered the motion that he has laid before the Council. I quote from paragraph 201, which the Hon'ble Member has quoted:—

'The Commission are not sanguine enough to believe that their proposals, even if fully adopted, will result in the immediate removal of all cause of complaint. These reforms can in any case be only gradually introduced; and years must pass before their full effects are realised. Inferior men have to be got rid of in all ranks; and evil traditions have to be broken in the force. The attitude of the people towards the police, and public opinion in regard to unrighteousness and corruption, have to be raised. Of this the Commission are fully aware; and the members can hardly expect themselves to see the full introduction of all the reforms they propose, still less to see their full results in improved police administration. But even a generation of official life is a short period in the life of a people; and the Commission believe that, before that period expires, very substantial advantages will have resulted from reforms carried out somewhat on the principles they recommend. What is required is the definite adoption of a policy based on such principles, and determined persistence in giving effect.'

'I submit, Sir, that the Hon'ble Member in moving this Resolution has entirely ignored the reforms which have been introduced in consonance with the recommendations of the Police Commission. I think it may possibly facilitate the deliberations of this Council if I lay before them the present position in the Madras Presidency from which I come. Reports on police administration are issued for the calendar year, and the latest report which is to hand is for the year 1910. The order of the Government of Madras on this Report is dated 27th October 1911, and in accordance with the usual practice, this has been laid on the Editor's Table and is doubtless in the hands of the Hon'ble Mover. The conclusion at which the Madras Government arrives is that although only five years have elapsed since the issue of orders upon the Police Commission Report, the work of reform in the Madras Presidency has been nearly completed. The Government order says:—

'The cost has been heavy, but the Governor in Council trusts that experience will prove that the money has been well spent. An improved stamp of investigating officer has undoubtedly been obtained—men of better education and of higher moral standards. The majority of them are lacking in experience, but that is a fault which will soon be removed.'

'Now, Sir, what is the work of reform which has during the last five years been carried out in the Madras Presidency? The unit of control in Madras is the police-station, and prior to the introduction of the reforms these police stations were in charge of head constables on pay varying from Rs. 14 a month to Rs. 25 a month. The head constables were themselves controlled by inspectors on pay varying from Rs. 70 a month to Rs. 300 a month. There was no intermediate grade, and the grade of inspector was recruited to a certain extent from the subordinate grade of head constable. It will be found in the Report of the Commission that one of the main causes of the abuses laid bare by that Commission was the subordinate agency then employed in investigating crime. The action taken under the recommendations of the Commission has been to improve that agency, and the new grade of sub-inspector—an entirely new grade so far as Madras is concerned—has been introduced, officers on pay of Rs. 50 rising to Rs. 100, and these sub-inspectors have now replaced all the head constables in charge of police-stations throughout the Presidency. The effect of this change has been to reduce the number of police-stations. It follows naturally that if you put an officer of Rs. 50 to Rs. 100 in charge of a station, he must have a larger area of control than a subordinate officer on Rs. 14 rising to Rs. 25; for financial reasons, if for

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no others, this reduction in the number of police-stations was necessary. The Hon'ble Mover referred to the general position taken up by the public in this country in regard to the police, and I think he gave us to understand that they did not regard the police as their friends. With your permission, Sir, I will read again from the Madras Government order, which states the present position in my Presidency. The order says:—

'The Madras police organization formerly differed from that of the rest of India in two important features. The first was the large number of police-stations; the second, the absence of the rank of sub-inspector, with the consequence that all police-stations were in charge of head constables who conducted investigation of offences under the supervision of a relatively large body of inspectors on comparatively low pay.'

"The order then goes on to say that these stations have necessarily been reduced in number.

'The Governor in Council greatly regretted this necessity, for he recognised that many people would be deprived of that easy access to the police which they had hitherto enjoyed. How much they appreciated this convenience and the protection afforded by the presence of a police-force has been shown by the representations that have been made in practically every case against the abolition of police-stations under the re-allocation scheme. On the other hand, the public will now have the benefit of a higher class of investigating agency which it is hoped will go far to remove the abuses which formerly existed.'

"I think, Sir, that if a refutation of the statement of the Hon'ble Member regarding the attitude of the public towards the police is necessary, the report and the order of the Madras Government thereon give the necessary refutation.

"There have been other reforms besides the creation of the sub-inspector. The pay of the constable was raised in the mufassal from Rs. 7 to 8 and in the City of Madras from Rs. 8 to 9, and although this is a very small rise it is still a matter of considerable advantage to the constable. The grading of head constables has been revised in order to suit the revised conditions under which they now work, and a far more important change has been made by the introduction of a new grade of Deputy Superintendent, on pay ranging from Rs. 250 to Rs. 500, and rising still further, if these Deputy Superintendents are placed in charge of a district, to Rs. 900 a month. This new grade has provided for Indians of standing and education a good opening in the police, for the recruitment for these Deputy Superintendents is largely direct. But the essential change recommended by the Police Commission may I think be labelled as the evolution of the investigating sub-inspector, and the success or otherwise of the reforms which are now being introduced will depend very largely on the success of this system.

"I do not think I need go into statistics. The Hon'ble Mover has referred to various cases in which he considers that the police have abused their powers. Well, if I may say so, quotations of such a nature are really irrelevant to the present issue. What we have to consider is whether the Government is carrying out in a liberal spirit the recommendations which were made by the Police Commission. As regards statistics, I am glad to say that this was one of the several bogies destroyed by the Police Commission. The statistical bogie has been a terror to all police-officers in time past, and it has now been recognised fully that figures showing the averages of detection and the numbers of convictions by the Courts are not the only test of the efficiency of a good officer.

"As regards confessions which are referred to by the Hon'ble Mr. Dadabhoj, I would only say that it seems to me that, if it is necessary to reform the law of confession, the proper way to do it is by the ordinary method of introducing legislation in this Chamber."

The Hon'ble Mr. Shamsul Huda: "Sir, I do not think there is any one in this Council who is acquainted with the incidents of village life in this country who can say that he is fully satisfied with the methods of the police. Twenty-five years experience in the legal profession has not, I confess, given me that satisfaction.

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"At the same time, I realise that in recent years the police have done good service to the country and that gradually there is an improvement in the tone and the morals of our police-force; but all the same the administration of police is probably the weakest point in the administration of British India, and I would support any proposal which I thought would, to any extent, improve the methods of the police. I am not, Sir, however, any great believer in Commissions, and if I do not support the Resolution moved by my Hon'ble friend it is because I think that a Commission can do very little good in this direction. I think that greater vigilance and supervision exercised by the superior officers of the police, the strengthening of the village panchayats, and other measures of this nature will do much more good and will help in improving the police much more than a Commission can do. It has been said by some Hon'ble Members of the Council—and but for those remarks I would not have thought myself called upon to take up the time of the Council—that after all the police-officers are men of our own country, and if they go wrong the blame must be on our own shoulders. Sir, those that make such remarks forget that there are departments other than the police which are manned almost exclusively by men of our country, and the purity of the administration of these departments have not been challenged at any time. Take the Judicial service. Do not the men of that service belong to this country? Can any one deny that my countrymen have done in this respect service the quality of which has been recognised by the highest authority? Place a man getting a small salary of Rs. 50 in a position which give him such unlimited power as the police have in matters of investigation, and I am afraid that most men under such circumstances would yield to temptation. It may be that the finances of the country do not permit of greater improvement, but we must take facts as they are, and human nature as it is: and it is certain whenever you put a man in the position of a police-officer with such power over illiterate people, I think the same consequences will happen in any country. Well, Sir, as I have said, we must depend on greater supervision and to a great extent on the prevalence of better education amongst our countrymen for improvement in the methods of our police."

The Hon'ble Sir Gangadhar Rao Chitnavis: "Sir, I came with an open mind, and no desire to speak; but I feel constrained to say a few words after what has fallen from the Hon'ble Mr. Basu. I think I should oppose this Resolution. I think it would have been better if the Hon'ble Mover had waited for the results of the reorganization undertaken by Government on the recommendation of the Police Commission before he proposed a fresh Commission. We must admit that there are defects in police administration, but we must also admit that administration has improved during the last twenty years; and if the past is to be the guide for the future, it may be hoped still better results will follow. I do not know much about Bengal, but I know this much, that there were peculiar circumstances connected with the political situation in Bengal which made the position of police there rather more difficult than elsewhere; but if we examine the police administration of other Provinces, I believe the Hon'ble Mr. Basu will find that he has no urgent grounds for moving his Resolution. I speak for my Province, and I think we find that there is no immediate necessity for a fresh inquiry. I associate myself with everything that has fallen from my friend Mr. Dadabhoys regards the operations of the Criminal Investigation Department in my Province, and I oppose the Resolution."

The Hon'ble Sir Cecil Graham: "Sir, before recording my vote on this Resolution, I should like to associate myself to a great extent with what my friend the Hon'ble Mr. Madge has said. So long as the people of this country—I am talking of the poorer classes more especially—do not come forward and help themselves by taking upon themselves the public duty of coming forward and giving evidence and helping the police, so long these abuses must crop up. At the same time, it is impossible that these abuses should not occur so long as the public do not come forward and help the police in their investigations and

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give them the benefit of all the evidence they can. The mover of this Resolution has quoted many decisions in criminal cases which have been upset on appeal in the High Courts. Well, Sir, there is a very general feeling, I think certainly among the community which I represent, that the standard of evidence required in Bengal is one which is very nearly unattainable, and which may almost be called quixotic. Sir, I think, what goes to prove this to a certain extent, that we do not find in the Courts of other Provinces that these cases are being upset or thrown out in quite the same way."

The Hon'ble Mr. Gokhale: " Sir, I rise to support the Resolution which my Hon'ble friend Mr. Basu has moved for the adoption of the Council, and in doing so I would like to say at the outset that because non-official critics of the police administration of this country deem it their duty to make complaints about the character of that administration, whether in this Council or outside, they should not be understood, on that account and by reason of that fact only, to lay the blame of the defects of that administration at the door of the British Government as such. I am free to confess, Sir, that the police administration in Native States is as bad as in British territories, if anything, even worse ; and I will go further and say that from such records as we have of pre-British days, for instance, at Poona, which was at one time the capital of the whole Mahratta Confederacy, things were as bad as in these days. The difficulty in discussing this question calmly arises from the fact that when a complaint is made about the defects of the present day police administration, high English officials deem it their duty, owing to the very peculiarity of their character,—and that is really one of the strong points of their race,—to stand by the instruments whom they employ and interpret such criticism as directed against themselves, and that imports feeling into a discussion which otherwise might very well be conducted without feeling. It is quite true, Sir, as has been pointed out by several Hon'ble Members, that the inquiry by Sir Andrew Fraser's Commission is a comparatively recent inquiry ; but since the Commission reported, two questions have come very prominently to the front. One is the manner in which confessions are obtained and the general unreliability of such confessions, and the second is the manner in which the work of the new Criminal Investigation Department is done. As regards confessions, the Under Secretary of State for India stated some time ago that the Government of India were considering the matter, and that an amendment of the law on the subject would shortly be undertaken. And I, for one, expected that this session legislation would be introduced on the subject. Very probably the Law Member is going to take part in this debate. I see he has been taking notes. At any rate, I hope he will, and I trust he will tell us when the legislation outlined by the Under Secretary for India will be produced. As we have been assured that the Government themselves are considering this question, I think my Hon'ble friend, who has moved this Resolution will be satisfied if a statement is made as to the intentions of Government on the subject.

" The other question, namely, the operations of the Criminal Investigation Department, stands on a different footing. When Sir Andrew Fraser's Commission inquired, the Department was not constituted on its present basis. In reply to a question which I put last year in this Council, the late Home Member laid on the table a statement showing the growth and cost of the Department from year to year since 1905, when the Department was first created. The cost has been going up very largely, but that is a financial matter which I do not want to raise today. What I however want to say is this. The Department, on its present basis, has been in existence for the last seven years and there is so far no sign that its operations would be curtailed. Now, Sir, I am free to admit that during the somewhat anxious times through which the Government had to pass during the last few years, it was perhaps necessary for the Government to devise a machinery whereby they could keep in touch with the various movements that existed or were being started in the country. I am speaking with special reference to the political branch of the Criminal Investigation Department. I am also free to admit that while there was room

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for anxiety in many directions, and the activity of the Department, such as it was, was at its highest, it was perhaps no time to undertake an inquiry into what was going on. Of course many things have been done by this Department which should not have been done; many reports have been submitted which ought not to have been submitted; many individuals have been shadowed, harassed and falsely accused, who should never have been subjected to such treatment. As long, however, as there was any room for anxiety, the Members of this Council refrained from urging an inquiry into the methods or operations of this Department. But, Sir, everybody now admits—the Government itself admitted this last year in the course of the discussion on the Seditious Meetings Bill—that things are settling down, and very rapidly settling down; and if any pointed proof of it was further required, it has been furnished by the demonstrations of loyalty which greeted Their Imperial Majesties on all sides, when they recently visited this country. And I am quite sure that there is now no serious difference of opinion on the subject between officials and non-officials, that both alike think that things are settling down and that there is not the same necessity for the Government to feel anxious as they perhaps had during the last few years. Surely, then, now is the time when an inquiry should be made into the operations of a department which is causing the utmost irritation among the people—especially among the educated classes—in a manner, of which I do not think that the Government have a very clear or adequate idea. Sir, my Hon'ble friend, Sir Gangadhar Rao Chitnavis, the 'ideal citizen' of Central Provinces as we were told yesterday, a man happy in the consciousness of high official appreciation, has just asked us to believe that in the Central Provinces the Criminal Investigation Department is all right. Well, Sir, what will the Council think if I state—and I do this on most excellent authority—that even my Hon'ble friend has not escaped the attentions of this Department, to which he has just given a certificate and has not escaped anxiety on account of its operations? Even he had reason to complain that he was made the subject of an adverse confidential report, which was brought to his notice before it could do him any harm, because he has friends among officials, but which did cause him very considerable anxiety at the time!

"I will give the Council another instance of how the Department is no respecter of persons. My Hon'ble friend to my left,—Sir Vithaldas Thackersey,—a man respected alike by officials and non-officials, a man who generally keeps to non political activities and confines his utterances to subjects which are specially his own, expressing himself, no doubt, with independence, but evoking the respect of all by his utterances.—even he has been honoured by the attentions of this Department. My friend went last month to visit Dacca. He went there, as this is the last session of this Council that will be held in Cutoutta, and he thought that as he might not come this side again, he should go and see Dacca. And he went there just for a few hours merely for the purpose of sight-seeing, as the guest of the Nawab of Dacca, and from there he went further to Chittagong to acquaint himself with the possibilities of that place as a port, and a centre of trade: Well, a day or two after he left Dacca, a paragraph appeared in one of the Dacca papers—I had copy of it sent me, and I sent the cutting to Sir Vithaldas—saying th some some police constables belonging to the Criminal Investigation Department were sedulously making inquiries about one Sri Vital Das Thakur Das (that was the way how his name was put in the paper) about the object of his visiting Dacca and what he was doing there. Now, Sir, if people like Sir Gangadhar Chitnavis and Sir Vithaldas Thackersey do not escape the attentions of this force, is it any wonder that more humble and less fortunate persons like myself fare worse than this? As a matter of fact I must say I have been receiving such attentions for a very long time, but I have always taken it as in the day's work. My life is frankly given to national work, and I am free to recognise that the Government may think it necessary to keep in touch with all who are engaged in such work. What we are entitled to expect, however, is that the men, who are employed in this duty, shall do their work in a less clumsy and offensive manner than that in which they do it at present.

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I will give the Council an illustration from my personal knowledge. I belong to a society of young men—I mean the other members are young men, though I am myself getting on in years—which has been brought into existence to supply a long-felt want, namely, that of young men, trained in the study of public questions, and engaged in public work in various fields as whole-time workers. Now we may be right or we may be wrong in our view of things, in our estimate of the requirements of the situation. We have made up our minds to serve our country according to our lights, and we are prepared to accept the full consequences of our choice. And if the Criminal Investigation Department of the Government wishes to keep in touch with our movements, let it do so by all means; but we are certainly entitled, as peaceful citizens of this country, to expect that we should not be subjected to undue annoyance. Now, Sir, some time ago one of the members of our society went to the United Provinces to take part in the famine relief operations. He did such excellent work there in that connection that Sir John Hewett thought it necessary to recognise the work in his Famine Report; and yet this gentleman was subjected to such open and continuous annoyance by the men of the Criminal Investigation Department that ultimately he had to complain publicly of it in the papers. He was not only openly accompanied by these men wherever he went, but one of them began to go the length of insisting on sitting on the coach box of hackney carriages engaged by him for going about. Another member of our society had, for a long time, a cyclist detective assigned to him. The gentleman in question is not even a fast walker—and rather inclined to be corpulent—and an ordinary policeman, walking at an ordinary pace, might well have sufficed for this purpose; but the Department assigned a special cyclist to him. Now, Sir, though I am speaking somewhat lightly of the matter, all this is really most grossly offensive—we put it no stronger than that. I do not say that they should not watch our movements, if they want to do so, though I strongly feel it is most foolish that Government should thus let loose a number of unscrupulous men, such as most of the Criminal Investigation Department men are, on innocent people. But, in any case, it is necessary that all this shadowing should be done in a less offensive and less clumsy manner. Again, Sir, the reports submitted by these men are secret. Nobody knows what is contained in these reports, and everybody's good name is at the mercy of these people. I know of a report which was once submitted against me and for which there was absolutely no foundation. I came to know about it simply through the courtesy of the Political Secretary to the Bombay Government, who happened to entertain a kindly feeling for me. I had made a speech at a mufassal place in the Bombay Presidency. Sometime after, I happened to meet this officer at a party, and he asked me to go and see him the next day in his office. He then asked me what things I had been saying, and he put the report into my hands. I was amazed to read it. I told him that I had never said any of the things attributed to me. He laughed and said, of course he knew that I could not have said such things and he never took the report seriously. Now, Sir, this officer discredited the report because he knew me personally. But for one man whom these officers know personally, there are ten, a hundred, a thousand men whom they do not know, and against whom reports are daily submitted—reports on which officials very often act. It is therefore necessary that an inquiry should now be ordered into the operations of this Criminal Investigation Department. The fact is this: a number of uneducated and in many cases unscrupulous men have been engaged for the work. The work is necessarily regarded as disreputable and is looked down upon in every society. A man who goes about surreptitiously and tries to find out behind the backs of people something about them, must necessarily suffer from that disadvantage. Therefore you cannot get good men for this work, and I recognise that that constitutes a serious difficulty; but some way must be found out of it. For great irritation and bitterness is being caused in the minds of thousands of innocent people by the dangerous and unscrupulous activity of the Criminal Investigation Department men. Therefore, Sir, an-

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inquiry must now be immediately undertaken into the whole of this business—into how these men are appointed, what their qualifications are, how they perform their duties, what supervision there is on them, and what reliance is placed on their reports.

“The very fact that things are settling down again, makes such an inquiry all the more necessary. For these men have to justify their existence, and, therefore, in the absence of anything really worth reporting, they are sure to make up things which do not exist and report them to the Government. I, therefore, strongly support the motion of my Hon'ble friend.”

The Hon'ble Mr. Mazharul Haque: “Sir, it is with pleasure that I rise to support the motion before the Council. I know the fate in store for this Resolution which is the usual fate of all Resolutions in this Council. We get an enormous amount of sympathy from the official side and afterwards they are all unceremoniously thrown out. Sir, the police question is a very difficult question, and at the same time a delicate question, to deal with. There are two parties who take different views of this question. One is the popular party, the party of the people, and the other the party of the Government. The popular party thinks that there is no good in the Indian police, that they are a sort of human fiends, and that there is no salvation for them. The Government, on the other hand, thinks that there is no praise too high for its police-officers, and accordingly always supports them. My position in this matter is between the two. I do not for a moment believe in all the adverse criticisms which are passed upon the police. I may say that during my professional career, which now extends to nearly two years, a long expanse of one's life, I have had great experience of the working of the police in this country, and I gladly bear testimony to the fact that latterly the morale of the police has enormously improved. The corruption which existed only a few years ago is almost non-existent. Let it be understood that I am speaking of my own province, of which I have got full knowledge, and therefore I am speaking of Bihar only; I cannot possibly be an authority on other Provinces. There was a time when the police were all-powerful in this country. I remember an old story, which is still on the lips of almost everybody in the country,—that there was a poor old woman who was arraigned for some offence before a District and Sessions Judge. After a lengthy trial she was found to be innocent and acquitted. The poor old woman in her gratitude wanted to give her blessings to the Sessions Judge. She thought over it, and the blessing that she gave was ‘May God Almighty make you a daroga.’ (A ‘daroga’ means a sub-inspector of police.) Those days, when the daroga had superiority over the Sessions Judge in the mind of the people, are gone. Then there are numerous songs in the country which testify to the power of the police in bygone days. There is a very popular song in Bihar—I believe the Hon'ble the Law Member remembers it—in which a love-sick maiden is entreating the daroga to tell her on what pretence he has arrested her lover. That time is also gone. In my humble opinion, the morality of the police has certainly increased; but at the same time I do not agree with the Government. We find year after year Local Governments issuing their reports in which they whitewash their police entirely. There are no better class of men than the police, they are doing good work, and no criticism should be offered about them. I repeat that I do not agree with this view. Sir, it has been urged in this Council that why should we Indians take objection to the administration of the country on the police side, as the police-force is mostly manned by our own countrymen? I was surprised, nay, I was much grieved, to hear the sermon which has been preached to-day by the Hon'ble Mr. Madge, and I regret that with that sermon the Hon'ble Sir Cecil Graham associated himself and sympathised. The Hon'ble Member talks about the morality of my countrymen. He considers that because Indians are immoral, therefore the police-force is also immoral. Sir, I resent the insult on behalf of my countrymen. The same remark was made by the Hon'ble gentleman at Simla, but I let it pass. The offence

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has been repeated, and I shall not let it pass this time. My countrymen do resent such gratuitous insults, and I hope this is the last time we have heard it in this Council, and people will be very careful in future, when they get up in this Council or anywhere outside it, not to insult India and her people. Sir, is it not a fact that although the police-force is mainly manned by my countrymen, I say is it not a fact, that the superior service in that force is the close preserve of the Europeans; so much so, that we are now altogether forbidden to enter the higher grades of that force? They are all recruited from England. It must be in the knowledge of the Hon'ble Mr. Madge that a great many inspectors of police are recruited from the ranks of the Imperial Anglo-Indian community to which he has the honour to belong. Sir, it is not true that because the police are manned by Indians, therefore they are immoral. Sir, the heads of the Department, the Superintendents of Police, the Assistant Superintendents of Police, the Inspectors General of Police, the Deputy Inspectors General of Police, are all Europeans, and they must bear any criticisms which are offered against the police, and the greater part of the criticisms too. Sir, it is not the individual officers of the police who are to blame. It is really the system which is at fault—the system under which these people work. What is the system under which they work? It is a system which is certainly not fair to them. They have not got the chance of working honestly. Yesterday I was making certain remarks about gentlemen who are called the strong men of the Civil Service. Now, what happens when a strong man is gazetted to a certain district? The police know that the strong man is coming, and they are all in a flutter. The gentleman goes with the laudable desire of suppressing crime in the district. Nobody can quarrel with him in that desire; but what actually happens is something like this. On his arrival, say, a riot is unfortunately committed in which a man is killed. He passes very stringent orders that the culprit or culprits should be brought to justice. The police take up the investigation, and they find during the course of their inquiry that there were two parties to the riot; one party was the aggressive party, and that was the party of the complainant. If the police send up the accused, the only result would be that there would be an acquittal. What are the police to do? Here is the strong man who wants that there should be a conviction. I do not mean a conviction upon false evidence; that is certainly not his idea. And here are the police who think that if they send up the accused on true facts there will certainly be an acquittal. Now, they try to make up a case. They suppress a certain part of the evidence which will go against the prosecution case and add a little which will go to strengthen it. The result is that there is a beautiful case made out. There may be some substratum of truth in it, but it is difficult to find out. Eventually it is sent up to the Courts of Justice. Well, there has been one miscalculation in all this on the part of the police; they have entirely overlooked that pestilential class of people who are called lawyers. These gentlemen are trained in sifting evidence. The moment the brief is put up before them, they find out what part is true and what part false, and lay great stress upon the part that is false. The result is that in cross-examination the case is smashed up; and then this despised class get the whole blame. The officials think that they should be at once banished and deported to Mandalay. They are no good to the country; they interfere with justice. As a matter of fact, the Police are at fault, they have sent up the case supported with false evidence, and it is bound to be smashed up. This is the system which prevails at present in the country. As long as the Government do not insist that the pernicious principle of 'no conviction no promotion' be abolished, so long the police will never improve.

Sir, a few words about the Criminal Investigation Department. I am not a great admirer of that Department, and I do not think that they have done much good to the country. In every petty offence, they see or imagine that they see the bogey of politics. I will give just one instance and the Hon'ble the Law Member is the best man to corroborate me. I refer to the incident of the railway smash-up which took place near Ncora, at a place almost within sight of the Hon'ble the Law Member's country house. I have got personal knowledge of the facts of the case. The inquiry was intrusted to a very honest police-officer, who went

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to the place, made careful inquiries, found that there was absolutely nothing political in the accident, and he sent up his report accordingly."

The President : "I am sorry to interrupt the Hon'ble Member. He has exceeded his time limit, and he must sit down."

The Hon'ble Mr. Jinnah : "Sir, after the speeches that have been made by the Mover and the other Hon'ble Members, there is very little left to be said on this Resolution. I want to make it quite clear to the Council that I do not wish to enter into controversy of either racial, national or personal a character; and I think it is not desirable that the questions that come before this Council should be viewed from that point of view by any one of this Council. Each question that comes here, comes here for the consideration of the Council on the merits. It is neither a question of English people or Indian people, but it is a question which affects the administration of this country. And we are here all, whether English or Indians, here with one desire, namely, whether there is a particular evil, whether there is a particular system which ought to be altered or the evil ought to be remedied. And, Sir, I am going to deal with the Resolution entirely on the merits of the question and the arguments. The Hon'ble Mr. Basu has given numerous instances pointing out the evils of the system of the police administration. To those instances I beg the liberty of adding one more very recent one. In Bombay we had recently a trial of a great nobleman, the Chief of Hoti; what is known as the Hoti Murdan case in Bombay. This gentleman is highly respected in Northern India and I believe, one of the wealthiest men in his place. Sir, this gentleman was brought down to Bombay on a charge of abduction along with two others. He was placed before the Presidency Magistrate on that charge, and the Presidency Magistrate refused to release him on bail. After the evidence had been completed before the Presidency Magistrate, he, along with two others, was committed to the Sessions Court in Bombay; and after three days of trial the Advocate General representing the prosecution had to withdraw the prosecution against this gentleman. It came to this, Sir, that the prosecution broke down completely, and I think that it is well known in Bombay, and I think it is also well known in Calcutta, that the presiding Judge made the severest remarks against the police in Northern India. He was surprised that this case should ever have been launched in any Court at all. Now, there it was I think a European police-officer who was responsible for launching the prosecution. Therefore, Sir, it is clear that along with the numerous instances which the Hon'ble Mover has given, and this recent one which seems to me that it has done the grossest injustice to this nobleman, for which I do not know that he has got any remedy that is worth considering. Great evil does exist. Now the question is—what is the cause of it? There must be something wrong somewhere. Therefore, is it too much for the Hon'ble Mover to ask this Council to appoint a Commission to inquire into this case? A Commission consisting of officials and non-official members may be able to make very useful and very practical suggestions, which might, if not eradicate the evil altogether, palliate the evils that exist at the present moment.

"Therefore, Sir, on these grounds I support that part of the Resolution.

"As to the second part of the Resolution, namely, the amendment of the law of confession, I have very few words to say. The Hon'ble Mr. Basu, unless I failed to catch him or understand him, did not make the point clear on what part of the law regulating confessions amendments are necessary, and I for one do not know as to which portion of that law requires amendment. I know, Sir, of two recent instances, one I think in the case decided in the Madras High Court, and one instance in Bombay. Of course it is well known that a confession made in the presence of police-officers is inadmissible in evidence. In Bombay, in a case recently, a confession was made to a non-policeman, but a police-officer happened to be standing above on the verandah. The confession was made to a non-policeman down below, and the police-officer came into the witness box and wanted to give this evidence. It was said that the statement was not made in his presence, he only happened to be on this verandah and over-

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heard the conversation. That was rejected by the Court. Another case was in Madras where it was attempted to have a confession admitted on the ground of corroboration, namely, that you cannot give it in evidence as a confession, but you can give it by way of corroboration. But, Sir, if there was any need to regulate the law relating to confessions of accused persons, it is open, I think, to the Hon'ble Member or to any other Member to bring in a Bill to that effect in this Council or to amend any part of the existing law. And probably if the attention of the Law Member be drawn to the evil, if any, that exists in this respect, I have not the slightest doubt that the Hon'ble the Law Member will be the first to rectify the law in that direction. But why usurp this Council of its proper functions and leave a matter of this kind to a Commission when we can do that ourselves here? Therefore, Sir, I do not understand the latter part of the Resolution. I support the first part of the Resolution."

The Hon'ble Nawab Abdul Majid : " Sir, I have heard the speech delivered by the Hon'ble Mr. Basu with great interest, and I came to this Council with the intention, if possible, of supporting the Hon'ble Mr. Basu in his Resolution. But after hearing the remarks made by the Hon'ble Mr. Basu and hearing the violent attacks which he has made, I thought that it was time that I should change my mind and oppose this Resolution. Sir, I am not one who holds a brief for any police-officer. I know that there are defects in the police administration, and probably I know much better than my friend the Hon'ble Mr. Basu. I am a zamindar myself and I am very often in touch with the police-officers in the mufassal stations. I know what sort of people they are. There are honest people among them, and at the same time there are objectionable people also amongst them; there are black sheep everywhere. But to attack an administration wholesale, I submit, Sir, is a large indictment which this Council could not for one moment countenance. Besides that, assuming that the police administration is not up to the mark, and assuming that you want reforms in the police administration, the whole question is whether the machinery proposed by my Hon'ble friend will meet with proper results. I submit not. It is well known what is the result of these Commissions and these Committees: they result in nothing but waste of time, in waste of labour and in waste of money. Supposing that this Resolution of my friend is admitted in this Council and it is passed in this Council, what will be the result? There will be a meeting for sometime held, there will be witnesses examined and lot of public time and public money wasted, and the ultimate result will be that we will have to wait for sometime to see the outcome of it. We have already had a Police Commission and now the question is, how far the reforms as a result of the deliberations of that Commission have been carried into effect? It is impossible to carry the whole thing with a jump. We want a great deal of reform in the police administration, and I must state to the credit of Government that they are doing their utmost in the matter. I myself know that the police-officers at present are not what they were sometime ago; there is a great deal of improvement in them; the police-officers now are not the same sort of people that they were ten years back. The whole question is, how to reform the police administration, and I for one am of opinion that the machinery proposed by my Hon'ble friend will not meet the object for which he puts forward his Resolution. With these few words, Sir, I oppose the Resolution."

The Hon'ble Pandit Madan Mohan Malaviya : " I do not agree, Sir, with the Hon'ble the mover of the Resolution if he thinks that a Commission is needed in order to examine the whole question of the police administration. We recently had a Commission, and I think it is too early to ask for another Commission. But I do think that a Committee may usefully be appointed to bring before the Government some of the points connected with the administration of the police for their consideration. It will be generally conceded—I think it is—that the present police is better than the police which

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it has replaced. I think it is also conceded that the police of the present day is immensely better than the police of a few years ago. That there has been an improvement, and that that improvement has been steadily going on, are matters for thankfulness; and I think that there is a general desire to acknowledge this with gratitude. At the same time I think it ought freely to be recognized that the improvement which has been effected leaves a great deal more yet to be desired. I do not think that the Government and the non-official Members of this Council are really in disagreement on this point. I think it is recognized that despite all the improvements that have been effected, despite the larger number of higher officers that have been employed, and the increase of salary that has been given to certain grades of police-officers, and the improvement which is recognized, the present state of the Indian police leaves a great deal more to be desired. The truth is progress in the police department has not kept pace with the general progress that has taken place in other departments of the administration. If that is so, if the measure of progress is not satisfactory either in the general body of the police or its now offshoot, the Criminal Investigation Department, the question is, what is the cause of it? I must here join my friends who have protested against certain remarks which have been made in this Council suggesting that if the police are as bad as they are, the reason is to be largely found in the fact that they are drawn from the Indian people. It has been quietly assumed that the general standard of morality among Indians is so low that you cannot reasonably expect a higher standard of morality among the police. Now I will ask my Hon'ble friends who have made those remarks or have associated themselves with such remarks, to say whether they honestly believe that the general standard of morality among the Indian people, villagers or townsmen, is half so low as would be indicated by the flagrant cases of immorality that come up occasionally from the police department, to the regret of the public and the Government. The general standard of morality among the Indian people, villagers and townsmen, is certainly not lower than the standard of morality prevailing in any other civilized country; and I believe that if the statistics of criminality are compared, it will be found that crime in India stands at a much lower figure than it stands in some other countries which are regarded as very advanced in civilization.

' Sir, in no spirit of offence but merely with a desire that such criticism should never again be repeated, may I remind these friends that the state of affairs which existed for a long time in the administration of this very country in the days of the East India Company, clearly proves that it is not the race or creed of any particular people which can be held to be responsible for the state of morality which might be found at a time to prevail in a class of public servants, but that the conditions of the particular service, the emoluments and the environments in which they might be placed,—it is these which largely, if not wholly, determine the standard of morality which prevails among them. I submit, Sir, that if the conditions of service and the environments in which the police have to work are improved, the Indian policeman will be found to be not inferior to his brother in any part of the world in his regard for decency and fair play.

" Next arises the question, what is the true remedy for the state of affairs we all deplore? It is not that the non-officials and the Government are at cross-purposes here. It is the desire of every Member of the non-official body who has spoken here as much as the desire of every Member of the Government to improve the police administration. It is a matter for thankfulness that there has been a great deal of improvement in many departments of State. It is a matter of regret that the improvement in the police department has not kept pace with that in other departments. What is the best means of securing that improvement. That is the question. I take it, Sir, that the object of my friend in bringing forward this motion is to draw attention to the necessity for a further consideration of the question with the view that some more suitable and effective remedy might be found for the defects of the police administration, rather than that

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there should necessarily be a Committee or Commission appointed to go formally into the question. In that light there are some points that have arisen in the debate which are worthy of consideration. Of course it is much more easy to point out the defects of the existing system than to suggest remedies for them. And I for one must confess that I am not ready with them. But there are some matters which deserve consideration. It has been remarked by one of the Hon'ble Members who spoke before me that the people must also help in this matter. I entirely endorse that view. I think, Sir, it is true that the people have generally to be brought to learn and to think that it is a part of their duty to the community as a whole to help in tracing out crime and getting it punished. I think that efforts are not altogether wanting in this direction. I believe that in some parts of the country at least humble efforts have been made from time to time to make the people understand that it is due to themselves and to the community, that it is for the welfare of the community, that crime should be fearlessly pointed out and brought to book. At the same time it should be remembered that there is a great gulf at present between the people and the police department. Unfortunately, notwithstanding the great improvement to which the Hon'ble Mr. Carr has referred, and which is most undoubtedly acknowledged, the police still seem largely to labour under the impression that somebody must be punished for every case of crime that is brought to light; they feel that it is a reflection on themselves, on their capacity and ability if they are not able to find some person to be punished for every crime that has come to light. I am quite willing to believe that the higher Government officials responsible for the administration of the police department in the various Provinces have been making efforts to disabuse police-officers of that impression. But I think, Sir, a great deal more still remains to be done in that direction. The general body of the police require to be educated to a better sense of their duty in the matter of tracing out crime and having criminals punished.

" Then there is another aspect of the case which deserves consideration. In the old days the village police was the unit of the police administration. The policeman served the village well when he was under the direct control of the village panchayat. It is unfortunate that the village Panchayat has ceased to exist. I agree with my friend the Hon'ble Mr. Shafi that that is one direction in which a beneficial change should be re-introduced. The policemen require to be taught to think that they are not responsible to the district official or to the District Superintendent only, but also to the men of the community they are appointed to serve, and that their continuance or promotion or good name in the service would be seriously affected by the opinions of the respectable men of the community regarding their work and character. If they are taught to think like this, a great deal of change for the better will be brought about. Therefore, Sir, it is desirable to give village panchayats some power to associate leading representatives of the non-official community both in towns and villages, in some way which may be considered to be proper, in supervising or overlooking police administration, and bringing the acts or omissions of the police to the notice of the authorities without exposing themselves to any necessary risk, though without having any formal voice in interfering with their work. What particular form of procedure should be adopted is not easy at once to suggest. But I submit that the fact that there is a great deal of complaint still existing against the police, and that that complaint is justifiable, calls for further inquiry. I do not mean to say that Government are not giving any attention to the matter. But the matter calls for a little closer, a little more earnest, attention and inquiry than perhaps it is receiving, and it also calls for the association of some non-officials with such inquiry, whether it is held in the committee room or in any other way that the Government may think proper.

" This much so far as the general body of the police is concerned. I must also say a few words regarding its new offshoot, the Criminal Investigation Department. A Criminal Investigation Department has probably existed, under one name or another, in all civilized countries. It existed several thousand years

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ago in the days of the Hindu empire in India. There were the *chans* and *dootas* going about to find out what was going on among the people and reporting what they thought should be reported to the Government. Nobody can reasonably object to their existence; but they ought not to become a nuisance. And now that the regrettable stress and storm of the last few years has passed away, the Government should reconsider the situation, better define the nature and scope of the work of the Department, and introduce changes to ensure that it shall do its work in a respectable and unobjectionable manner. That it often fails to do so at present cannot be denied. My friend the Hon'ble Mr. Gokhale has mentioned some cases to show this. I will not take up the time of the Council in referring to many more cases, but I will mention one of the same kind mentioned by Mr. Gokhale. Not very long ago when the Hon'ble Mr. Gokhale was putting up in Allahabad with Dr. Tej Bahadur Sapru, members of the Criminal Investigation Department were seen for several days together hanging about the place evidently to watch the movements of my Hon'ble friend. I submit, Sir, this kind of silly surveillance unnecessarily creates a bad impression among the public regarding the Government, and it can and ought to be avoided by the exercise of a little better control over the department and its organisation in a better way. I think the time has come when the Government should take some non-official Members into its confidence, even in revising the scope and nature of the work of the Criminal Investigation Department and in improving it in such a way as to prevent, as far as possible, the abuses of the object with which the Government have created it. With these few remarks, I support the motion for an inquiry, formal or informal, into the police administration with a view to its further improvement."

The Hon'ble Mr. Syed Ali Imam : "Sir, the Resolution that is before the Council divides itself into two parts. The first part of it relates to the question of an inquiry into the police administration of the country, and the second part relates to the inquiry tending towards the necessity for amending the law relating to confessions in criminal cases.

"As regards the first branch of the inquiry, I have no doubt that it will receive treatment by my Hon'ble Colleague the Home Member. He will deal with that branch on its own merits, and it is unnecessary for me at all either to forestall him or to express my views in regard to that suggestion of the Hon'ble Mr. Basu. I am more closely connected with the second branch of the inquiry, and I find it absolutely necessary that I should place before the Council one or two submissions in regard to it.

"The Hon'ble Member has not yet favoured us with any suggestion as to the line on which he thinks this inquiry should be directed in order to obtain an amendment of the law of confession in criminal cases. He places before the Council a lurid picture of the various transgressions, and in some cases even iniquities, committed by the police. They may be so or they may not be so, but when the Council is seriously asked to appoint a Committee of inquiry for the purpose of going into such an important subject as the law of confession, and the Council is asked that there is a necessity for the amendment of the law, it does appear to me that the Hon'ble Member has not quite done justice to me or to my Department in withholding from the Council either the lines on which he thinks this Committee should be appointed or the suggestions that should go before the Committee for the purpose of investigation. But I think that I have a better case to put before the Council, and it is this, that even if the Hon'ble Member had done this, that is to say, he had foreshadowed the grounds on which the inquiry was necessary, or that he had furnished the Council with the points on which this investigation he thought was desirable, even in that case I think I should be within my rights to put before the Council a serious point of objection. The point of objection that I raise is, that to appoint a Committee of inquiry for a purpose of that kind and to put that suggestion before this Council, which is a

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Legislative Council, is to ask this Council, practically for the time at any rate, to delegate its duties to this Committee. I do not think, Sir, that there is any occasion to appoint a Committee to inquire into the amendment of the law of confession in criminal cases. What the Hon'ble Member can do, and if he is so anxious that it should be done, is simply to introduce a Bill in this Council. This Council, with the help of the Hon'ble Members present here, will consider that Bill, and my friend may have my assurance that after he has introduced that Bill, it will receive the most earnest consideration at the hands of the Department I have the honour to represent. When we have got a ready machinery like this Council, when we have got a machinery whose proper function is to go into questions like this, it seems to me that the suggestion is somewhat foreign to the purposes that this Council has to serve. Whether my friend will be so far fortunate as to obtain from this Council sanction to the commitment of his Bill to the Select Committee is a matter upon which the Council will decide, but I may give him the further assurance that should he be so successful as to obtain that commitment, in the Select Committee again every consideration will be given to his Bill. Therefore, it seems to me that however much or however less desirable it may be that there should be a general inquiry and investigation into the police administration of the country, it seems to me that so far as the second branch of the Resolution is concerned, it will be futile to appoint any Committee. I venture to think that the Hon'ble Member, after he has considered my submission, will think that there is some justice in the remarks that I have made bold to put forward. This Council is responsible for legislation, this Council is competent to legislate, and this Council ought to consider what legislation is necessary. It is for this Council to consider whether a Bill like that would serve the purpose of the country and will be useful to it. I am unable therefore to accept the second part of the Resolution with which alone I have dealt. I think it is opposed to the position and prestige of this Council."

The Hon'ble Mr. Muhammad Shafi : "Sir, when I came to the Council Chamber this morning, I had no desire to take up the time of the Hon'ble Members in connection with the discussion upon the Resolution now before the Council. But two things have happened during the discussion upon the Hon'ble Mr. Basu's Resolution which have induced me, with your permission, Sir, to take just a few moments of the time of this Council.

"I desire, in the first place, to associate myself as strongly as possible for me with the protest which has been entered against certain remarks made by an Hon'ble Member of this Council casting reflections upon the integrity and the character of our countrymen. Sir, it seems to me that a people who have produced——"

The Hon'ble Mr. Madge : "Sir, I must offer a personal explanation. I did not make any such reflection as to the integrity of the people of this country."

The Hon'ble Mr. Muhammad Shafi : "I fully accept what the Hon'ble Mr. Madge has said just now, but my remarks were really not intended to apply to what the Hon'ble Mr. Madge had said ; but they were addressed to the Council in connection with the observation which fell from the lips of another Hon'ble Member, and if he is prepared to withdraw the reflection which his words at any rate seem to cast upon the Indian character, then I shall have nothing further to say about this particular incident. Sir, it seems to me, as I was going to say, that a people who had produced men of the highest integrity such as the Right Hon'ble Mr. Amir Ali worthy to sit upon His Majesty's Privy Council, who have produced men who have been considered fit to occupy the high position of Councillors of the Secretary or State for India, men who have been considered fit to be appointed to the Executive Council of the Government of India, men who have shed lustre upon the benches of the various High Courts in India, and have administered justice impartially and faithfully

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for several years past, I say that a people who produced men of that type and that stamp need not really take any serious notice of the observation of the kind which have been made to-day and can well afford to ignore them. Therefore, I pass on from this incident to what has just fallen from the lips of the Hon'ble the Law Member.

"The Hon'ble the Law Member was, I think, perfectly justified in saying that it would have been very much better if my learned friend Mr. Basu had indicated the exact directions in which he wanted the law relating to confession, to be altered. My friend, the Hon'ble Mr. Jinnah, was unable to see any necessity for any alteration in the law relating to confession, because according to the rules laid down in the Indian Evidence Act, no confessions made to a police-officer are at all admissible in evidence during the trial of a case, and according to him the High Court of Bombay has gone a step further and held that a confession made to an outsider, to a man not a member of the police force but to a non-police man in the presence of a policeman, is inadmissible in evidence. I may say that the same decision has been pronounced by the Judges of the Punjab Chief Court in three judgments reported in the Punjab Record; but the confession which I think the Hon'ble Mr. Basu had in view is of a different type altogether—confession made by an accused person while under arrest and in the custody of the police or inquiry before a Magistrate and subsequently tendered as evidence against these accused persons at the trial in Court. I am glad to say that the Hon'ble Mr. Basu indicates that this is the kind of confession that he had in view. With reference to this confession, I venture to submit to this Council that there is room for alteration in the law as it stands at present. I have had the honour of practising at the Bar for the last 20 years, and have had considerable experience of criminal cases, and I am decidedly of opinion that an alteration or amendment in the law relating to confession as at present embodied in the Indian Evidence Act is absolutely necessary, and the suggestion which I would make is this, that a confession retracted, that is to say, a confession made by accused persons during police inquiry and while in the custody of the police but subsequently retracted at the trial, should not be considered legally sufficient for conviction, unless they are materially corroborated by direct evidence relating to the offence in question. Where an accused person charged with the commission of a crime has actually made a confession during police inquiry, and sticks to that confession subsequently when he is tried, of course that confession is one upon which conviction is fully justified, but when the confession has been made during police inquiry and particularly after several days' detention in the custody of the police, I for one consider that the opinion given by the Hon'ble Mr. Justice Mahmud and the Hon'ble Mr. Justice Street in those two well-known rulings of the Allahabad High Court relating to confession is an opinion which is worthy of consideration by the Indian Legislature, and that an amendment in the law of confession in the direction I have indicated is really necessary even in the interests of justice.

"So far as an inquiry into the police administration of the country is concerned, it seems to me that the decisions upon the various points arrived at by the Police Commission have not yet had sufficient time to remain in actual operation, and in view of the admitted impotence which is visible in the police administration of the country, it seems to me that the appointment of a Commission will really not serve any practical purpose. I am therefore opposed to the Resolution as it stands."

The Hon'ble Sir Reginald Craddock: "Sir, my task has been considerably lightened by the attitude which Hon'ble Members of this Council have adopted towards this question. I should like to acknowledge, generally speaking, the reasonable attitude that has prevailed. The Hon'ble Mover, though we did not hear the actual terms that he had intended to conclude with, both at the beginning of what he said and at the end of what he said, expressed his desire to take a studiously moderate attitude, and I am perfectly willing to recognise that he is entitled to credit for expressing that desire and for doing his best to keep to it. The reason why I say that he was doing his best to keep

to it is because when he found himself straying from that intention he generally pulled himself up and qualified his remarks by other statements which took away the sting of what he had previously said, and I shall reserve my final opinion as to the amount of credit that is due to him when I come to hear the final sentence that he would have said if time had permitted it and when I come to hear what his reply is going to be. But in the meantime, I desire to do him credit for the good intentions he expressed and for the efforts he made from time to time to give effect to these intentions. But when he referred to the particular cases that had occurred during recent years he could not resist the opportunity of using epithets and lurid expressions which detracted somewhat from his otherwise calm attitude. Sir, I do not desire to follow the Hon'ble Mover in respect of these cases. Strictly speaking, they are not relevant to the motion before us. In the case of one of these cases one Hon'ble Member was able to put before the Council his personal knowledge of the facts. As regards his other cases, it was impossible for me to anticipate that the Hon'ble Mover would refer to them. I have no personal knowledge of the facts, and I think it is most inexpedient that we should consider these cases at all. We are not qualified to pass judgment on them, as we do not know who is to blame, or among whom the blame, if any, has to be apportioned. If we began by trying to apportion the blame, if there was any, among the several persons concerned, we might say a lot of things which had better be left unsaid. We might be bringing accusations against the people or we might be bringing accusations against the executive. We might be bringing accusations against the police when they were merely acting as agents, or we might be bringing accusations against the Executive Government without knowing exactly what information was before them or with what motive they acted, or we might even find ourselves indulging in regrettable statements about the decisions of the Courts, which, I think you all agree with me, it is most necessary to avoid in a Council of this kind.

"Having made this statement about these particular cases, Sir, I do not wish to refer to them again, because the point before us is not what possible mistakes may have occurred in the past, but what is the state of police administration at present, whether sufficient steps are being taken to improve it, and, if not, whether any further useful results are likely to accrue from a special Committee of the kind indicated by the Hon'ble Mr. Basu. Well, Sir, as regards the minor point (I call it minor point as compared with the general subject under discussion) of confessions, my Hon'ble Colleague the Law Member has indicated that if any Hon'ble Member wants to amend the law about confessions, it is always open to him to take leave to introduce a Bill for that purpose, which Bill will no doubt receive due consideration at the hands of Government and of this Council. At the same time I would like to say that a subject so important as that of the method of recording confessions and their admissibility in evidence, and so on, undoubtedly has a very serious bearing upon the conduct of prosecutions in criminal cases, and upon the behaviour of the police, and the Government are perfectly willing to consider if there is anything in the law which may induce the police to attach undue value upon obtaining confessions instead of pursuing clues, and whether that tendency to attach undue value to confessions may lead them to malpractices which, if such an inducement were absent, would be thereby reduced. That is a very reasonable proposition for the Council to consider, and I may inform you that we are ourselves in correspondence with the Local Governments on the subject. When we get their views, which of course will be forwarded to us with a due sense of responsibility and after consulting all those who are best qualified to give an opinion, they will be examined in all their bearings by the Government, and we hope to come to some decision which may be satisfactory to all the great interests that are concerned.

"I now turn to the general question of police administration. I think, if my memory is correct, that even the Hon'ble Mr. Basu admitted that there had been some improvement, and the existence of that improvement has been emphasised by many speakers, and by none more than by the Hon'ble

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Mr. Mazharul Haque, who said that the improvement had been enormous and corruption now was almost non-existent. Sir, I do not know where we could find stronger testimony or stronger expression of the opinion as to the improvement in the police, and it is only surprising to me—he unfortunately exceeded his time so we could not hear eventually what his final conclusions were—that Mr. Mazharul Haque, after having stated in these emphatic terms the enormous improvement that had occurred, should after all have given his support to this Resolution. Sir, there have been, since we resumed this sitting, one or two expressions which gave me to think that the undoubted atmosphere of calm, which prevailed before the adjournment for lunch, had been slightly disturbed by some idea that Hon'ble Members wish to cast reflections on the morality prevailing among the people to whom other Hon'ble Members belong. I am quite sure that that was not the intention. It is not always easy to express perfectly innocent reflections and comments in a manner that shall be entirely free from offence, and in the comments that I am about to make on this very subject I hope that all Hon'ble Members will recognise that I want the Council to look upon this question from a purely reasonable point of view. We are reasonable men; we know that there is an evil and we wish to see whether it is being improved, how it is being improved and whether we are going on the right lines; and in order to know and to realise what action should be taken it is most essential that we should be in reasonable agreement upon the causes of any short-comings that there may be. Well, Sir, it is undoubtedly the case with all Governments that they develop gradually; that the state of things which was at one time considered tolerable is at later times considered intolerable, and that people at a later time wonder how it was that the state of things that existed some time previously was ever tolerated by the people who were responsible or who lived at that time; and it is an undoubted fact that several years ago the state of the police was very very far from what it is now. At that time there was a tendency—possibly it was a tendency which Government shared with the people themselves—to look upon that sort of condition as a kind of inevitable evil that had to be put up with, that it was natural and so forth, and in the circumstances there was nothing to be done. It is wonderful what people get accustomed to at times. The moment that development began in other branches, attention became drawn also to the police. That was actually one feature in the movement, simply, that in the course of the natural development which occurred in all departments and which suggested themselves both to those responsible and to the people, there also came a desire to improve the police. As soon as you express the desire to improve something your tendency is to dwell upon the evils as most extraordinary and insupportable, and not as ordinary incidents. That happened, the Government recognised it, and they appointed a particularly strong Police Commission. Now, I have details, of course, of these things; but I do not wish to trouble the Council with these details now, because I think that they have all recognised that the Commission did its work very well. It made a number of specific and valuable recommendations, and also I feel sure that this Council will agree with me that the Police Commission concealed nothing; and it minimised nothing and it slurred over nothing, and if indeed there was any commentary to be made, any adverse comment or criticism upon the Police Commission, it was that they painted a picture that was too dark all through and had not sufficient light and colour. Well, Sir, when the Commission made those recommendations, neither the Commission itself nor the Government were under any illusion as to the fact that the reforms indicated would take time in being carried out. Progress was bound to be slow, and one of the reasons why progress was bound to be slow was because of the material of which the subordinate police was composed. As I said just now, Sir, I do not intend to cast any reflection upon any race or class or anyone else; but Hon'ble Members will all be ready to admit that the standards and ideals of morals and conduct tend to vary with various classes in society. That which my Hon'ble friends here might condemn might not be regarded in a very serious light by persons in a lower social status. In that I think

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all the Council will agree with me. I think many of us know very well large numbers of the subordinate police, and we know very well the classes from whom they are drawn, and no one would wish to draw the slightest indictment against this class. They act according to their lights. We know that they make good husbands and fathers, they look after their families—at least the great majority of them; they are charitable, they are kind to their neighbours, and in short, they have the average virtues of the average man. But their horizon is limited, their ideals are not based on the highest of standards, and they are accustomed to regard a person who does them any wrong as their enemy, and they act accordingly. Also, they are not actuated by any specially altruistic motives. They are usually charitable and kind, but if strong self-interest leads them one way, the fact that in pursuance of that interest harm may come to somebody else probably never enters their heads. They are as other men are, and therefore it is from that class, with those limitations, that our subordinate police are drawn, and no one wishes to blame them for these limitations or to cast any reflections upon them at all. They are just ordinary men. Well now, Sir, we take these men and put them into the police. Now, I do not for a moment subscribe to the theory that a man who is really merciful and kind in his natural disposition would become cruel and unscrupulous directly he gets into the police. Of course all men in the police are not the same; some are honest and reliable and others are crafty, untrustworthy, idle and so forth. You get these ordinary men into the service; you cannot read their character in their faces and you do not quite know how they are going to turn out. But what *does* happen with the police which does not happen equally with any of the other services is that in the circumstances of their case the temptations which they have to contend with are infinitely greater than those which people in like circumstances and in the same society are confronted with. We all here, I am sure, know about complaints that are made about subordinates in the tahsil, and the other day we heard that even Superintendents of offices were not altogether satisfactory; but none of these have those enormous temptations with which the police are face to face every day. They have power to interfere with the liberty of people, and not only the liberty of people in their own society, but the liberty of people in much higher society; not only the liberty of the poor but the liberty of the rich. You cannot have police standing idle and doing nothing; they must be entrusted with certain powers, and they have these powers, and sometimes it matters a great deal whether they keep their eyes and ears shut or not. It may make a lot of difference to them and it may mean a considerable illegal reward to them. Again it may mean such an enormous amount to other people that the amount of reward which they can afford to give is very great indeed. Under these circumstances, of course, how can you wonder if there are a considerable number of cases in which the police, with these limitations and temptations, fail to act up to high standards of rectitude? Nobody, I am sure, certainly not the Government, will wish to gloss over their defects, or under-rate their defects or over-rate their merits, and I want the Council to regard this subject from a very reasonable point of view, from a critical point of view, to see whether we are on the right track or not about this. The one great defect that the Police Commission put their finger on was this,—that as you are bound to have these men; for you cannot have F. A.'s and B. A.'s doing constable's work (for one reason, because we cannot afford to pay them the salaries they would want, for another reason because they could not do it)—the great essential is that they should have supervision, not by men who have the same ideals and standards as themselves, but by men of higher standards; that is to say, men who could elevate them above their present standard. That was the great point taken by the Commission, and it is with that end that every Local Government in India has been endeavouring to improve the police, to infuse higher standards of honesty and higher ideals, which I freely admit are to be found among Indian as well as among other races, to infuse the upper ranks of the police with these ideals. I am sure the Council will agree that a step like this cannot be put into instant

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effect. You could not possibly dismiss all the existing men who have risen from the ranks, nor could you with one stroke of the pen stop the promotion of all the head constables. Even if it would not have been grossly unjust to do it, it would have been impossible, because you have not got the trained men to take up these posts. Well, I am glad to say that this introduction of better men in the force is having a most wonderful effect, that the little leaven that has been introduced is leavening the whole mass. At the same time I do not want to withhold altogether all tribute that is due, for even with these disadvantages that existed before, even with these traditions, perhaps of corruption, or of want of moral ballast, even with these temptations to which some of these men were subject all their lives, I could point, and many of us could point, to the cases of men who rose from the ranks of constables right through all the grades to be Deputy Superintendents, unscathed and unsullied, until they ended their service, men poor in worldly goods, but rich in the esteem and regard of all who knew them.

“What, Sir, I exhort the Members of Council to have patience. The Hon'ble Mr. Basu drew a marked distinction between what he called judicial competence and police inefficiency; but, Sir, I am not asking Hon'ble Members to go back to such a very long time when even among judicial services as known in some parts of India 25 or 30 years ago, that high standard that now prevails among them had not been attained, and just as those judicial services have with better education and with progress of time been purified, so if you will only have patience will those upper ranks of the police be purified. It is patience that I ask this Council to exercise, and not to call upon us in this hurried manner and without the exercise of any of this patience to ask for Committees and Commissions which will investigate these things only to tell us again the problems that we know, and only to indicate to us once more the remedies that we are actually adopting.

“Then, Sir, there are other matters. Even with all these precautions of ours cases must occur—and we do not want to hide them—of malpractices. They do occur, and they come before the Courts, and they are often very greatly exaggerated; but they do occur, and therefore it behoves us to take all such measures as shall tend to reduce their occurrence, and shall tend to their speedy detection when they do occur, and their speedy punishment when they are detected. To that end we have been in constant correspondence with Local Governments. The earliest possible information is obtained about the occurrence of such cases, and action is promptly taken. There is a point however to which I should like to refer, for often in such cases the general impression of what occurs is certainly exaggerated. It is the custom to talk about all these things under the one name of *torture*. While, Sir, I do not deny that there are cases which fall within the description of torture, a great many cases which are designated under the general category of torture do not fall within the real significance of that word. They are cases of rough handling and ill-treatment. There is all the difference between rough handling and ill-treatment and deliberate, cold-blooded, protracted torture; the kind of torture that the word brings to the mind of everybody, the kind that prevailed in mediæval times. The great idea then was to extract a confession out of people by fair means or by foul, and not much attention was paid to evidence. The great thing in those times was to get confessions, and the fact that that very practice may prevail here among these unsophisticated people may be a survival of the conceptions of that time. People talk and write as if these cases were very numerous, but we have had a most careful record of them compiled during the last five years, and in five years there have been 166 cases of ill-treatment where prisoners or witnesses were ill-treated. Of these 166 cases brought before the Courts, 57 resulted in conviction and the remainder were acquitted. I think 2 were pending, and 2 were withdrawn because the men were otherwise punished, and the remainder ended in acquittal, which indicates that at all events the police were not slow to bring these cases before the Courts. The cases that ended in conviction, 57 in all, comprised 120 men, and that is a record of five years. It amounts to 24 men a year on a total force which is now just over 170,000.

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" I do not think, Sir, that anybody in this Council can view those figures as reflecting at all seriously upon the subordinate police, or as indicating in any way that very gross ill-treatment is prevalent among them. We all know that the same men against whom these charges have been made have been capable of showing great gallantry and devotion on many occasions, and even in Bengal there have been many men who have been faithful unto death. Well, Sir, I have now gone through what I believe and what I think all my colleagues agree in believing is a diagnosis of the present evils such as they are. I have said what we are doing. I have asked you to exercise patience, and I have indicated to you the hope that things will be better. But there is one matter which I do not think I should pass over altogether, and that is the co-operation of the public in police administration. Now the police are fighting a battle against crime, and surely it must be of the most urgent importance in a case like that as to whether the public should range on the side of the police or on the side of crime, or whether they are merely passive spectators. No police in the world can achieve success or win a high reputation unless they are aided by the public. The best police, the police that have won the admiration of the whole world, are the London police, and there is no force that receives more support and more assistance from the public. Sir, I ask the Hon'ble Members of this Council to reflect on that fact, to consider whether or not the attitude of the people is that of help to the police or one of obstruction to the police or one of mere apathy, and if it lies within their power, as I think one Hon'ble Member has said today, to do all they can to impress on their constituents and on the people generally the great importance of attaining a higher sense of public duty in the matter of supporting the police.

" And there is yet another consideration. You know very well, all of you, for it is only a matter of human nature after all, that a great amount of abuse does not make a bad man good, but it very often makes a good man bad. If a man finds that when he is trying to do his best, his efforts are not recognized, and he is unjustly abused as if he had done his worst, then the next thing he does is to do his worst. There is no question about this. It is human nature, and I would ask this Council to consider this and to exercise their influence outside in support of this principle, that it is a most fatal thing to the improvement of the police if they are to be painted all black, without the black ones being singled out. If the white ones are also to be besmeared with the colour of the black, that is a most fatal thing, and there is a serious danger about it. It is a common saying that no self-respecting man among the educated classes seeks for service in the police. Well, Sir, as long as indiscriminate abuse is levelled against the police, you make it extremely difficult for that self-respecting man to enter the police. But if you keep your abuse and your censure to the cases where it has been deserved, and be free with your praise where it is due, that obstacle to a self-respecting man entering the police will before very long disappear.

" Sir, I should have concluded all I had to say on general administration with this, but I am bound to make a few more remarks. I am sorry to take up the time of the Council, but it is an important subject, and I shall make a few remarks about the Criminal Investigation Department. Well, Sir, the Hon'ble Mr. Gokhale's attitude, when he spoke on this point, was, I think, extremely moderate and reasonable. He recognized that there had been a time of pressure and suspicion, a time when it was impossible to say that there were no conspiracies and sedition about, and that the Criminal Investigation Department which gives criminal intelligence to the Government had had to be expanded to meet the needs of the times. He said that, and he also said that he thought it quite reasonable in this country, that Government should require to keep a watch over political movements. Well, Sir, we only want to keep a watch over political movements. We think it expedient in the interest of the Government, and the Hon'ble Mr. Gokhale has himself admitted, that we cannot altogether dispense with this necessity. But he makes it a complaint that the society in which he is much interested has also been much subjected to harassment. Well, Sir, surely nobody wants, least of all Government, to harass any society which is imbued with charitable objects.

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for benefiting their countrymen. Far from it. But of course I do not say anything of the kind in respect of Mr. Gokhale's society. Societies may exist, they may have some ostensible objects which they use as a cover for political motives."

The Hon'ble Mr. Gokhale : "May I interrupt the Hon'ble Member. I did not complain that my society was watched. What I complained of is the offensive manner in which it is done. I do not want any special treatment."

The Hon'ble Sir R. Craddock : "Well, Sir, I understand from the Hon'ble Mr. Gokhale's statement that he does not mind watching in theory, but watching in practice. Well, Sir, no doubt it is very irritating to be watched in practice. But it is very difficult to avoid occasional nuisances of that kind. If you do any watching at all, and if agents are to be employed to do it, you cannot employ educated people on works of this kind waiting outside perhaps for hours in the sun. You have to employ humbler agents for this purpose, every country does it, and it is extremely annoying that it should be necessary. But it has to be done. But what I desire to say is that Mr. Gokhale's request for an inquiry as to a possible reduction of the operations has to a large extent been anticipated by the Government itself. We recognize most fully the great improvement that has taken place in the situation, particularly since the visit of the King-Emperor. We recognised even before then that pressure had relaxed. Since then the relaxation has been very much greater. We are now getting much fewer reports from all sides, and I am sure no one wants to suggest that we want to get a lot of reports which we know are of no particular value and which have been collected by our agents because they do not like to diminish the volume of their notes. For instance, as the Hon'ble Mr. Gokhale tells me, there was a report about the Hon'ble Sir Gangadhar Chitnavis. Well, Sir, it never reached me when I was Chief Commissioner, and I do not think that it can have gone much beyond the dunderhead who compiled it. Well, Sir, these matters are always delicate. As I have said, all Governments have to have their Intelligence Departments, and no one desires that the scope of those departments should be any greater than is absolutely necessary, and we are paying attention to that subject. We are looking into these departments in all parts of India, and of course reduction depends on the extent to which political agitation and political excitement have subsided. When political crime has absolutely disappeared, then it may be possible to make greater relaxation in those places in which it is still in evidence. But so long as it has not disappeared, so long must a certain amount of criminal intelligence and investigation of this kind continue, and it is no good complaining of the evils resulting not from the atmosphere created by the police, but which have arisen from political pressure or political movements which acquired a sinister aspect. That, Sir, is all I have to say on the motion of the Hon'ble Mr. Basu. I think that no useful purpose whatever will be served by a Committee of the kind indicated. It has not been shown that the great Police Commission of a few years ago was in any respect a failure, and it has certainly not been shown, even if it were a failure, that the Committee that is now proposed has any chance of succeeding where the Commission may have failed. On behalf of Government, then, this Resolution cannot be accepted."

The Hon'ble Mr. Bhupendranath Basu : "Sir, I acknowledge with gratitude the spirit and the tone in which the Home Member has been pleased to reply to my motion. He has given us the assurance that many of the matters to which I referred are receiving attention. It was because we also felt that those matters were receiving attention from the replies that Lord Morley gave in the House of Lords to certain questions, and from the published correspondence of the present Under Secretary of State for India, and it was because we felt that the Government itself was so anxious to go on in the path of reform, that I ventured to submit to this Council a proposal for the appointment

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of a Committee, not necessarily a Commission, which would be able to supplement what had not been dealt with by the Police Commission in the light of subsequent experience.

"As regards one of those subjects, namely, confession, my friend the Hon'ble the Law Member has said that it was open to me or to any other Member of this Council to bring on an amendment to the existing law in order to have what we considered a defect rectified or remedied. I was unable, owing to the ruling of the Chair, to finish what I had intended to say about the subject of confessions. My friend the Hon'ble Mr. Shafi has done me the service of pointing out in what directions confessions at the present moment are apt to be used as instruments for inflicting torture upon criminals or people charged with crime. It is not safe that when offenders, or alleged offenders are in police custody that confessions made by them should be treated as evidence against them, the few cases to which I called the attention of the Council in the morning show the danger of that procedure. Then, again, in reference to that very subject, or the allied subject of torture, or if torture is a word which is unacceptable, of corporal punishment, there is much to be said about the remands that are given to the police and the accused being sent back to police custody and not to jail. My friends who come from other parts of the country and have much wider experience than myself of the methods of police administration in the mufassil, Mr. Shafi and Nawab Abdul Majid, would be able to satisfy the Council that that is a direction in which some reform is urgently needed.

"Then, Sir, about the police itself. The Government in its last memorandum on some of the results of Indian administration during the last 50 years say that 'the police is still as heretofore a weak point in the administration', so that it is admittedly a weak point. My friend, the Hon'ble the Home Member, has correctly stated the position when he says that errors are admitted, defects are admitted, but an honest effort is being made towards the removal of those errors and defects. My motion is only another effort in that direction. I do not pretend or profess to say that I have indicated the right direction, my knowledge as to how these things are done or ought to be done is necessarily very limited.

"I have only suggested a method, and if there is a better method, certainly I shall be the first to accept that method. My friend, the Hon'ble the Home Member, has said that he has invited the opinions of the Local Governments. I am content that the Government itself should take action upon the opinions that it receives, and I am quite sure that, when Local Governments are submitting their opinions, they will in their turn, consult non-officials in their respective jurisdictions. When I brought forward the motion, I did not do so in any spirit of hostility or from any desire to hamper the Government in the efforts which admittedly it has been making to improve the police, nor did I intend to cast aspersions upon the police, except so far as to make out a case that action was necessary. I had to refer to matters which are more or less the common property in the country and which have been disposed of by the highest tribunals in the land. My friend, the Member for the Chamber of Commerce of Calcutta, has referred to the High Court laying down rules of evidence which it is impossible to satisfy 'exotic' he has been pleased to call them. Well, it would have been better if my friend had more experience of rules of evidence before applying that epithet to the procedure and practice of the High Court of Bengal. If he had followed the other High Courts in India, the Chief Court of the Punjab, the High Court of Allahabad, the High Court of Bombay and the High Court of Madras, he would have seen that they have been doing exactly what the High Court in Bengal has been doing, namely, rectifying the errors of the police and of the executive administration, bringing peace where there was every fear there would be great commotion and unrest. That has been the function of the High Courts, and we the people of India are grateful that they do exist and that they do sit to correct the errors of the executive and not to follow the rules of evidence which suit my Hon'ble friend, and which if they did

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follow, they would certainly have followed exotic rules. It is easy for my friend to rush into a controversy where other people would fear to tread, namely, a controversy about the judicial attitude of the High Courts. There is an observation of my friend the Hon'ble Mr. Madge to which I think it is desirable that some reference should be made. I quite agree with my Hon'ble friend the Home Member, when he says that there was no intention on the part of the speaker to cast any reflection upon our people. But I take that observation for another purpose. My friends who have either given expression to that sentiment or associated themselves with it, have they ever paused to consider as to why the same class of men who are their Durwans, and who might be regarded as gentlemen in culture and breeding notwithstanding their ignorance, should at once develop into what they are when they enter the service of the police? It is not the men, it is not the social strata, from which they are drawn, but it is the system into which they are thrown which makes them what they are, a system which renders the police practically independent. And has it never struck my friends when comparing—I admit I am trading on very delicate grounds,—his own countrymen in England and in this country as to what is the reason of the difference that is so noticeable? It is because they are thrown in a different environment and because they are associated with a system which has behind it the tradition which unhappily attaches to them in India. So, it is not the men who are at fault, but it is the system which is at fault. There is another thing which has been said time and again, namely the want of co-operation on the part of the people with the police. I do wish that that bogie and that charge should be allowed to rest once and for ever. We have asked, in times of great commotion, in times of great unrest, our friends, the Anglo-Indian gentlemen of this Province when they have accused us of want of co-operation in the detection of crime, we have asked them to show us the way to tell us as to how is it to be done, you who know the ways of the west tell us. We have received no enlightenment. We have been told only that we have failed to co-operate in the detection of crime and there it rests to-day. I do hope that when that charge was brought by a member of the Commercial Community to-day, some explanation, some illustration should have been given. I may remind my friends that whereas special constables are made in England to help the police, they are made here by way of punishment and to bring disgrace upon the people sworn in. I do hope that when further reforms of the police are carried out, the Government itself will show us the way, and I can assure the Government that if it does show the way, we shall not be slow in following it.

“Sir, there is one observation which my friend the Hon'ble Mr. Lyon made and which is, in some sense, a personal observation. I think that I ought to meet it. I am glad that my friend whom I have known in happier days in my part of Bengal is coming back to us. We welcome him. The lost sheep of Israel is coming back. But when he charges me with making statements which are not altogether well-founded, he ought to have known that he was tackling a very rough customer. I took advantage of the adjournment that you were pleased to grant us to get a copy of the Report of the Mymensingh disturbances to which I had been a party. I submitted this Report to the Government of Eastern Bengal and Assam, and if I may be permitted to remind my friend, I saw him and his Chief in the Government House in Calcutta with the draft of my Report and with my suggestions about the steps that, I thought, were necessary to be adopted at that particular moment. We invited Mr. Clark, the District Magistrate, to permit some responsible police-officer to be present during our investigations, but he doubted the sanction of higher authorities which he said there was no time to apply for, and he further said that it would not be granted, so it was not our fault that the investigation was *ex parte*. I specially laid stress on that point, and I said that it was a matter of regret to me that it was not possible for Government to help us. He says that we gave two minutes and a half to each witness—that is the old characteristic way in which officials deal with important questions, but unfortunately for my friends that has not even got the

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merit of accuracy on the present occasion. We examined 45 witnesses in three days between two of us—one of whom was my humble self and the other was a retired member of the Indian Medical Service, a gentleman who had worn the King's uniform. The examination of 45 witnesses in three days between two of us was not a such heavy task as was incapable of accomplishment.

"My friend said that for us some shopkeeper had to reconstruct the disorderliness of his hut to show us the loot that had taken place. I do not think that human nature is so perverse that after the lapse of ten days this poor man felt it his duty to break up his things again and scatter them about for show against our investigation. It may be true, but I am sorry to note that in the reply that my friend gave he did not deny that the loot had taken place."

The Hon'ble Mr. Lyon: "I beg to explain that I fully intended to state that it appeared to the Government after a careful inquiry into the matter that no looting had taken place."

The Hon'ble Mr. Bhupendranath Basu: "I quite accept that was the Government opinion. But no public announcement of that opinion in the shape of a Resolution was made. I ask my friend if there was any public inquiry or if there was any Resolution on the subject, but that is a small matter which I may pass over."

"My friend the Hon'ble Mr. Gokhale has referred to some personal experience of the Criminal Investigation Department. Well, if I enter into the personal experience of each one of us as regards the way in which we have been dealt with, it would be a very long story, and I would soon tire the patience of the Council. Well, there is a famous passage of the well known poet of your country that a man whose soul is not tuned to music is capable of treason, and I was very nearly driven to that state of mind, for curiously enough I found for days and months running into years a fiddler sitting calmly in a room opposite to my house and fiddling away for very life. I never could make out how this man earned his subsistence, and why he should be always playing on the fiddle. Well, my suspicions were naturally aroused; I inquired of the house-owner in which this man was living as to what his occupation was. He simply said that he did not know but he seemed to be a very innocent person. I told him that I had a very different opinion of him, as I was inclined to think that he had been spying upon me. My neighbour, the house-owner, stoutly defended his tenant, but curiously enough as soon as I left the country for Europe, this fiddler tenant of his also left. These are experiences which might be multiplied. I do hope and trust that with the better state of feeling that has come over the country, with the clear atmosphere that now surrounds us, with the beneficent result of the auspicious visit to this country of our King and Queen the suspicious attitude of certain departments of State towards ourselves and our people will be gone and gone for ever."

"As regards my own motion, having regard to the sympathetic consideration of the points that I have raised by the Hon'ble the Home Member and the suggestions made by the Law Member, with your leave, I beg to withdraw it."

The President: "The Hon'ble Member is allowed to withdraw his Resolution."

The Council is adjourned till Friday, the 1st March, at 11 A.M., when the Financial Statement will be presented."

W. H. VINCENT,

Secy. to the Govt. of India, Legis. Dept.

CALCUTTA;

The 8th March 1912.