

*Wednesday,
13th March, 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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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 1899 (24 & 56 VICT., c. 67, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Wednesday, the 13th
March 1912.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G.,
G.C.V.O., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,
and 55 Members, of whom 47 were additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Raja of Kurupam asked :

"(1) Is it a fact that the Accountant General, Post Office and Telegraphs, has, with the sanction of the Government of India, taken steps to abolish the Depositors' Ledger of Savings Bank now maintained in the Postal Audit Offices and served notices of discharge from 1st April 1912 on about 200 clerks in the various Audit Offices in order to effect an estimated saving of a lakh of rupees a year ?

"(2) Has the Government received any memorials from the clerks served with notices of discharge, and, if so, what action has been taken by the Government to remove the hardship which may be caused to these clerks who have been thrown out of employment ?

"(3) Will the Government be pleased to state whether it is proposed to extend to these clerks the same sympathetic consideration that has been promised to the staff of the Telegraph Department, that their pay and prospects will not suffer by the proposed amalgamation of the Post and Telegraph Department ?

"(4) Is it a fact that Post Masters General have asked for increased establishment in consequence of the transfer of the Savings Bank Ledgers from the Audit Offices to the Post Office ? And is it true that the proposed saving of a lakh of rupees a year under 'audit and accounts' may be nearly counter-balanced by increased establishment in the Post Office proper and increase in the number of gazetted officers for inspection of post offices and the travelling allowance of the gazetted officer and his staff on inspection duty ?"

[*Sir Guy Fleetwood Wilson ; Mr. Mazharul Haque ; [13TH MARCH 1912.]*
Sir Reginald Craddock ; Sir Gangadhar Rao Chitnavis.]

The Hon'ble Sir Guy Fleetwood Wilson replied :

" (1) The reply is in the affirmative.

" (2) Memorials have been received from the clerks. It is hoped the posts may be found for a good proportion of the men either in the Post Office or in other branches of the Postal Accounts, and to this end it has been arranged to keep all vacancies occurring in the Postal Audit offices unfilled for the present.

" (3) The amalgamation of the Postal and Telegraph Departments is wholly unconnected with the reduction of Savings Banks staff and the same considerations do not apply in the two cases.

" (4) I have seen no applications such as the Hon'ble Member refers to, and the cost of the inspection staff will be extremely small in comparison with the savings which are in contemplation."

The Hon'ble Mr. Mazharul Haque, on behalf of the Hon'ble Mr. Bhurgri, asked :

"In reply to a question asked by the Hon'ble Sir G. M. Chitnavis about the inconvenience caused by the tours of officials in the mufassal, Government, on the 18th February 1910, stated that they had invited the opinions of Local Governments on the subject, and also promised to send the Hon'ble Member's question and the answer given to Local Governments.

"Will Government be pleased to state if they have received the opinions of Local Governments on the subject?"

"If so, will Government be pleased to lay such opinions on the Council Table?"

The Hon'ble Sir Reginald Craddock replied :—

"The opinions of Local Governments were invited regarding the recommendations contained in paragraphs 669—672 of the report of the Decentralization Commission with reference to official tours. Replies have been received, but since the question is still the subject of correspondence with the Secretary of State the papers cannot be laid on the table. The reports show that the matter has received, and is receiving, attention in all Provinces, and orders are already on record which conform generally to the recommendations of the Commission. It is everywhere recognised that the difficulties mentioned by the Commission exist and that, speaking broadly, they can best be met by action on the lines indicated, but it is not desirable to issue uniform detailed instructions which might not be equally applicable to the varying circumstances of different parts of the country, and the Government of India are satisfied that Local Governments are already dealing adequately with the question."

The Hon'ble Sir Gangadhar Rao Chitnavis asked :

"(a) Has Government received memorials from individual clerks employed in the Postal Branch of the office of the Deputy Accountant General, Post Office and Telegraphs, requesting revision of the existing scales of pay in view of the increased cost of living? If so, will Government be pleased to state what action has been taken upon them?"

"(b) Will Government be further pleased to state what action has been taken upon the Report of October 1909, submitted by a Committee consisting of Mr. K. L. Dutta and Mr. W. Chard, on certain proposals for the improvement of the prospects of the subordinate staff?"

"(c) Is it a fact that the scales of pay of other Government offices have been revised more than once recently, whereas those of this Account office were revised only once in 1908?"

"(d) Will Government be pleased to consider the desirability of improving the scales of pay in the subordinate ranks?"

[13TH MARCH 1912.] [*Sir Guy Fleetwood Wilson; Mr. Dadabhoy; Mr. Clark; Mr. Gokhale.*]

The Hon'ble Sir Guy Fleetwood Wilson replied :

"(a) Memorials have been received and are now before the Government of India.

"(b), (c) and (d) Orders will shortly issue on the report of Messrs. Dutta and Chard's Committee; but at present I am unable to make any statement regarding the pay of the Postal Audit staff."

The Hon'ble Mr. Dadabhoy asked :

"Will Government be pleased to state the total cost, if any, it has to pay for the maintenance of the Indo-European Telegraph Department in Persia, as also the amount of annual revenue the system yields?"

The Hon'ble Mr. Clark replied :

"The attention of the Hon'ble Member is invited to the major heads of account XIV and 16—Telegraph. In 1910-1911, the last year for which actuals are forthcoming, the revenue earned by the Indo-European Telegraph Department amounted to Rs. 21,87,909, and the maintenance charges were Rs. 10,82,644, sub divided as follows:—

	Revenue. Rs.	Maintenance charges. Rs.
Persian section	6,69,935	4,15,129
Persian Gulf section	15,17,974	6,67,515 "

RESOURCES OF LOCAL BODIES.

The Hon'ble Mr. Gokhale : "My Lord, I beg to lay the following Resolution before this Council for its consideration :

'That this Council recommends to the Governor General in Council that a Committee of officials and non-officials be appointed to inquire into the adequacy or otherwise of the resources at the disposal of Local Bodies in the different Provinces for the efficient performance of the duties which have been entrusted to them, and to suggest, if necessary, how the financial position of these bodies may be improved.'

"I think, my Lord, I ought to state at the outset why it is that I am raising this question here to-day when it was one of the subjects into which the Decentralization Commission inquired only four years ago, and when the recommendations of that body are still under the consideration of the Government of India and the Secretary of State. My reasons for adopting this course are first, that, though the Decentralization Commission went at some length into the general question of local self-government, its inquiry into this particular branch of the subject, namely, the adequacy or otherwise of the resources at the disposal of local bodies, was extremely slight; and, secondly, the very fact that the matter is at present under the consideration of the Government of India makes the present an opportune moment for raising this discussion here, because even if the Government are unable to accept this motion, it will be an advantage that the views of non-official members on this subject should be before the Government before a decision is arrived at.

"My Lord, in speaking to my Resolution about Advisory District Councils the other day, I pointed out how the reforms that have been introduced during the last five years have liberalized the character of the administration so far as the Secretary of State's Council and the Executive and Legislative Councils of the Government of India and the Provincial Governments are concerned. The district administration, however, continues to be where it was 100 years ago, and local self-government too continues to be where it was carried by the late Marquis of Ripon about 30 years ago: and I strongly feel, my Lord, that there must be important reforms introduced in respect of both these, in order that all parts of the administrative machinery should be brought into

closer correspondence with one another. My views on the subject of district administration I have already laid before the Council. It is true that the motion was lost that day, but that does not mean that the last word on that subject has either been said or heard. To-day I propose to speak on the subject of local self-government. This subject may be considered under three heads: (1) the constitution of local bodies, (2) their powers and functions, and (3) the resources at their disposal. Of these three, the Decentralization Commission have gone in some detail into the first two, and their recommendations in regard to them are also fairly liberal, and I do not therefore wish to say anything about them on this occasion. I agree entirely with the recommendation made by the Commission that steps should now be taken to create village-panchayats in selected villages throughout India; I also agree that steps should be taken to establish what they call 'Sub-District Boards' in those Provinces where they do not at present exist. One essential condition of the success of local self-government is that those who take part in it should possess a personal knowledge of the area under their management, or, at any rate, should be able to acquire that knowledge without much difficulty. This condition can well be fulfilled in regard to villages and sub-districts; it is difficult for it to be fulfilled in regard to District Boards, as our districts are so large. Therefore, I think our real local self-government should start with villages, and stop with sub-districts; the District Boards may exercise only general supervising and co-ordinating functions, and then, if the Government choose, the other functions of an advisory character, of which I spoke the other day, might gradually be transferred to them. Turning now to the question of the financial position of local bodies, with which alone I am going to deal to-day, I do not wish to distinguish between District Boards and Sub-District Boards for this purpose. For to-day's discussion, I will take them together as representing rural self-government just as municipalities represent urban local self-government. Now, my Lord, let us take a bird's eye view of the whole position of local self-government in the country. There are altogether 717 Municipalities in the country, 197 District Boards and about 517 Sub-District Boards. There are besides about 450 small Union Committees,—389 in Madras and 61 in Bengal; but I will leave them for the present out of account. The population in municipal areas is roughly about 16 millions, which means about 7 per cent. That is the urban population, the remaining 93 per cent. being entirely rural. The highest percentage of urban population is in the Bombay Presidency, where it is 18 per cent., and the lowest in East Bengal, where it is only 2 per cent. There are no rural boards in Burma; there are only Sub-District Boards in Assam, and no District Boards. In the United Provinces the Sub-District Boards have been recently abolished, and in the Punjab they have largely disappeared. Coming to the question of revenue, and first taking the four leading Municipal Corporations of Bombay, Calcutta, Madras and Rangoon, it will be found that their total revenue is $2\frac{1}{2}$ crores. The average revenue of the remaining 713 Municipalities is only about 55,000 rupees each. The incidence of taxation is highest in Rangoon, (and I think on this point my Hon'ble friend Mr. Gates distinctly scores), being as high as 11.61 rupees per head; Bombay City comes next with $\text{R}10$ per head, Calcutta follows with $\text{R}8\frac{1}{2}$, and Madras comes last with a little over $\text{R}8$ per head. For the remaining mufassal areas, the average is about $\text{R}2$ per head in Bombay, Punjab, Burma and the North-West Frontier, in the Central Provinces it is $1\frac{1}{2}$ rupees; in the United Provinces and Bengal it is a little over $\text{R}1\frac{1}{2}$, and in Madras it is only $\text{R}1\frac{1}{2}$. In Bombay, the United Provinces, the Punjab and the Central Provinces, a large part of the municipal revenue is derived from octroi. In other Provinces there is no octroi. There is in Madras, however, a toll levied on roads, and Bombay and Assam also levy it. The principal revenue in Madras and Bengal is derived from taxes on houses and lands, Bombay, the Central Provinces and Burma also levying such taxes. In some Provinces there are taxes on professions and trades and in all, on carts and vehicles.

"The Municipal Boards have powers of taxation within certain limits with the previous sanction of the Local Government. The rural Boards have no power of taxation; they are limited to what is known as the one-anna cess.

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[Mr. Gokhale.]

In raiyatwari areas it is levied on the Government assessment, and in other areas it is assessed on the annual rental value of land. The total revenue from taxation from Provincial rates in rural areas is about 2½ crores, and another 2½ crores is received from various sources, including a small grant from Government. This gives us an incidence of less than 4 annas per head. The Local Boards, moreover, do not get the entire proceeds of this one-anna cess in all the Provinces. In the United Provinces one-third is taken by Government for village chaukidari police, and in the Punjab 20 per cent. has to be paid to the Government for general services. In Bengal a portion goes to the Government for public works cess, and in the Central Provinces only 5 per cent. of the land-revenue is levied as the one-anna cess and goes to local bodies. Turning now to the functions of these bodies, briefly speaking, we may say that they are the care of health, of education and of roads or communications. Enumerating them in greater detail, we find that Municipalities are entrusted first with the duties of construction, up-keep and laying of streets and roads and the provision and maintenance of public and municipal buildings; secondly, the preservation of the public health, principally with reference to sanitation, drainage, water-supply, provision of medical relief, vaccination, and measures against epidemics; and thirdly, education. And the rural Boards are entrusted with the maintenance and improvement of roads and other communications, education, especially in its primary stages, the up-keep of medical institutions, sanitation, water-supply, vaccination, veterinary work, construction and maintenance of markets, and charge of pounds and ferries. My Lord, one has only to enumerate these functions and contrast their wide range with the extremely meagre character of the resources which I have already mentioned to realise how unequal—how pitifully unequal—the resources of Local Bodies are to a proper performance of the functions which have been entrusted to them. Fortunately this point is one on which officials and non-officials are practically all agreed. The little evidence which appears on this subject in the proceedings of the Decentralisation Commission goes to show that there is no substantial difference of opinion between the two. Who that takes this situation into consideration can wonder that things are as they are as regards the provision for health or sanitation, for education or for roads in the country? My Lord, only about 3 per cent. of our towns have got a filtered water-supply, and even a smaller proportion have got efficient drainage. Then in villages, in rural areas, over the greater part of the country, good potable water is a crying want. The total number of hospitals and dispensaries in the country is less than 2,700, and disease carries away annually between 70 and 80 millions, at least one-third of which mortality ought to be preventible with better sanitation and better water-supply. The masses of the people are sunk in dense ignorance. I do not think it is really necessary to dwell on this aspect of the question more than I have done. As I have already observed, there is practically no difference of opinion between officials and non-officials in the matter. I will, however, refer briefly to the evidence tendered on the subject by three important witnesses before the Decentralization Commission. The first witness whom I will quote is Sir Herbert Risley, now alas no more with us. Sir Herbert Risley—we all recognized, whether we agreed with him or differed from him—always approached a question from the standpoint of a scholar and a thinker, and his evidence on the subject was remarkable. This is what he says :

‘It must be admitted that the resources of District Boards and Municipalities are not sufficient to enable them to work up to modern standards of administration. In Municipalities this is most conspicuously the case.’

“The second authority that I will mention is that of the late Sir John Jenkins, whose recent death everybody in this Council sincerely deplores, the strength and liberality of whose views it did not take us long to appreciate, and to whose high qualities Your Excellency paid, if I may presume to say so, a befitting tribute only the other day. Sir John expressed himself on this question with characteristic decisiveness. He pointed out that the resources

at the disposal of local bodies were exceedingly meagre, and he said that, considering that they were so meagre, it was no wonder that more interest was not felt in the work of local bodies. If local self-government was to be a success in this country, he strongly held that the resources of local bodies must be largely increased. My third authority will be my Hon'ble friend Sir James Meston, who will soon be translated, we all rejoice to think, to a higher sphere which he is bound to adorn, and where I hope he will remember that the eyes of those who have learned to admire him in this Council will still be on him. I hope my Hon'ble friend proposes to take part in to-day's discussion. Only, if he does, I hope he will remember that I have got his evidence before me, and that I have the right of reply. The Hon'ble Member is very clear and emphatic in his evidence as to what is necessary. It will take time to read what he says, but, briefly speaking, he strongly advocates that the resources at the disposal of local bodies should be largely increased. And he says, especially speaking of District Boards, that there should be quinquennial settlements made by Provincial Governments with them as to the additional revenue that should be allotted to these bodies. My last authority—last but not least—will be the present Home Member. In a speech which he delivered some time ago in the Central Provinces, the Hon'ble Member dealt with the question as to why local self-government was not a greater success than it was, and he said that, considering the fact that the resources at the disposal of the local bodies were so extremely meagre, the surprise was not that they had not done better, but that they had done as well as they were doing. I think, my Lord, I need not adduce any more testimony on the point that the resources at the disposal of local bodies are very slender, and that, if local self-government is to be a success in this country, they ought to be largely increased. The Decentralization Commission have expressed the same opinion. Unfortunately the Commission had to inquire into a hundred different subjects, and therefore this particular subject, namely, the adequacy or otherwise of local resources, received the scantiest possible attention from them. And I feel compelled to say that the manner in which they have dealt with this question is absolutely perfunctory. They say that municipal bodies have powers of taxation; therefore they should raise extra taxation and thus meet their requirements. They did not, however inquire into the question whether there was any margin for extra taxation, and, if there was a margin, what was its extent and how far it could be utilised at once. In regard to rural Boards, they propose certain small measures of relief—transfer of certain charges from here to there and so forth; only one substantial suggestion they make, and that is, that the 25 per cent. supplementary grant, that is $\frac{1}{4}$ th of the proceeds of the one anna cess roughly—which the Government have been making to rural Boards since 1905 should be increased 'if circumstances permitted.' Nothing more definite, however, than 'if circumstances permitted'. I must say that the whole question has been dealt with in a most unsatisfactory manner, considering its importance, and it is therefore that I urge that a fresh and thorough inquiry into this special subject should be ordered—an inquiry similar to what was made in England by the Royal Commission on local taxation. My Lord, it may be said by some that after all, if local bodies wanted more money, they should tax themselves more and thus provide this money. What margin there is for such additional local taxation, what is the total incidence of imperial and local taxation, and how far the proceeds of taxation are equitably distributed between the Central Government and local bodies, are, however, questions of great importance and require a careful examination. One thing I want to point out clearly to this Council to day, and it is that it cannot be justly urged, taking the imperial and local burdens together, that the people of this country, relatively to their resources, contribute less in taxation than the people of Western countries. This is really very important, and I must therefore deal with it in some detail. My contention is that relatively to their resources the people of this country contribute the same proportion of their income as taxation, imperial and local together—that the people in leading Western countries do. There are three different systems of local self-government in the West. The first is the American

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[*Mr. Gokhale.*]

system; the second is the English system; and the third is the Continental system, of which I will take France as the type. In America, the local authorities have independent revenues of their own—absolutely independent revenues. But they also enjoy complete immunity from the control of the State. As our circumstances are wholly different, the American analogy will not do for us, and therefore I will not say anything more about America. In England the local bodies derive a large part of their revenue from their own rates; then certain revenues have been made over to them by the Central Government as assigned revenues in recent times—this was carried out by Mr. (now Lord) Goschen in 1889—and in addition they receive certain grants from the Exchequer. Thus what they raise from rates is supplemented by certain revenues known as assigned revenues and by grants from the Exchequer. In France, the local bodies derive a large part of their revenue by the simple process of being permitted to add extra centimes to the taxation which the Central Government levies from four 'Direct Contributions'; and this is a very important proportion of the resources of local authorities in France. Our system of local self-government in India is more similar to that of France, where the control of the Central Government over local authorities is much more stringent than it is in England; but as our future development will have to be more on English lines, I think it is necessary for us to study carefully both models, the English and the French.

"My Lord, there are certain important differences in the functions and responsibilities of local bodies in England and France on one side and in India on the other which must be noted. In the main the functions belong to the same category, but in England and France they are much more highly developed and cover a much wider range. Moreover, in England and France local authorities have to maintain their poor, whereas in India the people do it themselves out of our own private expenditure. In Great Britain, with the exception of the Metropolis, the police charges are thrown on local bodies, the State contributing half of the cost as grant. In Ireland, however, the police charges come from the Exchequer. In France the police charges are borne by the Central Government. I mention these differences because they have to be taken into account in instituting a proper comparison. Now, my Lord, taking the figures for 1909—the figures for 1910 will not do as, owing to the rejection of the Budget by the House of Lords, a large part of the revenue did not come in during the year, and the figures for 1911 are swollen by the realization of the previous year's arrears—taking the figures for 1909, we find that in that year in England, confining ourselves strictly and solely to taxation, and excluding Post Office and such other receipts, the State raised about 130 millions. In that same year, the local authorities raised altogether from taxation, pure and simple, about 70 millions. This means a total taxation revenue of about 200 millions altogether, *i.e.*, 130 millions central and 70 millions local. About the same time, taking the latest figures available for France, we find that the State raised about 113 millions from taxation and the local authorities—the Departments and Communes—raised by taxation about 40 millions; altogether 153 millions. In India, taking the revised estimates for the current year and omitting, from the revenue under principal heads, opium, provincial rates, and forest and tributes, we find that our revenue was about 46½ millions sterling roughly—between 46 and 47. And taking the revenue raised by taxation by local bodies for the last year, we find it was about 3½ millions—a little over 3½ millions;—thus we raised by taxation 46½ millions imperial and provincial, and 3½ millions local, or altogether about 50 millions sterling. We thus find 200 millions raised in England, 153 millions in France and 50 millions in India. Let us now see what proportions these amounts bear to the total national income of these countries. In England at the present day, the average income per head is taken at about £40; and the population may be taken at about 45 millions. That means a total national income of about 1,800 millions; 200 millions out of 1,800 millions means about 11 per cent. of the whole national income in England. Thus, in the year I have taken, 11 per cent. of the whole national income was contributed by the people for imperial and local purposes in the shape of taxation. In France, the income is now taken at about £30 per head, and the population is about 40 millions. The total national income is thus about 1,200 millions, out of which about 153 millions were taken for imperial and local purposes. This gives us a

proportion of about 12½ per cent for France. Now in British India our population is 230 millions. There is some difficulty as to what should be taken as our average income. There are various authorities who have given various figures. The late Mr. Digby calculated it at only £1 per head. Our great and venerable countryman, Mr. Dadabhoy Nowroji, calculated it at Rs. 20 per head. Lord Cromer, with the assistance of Sir David Barbour—himself later on one of the soundest Finance Ministers of the country, who was then Financial Secretary—calculated it at Rs. 27 per head. Lord Curzon—for controversial purposes (and that to a certain extent reduces the value of his estimate)—estimated this average income at £2 per head. Let us, however, for argument's sake take the highest estimate—Lord Curzon's estimate. Two pounds for a population per head gives us 460 millions. Out of this national income for the whole country, our total taxation, imperial and local, for the current year is, as I have shown, about 50 millions. That gives us also a proportion of about 11 per cent. of our national income. We thus find that of the total national income about 11 per cent. is contributed in imperial and local taxation in England; about 12½ per cent. in France; and about 11 per cent. in India. When it is further remembered that the charge for the poor in England amounts to about one per cent. of the national income, and that that charge is borne privately by ourselves in this country, we may put our proportion also at 12 per cent. of the whole national income. It is quite clear therefore from these figures—and they may be relied on for general purposes—that relatively to our resources we contribute the same proportion of our income in the shape of imperial and local taxation. But where the trouble comes in is in its distribution. The revenue thus raised is distributed in this country much more unfavourably to local bodies than happens to be the case in England and in France. In England, as I have already explained, the local bodies had in 1909 70 millions of their own; in addition they received in that year grants—assigned revenues and grants—from the Central Government amounting altogether to no less than 28 millions. They thus received altogether about 98 millions out of a total of 200 millions, and this, exclusive of the charges for police in Ireland and in the Metropolis. Thus the total of 200 million pounds raised by taxation was practically divided half and half between the Central Government and local authorities, the Central Government taking half for central purposes which have been described as 'onerous' purposes, and the other half going to local authorities for what are called 'beneficial' purposes. In France, in addition to the revenue raised by taxation by the local authorities, they received a little over 2 millions as grants from the Central Government. Taking into consideration these grants, as also the grants for education and the expenditure for police, we find that about 95 millions represented the expenditure of the State for central purposes out of this 158 millions, and about 58 millions represented local expenditure, including police and educational expenditure among the local, for making a uniform comparison. This gives us a proportion of about two-fifths for local and three-fifths for the State. In India it will be found that, even including the Government expenditure on police, education and medical relief in local expenditure—I include the police in India among 'beneficial' services with considerable hesitation—we still find that the Central Government took last year about 40 millions out of a total of 50 millions for its own purposes, i.e., four-fifths; of the remaining 10 millions, too, more than one-half—nearly two-thirds—was administered by the State itself, and only a little less than one-half being administered locally. Here then is the real root of our trouble. It is not that we pay less for imperial and local purposes, but that what we pay is distributed so unequally between imperial and local services in this country. The Central Government here takes a much larger proportion than what is done in England or France.

"Now, my Lord, I do not say that this can be remedied at once; but some way must be found to secure a larger proportion for local bodies. There is one circumstance of a most striking character to which I must invite the attention of the Council. The total contribution from land is distributed in an altogether different manner here and in England or France. In England the bulk of the contribution that comes from land goes to local bodies, the Central Govern-

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[Mr. Gokhale.]

ment receiving only a very small amount as land-tax. In France more than half the contribution from land goes to local bodies. For the year which I have taken into consideration, for every hundred centimes levied by the State from land, there were 130 centimes levied by the Communes and Departments together. In this country, however, the division is in the proportion of 16 to 1, that is, sixteen-sevenths goes to the State and only one-seventeenth to local bodies. Now there we have really a very serious grievance. I know that it will be said that in this country the land belongs to the State; but after all it is only a theory, and a mere theory cannot change the character of a fact. And that fact is that the total contribution from land is distributed in India in a proportion which is most unfair to local bodies. If we could get for our local bodies a much larger share of the contribution from land, even if the proportion was not as high as in the West, most of the financial troubles of those bodies will disappear. Of course, my Lord, I do not mean that any large proportion of the land-revenue can be transferred at once to local bodies. But I urge that, in consideration of this difference, the Government should help our local bodies with large recurring grants. In any case, the whole question requires to be carefully considered. A great authority on finance, Mr. Bastable, in the chapter on local taxation in his *Public Finance*, points out that land is pre-eminently a source from which local taxation must necessarily be largely drawn; and he points out that in rural areas, there is hardly anything else from which a local revenue can be derived. This is Bastable's view, and I think his authority must be acknowledged by every one. I therefore urge, my Lord, that a careful and thorough inquiry into this question is absolutely necessary, by a body of men qualified to deal with the subject, who should confine themselves to this sole and single question of the adequacy or otherwise of the resources of local bodies. The Committee should inquire into, first of all, whether the present distribution of resources between the Imperial Government and the local bodies is a fair one; secondly, in what ways the Central Government can come to the assistance of the local bodies—whether any revenues can be assigned as is done in England, and, if so, what, to what extent steadily increasing recurring grants-in-aid can be made from the Imperial Exchequer to the local bodies, and whether there is any margin for additional local taxation, and, if so, to what extent. I, for instance, would revive octroi in Bengal and Madras. The theoretical objections against octroi will, I think, not do in this country at our present stage. If you disallow octroi, you shut out an important and fairly large source of revenue for our local bodies. My Lord, I urge this inquiry because the whole future of our local self-government depends upon this. It is freely admitted by every one—by the Government and by the non-official public alike—that there can be no more potent instrument of political education for the mass of our people than local self-government. On this account, as also because the interests of health, education and communications, which are in the charge of local bodies, are of the utmost importance to the community, that I urge a sympathetic examination of this question. My Lord, the Hon'ble the Finance Minister told us the other day—he said he was committing an indiscretion, but the country is grateful to him for that indiscretion—that, in one of the first conversations he had with Your Excellency, you stated to him that it was your earnest desire specially to promote the interests of education and sanitation in this country during your administration. My Lord, there can be no nobler gift bestowed on humanity than the two gifts of health and knowledge. We all fervently pray that Your Excellency may be enabled to realise this ambition of your heart. But if the ambition is to be realised, it can only be by strengthening the financial position of local bodies, because both sanitation and education can be promoted in the land only through the instrumentality of local bodies. I, therefore, earnestly trust that the Government will direct an inquiry such as I have proposed. The question is a very large one, and it has got to be dealt with in a large way. Unless it is so dealt with, unless local bodies are enabled to discharge the functions which have been entrusted to them properly, not only will local self-government prove a failure, but those great interests, those sacred interests, which have been made over to them—the interests of health and education—will also suffer.

“My Lord, I move the Resolution which stands in my name.”

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The Hon'ble Sir James Meston: "My Lord, the Hon'ble Mr. Gokhale has raised a question of great and growing interest. He has raised it, as he told us himself, rather with the object of having it ventilated and of giving this Council an opportunity of expressing its views regarding it, than with the precise desire of insisting upon an inquiry in the form which his Resolution suggests. For, as he has said, and as I think is common knowledge, the whole subject is now under consideration by the Government of India and by the Local Governments in consultation, at the instance of Mr. Hobhouse's Commission; and if, as he complains, the recommendations of the Commission fell short of what is practicable and reasonable, I have little doubt that the ground covered by the discussion which is now in progress will extend to the subjects,—to the branches of the subjects—which the Hon'ble Member thinks Mr. Hobhouse's Commission omitted. If the result is unsatisfactory, it will then be time to press for the further inquiry which he now suggests. But in the meantime Mr. Gokhale has given us a very interesting glimpse of the place which he would assign to the functions of the local authorities in his scheme of political ideals for India. Local self-government in the modern sense has had a chequered and not altogether a glorious career in this country. The old village organization, which has been the admiration of all students of ancient institutions, survived for many centuries the inroads of conquerors and the changes of empire. But since the establishment of the British Government, since the establishment of a strong central Government, it has gradually weakened; and the rapid disappearance of the power and the responsibility of the old village organization is, I think we must all admit, one of the less happy consequences of the development of India on Western lines. In place of the old village organization, we have not yet got any local institutions with the same vitality or anything like the same spontaneity. The statutory reform of local self-government dates, as the Hon'ble Mr. Gokhale has told us, from the days of Lord Ripon, when the present frame-work of Municipal and District boards was laid down. In some provinces that frame-work has been filled in better than in others; but the attitude of the public mind towards the whole subject is, I think, best indicated by the colloquial transposition of 'local self' into 'local slough' with which every one is more or less familiar. There has not, however, been absolute stagnation. The Municipalities, as has been the common experience in all countries, have gone ahead; and we now have, especially in some of the large cities like Bombay, a genuine, strong, active and public-spirited form of civic municipal life. But in the rural areas the District Boards and the Local Boards remain formal and as a rule ineffective. They are a part certainly, but a comparatively minor part, of the official administrative machinery; their duties are unimportant, and their inefficiency is largely due to the lack of funds and to the lack of genuine activity and to the lack of interest in the work which follows from poverty.

"Now, my Hon'ble friend has long been an advocate of change and improvement in these directions; and I am sure that none of us who listened to his speech will disagree with a great deal of what he has said—an agreement which some of us must hasten to offer when we see that he has before him that blue and sinister volume from which he threatens to resurrect some of our past misdeeds. There are, however, in his speech two minor corrections, which perhaps I may be allowed to place before this Council. One is, I am sure, a pure slip. He described the mortality in India as 70 millions; he meant 7 millions. The second is a more important matter. In the elaborate calculations which Mr. Gokhale has placed before the Council to show that India is as heavily taxed as European countries, he has made the wide and sweeping assertion that land-revenue is taxation. Now, my Hon'ble friend knows, as well as most of us do, that there is no more controversial subject in the whole field of Indian politics. He knows the high authorities which hold that land-revenue is no more taxation than revenue from our forests or our gigantic irrigation works. And if that view is accepted, and it is certainly a tenable view, then his calculation to show the gravity of the Indian taxation requires modification. I did not, however, rise to bring this interesting dis-

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ussion on to a controversial plane; I only wanted, as the Hon'ble Member appealed to my past evidence, to mention two points on which I have a word to say and a caution to offer. The first of these is the caution against attempting to go too fast. I am sure from what has fallen from my Hon'ble friend that he is not going too fast. But he has disciples and followers, he is the leader of a political school, many of whose members are less conversant than he is with the practical limitations of political ideals, and a word of warning may not be wholly superfluous. Mr. Gokhale has quoted examples of what local bodies do in other countries, the large duties entrusted to them, and the large revenues at their command. I think that, before these examples are followed, their history should be closely scrutinised. In England the parish system of government has come down to us from the days of the Tudors, and the powers of the rural authorities have centuries of training and experience behind them. In Belgium the local administration is of almost equal antiquity. But in France the movement is much more recent, and the communal system which he commends still remains officialised or, to use the word which seems now to have become a term of special opprobrium in India, bureaucratic. Even in Eastern Germany, local self-government is still very backward; and in Italy, which historians tell us was the home of the earliest communal autonomy in Europe, the ancient system was completely broken down by feudalism, and its recent revival still leans very heavily on the central Government. The development of local self-government in Europe has thus had a varied history; and the wide liberty which it enjoys in England is by no means universal. It may be that the English models—the County Council, the Parish Council, and the rest of it—are not those which India at the outset could most profitably study. It may be, in spite of what Mr. Gokhale has said, that we should turn rather to the rural Communes of France and Italy, with their simpler forms, their more elementary duties, and their closer subjection to official control. For many years to come it may be that these models are as much as India is wise to follow.

“The second word of caution that I have to offer is this, and then I have finished. The Hon'ble Member has spoken of large grants from the Imperial Exchequer to the local authorities, and he has quoted the English practice. Well I suppose he knows the serious volume of discontent that the English system engenders. I see that this discontent received very forcible expression only a month ago in the House of Commons in a debate on one of the amendments to the Address, which was directed to draw attention to the grievances of the local rate-payers. In England, the rural local authorities realise a very large share indeed of their revenues, as he has himself told us, from taxation upon the land; and the rapid increase of their expenditure and their indebtedness is casting a burden on the land which in many parts has become too grievous to be borne. The only contribution made by personality to the expenses of the local bodies is supposed to be obtained by these grants from the Imperial Exchequer; and there is constant agitation and constant pressure for larger grants in the hope of thus securing a more equitable distribution of the burdens. What I am afraid of in India, and what I think will have to be most carefully guarded against in any progressive policy of local self-government, is a somewhat similar danger. It is the danger that the local bodies will have the responsibility of spending the money, but no real and direct responsibility for finding the money. If it has been sound policy on the part of the Government of India in the past to lighten the taxation on the land, it cannot hardly be sound policy to allow local bodies to increase it; and certainly it would be thoroughly unsound to base their system of finance on arbitrary enhancements of the taxation on the land combined with arbitrary doles from the Imperial Exchequer. There could, I think, be no system of finance which would be more unhealthy in its absence of all inducement to careful administration and to economy in local expenditure. Almost the same objection applies to the system of centimes which the Hon'ble Mr. Gokhale has quoted from some of the continental countries. There you have a system of the greatest possible simplicity; but its very simplicity is its danger.

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It gives the local authority no trouble and no unpopularity: the central Government has all the odium of assessing and collecting it: the local body has the gratification of spending it. In India, I cannot but think that any such system would be demoralizing and unsatisfactory. What I have to say, therefore, and I am sure my Hon'ble friend will take it in good part, is that if our rural authorities are to have the powers which Mr. Gokhale would give them, they must not be content with the dangerous case of cesses on the land and grants from the Imperial Exchequer. They will have to take up their own burdens and distribute them over the local interests and the classes who benefit from their roads and schools and dispensaries. They cannot be allowed to cast the whole of the responsibility on the shoulders of the central Government, or, what is still worse, on the inarticulate cultivators of the soil."

The Hon'ble Malik Umar Hyat Khan: "My Lord, being a Vice-President of a District Board and having been connected with local bodies for a time, my experience may be of some use and I should like to make a few remarks. Being acquainted with a distant mufassal I find that very many things are much neglected there for two reasons—a general want of funds, and the way in which these funds are spent.

"I was a witness before the Decentralisation Commission, and I plainly said what I felt on the subject. I need not repeat it as it is on record. I can safely say that since then the situation has improved, but even now I do feel the necessity of further improvement in that direction. There are committees and committees; and I think that the appointment of a larger committee to make exhaustive inquiries throughout the country would be open to objection on the ground of expense, but smaller committees might be useful.

"Government pays our way up to Simla for the Session of the Council. If three of the Members were appointed up there as well as three officials to meet for an hour or two a day when there is no legislative work, some useful results might be obtained. Some Members who take up time by moving Resolutions, making speeches or asking questions may do more useful work by serving on these committees.

"Again, Government, instead of throwing out all the Resolutions, would please people by accepting them. The public would be impressed with the idea that something was being done, and such a course might help the Government materially without any cost. If Resolutions were disposed of by such committees, it would obviate the necessity of bringing them forward in the Legislative Council year after year. My Lord, then we will easily be able to say that such a matter has been disposed of by officials and non-officials and there would be no need to move them again. As to the time spent it will be less than the debates here and may be of greater satisfaction and more useful, and I would be in favour of such a committee.

"My Lord, suppose this Resolution as put before the Council is seconded and adopted, a sort of Select Committee would be formed here, and it would be said that such and such members would meet in Simla and such a course would give much pleasure. I suggest the appointment of three officials and three non-officials, the president being an official who would give a casting vote when necessary. I do not know much about Russia and France, etc., but I know something about India. My Lord, we have a budget and we all go very carefully through it. I know my Hon'ble friend would not see any money wasted, neither would the Finance Minister allow any waste. The next thing is our Provincial Governments. When we give them some grant in addition to what they already have, there are more than three—the Imperial head, the Provincial head, etc., and I am of opinion that no money is wasted on their own requirements by Provincial Governments.

"Local Governments make grants to Commissioners, who in their turn distribute them among their districts, but as a matter of fact they have not sufficient funds. We would like to say that we have not got sufficient for our Provinces. The Commissioner being the man on the spot supervises the expenditure. The only other way of increasing their resources is, as my Hon'ble friend has suggested, by taxation. Then there are the zamindar

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and the money-lender classes. I will be very sorry if zamindars are burdened any more, because they are already sufficiently taxed, but I would not be sorry if the other class were taxed.

" When there is a particular sum in the district to be spent, it can be spent only in two ways, firstly, by the people, who if they were clever enough and took the administration of these local bodies into their own hands, would administer the funds themselves, and secondly, the District Officer or the Deputy Commissioner. When I was put before the Decentralisation Commission I said that the Deputy Commissioner's order should be carried out. Now, those in the district know sometimes how these sums ought to be spent; but when a new man comes, he goes to one particular part of the district and says that this is very bad, or that is bad, without knowing what the other parts of the district are like, and perhaps the District Board is spending the money only on one portion of the district. Then again we should wait till things right themselves, and that is just as my Hon'ble friend the Home Member advised us the other day. I would like to give you an instance which is interesting. When I went away from here, I attended one of these District Board meetings, and I thought, as I had just come back from Calcutta, I would try if anything could be done. Well in this case, I was by chance on the right side and the officials were on the wrong. I knew the vernacular and I was able to persuade all these men. I told them that they had been appointed by His Excellency to a sort of trust; that they were only speaking what they thought, and that if they went on like this, they would be making a mistake before God. This frightened them, and they all came round to my way of thinking. This shows how things are done in the distant mufassals, in places which cannot be reached by railways. I am sorry I cannot move a Resolution to take a railway to my house as my friend tried to do the other day. If certain things happen in certain mufassals, I think it is a very good reason to leave the things to right themselves. I know the rules about District Boards and I think they ought to be put right. At the same time there is still a great deal to be said in the same direction in which I said first. No doubt there is a great deal of necessity for a Committee. Nothing very big has been suggested, and I think there can be a great deal of good out of it. I have heard that something has already been done in my Province. That shows that the Punjab is far ahead in every way. Now, my Lord, I think this time we have got a member also to speak who will not be backward in that capacity. With these few words, my Lord, I side with my friend, the Hon'ble Mr. Gokhale."

The Hon'ble Mr. Dadabhoj : " My Lord, I do not wish to take up the time of this Council with lengthy observations. But I feel constrained to raise my feeble voice in support of this Resolution. I do not see how any non-official member acquainted with the working of municipalities and local bodies could withhold his sympathy and support from the Resolution which has been put in such lucid terms and with such explanatory details by the Hon'ble Mr. Gokhale. Intimately associated as I am with the most important Municipality of my Province for a period of twenty years, I entirely endorse all that the Hon'ble Mr. Gokhale has said. Many of the Municipalities have very slender resources; most of them are on the verge of bankruptcy; and the question of finance is one of the most important and pressing questions with most of these Municipalities. In fact, there is a consensus of opinion throughout India that the resources of these Municipalities are very slender and that these bodies require some sort of support. The present distribution of the funds between the Imperial and Local Governments, as has been so vigorously pointed out by the Hon'ble Member, is far from equitable, and a further re-adjustment on sounder and more liberal lines, in my opinion, is very necessary. Local bodies, as I have pointed out, require large finances to meet the cost of education, road-construction and many other important matters. I think the Committee which has been proposed by the Hon'ble Member will, at any rate, be in a position to place before Government full and further details on the important issues involved. The Committee in my humble opinion ought to be started, and I am sure it will be productive of excellent results both to the Government and the various Municipalities and local bodies."

[*Sir Gangadhar Rao Chitnavis ; Babu Bhupendranath* [13TH MARCH 1912].
Basu.]

The Hon'ble Sir Gangadhar Rao Chitnavis : "My Lord, with my knowledge of the financial condition of local bodies, I feel I must support the Hon'ble Mr. Gokhale's motion. The inquiry he recommends will be interesting in more ways than one, and will disclose remarkable inequalities in the rates of local taxation in the different Provinces, suggestive perhaps of a fairly satisfactory solution of the difficulty, without trenching upon the finances of the Imperial Government. The equalisation of this taxation will place funds at the disposal of the more needy local bodies for application to improvement of communications and the moral and the material condition of the population. At the same time an inquiry on the lines suggested by Mr. Gokhale will demonstrate the unfitness of some of the local bodies to execute the large and costly schemes modelled upon Western experience that are, not unoften, thrust upon them by overzealous sanitary experts. With these words, I beg to support the Hon'ble Mr. Gokhale."

The Hon'ble Babu Bhupendranath Basu : "My Lord, I rise to say a few words in support of the Resolution moved by my friend. It has been said by the Hon'ble Sir James Meston that local self-government has not been proved the success that it was expected it could, and he has given it a characteristic description which probably in some instances may be true. But I believe he has himself furnished the answer, and that is — the want of funds. I am speaking of Bengal, with the conditions of which I am somewhat familiar. The District Boards have so little money at their disposal and they are able to achieve so little, that their proceedings do not raise the same amount of interest in the people that they would otherwise do if they had ready funds in their hands with which they could achieve something. My friend the Hon'ble Mr. Gokhale has referred to the enormous amount of preventible deaths. In view of the speech of my Hon'ble friend Sir C. P. Lukis the other day, as to the cause of malaria and plague, it may be doubted as to whether there are any means available at present to local bodies to stop the ravages of these diseases. But whether there are any means or not to stop these ravages, certainly means may be found of affording relief to the people and mitigate the ravages of all these diseases. The answer to a question that I put in this Council, makes it quite clear that medical relief in the mufassal is very inadequate and that more must be done. With the one-anna rate that we raise in Bengal, it is absolutely impossible. The roads in the mufassal districts are more or less in a neglected condition; so are the tanks and the wells. I speak nothing of education because they have hardly any means to devote for education; on sanitation, it is still less; so that the question has become imperative as to what ought to be the resources that should be placed within the reach of local bodies, and what would make their operations more useful and productive. I will not enter into the vexed question as to whether land-tax is a rent or a tax. These are questions which are difficult to raise, and which have been raised on different occasions by different authorities. But apart from that, I will take the case on a simpler basis, namely, the resources available in the country for the purpose of taxation to enable local bodies to carry out all the works which are urgent and necessary in the interest of the areas over which they are in charge. This is a matter for careful and anxious consideration. My friend, the Hon'ble Mr. Gokhale, has pointed out that the Decentralization Commission did not deal with that aspect of the question with any sufficient amount of consideration and detail, and consequently, in view of the fact that something is going to be done, and that the matter is directly under the consideration of Government, my friend has done a public service in bringing the question forward to public notice for the consideration of Your Excellency's Government. We in Bengal have felt that so far as Provincial taxation is concerned, further taxation is not expedient and that some portion of the resources which are available for Imperial purposes might probably with advantage be made over to local bodies. That is a question which has been very carefully considered in England by a Royal Commission as to how far local bodies should go on with local rates, and how far

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there should be subventions and apportionment of Imperial rates. I shall not go into any controversial questions, but taking even the case of the Corporation of Calcutta, which is, according to Indian ideals, a fairly wealthy Corporation, we have been wholly unable to find a suitable place for the recreation of the Indian population of the city. We have nowhere in the northern part of Calcutta any park or square approaching even very remotely to the Maidan we have in the south, which gives the southern part its health and its attractiveness. The attitude of Government on this point has not been altogether very favourable, and it is quite evident that the resources of the Calcutta Corporation have been inadequate. So also in the mufassal, the cry has always been that we cannot do anything. Roads are left in utter disrepair as I have said, and tanks and wells are always bad. The drinking water is hardly, what as was said by an eminent medical authority, fit even for cattle to drink sometimes during summer, so that with improved water supply cholera at least might be to a great extent prevented. For this and other reasons into which I need not go in details, I think it is desirable that this question should be carefully considered, and ways and means found to raise local self-government out of the slough into which it has fallen and to give it resources and funds which will attract better men than that at present and enable local bodies to discharge their duties with satisfaction to themselves and with profit to the public."

The Hon'ble Mr. Madge : " My Lord, everybody in this Council and out of it will agree with the Hon'ble Mover of this Resolution that health and knowledge are the most valuable gifts which any authority can bestow on any people. I doubt, however, whether the same unanimity could be secured if the question were raised of what is the best agency to employ in furthering sanitation and knowledge. I have studied as much of the divisional reports on local self-government, and the Government Resolutions upon them, as are published for general information, for some years, and the impression left on the mind is that, though some men of capacity and public spirit have been brought forward who have rendered great help, that is a remark which could not be truly made of the majority of local self-governing bodies. In many places local self-government is lagging because of the entire want of public spirit amongst the people upon whom these privileges were conferred. How far that is true, I do not pretend to decide. I think that the divisional reports seem to me not to be published *in extenso*, so that the public might ascertain what are the real views of responsible officers as to the true state of matters. The other day the Hon'ble the Home Member pointed out to us the lines on which he thought local self-government might best be developed. I do not think that there is any non-official or other members of this Council who do not wish that the people should participate more and more not only in the privileges but also in the financial responsibility of local self-government in the true sense of the word. But if the glimpses we have had of the state of public spirit in the country and the divisional reports are fairly accurate, then, although I believe that many places in this country are adapted for the further development of local self-government, I doubt very much whether many men of the right sort will be available, and I need not hesitate to say that if in the majority of districts in this country that is the case, then the investing of local bodies with funds to develop sanitation would represent a sort of degeneration in the agency employed for the purpose ; for no one will say that our District Officers, our Civil Surgeons and our Engineers have not done their very best. What I desire honestly to see is the class of Indian gentlemen corresponding in education, in capacity with our District Officers, with our Engineers and with our Civil Surgeons, where such really exist, coming forward and proving that they possess the knowledge and the capacity to guide the future sanitation of the country. I cannot say that I wish to oppose this Resolution, but in the present state of matters, when we have a new Department which has just now been started with sanitary and educational powers, I should like to see what the attitude of the Government is towards

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these two great branches of administration before there was any interference with them on the part of amateur local bodies. The Hon'ble Sir James Meston has pointed out to us that it would be extremely dangerous to invest local bodies with the power of spending money who will not be responsible for raising it. We are on the eve, my Lord, of a great movement of delegation, and I do not know what the Government purpose doing in that direction, or how far they think of dispensing with the power of raising funds. But I must say that in my humble opinion, if it is a question of devoting to local improvement funds raised imperially, then there will be a great objection to that course on the ground that what is raised in one part of the country cannot practically be devoted to the improvement of another. So far as our funds may come from customs-duty or any other external source, I should not object to such devotion of money to local improvement; but if it is a question of devoting a large section of the Imperial funds raised all over the country to purely local improvement, I should say that there is a serious objection to such a course."

The Hon'ble Mr. Mudholkar: "My Lord, I have been connected with local self-government for sixteen years, and recently my connexion has been of a more responsible character, and I think therefore that I am under an obligation to intervene in this debate. Leaving academic questions aside, my Lord, the Decentralization Commission has clearly made certain facts prominent, and they are that, on the whole, municipal government has been fairly well carried on in India and that municipal duties are fairly well discharged, that the different Municipalities are doing their work satisfactorily, and that they would perform their functions better if their funds were more adequate. In regard to this it is also considered by all responsible heads of divisions and the Local Governments that the time has now come when their resources ought to be increased. In regard to District Boards it is indeed said that the District Boards have not been as great a success as the Municipalities have been. In reference to that it has been pointed out by non-official witnesses and by many official witnesses that this was in a measure due to the fact that most of the District Boards were under the existing system merely registering bodies. We know that many a time things are done two months before the bills touching them are brought before the Board and their sanction obtained to the expenditure. Even a whole programme is at times gone through without their knowing that such a thing was required and was being carried out. It is admitted that the Taluka Boards ought to have greater powers and that District Boards should have greater power of initiative, and that they cannot be granted any of these powers unless their resources are extended. It is also conceded that they should have larger powers of taxation. My Hon'ble friend on my left (the Hon'ble Mr. Madge) has just now expressed a doubt as to how far the people of this country have shown their capacity in carrying on the work which is done by District Officers, Civil Surgeons, Engineers, and so on. It is evidently overlooked that many of the persons who discharge these functions in these capacities are also from among the people of this country; and further wherever a non-official has been allowed scope he has discharged his work properly.

"Turning to the matter of this Resolution, the whole question reduces itself to this. In regard to Municipalities, District Boards and Taluka Boards an advance is admitted to be necessary. It is also further proposed to grant powers to Village Panchayats. All the functions entrusted to these bodies mean money, and the question is how that money is to be obtained: whether the whole burden is to be thrown on local resources or whether some contribution—a fair contribution greater than what is made at present—should not be given out of the Imperial resources. Now that for money for local purposes the local bodies ought to tax themselves, is a proposition which I am not concerned with at present; the propriety or necessity of it is admitted by all of us in our everyday life. It is also admitted that to a certain extent at least there is a claim upon the general resources of the country. And the question arises whether claims of these various local bodies ought to be met by doles, as is the system at present, or whether the grant of Imperial assistance is to be conducted on a systematic principle. That is a question

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which demands the attention of the Council more than the mere fact of the necessity of these bodies requiring money. That we do want money is conceded on all hands. The question is, whether the present system under which they can obtain money to the extent that they are noisy or can thrust themselves forward, whether the system of scramble similar to that which prevailed prior to 1870 in the Imperial finance, should be allowed to continue. My Lord, in regard to this, I think it clearly deserves the serious consideration of Government that the principles of distribution should be laid down and that the local bodies should be entitled to—I do not say a very great portion—but to some portion of the land-revenue.

“In my own Province, nazul lands, that is, sites for building purposes, have been handed over to the Municipalities, and four-fifths of the revenue is assigned to them as their share. In regard to the land-revenue on agricultural land, a certain proportion might similarly well be granted. The one great matter which has to be considered is that there are localities which do not thrust themselves forward, and do not, therefore, get what is their due, as they do not make a loud noise. This is wrong. The whole thing should be determined on principle, on the basis of what are the true demands and what are the true resources of the various local bodies. Now, that is clearly a matter in regard to which I think the deliberations and suggestions of the Committee will be very useful to Government.”

The Hon'ble Mr. Mazharul Haque : “My Lord, my excuse for taking part in this debate is that I have some experience of the Municipalities of this country. I myself have acted as a Municipal Commissioner and again as a Vice-Chairman of one of the Municipalities of Behar. My Lord, the resources of these Municipalities are no doubt very inadequate. Whenever we wanted to introduce any improvement in the Municipality of which I had the charge, I found that we could not do it because we had no funds at our disposal. It is, I believe, 14 or 15 years ago that in the district of Saran, the first district in which plague appeared in Behar, we tried to improve the Municipality of Chapra ; but when we wanted to have certain improvements in one direction, we had to cripple our ordinary expenditure in other directions. The Local Government came to our aid, but that was not much of a help. The taxes in these Municipalities cannot possibly be increased. The most painful duty that I ever performed in my life was the attachment of wooden doors and door-frames of poor people. It is difficult for them to pay the taxes they are asked to pay. The highest amount of taxation allowed by law is seven and a half per cent. on the valuation of houses, and that is the amount which is already levied in most of the districts of Behar. We cannot increase this limit any further. The only remedy for this inadequacy of funds is that the Imperial Government should come to the help of Municipalities. My Lord, it is rather a difficult subject and I feel the difficulty of it. The Local Government and the District Officers are willing to help local bodies ; but they have got no funds at their disposal, and I feel that if any way can be found to help District and Local Boards and Municipalities that way ought to be found.”

The Hon'ble Mr. Subba Rao : “My Lord, after the exhaustive and eloquent speech by the Hon'ble Mr. Gokhale, it is unnecessary for me to say anything on the subject. I rise only to express how deeply I feel in regard to the precarious position of our Rural Boards and Municipalities. I do not wish to say anything about the large Municipal Corporations in the capital cities in different Provinces. It is opportune that the Hon'ble Mr. Gokhale has brought forward this Resolution now, as the recommendations of the Decentralization Commission are now engaging the consideration of Your Excellency's Government. I was examined as a witness before the Commission, and I gave my experience with regard to these bodies. The problem with which Local Boards are now grappling may be briefly described as to how to make bricks without straw. The responsibilities laid on these bodies are indeed enormous and the means placed at their disposal for adequately discharging their duties are slender. I may illustrate this by a concrete example

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from the Madras Presidency. So far, my Lord, up to the end of 1910-11, the amount of loans outstanding against 36 out of 61 Municipalities in that Province is nearly 27 lakhs of rupees. Yet there are still large schemes before them, such as drainage, water-supply, etc., that have to be financed and carried out. The most important question to my mind in connection with Local Boards is how to make local self-government popular and enlist local patriotism and enthusiasm in its cause. I may say, my Lord, that so long as these bodies have not the means to adequately discharge the duties entrusted to them, their administration cannot be expected to be viewed with favour by the people concerned, who feel more the burden of the taxes imposed on them and do not realise adequately the benefits conferred on them. I trust, my Lord, that the Government will give their earnest attention to the important problems raised by the Resolution and place local bodies in a position where their administration may be both popular and efficient."

The Hon'ble Sir Guy Fleetwood Wilson: "My Lord, Mr. Gokhale has told me that whenever I begin by paying him a mild compliment I invariably end with something very discouraging. On this occasion, therefore, I will not compliment him, as I should much like to do, but I will instead reserve a little word of encouragement for the end.

"I am glad to have the opportunity afforded me by this Resolution of expressing my views on some of the aspects under Indian conditions of a very difficult problem. The Resolution, in fact, raises the whole question of the division between Government on the one hand and local bodies on the other of the sum total of public duties and public revenues, and this question is one the extreme difficulty of which will be obvious to any one who will even glance at the history of local self-government in England for the last fifty years.

"In England, however, we have at any rate a general similarity in the conditions under which local bodies are working, and we have one central supervising and controlling authority for all of them. In India, I will not call it a special difficulty, but we have this further complexity, that between the Central Government and the local bodies we have interposed a number of Local Governments.

"This seems to me the primary fact in the present discussion.

"It leads me to question how far it is desirable to discuss, in their general application, the questions raised by the Resolution, and it convinces me that the appointment of a Committee of the kind proposed by the Hon'ble Member is not desirable.

"Mr. Gokhale would have us send a Committee roving through India. They would encounter, I need hardly say, the most diverse conditions. In every Province they would discover a different Municipal Act, a different District Boards Act. In one locality they would find octroi the mainstay of the Municipalities or District Boards, contributing to the Local Government for village police; in another direction octroi is non-existent and the District Boards retain the whole proceeds of the local cesses. And through all these different conditions the Committee is to move recording findings and making recommendations to which the Local Government, which is primarily concerned, may be entirely opposed. That to my mind is a fatal objection to the proposal.

"But the Hon'ble Member may say—'the issues are such as only the Imperial Government can settle.' Let us examine that position. It means that, should the resources of local bodies be found to be insufficient, the Imperial Government may be called in to supplement them either by grants-in-aid or by the diversion to local needs of taxation which at present is devoted to general purposes.

"But as regards grants-in-aid I think it will be admitted that we have done all we could do in our recent grants for Sanitation and Education; indeed, I cannot remember that in this direction our action has been criticised, and it is sufficiently obvious that in this matter we cannot forestall the future but must guide our course according to the conditions of successive years.

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"In considering the possibility of appropriating for local purposes the proceeds of some of our general revenues, it is plausible to say that we should lay down a general policy. But my point is that a question of this kind cannot be decided on general grounds, irrespective of the needs, both provincial and local—of the different administrations. I cannot, that is to say, contemplate the transfer of revenue on *à priori* grounds without regard to actual requirements, and if the question were to come before me I should have to consider it not for India as a whole, but for the particular Province whose case was under consideration.

"It has always to be remembered that, in spite of all superficial distinctions, there is a substantial unity in the objects of local and of general State expenditure and in the funds from which they are both met, and we reach the firmest ground by considering the different authorities concerned as partners in a common business. This being so, the question arises, why give a preference to the local representative of the firm? The answer no doubt is in the most general terms,—in order to encourage the growth and activity of representative institutions. With that answer I have no quarrel; I recognise to the fullest possible extent the desirability of the purposes which it implies. But a survey of local requirements would have to be supplemented by a survey of Imperial requirements if we are to hold the balance equally between the two; and such a survey opens up almost illimitable investigation.

"It is easy to quote the grants-in-aid voted by Parliament in England from Imperial funds; but Hon'ble Members will not find it so easy to prove any analogy between England and India in regard to this."

"In England we have no Provinces with permanent settlements; here the grants from the Imperial exchequer go to Provincial funds and the grant-in-aid is apportioned by the Province.

"It seems to me that the invocation of assistance from general revenues places us on the horns of a dilemma. For on the one hand it can scarcely be urged that funds should be made over to local bodies without any specification of the purposes which justify the transfer. And on the other hand, if any appropriation is to be indicated, it seems unnecessary to consider the requirements of local bodies as a whole. For these requirements can be analysed as requirements for education, for sanitation, and so on. It is just as easy to move that the grant for primary education or for sanitation should be increased, as to move that a general addition should be made to the resources of local bodies, and so much of the increased grant as appertains under the accepted division of public duties to local bodies will then find its way automatically, as it has done in the distribution of grants in the last two years, into the funds of the authorities who are responsible for the expenditure.

"Finally, I may refer in this connection to the recommendations of the Decentralization Commission. It is scarcely necessary for me to point out that they cover, to a large extent, the same ground as the present Resolution. That these recommendations are still under consideration is a fact to which I draw attention, not as barring the acceptance of the present Resolution, but as indicating its inherent weakness. The recommendations of the Decentralization Commission will be considered in the light of the opinions offered by Local Governments. Mr. Gokhale's Resolution proposes to ignore, if not to over-ride, those opinions, and it is on that ground first and last that I am obliged to resist it.

"I have no desire to disparage local administration. On the contrary, I am as keen as is Mr. Gokhale to foster it; but beyond saying that, I am afraid I cannot give any encouraging reply.

"I hardly think, however, that Mr. Gokhale can have expected the Government of India to accept this Resolution. I think rather that what he especially desires is to bring prominently under consideration the necessity for developing local interest in local matters by local people. Mr. Gokhale himself put the case admirably on the last occasion when he dealt with the subject in this Council. He said :—

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'One of the most important, and at the same time most difficult, problems connected with the government of this country is how to reform the character of the district administration and bring it into closer association with those who are affected by it.'

"The day will come, I hope, when local bodies will throw themselves whole-heartedly into the improvement of their districts, and I trust that that time is not so very far off. But it must be borne in mind that nothing is so likely to arrest, indeed to throw back, the cause of local self-government as the misapplication of public funds entrusted to local bodies before the latter are fit to administer them.

"Mr. Gokhale will say that I am giving him but cold comfort by the usual indication that action in the direction which he indicates is premature; but I would bid him be of good cheer.

"Whenever Mr. Gokhale advocates a policy to which he attaches much importance, I am irresistably reminded of the Indian juggler who sows a mango seed in a flower pot and covers it over with a cloth. In an extraordinarily brief space of time he removes the cloth and behold there is a goodly mango tree in full bearing. So it is with Mr. Gokhale. He advocates a certain reform. We give him the mild answer which turneth away wrath, and we think we have before us an appreciable breathing time. But Mr. Gokhale has sown his little seed in his little flower pot; he has covered it over with his little cloth, and within an incredibly short space of time he removes his little cloth and presents to our astonished vision a tree bearing, not only leaves, not only buds and flowers, but a goodly crop of wholesome fruit.

"It is for this reason that I bid my Hon'ble friend be of good cheer, although I cannot accept his Resolution."

The Hon'ble Mr. Gokhale: "My Lord, I was glad to hear the assurance which the Hon'ble Sir James Meston gave that the Government will consider the opinions expressed in the course of this debate in passing final orders on the recommendations of the Decentralization Commission. The delay in passing such orders has already been very considerable, and I hope the question will be dealt with very early now. Of course, we know that the wheels of the Government do grind slowly; only I am not sure that they grind 'exceedingly small.' However, I sincerely trust we shall not have to wait very much longer now.

"As regards the question of land-revenue—whether it was rent or tax, and whether I was right in including it among the proceeds of taxation—the Hon'ble Member has raised again the old controversy to which by anticipation I had briefly referred. I will, however, mention in this matter a great authority on the subject—an authority which I hope will satisfy even the Hon'ble Member. One of the most distinguished Finance Ministers that the Civil Service ever gave to India was Sir David Barbour. Now, Sir David Barbour, as I have already stated, assisted Lord Cromer in his inquiry into the income in India per head, an inquiry which was made in the early eighties. The report, setting forth the final conclusions of that inquiry, has been treated by Government, curiously enough, as a confidential document. On several occasions a demand was made in the House of Commons for the production of that report, but the Secretary of State invariably resisted it on the ground that the papers were confidential. By an extraordinary chance, however, I came across a copy of this report in the Imperial Records—I found it among a heap of books in a neglected corner. On the outside the volume had nothing to indicate that it was of a confidential character; inside, however, the word 'Confidential' was printed in a corner. I asked the librarian, as the book was there among other books, if I could use it, and he said I could, as well as any other book in the room! Now in that report, Sir David Barbour gives his deliberate opinion that our land-revenue must be included among the contributions made by the people, and he gives most excellent grounds for

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that opinion. He says: the only question that has to be considered is, of the total wealth produced by the community, how much is required by the Government for the purposes of administration? It is quite clear that if the Government did not take this land-revenue from the people, it would remain with the community and would fructify in its pockets. In that respect land-revenue stands precisely on the same level as the proceeds of the salt-tax or any other taxes, and therefore in estimating the total contribution of the people for the expenses of the Government, land-revenue, he says, must be included.

"My Hon'ble friend also said that if once the principle of regular grants was introduced, there was the danger of local bodies pressing Government for more and more money, and that would be irresponsible finance. I will tell the Hon'ble Member a little story by way of answer to that. A little child that had to trudge a long way to school asked its father once to give it a penny for a bus ride. The father, however, tried to point out that children that drove in carriages were also discontented, that they aspire to drive in taxis and motors, and that it was therefore best to resist his request for a penny for a bus ride. My Lord, we are not even at the beginning of the system of grants-in-aid; when we get substantial grants, I think it will be time enough for the Government to talk of the possible abuses of the system. Moreover, the Hon'ble Member forgets that there is an important safeguard against any such abuse in this country. In England a private Member has plenty of influence: here we can only bring up questions for discussion, and until the constitution of this Council is remodelled, the Finance Department, I am quite sure, in spite of what the Hon'ble Sir Guy Fleetwood Wilson said at the end of his speech, can well go to sleep. They have nothing to fear from us, poor non-official members of this Council!

"One more remark of the Hon'ble Member I must notice, namely, that the additional centimes in France were demoralising. I have no personal knowledge of that, but I am not quite convinced that the Hon'ble Member is right. Our one-anna cess is already in the nature of 'additional centimes,' and the Government had no objection to that. If you will not have this provision of centimes, you will have to depend upon grants-in-aid or assigned revenues. How else were our rural bodies to derive their revenue? Either the one or the other way must be adopted, or else, let it be said straight off that no more money could be found for local bodies. Now, as has been pointed out by Bastable, land is the only source from which rural bodies can derive the bulk of their income. But in this country land is already taxed up to the hilt, and therefore, unless the Government comes forward to make a liberal contribution to the local bodies, I do not see any other way in which local bodies can be really helped.

"As regards what has fallen from the Finance Minister, it is quite true that there are Provincial Governments intervening between the Government of India and the local bodies. But the distribution of the proceeds of our total taxation between imperial and local is a matter that principally concerns the Imperial Government and not the Provincial Governments, who I am sure will be simply glad to pass on to the local bodies the money that the Imperial Government may place at their disposal for the purpose. Moreover, your theory is that all the revenue belongs to the Imperial Government and the money that goes to the Provincial Governments is placed by you at their disposal as your agents. If you claim that, the responsibility also to find all the money required rests on you. I can assure the Hon'ble Member that if he is able to place recurring grants intended for local bodies at the disposal of the Local Governments, they will only be too glad to pass on these grants to local bodies. Therefore, action must be taken here by the Imperial Government and not by the Local Governments.

"Then the Hon'ble Member says that recently grants have been given for sanitation. Yes, but they are non-recurring grants. You may give non-recurring grants from time to time whenever you are in a mood to do so. What I want is large recurring grants regularly provided out of the Budget for local bodies. The provision should be independent of what the state of the finances may be—prosperous or otherwise. I shall not object to additional

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taxation if necessary in order that this provision might be made. Education, sanitation and communications are services that require to be looked after quite as well as those that the Imperial Government has taken charge of. The Hon'ble Member says that if a committee is appointed, the members might look to the requirements of the local bodies, and the requirements of the Imperial Government might be left out. But all the six or seven members of the Imperial Government are constantly there and have been there, all these years, to think of the requirements of the Imperial Government. Only these two years a member has been put into this charmed circle to think about local bodies and their position. The influence of this new Department is already seen in the increased grants that we have received for education and sanitation during the last two years. I am glad that the Hon'ble Member in charge of education and sanitation is now there to put continued pressure on the Finance Department. All the other members, however, are there every day to think solely of the Imperial requirements. My Lord, it is the local requirements that in the present scheme of things which have no great chance of being considered. I therefore urge that Government should appoint a body to make an inquiry not into a hundred subjects, but into this one sole single subject. I am quite sure that some day or other the Hon'ble Member will have to make an inquiry, and then even the juggler's illustration may come true. But considering the assurance which has been given by the Finance Department, namely, that the views expressed to-day will receive consideration when disposing of this question, I am content not to press this Resolution to-day, and I therefore beg to withdraw it."

His Excellency the President: "The Resolution has, by permission, been withdrawn."

[*At this stage the Hon'ble SIR GUY FLEETWOOD WILSON took the chair.*]

LIFE ASSURANCE COMPANIES BILL.

The Hon'ble Mr. Clark: "Sir, I beg to move that the Report of the Select Committee on the Bill to provide for the Regulation of Life Assurance Companies be taken into consideration."

The Hon'ble Mr. Fyffe: "Sir, speaking as one who has been intimately connected for the past twenty-six years with every branch of insurance business in India, I esteem it a very great privilege and honour that I should have been permitted to occupy a seat, as an Additional Member of this Council, during the discussion of the life assurance legislation which is now engaging our attention. Insurance is a business that may, I think, fairly claim to be a mainstay of the commerce and industries of the world; and that branch of it with which we are at present concerned is by no means the least important."

"The legislation that we are endeavouring to frame has been under discussion since 1907, and its provisions have consequently been the subject of mature and prolonged deliberation. For a considerable time past visible and distinct signs and indications have pointed to the urgent need for the protection by the State of the insuring public in this country. The advantages of life assurance are gradually beginning to be apparent to various classes of the people of India, and the consequent extension of the business has been naturally attended by the formation of many new companies. In the peculiar circumstances of this country it is inevitable that there should be inexperience, and lack of knowledge, and that there should be a conspicuous absence of trained advice and expert opinion. In such a state of affairs the intervention of the Government must make for the public good, provided of course that it is on sound lines, and that it has for its object the introduction and maintenance of the true principles upon which life assurance business, to be successful, must be transacted. State assistance and State control have been found to be necessary."

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in other countries of the world, and it is hardly likely that the young companies which have already come, or are now coming, into existence here will be able to succeed without the support of legislation. It may be accepted, therefore, that the legislation was inevitable: it was bound to have come sooner or later, and in my opinion it ought not to be, and in fact could not be, longer deferred.

"I think I am justified in claiming that it would be difficult to overrate the advantages to the people of India of the development of life assurance upon sound principles, and subject to efficient administration and supervision. There is no need for me to detain the Council by an enumeration of these advantages, as they are much too well-known to require to be specified or tabulated. On the other hand, the evils which must accrue from life assurance conducted on unsound principles, and without effective control, are equally apparent. They cannot fail to cause widespread distress, and to involve many innocent persons in serious loss and suffering. And they are mischievous in their effects, because they tend to hamper the operations of the good companies, and so to hinder the progress of life assurance. The tendency to offer to the Indian public the so-called benefits of life and other forms of insurance maladministered, which has grown to such dimensions in recent years, ought therefore in the general interest to be promptly checked.

"To my mind one of the most satisfactory features of the discussion that this Bill has evoked is the striking unanimity of opinion from all parts of India as to the need for legislation. The complete absence of adverse criticism is a most encouraging sign, and the fact that the Bill has been warmly welcomed by those best able to judge of the conditions, proves that there is lurking in the distance the possibility of disaster to those who have been so ill-advised as to invest their savings in companies that are now struggling to justify their existence. Among these investors the illiterate and unsophisticated naturally claim our first attention: they are unable to protect themselves, and they must manifestly be protected by the State. But in addition to them there must be many others who are certainly not illiterate, but who, with the ignorance and carelessness always so noticeable in insurance matters, take no pains to satisfy themselves of the financial stability of the concerns to which they entrust their money, or who permit themselves to be influenced by attractive terms and visionary advantages. There is a most unfortunate tendency to resort to the cheapest market, to insure in the office that charges the lowest rates, and to make no inquiries as to whether or not the office is likely to be able to fulfil its obligations.

"This is the tendency in every country, and it prevails here as elsewhere. Obviously it offers a dangerous and seductive temptation, if not to deliberate fraud, at any rate to the employment of reckless and hazardous methods of attracting business. It cannot result otherwise than in ultimate loss, and I have no hesitation in saying that in India it has already brought about a most unhealthy condition, which is not merely prejudicial to the promotion of insurance business, but which if it is not modified will be detrimental to all interests and to all classes.

"I firmly believe that it was a good day for India when the Associated Scottish Life Assurance Companies in 1907 pressed on the Secretary of State the need for the consideration by Government of legislation on the lines of the English Statute. The Act of 1870, which was then in force, has been since superseded by the Act of 1909, and this new Statute is the model upon which the Indian Bill has been cast. Speaking for myself personally, I should have been glad to see a somewhat stricter enactment; but on the whole, and as a beginning, I think that the Bill will to a great extent fulfil its purposes. At the same time it will not be wise to depend too much upon what it may be expected to bring about. For example, too much must not be anticipated from the publication by companies of information as to their financial standing, authorised, subscribed and paid-up capital, and investments, etc. I do not believe that publication will be sufficient to clear the air, without the closest supervision on the part of the officers responsible for the administration of the Act. The salutary effects of publicity, although no doubt they will be considerable, ought not to be relied on too exclusively at present. I am not alone in

this opinion, and I would like, with your permission, to quote the views of one in India who has given this matter very considerable and very intelligent study. 'Conditions in India,' this observer writes, 'are entirely different to those in England as regards publicity and informed criticism. Publicity in the English sense does not and cannot exist where, even if the difficulty of many alien tongues were got over, the ignorance of the public in the principles of joint stock enterprise and its results as shown in accounts, renders the publication of the results of the working of a life company of use to a very limited number. Informed native criticism of published accounts may be said to be non-existent.' This statement is unfortunately only too true. The mere publication of the accounts and the reports of companies will not be sufficient by itself. It is only the thorough and effective administration of the new law that can bring about in India a sound and prosperous situation such as has been obtained in England by well planned and efficiently administered legislation.

"The requirements upon which the commercial community have laid stress, other matters in the Bill being subordinated to these, are :—

- (a) the administration of the Act by an Insurance Department ;
- (b) a substantial deposit ; and
- (c) the limitation of investments.

"Any legislation that fails to provide for these requirements, which are necessary for the elimination of unsound companies, and for the satisfactory management of new companies, will not, it is felt, stand a good chance of success. In these three most important respects, it must be admitted that the Bill, as now before the Council, does not reach the standard prescribed by commercial opinion. But as regards the first requirement, it is distinctly satisfactory to have learnt from the Hon'ble Mr. Enthoven, when presenting the report of the Select Committee on the Bill, that the Government intend to establish in India a qualified Government actuary who will deal with the accounts and statements of life offices as the Act requires. I feel that this is satisfactory, because it is the beginning of what is in my opinion essential. At the present time the actuary is almost unknown in India ; and in his absence it would be a problem to know how to ensure compliance with the provisions of the Act without resort to the actuarial profession in England.

"As regards the second requirement, it is to be regretted that the initial deposit is not to be more substantial. The size of a company is not necessarily a criterion of its financial stability ; and there may be companies that are so small as to be unable to deposit a lump sum of Rs. 1,00,000, and yet are worked on sound lines. The idea of requiring only a small initial deposit is—as the Hon'ble Mr. Enthoven at the same time stated—to prevent the possibility of the Act crushing out companies coming within this category. For myself I regard this as being in the nature of an experiment, and I am a little doubtful as to what the result will be ; for there is no information before the Council as to the number of such companies, and this is a very important point.

"There is a very great difference between an initial deposit of Rs. 25,000 (or somewhat more in certain circumstances) to be increased by annual instalments to Rs. 2,00,000, and a deposit of Rs. 1,00,000 or Rs. 2,00,000, as was recommended by the Bengal Chamber of Commerce and other bodies. The larger deposit would have the effect of eliminating immediately the unsound companies that are now carrying on life assurance of a doubtful and unprofitable character. But now the Act as modified will take time to bring about this result, and it may be that greater loss will be consequently inflicted upon policy-holders than they would have to sustain if the more drastic method had been adopted. On the other hand, the small but sound companies have been considered, and it must be admitted that there is some force in the argument that they ought not to be crushed out of existence merely on the ground that their business is small. Speaking for Sir Cecil Graham and myself, we accept the course that has been thus taken, trusting to the future amendment of the Act should time and experience show such to be necessary. We have not on this point recorded a note of dissent to the report of the Select Committee, as we realise that our proposal for a deposit of Rs. 2,00,000 has been met in a sense, inasmuch as every company will eventually deposit that amount, although the deposit will be made by instalments instead of in a lump sum.

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"I now turn to the third requirement, namely, the proposed limitation of investments. The principle of absolute freedom, which is a feature of the English Statute, has been retained, no modification in this respect having been made in Select Committee. My own opinion is that for Indian companies limitation in some form is most desirable, and that without it the utility of the Act is likely to be sensibly diminished. It is, however, the view of the Government that to restrict investments to certain specified channels is not practicable, at present at any rate ; and if this view is to prevail, the alternative course that has been adopted may be accepted for the time being as the next best. It is known to the Council that this alternative course is the publication of accounts as prescribed by the Bill. I have already expressed the view that too great a value may be attached to publicity, and in this matter of investments something more than publication, in the Government Gazettes, of the accounts, investments, balance-sheets, etc., of companies is, I venture to think, required. At the same time it must not be forgotten that the Act provides for the winding-up of doubtful and insolvent concerns ; and it may be anticipated that, with the assistance of an expert actuarial adviser, the Government will be able, even under the Act as it stands, to direct public attention to those concerns whose investments are unsatisfactory or dangerous.

"I have now specified the various points in respect of which I would have welcomed a more stringent measure ; but even as it stands, the Bill is one which must be received with satisfaction. In certain points it may be, to my way of thinking, defective, but it has many real merits, not the least of them being that it will have the effect of quickly bringing to grief the unscrupulous promoter or speculator who seeks to exploit the illiterate and the unwary. And, more than this, it will assist the public to discriminate between sound and unsound companies. It will further the interests of the former, while it will impede the mischievous operations of the latter ; and it will also quicken and promote life assurance throughout the whole country. In this connection I would like to say one word with respect to the great British offices that are familiar with, and have accepted in various parts of the world, legislation somewhat similar to the Bill before us. These offices already submit to the Board of Trade statements of their Indian business, but they will now be brought closely into touch with the administration of our Act ; and they will naturally scrutinise our methods with care and attention. They will no doubt compare them with those obtaining elsewhere, and I think we may confidently expect that they will subject any shortcomings on our part to the most mature expert criticism.

"Sir, this Bill has been the subject of widespread discussion ; it has been a difficult Bill to adapt to the complex conditions in which life assurance is carried on in this country ; and to the Department responsible for its preparation, and to the Hon'ble Member in charge, I venture to offer my congratulations. They have had to meet a situation by no means easy, and have succeeded in introducing a measure that can be fairly regarded as a promising beginning in Indian life assurance legislation."

The Hon'ble Mr. Mudholkar : "I accord my full support to the motion of the Hon'ble the Member for Commerce and Industry that the report of the Select Committee be taken into consideration. While the Bill was under consideration in the Select Committee, I had to bring forward some amendments, and to-day also there are some amendments standing in my name. But none of these in any way impair the essential features of the Bill. The desire to make provision against sudden accidents breaks-down old age and death, which is spreading more and more amongst the people of this country, is a movement eminently in the right direction and deserves the encouragement of the men of light and leading in the country and of the Government. But if it is a beneficial movement on one hand, it is also one which is peculiarly open to abuses resulting from the operations of selfish or wily speculators. This danger is not peculiar to this country. Even in England with its great spread of education amongst the masses and the business-like methods, so prevalent in all classes of the community, hundreds of thousands have suffered from the manner in which but too many assurance companies conducted their business. In the quarter of a century which preceded the Act of 1870, out of 285 life offices,

which had come into existence during that period, 174 had ceased to exist, leaving only 111. At the time that that Bill was on the legislative anvil, we are told that there were no less than 59 life companies being wound up in the Court of Chancery. Only a few months before the Act of 1909 was introduced into Parliament, questions were asked in the House of Commons about the harm done by the speculative dealings of several insurance companies. The need however of protective legislation in India is beyond question, and several Indians whose sole care in such matters is the well-being and protection of the persons who have insured their lives in insurance companies and who are anxious for the establishment of Swadeshi business on sound lines, will welcome this measure, which we are now considering to-day.

"The Hon'ble the Member for Commerce and Industry, in his speech introducing this Bill at Simla in September last, used an expression which created some uneasiness amongst some of my countrymen. The agitation, which had preceded the drawing up of this measure, was conducted by some people on lines not very sympathetic for the growth of indigenous business. The use of that unfortunate expression 'mushroom companies' by the Hon'ble Member created fear in some quarters that the existing small companies would be practically suppressed and that there would be very limited scope for new life assurance companies carried on a small scale. The deposit of one lakh required by the Bill, as was originally framed, would have worked hard not only against these small companies, but would have done very serious injury to thousands who have effected assurances with them. The important change, which since the introduction of the Bill was made in clause 4, has given satisfaction to *bond fide* concerns carried on by Indians, as also to the large body who had got their lives assured with those companies. The Government and the Hon'ble Member in charge of the Department of Commerce and Industry are entitled to the grateful thanks of these people.

"But though the Bill, as it has emerged from the Select Committee, is an improvement upon the original draft so far as the matter of deposit goes, in two other matters some disappointment is caused by the attitude taken. In regard to the investment of the life insurance fund, there is a very general feeling that the insured require greater protection in India than elsewhere. The Local Governments and individuals, who have knowledge of the country, have pointed out cogently that simple and uninformed as the bulk of the people who get their lives assured are, it is the duty of the Government to see that they are not made the dupes of speculators or cheats. It has been pressed upon the Government from almost all sides that it would be unsafe to allow to companies to carry on life assurance business in India, with the same unrestricted freedom of action in regard to the investment of the policy-holders' money as is permitted under the English Act. It is said with great force that under the peculiar circumstances of this country, the life assurance fund should not be allowed to be invested in any except undoubtedly good and safe securities. The Hon'ble the Member in charge of the Bill, however, told the Members of the Select Committee that the policy of Government in this matter was to legislate on the lines of the English Act. The English Act, I quite admit, allows the fullest freedom as to selection of investment, and trusts to publicity as a protection against fraudulent or incompetent management. It is this principle which has commended itself to the Government of India and to the Secretary of State. The Government are not, we are further told, prepared to depart from this distinctive character of the English Law of Insurance Companies without taking the matter again to the Secretary of State. It is a pity that in a matter of this kind the discretion of the Government of India should have been so fettered. There is no doubt that the Secretary of State and his advisers who were conversant with the English system, enjoy it upon the Government of India to proceed upon the line of the English Act because they considered that to be the best for the people of India also. We do not know how far any consideration was bestowed upon the fact that assurance and insurance business are an exotic in India, and that over and above the ignorance which prevails amongst the masses, there is even amongst the educated classes a total lack of knowledge on the subject. It is very probable that the Secretary of State had no idea that there would

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be such a consensus of opinion in favour of placing some limitation on the power of insurance companies to invest the fund in their charge. The opinions which have been received by the Government, however, place this matter beyond dispute. The Bombay and Karachi Chambers of Commerce, the Indian Merchants' Chamber and Bureau of Bombay, the Bengal Chamber of Commerce, the Calcutta Trades Association, the British Indian Association, the Bengal National Chamber of Commerce are all in favour of permitting the investment of the assurance fund only in certain securities. The majority of the local Governments hold the same view. It was greatly to be desired that the Government representative in the Select Committee had accepted the view of the non-official members of the committee supported as it was by a body of such weighty opinion. We do not understand, we feel unable to comprehend, why in such matters the hands of the Government of India should be so much tied down. With our reformed Councils, with the views of the different sections of the Indian community and of the European mercantile community to serve as a guide and index to the needs and requirements of the people and of the mercantile community, the Government might well have been allowed some free hand in a matter, in which Indian opinion and European opinion, the view of local Governments and the view of men belonging to the people were in agreement. What we want is a better safeguard for the interest of the policy-holders. The life assurance fund belongs to them and no company would be justified in employing it in a manner which would endanger its existence. Even the framers of the English Act of 1870, which preceded the Act of 1909, admitted that the balance of the premium beyond the amount set apart for expenses and bonus and profit to share-holders in proprietary concerns should be sufficient with accumulations to pay the policies to the assured and that this should be considered sacred. Indeed it was suggested by some people in England that the tampering with it should be made a misdemeanour punishable by fine and imprisonment. We do not want to go so far, but we do urge upon the Government that India is not yet so far advanced as to provide the check which knowledge and public opinion supply in England. As I am going to move a specific amendment in the matter, I need not say more on the subject.

"The other matter in which we are keenly disappointed by the Bill, as it has come out of the Select Committee, is the new clause 31. If policy-holders in India have to be protected against unsound Indian companies, they require still greater protection from unsound foreign companies. So far as Indian companies are concerned, there would be in the majority of cases some possibility of obtaining at least partial relief. Against misappropriation and cheating the terrors of the criminal law would generally be deterrent, but this protection does not exist in the case of foreign companies. Apart from the criminal law, Indian companies would have at least some Indian members possessing property and in not a few cases the policy-holders would have a chance of obtaining satisfaction out of them. Many foreign companies, I would say the majority of foreign companies, hold no property in India. It would be most dangerous to exempt these companies from the requirement of a deposit or from the obligation to supply the return and information prescribed by the law and the rules thereunder. There is another ground for disaffection—a disaffection which may assume the form of deep resentment—and that is that, while indigenous companies are regarded with distrust and suspicion and stringent provisions are enacted for being put into operation against them, foreigners are to receive the benefit of discrimination and are to be exempted from the requirements of the law. I have not been able to find a parallel to this in the law of any other country. The English law does not grant any dispensation to a Canadian company or an Australian company or an American company, though the Canadian law and the American law are in several respects more stringent than the English law. The Canadian law and the laws of other colonies and foreign countries do not recognise the fact that English companies have made deposits in England and send returns to the Board of Trade there. Now why

should this tenderness, I think we are justified in saying preference, for the foreigner over the indigenous, be introduced in the Indian laws. We are assured that the Government of India were asked to legislate upon the lines of the English Act. Where is there anything in the English Act which justifies ? which can by any stretch be regarded as countenancing, such preferential treatment of outsiders ? I have no animus against outsiders or against any foreigners. It is not a matter of animus. But the people of this country would have a genuine grievance and would feel exceedingly sore if the Indian Statute-book embodies a provision which accords a privileged position to foreigners over them. I do not stand alone in this protest against placing foreign companies in a better position than the Indian companies. Indeed in some of the opinions given on the original Bill, the question has been raised why British companies should receive exceptional treatment. The Central Provinces Government and the Madras Government do not see any reason for according them a privileged position. That was also the view which I held till the other day, and in the Select Committee I did move an amendment that clause 33 be so amended as not to grant dispensation to such companies. But with the greater study that I have been able to bestow upon the British Assurance Companies Act and the information I have been able to obtain of its working, I am prepared to accept section 33 as it stands. I suggested in committee that the English companies should be required to specify its Indian business in the returns submitted by them and the Hon'ble Member in charge of the Bill said that this would be borne in mind. But because it is conceded that British insurance companies, in which term I include companies registered under the English Assurance Companies Act, may be granted a differential treatment, it does not follow that the same privilege should be accorded to other foreign and colonial companies. In the first place, the relations between England and India are entirely different from those between India and other foreign countries or the colonies. The Government of the United Kingdom exercises sovereign power over India, and that Government and the people of the United Kingdom have evinced and are expected to evince greater regard for India than the colonies and the foreign countries do. There is in the former greater desire to accord considerate and just treatment to India than in the latter. In fact they admit that they lie under an obligation to promote the welfare of India while these other countries do not acknowledge such a duty. Thirdly, there is a far larger number of our people who know something of England, the English people and the English methods of doing business than there is of men who have any such knowledge of foreign countries or of the colonies. Fourthly, in very many of these countries and colonies Indians do not receive fair treatment. Fifthly, unless and until these countries and colonies are prepared to extend similar privileges to Indian companies they have no right to complain. It is therefore a matter of regret that during the Committee stage of the Bill the Government should have introduced a provision to accord a privileged position to foreign and colonial Companies. A number of objections other than those urged above can be brought forward. But in this place and in connection with this motion all that I am desirous of pointing out is that in introducing the new clause 34 not only a provision highly distasteful to Indian sentiment and prejudicial to Indian interests brought in, but the course adopted is neither conducive to convenience nor consonant to principle. This new proposal to grant exceptional treatment to foreign and colonial companies was never before the country. The Local Governments were not consulted in reference thereto. The people had no occasion to express their opinion on it. The very object of the publication of a Bill and its circulation for opinion is frustrated if an important principle which was never alluded to in—nay, which is in direct conflict with—the original scheme of the law is introduced in the Select Committee. It was never demanded by any of the Local Governments or by any important section of the people. So far as the published papers enable one to form an opinion, it was suggested by the representative of a Shanghai company to the Government of Burma. But the Government of Burma threw a wet blanket over it. Two bodies in Calcutta incidentally asked why the foreign and colonial

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Companies should not be brought in a line with the British Companies. The Local Government did not, however, regard these observations as very serious nor can they appear to us even now as anything more than an expression of disapproval of a kind of protest against the provisions of clause 33. But apart from these three quarters, there was no suggestion made by any one that this novel 'most favoured nations' clause could be introduced into the Bill. I trust it will not be said that this course was necessitated by the privilege conferred upon British companies. For if that is the price that has to be paid for acquiescence in the special treatment of British companies then it is simply forcing the opponents of special favours to foreigners to make a stand against clauses 32 and 33 also and to say that our law should embody word for word the English law with no discrimination even in favour of England.

"I do trust that when we come to the consideration of the particular sections the Hon'ble Member in charge of the Bill will see his way to reconsider these two matters. In other respects the principles of the Bill are highly commendable and I gladly support the motion that the Report of the Select Committee be taken into consideration."

The Hon'ble Sir Cecil Graham : "Sir, I would like to associate myself with the Hon'ble Mr. Fyffe in what he said on this Bill, as I am convinced that it is a very long step in the right direction and a step that has long been wanted. As regards the three main points which the Chamber of Commerce pressed, as Mr. Fyffe has pointed out, I think the first is met to a certain extent and will eventually be met fully as things go on by the appointment of a Government actuary. As regards the second, although we pressed for a two lakhs deposit, I think perhaps, for the reasons given, that seeing we do not wish to crush out the small companies which are run on proper lines and that it is absolutely reasonable that these should be allowed to live, and seeing that the two lakhs deposit will eventually have to be forthcoming, that we may well accept the compromise which has been arrived at. As regards the third point—that of investments—I would not go so far as my friend, the Hon'ble Mr. Mudholkar, in pressing an amendment at the present moment; but I hope as years go on and the information before Government accumulates,—and the gathering of that information is, I believe, one of the main objects of this Bill,—the information I mean which at present they acknowledge they have not got and which the working of this Bill is bound to bring them—when, I say, that information is before them, I trust the Bill will be amended on the lines that we have pressed for in the Select Committee."

The Hon'ble Mr. Dadabhoj : "Sir, as one who has served on the Select Committee, I rise to offer my congratulations to my friend the Hon'ble Mr. Clark upon the form in which he has eventually placed this Bill before the country. It ought to disarm all opposition. The Bill in its present form meets not only with the approval of a large section of the public, but also of the life assurance companies. It has been thoroughly overhauled since its first introduction. It is true it goes further than the English Act in providing for Government action in winding up an apparently insolvent company and also in appointing inspectors to examine the affairs of companies. But it is useless denying that powers of this description are very essential in a country like ours. Life assurance is a subject which requires special legislation governing it; it is a subject which cannot be left to be controlled by the provisions of the Indian Companies Act. In this view, the special Act can only be accorded a hearty reception.

"Sir, the two main features of the Bill which have drawn public attention are the amount of security deposit and the treatment accorded to foreign and colonial companies. As regards the clause relating to security deposit, it has been considerably modified, and the security deposit now contemplated will enable even small companies to discharge with comparative ease the statutory obligation without dislocation of their finances. We are all aware of the organised system of fraud perpetrated by some of these companies, and some sort of protection and guard is very essential. Even life assurance is comparatively new to this country. It is only recently that the educated

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classes have taken to it and the masses are still ignorant of the benefits of life assurance. The smaller companies indeed serve a useful purpose in familiarising men of ordinary means and limited experience with the advantages of life insurance; but to that class of firms with limited means the clause will inflict no serious hardship. There are very important powers taken in this Bill by Government, such as powers of audit and scrutiny. They are, in my opinion, very necessary for the protection of the interests of the insuring public.

"There is also an important section in the Bill, section 42, by which power has been reserved to the Governor General in Council to exempt life assurance companies from all or any of the provisions of this Act, and the enforcement of this provision will prevent any particular hardship. Such a provision was extremely necessary in view of the limited experience at present available in this country in regard to this class of legislation. No serious objection can be taken to the Bill in the form in which it is presented. I therefore have the greatest pleasure in giving my unqualified support to this Bill."

The Hon'ble Mr. Clark: "Sir, I greatly appreciate the generous language which has been used about this Bill by the Hon'ble Mr. Fyffe and other Hon'ble Members who have spoken this afternoon. I should like in turn to express the acknowledgments of Government to the Select Committee for the great assistance we received in dealing with such a technical subject. We especially owe a debt to the Hon'ble Mr. Fyffe, who has been prepared to give up so much of his time this cold weather, in order to become a member of this Council especially in connection with these Bills and to place at our disposal a very wide knowledge and experience of insurance matters. I am also greatly obliged to him and the other Hon'ble Members who signed the first minute of dissent, which, as the Hon'ble Sir Cecil Graham has said, is really scarcely a minute of dissent at all, for the very moderate and reasonable manner in which they have put forward their views.

"I turn now to what has been said in this preliminary debate. The Hon'ble Mr. Fyffe referred to three special points on which the commercial community hold strong opinions. The first of these was that the new insurance measures should be administered by an Insurance Department. We are not able to meet him absolutely to the extent which he asks. The insurance work will in fact in future form part of the duties of the department over which I have the honour to preside. We have already asked the Secretary of State to supply us with a fully qualified actuary to help us in the investigation of the returns and statements to be furnished under the Bill. That is a beginning of course. In time, if work largely increases under the Bill, it may mean the development of a branch of our office. But we are largely meeting the Hon'ble Member. He urges that we must have expert assistance to work a Bill of this kind and that expert assistance we are going to get.

"The next question is the question of the initial deposit. This is a matter which has given us very great difficulty and which we have considered very carefully. The original deposit fixed in the Bill, as the Hon'ble Members will recollect, was one lakh. The Bengal Chamber of Commerce and the Hon'ble Mr. Fyffe advocated that the sum should be raised to two lakhs. Now, I do not for a moment question the good faith of the Bengal Chamber of Commerce or of the Hon'ble Member in putting forward that proposal, and I entirely sympathise with their object which is to put an end to unsound insurance companies; but while the Hon'ble Member is entirely justified from his point of view in putting forward that proposal, Government has a somewhat heavier responsibility. We have to be as sure as humanly speaking we can be that we are not injuring the sound companies which are working on a small capital. In point of fact we do not know yet as much as we should like to about these Indian companies, though in time we shall get further information under this Bill. There has been a very considerable discrepancy of opinion in this matter. The Bengal Chamber of Commerce, as I have said, advocated a deposit of two lakhs; on the other hand, the Government of Madras, in view of the memorials laid before them, considered that it would be unfair to impose on existing companies

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the obligations of finding so heavy a deposit as even one lakh, unless discretion were allowed to have the deposit made by a number of annual instalments. A well-known and perfectly sound society whose funds are deposited with the Official Trustee came to me and showed me that their total funds at the present moment only amounted to about three-quarters of a lakh. In the provision which we have adopted, we are following the model of the Western Australian and Southern Australian Acts, but in one particular we go further than they do. In those Colonies, although the amount to be worked up to eventually is larger than in our Bill, and the proportion of receipts to be deposited is $\frac{1}{2}$ instead of $\frac{1}{3}$ rd, no initial lump sum is required. I can assure Council that Government have considered this matter most anxiously and carefully with the sole end in view of arriving at an amount which, while affording reasonable security against the growth of fraudulent companies, will not be unduly burdensome on small but legitimate business; and allowing for the difficulty of obtaining adequate data, I venture to hope that we have arrived at a not unreasonable solution. I am very glad to hear that the Hon'ble Members opposite accept what we have proposed as at any rate a fair beginning.

"The third point is the question of restriction of investments. Hon'ble Members representing the commercial community would like to have seen provision made for securing that the life assurance funds should be invested separately from any other funds of the company. The Hon'ble Mr. Fyfe moved an amendment in committee to restrict the investment of life assurance funds to securities specified in the Trusts Act of 1882 at any rate as regards the investment of a proportion of the fund. The Hon'ble Mr. Mudholkar has an amendment on that subject, and I understand that he intends to move it, and I will therefore reserve my remarks until the amendment is moved. But I may say generally that the Hon'ble Mr. Fyfe has placed the attitude of Government very fairly before Council.

"I now come to the Hon'ble Mr. Mudholkar's remarks. Most of his remarks deal with amendments which he is going to move, and I will reply to them later *seriatim*. It is hardly necessary to go twice over the same ground. He made one statement which I did not follow very clearly about something when the Bill was introduced in Simla. He referred to a speech supposed to have been made by my friend the Hon'ble the Law Member."

The Hon'ble Mr. Mudholkar : "No, the Hon'ble Member in charge."

The Hon'ble Mr. Clark : "The substance of what he said was that we proposed in the first place to kill companies right and left. We did not propose anything of the sort. Our whole object has been only to stop unsound practices and as I have just been explaining especially not to injure companies which although sound are working on a small basis and on a small margin. I do not think that I need refer further at this point. With your permission, Sir, I will ask the Council to proceed to the amendments."

The motion was put and agreed to.

The Hon'ble Mr. Mudholkar : "Sir, I beg to move that to clause 5 of the Bill as amended by the Select Committee, before the explanation, the following addition be made, namely :

'The life assurance fund of every life assurance company shall be invested in one or more of the securities mentioned in clauses (a), (b), (c), (d) and (e) of section 20 of the Indian Trusts Act, II of 1882, and in no others.'

"Sir, the more important reasons on which I base my amendment have already been dealt with by me in the speech which I just delivered. I do not propose to occupy the time of the Council by going over them again. I would only like to supplement what I said then by a few observations. It was pointed out here, in this Council, by Mr. Fyfe, who is an authority on these matters, that in the condition of India it is very necessary that the same unrestricted freedom which is accorded under the English Act to English companies should not be extended, and that the circumstances of this country require that some limitation should be put upon the power of the companies

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to invest the money of the policy-holders in their hands. Now, Sir, that is the opinion of an expert of 26 years' standing. We have also got the views of Local Governments; and every Local Government and all the individuals and associations consulted by them give the same opinion. The money invested with the life assurance company is in the nature of trust-money. It is money which ought not to be employed by them for other purposes than that for which it was given. It should not be allowed to be used for any speculative concern and even for the purpose of trade and commerce, unless very great guarantees are taken that no loss accrues. The Bill as it stands leaves the fullest power to the companies to employ such money, in advancing loans to individuals or even to the directors and members of the company itself. It is true that in the schedule which has been prepared care has been taken to require a specification of the purposes to which the life assurance fund is applied. That would secure—what is wanted—publicity. It would give information as to the manner in which work is being carried on, and it would enable the Government of India in the Department of Commerce and Industry to see how these companies are carrying on their business, and whether they were acting on sound lines. But that will not, it appears to me, Sir, give that measure of protection which is needed. It might only enable the Government of India to step in; but possibly they would step in after the mischief was done. What is required, and what is very necessary, is prevention—to make it impossible for the companies to employ the money entrusted to them in a manner to jeopardize the expectations of policy-holders and cause injury to them. That appears to me, Sir, a very important point, and in regard to this, there being a consensus of opinion, it is a matter in which the Government should still reconsider their position. We are told that the Secretary of State has asked that the law should be framed on the lines of the English Act. But there are the special conditions of India to be taken into consideration; and when there is the opinion of Local Governments and of men belonging to the people and of experts in entire agreement, I think that opinion ought to carry greater weight than the general lines indicated by the Secretary of State. The Hon'ble the Member in charge of the Bill has just now stated that it would be necessary to watch the operations of the Act for some time before any decision on this point is arrived at. Of course, if the Government of India have made up their mind, it is difficult for the non-official members to say anything more than to bow to the decision. But the matter is one of very great importance, and I urge upon the Hon'ble Member in charge of the Bill to consider this amendment. It would be a measure of protection which is considered necessary."

The Hon'ble Babu Bhupendranath Basu: "Sir, I rise to support this amendment. I do hope that my friend the Hon'ble Member in charge of the Department of Commerce and Industry will accept it. It seeks to introduce no new principle. This principle is admitted in the Indian Trusts Act. It only seeks to impose an additional safeguard. There are various ways which the Indian Trusts Act provides under which money may be invested, and all that this amendment seeks is that the money invested by life assurance companies shall be confined to these ways and to no other. Seeing that this Act is being introduced as a protective measure, and seeing the practical unanimity of opinion upon this amendment, I think, we may fairly claim, that we have made out a very strong case and that unless it can be shown that such a restriction will operate to the injury of the life assurance companies, I do hope that the restriction will be adopted."

The Hon'ble Mr. Fyffe: "Sir, in the same way as many years ago it was found necessary to control British companies, so now has it become necessary to control by legislation the Indian companies, and the fact can hardly be overlooked that it is unnecessary and superfluous to extend further still Indian legislation to British offices, which are already so stringently provided with legislative control. However, we are to have it, but I wish to draw attention to this important point, that the Hon'ble Mr. Mudholkar's amendment in regard to the limitation of the investment of a company's life funds in India is made to refer to clause 5 of the Bill; this point I have distinctly discussed

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with him ; and under which clause (No. 5) exemption is already provided, and that in speaking now, my only desire is to lay emphasis on this fact, so that at any future time there shall be no suggestion made to the effect that the present amendment was ever intended to have any application whatsoever in regard to the British companies."

The Hon'ble Mr. Clark : " Sir, I think, in the first place, I ought to clear away one misapprehension under which the Hon'ble Mover seems to labour. He said that this provision has been brought into the Bill under the orders of the Secretary of State. That is not the case. As was pointed out by the Hon'ble Mr. Fyffe and by the Hon'ble Mr. Mudholkar himself in their minute of dissent, the changes they proposed were so important and represented so wide a divergence from the principles on which the English law is based, that it would have been necessary, if Government had been disposed to accept them, to obtain the sanction of the Secretary of State. This would inevitably have involved delay and possibly have led to the postponement of the Bill until the next session of the Council. That is an accurate statement of the position. The provision has not been forced upon us in any sense of the word. I now come to the merits of the amendment.

" Similar proposals were pressed on the English Government when the Assurance Act of 1909 was before Parliament and were rejected. I agree that we cannot attach too much importance to this fact in itself, because conditions in India are different to those in England, and it is at least probable that Indian companies are not so careful as English companies about the nature of their investments. Now, these proposals are in effect based on the hypothesis that Indian companies do not invest their life assurance funds in sound securities. The difficulty which Government feel in the matter is that they have not at present sufficient data to know whether this is so or not. We have no powers until this Bill is passed enabling us to demand copies of an Insurance Company's balance-sheet and Government can hardly act solely on what they read in a newspaper, however well-informed it may be. The Hon'ble Mr. Fyffe himself has not been able to lay definite information before us on that point. The provisions of this Bill will enable us definitely to ascertain where these funds are invested, and we shall then know whether the additional precautions advocated by these Hon'ble Members are necessary. I have already referred to what they say in their minute of dissent, as to the necessity of referring these changes, if Government had been disposed to accept them, to the Secretary of State. This would inevitably have involved delay, and possibly have led to the postponement of the Bill until the next session of the Council. I pointed out in Committee that, apart from any other considerations, it would be far better to run no risk of this but to pass the Bill now in its present form, and to obtain by means of the prescribed returns information as to the investments of life assurance funds ; and then if the information we obtain shows cause, we can at a later date take up the question of restricting the area of investment. I am very much obliged to Hon'ble Members for accepting that point of view. In the meantime we have in Committee greatly enlarged and improved the form of balance sheet as laid down in the Third Schedule. A separate balance sheet is prescribed for the life assurance fund, and Hon'ble Members will see, if they refer to it, that investments have to be shown in the fullest detail, and not only investments in the ordinary sense of the word, but particulars will have to be given of all loans, except loans on policies within their surrender values, made at any time during the year to any director or officer of a company, or to any other companies in which the said directors or officers may hold the position either of director or officer. This provision will not only serve to show how the funds of the companies are invested, but I need hardly point out that it will also act as a strong deterrent on any rash or unsound practices ; and I submit that it is only reasonable to obtain this information and to apply the test of publicity first before proceeding to more stringent measures.

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"That then is the position in relation to these additional safeguards in the matter of investment. Government fully recognise the importance of the question, but I hope I have convinced Council that it would be undesirable at the present time, and on our present information, to give effect to the proposed restrictions. As I have already said, I greatly appreciate the considerate way in which the Hon'ble Members have pressed their views, and I might add that should it appear necessary at any future time to legislate further in order to effect restriction on the lines they advocate, it will be of great assistance to have their opinions on record in the Committee's report.

"I am afraid Government cannot accept the amendment."

The amendment was put and negatived.

The Hon'ble Mr. Subba Rao : "I beg to move, Sir, that in clause 33 of the Bill as amended by the Select Committee the word and figure 'section 4' be omitted.

"The result of the amendment if accepted will be that life assurance companies carrying on business in the United Kingdom, in case they wish to carry on that business in this country, shall have to make a deposit here in the same way as Indian life assurance companies.

"One of the main principles of the Bill as embodied in clause 4 is that all life assurance companies should deposit with the Comptroller General on behalf of the Governor General in Council securities which finally come up to a face value of two lakhs of rupees. To this an exemption is made in favour of life assurance companies carrying on business in the United Kingdom in accordance with the English Act of 1909. Every such company has to apply to the Governor General in Council for a declaration that it carries on such business in the United Kingdom, and once a declaration is made under section 32, it is exempted under section 33 from making any deposit.

"The question is, what is the principle requiring life assurance companies to make a deposit? I wish to draw the attention of the Council to the course of legislation in the United Kingdom on this point. Under the Statute of 1870 every new company in the United Kingdom was required to deposit with the Accountant General of the Court of Chancery the sum of £20,000 before it could carry on life assurance business, and as soon as its premiums amounted to £40,000, it was permitted to withdraw this sum. A Select Committee of the House of Lords was appointed in 1906 to report 'what steps should be taken by deposit of funds or otherwise to provide adequate securities for British policy-holders in life assurance companies which have their chief offices outside the United Kingdom, but which carry on business in this country.' The Committee after taking evidence reported that 'the deposit of £20,000 with the Accountant General of the Court of Chancery has undoubtedly had the effect of preventing the formation of mushroom companies..... The Committee are aware that this sum of £20,000 would be of little use to meet the liabilities of the larger companies who do business in this country, but they feel that if this amount were deposited and could not be withdrawn by any company, it would afford an absolute guarantee to policy-holders in foreign companies of being always able to proceed, if necessary, against such companies in the courts of this country.' So, in the Statute of 1909, the provision of withdrawing £20,000 is deleted, and it is provided that the deposit should remain permanently with the Accountant General of the Court of Chancery. I ask, Sir, should not the same protection be given to Indian policy-holders? What is the remedy of Indian policy-holders in cases of misrepresentation which are not uncommon, in case of difficulties in recovering the amount of the policy, and more so in the case of companies who after a time withdraw their business from the country, as the London and Lancashire Company has done? Let us see, Sir, in this connection how the colonies deal with the mother country itself. I am indebted to the courtesy of the Hon'ble Mr. Enthoven for lending me a copy of the report of the Select Committee of the House of Lords; there is a paper filed before the Committee by Mr. Fry, the Chief Clerk in the Finance Department of the Board of Trade, in which he gives a summary of the insurance laws in different countries. Let us take the case of Canada. The Cana-

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dian Act requires a deposit of 50,000 dollars in approved securities, and the liabilities must never amount to more than the assets actually invested or deposited in the Dominion. Let us now turn to South Australia. There should be an initial deposit of £5,000 rising to £20,000 in approved securities, and such securities are primarily charged with the payment and satisfaction of all the liabilities of the companies in South Australia. Similarly, in West Australia, the minimum deposit is £10,000 rising to £20,000, the securities being charged with liabilities in Western Australia. So also in New Zealand and Cape of Good Hope. In Ceylon the law is equally stringent as regards deposit.

“ Let us now take foreign companies. In the United States, each State has its own law, modelled on the New York Life Assurance Act of 1892, which requires a deposit of \$200,000 in approved securities; on discontinuance of its business, every foreign life assurance company may withdraw one-half of its deposit on covenanting for the security of all its outstanding policies issued in the United States. In continental countries, the measures taken to protect the interests of their policy-holders are much more rigorous. In Austria-Hungary, for instance, every company has to deposit securities to the amount of 200,000 crowns, which deposit must be increased from time to time so as to be at least equal to the full amount of the company's premium reserves. In Germany, the law requires that the full premium reserves on German assurances shall be deposited in Germany and remain there under the control of the Imperial Insurance Department. So also in France the law provides for a constitution of adequate reserves and prescribes a list of securities in which the companies have to invest their funds.

“ Thus a survey of the laws in the Colonies, the United States, and the Continent goes to show that a deposit of a certain sum of money is compulsory on all companies carrying on business in these countries, and in some countries preference is shown in some matters to indigenous companies over foreign companies. I submit, therefore that there is no reason for exempting the companies doing business in the United Kingdom from making a deposit in this country. The deposit in the United Kingdom does not make an additional deposit in this country superfluous or vexatious. In fact, the object of requiring the deposit is not only to deter unsound companies from coming into existence, but also to give some sort of guarantee to policy-holders to proceed against, and recover their monies from, foreign companies. Therefore, Sir, it seems to me that the companies carrying on business in the United Kingdom according to the English Act of 1909 should be required to make a deposit here, especially when they make a deposit in the Colonies and on the Continent. After all, it is a flea-bite to these companies, which are said to be very sound companies with a large capital and plenty of money in reserve, to make a deposit of only two lakhs of rupees; on the other hand, it would be a safeguard and protection, however inadequate it may be, for the policy-holders here. I therefore move this amendment, and press it upon the attention of the Council, and I hope it will have a better reception than that which has been accorded to the amendment moved by my Hon'ble friend Mr. Mudholkar.”

The Hon'ble Mr. Clark: “ Sir, the Hon'ble Mr. Subba Rao and the other Members who signed a minute of dissent on this subject said: ‘ We recognise fully that the provisions of the English Assurance Companies Act of 1909 and the strict manner in which compliance with its requirements is enforced, do afford some measure of protection to persons who assure their lives with them ’ (that is, with the English companies). That is to say, if I interpret their views correctly, they recognise that we are justified in making a distinction between British and Indian companies, but they do not agree that we have a right to carry that distinction to the extent of exempting these companies from the deposit, as well as from the other provisions about returns, actuarial valuations, and so on. Now, I must confess, Sir, that I find it difficult to follow the distinction that they draw between the provisions requiring a deposit and the other provisions from which we are exempting British companies. The basic principle on which we exempt these English

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companies from any provisions of the Act at all is that, taking into consideration the provisions of the Act of 1909 and what we know of its administration, we are satisfied that companies which fulfil their requirements and satisfy the Board of Trade, justify us in exempting them from these provisions of the Act. If we were not so satisfied, we should have just as little justification for exempting them from the various provisions to which I have referred, as for exempting them from making the deposit. But as we are so satisfied, I fail to see what the necessity is for imposing on them a deposit in this country, in addition to the larger deposit which they have already made in the United Kingdom. I cannot help thinking that Hon'ble Members to some extent misunderstand the reason for having a deposit at all. The idea of a deposit is not to provide a fund for distributing among the policy-holders in the event of the company coming to grief, since it would manifestly be impossible to make the deposit large enough to afford any real security to policy-holders in a case of that kind. Its object is to make sure that the company that starts business is not a mushroom company which will simply collect its premiums in the first year, and then make a bolt. If a company has already deposited at the start £20,000 under the English Act, it is obvious that there is no reason why we should impose a further deposit on them when they come out here, for they have already, so to speak, justified their existence. The Hon'ble Member has referred to legislation in certain other countries where they do impose a deposit on foreign companies. Well, I think the attitude of other countries is rather different to ours. Our point of view here is to try and give the Indian people as wide an area as possible of choice among sound insurance companies. We do not go beyond that. Canada and America are also concerned to protect their home life assurance companies against competition from the outside, and they legislate from that point of view. The Hon'ble Member was not correct about the deposit in Western Australia and Southern Australia, when he said that £5,000 in one case and £10,000 in the other had to be deposited before commencing operations. That is the eventual figure which has to be worked up to, but there is a proviso for working up to it gradually : is not a lump sum. The only other point he mentioned was that the deposit gave you the power of recovering from a company in case you wished to bring an action at law. The advice I have received on this point is that it is not necessary to have a deposit in this country to proceed against a company from the United Kingdom, and that judgments against companies domiciled outside India would more probably be given effect to in their country of origin."

The Hon'ble Mr. Subba Rao : "If the company had withdrawn its business from here, how would you recover the amount?"

The Hon'ble Mr. Clark : "The judgment would probably be given effect to in the English Courts."

The Hon'ble Mr. Subba Rao : "I am afraid the Hon'ble Member in charge of the Bill missed the point which I raised on my amendment. I conceded that the object of the English Act in requiring a deposit of £20,000 was not to enable the companies to meet all their liabilities out of that sum, but that, as the Select Committee pointed out, if this amount were in deposit and could not be withdrawn, it would afford a guarantee to policy-holders in foreign companies to proceed, if necessary, against such companies in the courts of that country and recover the amount due to them. Surely the same argument applies to India quite as much as to England."

The Hon'ble Mr. Clark : "You can proceed against these companies in this country in the first instance because they have a place of business here. We require under the Act that they should have a place of business in this country, and therefore you can proceed against them."

The Hon'ble Mr. Subba Rao : "Foreign companies also have got their place of business in England, and they can be proceeded against there also. There is this circumstance that so long as foreign companies have a certain sum of money deposited in England, they would be careful to see that any claims made upon them are satisfied, so that no action might be brought against them,

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and the money deposited in the Court of Chancery might not be seized in execution of any decree that might be obtained against them. Therefore the reasons for introducing the clause about deposit in the English Act apply with equal force to a deposit being enforced in this country. The Hon'ble Member in charge of the Bill referred to the minute of dissent recorded by me, the Hon'ble Mr. Mudholkar and the Hon'ble Mr. Basu, and commented upon it. There we draw a distinction between the provisions about deposit and the other requirements of the Bill with regard to English companies. We said that while they might be exempted from the other requirements of the Act, such as furnishing returns, etc., there was no reason why they should be exempted from making a deposit.

"I am sorry, Sir, to say that I remain unconvinced by the answer given by the Hon'ble Member in charge of the Bill, and I cannot understand why, when companies carrying on business in the United Kingdom make deposits in Canada, in Australia, in the United States, all over the world, the Government should be solicitous to exempt them from making a deposit in this country."

The amendment was put and negatived.

The Hon'ble Mr. Subba Rao : "Sir, the next amendment I propose is to omit the new clause 34. With regard to the colonial or foreign companies that do not carry on business in the United Kingdom and do not come under the English Act of 1909, but which wish to carry on business in India, the new clause gives power to the Governor General in Council to grant exemptions, if he is satisfied that the laws of those countries provide equal safeguards with the English assurance law. In other words, any foreign or colonial company which has a law like the English assurance law can obtain a declaration under section 32 and need not be bound to make a deposit or make any returns required under the present Bill. The result will be that these foreign and colonial companies will not be subject to the control of the Government. I submit that such a discretion ought not to be given to the Government, and that these foreign and colonial companies should not be placed in that favourable position.

"How can the Government draw any distinction between countries and countries, all of which have as good assurance laws as England and provide as good safeguards as the English law? For instance, the Canadian law, the Australian law, the German law and the French law, are quite as good as the English law; if at all, they are more rigorous and stringent. How can you draw a distinction between a Japanese company, a Ceylon company and a Canadian company?"

"Thus, instead of bringing the foreign and colonial companies under greater control, the Bill gives them a favourable position to exploit policy-holders in India, though their laws are as stringent as possible against Indian companies. I submit that no reason is given in the Select Committee's report for this drastic change. In presenting the report of the Select Committee the other day the Hon'ble Mr. Enthoven contented himself with saying :—

'This provision speaks for itself. In the interest of the people who insure their lives in India, it clearly should not be our policy to throw unnecessary obstacles in the way of companies controlled by satisfactory laws.'

"I can only say, in reply, that this generosity on the part of the Government to the detriment of the interests of policy-holders in India, speaks for itself. Why does not the British Government adopt this generous policy? Why should they require all the companies carrying on business in the United Kingdom to make a deposit and submit to the stringent restrictions of the Board of Trade? For the matter of that, why does not any other country in the world adopt this generous attitude? Is India alone the country where we should show an exhibition of generosity towards foreign and colonial companies?"

"I wish to draw attention to one important question in this connection. Now, under clause 84 (I wish the Hon'ble the Law Member would please note this), once a foreign or a colonial company is placed on the same footing as an

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English company, clause 33 applies. In other words, once a declaration notification is issued in regard to foreign or colonial companies, these companies are placed on the same footing as English companies and they are exempted from the operation of sections 4, 5, 7 to 12, 15, 20, 21 and 36 of the Bill. They need not make any deposit or file any account here. Only they should deposit with the Governor General in Council *copies* of every account, balance-sheet, etc., which they are required under the Assurance Companies Act of 1909 to deposit at the Board of Trade. But these foreign and colonial companies do not carry on business in England, and do not come under the Act of 1909, and therefore they do not deposit or file any account, balance-sheet, etc., under that Act at the Board of Trade. Thus these foreign and colonial companies go scot free. They need not file even copies of account in this country. It is an absurd position to which we are driven by having section 34. Therefore I submit that the best thing we can do is to omit clause 34."

The Hon'ble Mr. Mudholkar : "Sir, this appears to me a most objectionable provision. It was introduced into the Bill in the Select Committee. In introducing it the Select Committee have, I think, gone beyond sound principles, and have not taken into consideration the convenience of the people or the manner in which such business has to be transacted. The object of publishing a Bill in the Gazette is to give notice to the people as to what are the provisions, what the matters, in regard to which action is proposed to be taken. Now, in the Bill as it was originally framed there was not a word which gave any indication that it was the intention of Government to grant any privileged treatment, any special consideration, to those foreign and colonial companies. On the contrary, the original Bill as it stood subjected these companies to the requirement of a deposit, to the requirement of submitting returns, to investigations, to actuarial scrutiny and everything which has been laid down in the Bill for the companies which carry on business in India, except companies which are registered under the English Assurance Companies Act. It was only in the case of British companies, or to speak more accurately of companies registered under the English Assurance Companies Act, that any special privilege was asked by the original Bill. In regard to that feature of the Bill, I have just explained that I am in agreement with it, and I for one concede that, for the various considerations which I have mentioned, we should be prepared to allow special treatment to be given to British companies. But this new provision which has been introduced is one which has been sprung upon the country in the Select Committee. Till the day we went to the meeting of that Committee not even the Members of the Select Committee had any knowledge that this new provision was going to be introduced into the Bill. What was the object, Sir, with which the Bill was sent to the Local Governments for their opinion? Why is it that the opinion of the Local Governments is required in regard to a matter which concerns the territories under their jurisdiction as also in all general questions? This course is adopted because those who have to help in the administration of the country should be in a position to pronounce an opinion on these important subjects. Now, had the Local Governments any intimation that this new provision was going to be inserted? Well, I can only speak on the papers which are laid before us, and so far as can be seen from what the Local Governments have written, they had absolutely no knowledge that any new provision like the one under consideration was going to be inserted in the Select Committee. I say, Sir, this new provision being opposed to the very principle on which legislative business has to be conducted in India under the Indian Councils Act, is further one which is highly unsound in principle and should not receive any countenance from the Council. I am afraid I am here loading a forlorn hope; but it has been my lot, call it good fortune or call it misfortune, to be a leader of many a forlorn hope. I feel, however, no depression because even a defeat on occasions like this is like the defeats which the Romans had at the hands of Pyrrhus. The Government may carry this provision through on this occasion, but I am quite sure that it will not be very long before they will have to reconsider their position. This is a matter, Sir, in regard to which there is a very deep feeling entertained by those

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who have bestowed any thought to the subject. It is objectionable on principle, it is detrimental to Indian interests and opposed to the very principle on which our legislation has to be conducted under the Indian Councils Act. I particularly wish to emphasize that it is not in the interests of the people of India that such a provision as this should be introduced.

"I have no wish to repeat what I said only half an hour ago. But on what I said then, the Hon'ble the Mover of the Bill has withheld his remarks. I would therefore point out some of the more salient considerations which I then advanced. Most of these foreign companies hold no property in India; they are not amenable to the British Government; even the colonial companies are not amenable to the House of Parliament or any British authority in matters of this kind. And it is in favour of companies belonging to those countries that discrimination is to be made! Sir, we are told that this is in the interests of the people of India as though the interests of the people of India consist in this, that, ignorant and simple as most of them are in regard to life assurance business, they should, by the fact of a company being allowed to work, be permitted to remain under the belief that they are among the authorised companies in which it is quite safe to assure one's life and afterwards to have it pointed out that they are concerns over which the Government here or the British Government have absolutely no control. Sir, in regard to the British companies there are very considerable guarantees. We know what the English law exactly is. We also know that the English companies have to run the gauntlet of a very close scrutiny at the hands of the officers appointed by the Board of Trade. The Board of Trade, to guard the interests committed to their charge, exercise the closest scrutiny possible. We have here some guarantee in the case of British companies. What guarantee have we in the case of foreign companies? I said a short while ago that I have absolutely no animus against foreign companies; one of the policies on my life is with a colonial company. That is, because I was assured that that particular company was one in which it was quite safe to get one's life assured. But do you expect that the majority of the people who go in for life assurance exercise the same caution that persons who have greater means of information can exercise? On the one hand you say that the people of India are simple and ignorant and require protection, and the very next moment you withdraw that protection from them. You do not provide that same measure of protection for them against these foreign companies that is provided in the case of indigenous companies. I do say that we do regard it as a grievance that discrimination should be allowed to colonials and foreigners over indigenous companies.

"The Hon'ble the Member in charge of the Bill just now observed that the Canadian Act required deposits from all foreign companies because they wanted to protect their own insurance companies. May we not ask why a similar consideration should not be extended to Indian companies? Here are in our country companies springing up; they are small in a way but they would be also carrying on useful work. And if Canada and the other countries are allowed to protect their own companies, why should not the Government of India adopt a similar attitude in favour of companies coming into existence in this country? The reasons apply equally well here. Then let us take other equally serious considerations. If there is any systematic fraud carried on, what remedy can you have against a foreign company? In regard to an English company, if there is any fraud carried on on a large scale, the Government of India may be trusted to move the Government in England, and the Government in England, on principles which are well known, will probably take action. Have we any guarantee that any similar action will be taken by foreign Governments or even by colonial Governments?

"I submit, Sir, that in the manner in which this clause was introduced, there was a very grave irregularity. The procedure, I consider, is almost opposed to the Indian Councils Act—it may not be to the actual wording, but certainly to the spirit of it. I think that the provision is one which is highly detrimental to the interests of the people of this country, and should not be accepted by this Council.

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"One word more in regard to the form in which the power to grant exemptions to foreign and colonial companies is to be conferred. The power, the Bill says, is to be conferred upon the Governor General in Council. Now, under that power the Governor General in Council is to determine whether any discrimination is to be afforded to foreign companies, and it is after such consideration as they bestow upon it that they make up their mind whether these companies should come under this clause or remain under the general clauses applicable to Indian companies. Would not that be taking away the power of the Legislative Council? We are told that the executive should be entrusted with all such matters. That is an argument—the argument of confidence—which can be used in regard of every conceivable law. Why not trust to the executive to look after all the legislative interests of the people? Well, if that argument is to be seriously pressed and carried out, we may as well dispense with the Legislative Councils. I very strongly object to clause 34."

The Hon'ble Mr. Clark : "I regret, Sir, that the harmony of the proceedings should have been somewhat marred by the feeling aroused over this clause. Really the arguments of Hon'ble Members opposite have not been very reasonable or consistent. The Hon'ble Mr. Subba Rao tells us that he objects strongly to our letting loose foreign and colonial companies on the Indian insurer; yet he tells us himself that the Australian, the Canadian, the French and the Hungarian laws are infinitely stricter than the English law. The Hon'ble Mr. Mudholkar objects to our permitting outside competition with Indian companies; yet he has himself favoured colonial companies rather than Indian by, as he himself has told us, insuring his own life with a colonial company. This clause is purely permissive. Surely too, it is a logically reasonable proposal. It has been generally accepted that we may allow companies doing business in the United Kingdom special privileges under this Act, because we are satisfied that in view of the stringency of the English law they are sound companies and that further guarantees are not needed. All we are doing is to give the Governor General in Council power to grant the same exemptions in the case of foreign or colonial companies where he is satisfied that their laws are as strict, or even stricter. I really cannot see what objection can be raised to this. There is no question of letting them loose on the Indian would-be insurer without any guarantee whatsoever. That is what Mr. Mudholkar was trying to suggest. There is no question of that at all. We are only admitting companies wherever proof has been shown that they are regulated by laws as strict or even stricter than the laws of the United Kingdom. I am afraid I cannot agree to drop this clause (34)."

The Hon'ble Mr. Subba Rao : "How does the Hon'ble Member in charge meet my objection to clause 34? What is the safeguard against foreign competition?"

The Hon'ble Mr. Clark : "The wording of the clause is perfectly clear. It is stated that 'if the Governor General in Council is satisfied that the law relating to life assurance companies for the time being in force in any foreign country or British possession, provides safeguards equal to or greater than these provided by the Assurance Companies Act, 1909,' and so on."

The Hon'ble Mr. Subba Rao : "The point I brought to the notice of the Council is that under clause 34 the Governor General in Council has power to make a declaration in favour of a foreign company; in other words, he has the power to place a foreign company in the same position as a company carrying on business in England. What I pointed out was that with regard to the companies carrying on business in the United Kingdom we have got certain safeguards under clause 33. One of the safeguards is contained in the proviso, namely, that they shall deposit with the Governor General in Council copies of accounts, etc., filed at the Board Trade; that is the safeguard which you give with regard to assurance companies registered according to the English Act, 1909. What is the safeguard with regard to foreign companies not working in England? I see that you are placing them on a better footing than the companies registered under the English Act. What is the answer to that, may I ask?"

The Hon'ble Mr. Muhammad Shafi : "The answer is a very simple one. In clause 34, the last words are 'on the issue of such a notification

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these sections shall have effect accordingly.' As soon as the notification is issued, the provisions of clauses 32 and 33 shall apply to the Foreign companies. The answer is quite plain."

The Hon'ble Mr. Subba Rao : "Is it? The proviso to clause 33 says that they must deposit copies of the accounts, balance-sheet, etc., filed at the Board of Trade in England. As a matter of fact, these companies do not file any accounts at the Board of Trade. What are the papers which they should file here?"

The Hon'ble Mr. Clark : "The intention of the Bill of course is that they should file corresponding documents to those which English companies file in England. There is ambiguity in the drafting language to which the Hon'ble Member called attention, and I think we might modify it by a short drafting amendment."

The Hon'ble Mr. Subba Rao : "That is a matter which cannot be done now off-hand in the Council. It should go before the Select Committee for consideration. The clause itself was not apparently well considered and now that I have pointed out the difficulty that these foreign companies are placed in a better position, the amendment is proposed. I object to this amendment being put in an off-hand manner."

The President : "The question is whether a merely verbal amendment will not meet the criticisms of the Hon'ble Mr. Subba Rao. If it does, I fail to see the necessity of recommitting the Bill, which will mean possibly not passing this Bill this Session."

The Hon'ble Mr. Clark : "May I submit a point? The first question raised by the Hon'ble Mr. Subba Rao is whether we should omit clause 34. He wants to get rid of the whole clause. Secondly, he has pointed out an ambiguity in the drafting language of clauses 32 and 33 as governed by clause 34. On the first question, as I have explained, the provisions are perfectly reasonable and we cannot agree to its omission. I am, however, grateful to the Hon'ble Member for pointing out the ambiguity in drafting. We think that we might put it right now, and that it would be a great pity if for a few words the Bill should be sent back to the Select Committee, as the passing of the Bill, which is urgently wanted, would be retarded."

The Hon'ble Mr. Syed Ali Imam : "Sir, the Hon'ble Members opposite have, in the course of their speeches—I am referring to the Hon'ble Mr. Mudholkar and the Hon'ble Mr. Subba Rao—made reference to what happened in the Select Committee. It was suggested that inasmuch as clause 34 of the Bill was absolutely a new section, it should not be put forward unless and until there had been an expression of opinion from Local Governments. The fact of the matter is that, when this clause was taken up in the Select Committee, the question that it was a new provision altogether was not at all taken up with the amount of insistence as it has been taken up in this Council. Looking at the clause itself, so far as its principle goes, it is quite obvious that my friends the Hon'ble Messrs. Mudholkar and Subba Rao hold their own opinions, and the opinion they hold is that it is unsound that the Governor General in Council should at all be trusted with any degree of discretion. That is entirely a matter of opinion. The opinion that we hold is that the amount of discretion that is generally reposed in the Governor General in Council in other matters is perhaps of far greater degree than can be contemplated in regard to a small measure which this clause proposes. In the Select Committee, we, the official members, considered that after all the principle involved was not of such great importance as to occasion a very lengthy delay in regard to the passing of this important measure, and that if for this small provision reference was again to be made to Local Governments the inevitable result would be that a measure of this kind, which is a very great protection to people who would invest their capital in insurance and for which the public has been keen for some time past, would be for a great length of time postponed. Therefore, in the Select Committee, it was decided that after all there was not such an urgency, nor was there such a degree of importance which necessitated its reference to Local Governments. I think, Sir, that in putting this submission forward, I am supported by the report of the Select Committee which shows that the reference, which is now suggested, should have been made to

[*Mr. Syed Ali Imam; Mr. Muhammad Shafi; the [13TH MARCH 1912.] President; Mr. Mudholkar; Babu Bhupendranath Basu.*]

Local Governments, was not at the time considered really of any consequence. The last paragraph of that report says :—

‘ We think that the Bill is not so altered as to require re-publication, and we recommend that it be passed as now amended.’

“ The clause after all does not perpetrate anything very extraordinary or exceptional. Discretion of the kind which is dealt with by the clause is generally reposed in the Governor General in Council. Hon’ble Members have in this Council expressed their willingness to confide in that discretion when graver measures than the one under consideration have been passed. Their trust in the discretion of the Governor General in Council has been very rightly looked upon with favour by Hon’ble Members as they have frequently admitted their belief in the wise exercise of discretion when it is placed in the Governor General in Council. In fact the delegation of such powers to a lower authority is deprecated and contemplated with a great deal of distrust.

“ Now, Sir, the second point which is now under consideration relates to the verbal amendment which has been accepted by the Hon’ble Member in charge of the Bill and for which the Hon’ble Mr. Subba Rao has earned our thanks.”

The Hon’ble Mr. Muhammad Shafi: “ Before the Hon’ble the Law Member deals with the second point, may I ask a ruling from the Chair in connexion with the first point? Is it open to a Member of the Council after a motion to consider a Bill as amended by the Select Committee has been agreed to and that motion has been supported by that Member himself, to propose that the Bill as amended be circulated to Local Governments?”

The President: “ I did not quite understand the Hon’ble Member. Will he kindly repeat his remarks?”

The Hon’ble Mr. Muhammad Shafi: “ With your permission, Sir, may I point out that the Hon’ble Mr. Mudholkar suggested that clause 34 did not find any place in the Bill as originally drafted and sent to the Select Committee, that the Select Committee had introduced the provision of its own accord, and that as opinions of the Local Governments had not been taken with reference to this clause, the Bill as amended ought to be sent back to Local Governments for an expression of opinion. The ruling I ask for is whether it is open to a member of this Council, after a motion for consideration of a Bill as amended by the Select Committee has been adopted and after having supported that motion himself, to propose that the Bill as amended by the Select Committee be circulated to Local Governments.”

The President: “ We have no such motion before Council.”

The Hon’ble Mr. Mudholkar: “ I never said that; the Bill should be now circulated to the Local Governments.”

The Hon’ble Babu Bhupendranath Basu: “ Between the Hon’ble Mr. Subba Rao and the Hon’ble Member for Commerce and Industry, I have had practically no opportunity of putting in a word. The difficulty which strikes me is this. I do not wish to discuss the question of principle, but the matter which is now brought forward by way of amendment is a matter which does require a little consideration. I was just referring to the English Acts and I find that they were extending this Act to outside companies. Section 274 of the Companies Consolidation Act contains a provision in respect of the United Kingdom which shall apply to every company outside the United Kingdom which carries on insurance business. Therefore, the amendment which has now been proposed requires some little consideration, and I would earnestly appeal to the Council to allow this matter to stand over for a day. We lawyers cannot be expected to give our opinion as to the exact bearing of an amendment on the spur of the moment, as we have not got the intelligence which non-lawyers have for legal matters. It is therefore only fair to us that we should have some little time to think over it.”

The President: “ I understand that the Hon’ble Member is alluding to the amendment which the Hon’ble Member in charge proposes to put later. I will deal with that when the amendment is proposed.”

The Hon’ble Mr. Syed Ali Imam: “ Sir, I was addressing the Chair when the Hon’ble Mr. Shafi interrupted me. As I submitted before, the

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question of inviting the opinion of Local Governments has been shelved for good. As far as I can understand from the report of the Select Committee and the minute of dissent, the question never received serious consideration. Hon'ble Members opposite will agree with me that this cannot be a grievance at all. In fact, as I said before, this clause, which places some discretion in the Governor General in Council, was not contested in the Select Committee with any great degree of seriousness.

"As regards the second point, that is to say, as to whether clause 34 requires any verbal alteration, that is a matter that has only arisen in this Council here on the observations of the Hon'ble Mr. Subba Rao and the remarks of the Hon'ble Member in charge.

"In this connection the Hon'ble Mr. Basu has expressed a wish to have some time given to the consideration of the question. I am absolutely in agreement with him. In matters of drafting one cannot be too careful. They are so delicate, and in fact drafting is such a fine art, that even this Council with the abundance of intellectual powers that it possesses will find it hard on the spur of the moment to make a draft, and then after that be quite sure that that draft is a very correct one. I personally, so far as this suggestion of the Hon'ble Mr. Basu is concerned, have no objection at all to the grant of another 24 hours, but when I put this forward I do not for a moment wish to trespass upon the jurisdiction of my Hon'ble Colleague the Member for Commerce and Industry. I may only say that my personal view is that should the Council require this particular alteration, I for one should be very glad indeed to support the Hon'ble Mr. Basu in the view that there should be some time given for the drafting of this particular amendment that is now suggested by the Hon'ble Mr. Subba Rao."

The Hon'ble Mr. Clark : "I think, Sir, this is the best way to treat the matter. There is this drafting difficulty, and as the Hon'ble the Law Member has said, however great our combined legal acumen may be, it is not very safe to discuss a thing of that sort in open Council, and we may make a mistake which may be stereotyped in the Act. We had better deal with the amendment now and reserve this point for consideration and discuss it when Council next sits."

The Hon'ble Babu Bhupendranath Basu : "Would that apply as to whether section 34 should be omitted or not?"

The President : "On the point of order which has been raised, I may mention that the amendment of my Hon'ble friend could not have been put if any Member had objected."

The Hon'ble Mr. Mudholkar : "There was an amendment proposed by me, as also by Mr. Subba Rao, that clause 34 be omitted. Mr. Subba Rao with my consent opened the discussion in regard to that amendment. May I be permitted to reply to the discussion which has gone on in connection with that amendment?"

The President : "I think the Hon'ble Member is justified, and if it is permissible for two members to move an amendment, then he has certainly got a right to reply."

The Hon'ble Babu Bhupendranath Basu : "The question was this :— Whether any member is entitled to speak upon the amendment moved by my Hon'ble friend Mr. Subba Rao?"

The President : "I have already ruled that he is entitled."

The Hon'ble Babu Bhupendranath Basu : "In that case I would support the amendment moved by my friend Mr. Subba Rao that this clause be omitted. For this reason, without going into the question that has been raised about the technical difficulty. . . ."

The President : "Will Mr. Mudholkar now reply?"

The Hon'ble Mr. Mudholkar : "There are, Sir, two questions which arise in regard to the amendment to this clause which has been moved by me. I am afraid that my remarks have been rather misunderstood. The

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Hon'ble Member in charge of the Bill considered that I was disturbing the harmony with which our discussion was going on by the very plain terms in which I spoke about the nature of the clause. I had to do a duty, and I did it. In the speeches which have been made on my amendment there arise various questions. There arose first the question as to whether it was consonant with the principles of the Indian Councils Act that this new provision should have been introduced in the manner in which it was. In dealing with this objection of mine it was pointed out by the Hon'ble Members opposite that this matter was not urged in the Select Committee.

"Well, Sir, it was not, as I said in my opening remarks, it was not till we went to the meeting of the Select Committee that we had any knowledge that this new clause was going to be inserted. The main body of the Bill was gone through at the sitting. On the following day what took place was only the consideration of the schedules and one matter which had been left standing over. But on both days I believe we did give sufficient indication to enable the members of Government to see that we did not approve of this new clause, and in our minute of dissent we have stated distinctly that we objected 'to the inclusion of the new clause 34.' Now I do not suppose, Sir, that a minute of dissent is to be scanned like pleadings in a Court to see if it set out every point of fact and every point of law on which either the plaintiff or the defendant relies. We certainly gave sufficient indication to show that we objected to the inclusion of clause 34 in this Bill as it was amended. Then it was said we have signed the report which stated that no further publication was needed. That we signed and subscribed the report, which contained the remark that it was not necessary to circulate the Bill for fresh consideration, is not denied. But what does that signify? Well, Sir, first of all our signatures were made with the distinct reservation that they were subject to minutes of dissent; so whatever we said in our minutes of dissent was expressly reserved. Then, objecting as we did to the very inclusion of the clause, it would certainly have been very inconsistent on our part to say that the Bill should be circulated for the opinions of Local Governments. If we considered that it was wrong on principle to accord a discriminating treatment to foreign and colonial companies; with what face could we ask that this matter should be referred to Local Governments? Then it was not our business to suggest this course. If the Government considered that the provision was one which must be introduced in the Bill, it was for them to see that all the necessary preliminaries were observed. We objected to the whole thing from its inception, and the whole thing being radically wrong we said that it should be entirely left out of the Bill. So I do not think that in urging the point which I put to the forefront I did anything unusual. Now, apart from the propriety of introducing a new provision of that kind in the Select Committee, let us look to the real merits of the question. It is true that by the new section the power merely is conferred upon the Executive Government to determine whether the privileges that have been accorded to British companies should also be extended to foreign and colonial companies. Now, even in regard to this point still remains that there is no parallel to this section in any of the laws known to us. No other country accords discriminating treatment. England herself does not accord discriminating treatment, does not extend any exemptions to her colonies, nor do the colonies extend any such exemption in favour of England. Why is India to be the one country in which such discriminating treatment is to be accorded to not only the companies which have been registered in the country where the sovereign power exists, but also to the companies in the colonies, and, what is still more, the companies existing in foreign countries? Now, one of the things which was pointed out by me was that there is not the same guarantee in regard to the scrutiny exercised over the management of these companies in foreign countries. We are told that before granting exemption the Government of India will have to see that the law relating to life assurance companies for the time being in force in the foreign country or British possession from which the company to be exempted came provides safeguards equal to or greater than those provided

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by the Assurance Companies Act of 1909, and so on. Now, Sir, it is quite true that the Governor General before he exercises his power has to see to certain things; but what are the matters in regard to which his attention is directed? His attention is simply directed to the question: what is the condition of the laws in that foreign country or colony? As to the manner in which those laws are enforced, the agency which exercises supervision over the enforcement of the law, the Governor General is not under any statutory obligation to exercise his discretion. He may—in the majority of cases we may say he will—do it; but we are to look to the actual wording of the section itself. We have before us the view of the Lieutenant-Governor of Burma. It was to the Government of Burma that the suggestion was made that exemption might be granted in favour of colonial companies, and the Lieutenant-Governor of Burma said that we cannot expect that in a small colony like Hongkong there would be the same kind of supervision exercised as is proposed to be exercised in India. Now, here we have the testimony of one of the highest officers of the Crown, and that testimony is certainly not in favour of the provision. What is there to satisfy the Government of India that in foreign countries, let us say Italy, Switzerland, Belgium or Holland, the same kind of close scrutiny is exercised as is exercised by the Board of Trade in England. Another thing which we have also got to bear in mind is that after all it is an *ex-parte* application which is made to the Government of India. The Government of India considers it, and on that an order is passed. Under the wording of the section it is when the Government of India is satisfied, that a notification is to be issued. But all that the Government of India is required to do under the clause being to direct its attention to the state of the law of that country, the guarantee afforded by it is certainly not at all sufficient. With regard to the principle of giving preferential treatment to foreign and colonial companies, I do not wish to add anything to what I have said; but there is one other argument I would like to place before the Council, and it is this, that when it was urged by us that the Bill should contain some provision imposing limitations on the power of companies as to the securities wherein the life assurance fund was to be employed, the Hon'ble the Member in charge said that it might necessitate a reference of the Bill to the Secretary of State, and might thus delay the passing of the measure, because that would be a new thing. Would it not be pertinent to ask him as to whether, when a new principle of a kind which does not exist in the English law is introduced in the Indian law, it was not necessary to obtain the views of the Secretary of State? If we are to follow the lines of the English Act, we certainly should require the view of the Secretary of State in this matter where-in there is to be a departure from those lines. I for one, Sir, utterly fail to see how the Secretary of State's opinion which was considered necessary in one case can be dispensed with in the other. After all, what is it that we ask? We say we are satisfied with the Bill as it was originally framed. There was only one thing in regard to which we suggested an addition; that addition is not considered advisable in the present state of our knowledge. We accept that view of the Government. I did not call for a division on that amendment. But when a new provision is brought before us we say that it is a new thing entirely; you can very well leave that out. You never considered it necessary in the beginning. Why should you not pass the Act as you originally drafted it? Why should you at all delay the passing of the Act for a thing which never was considered necessary when the Bill was drafted? I think, Sir, that none of the reasons which have been advanced against our amendment in any way support the necessity for the new section."

The Hon'ble Babu Bhupendranath Basu: "May I rise to a point of order. If you put this amendment to the vote, and if it is lost, then the original section is carried."

The President: "The question is that clause 34 of the Bill as amended by the Select Committee be omitted. That is the question which I propose to put, and that is the question which the Council will have to decide."

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The Hon'ble Mr. Clark : " I merely rise, Sir, to explain that we will consider the drafting of this clause and any amendment which may be proposed will be circulated according to the Rules of Business. We will take the amendment on Monday morning, the 18th, with the permission of His Excellency the Viceroy, before the discussion on the Hon'ble Mr. Gokhale's Education Bill comes on."

The Hon'ble Mr. Mudholkar : " Sir, accepting that, there would be clause 34. Despite the amendments suggested by the Hon'ble Mr. Subba Rao and me, I have a further amendment to suggest to this Council. My amendment is :

' Provided that before such notification is issued a draft thereof shall be published in the Gazette of India, and shall be laid before the Legislative Council of the Governor General for not less than sixty days during the session of the Council; and if before the expiration of that time a Resolution objecting to the notification is moved in the Council, and such Resolution is supported by one-fourth of the number of members present, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.'

"Sir, this suggestion is made in the hope that it will meet with a better fate than the one which I moved a short while ago. The Government of India would be moved by a company interested and would have before them the statement of the company from its point of view. Now so far as first class companies are concerned, the Government may well take their statement as true in the majority of cases. But there are not all first-class companies. In September last, when I had occasion to speak on the day that this Bill was introduced, I mentioned the case of a company against which there was a decree obtained which had no property in India and the agent of which said that he was unable to pay the money and that they would have to wait till he referred the matter to his principals at home. Now, a first-class company, with a reputation to keep, would be very chary of saying so, and in regard to them the Government of India would probably be acting on safe lines if it granted them exemption. But there would be applications made to the Government of India not only by first-class companies, but by second-class companies, by third-class companies and by fourth-class companies. Now, what this amendment asks Government to do is to place the draft of the notification granting exemption on the table of the Council while the Council is sitting, so that the Council and the public and all those interested may have knowledge of the application and of the intention of Government to grant that application, if no opposition is made. Then, as to the manner in which the attention of Government is to be drawn, the language is taken, Sir, from the section of the Indian Councils Act of 1909 which refers to a proposed notification about the creation of an Executive Council. All that is asked is that a draft of the notification should be placed on the table of this Council, that at least sixty days should expire, and if within that period a Resolution is moved and it is supported by ten members of this Council, then it ought not to be granted, and the Government should stay their hands. I commend this amendment to the consideration of the Council."

The Hon'ble Mr. Clark : " Sir, I regret that Government cannot accept this amendment. What the Hon'ble Member proposes is in effect that when a notification under this section has been laid on the table, if a Resolution objecting to it is moved and supported by a quarter of the number of members present, the notification is to be withdrawn. That is practically his proposal. I cannot see that any useful purpose would be served by this procedure. The Governor General in Council, as I have already explained in dealing with the last amendment, will make a most careful inquiry before extending the privilege of exemption of British companies to foreign and colonial companies. He is in a very favourable position to make inquiries, having the machinery of the Home Government to assist him, and I cannot see how an Hon'ble Member in this Council can be in the same position for finding out the merits or defects of, say, Canadian or Australian companies. Under these circumstances, it would be useless for these notifications to be laid on the table; and I fear Government cannot accept the motion."

The amendment was put and negatived.

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The Hon'ble Mr. Mudholkar moved that to clause 41 of the Bill, as amended by the Select Committee, the following addition be made, namely:—

“except the power to issue a notification under section 34 and the power to make exemptions conferred by section 42.”

He said: “Sir, clause 41 was added in the Select Committee. That clause gave power to the Governor-General in Council to delegate any of the powers, which were given to him by this Act, to a Local Government. Now, in regard to most of the powers I have nothing to say, but in regard to two I think it would be highly inconvenient if those powers were delegated to Local Governments. The powers I refer to are the power to issue a notification under section 34 and the power to make exemptions conferred by section 42. I put forward this amendment on the ground that it is very necessary that there should be uniformity of practice. The Government of India would be guided by the advice of the Department of Commerce and Industry, and it is on the advice of that Department that action would be taken by the Government in regard to the issue of notifications under section 34 or the granting of exemptions under section 42. If that power is given to Local Governments, there is sure to arise a conflict of practice, which is highly inconvenient and probably might cause complications.”

The Hon'ble Mr. Clark: “Sir, I am in the fortunate position that I am able to accept part of this amendment. I think there is a great deal in what the Hon'ble Member says in regard to section 34. I think those powers ought not to be delegated. But, on the other hand, as regards section 42, I think we ought to reserve the power to delegate powers under that section to Local Governments, and I do not think it is likely to cause very much difficulty. The section has been introduced mainly to meet hard cases which may arise under special conditions, and in regard to those conditions Local Governments are likely to be the best judges. Therefore, I think we must keep the power as regards section 42, but we will take away the powers of delegation under section 34. The only point is that the wording of the Hon'ble Member's amendment will not do, and it has to be recast. The amendment will read:

“In clause 41, for the words “other than the power to make rules under section 40” the following words shall be substituted, namely, “other than powers under sections 34 and 40.””

The President: “The amendment which is now before the Council will be withdrawn by the Hon'ble Mr. Mudholkar by permission, and I think that permission is accorded on the understanding that certain amendments will be advanced by the Hon'ble Mr. Clark in lieu of it, which I understand meet the wishes of the Hon'ble Mr. Mudholkar.”

The Hon'ble Mr. Clark: “Sir, I beg to move that in forms A and B, being the forms of balance-sheet in the Third Schedule annexed to the Bill, as amended by the Select Committee, on the asset side of such balance-sheets, after the entry ‘Ordinary stocks and shares of any Indian Presidency Bank’, the following entries be inserted, namely:—

- ‘ Debentures of any railway in India,
- Debentures of any railway out of India.
- Preference or guaranteed shares of any railway in India,
- Preference or guaranteed shares of any railway out of India.’

“This is purely a drafting amendment. By an accidental omission only the ordinary stocks and shares of railways are shown at present in the schedule.”

The amendment was put and agreed to.

PROVIDENT INSURANCE SOCIETIES BILL.

The Hon'ble Mr. Clark moved that the Report of the Select Committee on the Bill to provide for the regulation of Provident Insurance Societies be taken into consideration.

The motion was put and agreed to.

The Hon'ble Mr. Clark moved that the Bill, as amended, be passed.

The motion was put and agreed to.

[*Sir Reginald Craddock.*]

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INDIAN LUNACY BILL.

The Hon'ble Sir Reginald Craddock moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Lunacy be taken into consideration.

The motion was put and agreed to.

The Hon'ble Sir Reginald Craddock moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Monday, the 18th March 1912.

W. H. VINCENT,

*Secretary to the Government of India,
Legislative Department.*

CALCUTTA ;
The 22nd March 1912. }