

*Tuesday,
24th February, 1914*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. LII

April 1913 - March 1914

ABSTRACT OF PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS,

From April 1913 to March 1914.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

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

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Tuesday, the 24th February, 1914.

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., I.S.O., Viceroy and Governor General, *presiding*,
and 56 Members, of whom 48 were Additional Members.

OATH OF OFFICE.

The Hon'ble Mr. Wood took the prescribed oath of allegiance to
the Crown.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Abbott asked :—

1. " Will the Government be pleased to state :

- I. (a) the number of appointments to the post of Deputy Superintendent of Police made in each province in each of the following classes :—
- A. Direct appointment,
B. Appointment from the rank of Deputy Collectors and Tahsildars,
C. Promotion of Inspectors of Police, differentiating in class C between Indians and Anglo-Indians;
- (b) the ratio of Anglo-Indian appointments to the grade of Deputy Superintendent of Police to the total number of appointments (I) sanctioned, and (II) already made, separately for each province;

Appoint-
ments in the
Police
Department
in the
various
Provinces.

[*Mr. Abbott ; Sir Reginald Craddock.*] [24TH FEBRUARY, 1914.]

- (c) the proportion of Anglo-Indian appointments to the grade of Deputy Superintendent of Police to (I) the number of Anglo-Indians employed as Inspectors, and (II) the total number of Inspectors, Anglo-Indian and Indian, separately for each province;
- (d) whether there is any rule requiring that men appointed in class A should be domiciled in the province in which they are appointed; if so, whether there are any men appointed in this class who are not so domiciled, and, if so, what special reasons exist for departing from the rule in their cases;
- (e) in class C have any Inspectors (Indian) been taken from one province and sent to another as Deputy Superintendent of Police; if so, was there any special reason for this procedure; was it taken into consideration in making such an appointment that the Inspectors of the Province to which the Deputy Superintendent of Police was appointed lost an opportunity of grade promotion which would have occurred had one of their number been selected for the appointment given to an Inspector outside the province;
- (f) whether holding a University degree or being a barrister-at-law is a necessary qualification for appointment in class A; if so, whether there are any persons in class A who do not possess either qualification, and, if so, what special reasons exist for departing from the rule in their cases;
- (g) whether there is any rule that persons appointed in class C should be statutory Indians; if so, whether any Anglo-Indians have been appointed in this class who are not statutory Indians, and, if so, what special reasons exist for departing from the rule in their cases;
- (h) whether Anglo-Indians not of pure European descent are debarred from direct appointment in class A; if not, how many such appointments have been made in each province, and, if so, whether Government proposes to take steps for the removal of the disability;
- (j) whether there is a fixed percentage for direct appointments in class A in each province; if so, whether the percentage has been exceeded in any province, and, if so, for what reason?
- II. (1) "Will the Government state the number of Inspectors of Police, Anglo-Indian and Indian, in each province decorated for meritorious service (exclusive of the Durbar medal)? Have any Anglo-Indian Inspectors been so decorated in any province? If not, for what reason?"
- (2) "Is there any objection to conferring on Anglo-Indian Inspectors some distinction of equal value to Khan Bahadur and Rai Bahadur?"
- (3) "Is it a fact that salaries of Inspectors of Police stand practically the same as they did fifty years ago? If so, does Government propose to take any steps to improve their salaries?"

The Hon'ble Sir Reginald Craddock replied:—

"I lay on the table a statement* which endeavours to give the information asked for under heads I (a) to (j) and II (1). In one or two instances we have had difficulty in understanding the exact intention of the question.

"As regards the last portion of question II (1), it can only be inferred that in provinces in which no Anglo-Indian Inspectors of Police have received decorations, none were accounted worthy of that honour.

**Vide* Appendix A.

[24TH FEBRUARY, 1914.] [Sir Reginald Craddock; Raja Abu Jafar; Sir Harcourt Butler.]

"With reference to question II (2), European and Anglo-Indian Police Inspectors are already eligible for various decorations, and the need of creating a new honour for their benefit has not been demonstrated.

"Lastly, referring to question II (3), it is not the case that the salaries of Inspectors of Police have remained practically unchanged for fifty years. The rates now in force were fixed after consideration of the Report of the Police Commission, and it is not at present proposed to take any general action towards their enhancement."

The Hon'ble Raja Abu Jafar asked :—

2. "Will the Government be pleased to place on the table a statement showing what sum is annually spent by each Local Government in India for encouragement of the vernacular literature, and what portion, if any, of such sum is given as rewards to authors and translators of useful works?"

Encouragement of vernacular literature.

The Hon'ble Sir Harcourt Butler replied :—

"Sums are shown in the budgets of certain provinces for the encouragement of literature and similar purposes. The Government of India have no information how much of these sums, if any, is spent on the encouragement of vernacular literature. Local Governments will be asked to supply figures of expenditure on the encouragement of vernacular literature during the year 1911-1912. It is not proposed to inquire how much is given as rewards to authors and translators of useful works. This information would be very difficult to obtain."

The Hon'ble Raja Abu Jafar asked :—

3. "In view of Mr. H. Sharp's letter Nos. 585-595, dated 3rd April, 1913, to the Local Administrations, will the Government be pleased to state what actual steps are being taken by the various Local Governments in pursuance thereof, and what they propose to do to promote education of Mohammedans?"

Mohammedan Education.

"With reference to the Government Resolution mentioned in the foregoing question, will the Government be pleased to say whether they propose to instruct the various Local Governments to inquire how many Mohammedan landholders paying a land-revenue of rupees three thousand and upwards are sending their children of school-going age to public schools and how many of them are not, and if it is proposed to direct the inquiries to be made, will the Government be pleased to put on the table a statement showing this information when it has been collected?"

The Hon'ble Sir Harcourt Butler replied :—

"The Hon'ble Member is referred to the answer given to the Hon'ble Mir Asad Ali on the 6th January, 1914. Only three replies have as yet been received to the circular letter of the 3rd April, 1913. The Government of India have already allotted as the result of those letters Rs. 10,000 a year recurring for two Mohammedan High Schools in the Central Provinces, and Rs. 1,500 a year recurring for a scheme in Coorg.

"The Government of India do not propose to make the inquiry indicated in the second part of the question."

The Hon'ble Raja Abu Jafar asked :—

4. "Will the Government be pleased to state whether they will lay on the table the whole correspondence (or such portion of it as may be deemed advisable) that has passed between the Government of India and the Secretary of State in regard to the Hindu and Mohammedan University Schemes?"

Hindu and Mohammedan University Schemes.

The Hon'ble Sir Harcourt Butler replied :—

"The Government of India do not propose to lay on the table the correspondence alluded to."

[*Raja Abu Jafar*; *Sir Robert Carlyle*; *Sir Harcourt Butler*.] [24TH FEBRUARY, 1914.]

The Hon'ble Raja Abu Jafar asked :—

United
Provinces
Municipalities
and
Pre-emption
Bills.

5. "Will the Government be pleased to state whether any Bills relating to Municipalities and the law of Pre-emption in the United Provinces are under its consideration; and, if so, when its decision thereon may be expected?"

The Hon'ble Sir Robert Carlyle replied :—

"No Bill relating to Municipalities has been received from the Government of the United Provinces.

"A Pre-emption Bill for the Province of Agra was referred to the Government of India in 1911, and was returned to the Local Government for further consideration. The Bill has not been again submitted to the Government of India, and it is not possible to say when a decision thereon may be expected."

The Hon'ble Raja Abu Jafar asked :—

Separate
electorates
in local
bodies.

6. "Is it a fact that there is an unanimous desire on behalf of the Mussulmans of the United Provinces for separate electorates in local bodies?"

"Is it also a fact that several Hindu leaders in the United Provinces Council are not opposed to it? Do the Government of India propose to make any provision for such separate electorates in any Bill relating to Municipalities in the United Provinces which may now be under its consideration?"

The Hon'ble Sir Harcourt Butler replied :—

"The Government of India have received no Bill relating to the Municipalities of the United Provinces. They are not prepared at present to make any further statement on the subject."

The Hon'ble Raja Abu Jafar asked :—

Publication
and circula-
tion of works
on Agriculture
and Gardening
in Urdu
and other
vernaculars.

7. "(a) Will the Government be pleased to state whether there is any arrangement for the publication and circulation at cost price of useful and standard works on Agriculture and Gardening in Urdu and other vernaculars; and, if so, how many such books have been published during the last five years?"

"(b) Will the Government be pleased to state if they propose to consider the advisability of publishing in the more important vernaculars an Agricultural Gazette similar to the Agricultural Journal issued by the Pusa Agricultural Institute and containing translations of articles, notices, reports, etc., regarding Agriculture, Gardening and kindred subjects and practical suggestions for Agricultural improvements, together with all other information useful for landlords and cultivators, particularly the results of Agricultural experiments carried out in various parts of India?"

"(c) Do the Government propose to establish in each province a bureau of information and a Government Library containing works on Agriculture, etc., and make the said Library accessible to the public?"

The Hon'ble Sir Robert Carlyle replied :—

"The publication of standard works on Agriculture and Gardening in the vernacular has hitherto been left to private enterprise. The Agricultural Departments have refrained from translating standard European works as they would not be entirely applicable to Indian conditions, and sufficient material is not yet available for the preparation of authoritative text-books for India covering the whole ground. It has therefore been considered that the desired object would be more suitably attained by the publication in the vernacular of bulletins, leaflets and circulars dealing with specific subjects. A large number of these have been published in all the major provinces and have had a wide circulation. The price charged for the bulletins is nominal, and the leaflets and circulars are usually distributed free of cost.

[24TH FEBRUARY, 1914.] · [Sir Robert Carlyle; Raja Abu Jafar; Sir T. R. Wynne.]

"The attention of the Local Governments will be invited to the Hon'ble Member's suggestion, but it may be noted that a monthly vernacular Journal 'Mufid-ul-Mazarain' is already published by the Agricultural Department in the United Provinces, the Government of which also gives assistance to a monthly Agricultural Journal in Nagri, the 'Dehati'. In the Central Provinces, the Agricultural Department publishes a monthly 'Agricultural and Co-operative Credit Gazette'. All these publications have a considerable circulation. In Bombay, the Government subscribes for 1,000 copies of the monthly Marathi Journal 'Shetki and Shetkari'. The same purpose is served in Madras, Burma and Assam by the publication by the Agricultural Department of Agricultural Calendars. The Madras Agricultural Calendar which is published in six languages has a circulation of 71,000 copies.

"The Government of India would have no objection to the institution of bureaux and libraries of the character suggested by the Hon'ble Member in the various provinces if the provincial authorities consider present facilities inadequate. The Research Institute at Pusa and the Provincial Departments of Agriculture are, however, always ready to answer any inquiries in connection with agricultural or kindred subjects, and the Pusa Research Institute and the Provincial Departments and Agricultural Colleges have well equipped libraries which are, as a general rule, accessible to any one interested in Agricultural or other scientific investigations."

The Hon'ble Raja Abu Jafar asked :—

8. "(a) Is it a fact that Mussalman papers and organs of public opinion have on several occasions represented the need of granting during the *Moharrum* holidays of a railway concession such as is granted by some railways during the Christmas and Durga-Puja Holidays? Grant of a Railway concession during Moharrum.

"(b) Does any other railway in India grant such a concession on that occasion as the North-Western Railway does, and the Oudh and Rohilkhand Railway also does for Intermediate class passengers only?

"(c) Does Government propose to ask the Railway Administrations to grant during the *Moharrum* concessions similar to those (if any) granted by them during the Christmas and the Durga-Puja?"

The Hon'ble Sir T. R. Wynne replied :—

"As regards (a), Government is aware that representations have been made in favour of railways granting concession passenger rates during the *Moharrum*.

"In answer to (b) no other railways except the North-Western Railway and the Oudh and Rohilkhand Railway give this concession.

"With reference to the request contained in (c), I am to point out that Railway concessions are granted by most railways during the Christmas and Durga-Puja holidays not because they are Christian and Hindu holidays, but because they are periods when business is largely suspended for several days, and great numbers of people of all creeds are in a position to take a holiday. As railways have to be worked on commercial principles, the Hon'ble Member will appreciate that there are serious difficulties about granting concessions of this kind except in cases where very large numbers of the travelling population are affected, since such concessions naturally lead to further demands which would prejudicially affect the receipts from passenger traffic. The Railway Board, however, will bring the Hon'ble Member's request to the notice of the several railway administrations and will obtain their views upon it."

The Hon'ble Raja Abu Jafar asked :—

9. "(a) Will the Government be pleased to state the total number of the Ordinary Fellows of the Calcutta, Bombay, Madras, Allahabad and the Punjab Universities respectively, and also how many of such Fellows (excluding honorary Fellows) are Mussulmans? Number of Ordinary Fellows of several Universities and Examiners in Arts and Law examinations.

[*Raja Abu Jafar ; Sir Harcourt Butler ; Sir Fazulbhoy Currimbhoy ; Mr. Clark.*] [24TH FEBRUARY, 1914.]

(b) "Will the Government be pleased to lay a statement upon the table showing how many examiners in (a) the Arts and (b) the Law examinations of the various Universities in India were Mussulmans during the last five years, and what was the total number of examiners in each of the said Universities in the Arts and the Law examinations respectively during the last five years?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) The Hon'ble Member is referred to the reply given to the Hon'ble Mir Asad Ali on the 6th January, 1914, and to the statement which was laid on the table at the meeting of the Imperial Legislative Council on the 27th January, 1913.

"(b) The information will be asked for and, when available, will be laid upon the table."

The Hon'ble Sir Fazulbhoy Currimbhoy asked :—

Deputation to Japan and Java for a close study of the sugar industry.

10. "(a) Has there been a remarkable development in recent years in imports from Japan and Java? Have official deputations from those countries visited India to study local commercial conditions? If so, have Government investigated the causes of such development and considered in that connection the economic results of such deputations?"

"(b) Will the Government be pleased to say whether they propose to consider the advisability of sending similar deputations to Japan and Java, especially to the latter country for a close study of its sugar industry?"

The Hon'ble Mr. Clark replied :—

"(a) Statistics* showing the imports from Japan and Java for the last five years are placed on the table. There has been a steady increase in both cases. In the case of Japan, the increase is most noticeable in the imports of silk, yarn and piece-goods, matches and cotton hosiery, which together amount to more than half the total imports. In the case of Java, the increase is practically confined to sugar and molasses, of which the value of the imports has risen from 600 to 940 lakhs during the last five years.

"The Government of India have no official information regarding official deputations from Japan and Java to study commercial conditions in India, but they understand that in 1912 a Japanese official visited India to investigate the market for piece-goods, matches, porcelain, etc., and that two other officials have visited India from that country.

"No special investigation of the causes of these increased imports has been made, but the Government of India believe that, in the case of Japan, they were due to the increased demand from India, which has similarly led to a steady increase during recent years of imports from many other countries. In the case of Java, the demand for sugar and molasses is mainly due to the home production of these commodities being insufficient to meet the requirements of the country. Steps are being taken by the Government of India to improve the character and outturn of sugar.

"(b) The Government of India do not at present propose to send a deputation to Japan to study the openings for Indian exports. In the case of Java, an officer of the Bombay Agricultural Department has recently been deputed to that country to study the sugar industry."

The Hon'ble Sir Fazulbhoy Currimbhoy asked :—

Average annual income of an Indian.

11. (a) Is it a fact that the then Finance Minister, Sir David Barbour, estimated the average annual income of an Indian to be R20 and, at a later period, Lord Curzon put it at R27?

* *vide* Appendixes B and C.

[24TH FEBRUARY, 1914.] [*Sir Fazulbhoj Currimbhoj; Sir William Meyer; Sir Reginald Craddock; Mr. Clark; Maharaja Ranajit Sinha of Nashipur.*]

“(b) Are there any papers connected with these estimates and will they be published?”

“(c) Can Government state the present average income of an Indian?”

“(d) If so, will they be pleased to give the figure? If not, will they be pleased to say whether they propose to prepare an estimate?”

The Hon'ble Sir William Meyer replied:—

“(a) & (b).—In 1880, Sir David Barbour, then an Accountant General, made certain calculations of the quantity and value of agricultural produce in India, and relying on certain very broad assumptions with a view to expressing the results arrived at in the form of average income, he suggested the figure of Rs. 27 per head of the population as possibly representing, very roughly, the average annual income of an Indian. In 1901, Lord Curzon, working on the same lines, arrived at the conclusion that if the figure 27 was an approximately correct index of average income in 1880, the figure 30 would be approximately correct in 1901. The Government do not propose to publish any papers on this subject, but the general lines adopted will be apparent from the explanations given by Lord Curzon in his speech in the Legislative Council on the 27th March, 1901.

“(c) & (d).—The Government cannot state the present average income of an Indian, nor do they at present propose to undertake the task of estimating this. It will be apparent from what has already been stated that, in the previous calculations, a portion only of the relevant factors was taken into consideration, and that even so the calculations then made must have included many elements of uncertainty and possible inaccuracy. Any present attempt to get a complete estimate would involve prolonged inquiry, which would not, in the opinion of the Government, be likely to lead to really reliable results.”

The Hon'ble Sir Fazulbhoj Currimbhoj asked:—

12. “Did Lord Ripon record any minute in 1883 or thereabouts on the question of the age for admission into the Indian Civil Service? If so, does the Government propose to lay the minute on the table?”

Lord Ripon's Minute on the question of age for admission into the Indian Civil Service.

The Hon'ble Sir Reginald Craddock replied:—

“The correspondence to which the Hon'ble Member apparently refers was presented by the Secretary of State to Parliament in 1885. If he cannot obtain a copy of it through the usual publishers, I shall be happy to let him see the copy which is among our records.”

The Hon'ble Sir Fazulbhoj Currimbhoj asked:—

13. “Did the Government depute Surgeon-Major Comins about 20 years ago to inquire into the possibilities of Indian emigration to British Guiana and other Colonies? If so, does the Government propose to lay on the table his report, if any?”

Report of Surgeon-Major Comins to inquire into Indian emigration to British Guiana and other Colonies.

The Hon'ble Mr. Clark replied:—

“The answer to the first half of the question is in the affirmative. The reports were published in 1893 and copies of the British Guiana and Trinidad Reports,* which alone are available, have been laid on the table.”

The Hon'ble Maharaja Ranajit Sinha of Nashipur asked:—

14. “Will the Government be pleased to lay on the table a statement showing income derived from Law Courts established in all the provinces and administrations and the expenditures incurred for their maintenance for the last three years?”

Income derived from Law Courts and expenditure incurred for their maintenance.

[*Sir William Meyer; Maharaja Ranajit Sinha* [24TH FEBRUARY, 1914.]
of Nashipur; *Sir T. R. Wynne; Sir Ali Imam; Mr. Clark.*]

The Hon'ble Sir William Meyer replied :—

“ It is not possible to give a precise reply to the Hon'ble Member's question, owing to the fact that, under our system of accounts, the figures necessary for the compilation of such a statement are in many cases not shown as separate items, and it would be necessary to make careful and detailed inquiries from every province. The two most important items of receipt are the sale of Court-fee stamps and the receipts shown under the Account head ‘ Law and Justice—Courts of Law ’, the principal item of expenditure being the charges shown under that head. The figures for these items are given on pages 43, 91 and 92 of the Finance and Revenue Accounts for 1912-13. Those figures, however, are by themselves inconclusive, as they do not take account of certain items which are sufficiently large materially to affect the result. The nature of these items, as regards the Civil Courts, is explained in the Government of India's Resolution* of 9th January, 1890, a copy of which is laid on the table. Items of a somewhat similar nature should also be included on account of the Criminal and Revenue Courts, and, in particular, as regards the latter, a large amount of the portion of the salaries of officers on the district staffs which is debited to the head ‘ Land Revenue ’ should also be included. The Hon'ble Member will see from the Resolution of 9th January, 1890, that the compilation and examination of the statistics for the year 1885 occupied a period of about four years. The Government of India do not consider it desirable to embark on the expenditure of time and labour which a fresh inquiry would now necessitate.”

The Hon'ble Maharaja Ranajit Sinha of Nashipur asked :—

Stopping of the Punjab or the Bombay Mail at Chunar.

15. “ Is it a fact that many persons visit Chunar in the District of Mirzapur, United Provinces, for the purpose of taking a change of air? If so, does the Government propose to issue instructions on the East Indian Railway Authorities to stop either the Punjab or the Bombay Mail at Chunar at least in cases where there are first and second class passengers to get in down there?”

The Hon'ble Sir T. R. Wynne replied :—

“ Government understand that there has been no marked accession of passenger traffic to and from Chunar station, and the East Indian Railway Administration does not consider that the traffic to and from that station is sufficient to justify the stopping of either the Punjab or the Bombay mail trains there. I am to add that two Expresses, two passenger trains, and two motor coaches in each direction stop at Chunar daily, making a total of twelve passenger trains per diem.”

THE REPEALING AND AMENDING BILL.

The Hon'ble Sir Ali Imam :—“ My Lord, I beg to present the Report of the Select Committee on the Bill to amend certain enactments and to repeal certain other enactments. In the Committee stage very few alterations have been made and they have all been carefully detailed in the Report.”

THE INDIAN COMPANIES (AMENDMENT) BILL.

The Hon'ble Mr. Clark :—“ My Lord, I beg to present the Report of the Select Committee on the Bill to amend the Indian Companies Act, 1913.

[24TH FEBRUARY, 1914.] [*Mr. Clark; Sir Harcourt Butler; Sir Ali Imam; Srijut Ghanasyam Barua; The President; Rai Sita Nath Ray Bahadur.*]

“The principal alteration which the Committee have made in the Bill is to omit clause 83 (c) which provided in certain circumstances for there to be a majority of directors on the Board of a Company, independent of the Managing Agents, in cases where the business of a Company is managed by Managing Agents. The reasons for the omission are fully stated in the report of the Committee. The other alterations are of minor importance. Some improvements in drafting have been introduced, notably in clause 83 (b), and clause 91 (a) which has been further sub-divided and re-arranged. Three members of the Committee were opposed to the omission of clause 83 (c), and have stated their reasons in a minority report. There will, of course, be full opportunity for discussion by Council of the various amendments which have been made in the Bill, when the report stage of the Bill is taken.”

THE INDIAN COPYRIGHT BILL.

The Hon'ble Sir Harcourt Butler :—“My Lord, I beg to move that the Report of the Select Committee on the Bill to modify and add to the provisions of the Copyright Act, 1911, be taken into consideration.

“The Report of the Select Committee states clearly the alterations which we have made in the Bill, and I do not think it necessary to detain the Council with any further remarks at this stage.”

The motion was put and agreed to.

The Hon'ble Sir Ali Imam :—“My Lord, the amendment which I propose to move is one of drafting, pure and simple, and not of substance. The language of sub-clause (1) of clause 4 of the Bill as amended in select committee is open to misinterpretation in that it might be taken to mean that copyright in India includes the right to produce or reproduce a translation and no other right. This was never intended, and if my proposed amendment is accepted the clause will then clearly show that the limitation which we propose to place on copyright in India only operates in regard to sole right to produce or publish translations and that in all other respects the copyright under the English Act remains intact. The amendment is non-controversial and will certainly remove a possible error of drafting. My Lord, I move that in sub-clause (1) of clause 4 of the Bill as amended, the words ‘it shall only include’ be omitted, and that after the words ‘publish a translation of the work’ the words ‘shall subsist only’ be inserted.”

The Hon'ble Srijut Ghanasyam Barua :—“My Lord, in rising to support the amendment moved by the Hon'ble Law Member, I beg leave to say a few words.

“I think that some difficulty has been caused by the two sections of the English Act being taken together; that is, the definition of the word copyright in section 1 and the portion relating to the term of copyright in section 3.

“If accuracy of language is aimed at, I think that, besides the amendment proposed, some other parts of the section will admit of some alteration. The present section 4 as it stands—”

His Excellency the President :—“I would ask the Hon'ble Member to adhere to the point raised by the Hon'ble Law Member.”

The motion was then put and agreed to.

The Hon'ble Rai Sita Nath Ray Bahadur :—“My Lord, with your permission, I beg to move that in line 4 of section 3 of the Imperial Copyright Act the word ‘thirty’ be substituted for ‘fifty’; and I further beg to move that the proviso to the above section be deleted altogether.

[*Rai Sita Nath Ray Bahadur*; *Sir William Vincent*.] [24TH FEBRUARY, 1914.]

"My reasons for proposing the above amendments are these, that the period of fifty years after death is perhaps unduly long and might be reduced in the case of works originally published in India. In my opinion the public should not be shut out from the benefit of any particular work for such a long period as provided in the Act. It would be enough to allow him and his heirs to enjoy the benefit of his labour for his own life and for a further period of thirty years after his death and to do away altogether with the proviso, which can only lead to endless complications, trouble and litigation. I therefore beg to propose that 'thirty' be substituted for 'fifty' in the above section of the Imperial Copyright Act."

The Hon'ble Sir William Vincent:—"My Lord, before the Council proceeds to discuss on the merits the amendment which has just been moved, I desire to draw the attention of the Council to a matter of some importance in connection with the legal aspect of this amendment. The Hon'ble Mr. Sita Nath Ray has told us that he proposes to amend the law solely in regard to works first published in British India, but I think if you will read the amendment as it stands it refers to the insertion of an amendment in the Imperial Copyright Act generally and without any restriction as regards the place where the works are published. Now if Members of the Council will read section 27 of the English Copyright Act, it will be at once apparent that our powers of legislation on the subject of copyright are very limited. In fact, save in regard to procedure and penalties, we can only affect works first published in British India or works the authors whereof were, at the time of making the work, so resident. The amendment now proposed, as drafted, proceeds far beyond this, and if it could be given effect to would affect works which are published in the United Kingdom by persons resident there. It is therefore, I humbly submit, entirely beyond the competence of this Council to make such an amendment.

"Moreover, if the Hon'ble Member intended, as apparently he does, to restrict the amendment to works first published in British India, it may be observed that the real object of the Imperial Copyright Act was, as far as possible, to have a uniform period of copyright throughout the British Empire, and this uniformity would be entirely destroyed, for no adequate reason, by the amendment of the Hon'ble Member, if passed. If the mover's amendment were accepted it would place authors and publishers in this country at a very considerable disadvantage, for authors would have either to be content to accept the shorter period of copyright referred to in the amendment and publish in British India, or they would be driven to publish in England in order to secure the full privileges given by the English Act. The result would be that the publishing trade of this country would be prejudiced very materially for the benefit of publishers at home, and further that authors, particularly those without the means to get work published in the United Kingdom or without the necessary knowledge of how to secure such publication in a distant land, might be compelled to forego the full rights provided by the English Act.

"I submit therefore that this amendment is not one which should be accepted by the Council, both on account of the legal objections which I have attempted to explain and because on the merits it would materially injure the right of the persons referred to above, who are deserving of the most sympathetic consideration and encouragement."

The Hon'ble Rai Sita Nath Ray Bahadur:—"My intention was only to confine my amendment to the English Copyright Act so far as it has been made applicable to India; but after having heard what has fallen from the Hon'ble Sir William Vincent, I beg to withdraw my amendment."

The amendment was, by permission, withdrawn.

The Hon'ble Rai Sita Nath Ray Bahadur:—"My Lord, my second amendment is that in section 15 of the Imperial Copyright Act, sub-clauses (1) (2) and (5), the words 'Imperial Library' and 'the Provincial

[24TH FEBRUARY, 1914.]

[*Rai Sita Nath Ray Bahadur ; Sir William Vincent.*]

University Libraries' be respectively substituted for the words 'British Museum' and the other 'Libraries' respectively mentioned in sub-clauses (1), (2) and (5).

"The clause as it stands, unless amended, will make it obligatory on every author to send a copy of his book to the several libraries named in sub-clauses (1), (2) and (5). I doubt as to the utility of making it obligatory on authors of books published in the several vernacular languages to send copies of their books to the libraries referred to above; but it is curious that no provision has been made in the Bill for sending copies of books published in British India to the Imperial Library in Calcutta or to the Provincial University Libraries. I therefore beg to suggest that the section should be so amended as to make it compulsory on the authors of books published in British India to send copies of their respective books to the Imperial Library and the several Provincial University Libraries, and not to the Libraries named in the section, because it could be of no interest to those authors to send copies of their respective books to the British Museum and to the several libraries named in the English Copyright Act."

The Hon'ble Sir William Vincent :—"My Lord, I am afraid that in this amendment the Hon'ble Member has been even more unfortunate than in his last. I attempted a few moments ago to prove to the Council that the last amendment was *ultra vires* in that it affected works published outside British India and that it transgressed the provisions of section 27 of the English Act. The position in regard to the present amendment is much the same or a little worse. In order to make this clear, I will read the first lines of the section which it is proposed to amend :

The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

"Sub-section (2) of the same section provides for delivery of copies of such works to the Bodleian Library and other large libraries in the United Kingdom; but it will be observed that the whole section deals specifically with works published in the United Kingdom and not with works published in British India at all. This Council could not therefore alter the section in the manner proposed, even if it is desired to do so; and indeed I may add that the section was only printed in the schedule for the convenience of persons resident in India who might desire to publish works in England.

"Moreover, the amendment of the Hon'ble Mover, if it could be validly made, would have this effect: publishers of works in India would be under no liability under this Act to furnish to the Imperial Library any copies of the works so published, whereas publishers of works published in the United Kingdom would be bound to do so. Messrs. Thacker, Spink, for instance, would not have to furnish copies of any work published by them to Indian Libraries, but all publishers in the United Kingdom would have to do so in lieu of delivering copies to the British Museum and other libraries in England. I gather however that this was not the intention of the Hon'ble Mover at all, and that what he really desires is to impose the obligation to which I have referred only on publishers of works first published in British India. If this is so, I am afraid the only thing I can say is that the amendment does not give effect to his wishes.

"Moreover, there is already in the Press and Registration of Books Act, 1867, certain provisions in section 9 for the delivery to Government of copies of works first published in British India. If therefore we did intend or it was necessary to make such a modification in the law as the Hon'ble Member proposes, the suitable place would be in that Act and not by attempting to amend the Imperial Copyright Act by a modification which we have no right to make."

[*Rai Sita Nath Ray Bahadur*; *Sir William Vincent*; [24TH FEBRUARY, 1914.]
Sir Harcourt Butler; *Sir Reginald Craddock*.]

The Hon'ble Rai Sita Nath Ray Bahadur :—" If that be the view of the Hon'ble Member that it is not obligatory on authors of books published in British India to send copies of their books to the different libraries named in the Copyright Act—"

The Hon'ble Sir William Vincent :—" May I rise to a point of order. It is not obligatory under this Act."

The Hon'ble Rai Sita Nath Ray Bahadur :—" My Lord, I have nothing further to say on this amendment."

The amendment was put and negatived

The Hon'ble Rai Sita Nath Ray Bahadur :—" My Lord, my next amendment is that in section 19 (3) (b) of the Copyright Act, the words 'half an anna' be substituted for 'a half penny,' and the word 'pice' be substituted for 'farthing,' wherever they occur.

"The royalties proscribed by section 19 (3) (b) are stated in British currency, but it would be much better and would facilitate calculation if these royalties be made payable, so far as India is concerned, in Indian currency: hence the suggested amendments."

The Hon'ble Sir Harcourt Butler :—" My Lord, the Hon'ble Sir William Vincent has dealt so ably and so clearly with the legal and constitutional position that it is unnecessary for me to point out that in its present form the amendment of the Hon'ble Rai Sita Nath Ray Bahadur is *ultra vires*, beyond the powers of this Council. As regards the substance, I think that, as we are dealing with authors and publishers, we may assume safely that persons who are affected by the Copyright Act will be aware that 'half an anna' is equivalent to 'a half penny,' and that the word 'pice' is, to use an expression which was once theologically significant, equipollent with a farthing."

The amendment was put and negatived.

The Hon'ble Sir Harcourt Butler :—" My Lord, I beg to move that the Bill, as amended, be passed."

The motion was put and agreed to.

THE DECENTRALIZATION BILL.

The Hon'ble Sir Reginald Craddock :—" My Lord, I beg to move that the Report of the Select Committee on the Bill to decentralize and otherwise to facilitate the administration of certain enactments be taken into consideration."

The motion was put and agreed to.

The Hon'ble Rai Sita Nath Ray Bahadur moved that in Part I of the Schedule to the Bill in the entry relating to the Waste-lands (Claims) Act, 1863, the proposed amendment No. 3 be omitted. He said :—" My Lord, with reference to the Waste-lands (Claims) Act it has been proposed to add a new section after section 23, the effect of which will be that the powers of granting compensation in the case of waste-lands would be transferred from the Local Governments to the Board of Revenue or the Financial Commissioner, as the case may be. In my opinion, in the matter of granting compensation, it would be more desirable that the power of granting compensation should be reserved in the hands of the Local Government than in the hands of the Board of Revenue or of a Financial Commissioner. I therefore beg to propose that the new section 23 (a) be omitted."

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The Hon'ble Sir Edward Maclagan :—“ I regret that I cannot ask the Council to accept this amendment. The amendment to which the Hon'ble Member refers entails an alteration in four sections of the Act, but he has mentioned two sections only, namely, sections 22 and 23. These sections give permission to a Local Government to deal with cases in which a man has a real claim. If he fails for some sufficient reason to present his claim, these sections empower the Local Government in such cases, as a matter of grace, to give the man compensation. We now propose that that power should be given to the Board of Revenue or Financial Commissioner. A provision of this kind is not the sort of provision, I fancy, which we would put into an Act nowadays. It merely gives the Government power, as a matter of grace, to give compensation, and the Government now desire to permit the Board of Revenue or the Financial Commissioner to exercise that power. I do not see that there is anything in that proposal of the Government, which can induce us to make the alteration which the Hon'ble Member proposes.”

The Hon'ble Rai Sita Nath Ray Bahadur :—“ This power has been all along exercised, and very properly and wisely, by the Local Government, and no reason has been given why this power should be transferred from the Local Government to the Board of Revenue or to the Financial Commissioner. Now that some Local Governments have been strengthened by having an Executive Council, they are all the more able to deal with these cases better than the Lieutenant-Governor single-handed could have done previously. I therefore see no reason for transferring this power from the Local Government to the Board of Revenue or to the Financial Commissioner.”

The amendment was put and negatived.

The Hon'ble Rai Sita Nath Ray Bahadur :—“ My Lord, my next amendment is, with reference to the Income-Tax Act, to move that in the proposed new section 50A, line 7, the figures ‘38 (3)’ be deleted. Section 38 of the Income Tax Act provides that the Governor General in Council may make rules for ascertaining and determining income liable to assessment, and for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessments under Part IV, and may delegate to Local Governments the power to make such rules : ‘ In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code. But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.’

“ Section 166 of the Indian Penal Code provides that a public servant disobeying the law with intent to cause injury to any person shall be punished with simple imprisonment which may extend to one year, or with fine, or with both.

“ Now, what I beg to suggest is that this power to order prosecution of a public servant should not be taken away from the Local Government and transferred to the chief revenue authority, that is to say, the Board of Revenue or the Financial Commissioner, as the case may be. All that I can say in support of my amendment is that in the matter of the prosecution of a public servant, it would be better and safer to leave the power of granting such prosecution in the hands of the Local Government than in those of the chief revenue authority .”

The Hon'ble Sir William Meyer :—“ My Lord, I cannot see any reason for the alteration which my Hon'ble friend proposes. We are not here interfering in any way with the rights and privileges of the general

[*Sir William Meyer; Rai Sita Nath Ray Bahadur; Mr. Enthoven.*] [24TH FEBRUARY, 1914.]

public. On the contrary, so far as the change is concerned, its intention is to give more prompt protection to the public against improper conduct on the part of income-tax officials; and I need not say how grave an offence against a member of the public it might be for an income-tax official improperly to divulge information about that person's income which he had obtained under the seal of confidence. I am glad to say, however, that cases in which officials become liable to prosecution for improper divulgence of income-tax secrets are very rare. When they do occur, however, it ought to be possible to deal with them promptly and not to require the sanction of the Local Government. We sufficiently protect the official by still requiring that the sanction for his prosecution must be given by the highest revenue authority in the Province below the Local Government itself. The magistrate of a district can order the prosecution of police-officers for misconduct in connection with their duty. Such prosecutions may involve very serious charges and penalties, and there can be no danger in the highest revenue-authority under Government being allowed to order the prosecution of a revenue-officer in this less serious matter. I cannot therefore accept the amendment."

The amendment was put and negatived.

The Hon'ble Rai Sita Nath Ray Bahadur :—"My Lord I beg to propose an amendment with reference to the delegation of power proposed with respect to the Indian Emigration Act. What I beg to propose is that the proposed amendments Nos. 3, 4 and 5 be omitted. I regret that I cannot approve of this transfer of authority from the Local Government to the Protector of Emigrants. The power to grant a licence to a master or to an owner of a vessel to carry emigrants is certainly not an ordinary power and, as such, requires careful consideration. This is a power which should not be lightly exercised. Although the licence is ordinarily, I should say invariably, granted or refused on the recommendation of the Protector of Emigrants, I say the very idea that the Local Government is vested with this power of granting or refusing a licence, and that the question of the licence will be considered by the Local Government will surely have a salutary effect on the judgment and recommendation of the Protector of Emigrants. It will make him all the more careful to see whether a vessel is in every way fitted to carry emigrants. If it is intended to lighten the burden of the Local Government, I am prepared to accept this further amendment that, instead of vesting this power in the Protector of Emigrants, it should be vested in the Marine Secretary to the Local Government."

The Hon'ble Mr. Enthoven :—"My Lord, as I represented the Department which deals with these matters on the Select Committee on this Bill, perhaps it would be convenient if I say a few words to show why this amendment cannot be accepted. The Hon'ble Mr. Sita Nath Ray was a member of the Select Committee, but unfortunately he was not able to be present at their deliberations, or it might have been possible sooner to explain to him the objections to the amendment he proposes. The matter with which it mainly deals is a very simple one. Under the Emigration Act Local Governments at present issue licences to vessels to carry emigrants. It is proposed in future that the Protector of Emigrants should be substituted for the Local Government. That proposal has been widely circulated. It has been approved by all Local Governments including the Madras and Bombay Governments who have a very close acquaintance with the work of issuing these licences, and the only objection at all to the proposal was raised by the Hon'ble Mr. Ramohandra Pantalu Guru in Madras, who thought, as I believe Mr. Sita Nath Ray thinks, that it was undesirable to decentralize matters relating to emigration to any authority below the Local Government. But, I submit, My Lord, that there is a large volume of opinion in favour of this decentralization. The Hon'ble Member seems to think that

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there is some special virtue in these licences being issued by the Local Government itself. My Lord, I was Secretary to the Government of Bombay in charge of the Department that deals with those matters, and I can assure Mr. Sita Nath Ray that these licences have to be issued on the recommendation of the Protector of Emigrants. The Local Government is not in a position to satisfy itself that the requirements of the Act in connection with the issue of a licence have been complied with. It cannot examine a vessel and find out whether it is properly ventilated or whether it is sufficiently supplied with tackle, apparel and furniture, etc. If the Protector of Emigrants reports that he is satisfied that the vessel is a suitable one to carry emigrants and that the requirements of the law have been complied with, the licence is granted as a matter of course. It is exactly for such cases that the Decentralization Bill has been prepared. In a case of this kind it is thought that the licence should be issued by the Officer who is best in a position to issue it. Mr. Sita Nath Ray may be consoled by the reflection that that officer being under the control of the Local Government is not likely to use his powers in any way to the prejudice of the emigrants.

"My Lord, it is impossible to accept this amendment."

The amendment was put and negatived.

The Hon'ble Sir Reginald Craddock :—"My Lord, in moving now that the Bill as amended be passed, I have only a few observations that I should like to make. The Council will remember, as I have explained on more than one occasion, that the Decentralization Commission recommended that this work of decentralization should be effected by means of a Bill to delegate powers, and a Delegation Bill was before this Council drafted on those lines; but objection was taken to the fact that a measure of that kind would give to Local Governments and to the Government of India powers practically to legislate by means of notification; and, in deference to that opinion, the Delegation Bill was withdrawn.

"Last September I introduced the present Bill. It has met with a very favourable reception from the Local Governments who were consulted, and has aroused no objections or opposition from any Member of this Council. The Hon'ble Rai Sita Nath Ray Bahadur has indeed moved three amendments in which he has received practically no support, and I desire to endorse the remark which fell from the Hon'ble Mr. Enthoven on the inconvenience caused to the Council by amendments being moved by Hon'ble Members who were Members of the Select Committee, but who were unable to attend. I feel quite certain that if the Hon'ble Member had been able to attend the Select Committee, the less formal discussion that takes place there would have enabled us to remove all his apprehensions regarding those particular delegations.

"My Lord, this Bill makes a substantial advance—a very substantial advance—in that decentralization which the Royal Commission recommended. It is the first step in that advance and there remains a second step, which will be for the various Local Governments and in their Provincial Councils to undertake similar Bills in order to effect a similar decentralization in respect of Provincial Acts as we have done in the case of the Imperial Act; and when that work is accomplished, then I think that the recommendations of the Decentralization Commission will have been as fully complied with as detailed examination of the various enactments has shown to be necessary and expedient. It may be that as years go by and more experience is gained of the working of various enactments of this Council, supplementary legislation may from time to time be found expedient; but for the present I think the Council may congratulate themselves on having done a very useful piece of work when they pass this Bill.

"I ask now, My Lord, that the question be put."

The motion was put and agreed to.

[*Sir William Meyer ; Mr. Rama Rayaningar.*] [24TH FEBRUARY, 1914.]

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

The Hon'ble Sir William Meyer:—"My Lord, I beg to move that the Report of the Select Committee on the Bill further to amend the Negotiable Instruments Act of 1881 be taken into consideration.

"I had the honour of presenting that report to the Council the other day ; and, as I then pointed out, the Select Committee found no amendment to make in the draft Bill as placed before them."

The motion was put and agreed to.

The Hon'ble Sir William Meyer:—"My Lord, I now beg to move that the Bill be passed. I explained fully when I introduced the Bill the object for which it was brought forward and the effect of its provisions. I have nothing further to add now."

The motion was put and agreed to.

RESOLUTION ON JAIL ADMINISTRATION.

The Hon'ble Mr. Rama Rayaningar:—"My Lord, I beg to move

That this Council recommends to the Governor General in Council that a joint commission of officials and non-officials be appointed to investigate the whole subject of jail administration and to suggest improvements in the light of the experiences of the West.

"In connection with a similar motion in the Madras Council the Hon'ble Sir Harold Stuart, speaking on behalf of Government, observed:—

I quite admit that the time may have arrived when we should hold an inquiry into the jail administration ; but it should be undertaken not by a Provincial Committee consisting of people who have no expert knowledge of the subject ; it should be an expert Committee for the whole of India.

"My Lord, the Prisons Act of 1894, it is true, marked an advance upon the previous legislation on the subject of jail administration, but since then there has been a revolution in ideas all over the civilized world. Retribution, 'an eye for an eye and a tooth for a tooth', is no more the theory of criminal justice. The great ideal now is the humanization of the criminal, howsoever grave his offence. In England, Mr. Churchill, as Home Secretary, introduced important changes in the dress and diet of prisoners guilty of offences other than heinous on the principle of maintaining human touch with the class, and provided for music in some cases as an experiment in refinement. In the United States of America, the prisoners are gradually being converted, as the *Chicago Tribune* points out, 'from institutions of punishment.....into institutions of rehabilitation'. Experiments which might appear extravagant in India are tried in the different States, and in the State Prison at Joliet, Illinois, the officials have adopted the 'honour system' for convicts. 'A number of prisoners have been turned into free out-of-door labourers.' The Officials of the State Prison have no other guarantee than the word of honour of these convicts that they will not run away. The *National Humane Review* of January last contains other interesting details:—

Recently in New York State the novel experiment of sending a number of prisoners from one portion of the State to another, without guard, their tickets being given them, was carried out successfully. In a Vermont penal institution prisoners are sent out to work for private parties by the day without surveillance, while in Colorado some of the worst criminals in the State Prison, near Denver, have been reformed and made good citizens by a system of rewards and an appeal to their honour and good faith.

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"In England too, reform is in the air. The last annual report of the English Prison Commissioners observes:—

There is a growing desire among magistrates to exhaust the alternatives which the law affords before actual commitment to prison.

"One of the ideals of the English reformers is the abolition of prisons, and the wonder is that the reduction in their number in 1887 from 113 to 56 has been followed by results at once striking and comprehensive. The International Prisons Congress, with its quinquennial sessions at the different capital towns and a Permanent International Commission at Geneva, is revolutionizing ideas of prison administration over the civilized world, and has supplied a new vitalizing force to the movement. India cannot keep out of the movement long. She is already in the current. Local Governments, it must be gratefully acknowledged, are alive to the importance of jail reform and to their responsibilities in the matter. This Government is perhaps even more anxious than any of the Local Governments in the matter of prison reform. The instructions for Major Mulvany's guidance, in connection with his deputation to study the English Prison system, contained in the letter of the Government of India, No 104 of the 5th April, 1910, testify unmistakably to their anxiety. It cannot, however, be denied that the reforms, whether partially carried out or only suggested by the various public bodies in the West, have, before adoption in Indian jails, to be carefully scrutinized in the light of local conditions. Otherwise, as the Hon'ble Home Member on a former occasion remarked, 'it may be dangerous to embark on any policy which might render prison life insufficiently deterrent and even an encouragement to certain classes..... to break the law.' Terrorism within the prison has been found to be futile as a curative of crime, and the claims of sympathetic treatment in reclamation have been more or less recognized. A jail administration, free from the earlier notions of retribution and largely influenced by humanitarian considerations, is being gradually evolved in India. Everywhere there is a genuine desire to profit by experience. In view of this official attitude of openness to conviction and desire for light, the need for periodical surveys of the whole situation is evident. And for more than one good reason the initiative should be taken by this Government and the machinery for the investigation should be a mixed commission of officials and non-officials. A high authority has pointed out that 'a certain conservatism in procedure is not foreign to any department of the State,' and 'certainly most important reforms are associated with persons unconnected with prison administration.' These observations supply a strong argument in favour of the association of non-officials with commissions of inquiry into jail administration.

"Your Excellency, the dietary, the clothing, the housing, the punishment and the treatment of the prisoner generally and his employment, education and reclamation are every one of them subjects of paramount interest to the reformer regarding which there have been irreconcilable differences of opinion among jail authorities. The question of the employment of the convict as a prison officer, for instance, has caused sharp division among them. The question of separate confinement and association, intra-mural and extra-mural employment and education of adults are some other questions in point. In fact, principles apart, in the whole range of prison administration there are few details about which there is such a consensus of opinion among local officers as to leave no room for inquiry by the Central Government.

"My Lord, the unaided efforts of the Jail authorities, however earnest and thoughtful, must be found wanting for a thorough investigation of the possibilities of progress. These authorities may successfully deal with the arrangements inside the jail, but modern criminology has a broader outlook of crime and preventive measures. A Jail Superintendent, be he ever so eminent and devoted to his work, will be assuming functions which do not legitimately belong to his office if he seeks to advise Government about the sociological problems connected with prison administration, or the judicial duties of magistrates in passing sentence or of the Police in respect of surveillance

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after release. And yet these are some of the questions which demand consideration before any real progress is made. Destitution, idleness, intemperance, fanaticism and a host of other circumstances due either to the social habits of the people or to economic causes, all contributory to criminality, give rise to problems beyond the scope of strict penology, but all of which must be carefully considered and analysed for a radical improvement in the situation. The sentence of imprisonment upon juveniles and upon adult casuals and as an alternative of fine can only be interfered with, if at all, upon the recommendations of a mixed Commission by the Legislature. There is also one great advantage in the Government of India formulating a scheme of prison reform upon the report of a commission of inquiry. Local Governments will be relieved of the necessity of taking isolated action in the desired direction. There will be greater co-ordination and a more general recognition of established principles. Now, the United Provinces Government Resolution on the Jail Report of 1912, after referring to the Bareilly Juvenile Jail, pointed out: 'Excellent institution though this Jail is, it must be realized that the reclamation of juvenile criminals depends largely on the treatment meted out to the prisoners on their release, and well-meant efforts to reform are often hindered by the attitude of suspicion adopted by the Police towards released juveniles in common with other offenders.' The evil is general, but it does not appear that the other Local Governments have taken any action to check it; at least the annual reports do not refer to any preventive action. Action by the Government of India in a matter of this kind, where local conditions certainly do not necessitate differential treatment, is what would appear to be demanded by the exigencies of the case. In the matter of employment of prison labour also, certain lines have to be definitely laid down. This is a ticklish subject, and the apprehension of unfair competition with free and outside labour has so far unduly checked progress. In the absence of enunciation of principles by this Government, each Local Government is left to evolve its own policy. While the Punjab prisoners have been employed with conspicuous success in the excavation of the Lower Bari Doab Canal and in the United Provinces on the Naini Garden and in Madras the question is mooted of working agricultural farms with prison labour, especially in the neighbourhood of the Tanjore Juvenile Jail; in all other Provinces the official energy is spent in the old accustomed groove, and the remunerative employment of the convict presents great difficulties. This is one of the standing questions connected with jail administration on which considered and united action is desirable. Every provincial report regrets the absence of facilities for the disposal of jail products; every Jail authority regrets the want of Government patronage; and yet apparently nothing serious is done by the Government of India to frame mandatory rules for the guidance of the purchasing departments of Government. Meanwhile, articles of even common use, which can be made in Indian jails at a negligible cost, are imported from abroad, although the vexed problem of employment of the jail population, from all testimony, gives the Jail authorities trouble. There is little or no competition within the country. In England and America, where competition is keener and jail manufactures might be viewed with jealousy, the problem of the disposal of jail products has been satisfactorily solved. In consultation with the Trade Unions the line of prison activity has been fixed to the advantage of all concerned; in America the Board of Charities and Correction supplies a powerful agency for compelling Government Departments to buy the manufactures. The employment of convict labour, next to the treatment of prisoners, is perhaps the most important point in jail administration in regard to which thorough investigation by a committee is necessary. Judicious employment has an important bearing upon the question not only of cost of maintenance but of reclamation, and perhaps upon the general resources of the country. The adoption of a sound policy can no longer be delayed. The large percentage of agriculturists who find their way into prison, ranging between 38 per cent in the Central Provinces and over 70 per cent in the Punjab, would invest the employment of prisoners on agricultural farms with an importance all its own.

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The manufacture of manure and charcoal by distillation, for their industrial value, is likewise a direction in which prison activity might well be applied. But it is useless to multiply instances of profitable industries. The whole point is, for the determination of the lines, thorough investigation is imperatively necessary.

“ My Lord, the remarkable results attained by the Salvation Army in their penal settlements are an agreeable surprise to the criminologist. New light is thrown on the problem of recidivism. If the notorious criminal tribes like the *Pakhiwaras* of Sialkot can be converted into good, peaceful and industrious citizens, there is no reason to despair of the ultimate reclamation of the confirmed recidivist. In the light of the facts investigation of the possibilities of reform in this direction has become urgent. The question of the abolition of the subsidiary jails is another interesting point on which the views of a committee would be welcome. Then, again, the whole subject of remand to prison of accused persons might also profitably be investigated in view of the fact that at least half the number of under-trial prisoners are either discharged or acquitted at the trial. Inspections and complaints are other important points. According to the authority of Colonel Lane, it is impossible for the Jail Superintendent to know all that goes on in the jail in case of a combination between the jailer and the warders. In Germany, the slate and pencil system provides a remedy. The incident of November, 1912, in the Madras Penitentiary ought to lead to a greater freedom in the matter of complaints. The importance of inspections is recognized in England. It is likewise recognized here, but improvement is necessary, especially in regard to non-official visits. The formation of after-care associations on the lines of Discharged Prisoners' Aid Societies is one more question of vital importance. Local Governments are practically agreed about the utility of the Societies. Gratuities, diet and cellular punishments, introduction of female influence, and religious instruction have all certain features of attractiveness, which a complete examination will reveal to the uninitiated. The separation of juvenile adults from adults and of habituals from casuals is another matter of importance. And all these points must first be investigated, and that is the reason the appointment of a commission is recommended. The incidental cost will not be large. Even if it were, it should be cheerfully incurred by a Government so sincerely anxious to do all that is best for the community.

“ With these observations, my Lord, I move the Resolution that stands in my name.”

The Hon'ble Mr. Wheeler:—“ My Lord, I think we are indebted to the Hon'ble Mr. Rayaningar for the interesting speech in which he has brought before the Council a subject of very great importance, and in some aspects of very absorbing interest. He has touched upon a number of matters and ideas which are now occupying the minds of people interested in jails both in this country and elsewhere, and many of these would in themselves furnish the subject of a morning's discussion, but for our present purposes I think we had better deal with the matter on broader lines. I would only point out, with reference to certain of the remarks which have fallen from the Hon'ble Member regarding the American prison system, which he evidently regards as deserving of commendation, that there is authority, and strong authority, for not absolutely accepting as proved beyond doubt some of the later developments of American jail management. If he cares to read the report which I have here by Sir Ruggles Brice, who is a well-known English authority on the subject, and one of those who attended the Jail International Conference at Washington in 1910, he will find there a strong note of caution sounded as regards certain aspects of the American system, and while the writer commends the enterprise and energy with which, in that country, they search for new things, he seems doubtful whether, in some matters, they might not be well advised to go a little slower, while, in some aspects, chiefly in the matter of local, as opposed to State, prisons, and their compilations of statistics, he absolutely declines to place America in the front rank at all.

[*Mr. Wheeler.*]

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“My chief object in troubling the Council this morning, however, is to explain what may, possibly, already be known to some, namely, the history of the subject in this country in so far as it has a bearing on the present resolution, and from that it will be seen that the Hon'ble Member, in making this proposal to-day, is in a certain sense merely pursuing the policy which has been that of the Government in the past in regard to jails. When our rule came to be well established in India, the subject of jail improvements was one of the matters which attracted the attention of the British administration perhaps rather later than certain others, and for this there were various reasons.

“We inherited a system which, to say the least, was rudimentary. Improvement meant a very large outlay; the organization of establishments, where they did not exist before, was extraordinarily difficult, and also the ideas of earlier times on the subject were vastly different from what they are now. The first notable date in the history of jail affairs is 1838, when Sir Charles Metcalfe, largely at the instigation of Macaulay, appointed a committee to look into jail affairs. The report of that committee is very interesting reading, but it shows that they were then essentially laying the foundations, and dealing more with first principles than later inquiries have had to do. Their keynote was the idea of punishment as a deterrent, involving hard and distasteful labour, and they commented very severely on the absence of system in labour matters which, they said, very often resulted in the convicts doing little or nothing at all. They also pointed out other defects, which seem to us now rather rudimentary, but which apparently obtained then, and they made various proposals generally in the direction of tightening up the discipline in jails and making the jail a far more unpleasant place of resort than had hitherto been the case. After their inquiries, the subject did not attract general notice again till 1864, when we find a minute by Lord Lawrence in which he observed that it was almost generally admitted that the full measure of reform which had been outlined by the earlier committee had never been carried out, and he accordingly appointed another body which dealt with the matter in far more detail than its predecessor. This in itself indicates that some progress had been made. They covered the whole field of jail management and embarked upon far more elaboration than the very broad principles of the earlier inquiry. Thus, they discussed the proper construction of jails, ventilation, food, clothing, and sanitation, and attempted in a rather elementary way to classify labour and prisoners according to the sentences which they were undergoing. Their report undoubtedly marks a considerable advance, and brings us to 1877 when there was a third enquiry which had a slightly different origin from the others. In 1872 there was started in London the first of a series of International Prison Conference, which have since been held regularly at intervals of five years, and owing to the publicity thus given to the subject, attention was attracted to the newer ideas of making jail discipline more reformatory and of paying particular attention to the treatment of the young, as compared with the earlier notion that the first idea of jail management was that it should be retributive, secondly, that it should be deterrent, and only thirdly, that it should be reformatory. The report of that conference had its effect out here, and in 1877 the Government of India called a conference of leading jail officers and particularly directed them to consider the application of these new principles which were in the air, to Indian conditions: and again we had a long and detailed report dealing with various aspects of jail administration. What seems to have attracted the attention of that body particularly—and it is an idea which we get recurring later—was the absence of uniformity which then characterised jail management in different parts of the country. Although principles had been laid down by the earlier committees, there was too much tendency for every province to go its own way, and even in fundamental matters to differ widely from its neighbours. With a view of remedying this the idea of a single Prisons Act was put forward, but at that time, after discussion, it was dropped. After 1877, which is thus our third inquiry, we come to 1888-89, when Sir Alfred Lethbridge, who was a very well-known

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jail authority in India, drew the attention of the Government of India again to this same point to which reference had previously been made, namely, what he described as the extraordinary and unnecessary divergencies of prison practice, and after some correspondence, Dr. Walker and he were deputed to visit selected jails and to report on the whole subject. The outstanding feature of their report, upon which they laid most stress, was the plea for the organization of proper jail services, and they discussed these from the top to the bottom, from Superintendents of Jails to warders, and made proposals which were eventually, for the most part, carried into effect. They also insisted on uniformity of treatment in the matter of punishment and discipline and, as far as possible, in labour; and after a further inquiry by a small expert committee these recommendations resulted in the Prisons Act of 1894, which was the first attempt to give effect by legislation to this main principle, that in certain essentials jails must be run on uniform lines.

“ Since then there has been no general inquiry, although, of course, the matter periodically comes up in isolated cases and our records are full of discussions on different points. Viewing the results of the labours of these different committees, I think it can fairly be said that they achieved much. They did succeed in organizing a jail service which is incomparably better than what was in existence in the earlier days; they did improve the building of jails and lay down sound principles of construction; they did very materially achieve a reduction of the mortality in jails, an achievement for which the Jail Department deserves much credit and which can be demonstrated by figures beyond doubt; and they did succeed in the systematizing of labour, and in the definition of what punishments might be inflicted and what should be recognized as jail offences. Also, they reduced our jail statistics to a form which, as far as I can gather from the reports, does not compare in any way unfavourably, although it may still be open to criticism, with what obtains in other countries. I think in all these respects, which we may call the purely administrative aspects of jail work, they did accomplish a great advance. In other matters they were not, possibly, so successful. They attempted to deal with the classification of prisoners to some extent, but it would seem that many of their recommendations never got carried into actual practice and simply remained on paper. In some ways they were trying too much, without due regard to the persons who had to work the systems they were laying down. They also attempted the classification of labour, so as to bring it more into accord with the individual capacity of different prisoners, and they initiated improvements in the treatment of young offenders, which dates back, practically, to the Reformatories Act of 1876, and its more recent developments of juvenile jails, and the transfer of reformatories from the Jail Department to the control of the Education Department by way of marking that their intention is not so much punishment as reform. Compared with Western systems, they certainly fell short in their ideas of reformation by education, and the remarks of most of the committee on this subject are distinctly pessimistic and sceptical as to whether principles which applied in the West could advantageously be adopted here. In this they were possibly right, but in this direction it must be admitted that the progress made was not very great.

“ That, very briefly, is how the matter of jail administration at present stands in this country, and of course, naturally, the tendency is to compare it with jails in England. But there are so many fundamental differences between the Indian and the English systems, that the comparison is apt to be difficult. As you doubtless know, in this country, we have as punishment which involve confinement, transportation and rigorous and simple imprisonment, and imprisonment is served by all prisoners alike in our central and district jails. But in England there is a very fundamental difference between imprisonment, which is undergone in local and county jails, and penal servitude, which is served in convict prisons. This distinction marks an acute line of difference in the principles of management. In England the object is to have a short, sharp sentence which is strictly deterrent, far more deterrent than are short sentences in this country, while with convicts

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who are undergoing penal servitude, which necessarily means a long sentence (the minimum period is 3 years), more attempt is made at reformation and there is more chance of success in that direction. In recent times one or two of our jail officials have been afforded facilities to visit English prisons and it is interesting to note the salient points of difference which struck them. For instance, without going into details they noticed how very much more centralized prison management is at home than here. They also dwell on the expenditure which England is able to incur as compared with this country — a most important factor, because it has got to be remembered that even to build a new central jail, judging by recent estimates, is a matter of some Rs. 20 lakhs, or even more, so that you can soon run up a very big bill. They were also struck with the very much better discipline which is maintained in an English jail, largely due to the more efficient warder staff which is employed and to the greater use of cellular confinement, which, in itself alone, constitutes a very great difference between the English and Indian practice. Another very important point is the extent to which the classification of prisoners is carried in England. Major Mulvany, a Bengal jail officer, who was one of those who visited England, describes that classification as bewildering, and anyone reading the rules cannot fail to see that they are carried to an elaboration which would be impossible in Indian jails. Lastly, there is a very great amount of attention paid in English jails to religious and educational methods.

“For these reasons it is very difficult to say absolutely that a thing that is good in England is necessarily good out here, but a comparison with the English system is interesting as drawing attention to the more modern developments of the subject, and they are mainly, as the Hon'ble Mr. Rayanagar has pointed out, in the direction of emphasizing the aim at reformation, especially in the treatment of the young. Thus, a very noticeable recent development in England is what is known as the Borstal system, which is designed to deal not with children, but with what are called juvenile adults, between the ages of 16 and 21, who are placed in settlements where the idea of prison discipline is kept in the background and stress is laid upon education and encouragement to turn over a new leaf. They have drill and lectures and classes, and are made to learn useful trades with the idea of bringing them up as useful citizens rather than of punishing them as criminals. But here again, when it is a question of trying similar methods in India, it has to be remembered that it is emphasized by various authorities that the keynote of the success of the Borstal system is the Borstal Association, which is a non-official agency that looks after these boys after they have gone through the Institution and puts them in the way of getting a fresh start in life. So far we have no corresponding agency of any very great influence; and, while various Local Governments are at present trying experiments on the lines of this Borstal system, it is well worthy of inquiry to see on what lines advance is being made. Another interesting development of recent date in this country, to which the Hon'ble Member also referred, is the attempt to see if reformation can be effected in settlements, by the efforts of the Salvation Army. So far this has been tried in the case of criminal tribes only, but an extension of the same principle to prisoners generally is conceivable. Finally, we have had attempts to encourage Prisoners Aid Societies, although not so far very successfully.

“There are only three matters of current interest to which the briefest reference can be made, but they may serve to indicate the general position by example. The point which the Council might well bear in mind is that Jail administration is a progressive science. In this country it has been subjected in the past to periodical inquiry, the last instance of which was some years back. In the West very great strides have been made under the influence of the five-yearly International Conferences which have laid down general principles and lines for investigation, thus demonstrating similarly the advantages to be derived from periodical overhauling. From all these points of view, therefore, there is a very good *prima facie* case for the favourable consideration of the Hon'ble Member's motion.”

[24TH FEBRUARY, 1914.] [Mr. Surendra Nath Banerjee.]

The Hon'ble Mr. Surendra Nath Banerjee :—" My Lord, I think I speak the sense of the Non-official Members on this side of the house when I say that we are very grateful to the Hon'ble the Home Secretary for the clear and luminous statement of the progress of jail administration which he has laid before this Council. To me it has been an illumination and a revelation, and I am sure it has been so to many others. But it seems to me, my Lord, that that history, clear and explicit as it is, is the strongest evidence in favour of the support of the resolution of my friend. Whenever a committee has been appointed, one in 1838 (I repeat the dates from memory) another in 1876, another a few years later, whenever a committee has been appointed to inquire into jail administration, it has been attended by substantial reforms, a forward movement in the direction of improvement in jail administration. The fact that many years have elapsed since the appointment of the last committee, the fact that a great deal of light has been thrown upon the subject by those international conferences to which my hon'ble friend has referred, the fact that public opinion in India is able to co-operate with the authorities in matters of jail administration and other matters, all these circumstances taken together seem to my mind to be a conclusive argument in favour of the appointment of another committee to overhaul the whole question and to make recommendations for the improvement of jail administration.

" My Lord, I have had some practical experience of jail administration gathered in more ways than one, and I will say this that the treatment of prisoners in Indian jails, so far as my knowledge goes, represents a conspicuous display of humanity and kindness on the part of the authorities. I was for a number of years a non-official visitor of, I think, the biggest jail in the Presidency from which I come, the Alipur Central Jail. I did my work there as a non-official visitor as thoroughly as I could and I will say this as the result of my experience that the suggestions which we used to note as non-official visitors in the inspection books were carefully considered and most of them were given effect to. I only remember one suggestion which I repeatedly dinned into the ears of the authorities again and again, but without any effect. I may perhaps, with the permission of the Council, be permitted to refer to it. There is a difference in the dietary arrangements between European prisoners and Indian prisoners in our jails. This is as it should be, because the dietary arrangements of Europeans and Indians are so different. But there is no difference as regards the dietary arrangements between what we call the *bhadralog* class, the respectable class of Indian prisoners, and those who come from the lower strata. They are treated to the same food. I noticed this in our visitor's book and I raised this question by interpellation in the Bengal Council, but so far without any effect. If a committee were appointed they would perhaps take cognizance of this very serious grievance which prisoners coming from the respectable classes feel, and I am sure there are other matters which they might inquire into.

" I may perhaps be permitted to refer to the question of the Andamans being allowed to continue to be a penal settlement. Is it a settlement which operates as a deterrent upon prisoners? The Government of India have recognized the principle that official work in connection with jail administration ought to be supplemented by non-official inspection.

" In Bengal—I believe the case is universal all over India—to every jail there is a non-official committee of visitors attached. Therefore, what the Government of India are anxious to secure is that the work done by those who are in direct touch with jail administration—the officials—should be supervised by non-officials. Can there be any kind of non-official inspection as regards the treatment of prisoners who are sent to the Andamans. It is a remote settlement away in the Bay of Bengal, away from the gaze of public scrutiny and the control of public opinion. The officials—I speak of them with the utmost respect—the officials after all are men. They are permitted in the Andamans to do what they please without the control and supervision of public opinion. Is that a satisfactory arrangement? It may be said that we have transportation for life in the Penal Code. But transportation has become

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an obsolete form of punishment in most civilized countries and it ought to be obsolete amongst us. But if transportation is to be retained, surely it is possible to send prisoners say from India to Burma and *vice versa*. That would be transportation within the meaning of the word. If such a Committee as is asked for in this Resolution were appointed, this matter would be taken note of.

"Then there would be the question of the treatment of political prisoners. We deplore their crimes; we abhor them and express our utter detestation of them; but still they are prisoners, and, as such, they are entitled to the common treatment of all prisoners. In the Andamans there has been one case of a political prisoner who committed suicide; then there has been an instance of a political prisoner who has gone mad. These are the matters which point to the conclusion that the continuance of the Andaman Islands as a penal settlement is undesirable as it is inconsistent with modern ideas and the policy of Government. I am sorry that the Hon'ble the Home Member is not able to accept the recommendation of my Hon'ble friend; but it was time that the Government of India appointed another Committee to continue that work of beneficence and humanity which has eminently characterized the jail administration of British India."

The Hon'ble Raja Kushal Pal Singh:—"My Lord, in the West the policy underlying the administration of jails has undergone a great change. In welcoming the American Prison Association, the Governor of Virginia, the Hon'ble Mr. Claude A. Swanson, said:—

What a change has come over society. It is almost incredible that a century ago two hundred and fifty offences were punishable with death. To-day reformation and charity have so encircled the world that there are only two or three offences punishable with death. In olden times the one thought of punishment was revenge. To-day another element has entered, and that is reformation of the criminal, to make him a useful member of the society, doing his part in its progress and in its development. You cannot inspire a man to do right when he had bad surroundings, wretched food, foul air. Give him good food, good treatment, good ventilation and he will strive to continue those things.

"In western countries, vast improvements have been made in jail administration. Still, in England, people are agitating for a Commission to inquire into the conditions of the prison system. In an article in the *Daily Chronicle* Canon Marrison wrote:—

It is now nearly 20 years since the last public inquiry into the working and efficiency of our prison system was held. According to precedent the time has now arrived for holding another inquiry of a similar character. As prisons and convict establishment, unlike almost any other department of public service, are by the nature of their case a closed book to the general public, it is essential that from time to time this grim volume should be opened so that we may see what is being written upon it. I believe that all sections of prison reformers should be united, in asking for the appointment of a Commission or a Departmental Committee of inquiry. Such an inquiry would give the officials in the prison service the opportunity of showing to the public what they have done, and what they are doing on behalf of the convict population. It would give the Advocates of change an opportunity of pointing out in what direction they believe beneficent reforms can be effected. It would give to the prisoner an opportunity of explaining what imprisonment was to one who had actually experienced it. And above all such an inquiry would enable the public conscience to satisfy itself as to the nature and the value of the system which at present it upholds for the repression of crime.

"We ask for a Commission because we want to get all progressive ideas incorporated in our prison system—because the Commission will go into the whole question of jail administration, recommend for adoption all good points of the jail administration of civilized countries which are suited to the conditions of this country, examine and express opinions on the question of convict-warders and co-ordinate the work on various experiments of the nature of improvements which are being tried in various provinces in India;—in short, because it will bring our jail administration up to date.

"As I am sure that the appointment of the Commission desired by the Hon'ble Mover will be attended with very beneficial results, I, therefore, gladly support the Resolution before the Honourable Council."

[24TH FEBRUARY, 1914.] [Mr. *Vijiaraghavachariar*.]

The Hon'ble Mr. Vijiaraghavachariar :—" My Lord, I have given notice of a Resolution somewhat similar to this one of my Hon'ble friend, namely, that a Commission may be appointed to examine the prison system, and I do not think that, after having heard the excellent statement which has been made by the Hon'ble Mr. Wheeler, it will be necessary for me to detain Your Lordship and the Council with any lengthy observations. But I would call the attention of Your Lordship and of the Council to one or two features which, in my humble opinion, need reform promptly, and which reform can be effected with little or no cost. By the way I do not at all think we are yet very near the millenium when society will altogether forgive offences committed against itself and in defiance of its ordinances. That millenium does not even loom in the distance in the imagination of the philosopher, and under the euphemistic name of retribution regulated revenge must and will continue to be taken for such offences. And even if it were possible to aim primarily and almost exclusively at the reclamation of the criminal, the spirit of revenge will not tend to disappear, but escaping from sanctioned machinery it will go back more and more to tribes and to individuals. Only the other day, in one of the most civilised countries of the world, the relatives of a murdered man were allowed special seats to have the glee of witnessing the execution of the murderer. Human nature being human nature, it will be long before we can expect that society will think of getting rid of this part of criminology. But in the meantime it is worthy of Government's attention to note the cry raised everywhere, and in this country especially, that criminals leave the jails more degraded and more determined to commit crimes, perhaps similar to those for which they were punished, than when they entered them. We can see this is chiefly due not because they are well-treated in jails, but because they are, in certain aspects at least, ill-treated. Their moral education is absolutely neglected. They are also subjected, in my opinion, to certain operations which are most degrading to them as human beings and as moral beings. In order to discover the concealment, if any, of forbidden articles, such as tobacco, *ganja* and so forth, every day these unfortunate convicts are subjected to personal searches which are most calculated to degrade them not only in the estimation of their fellow-beings but also in their own estimation. Then there is the problem of night employment. I believe these convicts are now expected to sleep from 12 to 14 hours a day. They are all locked up so early as 4 o'clock or a little later and they rise at 6 o'clock or shortly after in the morning. So much time ought not to be allowed for idleness and sleep. This time can be well utilised in giving them lessons in sanitation or in giving them the benefit of theatrical performances calculated to improve their morals and to make them ever to believe that there is a world outside the jail to which they would return and to which it is worth their while they should return better men than when they entered the gaol.

" There is one other aspect of the question to which I should like to call special attention and that is the treatment of female convicts, especially in the Andaman Islands. I have credible information, which I have also verified, that in the penal settlement of the Andaman Islands what are called convict unions and marriages are allowed. It is well known that most of these so-called marriages are between men and women who have already been married in India while free, and, if we could carefully examine the question, to my mind almost all these marriages appear to be absolutely illegal and all certainly undesirable. It is said that occasionally some trouble is taken in getting divorces from the husbands of the female convicts before these marriages are allowed by the authorities, but if we examine these so-called divorces, they will be found to be not quite according to the law that prevails in India or the customs that obtain here. The attending and resulting circumstances of these marriages were, once upon a time, examined by an officer of the Indian Medical Service and he published his views in considerable and interesting detail. I do not think it necessary, or even desirable, to go into those details now; but for my part I seriously object to these unions being brought about among convicts. I cannot understand under which particular head of prison administration this principle arose: is it retributive, deterrent or reformatory? It is none

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such, I should think. Treating it as purely a question of business, I am sorry to say—and the same Medical Officer, Colonel Woolly, I believe, is my authority for saying it.—I am sorry to say that these unions are utter failures. Before these unions are allowed, medical examinations have to be undergone and medical certificates secured by these people, but in spite of all that the Medical Officer in question says that ordinarily the fruit of these unions are idiots and imbeciles, and that the parties are often diseased and lead a life in every way most demoralising not only to themselves but also to the convicts in the barracks. I cannot understand how and when these things arose and have been allowed. A time may arise when very nice and interesting questions will come up before the Courts in India in connection with these unions. Some of these so-called remarried women do return to India. Let us suppose that they ask and sue for maintenance. Let us suppose that these convict marriages are availed of as defence by husbands or others on whose property the maintenance, if allowed, would be a charge. I believe that no Court will accept these so-called sanctioned unions and marriages as not prohibited and illegal and as not constituting misconduct on the part of the woman disentiitling her to the maintenance asked for. If this defence is pleaded, the defence will, I believe, be clearly allowed. Other and more interesting questions may also arise to be discussed, in connection with the law of inheritance, by kinsmen and kindred. Let us assume a case where one of these “regulation-born cousins” from Port Blair comes to India and claims property as a *bandhu* or collateral. What then? I see no difficulty in imagining that Courts will easily find against the claimant, notwithstanding that he is the offspring of an union brought about under the auspices of Government. I mention this—I simply mention all this—to show that a prompt inquiry and remedy are needed. I believe it is time for abolishing the punishment of transportation for women altogether. Perhaps it is time to abolish transportation altogether in India, as it has been abolished in England. The penal settlement in the Andaman Islands does not act at all as a deterrent. On the contrary, it is a well known fact that the Indian criminal population prefer transportation to prison life in India. This is just one of those questions which might be considered by a Committee. Why is it that prisoners prefer to go to the Andamans? This is a very disquieting feature of prison administration in India from every point of view. Independent of the great necessity there is admittedly for the appointment of a Commission for a searching inquiry into the whole system of prison administration in India, this unique system of the convict unions, I have just mentioned requires prompt treatment. This system is a thorough failure and, besides, has all the horrors of Grant Allan’s doctrine without the poetry and romance of it.”

The Hon’ble Mr. Surendra Nath Banerjee :—“May I be permitted to make a correction. I took it for granted that the Hon’ble the Home Member would oppose the motion. I think he is entirely in favour of the motion and I retract that statement. I am very sorry that I should have made it before hearing what he had to say.”

The Hon’ble Sir Reginald Craddock :—“It has often been my duty to oppose Resolutions made by the non-official Members of this Council; but in doing so I have always endeavoured to show that this opposition was not due to any original sin on my part, nor even to official perverseness, nor to any want of appreciation of the motives which have inspired particular Members from time to time in moving us to take the action which they recommended; but that in each case, for reasons explained, it was not possible for the Government to accept the particular recommendation which they had brought to our notice. To-day, however, I am in the happy position of being able not only to express sympathy with the Hon’ble Mover of this motion but to accept this Resolution on behalf of the Government. I trust that this ray of sunshine will for once brighten even the chronic state of disappointment to which the

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Hon'ble Mr. Banerjee has so often given expression,—so chronic was it that he was led just now to assume that this Resolution would as a matter of course be opposed by the Government before I had had any opportunity of making any statement on the subject.

“The Hon'ble Mr. Wheeler has given the Council an account of the various inquiries that have been instituted from time to time into jail administration and into our penal system, and I need not repeat that history. The history of penal administration in the world at large has been a history of gradual transition from mediæval practices of torture chambers, underground dungeons and heavy chains on through systems of cranks and treadmills to the more modern system under which the prisoner is given hard and deterrent labour but on useful work, and down to the present day ideas of converting prisons from places of punishment, pure and simple, into places of punishment with reform, where the convict is deprived of his liberty and is punished for his crime against society, but in which efforts are made to keep in view an ideal of reform whereby a pest to society may in time become a self-respecting and law-abiding citizen.

“This is an ideal, My Lord, with which, as one might expect, Hon'ble Members of this Council, as indeed all right thinking men, are in complete sympathy, but it is an ideal in respect of which many serious difficulties beset the path of the reformer. Obviously if the prison were made too attractive, imprisonment will cease to be a terror to the evil-doer and crime will be found to increase. Again, a treatment which will suit one prisoner will be utterly unsuited to another. If all were treated alike, it is as if a physician should prescribe a fixed prescription for every sick man in his hospital. You want to escape that degree of severity which will harden the novice in crime, and yet avoid that degree of leniency which will make the already hardened criminal laugh at the restraints of prison life. In India we have been steadily working towards more humanitarian treatment. We have made such strides in sanitary arrangements that the jail is often the healthiest place in the whole town. We have treated our sick prisoners with almost paternal care and solicitude. We have steadily eliminated and reduced to a minimum those severer punishments against which the charge might be brought that they are brutal or brutalizing. We have tried to create a greater sense of self-respect by stimulating good behaviour and steady industry by means of marks qualifying the prisoner for remission of part of his sentence, and by enabling the more deserving convicts to gain privileges and to exercise some responsibility as convict overseers and convict warders. We have started reformatory schools for young criminals; we have consistently discouraged the imprisonment of youthful offenders by our magistrates; we have isolated adolescents from adults; we have endeavoured to separate as far as possible habituais from casuals. But in spite of all these vast improvements in the administration of jails, in spite of all the strenuous labours of so many humane and hard-working Jail Superintendents and Inspectors-General of Prisons, it cannot, I am afraid, be said that the atmosphere of a Central Jail is such as to inspire men with a desire for better things.

“The very best Code or Manual providing by regulations for incentives to improvement and reform is wrecked if the wrong treatment is meted out to the wrong prisoner, if extra harshness is applied to the men requiring gentle methods for his reform, or if misplaced indulgence is given to men for whom sterner measures are necessary. If instead of honesty and industry being the royal road to privileges, concessions and earlier restoration to liberty, these benefits are in actual practice more readily gained by the exercise of cunning or craft, by corruption or intimidation, then the chances of reform must inevitably be reduced to a minimum, and there is more fear that what is good in a man will become bad, than hope that the bad man will become good.

“I do not for a moment go so far as to assert that all these earnest and zealous endeavours of Government and its officers to reclaim the criminal, and

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to make Jail discipline a means of reform, have gone for nothing. Far from it. They have done immense good; they have been most useful and essential as stages in the road to progress. But having achieved these improvements, we cannot stand still; and we must concentrate our efforts on purging jail life of its blots and its blemishes, and we must think out and further a system which will tend to reduce crime and at least give better opportunities to criminals to become useful citizens.

"The various Local Governments of recent years have been taking steps in the desired direction. Among the most prominent of them are the Governments of Madras and Bombay, the United Provinces and the Punjab; they have all made special advances in the direction desired; some Governments have tried to introduce religious and moral training in our prisons, at present entirely lacking; others have started Borstal institutions; others have seconded, as far as they could, the noble efforts of Mr. Booth-Tucker and the Salvation Army to uplift the criminal tribes from the slough of despond in which it has been their hereditary fate to wallow. All honour to efforts of this kind by whomsoever made! Whether by Christians, Hindus or Mohammedans, we shall always welcome self-sacrificing efforts of this kind when accompanied by organizing ability in so good a cause. But praiseworthy as have been these efforts and advances, we are still only on the fringe of the question; even in Europe and America, the treatment of crime and criminals is even yet at an experimental stage, and any advances to be made must be deliberate and cautious. Large schemes of reform may entail heavy expenditure, and we should feel assured of their success on a smaller scale before we embark upon them on a larger scale. The state and society owe a debt even to its criminals, but it must not forget its sense of proportion, and devote to the criminal large sums of money which are still more urgently needed for the poor and illiterate among the free population. Nor can our examination be confined merely to the details of prison management. It must survey also the penal system. The punishments prescribed by the Penal Code, so far as prisoners are concerned, are only three; transportation, rigorous imprisonment and simple imprisonment; these differentiate to some extent between the more heinous and the less heinous offences, but they scarcely differentiate at all between the degrees of criminality of the offender, which may vary enormously within the same section of the Indian Penal Code, and even within the same sentence imposed by our Courts. It has been my lot to inspect many jails from time to time and I have recently returned from a visit of inspection of the Andamans where I have studied as closely as time would permit the system in force in the Penal settlement at Port Blair, and nothing struck me so forcibly as the fact that our penal system is still far too rigid and makes no sufficient attempts to differentiate between crimes committed in the heat of passion and cold, calculating crimes implying a vicious and degenerate nature. The compartments into which criminals are divided are still far too few; the diagnosis is too rough and ready; and the treatment too uniform. We have to devise separate treatment for the confirmed criminal, the hardened miscreant and the seemingly hopeless degenerate, and separate treatment for the criminal who, though he offended against the law in a moment of passion or sudden temptation, is still left with some self respect which may deter him from sinning again. We have to aim at providing a period of probation and a place of probation during which a man who appears desirous of reform may have the chance of proving his sincerity under conditions which will remove him from further contamination or tempt him to lapses. We have to try and remove as far as possible those causes which tend to make him immoral and corrupt, and we have to try to awaken in him those incentives which make men honest and keep them so. With regard to the remarks made by the Hon'ble Mr. Vijayaraghavachariar in respect of the Andamans, any examination of our penal system will certainly include a full and thorough examination of the penal system of the Andamans, including especially the system of convict marriages to which he has referred.

"These, My Lord, are the considerations present in the mind of Government and it is on those considerations that the Government accept the Resolution. They consider that the time is ripe for a further review of our penal

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system and for one more examination into the methods which promise most success, and they think that this probably can best be done by a Commission on which, amongst others, Indian non-official opinion should find a place. But before they can take action in the desired direction, there are points about the reference to be discussed with Local Governments and the matter will have to be referred to the Secretary of State. I trust that the Hon'ble Mover and those who have supported him will be gratified with the reception given to this Resolution, and that they will be re-assured, if they had now any doubt, that the Government in this matter is as anxious as they are to make a real step forward in applying to Indian conditions the most recent lessons of prison administration both here and abroad, and that they desire to adopt the most enlightened policy that the circumstances of the country may permit in respect of those measures which tend most to reduce the manufacture of criminals, and will contribute best to their restoration to the path of self respect and honesty. Our wishes and those of the Hon'ble Member may be expressed in the words of a poet who is very frequently quoted in this country :

'That men may rise on stepping stones

Of their dead selves to higher things.'

The Hon'ble Mr. Rama Rayanigar :—“ My Lord, I am exceedingly glad that I have had yet another opportunity during the course of this Session to offer my most heartfelt thanks to Your Excellency's Government for accepting a Resolution moved by a non-official Member of this Council. I have always been of opinion that when our demands are reasonable and moderate, Government is generally ready to give them favourable consideration. My present experience only confirms that opinion. My Lord, by accepting the Resolution just moved, Your Excellency's Government has taken a step in the right direction and placed millions of our fallen and falling fellow-creatures under a deep debt of gratitude.”

The Resolution was put and adopted.

The Council adjourned for lunch, and after lunch, the Hon'ble Sir Harcourt Butler presided.

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SYSTEM OF RAILWAY MANAGEMENT IN
INDIA.**

The Hon'ble Mr. Vijiaraghavachariar :—“ Sir, the Resolution that stands in my name is the following :—

That this Council recommends to the Governor General in Council the appointment of a representative Commission for the purpose of investigating the causes and attending circumstances of the late strike on the Madras and Southern Mahratta Railway and other strikes or threatened strikes about the same time, whether in sympathy with it or due to other causes, and generally for the purposes of inquiring into the system of Railway management in India, and for making a report thereon with power and instructions to include in their report their views and recommendations as to the advantages and disadvantages, in public interests, of Government management of Indian State Railways and of the development of future Railways by Government itself.

“ The prayer of the Resolution is the appointment of a Commission. The Resolution consists of two parts, a prayer for an investigation into the causes attending the circumstances of the late strike on the Madras and Southern Mahratta Railway and other strikes whether in sympathy with or due to other causes, and next for an inquiry into the whole working of railway ad-

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ministration in India, with special reference to the advantages and disadvantages of Government Management of Indian State Railways. Sir, I may remark that though the strike is now several months' old, even at this distant date the public are not in possession of sufficient information as to the causes of the strike, how the strike ended, and how it was disposed of. Even at this distant date I find, whenever I take an opportunity of talking on the subject, whether to the public generally or to the railway employes, there is a keen feeling. I desire to state that owing to the absence of any public inquiry, and for want of authentic information, the public are under a very uneasy feeling that there was somewhere some serious mismanagement. On the whole the general feeling and sympathy is with the servants of the Railway Department and this sympathy receives strong support from the mystery in which the whole inquiry is enveloped. I need say no more on the subject than that the public have a right to know the cause of the strikes. There are also charges and counter-charges brought by both sides, such as, about the suppression of telegrams; and that the people affected were not given a fair opportunity of representing their grievances;

"There is a still growing discontent among to employes of the Madras and Southern Mahratta Railway and, so far as I can judge, they have more or less the sympathy of the public. The second part of my Resolution, while related to the first, yet stands on a wider and deeper basis and it asks for an examination of the whole system and as to whether in the public interests Government management of Indian State Railways is not essentially necessary and whether the development of future Railways cannot be taken over by the State itself with great advantage. This is a great problem and as to its solution I feel considerable diffidence in offering my own opinion. Apart from personal incapacity, I have not had either the experience or the necessary training on a matter so technical. At the same time I have deemed it my duty and necessary to place before this Hon'ble Council the general feeling on this question obtaining among my countrymen. It is not always easy to get exact expert opinion on matters of this kind, and as I shall be at a considerable disadvantage in the treatment of this subject, I ask the Council to extend to me its indulgence, despite my shortcomings. It seems to me that the question of the nationalization of railways has become one of the questions of the day; it occupies a foremost place in the ring of public questions in almost all countries, including England. The countries in which company management obtains or is still predominant are fast dwindling in numbers every year. The latest addition to the family of great nations is Japan. It took up the nationalization of its railways soon after the Russo-Japanese war and the latest phase is that it has taken to the municipalization of its tramways. We all know that tramways are to a town what railways are to the country. Ever since the time when the locomotive steam-engine was perfected by Stephenson various railway policies have been pursued throughout the world. I need not detain the Council with a statement as to the origin and development of this magnificent product of modern science. I need hardly mention that, although the claim is disputed by France and America, this was the invention of England. I forgot who it was that said that 'the child opens the lid of the kettle, dancing to the steam from within, for sport; the housewife for use; but James Watt for Science.' And James Watt devised and perfected the stationary steam-engine. From stationary to locomotive steam-engine the path is natural in the field of Science. The locomotive steam-engine was brought to perfection by George Stephenson, who was the immortal driver of the first train which ran, I believe, in 1825, from Stockton to Darlington. At that time, curiously enough, the people of England did not take kindly to the idea and to the novel enterprise—I am only explaining the accident of company management and private railway construction. The people of England, high and low, even the Duke of Wellington, were hostile to this great device of transportation. The greatest difficulties in the way of construction of railway lines in England were thrown by the landlords. They not only demanded exorbitant rates for their land but frequently resisted surveys. This information will be found in a book

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of Herbert Spencer called 'Railway Morals and Policy.' Hence it was no wonder that the English Parliament did not think of State construction and State management of railways. The people spelt ruin to every trade and calling and their jealousy mingled with their ignorance and prejudices. As to railway construction in this country, the first proposal came from a Company about the year 1843-44 during the régime of Lord Hardinge. At that time the Government did not know exactly the possibilities of railway enterprise in this country. India was then still in the making, geographically and politically. The British India of that time was not the British India of to-day. However, the Company's proposals were subjected to much scrutiny and criticism and at the end with some modifications accepted. But the leading powers that the Government of India from the first reserved were the power of control and the power of purchase at particular periods.

"That has continued to be the leading policy; that is, the power of the State to purchase railways on certain conditions and at certain stated periods, has all along remained the bedrock policy of the British Indian Government. Then as regards actual management, there have been various phases: at first it was entire management by the Company under the guarantee system; then, for about ten years, from 1869-70 until the time of Lord Ripon, both construction and management were entirely by the State. Certain circumstances over which the Indian Government had no control, made it necessary to relapse into the old system of Company construction and management, and that continues more or less to be the policy at the present day. My humble submission as regards the whole question is that Company construction and management, which arose in England under very special circumstances, came to India quite as an accident, and not that Government, of set purpose and firm policy, wanted Company construction and management. It is worthy of note that the Government of the Southern Presidency at this time asked for an experiment to be made by the State itself without any connection with a Company, to construct, maintain and develop its own railways. The proposals were sent home, but were vetoed on grounds which appear to be more orders than reasons. It was said that such a policy would not invite English capital to India, and also that the Madras Government would not be effectually able to exercise the necessary control from instructions at home while the Court of Directors and the Board of Control could do it better at home. These are the two grounds on which the proposals of the Madras Government were vetoed. It was Lord Lawrence afterwards who wrote a very able minute on the question of Company railway *versus* State railway, strongly advocating the entire reversal of the existing policy and replacing it by a system of State construction and State management. His policy was accepted by the Duke of Argyll and remained in force for ten years. Meanwhile difficulties arose; famine, war, the currency question, the borrowing powers of the Indian Government, all these conspired to make the Indian Government give up the new system and relapse to the old system of Company construction and management. The question of railway policy may be dealt with under two or three heads: absolute autonomy by private agency as in the United States, limited autonomy by such as in England, and entire State construction, State management and State development, as in Belgium and Prussia. I contend that the system obtaining in Belgium and Prussia is the best, having regard solely to public welfare. So far as the system which obtains in India is concerned, it is a mixture of these three systems. It began with Company management, including Company ownership; but the ownership was actual for Companies and potential for Government, and gradually and eventually it has become both actual and potential State ownership, and management is now partly by the State and partly by Companies. I think the time has now arrived for a final decision as to whether this mixed management should be continued at all, and whether a sound State management of all the railways could not be devised. I need not quote any authority for the position I invite Government to assume, but I believe the Special Commissioner for Indian Railways, Mr. Thomas Robertson, recommends, in my humble opinion, by implication, State management. What he

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says is that mixed management is wrong; that we must either go back entirely to Company management or entirely go to State management. I think it is now too late to go back to entire Company management and quite undesirable too, if possible. Elsewhere he says that a State line is an object lesson, and as a model of good management is necessary. Putting the two statements together, I take it that his recommendation is that the State should take the management of all the Indian railways into its own hands. Volumes can be written about this great and important question. I would call the attention of Hon'ble Members to a few points in the Indian railway administration, which I believe, will show that the companies have not as yet achieved and will not, in my humble view, ever achieve all the possible and necessary reform which the State alone can achieve. The management of Indian railways by Companies was never up-to-date in comparison with the advanced countries of the world. We will take a few instances. As regards fares and rates, the same high authority institutes a comparison between fares and rates in England and America on the one hand, and rates and fares in India on the other hand, and says, having regard to the cost of construction and the cost of working, Indian rates are excessively high when compared with the rates in those countries. I may here note that he forgot to take one other important factor into consideration, namely, the purchasing power of money in these three countries. If he had taken that factor into account, he would have found that the rates in India are much higher than he found them to be. Then we have the doctrine about the minima rates. This is an extraordinary doctrine, and is entirely a creature of the guarantee system. Under this system, when any Company thought that it would not get dividends beyond the point guaranteed, or even up to that point, it was not to their interests to so work the Company as to secure a good dividend below that point, because they were sure of the guaranteed proportion from Government, hence the Government in the taxpayer's interest was obliged to devise this means of minimum rates. This unsound doctrine will be wholly unnecessary if Government takes the entire management into its own hands. The next point relates to the establishment of a railway clearing house. In England, the establishment of a railway clearing house has done immense good in saving labour, time and cost, and the saving of the cost was from 30 to 60 per cent. The establishment of a clearing house for railways in this country was once proposed by the Government of India, but the Companies resisted the attempt, and as usual they had the best of it with the Secretary of State. The Secretary of State did not find sufficient evidence to agree with the Government of India, and the proposal fell to the ground. Nothing shows more clearly than this that the Government of India has been on the whole powerless in its relations with the Companies in effecting reforms in the management for the good of the people of India. When railway enterprise began in this country it was under the auspices of the triple government: the Board of Control, the Court of Directors of the East India Company and the Government of India. Occasionally the Board of Control and the Board of Directors were hostile to each other in this connection as in some others, and this was often beneficial to the Government of India. But now the triple agency has become a dual agency, and it is not for me to say wherein lies the greater strength. All that I say is that if the management goes entirely into the hands of the Government of India, the Government of India will have exclusive diplomatic influence with the Secretary of State. At present the Companies have tremendous influence with him and in England generally. The directors and large shareholders are in both Houses of Parliament, and, whether we know it or not, in railway matters between the Secretary of State and the Government of India, the Companies must have and will have the best of it. The entire management by the State will annihilate this incubus of unseen force acting between the Government of India and the Secretary of State in England to the immense prejudice of India.

"The next point I wish to take up, Sir, is Company management in reference to third class passengers. The chronic over-crowding of third class passengers still continues. The condition of the Indian third class passengers from the moment of their attempt to purchase tickets up to the time they alight some-

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where and hand over their tickets is very miserable. The manner in which tickets are issued to them in almost all the stations is pitiable in the extreme. Tickets are issued only a few minutes before the arrival and departure of the trains; many hands are often put forth through the same window at the same time and the issuing clerk beats their hands off often and they cry out 'I gave this money, and I gave that sum.' Ruskin somewhere humorously says that 'Railway travellers are like living parcels transmuted from human beings and they for the time being part with all that is noble in them.' This is literally true of Indian third class passengers. For sitting accommodation and even for standing accommodation they have to quarrel with one another, and the rowdies have the best of it, while the women and children have to shift for themselves as well as they can. Then, if some of these women and children have jewels on their persons their place in the Indian third class carriages cannot be said to be the safest in the world. No sensible Indian thinks of sending his wife or daughter or sister unprotected in the railway carriages. Now this is a state of things which could, and ought to, be put a stop to. The state of accommodation and degree of comforts for third class passengers have greatly improved in several countries where women passengers of third class are attended by women servants with milk for infants and ready to render first aid whenever necessary. Not to mention the dirt and wet and the insanitary condition of third class compartments due to over-crowding, I venture to say that Indian third class compartments are still as far away as ever from the bowers of Paradise Regained.

"Now I come to the first and second class carriages. I cannot for a moment understand why both these two classes exist. There is very little difference between the first class and the second class carriages, and yet the fare for the first class is double that for the second. If the fare for the second class is proper, that for the first class is exorbitant; if the fare for the first class is right, that for the second class is unduly low. And these two sets of carriages are often empty and greatly add to the dead weight of trains, and it is time the second classes are abolished. On the other hand, the third class carriages, by whatever name we may then call them, need considerable improvement from every point of view. To my mind we want another and a cheaper class, a class for labourers in India. This can only be done by Government in public interest because, for some time in the beginning, there may appear to be a falling off in the dividends and no Company will introduce this reform. We want labourers' trains for two purposes, for taking people to short distances during harvest days, ploughing days and so forth from congested portions to portions where labour is needed. We also want labour to be taken from one part of India to another part, say to coffee plantations, tea plantations, etc., on very cheap return tickets. This will also affect the problem of emigration to the West, the Far West and South West. This Railway improvement will put one means in the hands of Government to deal with the problem of emigration in a very satisfactory way. There is, on the one hand, a great and increasing demand for labour by the planting community and other communities, I will say even by the mercantile community in India, and on the other hand, we have people leaving this country and going to places where, if they are sensible, they ought not to go, quite apart from the difficulty and even impossibility of obtaining their legal and constitutional rights there. One way of putting a stop to this kind of emigration or diminishing it seriously will be to create such easy rates as will induce these people voluntarily to go throughout the length and breadth of India and enable them to return to their homes when there is no work for them. This will also do away with the special legislation already secured still often demanded by planters.

"The most important point I wish to call attention to is that State Railways will be the means of providing employment for a large class of the people of India, educated, semi-educated and not at all educated, to a degree which the Companies have not thought of and never will think of. This is a very important aspect of the whole problem. It would be highly beneficial to the whole country economically and I would even say politically. We have often heard

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it said that it is dangerous to leave educated people and half-educated people unemployed. Now this is a department which answers the purpose very well. The discipline there demanded is inferior only to the discipline demanded in the Army and the Navy. The discipline to which these people would be subjected if they wished to remain in the department would be highly beneficial in developing their moral character. That is one gain in itself and a very great gain. On the other hand it will also develop talent in the highest degree, administrative talents to which no Royal Commission, no witnesses before them, need object because it is highly non-political. Being non-political, I certainly ask for a system in which the people of this country, of every race and creed, including the domiciled community will have opportunities for finding food, and what is more important, for finding an outlet for the play and development of their talents to a very remarkable extent. We have heard of American railway kings; apart from the abnormal influence which they exercise, their talents are developed to a degree seldom reached by a President. They have got so much room to develop talents, notwithstanding American railway policy is a vicious system. I do not ask for the introduction of the American vicious system of railway management, nor do I call for the creation of railway magnates and kings such as they have in America and due in part to the very vicious system there, but native talent will be developed to a degree hitherto not attained generally in this country if the present mixed and unsatisfactory policy is abandoned. Company management will not provide for such play and such development for the children of the soil. I again repeat that, when I say children of the soil, I include all those who are resident in India whether or not they are the natives thereof. Now this vital aspect of the future railway policy cannot be lost sight of, and must occupy a prominent place in the reference which I ask Government to make to the Commission.

"I forgot to allude to the doctrine of risk note. I have never been able to understand it. The Railway says 'if you give me certain rates I will be responsible for due delivery, but if you give me inferior rates, I will take your things to be carried, but if I lose them or damage them I will not be responsible.' The custom in most other countries is more natural and equitable. It is that for reduced rates they give guarantees up to a particular stage, for higher rates they give more. But in India they would give none at all for inferior rates.

"Another aspect is this: rates fixed hitherto were often influenced by rival doctrines and rival policies between Chambers of Commerce in India. My belief is that Indian railway management has not yet been affected by general public opinion at all; but to a very limited extent only by Chambers of Commerce. In Prussia and some other places they have advisory boards to work along with the Minister for Railways; advisory boards representing every industry, such as agriculture and mining. These representatives form together advisory boards, and in consultation with these advisory boards the Minister of Railways works with the latest and freshest ideas ever in public interests, and the result has been stated to be in the highest degree satisfactory. Only the other day one of the prominent Ministers in England, Mr. Lloyd George, praised the system in Prussia to an extent which I have never before read.

"I think, Sir, it is possible to adduce more points and more arguments in support of my position. But all I pray for at present is to ask for a Commission to examine the whole question.

"I do not at all ask that the lines I have indicated should form the basis of a policy to be adopted by Government at once. I ask only that a Commission with a full scope of reference ranging over the whole policy of railway administration may be appointed. This Commission will have a hard task and will have to examine the whole railway administration from varied stand-points. The future of railway policy, if I may venture to predict it, will be

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exclusive State management and development *plus* District Board Railways of local interest on gauges of 2' or 2' 6", and small feeder lines of *swadeshi* enterprise, a rupee enterprise, if I may say so. This will, I believe, be the future of Indian railway policy. Sir Francis Spring who is the author of 'District Board Railway cess' and of an excellent pamphlet on light railways is responsible for the statement that the future of all Indian railways would be trunk arterial lines *plus* light feeder lines of local interest to the District Boards. But in Southern India, which is the pioneer of these District Board Railways, there is a very strong feeling against District Board Railways being constructed and managed by Companies. A cursory inquiry there would show that they distrust Companies. What they want is management by themselves or management by Government. As for management by themselves they have not got sufficient number of trained men, and that is due to Indian railways having been hitherto managed by foreign Companies. That feeling against Company management is very acute, and being so very acute the District Board, are unwilling to hand over the monies which they have got into the hands of private Companies. I believe, Sir, Hon'ble Members must have noticed that when Mr. Priestley came over last year or the year before and visited various centres in Southern India, in view to secure the moneys and co-operation of District Boards, everywhere he met with resistance. Tanjore, Salem and a host of other places—everywhere he met with resistance, and the Madras Government is quite convinced that there is a strong genuine feeling against Company management in the case of District Board Railways.

"Now it is often said that Hindus, and when I use the term 'Hindus', I mean the natives of this country—the Hindus bury their moneys and eat up their gold moneys—that is the latest story. Therefore you must create, wherever you can, such a policy as will make them trust you and decline to eat and decline to bury their money and invest it in these undertakings. But if you continue to leave this policy still in the hands of private Companies, I am afraid the burying and eating, at all events the story as to eating, will go on.

"There is only one more point to allude to and I have done. I have not been able to have access, now, at all events here to the literature on the subject in possession of Government of India from the time the railway policy was introduced in India in 1843 or 1844 up to the present day. But among the file of the literature you will find Minutes and Despatches strongly advocating State management, State construction and State development to the exclusion of private Companies. I respectfully submit that, for all these reasons, I have made out a sufficient *prima facie* case for an inquiry to be instituted by a Commission."

The Hon'ble Maharaja Manindra Chandra Nandi of Kasimbazar :—"Sir, Railways in India play a large and important part in the affairs of the country and their smooth working is a matter of the most vital public interest. Railway strikes in recent years have been reported from different parts of India. It is not very long ago that a strike on a large scale occurred on the East Indian Railway and the resources of the Administration were taxed to the utmost to prevent a deadlock. An independent inquiry by a Commission seems to be called for in the interests of the Railways themselves.

"The latter part of the Resolution recommends that the Commission should be instructed to report on the advantages and disadvantages of Government management of Indian State railways and development of future railways by Government itself. These are also large questions and may well form the subject of inquiry by such a Commission as has been suggested by the Hon'ble Mover of the Resolution. While the Council is not asked for an expression of opinion on the cause of the strikes or the management of the railways, it is asked to recommend an inquiry into the whole question.

"I beg to support this Resolution."

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The Hon'ble Mr. Abbott :—" I beg to give my emphatic and whole-hearted support to the first part of the Hon'ble Member's Resolution. I am sure I am voicing the desires of the whole of my community throughout India. The results should give the public an opportunity to judge whether the employers or the employés in the late strike were to blame and further the Commission might suggest some means to prevent strikes in future which affect the employé as much if not more than the employer.

" I regret I am unable to support the second part of the Resolution. The splendid management of the Great Indian Peninsula and East Indian Railway Companies in many respects might be followed with advantage. Besides it would be interfering with private enterprise."

The Hon'ble Sir T. R. Wynne :—" I have listened most carefully to the Hon'ble Member's speech, particularly with reference to the reasons he gave in support of his proposal that Government should appoint a Commission to investigate the cause and attending circumstances of the late strike on the Madras and Southern Mahratta Railway and other strikes about the same time on other Railways.

" The assumptions underlying the proposal would appear to be from what the Hon'ble Member said, that the Railway Administrations concerned were somehow responsible for having brought about the strike, that an inquiry would show in what manner they were to blame and would enable Government to insist on better treatment in the future. In other words, the Hon'ble Member apparently thinks that, if his proposal was accepted, India would have practically solved the problem which no other country has yet been able to settle, namely, the prevention of strikes.

" As a preliminary it would be useful for Hon'ble Members to recollect what was actually the extent of the strike on the Madras and Southern Mahratta Railway. It was not a strike of the whole of the staff employed on that Railway. It was confined to a section of the Railway and to the men of one Department only.

" Now, as a means simply of ascertaining the causes of the strike, there is no need for a Commission. The Government of India and the Railway Board were in closest touch with the Agent of the Madras and Southern Mahratta Railway and other lines affected, both before the strike occurred and during the period the strike lasted. The commercial community of Madras, who being on the spot, had special opportunity of knowing both sides of the case, fully supported the Railway in resisting the strike.

" Sometime before the strike occurred, there had been indications of some trouble on a section of the Madras and Southern Mahratta Railway. I myself went down to Madras personally to discuss the matter with the Agent of the Company. He invited representatives of the working men of each department to meet him, and he discussed their grievances with them. He met them as far as he could, and in fact treated them with every consideration. Just before the strike took place, it appeared that differences had been adjusted and were in course of settlement, and there was no reason to anticipate that any strike was likely to occur.

" Now, if the men were suffering from legitimate grievances which they could not get remedied, the presumption is that the whole of the staff on the Railway would have struck. This, however, did not happen. Only some of the men in one department struck and not all of them, and as they were all working under the same conditions of service, it is clear a good portion were quite satisfied with their treatment by the Railway.

" The strike on the Madras and Southern Mahratta Railway was, I have no doubt, largely influenced by the example of the latest development of labour tactics in other countries, namely, a large combination of labour striking in sympathy with the object of paralyzing the trade of the country and so

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enable the strikers to demand any terms they liked, reasonable or unreasonable. When men in different classes of trades and employment will join in such a movement, it is called 'Syndicalism.' After the strike had begun, the employés of most of the Indian Railways were also asked to strike, and it will be recollected that the men on other lines, except those of the Great Indian Peninsula and Bombay, Baroda and Central India, with sound sense refused to be drawn into the movement, and on these two lines the sympathetic strike was partial only and confined to sections and soon terminated. A Commission would secure very little information on this point, as the evidence would not readily be forthcoming.

"Yesterday I was reading in the English *Times* a very interesting account of the recent strike in South Africa. Dealing first with the cause of the strike the writer said 'the ostensible *casus belli*, the alleged grievances of the railwaymen was a mere side issue.' It was precisely the same in reference to the Madras and Southern Mahratta Railway, the men had had their grievances inquired into and remedied as far as possible, and a certain number of them were unwise enough to strike for other reasons than to secure the removal of alleged grievances. They were the unfortunate pioneers of syndicalism in India.

"In the circumstances I have detailed, there would seem no object in appointing a Commission of inquiry to ascertain the cause of the strike. Such an inquiry would not elicit more information than we now know, and it would most certainly revive feelings which have now subsided and arouse antagonism between the men and their employers for whom they are now willingly working, and this could only lead to future misunderstandings.

"I now have to deal with what I imagine to be in the Hon'ble Member's mind, namely, the idea that an inquiry would enable a scheme to be propounded which would prevent strikes in the future.

"While interference by Government in the relationship between employers and employés, whether by direct action or by means of a Commission appointed by Government, may sometimes be necessary, it must be remembered that it must always be a very serious matter which is bound to have far-reaching effects. And I would point out that the Railway Commission on Railways now sitting in England is expressly precluded from considering in any way the relations of Railway employés with their employers. As illustrating this point, I would refer to recent events in England. Some two years ago there was a threat of a general Railway strike. Government intervened, wages were increased, but the price paid was that Government had to undertake to bring in a Bill in Parliament authorizing Railways to raise their rates to cover the extra expenditure Railways had to meet in paying higher wages. Though the strike was staved off for a time, the Railway situation in England is still at the present time anything but satisfactory, but trade had paid a considerable price for Government interference in the higher Railway rates which are now being levied.

"Besides this risk Indian trade would have to face, if this Commission was appointed, I am of the opinion that instead of preventing strikes in the future such Commissions would tend rather to encourage their repetition.

"Every class of employment always has grievances. No Commission of inquiry could make recommendations for settling grievances, some of which for financial and commercial reasons could never be removed. But a Commission such as proposed which is very liable to act on the principle of compromise would in all probability recommend that certain concessions should be given.

"What would then happen? If a Commission was appointed to inquire into one strike, it would have to be appointed to inquire into every strike. The employés of other railways would at once realize that a new way of dealing with strikes had been introduced which was very much to their advantage. They would see they ran very little risk in striking as they

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would at once be offered a Commission of inquiry as a bribe to resume work, out of which they would be sure to get something.

“ In other words, to agree to Mr. Achariar's proposal would tend to weaken dangerously the control of railway employes by their own Administrations and to centre it in Commission which would determine all conditions of employment and pay and which would be demanded on threat of strike or by actually striking whenever the men thought they would like to see if they could get better terms. This would be a most serious state of affairs, and matters could never be allowed to drift into such a position.

“ There is certainly no need to run these risks in India without absolute certainty that they would be compensated for by other much greater advantages none of which can I see. India, at the present time, is a country in which strikes are very few and far between, and I see no reason to anticipate any change if Railway Administrations are not interfered with unduly.

“ In the matter of preventing strikes the world has so far not discovered any method of preventing strikes. Conciliation Boards were introduced some seven years ago in England, but railway employes have now given notice to terminate the Agreement. Legislation has been tried in several countries, but this has not prevented strikes occurring. The latest method employed in South Africa, based on first principles, has certainly rapidly stopped a strike, but it is doubtful if it is applicable to other countries.

“ Employers and employes will always have different views about pay and conditions of work, and the advice given by His Excellency the Viceroy, when replying recently to an address in Madras, seems to me to indicate the line of action which is most promising of good results.

“ His Excellency's advice was that, if employers and employes would cultivate a better understanding with each other and endeavour fully to appreciate the grievances on one side and the difficulty which sometimes exists in removing them on the other side, we should hear less of strikes.

“ I can assure Hon'ble Members that Railway Administrations in India are only too anxious to cultivate this better understanding, and are doing their best to keep in close touch with their men and treat them with fairness and consideration.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ Sir, there are two aspects of the question which has been raised by this Resolution, one dealing with the prevention of strikes, and the other the question of the nationalization of railways to a larger extent than is the case at present. So far as the first part is concerned, *i.e.*, an inquiry into the strikes which have taken place with a view to preventing strikes in the future, the matter stands on a footing very different from the other part, which involves a larger question of policy. With regard to the question of strikes, with due deference to what the Hon'ble the President of the Railway Board has said, I would point out that the necessity for an inquiry does not cease to exist because the strikes have been brought to an end. The Hon'ble Member has said that feelings have been buried and it would not be right to revive them; but I am not quite sure that he is right in assuming that the feelings which have been buried have been extinguished. It is well that for the time being the trouble has been got over, but there is nothing to show that similar trouble may not arise at any moment in future on any railway, and we all know what an immense amount of inconvenience it causes to the public when a strike is proclaimed. The remarks which the Hon'ble Mr. Abbott has made in this connection are worthy of consideration. There are two parties who are primarily concerned in a strike, the employers and the employes; and the fact that in other countries great difficulty has been experienced in finding a solution which would be satisfactory in putting an end to such strikes is not an argument for not taking any action in this country on similar lines. On the contrary, it seems to me to be a very strong reason why some action should be taken, particularly so because at the

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present time there is no strike anywhere in this country, and if a Committee is appointed, it could weigh the matter calmly and make recommendations which would be likely to satisfy both employers and employed—which would show to the persons employed on railways that they have a reasonable and satisfactory means of having their grievances considered and remedied by the intervention of the Government without exposing themselves and the public to loss and inconvenience by adopting such a procedure as the Committee may recommend, and this would lead to an effectual preventing of such strikes in future to a larger extent than is considered probable at present. I do not claim that the appointment of a Committee and the recommendations which it might make will altogether prevent the formation of strikes; but what I do claim is that the recommendations may go a long way to effectually put an end to such strikes in a larger measure than can be hoped for in the absence of such recommendations.

“As regards the other question, the question of the greater nationalization of railways I submit, Sir, that that is a matter which deserves the best consideration of the Government.

“In this country, happily, the Government has long been alive to the importance of this question; it has from the first taken enterprise in matters of railway largely in its hands and has done a great deal to nationalize railways. Most of the existing railways have either been constructed directly by the Government or through companies guaranteed or otherwise assisted by the Government. Under the power which the Government reserved in the latter cases, it has already purchased many lines. But the management of such railways is still entrusted to companies, and they take away a good deal of profits as surplus profits. The question is when the Government has found all the money for the Railways and is able to command all the resources of skilled labour and expert advice and supervision which are necessary for the management of railways in a satisfactory manner, why the State should not get all the profits which are derivable from railways? Already these profits form a very considerable part of our budget; and as time goes on, this is one of the most important and growing sources of revenue which ought to be secured to the people in its fullest measure. The companies have done their work; we are thankful for what they have done; there is no occasion to quarrel with the past. Every administration has to go through its history; and the administration of the Government of India, so far as railways are concerned, has had to entrust a good deal of this work to companies hitherto; but now, when the Government is so well organized, and when it is able to command not only all the necessary capital, but all the expert advice and labour, it seems, Sir, that the time has come when all the larger lines which have not already been taken up by the State should be gradually so taken up, and all the lines which belong to the State should be managed by the State. There is a movement in many countries towards the complete nationalization of railways; and India, being situated as it is, with its Central Imperial Government over Provincial Governments, which have got their own complete organizations and their separate revenue requirements, it is essential that the Central Government should have certain sources of revenue, which should be all its own. The revenue from Railways is one of the most improvement of such resources; and the securing of it in its entirety to the Government is a matter which should receive the approval of the Government, and should be worked up to in a larger measure and more assiduously than it has been up to the present time. The disadvantages inseparable from the management of railways by companies, which my Hon'ble friend the Mover of the Resolution has referred to, are obvious to all Members of Council and I need not dilate upon them; but there are some points to which he has drawn attention, which do require a little emphasizing; among these is the management of these railways by companies members of which, forming their Boards of Directors, have a voice in the direction of affairs in England, either in the Houses of Parliament or elsewhere. Now, Sir, the interests of the people who use railways and of the State which owns them are very different from the

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interests of third persons, intermediaries, who run the railways as mere managers, and who are interested in them mostly for the profit which the management brings to them. If the State manages these railways by its own agency I am certain, nobody will dispute the proposition, that there will be greater disinterestedness shown in earning profits without causing inconvenience to the public, and greater willingness in showing regard for the convenience of the public than can be reasonably expected where railways are managed by persons interested to receive a share of the profits. My friend has referred to the case of third class passengers. There is a cry which has gone on for several decades now ; something has been done, but a great deal yet remains to be done. I am thankful for what has been done. The arrangements that have been introduced are satisfactory so far as they go ; I do not mean to say that nothing has been done. But I submit that if the State managed its railways, probably the efforts that have been made in the direction of promoting the convenience of third class passengers would have been much greater than they have yet been. This and other questions will receive the consideration of the committee, if one is appointed ; and its recommendations cannot but lead to satisfactory and beneficial results, both in the interests of the State and of the people.

“ With regard to the question of feeder lines, we ought to remember that India has now—thanks to the impetus which the Government of India has given and is giving now—progressed and is progressing in many directions. There is a desire in several parts of the country to develop these feeder lines, where that can be done. But here again, as it is the people who contribute to the profits of the railways, it is desirable to secure that these profits should go back to the people, through the Government or a local or district Board, by the railways being owned by district boards and not by private companies. Looking at the question from every possible point of view, so far as the people are concerned, I submit that it will be entirely advantageous for the people and for the State that railways should not only be owned by the State, but also managed by it ; and that where the State does not take them up, they should be taken up by district boards and not by private companies. The matter seems to me to be of sufficient importance to require a commission being appointed, on which Indian interests will be more fully represented than was unfortunately the case with many commissions and committees appointed in the past, so that the interests of the people who are vitally interested in the working of these railways should receive full consideration.

“ With these words I commend the Resolution to the acceptance of the Council.”

The Hon'ble Mr. Surendra Nath Banerjee :—“ Sir, I beg to support the Resolution which has been moved by my friend, the Hon'ble Mr. Vijayaraghavachariar. One of the objections urged by the Hon'ble the President of the Railway Board against the appointment of a committee of inquiry into the matter of the strikes is this: that, if a commission were now to be appointed and were to institute an inquiry the result would be that feuds which are now buried would be raked up, and an element of irritation and bitterness introduced into railway discussions and controversies ; but I think we may look at the question from another point of view. There are no strikes now ; we are living in quieter times ; excitement is slowly dying out ; but strikes in the future are inevitable, strikes here, strikes in Europe, strikes in America. Labour is organizing itself. Capital has already been splendidly organized. The tussle between capital and labour is one of the certainties of the future. That being so, is it not wise at a time like this of comparative quiet and tranquillity, of comparative freedom from excitement, to appoint a committee which will go into the whole question, and make recommendations which may possibly help to avert strikes in the future. The Hon'ble the President of the Railway Board has referred only to one strike, the railway strike in connection with the Madras and Southern Mahratta Railway. But

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we are also aware of a great strike which took place a few years ago, a strike of portentous proportions; and therefore it seems to me that having regard to the fact that these strikes are inevitable certainties of the future, that we should organize the forces of peace in these quiet times to avert their recurrence. It seems to me a conclusive argument in favour of the appointment of a committee to inquire into these strikes.

"As regards the second part of the Resolution, Sir, I will say this at once, as a personal idea, but an idea which has been formed after deliberation, and after considerable personal experience. I am decidedly in favour of State-managed railways. I am a daily passenger by one of these Railways, and I know it very closely; I mean the Eastern Bengal State Railway. I also know something about another railway managed by a company; and if I were asked to distinguish between the two, if I were asked as to which I should prefer, I should unhesitatingly point to the Eastern Bengal State Railway as the distinctly better one. In point of efficiency of administration, in point of responsiveness to public opinion, in point of the greater and wider employment of our countrymen in the railway administration, the State-managed railways are to be placed upon a higher footing than the company railways. The reasons are obvious. Companies want to make money, and why should they not? They are here for money-making; we ought not to object. They have a particular object; the Government has a totally different object. The first consideration of the Government is public convenience. Finance is subordinated to public convenience; finance is a consideration occupying an inferior status as compared with public comfort and convenience. Therefore when the conflict is between dividends on the one hand and public convenience on the other, I am perfectly certain that the Government would give preference to the latter. Therefore it seems to me on principle that it is desirable that railways should be managed by the State; and the principle is corroborated and confirmed by what we see before our eyes. Look at the Eastern Bengal State Railway, with the administration of which was connected Sir Henry Burt, one of the ablest railway administrators that we ever had, whom I am happy to find as a Member of the Railway Board now. The Eastern Bengal State Railway became under him as popular a railway administration as any railway can be; and it still maintains its popularity. I think there are more Indians employed on that railway than there are on other railways.

"Sir, I think that greater attention is paid to the comfort and convenience of passengers on that railway than on other railways. Here we have a concrete fact before our eyes. Therefore I say, having regard to the fact that Government will be very responsive to public opinion, that Government will give wider employment to the people and that Government will prefer public convenience to dividends, I unhesitatingly declare myself in favour of the State management of railways. I do think that a commission appointed by the Government of India on this matter would clear up the question. I venture to say that it is to the interests of the opponents of this motion that a commission of this kind should be appointed. The representatives of Company-managed *versus* Government-managed lines should favour such a commission. They would go into the whole question of the disputed merits of the controversy, the atmosphere would be cleared by an independent committee like this, and having regard to all these circumstances, I strongly support the Resolution of my Hon'ble friend."

The Hon'ble Rai Sita Nath Ray Bahadur :—"Sir, I do not oppose the motion of my Hon'ble friend. But with reference to the concluding portion of his Resolution, I must candidly own that I cannot appreciate what the precise drift of his Resolution is, whether he wants to impress us with the idea that in view of the better management of State-owned Railways by Government (which is indeed a moot point), the development of future railways should be left to Government and to Government alone, and that private enterprise in a matter like this should not be countenanced in this country; if that be his view, I

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regret I cannot acquiesce in such a proposition. Sir, it is true that in India the State-owned Railways are in some respects superior to private railways. It is true that by reason of having unlimited resources at their back, the State Railways are better equipped, better manned and have much larger rolling stocks than those possessed by private railways, and as such are better fitted to cope with traffic than private railways. True it is that private railways with a view to secure larger dividends to shareholders are liable to be a little more economical, though not parsimonious, in the management of their respective lines, but economy is hardly exercised at the sacrifice of efficiency, and it does not follow that the management of every State-owned railway by Government is better than that of every private railway, at least that is not the experience of the country with respect to the premier State-owned railway, I mean the East Indian Railway, and its management would not have been left in the hands of a syndicate. But whatever be the character of private management, whether good, bad or indifferent, and whatever be its advantages or disadvantages, it is too late in the day to preach that the promotion and development of all railway enterprises should be left to Government and Government alone, and that private parties and syndicates should have nothing to do with them. What would have been the state of the country if such a policy had been adopted, and followed from the very beginning?

"It is indeed very lucky that there was no one bold enough to preach such a proposition when the first sod of earth was cut and sleepers laid on the ground for the East Indian Railway and the Great Indian Peninsula Railway. Who started those two big railways which traverse the country from one end to the other and which have annihilated time and space and provided such wonderful facilities to the travelling public? What would have been our fate if we had to rely absolutely on Government and Government alone. Almost all the railways, big and small, that we see in India, were originally promoted and started by private syndicates, but subsequently became State property by lapse of time, and even now all the large and important railways are owned absolutely by private syndicates. It is private enterprise alone which has done so much to develop the several feeder lines which are now spread over the country like a network and which are indeed a great blessing to the country. These feeder lines are not only a great convenience to the public, but go a long way to swell the income of the main lines. In this connection I may incidentally inform my Hon'ble friend that the first Railway wholly owned and managed by Indians, I mean the Bengal Provincial Railway, was promoted and opened about 30 years ago, by some of my friends and relations, but it is to the energy and enterprise of that well-known firm of Martin and Company of Calcutta that we owe several feeder lines in Bengal, Bihar, Orissa and elsewhere, which have all proved remunerative and at the same time useful to rural areas, and I say it would have been well nigh impossible for Government to provide all the money required for the several feeder lines already opened and for others that we so badly want, without starving other important departments and works. As a matter of fact, Government is always slow in making up its mind for a new enterprise, and the invariable plea is that there is not enough money to spare and it never sanctions a feeder line in obscure and distant rural areas.

"It was only the other day that the Sara-Serajgange Railway project was launched by Messrs. Gillanders Arbuthnot with a capital of 75 lakhs of rupees, and it was a firm of Indian capitalists, Messrs. Khetra Mohan Day and Company, who a few months ago opened a feeder line called the Jessore-Jhenida Railway line. There is no place so badly off in point of railway lines as Eastern Bengal, but we are glad that a private syndicate has matured a project for starting a line to pass through Mymensing and Dacca. I do not like to weary the Council by citing other instances, in which private enterprise alone has come forward to do the needful. Does my friend think that it would be to the advantage of the country to go without these lines and wait till the Government could make up its mind and find money for these and other lines which the country so badly wants?

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"One Hon'ble Member was good enough to observe that the construction of feeder lines should be left to the District Boards and that they should find all the money necessary for such purposes. Now, I ask, have they money enough for such purposes? Have they money enough even to carry on their legitimate works? I mean the construction of roads and excavation of tanks for the benefit of those from whom they have been raising road and public works cesses. It is not possible for our countrymen to raise money at such a low rate of interest for construction of railways as English capitalists can do. However, it is not desirable that in the matter of railways every thing should be left in the hands of the Government and Government alone. In my opinion it is very desirable that in a matter like this private enterprise should be encouraged. As to the advantages and disadvantages of having railways managed by Government, I may mention that just a few minutes ago, I heard that in a State-owned line the servants were not so accommodating as the servants of a private line would be. In a private Company line they try to secure the sympathy of the people, whereas in a State-managed line they can afford to be indifferent, for they are not so much interested in seeing whether good dividends are returned or not. The general impression is that private railways give more employment to Indians than the State lines do."

The Hon'ble Srijut Ghanashyam Barua :—"Sir, I rise to offer a few observations. The railway strikes are now more or less matters of the past. Apparently some inquiry was made into them by the Government at the time and the matter was settled. When the Hon'ble Mr. Achariar asked a question about this at the last Simla session the Hon'ble Sir T. R. Wynne declined to publish the correspondence on the subject between the Government and the companies as being confidential. If some details are desired to be kept confidential, I don't think we have much reason to press for a further public inquiry now or rake up an unpleasant incident of the past. We may at least wait till some other strikes occur to urge that question. For the present we may take the matter as it is—there were strikes and there must have been facts in connection with them which are better not published. So we had better let the matter alone for the present.

"Independently of that portion of the Resolution and independently of the details which led to the strikes, the latter part of the Resolution raises an important issue which, I think, deserves the careful consideration of the Council. Sir, the railways of India have formed, I find, the largest business concerns of the Government. They absorb the largest outlay of productive capital of the Government and enormous numbers of people in the different parts of the empire are employed on them. They control the largest amount of traffic in the country and they are used by all classes and grades of people. On all these considerations they deserve the greatest care of the Government and the direct superintendence of the Government also. The question of railways being brought under State management was indirectly brought before the Council in the budget debates of 1910 and 1911, and now it comes directly. In those debates the Hon'ble Mr. Gokhale ably pointed out how the budget estimates of expenditure were in some years heedlessly exceeded, the excess sometimes running up to millions. He also pressed and tried to show that, for the sake of economy as well as for greater control, it was desirable that the railways were brought under direct State management. In the course of those discussions the Hon'ble the President of the Railway Board said that the interests of Government in the six largest railways was a hundred millions as against only twenty millions held by the companies. That may, I think, be taken as the approximate ratio generally. He also admitted, with reference to the question of the employment of Indians on these railways, that Government had not much control in the matter. He said, 'on companies' railways it is a matter for them to deal with as Government has not much power in that direction.' To a layman, Sir, these statements would appear to be somewhat strange. The fact that the

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partner who owns five-sixths of the capital should be at the mercy of that owning the other one-sixth for management and results would appear, in itself, to be somewhat preposterous. The claims of economy and the possibility of a wider field for the employment of Indians are in themselves considerations of great importance which should weigh with the Government. India is every day rising to new aspirations for the growth of which the credit and glory belongs to the benign British rule; and the Government should now have as much field in its own hands as possible to give adequate response to these aspirations. Railways form an important department in which there is much for the Indian to do as yet. In addition to these reasons, the strikes furnish another potent reason why the Government should take the management of railways into its own hands; for they only indicate that in their dealings with their employes also the companies have sometimes been found to be unsatisfactory. I think such strikes would not have been possible if the management rested with Government. So I think, Sir, mere capitalism should no longer be allowed to hold sway, and therefore, that a thorough consideration and investigation of the subject is necessary. I beg to accord therefore, my strong support to the latter part of the Resolution."

The Hon'ble Sir Fazulbhoy Currimbhoy :—"Sir, I rise to support the Resolution, but I do not agree with the Hon'ble Mover about the second part of his resolution. I wish therefore he would divide his resolution into two parts. As to the first part of the resolution about strikes, I fully agree with him, and my Hon'ble friend Mr. Malaviya has fully explained how the inquiry is essential. Now as everything is quiet now and there are no strikes, and in future we are bound to have strikes as there will always be a fight between capital and labour, this is the time when the inquiry should be held. Therefore I agree with the first part of the resolution. As regards the second part, as I have just stated, I do not agree with the Hon'ble Mover's views. I think that in a country like India, which is as big as a continent, the whole administration in one hand will not be easily manageable. Furthermore, as my friend Mr. Sita Nath Roy has said, Government will not be able to get all the capital at once to start new railway concerns. Therefore I think that all the railways ought not to be State-owned, but that private enterprise with capital raised in this country should be encouraged. As we find on the Bengal side Martin & Co., on our side we have got Killik, Nixon & Co., and there is another native Indian company starting a railway. These companies with Indian capital ought to be encouraged all the time. Now that Indian capital is coming out to be invested in railways, I think that ought to be encouraged by Government. With regard to company-managed railways which are owned by English capitalists, some of these are nicely managed; but the State also manages its railways well. I must point out one thing and that is, as Mr. Achariar has said, that English companies have got a predominant influence in England. I have heard that the Chairman of the Railway Companies, on the 28th October last, waited on the Secretary of State with certain recommendations. We have not yet received any detailed report. In that way the railway companies in England have a great influence with the Secretary of State, and they will always have an advantage and discourage the idea of having more State railways. These railway companies are also trying their best in India now to have the feeder lines or what are called subsidiary railways, in their hands. To this I strongly object. For these reasons I think the investigation will have good results, and on these grounds I beg to support the Resolution."

The Hon'ble Sir Gangadhar Chitnavis :—"Sir, however much I may sympathize with the Hon'ble Mover in the first part of the Resolution, I do not agree with him as regards the second part. I do not see how I can support Mr. Achariar when all this means large expenditure for Government and consequent taxation. The State has to find money for Education and Sanitation and many other desirable objects. People are pressing

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upon Government for more urgent reforms. It would be impossible for Government to spend money on all these things if private companies do not share their burden in railway development. It is fortunate that Railways now pay some interest on the capital money invested, but there was a time when they were unremunerative; and much money would have been lost and the country starved of many desirable improvements if all that money had gone towards the construction and management of railways. If there is to be progress in the country we must have private companies to come forward and assist Government in all these matters. State monopoly leaves no room for a healthy competition so very necessary for efficient and successful management."

The Hon'ble Rao Bahadur V. R. Pandit :—" Sir, I wish to offer just a few remarks on this Resolution. With regard to the first part of the Resolution, it is admitted by most of the Hon'ble Members who have spoken that the existence of these strikes shows clearly that there existed grievances which the employés have felt, and the appointment of a Commission, such as is suggested, will enable the public to realize whether there had been any real grievances which required removal and was not removed by the railway companies.

" Nobody expects that by means of a commission these conflicts between capital and labour, which are becoming more and more frequent, would cease, but none the less it is necessary that the points of difference should be reduced to a minimum and the chances of these strikes with the general dislocation of traffic and great inconvenience to the public at large should be rendered extremely remote. On this ground, therefore, I support this part of the Resolution as the inquiry into the causes of the strikes will throw a light on the steps that it is necessary to take in order that these conflicts and the resulting inconveniences should, as far as possible, disappear.

" With regard to the second part of the Resolution, I am afraid, Sir, many of the Hon'ble Members seem to feel as if they must give their decision on the issue as to preference in public interests as between the management of railways by companies and management of these railways by the State. As I read the terms of the Resolution it does not ask Hon'ble Members of this Council to commit themselves to one view or the other, but only desires that the Commission which should be appointed should deal with all evidence that it may be possible for the Commission to collect and then give the advice that would be best in the interests of the country.

" Sir, the question of the great good that has been done by railway companies supported by foreign capital is one on which we cannot have two opinions. Every one must realize the enormous good that has been done to the country by private enterprise in these matters, but it is not necessary for us for that reason to admit that at no time will the management of these companies cease to exist and that the State may not intervene in the public interest. On the contrary, as far as I understand the position of the Government of India, the contracts which are entered into by these railway companies are terminable at a certain period and the Government has the option of taking the railway management of a particular line into its own hands after the expiry of that particular period; but even after that period, it often happens that the Government again entrusts the management of the line to the same or another company. The question raised by this Resolution is one, I think, relating to this class of cases. It is not intended by this Resolution to interfere with the existing arrangements between Government and the companies, but it urges only that as the terms fall in it may be carefully considered beforehand whether it is desirable that Government should undertake the management by its own agency or whether the management should be entrusted to companies in order that they might exploit the railway for their own benefit.

" Sir, the question of railway management has been brought up in one form or another several times before the Legislative Council and Hon'ble Members have given expression to the views as to the influence which railway

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companies, having a directorate at home, are able to exercise over the authorities who have the final say on this matter, and that such an influence is prejudicial to the interests of the people of India and, therefore, to those of the Government of India. The Government have realized the necessity for exercising control over these companies and they have created a Railway Board which has for several years past been under the able presidency of the Hon'ble Sir Trevredyn Wynne, who himself as Agent of a Railway Company knew all the ins and outs of company management. It appears that, in spite of all the earnestness which the Government has evinced in the object that the public should be properly served by these railways, the Government have found themselves unable to do much, and times out of number when questions have been addressed to the Government on the subject of certain inconveniences suffered by the public or certain autocratic acts of the railway companies, the Government have replied that the action complained of was within their competence and Government could not interfere. It appears also that the railway companies themselves have been fretting against the control of the Railway Board and, as was elicited in the course of a discussion which took place in the Council with regard to the object of Lord Inchcape's mission, one of the objects of that mission was to smooth over these difficulties and create a better understanding between the Railway Board and the companies. From all these points of view it seems a Commission, such as has been proposed by the Hon'ble Member, would serve a useful object, and we shall be in a better position to understand what really would be in the best interests of India in the management of these railways where the State can step in and manage. There would also be a lot of subsidiary advantages to which allusion has been made by Hon'ble Members, and I do not wish to repeat them.

"On these grounds, Sir, I think that this Resolution should commend itself to Hon'ble Members of this Council, and if the Hon'ble Member in charge of the Department of Commerce and Industry will only emulate the Hon'ble Home Member and make this day a day of acceptance of Resolutions, I, along with other Members of this Council, will be grateful to him."

The Hon'ble Mr. Clark :—"The Hon'ble Member's Resolution proposes the appointment of a representative Commission to inquire into two matters, first into the causes and the attendant circumstances of the strike on the Madras and Southern Mahratta Railway and the other strikes of last year, and secondly into the system of railway management in India, the Commission being also instructed to include in their report their views and recommendations as to the advantages and disadvantages of Government management of Indian State Railways and as to the policy to be pursued in the future. What strikes one primarily about the Resolution is a certain disproportion between the two subjects which the Hon'ble Member wishes to see entrusted to this Commission, and though he has argued his case with his customary ability, he has scarcely, I think, even attempted to remove the impression that these two questions are not such as could suitably be submitted to one and the same Commission of Inquiry. The first inquiry, the inquiry into the causes and circumstances of the railway strikes of last year, would presumably be in the main a *quasi-judicial* investigation into matters of fact. The second opens up a very large and controversial subject which has been debated ever since railways came into being, which is still the subject of argument in many parts of the world, and on which diametrically opposite opinions are held by acknowledged experts in railway management. It embraces many weighty issues, over and above that of the handling—important as that no doubt is—by a railway administration of its operating staff, through which alone it would appear to be connected with the first inquiry recommended in the Resolution. The most obvious criticism therefore of the Hon'ble Member's proposal is that, apart from any other objections which there may be to the inquiries which he wishes Government to undertake, there would be considerable practical objections to combining them and entrusting them to one and the same Commission. The proposal, too, over-

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looks one very important factor. The investigation in regard to railway strikes in India is a matter in which, if the Government of India thought it expedient, they would have full power to appoint a Commission. The investigation in any form of Company *versus* State management of railways is a matter in which the Government of India is subordinate to the Secretary of State, and in regard to which we could not appoint a Commission of our own authority—which is what the Hon'ble Member asks us to do—though of course we could, if we thought it desirable, recommend the appointment of such a Commission to the Secretary of State. I think it will be convenient therefore to treat the Hon'ble Member's two recommendations as distinct proposals and examine them separately.

“My Hon'ble Friend, the President of the Railway Board, has already explained to Council how very little justification exists for appointing a Commission of Inquiry to investigate the strikes of last May and June, and I do not propose to take up the time of Council by going over the same ground. He has referred to the influences which contributed to the state of unrest subsequently culminating in the strike, and has related the steps taken prior to the outbreak to remedy any legitimate grievances of the men. He has explained how Government and the Railway Board were in close touch throughout with the Railway Administration. He has also stated very conclusively the risks which would be inseparable from the institution of such an inquiry, especially the danger of excessive interference between the Railway Administrations and their men, which cannot but tend to the relaxation of discipline. Lastly, he put before the Council some general considerations on the wider question of the prevention or settlement of industrial disputes. In this connection he has explained what perhaps is not sufficiently appreciated by those who have no direct experience of the working of our railways, how much care is taken by the railway administrations to keep in touch with their men and to anticipate reasonable and legitimate grievances. I may mention that I took advantage of the recent Railway Conference in Simla to discuss this question very fully with the representatives of some of the different Railway Administrations, and I can entirely confirm what he has said upon the subject. I venture to hold that the arguments against the appointment of a Commission on this matter are conclusive. I think it must be recognized that a very strong case indeed would have to be made out to justify disinterring the bones of a controversy which have now been buried for several months, and if the Hon'ble Member will forgive my saying so, he seems to me quite to have failed to adduce any such case. On the other hand, the objections to reviving the matter now, to stirring up again feelings which have been lulled long ago, are patent. I must ask Hon'ble Members to be satisfied with the assurance that in the judgment of the Government of India, formed after keeping themselves in the closest touch throughout the period of disturbance with the administrations of the Madras and Southern Mahratta Railway and other Railways concerned, and after study of the reports—much of them necessarily confidential which they have received since, no good purpose could have been served either at the time or now by any public investigation into what occurred.

“I rather gather from his speech that the Hon'ble Member is not altogether disposed to accept that assurance. He thinks that Government should have been ready to give publicity to the papers relating to the strike as he asked us to do in a question put in Council last September. I think we may fairly claim—as my Hon'ble Colleague Sir Harcourt Butler, said the other day when the same point was pressed in another connection—that it has not been our practice as a Government to make undue and unnecessary difficulties about taking Hon'ble Members and the public into our confidence. But we must also claim the right, as the Executive Government, of using our discretion in deciding when it is, and when it is not, expedient to lay papers, and we should clearly be failing in our duty if we were in any degree to abdicate our right in this respect.

“I do not overlook the further issue to which several Hon'ble Members, especially the Hon'ble Mr. Banerjee and the Hon'ble Pandit Madan Mohan

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Malaviya, have referred, that the deliberations of a Commission of the kind need not be restricted to the past, but that it could also be invited to make recommendations in regard to the prevention of strikes in the future. I should be the last person to underrate the importance of minimizing the risks of interference with the transport trades, whose effective working is of such vital importance to the whole community. The last few years have seen in other Continents—Europe, America and more recently in South Africa—a sudden outburst of industrial unrest. There has been much talk of a new weapon by which labour is to obtain the mastery—great combinations of all forms of labour which, by a simultaneous strike, or by a series of sympathetic strikes, will paralyse society and enforce the grant of all working-class demands. We have seen the thing attempted; sometimes on a large scale, sometimes in relatively small areas; sometimes with partial success; more often with complete failure. During the same period there has been prolonged unrest on railways in the United Kingdom, culminating in one very serious strike. All this has been a very natural cause for anxiety and it is not surprising that that anxiety should find its reflection among many minds in India. But we must not lose our sense of proportion. When we look at the actual facts in this country, we find that Indian railways on the whole have been singularly free from industrial disturbances. We find that the strike of last year rapidly failed; that the attempt to engineer a sympathetic strike only affected in a relatively minor degree the railways in immediate contact with the Madras and Southern Mahratta Railway, and was treated with contempt by the men on more remote lines who gave most satisfactory proof of their loyalty and good sense. I hope Council will not think that I am attempting to minimize the seriousness of what took place; every strike must involve losses and inconvenience to the commercial and travelling public; but in what occurred there were no features of an abnormal kind which would demand the institution of a special inquiry with a view to preventing the recurrence of similar disturbances in future. The history of the various measures which have been tried in other countries for the prevention or rapid settlement of strikes—Conciliation Boards, Trade Boards and the like—have been carefully watched by Government. It is perhaps not fully realized how doubtful is the applicability of these measures to India in its present stage of industrial development—or for that matter how inconclusive are the lessons to be drawn from the experience of their working in other countries. The organization of labour stands in this country at a very different degree of development to what it has attained in the West. It may be almost certainly laid down that it would be premature to endeavour to institute in India any elaborate machinery for the investigation and settlement of industrial disputes on the lines of what has been gradually evolved in other countries as the outcome of a highly developed organization of labour machinery which is only adapted to, and which is dependent for its successful working on, that same high degree of development. Moreover, as I have said, the experience of Western countries is in itself inconclusive and peculiarly so at the present moment. The Conciliation Boards established on English railways by the agreement between the railway companies and the Unions in 1907, though they do not deserve to be written down a failure quite so readily as is sometimes averred, have not availed to prevent strikes of the most serious nature, and though their machinery was revised and improved four years later, it is doubtful whether they will be renewed when the term of the original agreement runs out. The whole question therefore is largely in a state of flux. A Commission appointed now in India to examine the question would not have at its disposal conclusive data on which to base recommendations, and I feel very doubtful whether it could produce any considerations which have not already been very carefully reviewed alike by Government and by the railway administrations. Few people are altogether exempt from the temptation to regard Commissions of Inquiry as a panacea for all human ills. There is a certain plausibility about the request that large and important questions affecting widespread public interests should be examined by this particular machinery, and

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the results of the examination duly enshrined between the familiar blue covers of our official publications. But I think myself that we should be chary of initiating investigations unless there are good reasons for believing that practical results will be achieved of benefit to the State, and I cannot feel that the inquiry now proposed would in the circumstances be crowned with this desirable outcome, while it would inevitably be attended with obvious disadvantages and risks. I cannot therefore accept the Hon'ble Member's recommendation.

"I turn now to the Hon'ble Member's second request, namely, that a Commission should be appointed to inquire into the existing system of railway management in India and make a report thereon, at the same time reporting their views and recommendations as to the advantages and disadvantages in the public interests of Government management of Indian State Railways and of the development of future railways by Government itself. In other words, the Commission, I take it, is first to subject our present system of managing Indian Railways to an investigation comparable to that undertaken so recently as 1901 by the late Mr. Thomas Robertson, with whose Report Hon'ble Members are no doubt familiar. It is further and more especially to devote its attention to the question of the rival merits of Government and Company management, a question which, it may be remarked, was also dealt with though somewhat cursorily by Mr. Robertson. I noticed, by the way, that the Hon'ble Member managed with considerable ingenuity to ascribe to him almost diametrically opposite views on this subject to those which he expressed in his report. Lastly, it is to report on the advisability of 'the development of future railways by Government itself', a phrase which I have found somewhat obscure, for if it were to be decided that State management is preferable to Company management and that the working of our existing railways should be gradually transferred to the State, it would naturally follow that the future development of our lines would also have to be carried out by Government. I cannot help thinking that there is some little confusion in some quarters as to the true position of existing railways in India, which does indeed present some unusual features; and as it is important to understand the precise nature of the alternatives which we are discussing, I will, in as few words as possible, explain to Council the nature and growth of our present system.

"As is well known, the first railways constructed in India were built between 1850 and 1869 by companies under contracts with Government which guaranteed to them a fixed interest on their capital; and they were also given their land free of charge. Under all these contracts the State reserved the power to purchase the lines at the end of 25 or 50 years and at one or other of these periods has in every case exercised this power. In 1869 the State intervened more directly and undertook the construction of railways by Government officers and for the next ten years all new lines were constructed in this manner. In 1879, however, companies were again allowed to enter the field and from that year till the present time the construction of railways has been carried on, partly by the State, and partly by companies with capital raised partly by Government and partly through the agency of Companies. A great majority of the lines taken over by the State were leased to the then existing companies and have continued to be worked by them; but three important lines, the Sind-Punjab and Delhi, which has since developed into the North-Western, the Oudh and Rohilkhand, and the Eastern Bengal, are worked directly by the State administration. The only lines of any magnitude which are not owned by Government are the Southern Punjab and the Bengal and North-Western, but of these and also of the branch line companies Government holds the right of purchase at certain dates. The actual position, then, is that Government either owns or can become the owner of all the important railways in British India, and that of those which it does own, it works three itself, representing a total mileage of some 6,800 miles and has leased the remainder to companies representing a total mileage of some 18,200 miles. But its responsibility does not end there. Under its contracts with the Companies the State undertakes to supply the Companies with capital. The raising of capital by the Companies themselves is also provided for, but the amount so furnished represents relatively a small

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proportion of the whole. The contracts also give the State power to require the Companies to carry out alterations or improvements in the line or in the working such as may be thought necessary for the safety of the public or for the effectual working of the line, and the rates and fares charged are subject to maxima and minima fixed by Government. The relationship between the State and the Companies is, in fact, not unlike that of a partnership, in which the State, having in the past provided the bulk of the capital and still providing the bulk of what is now needed for the extension of the business, is the senior, and the several Companies the junior, partners. This, of course, is a very different position to that which usually obtains in a country where railway management is left to private enterprise. In India private enterprise has never been independent of State control in the sense in which it has been independent, for instance, in the United Kingdom. In the very beginnings of railway development in India, in the year 1853, Lord Dalhousie recorded a minute embodying this governing principle of the maintenance of control in the hands of the State, to which, whatever other fluctuations of railway policy there may have been in the past sixty years, the Government of India have steadily adhered. 'I heartily trust' he wrote 'that the East Indian Company and the Government of India may hold by the principle on which they have acted in the present case. I trust they will ever avoid the error of viewing railways merely as private undertakings, and will regard them as national works over which the Government may justly exercise, and is called upon to exercise, a stringent and salutary control.' This control should not be an arbitrary right of interference, but a regulated authority defined and declared by law, which is not to be needlessly or vexatiously exacted, but which in my humble judgment is necessary at once for the interests of the State and for the protection of the public.' The fact that that principle has been steadily maintained, means that any discussion of what is loosely termed nationalization of railways, starts from very different data in India than in most other countries where railways are managed by private enterprise. Far the greater part of our railways are in one sense of the word nationalized already in that they belong to the State. Those which are worked by companies are subjected to a far greater measure of control than is usually associated with working by private enterprise. What the Hon'ble Member's Commission would have to examine would be not nationalization as it is usually understood—but the somewhat simpler problem of whether, as opportunity offers, the sphere of company working or the sphere of working by the State should be extended.

"I have called it a somewhat simpler problem but it still remains one of great complexity and difficulty. Let us consider what the factors would be which a Government would have to pass in review before coming to a decision. First there would be the problem whether company working or working by the State is *per se* the more economical and efficient. That is not a question which can be solved merely by contrasting the cost of haulage on the different lines or by comparing the relative proportions of working expenses to gross revenue, other factors have to be taken into consideration, such as the relative difficulty of the country through which the railway runs, the relative facilities for obtaining fuel and its cost; the relative productivity and wealth of the areas served. Then the comparative advantages and drawbacks would have to be examined of the operating staff being State servants or men employed by companies on the usual terms of service offered by commercial corporations. Very important questions of finance also arise, questions which the Hon'ble Member treated with a disregard only equalled in its magnificence by the disregard meted out to them by the Hon'ble Mr. Banerjee. On the one hand it can be urged that if the State were to make over the working of all our lines, the cost of the upkeep of the Companies' Boards in London would be saved and the State would secure for itself the full profits instead of having to share them with the companies. But it has to be remembered on the other hand that the companies afford valuable assistance to the Secretary of State in the raising of capital, and that if their lines were taken over, the capital which they have already raised would have

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to be repaid, thereby throwing a heavy strain on the resources of the State. Again the pros and cons would have to be examined of an argument which is perhaps that most commonly brought forward in favour of the State management of railways and is one which naturally carries considerable weight in a country like India, which is still in process of active development. It is urged that cheap and rapid communications being one of the most important factors in the economic advancement of a country, the control of railways in respect of rates and fares should not be left in the hands of Boards of Directors, who are bound to regard primarily the interest of their shareholders. Reductions in rates, it is claimed, should be given freely in order to stimulate growing industries or to promote the agricultural development of backward areas. In India at present, in these as in other matters of railway policy, our system represents a compromise between completely nationalized railways and private enterprise entirely independent of the State. The State has prescribed maxima and minima rates and fares within which the companies are free to charge what rates they please, and, it should be said, the Companies have by no means shown themselves neglectful of commercial interests. But if rates were to be fixed primarily and mainly with a view to promoting commercial and agricultural interests, and without regard to railway revenues, a large decline in receipts would almost certainly have to be faced; nor will it be easy to estimate how far the indirect gain to the country as a whole will outweigh the direct loss to the revenue.

"Now, the Hon'ble Member who moved this Resolution did not attempt to deal with these questions critically. In his desire to prove that the Company system is altogether bad he seemed to me to go a great deal further than he intended. He framed a very strong indictment against our railways. He attacked them for their policy in regard to rates and fares, for their treatment of third class passengers, for failing to employ Indians to the extent that they should, for using the risk note, and for neglecting the German system of having Advisory Boards. I do not propose to dwell at length on his criticisms, although I am very far from endorsing them and think most of them were extremely unfair to the railways. But the question I would like to ask him is—does he think that under the existing system all these strictures are only applicable to Company-worked lines? I should be very glad to receive his endorsement of our policy on State-worked lines; but we ought to be fair to the Company-worked lines; and I do not think that in these matters of rates and fares, of treatment of third-class passengers, etc., State-worked lines are at present worked on any different lines of policy to the Company-worked lines. As to the employment of Indians at the present moment there are 589,000 employes on the Indian railways and out of that number 571,000 are Indians. That is a proportion in which Company-worked lines, of course, have their share as well as State-worked lines. And as to Advisory Boards the only railway in India which has instituted an Advisory Committee is the East Indian Railway, a Company-worked line.

"I have touched very lightly on these points because it seemed to me that it might be useful to indicate the nature of some of the main issues that arise on this difficult problem, which just now is receiving so much attention in India as in the rest of the world. It would be entirely outside the scope of this debate if I were to attempt to offer, either personally or on behalf of Government, any opinion on the merits of these conflicting considerations. What Council is debating to-day is merely whether or not a Commission should be appointed to examine the whole question. From that point of view it may be urged that the very complexity of these issues renders them such as might well be investigated by a Commission; that now is the time to appoint one; and that in so doing we shall only be following the lead of the United Kingdom, where a Royal Commission was recently constituted to inquire into the relations between the railway companies of Great Britain and the State. But this view of the matter neglects some important considerations. Firstly, as I have already explained, this is a matter in which the Government of India is

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subordinate to the Secretary of State, and we could not on our own authority appoint a Commission such as the Resolution contemplates, though we could, of course, if it seemed to us expedient, recommend its appointment to the Secretary of State. But apart from this, there are still further objections. In India the relations of the State with the companies are governed by contracts which neither party, of course, has power to modify during the currency of the contract. The question therefore whether the State should or should not take a larger share in the working of Indian railways can only become a live issue as and when the existing contracts with the railway companies fall in. The first of these, that with the East Indian Railway does not determine till 1919 and those with the other major railways fall in at different dates between 1925 and 1950. It would thus in any event be premature for a Commission of inquiry to be appointed at the present moment. The question of the policy to be pursued when the contracts begin to fall in will have to be determined with a very close regard to the financial and economic conditions of the time. For the State to embark on a policy of universal termination of the contracts would involve enormous expense in buying up the Companies interests, which it might be quite impossible for it to face. This aspect of the case would be one for the Secretary of State and the Government of India to determine and no general pronouncement by a Commission appointed in India could be of much assistance in regard to it. The Hon'ble Mr. Achariar will perhaps be inclined to agree that at any rate there is no harm in taking up now the more purely railway aspect of the question and endeavouring to arrive in advance at provisional conclusions. But thus to anticipate matters is surely not practical politics. It cannot be contended that there is any immediate urgency for wholesale change. The Hon'ble Member himself can scarcely deny that our existing system has its practical advantages. It affords the State valuable assistance in the provision of capital for our railways. It enables Government to keep in its own hands the management of those lines which for strategical and other reasons it is most desirable that it should control closely, and to maintain an adequate training ground for its railway officers, while avoiding the burden, which might prove excessive, of the management of all the railways of India. Government do not for a moment under-rate the intrinsic importance of the question which the Hon'ble Member has raised. It is one which is exciting great interest ; which is likely to arouse increasing interests as time goes on ; and it is one of the most momentous economic and financial questions which the Secretary of State and the Government of India will have in the future to decide. What means they will adopt to assist them in arriving at a decision, is not for me to anticipate ; but the question in any event cannot be decided now, and that being so, and in view of the other considerations I have mentioned, I cannot accept the Hon'ble Member's Resolution.

The Hon'ble Sir Ibrahim Rahimtoola :—" Sir, I have carefully listened to the very able exposition of the whole question which the Hon'ble Member in charge has given, of the subject-matter of the Resolution under consideration. It is perfectly true that it would have been preferable to have divided the resolution in two distinct parts, and it would then have been possible for the two questions to have been fully discussed in regard to the merits of each. I do not propose to deal with the first part. I wish to confine my observations to the second part only ; and even in regard to that, I do not think it is possible within the time which is allowed under the rules to do full justice to it. I will therefore deal only with some salient points that arise in the discussion of this question. The first point I shall deal with is the one made by the Hon'ble Member in charge, namely, that this Government cannot appoint a commission of this character without the sanction of the Secretary of State.

" I will say with reference to this that it is being felt very keenly by some of us, that in important questions affecting the economic and industrial development of this country, we are always met by this argument, that nothing can be done because the Secretary of State has got to be referred to, and is unlikely

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to allow it. Sir, I had given notice of a resolution asking that the power vesting in Parliament in fiscal matters should be transferred to the Government of India."

The Hon'ble the Vice-President :—" Order, Order ! 'The Hon'ble Member is not in order in referring to a resolution which has been disallowed."

The Hon'ble Sir Ibrahim Rahimtoola :—" I bow to your decision ; but I am comparing the answer which the Hon'ble Member has given to-day to the one received by me, because the point at issue is identically the same. If you rule me out of order on the point, I will submit ; but I venture to point out that the time has come when we desire that this excuse which is constantly brought forward of the domination of the Secretary of State should have lesser value, in view of the fact that these Councils are now enlarged and their scope is widened. We all desire that India should advance as rapidly as possible, economically and industrially. I thought, Sir, that a resolution of this kind would have been welcomed by the Government of India, because it shows that the non-official Members of this Council have such great confidence in them and in their management, that they bring forward proposals asking that greater power and control be given to them. I thought it should be regarded as a high compliment by the official members of the Government of India, that we call for the management of railways to be taken away from the managing companies, and to be handed over to them. Sir, the reasons for this demand are obvious. The trend of educated public opinion in India is daily becoming more alive to the desirability of advancing India, economically and industrially ; and I will point out to you, Sir, how I regard the present question as directly affecting the matter at issue. It was only this morning that the Chairman of the Railway Board said in answer to an interpellation that the railways are worked on a commercial basis. That would be so, if they were entirely owned and worked by managing companies without Government control. But in the case which we are considering, the State owns all the trunk lines in India, consisting of about 25,000 miles, while they manage only a quarter of the same. The figures are 6,800 miles owned and worked by the State, and 18,200 miles owned by the State and worked by managing companies. It is in order that the 6,800 miles which are now being worked by the State should be gradually increased so as to ultimately embrace the whole area of railway administration, that we are pressing the latter part of the resolution. It is in regard to those lines which are at present owned by the State and which may be acquired by them in future that we desire a commission to be appointed now, in order that the Government of India may be in a position to come to a definite decision on the matter before 1919, when the first of the present contracts falls in. Sir, in view of the fact that a reference must be made to the Secretary of State under existing conditions, it stands to reason that about a year will elapse, if the resolution is accepted to-day, for the Secretary of State to signify his assent, if he is so inclined, to the appointment of such a commission, and it is reasonable to expect in view of the complexity of the points raised by the Hon'ble Member that the commission will take about two years to come to a definite decision in the matter. That would take us to 1917.

" If I mistake not, the contracts provide that a notice of two years should be given to terminate the same. It will therefore be in 1917 that Government will have to give notice if they want to terminate the contract with the managing company referred to by the Hon'ble Member, which holds the contract up to 1919. It will be obvious therefore that the resolution is not a day too soon, if the question has to be considered, it has got to be considered now, and the reference to the Secretary of State must be made at once

" It is hardly correct to say that the managing companies should be allowed to work on a purely commercial basis. It has to be remembered that the railways in India are practically a monopoly of the State and if the managing companies are allowed to exploit the concerns purely on a commercial basis,

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they can draw at the expense of the country a huge revenue by raising the rates of carriage, both of goods and passengers. This would mean a heavy load of indirect taxation in which the managing companies would substantially share. The question of rates as affecting the Indian manufactures in the interior of India has also a most far-reaching importance on the industrial development of this country. In answer to a question which I put at the Simla meeting of the Legislative Council, the Hon'ble Chairman of the Railway Board placed on the table a large pile of books containing the variation in rates which had been made during so short a period as five years. I should like to know why so many changes are being constantly made by Managing Companies in the scale of rates for the carriage of goods. This point alone is worthy of careful investigation. Surely it is not all due to the desire of making the largest amount of profit, though that may be one of the objects. What we are concerned with is the effect which such frequent changes in the rates has upon the industrial development of India.

"Speaking of the profits made by Railways in India it is a significant fact that while, in the year 1910, the share of the Managing Companies in the surplus profits amounted to Rs. 50 lakhs, it rose to Rs. 84 lakhs in two years, *i.e.*, in 1912. All this goes to swell the profits on the comparative small share of capital they have invested in the railways. This point leads to the question raised by the Hon'ble Member as regards the financing of railways in India. It is contended that the Managing Companies help to find the capital required for railway purposes. In the first place I should like to point out that the total outlay on railways as shown in the administration report of 1912 is 352 millions out of which Government have provided 334 millions and the Managing Companies only 18 millions. Surely, if India has been able to find 334 millions out of 352 millions in effecting the purchase of these lines, it ought not to be difficult to find the remaining 18 millions, which would be ultimately required to pay off the Managing Companies. But apart from this aspect of the question, it is necessary to consider whether it will be possible for the Government of India to so enlarge their borrowings as to meet the growing demands of the railways in India. Personally I have no doubt that the credit of this Government is sufficiently strong to enable it to secure all the capital it may need. But assuming for arguments' sake that such is not the case, and that there is a given limit to their borrowing capacity, which cannot enable them to meet all the demands of capital made upon them, then there is to my mind a simple remedy in their hands. The extent of a Government's power of borrowing depends upon the security it has to offer and the rate of interest it is willing to pay. The Government of India is committed to a rate of 3½ per cent and it is just possible that the amount of capital available for investment at this rate may fall short of the amount required. Under such a contingency they have an obvious remedy. As I have already said the rate of interest depends upon the class of security which is offered. The security which this Government offers for its loans raised at 3½ per cent is the revenues of India. With such a security the rate offered is a good one, but if that does not bring in sufficient capital it is open to them to borrow at a slightly higher rate on the security of the railways in India. The Government of India cannot raise its rate of interest on Government paper, but there can be no serious objection to paying 4 per cent for the capital required for railways if the security is restricted to railways only. If a man holding Government paper and shares wishes to borrow on the security of each, he will have to pay a higher rate on the latter than on the former. There is no reflection involved in the payments of a higher rate of interest on a security which stands on a lower standard. Let us examine whether under existing conditions this Government secures all the capital which is found by the managing companies at the rate which they themselves pay, namely, 3½ per cent. If they did, there would be some justification in the contention advanced by the Hon'ble Member. The fact, however, is that they pay a considerably higher rate. The Managing Com-

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chariar.]

panies supply the capital required in two ways, namely by the issue of shares and by the issue of debentures. In not a single case, as far as I am aware, the rate of interest on the debenture debt is less than 4 per cent. In the case of shares the dividends are even higher. In two years alone, the share of surplus profits paid to Managing Companies has risen from 50 lakhs to 84 lakhs. On the whole I think I am right when I say that the actual rate which has to be paid on the capital found by Managing companies is much in excess of 4 per cent, the rate at which this Government can, in my opinion, borrow more than their requirements and on the security of the railways alone. The investing public are fully cognisant of the magnificent asset India holds in its railways, and any amount of capital would, I think, be readily forthcoming on such security. Surely, India does not need middlemen to be able to borrow at comparatively high rates and accept company management in the bargain.

"I cannot deal with all the points raised by the Hon'ble Member in charge. Whether State management will be more economical and more efficient may well be left for determination by the commission of inquiry which we ask for. It should, however, be pointed out that Government should feel gratified that we, the non-official members of this Council, come forward spontaneously and urge that we have greater confidence in State management than in company management. In regard to the various other complexities to which our attention has been drawn by the Hon'ble Member, I could give a complete answer, but the time-limit imposed does not permit it. That the question is a complicated one we all admit, but that is a strong reason in favour of the appointment of the commission as the Hon'ble Member himself admitted, and I trust it will still appeal to him to accept the latter part of the resolution.

This morning, when Mr. Rayaningar's resolution was accepted, we were told that Government were quite willing to accept resolutions which were moderate and reasonable. When I look at the second part of the resolution I cannot but feel that it is of the utmost moderation and reasonableness. It merely asks for the appointment of a Commission which would consider and report whether, in public interests, the future policy of Government should be one of management of railways by the State or by Managing Companies. The resolution does not recommend any definite line of action. All that it asks for is that, having regard to the complexities involved and to the far-reaching effects on the industrial and economical development of India through the medium of railways, a comprehensive inquiry should be undertaken to investigate the advantages and disadvantages of railway management by the State as against Managing Companies. The materials can be made available, and the difficulties are known. All that is needed is that a Commission of this character should be appointed and that the matter should be threshed out exhaustively in all its details. I cannot understand why Government should oppose such a resolution.

"I hope the Hon'ble Mover will ask that his resolution should be put to the vote in two parts separately, so that the non-official view in regard to the second part may be definitely ascertained. Sir, I feel that India is fast awakening to the necessity for the advancement of its material prosperity through industrial development. I trust that, when we come forward in this Council to ask the help and assistance of our Government in our endeavours to advance India to a higher degree of prosperity, such help and assistance will be readily forthcoming.

The Hon'ble Mr. Vijiara^ghava^gchariar :—"Sir, I am on the whole thankful for the light thrown and the criticisms passed on the Resolution and on my statement made in support of it not only on this side of the table, but also on the other side. I regard the opposition of the Hon'ble Mr. Sita Nath Ray as exceedingly interesting. He has promised not to oppose my motion, but he has traversed all my reasons and substituted his own. I have no objection to this course, and I shall be content with his vote, while his reasons and mine may both go forward to the Commission that

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they may examine them and decide on the comparative validity and soundness thereof. The Hon'ble Sir Fazulbhoy Currimbhoy accepts one part of my Resolution, but declines to support the other; his statement seems to be that this is a big country, and that therefore the suggested management by the State cannot be conveniently undertaken. I respectfully submit, Sir, that it is because this is a very large country that I ask Government to undertake the whole management. In the matter of railway policy over-centralization is not a fault, but it is a great merit. We all know of the difficulty as regards passengers, freights, etc., from multiplicity of agencies and through a want of uniformity and continuity of railway policy. Government management will have all the advantages of a federation of railways in this Continent of India and Burma without the disadvantages of a combination or competition of private trusts as in America. The Hon'ble Sir Fazulbhoy Currimbhoy has given no reasons why railways in a big country like this cannot be managed by Government. Let him compare the systems in force elsewhere. Let us take Germany. There State management was initiated by Prince Bismarck, and his one great object was not only to run and manage all the Prussian railways by the State, but acquire gradually all the railways of the other States which form the States of Germany. We have this example before us. There is nothing in theory against it, and I ask, therefore, that in this one matter of railway administration not only is it not objectionable, but it is very desirable that it should be exclusively in the hands of the Indian Government; it will be so much to the advantage of the public. It is true that the question of gauge is not before us, but the occasion may arise, if we have regard to what is looming in central Asia and Persia, when Government will be called upon to revise its decision as to the gauges of the arterial lines, which decision is now deemed final. It may be obliged to broaden the meter gauge and narrow the broad gauge so as to bring both equal to the English gauge of 4 feet and 8½ inches; but should any such necessity arise for altering the present gauges in the future, it is Government who can best do it both for strategic purposes, as well as for the well-being of the people. The Hon'ble Sir Gangadhar Chitnavis also sounded a note of dissent as regards one part of my Resolution, and his only objection has reference to the cost of the whole business. He says that, but for the Companies India would have been starved. I take a slightly different view; but for the Companies there would have been in existence the present railways and more money in India. My friend forgets that the railway Companies did not pay at all till recently. For nearly half a century they were consuming an enormous amount of money from Government under the system of guarantee, and we would ask those friends who think that India would have been worse if the railway system were not entrusted to Company management in 1845, to study conditions in Belgium. King Leopold, differing from everybody, began in 1833, to construct, maintain and develop its railways out of State funds and as a State monopoly. Let the Commission send out one Commissioner and let that Commissioner go to Belgium and examine the accounts and study the system, and then compare that system with the system of Company management in India, and then if my friends will also take the trouble to collect the necessary statistics and find out how much money was spent by the Government by reason of the guarantee system and put that to ordinary interest at 6 or 4 or 3½ per cent, the huge amount lost by Government will convince them that the question put, namely, what would have been the fate of India but for the Companies will answer itself. I think India would be far better off in every way but for Company construction and management.

“Then with regard to the question of borrowing by Companies. I have always thought it an admitted political maxim in India that the Indian Government can borrow more cheaply than any Company. It is admitted over and over again that the credit of the Government of India is very high, in fact one of the highest in the world, and in any market it can command money to a degree which no private Company, unassisted by the Government and without the guarantee of the Government of India, can command.

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“ It has also been urged that the question raised is premature. This point has been well answered by the Hon'ble Sir Ibrahim Rahimtolla; and I thankfully accept his view. In this connection I will answer another question put by the Hon'ble Mr. Clark. He asks me whether I really meant to say that Company management is worse than State management. Hon'ble Members will note that in my statement I instituted no comparison between the two kinds of management. I purposely avoided doing so for the very simple reason that what I ask for is not to be based upon the quality of management reached as yet by the State in India. The State policy is only a continuation or survival of the Company management. Moreover the State management is side by side with the Company management and the surroundings, the bias from the surroundings, the administrative proscription and general other circumstances combine and act like an incubus over the present State management. Therefore I carefully avoided making any comparison between management by State and management of private agencies. It may be the State management is better or, is now equal to Company management, but what I would ask is that to fully understand and appreciate the superiority of State management, the question should be studied in other countries as well and not in India alone, as to its present actuality and as to its future possibilities. I would therefore again refer to Prussia which can be taken as a model, and my authority is Mr. Lloyd George, the distinguished Chancellor of the Exchequer, not to speak of others. What is needed, therefore, is a Commission sufficiently strong and representative which will take evidence not only here, but will also study the systems obtaining elsewhere, such as Prussia and Belgium. To say that this is premature is not meeting the case at all. By the time Government is in a position to buy up the ownership of any particular railway, or when the lease as to the management of any railway expires, and even long before that time we all know influences arise elsewhere. Not only do influences arise, but rivalry between various Companies starts. We all know of such a state of things as to the old Madras Railway Company which was killed by superior rival influences in London. So the question is not, I submit, premature and it may be soon too late. What I would submit, is that Government should arm itself with a bedrock of railway policy to be applied at all times whenever the occasion may arise so that existing companies may know what will be their fate when the time comes and they will at once adapt themselves accordingly. In the meanwhile whenever Government has money and whenever it can borrow money with advantage, it can buy shares available in the market. The result will be that the shares of the Company will come gradually in the hands of Government long before the time fixed for the expiry of the leases, and when the contract terminates there may be hardly anything left for Government to buy. Therefore, a policy which can be applied at any time is what is needed in the interests of the people of this country. The Hon'ble Mr. Clark said that I used some ingenuity in quoting Mr. Thomas Robertson as authority in my favour. Let us see if this is so. I will allude to two remarks. At page 26 of his Report dealing with Company management versus State management, this is what he says,—‘The State-worked railways afford an excellent opportunity to the Government of holding them up as object lessons to all other railways of the best practice in railway management. If they were ever used in this way the argument would be a very strong one for their being worked as State railways, but I am of opinion that the retention of the North-Western State Railway alone would be sufficient for this purpose.’ So that he does not ask us to take any Company-managed railway as a model for State railways. He in effect says, ‘take a State railway; retain the North-Western Railway as a model’. Elsewhere, on the same page, he says. ‘It would seem clear therefore that the two systems should not both be in operation in India, and that the Government should either work *all* the railways as State railways, or, lease them *all* to Companies to work.’ From these two statements it is evident that the special commissioner for Indian Railways is, unconsciously it may be, for State management of *all* Indian Railways. At any rate I am entitled to this interpretation and deny there is any ingenuity in my interpretation. Where does the fallacy, if any, lie? I am aware of none and none has been pointed out.

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"I think it is plain, as I said, that although he writes as an advocate of Companies, by necessary implication he is an advocate of the system of management by Government. He says, 'have one management, give up the Companies or give up the State management.' He also says, 'take the State management as the model.' I deny that it is ingenuity; I say it is common sense to say that he means State management is the best. Why did he not recommend a Company managed line as a model for State management?"

"I have the mournful satisfaction to know that my attack on the present management has been controverted merely by judgment but not by facts. The Hon'ble Mr. Clark says I am unfair in my criticism as regards treatment of third class passengers. He does not say that my facts are inaccurate, and what are the real facts.

"Will the Hon'ble Member compare the accommodation provided in third class carriages in India with the accommodation furnished in such carriages in Prussia or even in England? In Prussia matrons attend third class female passengers, with milk and trained in first aid, attend in case of accident, and in England nearly the same state prevails, and it is probably borrowed from Prussia. Here I will take the Hon'ble Mr. Clark to any railway if he will; of course if people know who he is everything will be all right, but I want him to be disguised and come with me and examine the treatment of third class passengers, nay travel with me *inognito*. Very often they are treated like cattle; some of them are even beaten into the carriages occasionally. As to his saying it is unfair, I accept the challenge, but I want the judgment of the Commission as to whether it is unfair, or whether the charge is well-founded and well-sustained.

"Then as to the absence of a railway clearing house in India absolutely no answer has been vouchsafed from any hon'ble gentleman who disagrees with me either on this side or on that side. Mr. Robertson is for such a clearing house, and suggested a Committee to make proposals for the establishment of one. This question of the clearing house alone, in my humble opinion, is sufficient to warrant the appointment of a Commission such as my Resolution suggests.

"My friends, the Hon'ble Sir Ibrahim Rahimtoola and the Hon'ble Mr. V. R. Pandit, have well met the other arguments against the Resolution. The statement that we cannot appoint such a Commission without the authority of the Secretary of State is true. We all know that. I go further and say we can do nothing here in India without such authority. On a previous occasion I said we cannot alter an important phrase in an enactment without the legislative authority of the Secretary of State. I do not see the use of repeating to-day this phase of our Government of India.

"We all know it, but there is nothing to show that the Government of India cannot arm itself before it sends a Despatch on the subject, cannot arm itself with the authority derived from a well-appointed representative Commission who will give them well-reasoned recommendations free from the bias of surroundings, free from administrative prescription and in view to public interest alone. Now this is all I ask for, and the very variety of the highly diversified views from every standpoint expressed to-day on the whole subject, all clearly emphasize the necessity there is for a Commission.

"Then as regards the strike, Sir, the time argument cannot be made use of against me. I sent the Resolution in August or early in September last, I forget the exact date, meant for the Simla session; so if the Resolution is old and under rules and practice allowed to be discussed only now, I cannot be blamed for it. The argument that it is now too late and would serve no useful purpose is untenable clearly, and I am entitled to have my case met in the same way as if the Resolution were allowed to be moved in Simla in September last. My complaint still is that there is great mystery about this matter. Information is withheld from us and people are making guesses, and I think they are right in giving, in these circumstances, their sympathies to the railway employes. The Hon'ble Member in charge has distinctly told us that, on the whole, workmen in India are well behaved and have no tendencies to socialism, therefore I believe this strike was not due to

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socialistic strikes elsewhere as hinted. Strikes elsewhere are almost entirely due to the progress of socialistic doctrines. My Hon'ble friend has admitted that socialism has not travelled to India; therefore there is some ground for the strike that the people do not know of, there is some other ground than socialism. I therefore respectfully submit that there is nothing for me to withdraw; on the other hand, I press the whole Resolution in the interests of the country. The motion may be defeated now, but it will be the duty of those members who represent the country's interests to bring up the question of the nationalization of the Indian railways over and over again, like the attempt in Parliament to legalise marriage with the deceased wife's sister, until we succeed."

The Hon'ble the Vice-President :—"I will put the Resolution to the meeting in two parts. The question is that the following Resolution be adopted :—

That this Council recommends to the Governor General in Council the appointment of a representative Commission for the purpose of investigating the causes and attending circumstances of the late strike on the Madras and Southern Mahratta Railway and other strikes or threatened strikes about the same time, whether in sympathy with it or due to other causes."

The Resolution was rejected.

The following Resolution was then put to the meeting :—

That this Council recommends to the Governor General in Council the appointment of a representative Commission for the purpose of inquiring into the system of Railway management in India and for making a report thereon with power and instructions to include in their report their views and recommendations as to the advantages and disadvantages, in public interests, of Government management of Indian State Railways and of the development of future railways by Government itself.

On a division being asked for, 19 voted for, and 34 against, the Resolution, the division being as follows :—

Ayes—19.

The Hon'ble Mr. C. Vijayaraghavachariar.
The Hon'ble Mr. Rama Rayaningar.
The Hon'ble Khan Bahadur Mir Asad Ali Khan.
The Hon'ble Sir Ibrahim Rahimtoola.
The Hon'ble Sir Fuzulbhoy Currimbhoy.
The Hon'ble Babu S. N. Banerjee.
The Hon'ble Maharaja Ranajit Sinha of Nashipur.
The Hon'ble Maharaja M. C. Nandi of Kasimbazar.
The Hon'ble Raja Abu Jafar of Pirpur.
The Hon'ble Mr. Q. Huda.
The Hon'ble Rai Sita Nath Ray Bahadur.
The Hon'ble Malik Umar Hyat Khan.
The Hon'ble Raja Jai Chand.
The Hon'ble Sardar Daljit Singh.
The Hon'ble Rao Bahadur V. R. Pandit.
The Hon'ble Srijut Ghanasyam Barua.
The Hon'ble Raja Kushal Pal Singh.
The Hon'ble Rai Sri Ram Bahadur.
The Hon'ble Pandit M. M. Malaviya.

Noes—34.

The Hon'ble Mr. Wynch.
The Hon'ble Mr. Donald.
The Hon'ble Mr. Walsh.
The Hon'ble Mr. Arthur.
The Hon'ble Major Brooke Blakeway.
The Hon'ble Mr. Diack.
The Hon'ble Mr. Laurie.
The Hon'ble Mr. Arbutnott.
The Hon'ble Mr. Rice.
The Hon'ble Mr. Abbott.
The Hon'ble Sir Robert Carlyle.
The Hon'ble Sir Harcourt Butler.
The Hon'ble Sir Ali Imam.
The Hon'ble Mr. W. H. Clark.
The Hon'ble Sir Reginald Craddock.
The Hon'ble Sir Wm. Meyer.
The Hon'ble Mr. Hailey.
The Hon'ble Sir T. R. Wynne.
The Hon'ble Mr. Cobb.
The Hon'ble Mr. J. B. Wood.
The Hon'ble Mr. Brunyate.
The Hon'ble Mr. Wheeler.
The Hon'ble Mr. Enthoven.
The Hon'ble Mr. Sharp.
The Hon'ble Mr. Porter.
The Hon'ble Sir E. D. MacLagan.
The Hon'ble Major-General Birdwood.
The Hon'ble Mr. W. H. Michael.
The Hon'ble Mr. R. P. Russell.
The Hon'ble Mr. Maxwell.
The Hon'ble Major Robertson.
The Hon'ble Mr. Kenrick.
The Hon'ble Mr. Kesteven.
The Hon'ble Sir William Vincent.

The Resolution was accordingly rejected.

[Mr. Surendra Nath Banerjee.]

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RESOLUTION ON THE PROVINCIAL SETTLEMENTS.

The Hon'ble Mr. Surendra Nath Banerjee :—“ Sir, I have the honour to move the following Resolution :—

That this Council recommends to the Governor General in Council the appointment of a Committee of officials and non-officials to consider the advisability of revising the present system of Provincial Settlements between the Government of India and the Local Governments.

“ These Provincial Settlements have been the subject of keen and animated controversy, not only in the public prints but also between the Provincial and the Imperial Governments, and language has been used by the custodians of provincial finance which sometimes have offended against the accepted canons of financial reserve and even decorum. The allegory employed, so ruthlessly employed, by Sir Alexander Mackenzie, late Lieutenant-Governor of Bengal, of the Provincial sheep being thrown on its back, close clipped, and then turned out to shiver in the cold, is a thing which will not be easily forgotten by those who studied the literature on the subject. But perhaps, Sir, this is a matter of ancient history, and ancient history does not recur to the mind, unless facts occur calculated to place the present in line with the past.

“ The present assessments were fixed and revised in 1911-12. The Bengal assessments were revised in 1912. Sufficient time has elapsed, sufficient experience has been gathered, and a sufficient volume of opinion has been formed, to justify the consideration of the question as to whether these assessments should not now be revised. The rapid succession with which the assessments have been revised from time to time point to the conclusion that they are still in the formative stage.”

The quinquennial settlements were revised by Sir Edward Law, Finance Minister, and he sought to invest them with a permanent character. He was only partially successful through no fault of his own, for before long the settlements in Madras, in the United Provinces and in Burma had again to be revised. But Sir Edward Law's settlements were fraught with consequences of the utmost moment. Sir Guy Fleetwood Wilson, from his place in this Council Chamber, declared that the one outstanding lesson of his system was this, that the Government cannot stand still, that the Government in the matter of these settlements must move on. This was also Sir Edward Law's own view; for he was of opinion that his was only an instalment of reform and that further changes were inevitable in the near future. Sir, I will read what he himself said about these settlements :—

I am fully in sympathy with the principle of encouraging the financial independence of the Local Governments.”

“ Mark the words *the financial independence of the Local Governments.*”

The arrangements now made will tend in the right direction. We are perhaps taking as big a step as is for the moment prudent, but I am convinced that we are still a long way off from having attained all our desired results. The whole settlement question will, I anticipate, come up again in a few years, and we may fairly hope that when it does, another considerable advance will be made towards the desired goal.

“ The prophecy came true: in the course of the next seven years another revision was made; the permanent character of the settlements was re-asserted; the Provincial Governments were not allowed to budget for deficits; the contractual responsibility of these Governments was enforced; no Provincial Government was permitted to draw upon its balances or build up an over draft against the general revenues of the Empire; in the last resort a Provincial Government, when it was unable to make two ends meet, was permitted to have recourse to taxation. These were the conditions that were imposed by the Settlements of 1911-12. But there is another side to the shield. A substantial advance was made in various directions and growing shares of revenue were allotted to the provinces. For instance, the provincial shares of the land revenue in the Punjab and in Burma were raised, ‘ Forests’

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was provincialized in eight of the major provinces. As regards Excise, provincial shares were raised in some provinces: in other provinces, they were completely provincialized. In the Punjab, the Provincial share under the head, Major Irrigation Works was raised. In Bengal 'Irrigation' is a losing department, and the Government graciously came forward to share the revenue and the expenditure. All this represented a substantial advance upon the settlements that had gone before. But, Sir, public opinion was not satisfied, and public opinion will not be satisfied, unless and until radical and fundamental changes have been made. My Hon'ble friend, Mr. Sri Ram, has given notice of a motion for raising the provincial share of the land revenues from three-eighths to four-eighths on the United Provinces. Year after year my Hon'ble friend Pandit Madan Mohan repeats the complaint that the Provincial resources of the United Provinces are inadequate to meet the demands of those Provinces. The complaint is universal. The Provinces, be it noted, are waking to a sense of their needs, and, I may add, also of their rights; and they are importunate in their demand that more money should be given to them for the purposes of provincial expenditure. Sir, we gratefully acknowledge the benefactions of the Imperial Government, but they are wasteful and even demoralizing. Educated opinion in this matter is supported by high official authority. Sir William Duke, speaking from his place in the Bengal Legislative Council on the 5th March, 1913, described them as "doles" and said—I quote his words—'We must not look a gift horse in the mouth' and he expressed the hope that we may be saved from the evil consequences attendant upon such doles. Sir, the Provincial Governments are undoubtedly grateful for these benefactions; but these grants, being uncertain and varying in their nature, must necessarily introduce an element of instability into our system of provincial finance; and in the words of Sir William Duke, 'they prevent the development of a progressive policy of provincial finance for the whole of India.' Sir, there is in these doles—I use the word in no offensive sense—that element of uncertainty which contributed to the failure and the unpopularity of the quinquennial settlements. What is needed is that instead of Provincial Governments receiving these benefactions they should have growing shares of expanding revenues until at last a state of things has been established in which the resources of the Province shall belong to the Province, and the resources of the Imperial Government shall belong to the Government of India, there being no divided share. Sir, that is the ideal to which the Decentralization Commission pointed in their report as being an ideal which should be realized within a reasonable distance of time. My Honourable Friend the Finance Minister was a member of that Commission and he signed the majority report. I hope, Sir, that in his present exalted position, with the great power of control he exercises over the revenues of India, he will assert those principles to which as a member of the Decentralization Commission he gave his firm support. I would quote one or two observations of the Decentralization Commission here. They say:

It might also be that the scope of provincial financial responsibility will be directly expanded. For example, irrigation might be made a more entirely provincial item than it is at present. This increase of regular provincial revenue should, in our opinion, be met by gradually provincializing heads of revenues which are now divided, for which the Provincial Government must always be especially responsible, such as Forests and Excise.

"Then the Commission go on to add:—

The above considerations apply to the existing conditions of administrations; but we recognize that the grant to the local Legislative Councils of material control over provincial finance may make it necessary to do away, I emphasize those words—*make it necessary to do away*, as far as possible with the present divided heads and to place some entirely within the purview of the Provincial and some within that of the Imperial Government.

"We have this authoritative expression of opinion by the Decentralization Commission, that, when material control is given to the Legislative Councils, it will be necessary to do away with the divided shares, to place some of the heads of revenue entirely within the purview of the Provincial and others within the

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purview of the Imperial Government. Now, Sir, has not there been material control given to the Legislative Councils since then, and has not there been promise of greater control ?

"The Decentralization Commission submitted their report on the 25th February, 1909. The Legislative Councils were expanded and reconstituted in January, 1910, and since then another notable advance has been made. The Government of India, in its despatch of the 25th August, 1911, has held out to the people of this country in prospect the inestimable boon of provincial autonomy. With your permission, Sir, I will read the words of the despatch in this connection,

Nevertheless, it is certain that in the course of time, the just demands of Indians for a larger share in the Government of the country will have to be satisfied, and the question will be, how this devolution of power can be conceded without impairing the supreme authority of the Governor General in Council. The only possible solution of the difficulty would appear to be gradually to give the provinces a larger measure of self-government, until at last India would consist of a number of administrations, autonomous in all provincial affairs, with the Government of India above them all, and possessing power to interfere in cases of misgovernment, but ordinarily restricting their functions to matters of Imperial concern.

"Well, Sir, if there is to be provincial autonomy, I hold that fiscal independence and very large powers of control over provincial finance must be given to the provincial Governments. Sir, I gratefully acknowledge that the Government of India has been steadily working up to this ideal. Sir James Westland indeed declared, from his place in this Council, that the revenues of India belong to the Government of India. Without raising technical or legal questions, I will say this, and I trust with the full concurrence of this Council, that the revenues of India belong to the people of India, held in trust by the Government for the benefit of the people. The trustees have, in their wisdom, recognized the fact that the best way of fulfilling their high trust is by delegating their authority to the provincial Governments to spend the revenues for the benefit of the people, and with the assent of the people. The evolution of our system of provincial finance has been largely determined by the growing acceptance of this principle. At every stage of this development the authority of the Government of India has been curtailed ; at every stage of this development the authority of the provincial Governments has been enlarged; and heads of revenue which were partly provincial have been transformed into wholly provincial heads of revenue. I invite the Government of India to take a further step in this direction, and for the development of this policy, necessitated by the new conditions, by the larger powers of control conferred upon the Legislative Councils and the prospective boon of autonomy, I venture to submit for the consideration of this Council a scheme of provincial finance which was formulated by Sir Charles Elliot and three of his distinguished colleagues of the Finance Committee namely, Mr. Justice Ranade, Mr. Justice Cunningham and Sir William Hunter. Time presses, Sir, and I will not read out the details, but the main features of the scheme are these:—There are to be no divided heads. Provincial sources of revenue should belong to the province; Imperial sources of revenue should belong to the Government of India ; and that, in the event of there being any deficit in the Imperial Exchequer, it shall be the first charge on the provincial revenues. Sir, I may say in this connection that this very scheme was outlined by Sir Charles Trevelyan, in the evidence that he gave before a Select Committee of the House of Commons that sat between 1871 and 1873. Sir Charles Trevelyan is a great and honoured name in the administrative annals of India. He was Finance Minister to the Government of India and was also Governor of Madras. I hope and trust that my Hon'ble friend the Finance Minister, who has left behind him a distinguished record in Madras, will emulate the achievements of his great predecessor in this respect. I will read out the opinion of Sir Charles Trevelyan in the evidence he gave before the Select Committee. He gives a very curious reason for the scheme which he formulated. It is a reason which I would never venture to suggest, but I suppose Sir Charles Trevelyan's association with the Imperial and Provincial Governments gave a particular bias to his opinions in respect of further decentralization of provincial revenues. He suggests a complete division

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of heads of revenue, provincial to belong to the provinces, and Imperial to belong to the Government of India. His reasons are these:—'In the first place the Supreme Government would be put upon its good behavior' (I dare not make that suggestion) 'in regard to expenditure. It would not really have much to do with income. Because, as I said, that would continue to be managed by the local Governments; but still it would have to look after Customs, Salt, and Opium, and see that they were made the most of. But as regards expenditure, the Supreme Government would act under a powerful motive to economise.' Sir, these are the words of Sir Charles Trevelyan. It is impossible for me, or any one without his responsibility, to use language such as this. But it is associated with a great name. It is impossible to say how the scheme will work, but in our provincial system of finance we have found this to be the case, that when a system of decentralization has been carefully thought out and properly worked, it has been always successful."

The Hon'ble Sir William Meyer :—"May I ask my Hon'ble friend for the date of Sir Charles Trevelyan's note?"

The Hon'ble Mr. Surendra Nath Banerjee :—"Between 1871 and 1873. It is an extract from his evidence which I have in my hand and which I shall gladly give to the Hon'ble Member. I was going to say that it is possible to form a forecast as to how this system will be worked by reference to certain figures which I have obtained from the Bengal Budget and for which I am partly indebted to my Hon'ble friend the Financial Secretary, who has helped me materially in this matter. We have got four heads of divided revenues. Land Revenue, Stamps, Assessed Taxes and Irrigation. As regards Land Revenue; Imperial share is 114 lakhs; the expenditure is 25 lakhs (I have given the figures for 1913-14). There is thus a net gain of 89 lakhs. Then as regards Stamps, the Imperial share is 107 lakhs, the Imperial expenditure Rs. 8,63,000. Net gain of 103 lakhs and a half. Assessed Taxes—Imperial share 28 lakhs, Imperial expenditure Rs. 79,000. Taking it at a lakh in round numbers, the Imperial gain is 27 lakhs. Irrigation (and here we are grateful to the Imperial Government for coming to our rescue; the expenditure being in excess of the revenue), the revenue is Rs. 4,82,000 the expenditure is Rs. 10,53,000. Imperial expenditure 25 lakhs upon Survey and Settlements. Adding these figures and deducting the loss and the expenditure, we have in round numbers 214 lakhs which represent Imperial gain from our provincial funds. Deducting from this figure 40.4 lakhs which represent the Imperial recurring grant for 1913-14, we have got about 174 lakhs which represent the provincial contribution to the Imperial funds. Now, Sir, my submission is this: that whether it is 170 lakhs or 160 lakhs or less (I have given only approximate figures) it ought to form a fixed contribution of the province to the Imperial Government.

"Such a change would represent a further expansion of the principle of permanent settlements; it would introduce economy and regularize our finances. I think, Sir, that the time has come when the Government of India instead of deriving the whole of its income from divided and undivided shares of revenue should receive fixed contributions from the various Local Governments. This would put an end to the system of doles; it would introduce an element of certainty in our provincial settlements and help forward the fiscal independence of the Provinces. Sir, the country has acclaimed with enthusiasm the great pledge of provincial autonomy contained in the Despatch of the 25th August, 1911. It is looking forward with hope and expecting to something being done; some decisive step being taken towards the fulfilment of this pledge. Fiscal independence is the basis of provincial autonomy and it is necessary alike in the interests of efficiency and for the redemption of the pledged word of the Government. In the words of Sir Guy Fleestwood Wilson 'the Government of India cannot stand still, move it must'. Its own progressive policy has imparted an added momentum to the forward movement. Therefore, Sir, I respectfully but earnestly appeal to the Government to take a further step; at

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any rate, to consider the advisability of taking a further step; it may be a cautious step, but none the less a firm and decisive step in the pursuit of its chosen policy of the decentralization of provincial finance. I do not want the Government to pledge itself to any particular proposal; all that I crave for is that a Committee of officials and non-officials should be appointed, who would look into the whole question of decentralization and the further devolution of provincial finance. Sir, to-day you have signalized the meeting of this Council by the acceptance of one resolution, although there has been a set-back by the rejection of another. I hope and trust we shall conclude to-day's meeting by the adoption of this very moderate proposal which I have placed before the Council."

The Hon'ble Maharaja Manindra Chandra Nandi of Kasimbazar:—Sir, I think it will be generally admitted that an inquiry by a Committee of officials and non-officials to consider the advisability of revising the present system of Provincial Settlements between the Government of India and the Local Governments is likely to be followed by the best results. Provincial Settlements, or Provincial Contracts as they are usually called, were introduced by the Government of India some time ago. Since then the conditions of the country have materially changed, and an arrangement which might have been found satisfactory some years ago may not meet present requirements. We are not aware of the views of Local Governments on this subject, but I think it would be safe to presume that they would welcome the revision of Provincial Settlements on more liberal lines. The needs of Local Governments are steadily rising, and it is both politic and wise that they should have a free hand in developing the administration and introducing local reforms. An inquiry such as is proposed by the Resolution before the Council will be helpful both to the Government of India and Local Governments, and I accordingly beg to support it."

The Council adjourned to Wednesday, the 25th February, 1914.

W. H. VINCENT.

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

DELHI:

The 6th March, 1914.