

*Wednesday,
25th 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, AND 9 Edw. VII, c. 4).

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Wednesday, the 25th 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 55 Members, of whom 48 were Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Rai Sri Ram Bahadur asked :—

1. "Will the Government be pleased to state whether they have received a memorial, submitted by the Talukdars of Oudh through the Government of the United Provinces in August last, on the subject of the contemplated canal from the river Sarda? If so, has the memorial been taken into consideration and has any action been taken in the matter?"

Sarda Canal Project.

The Hon'ble Sir Robert Carlyle replied :—

"No memorial such as is referred to in the Hon'ble Member's question has been received by the Government of India."

The Hon'ble Mr. Rama Rayaningar asked :—

2. "Anent the Government reply of 24th January, 1911, to the Hon'ble Mr. Dadaboy's question about export of bones from India, do the Government propose to consider the desirability of increasing the supply of sulphuric acid by introducing its manufacture in jails?"

Manufacture of sulphuric acid in jails.

[*Sir Reginald Craddock; Mr. Rama Rayaningar; [25TH FEBRUARY, 1914.]*
Mr. Clark; Sir Robert Carlyle]

The Hon'ble Sir Reginald Craddock replied :—

“The form of labour suggested is not considered to be suitable as a prison industry.”

The Hon'ble Mr. Rama Rayaningar asked :—

Working of
mines for
minerals of
manurial
value.

3. “(a) Are any mines now worked anywhere in India for minerals of manurial value ?

(b) Do the Government propose to cause inquiries to be made into possibilities of this branch of mining industry through an expert committee of geologists and agriculturists ?”

The Hon'ble Mr. Clark replied :—

“So far as the Government of India are aware, there are no mines worked in India for minerals of manurial value. It is thought that it would be premature to make an inquiry of the kind suggested by the Hon'ble Member.”

The Hon'ble Mr. Rama Rayaningar asked :—

Formation
of Co-operative
Associations of
cattle-
breeders.

4. Will Government be pleased to state if they propose, in consultation with Local Governments, to encourage the formation of Co-operative Associations of cattle-breeders by the grant of loans on specially favourable terms and by rendering help in other ways ?”

The Hon'ble Sir Robert Carlyle replied :—

“The answer to the question is in the negative. Associations of the class mentioned will receive such concessions and privileges as are given to other Co-operative Societies.”

The Hon'ble Mr. Rama Rayaningar asked :—

Deputation
of Major
Mulvany to
England
for a study
of English
Prison Admi-
nistration.

5. “(a) Was Major J. Mulvany of the Indian Medical Service deputed to England for a study of the English Prison Administration ?

(b) If so, does Government propose to lay on the table the papers connected with the deputation ?

(c) Has Major Mulvany submitted any report ? If so, what action, if any, has been taken by the Government on such report ?”

The Hon'ble Sir Reginald Craddock replied :—

“At the instance of the Government of Bengal, the Government of India granted six months' study leave to Major Mulvany, I.M.S., in 1910, for the practical study of the administration of English prisons and of penological methods. Major Mulvany submitted a report in due course to the Government of Bengal. Copies of this report were sent to other Local Governments and Administrations for information, but beyond this no specific action was taken upon the report by the Government of India.

“The report is that of an individual officer for the information of the Local Government under which he was serving, and the Government of India doubt if any useful purpose would be served by its publication. The rest of the correspondence on the subject was of a formal character.”

The Hon'ble Mr. Rama Rayaningar asked :—

Tuberculosis
in Indian
jails.

6. “(a) Is Tuberculosis on the increase in Indian jails ?

(b) If so, has there been any inquiry into the causes ?

If the answer to (b) be in the affirmative, then

(c) What are the conclusions of the inquiry ?

If the answer be negative, then

[25TH FEBRUARY, 1914.] [Mr. Rama Rayanagar; Sir Reginald Craddock; Maharaja Manindra Chandra Nandi; Sir Robert Carlyle; Sir Fazulbhoy Currimbhoy; Mr. Clark.]

(d) Will Government be pleased to say whether they propose to institute such an inquiry?

(e) Will Government be pleased to state the annual figures of tubercular attacks and deaths in jails for the last ten years?"

The Hon'ble Sir Reginald Craddock replied:—

"The figures* which the Hon'ble Member has asked for are placed on the table. They do not indicate any such increase in tuberculosis in Indian jails as to necessitate a general inquiry. The subject has received a great deal of attention both from the Sanitary Commissioner and from Provincial authorities during the last ten years, particularly with regard to improved methods of segregation and disinfection and an increasing number of Central and District jails are now equipped with special open-air wards for the treatment of prisoners suffering from tubercle of the lungs."

The Hon'ble Maharaja Manindra Chandra Nandi asked:—

7. "(a) Will the Government be pleased to state whether any report of Mr. Lees on the Calcutta Canal Scheme has been received by the Government of India?" Calcutta Canal Scheme.

(b) Whether the Government of Bengal have formulated any definite scheme on the subject and recommended it for acceptance to the Supreme Government?

(c) Are the Government in a position to state whether any contribution from Imperial or Provincial funds will be available for the scheme during the forthcoming official year?"

The Hon'ble Sir Robert Carlyle replied:—

"(a) & (b) The Government of India have not received Mr. Lees' Report on the Calcutta Canal Scheme, nor are they aware whether the Government of Bengal have formulated any definite scheme thereon.

(c) The answer is in the negative."

The Hon'ble Sir Fazulbhoy Currimbhoy asked:—

8. "(a) Has the attention of Government been drawn to the resolutions regarding cotton mixing and cotton damping in India adopted by the last International Congress of Master Cotton Spinners' and Manufacturers' Associations?" Cotton mixing and cotton damping in India.

(b) If so, will Government be pleased to state what action, if any, Government propose to take with a view to give effect to the suggestions of the Congress?

(c) Has any correspondence passed between this Government and the Secretary of State for India about the points raised in the three resolutions of the Congress relating to Indian cotton? If so, do the Government propose to lay it on the table?"

The Hon'ble Mr. Clark replied:—

"(a) The answer is in the affirmative.

(b) and (c). The Government of India have been in correspondence with Local Governments and with the Secretary of State on the subject of the mixing and damping of cotton, but they have not yet submitted to the Secretary of State their final recommendations on the resolutions adopted at the 9th International Cotton Congress. They do not propose to lay copies of the correspondence on the table at this stage."

The Hon'ble Sir Fazulbhoy Currimbhoy asked:—

9. "(a) Has the attention of Government been called to the editorial paragraph in the *Indian Social Reformer* of the 25th January, in which it is Certificates required from Indian students proceeding to England.

[*Sir Fazulbhoy Currimbhoy; Sir Reginald [25TH FEBRUARY, 1914.] Craddock; Mr. Clark.*]

stated that while, in the report on the work of the Indian Students' Department presented to Parliament last session, it is said that the rule which required an Indian student, proceeding to England, to obtain a certificate from the Collector, or Deputy Commissioner or Political Agent attached to a Native State, and which sometimes involved applications to Police officials, has been altered, and that a certificate from the Secretary of Indian Students has taken its place, a Press Note issued in January by the Government of Bombay states that the Governor General in Council desires Indian students proceeding to England to have their certificates signed or countersigned, as the case may be, by Collectors, Political Agents and, in Presidency Towns, by the Commissioner of Police?

(b) Has any change such as is mentioned above been made in the rule requiring certificates to be obtained by Indian students proceeding to England? If so, does the change in the rule relate only to Indian students proceeding to England to prosecute any particular course of study, and if so, do Government propose to make the change applicable to all Indian students, whatever course of study they propose to take in England?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) The Government of India have seen the paragraph in the *Indian Social Reformer* referred to. The certificate mentioned in paragraph 34 of the Report on the work of the Indian Students' Department (1912-1913) is the certificate of good character required from Indian students who desire admission to an Inn of Court, while the certificate referred to in the Press Note appearing in the *Bombay Government Gazette*, dated the 15th January, 1914, is the certificate of identity which may be given to Indian students and others proceeding to England, Japan and America, in order to facilitate their movements in those countries.

(b) No change in the rules regarding certificates of identity has been recently made or is under contemplation."

The Hon'ble Sir Fazulbhoy Currimbhoy asked :—

Provision of
proper medical
relief
for Indian
coolies in the
Federated
Malay
States.

10. "(a) Has the attention of the Government been drawn to a letter published in the *Bengalee* of the 26th July last, in which it is suggested that no proper medical relief is provided in the Federated Malay States for Indian immigrants who fell ill while in employment on estates in the Colony?

(b) Will the Government state if they have made, or propose to make, any inquiries on the subject?

(c) Do the Government propose to take any measure to secure improved medical treatment for Indian coolies in these States?"

The Hon'ble Mr. Clark replied :—

"(a) The attention of Government has been drawn to the letter referred to.

(b) Inquiries have been made which have satisfied Government that the allegations contained in the letter are not in accordance with facts. Forty-seven Government hospitals already exist in the Federated Malay States.

The States Government have also constructed and will shortly open a Home for decrepit Tamils at Kuala Lumpur, with accommodation for 192 inmates. Indian labourers who are physically incapable of earning their own living will be received and supported at this Home until they are capable of returning to employment. The Home is maintained by the Indian Immigration Committee from a fund derived from an assessment rate imposed on all employers of Indian labour.

In addition to the Government hospitals there were, during 1912, 125 private hospitals serving 230 estates. All employers are compelled by law to provide hospital accommodation for their labourers, and are liable to

[25TH FEBRUARY, 1914.] [*Mr. Clark; Sir Gangadhar Chitnavis; Sir Harcourt Butler.*]

severe penalties if they neglect to send to hospital labourers in need of medical treatment. European Health Officers make frequent inspections in order to secure the enforcement of the law. The Legislative Council of the Colony is at present considering a Bill, which was drafted at the request of the Malacca Planters' Association, to enable Government to take over the control of Estate Hospitals and to pay for them and for their maintenance by means of a rate to be levied on all estates employing Indian labour. The Budget provision for medical expenditure in the States during 1913 was over 1½ million dollars (over two rupees per unit of the population). This does not include the sums spent by employers of labour on their own estate hospitals.

(c) In view of the facts stated above no action is at present contemplated."

The Hon'ble Sir Gangadhar Chitnavis asked :—

11. "Is it a fact that Dr. Turner, Health Officer of Bombay, and other expert authorities have come to the conclusion that the mortality in India among infants between the ages of one and two years is about 48 per cent and that it is mainly due to insufficient supply of cows' milk ? Infant mortality and protection of prime cows.

If so, does Government propose to take any measure to ensure an increased supply ?

Has there been any correspondence between the Government of India and the Secretary of State on the subject of better protection of prime cows ? If so, does Government propose to lay it on the table ?"

The Hon'ble Sir Harcourt Butler replied :—

"The Government of India do not know how the mortality rate of 48 per cent has been arrived at. In the official returns, deaths among children between the ages of one and two years are not reported separately. The Government of India, however, are advised that the mortality during this year of life cannot be anything like 48 per cent. There are many causes of mortality of infants and children, such as over-crowded and insanitary surroundings, malaria, operating both directly on the infant and indirectly through the mother, ignorance on the part of the mother with regard to the care and feeding of the child, accidents of childbirth and diseases attendant thereon. The insufficient supply of cows' milk is no doubt responsible for a certain amount of mortality ; but, on the information before them, the Government of India are not prepared to regard it as the main cause. The question of 'milk supply' is undoubtedly of importance and was discussed at the recent All-India Sanitary Conference held in Lucknow. That conference passed the following resolution :—

That in order to prevent the adulteration of milk, which is now practically universal in India, improvements in the production and distribution of milk are urgently necessary ; but that, in view of the present high price of this commodity and the fact that any further increase in price would seriously affect poor consumers, it is essential that organization should precede restriction, and that there should be mutual help and co-operation between sanitarians, milk-dealers and the Agricultural Department.

Various suggestions designed to secure the better protection of cows, either by the prohibition of their slaughter or the provision of increased facilities for grazing, have been made in recent memorials to the Secretary of State, which His Lordship has not been able to accept. Apart from this there has been no recent correspondence on the subject."

The Hon'ble Sir Gangadhar Chitnavis asked :—

12. "Does the Government propose to investigate the causes of the recent disastrous floods in several parts of India, and to ascertain whether they have been in a large measure due to, and their consequences have been aggravated by, any insufficiency of open waterways and culverts on the Railway systems of the parts concerned ?" Investigation into the causes of floods.

[*Sir Reginald Craddock; Mr. Clark; Rai Sita Nath Ray Bahadur; The President; Mr. Vijiaraghavachariar.*] [25TH FEBRUARY, 1914.]

The Hon'ble Sir Reginald Craddock replied :—

"It is not thought that any useful purpose would be served by a general inquiry of the kind indicated. An allegation that at any place on any particular line the waterway is insufficient is a matter for local inquiry relative to each individual case."

THE PROVINCIAL SMALL CAUSE COURTS (AMENDMENT) BILL.

The Hon'ble Sir Reginald Craddock :—"My Lord, I beg to move that the Report of the Select Committee on the Bill to amend the Provincial Small Cause Courts Act, 1887, be taken into consideration."

The motion was put and agreed to.

The Hon'ble Sir Reginald Craddock :—"My Lord, I now move that the Bill as amended be passed."

The motion was put and agreed to.

THE INDIAN TELEGRAPH (AMENDMENT) BILL.

The Hon'ble Mr. Clark :—"My Lord, I beg to move that the Report of the Select Committee on the Bill further to amend the Indian Telegraph Act, 1885, be taken into consideration."

The motion was put and agreed to.

The Hon'ble Rai Sita Nath Ray Bahadur :—"My Lord, I beg to withdraw the first amendment * which stands in my name."

His Excellency the President :—"Permission is given for the amendment to be withdrawn."

The Hon'ble Rai Sita Nath Ray Bahadur :—"With reference to the second amendment †, I beg to move that in clause 2 the word 'Native' be omitted. I do not like to press the other amendment because I understand my hon'ble friend Mr. Achariar has already moved an amendment on the subject, so I only want to move that the word 'Native' be omitted."

His Excellency the President :—"As far as I know, the Hon'ble Member has not given notice of any such amendment."

The Hon'ble Mr. Vijiaraghavachariar :—"My Lord, my first amendment is that provision (a) of the sub-clause (2) proposed to be added by clause 2 of the Bill as amended by the Select Committee, be omitted. The scope of this Act includes several acts or breaches by native Indian subjects of His Majesty in any place without and beyond British India in violation of the provisions of the Act. The only reason assigned for introducing this somewhat strange aspect into the Telegraph Act, that I can gather from the Statement of Objects and Reasons is that a similar provision occurs in the Indian Post Office Act. Beyond that there is no indication given as to how it is necessary for the purpose of the Indian Telegraph Act and what is the mischief it is intended to provide against. There seems to be power for this Legislature to legislate for native Indian subjects of His Majesty wherever they may be. I do not know exactly the origin of this power. This power is given to this Legislature by Act of Parliament, but why this extraterritorial jurisdiction is restricted to native Indian subjects to the inclusion of the other subjects I have not been able to find out. However that may be as regards similar jurisdiction possessed by Parliament over

* That in clause 2 (2) the words "including the Sonthal Parganas and the Pargana of Spiti" be omitted.

† That sub-clauses (a) and (b) of clause 2 (2) be omitted and in their place the following be substituted :—
"All subjects of His Majesty within the territories of any Native State in India."

[25TH FEBRUARY, 1914.] [*Mr. Vijayaraghavachariar ; Mr. Clark.*]

subjects of England, while it is plain theoretically that such power does exist, namely that the English Parliament has power to legislate for the subjects of His Majesty wherever they may be, in practice the jurisdiction is not exercised except as to two or three classes of cases such as murder, bigamy and a few others. I know of no other instance in which the English Parliament has passed any law touching English subjects beyond the territorial limits of England except for these very few classes of offences. Now the offence here is technically against the provisions of a special Act, and I cannot at all understand why, even considering that this Legislature possesses the constitutional power to legislate as it proposes to legislate as to most trifling offences, why it should exercise it in this particular instance. In order to exercise it, the mere fact that such a provision occurs in another Act is hardly a reason. The Telegraph Act has been in existence very long, and the object of the present Bill is to make the Act comprehensive enough so as to include radio-telegraphy and nothing more.

"It is nowhere stated that the necessity has arisen to include one portion of His Majesty's Indian subjects in the special way aimed at. Discriminatory legislation of this kind, Sir, does much more harm than any evil it may be expected to remove. Even supposing it will do some good, the Legislature in this country ought to be very cautious in passing discriminatory legislation of this kind.

"In some places of the world, America for instance, there were conventions and amendments to the constitution in view to protection against discriminatory legislation. It causes a good deal of bad blood, and unless the situation is such that it is absolutely called for in public interests, the whole world objects to discriminatory legislation, especially discriminatory personal legislation of this kind.

"With these words I beg to move that sub-clause (a) be omitted and the old Act be left alone without the insertion of this provision."

The Hon'ble Mr. Clark :—"My Lord, the Hon'ble Member's complaint against this provision of the Bill overlooks the special geographical conditions under which our Telegraph Department works. At first sight it may seem rather unusual to enact that the law shall apply to Indian subjects outside the territories of India, but our telegraphs have offices and lines outside India, not merely outside British India and in Native States, but also in the territories of foreign powers, such as Goa and Chandernagore and Pondicherry. The sub-clause is necessary to enable us to institute proceedings against people who interfere with our lines and offices in those territories.

"The Hon'ble Member has appealed to the example of England, to the legislation of the United Kingdom, where he says there is no extra-territorial legislation except in the case of murder, bigamy and serious crimes of that kind. That is not the case. An Act was passed in 1865 to give force to an international convention for the protection of submarine telegraph cables, a case almost exactly on all fours with what we are legislating to meet now. A section of that Act contains very similar provisions applying it to persons who interfere with submarine cables outside the United Kingdom.

"The Hon'ble Member has complained that there is a discrimination here between Indians and British subjects. The difficulty is that our powers are not co-extensive with the two classes of subjects ; we can take extra-territorial powers by legislation in respect of our Indian subjects, but we are not empowered to do so in respect of British subjects outside India. I think the reasons for that are clear. Any further extra-territorial powers in respect of British subjects must belong to the Imperial and not to the Indian Government. It has been thought that possibly this clause might work harshly. But there is a similar clause in the Indian Penal Code, and also in the Post Office Act designed to meet exactly the same conditions, the conditions arising from there being post offices outside the limits of British India. There have been no complaints of the working of the clause in these Acts and there is no reason to suppose that it will work harshly in the Telegraph Law. I therefore cannot accept the amendment."

[*Mr. Vijiaraghavachariar*; *Mr. Clark*; *Mr. Surendra Nath Banerjee*.] [25TH FEBRUARY, 1914.]

The Hon'ble Mr. Vijiaraghavachariar:—"As regards the law quoted, the addition to the Indian Penal Code was made in 1898, and I beg that Your Lordship will permit me to make a statement that this law was passed at a time of nervous excitement. At that time there was some scare about sedition from Poona and there were some State prosecutions, and at that time this was passed. I looked up the debates of the time, but these debates throw no clear light as to the necessity for the introduction of this provision. That addition relates to highly serious offences under the Penal Code. Here this relates to breaches of a special Act which may be committed and which may not at all be acts of moral turpitude and which may be considered to be innocent in the country where they might occur. But the other portion of my argument, namely, that relating to discriminatory legislation, has not been properly traversed. The position seems to be this. If I and my friend, the Hon'ble Mr. Abbott, over there were both to go to Chandernagore and to offend against this Act and we were both to return, he is safe, but I can be prosecuted. What I submit is that no necessity has been shown for such a discriminatory law. In all cases of this kind, the best course is to consider which is the greater evil, the evil intended to remove, or the evil sure to arise. Is the Indian more than anybody else likely to offend against this law and is the evil arising out of it greater, or is the discontent, nay even the offence against national sentiment arising by the passing of such Acts greater? Of these two evils, I respectfully submit, My Lord, that the latter evil is by far the greater. This is a state of thing which is not absolutely called for, and I do beg that my amendment will be accepted by the Council."

The amendment was put and lost.

The Hon'ble Mr. Vijiaraghavachariar:—"My next amendment is this, My Lord. If this clause is to remain—as it is now to remain—part of the Bill, I beg that the word 'native' in it be removed. The expression 'native Indian subject' is nowhere, as far as I know, defined. There is no statutory definition of what is called 'native Indian subject.' The expression no doubt occurs in Parliamentary Acts but 'native Indian subject' is not itself defined. We cannot say that 'native Indian subject' and 'native of India' are exactly alike. It will cause considerable confusion in the construction and application of this law. On the other hand, Courts may be left to construe the more easily what 'Indian subjects of His Majesty' may mean. Therefore the word 'native' may be dropped and all Indian subjects of His Majesty, taking the reason given by the Hon'ble Member in charge of the Bill to be sound and sufficient, included in the expression. If we use the words 'Indian subjects of His Majesty,' that will meet whatever situation may arise, and it will also meet the wishes of the Hon'ble Member in charge.

"I therefore beg to move that the word 'native' be omitted and 'Indian subjects' be left."

The Hon'ble Mr. Clark:—"My Lord, I understand that it is really a question of drafting which the Hon'ble Member is pressing. He thinks that the words 'Indian subjects' will be clearer than 'native Indian subjects'. As far as the use of the word 'native' is concerned, we have no special desire to include it except that I am assured by the drafting authorities that it is very necessary to keep it, in view of the language used in the English Statute and of the precedents set in other Acts. In the Indian Councils Act, 1869, the words 'native Indian subjects of His Majesty' is used, and it is considered by our legal authorities that it would be a dangerous departure to omit the word 'native' now and would be likely to lead to confusion in the interpretation of the Act. In these circumstances, I regret that I am unable to accept the amendment."

The Hon'ble Mr. Surendra Nath Banerjee:—"This very point was taken exception to by myself in the Select Committee, and then the objection that is now raised was taken, *viz.*, that it was necessary for the purposes of legal symmetry and having regard to the reference to the word used in other enactments, to have the word 'native'. Therefore, as I am no lawyer,

[25TH FEBRUARY, 1914.] [*Mr. Surendra Nath Banerjee ; Sir Ali Imam ; Mr. Vijiaraghavachariar.*]

I did not press the point. All that I want to point out is that the objection which my friend has taken to this word was urged in the Select Committee and by myself."

The Hon'ble Sir Ali Imam :—" In regard to the word ' native ', I must sympathize with the sentiment that is probably behind the Hon'ble Member's motion for amendment. The word has acquired somehow a bad reputation, and in certain circles it is considered that this word implies a certain sense of contempt. From that point of view, however, justified or unjustified this impression may be, we would be, on behalf of Government only too willing and too prepared always to dissipate any such notion as may be hurtful to the feelings of any of the subjects of His Majesty. I, being a native, do not myself abhor that word, because I think I am able to rise above any such prejudice as may have been allotted to this word. But, apart from any such consideration, as it had been put forward by the Hon'ble Mr. Banerjee, we carefully considered this in the Select Committee, and if it were open to us without losing, as has been rightly put, the symmetry of language, for the purposes of this Act, we would have gladly dropped it. But, as it is a penal provision that will be affected in this Act, we have got to be very careful and, in order to keep well within the sense of certain Statutes, we have after deliberation found it necessary to keep the word ' native ' in. I trust that this explanation that I offer will be perhaps acceptable to the Hon'ble Mover on the opposite side."

The Hon'ble Mr. Vijiaraghavachariar :—" Symmetry is not always precision. My complaint is that the expression is not defined anywhere, and, as far as I know, it has received no judicial interpretation in India or the Privy Council. There has been no authoritative interpretation of any kind as to the meaning of the words " native Indian subject ". Therefore, in these circumstances, I do not at all see how it will be an advantage to have the word ' Native ' retained, while ' Indian subject ' will do as well.

" As regards the other question about sentiment, I need hardly traverse that. I myself had not advanced that argument, although I do confess that such an idea may not be lurking in my mind when I proposed this amendment. But if I allow it to lurk in my mind I sin in very good company. In the very first speech from the throne of England, King Henry distinguishing the Normans from his Anglo-Saxon subjects, addressed the latter as ' ye natives, ' to their infinite dismay, I ween. So this sentiment is a very ancient one I think, and being a very ancient one I am proud to inherit this sentiment from my Anglo-Saxon fellow-subjects. Therefore, I adhere to that view and I plead guilty to the charge that a misquieting idea was lurking in my mind when I moved this amendment. And I am sorry I cannot withdraw my amendment, and I desire to take the verdict of the Council upon it."

The amendment was put and lost.

The Hon'ble Mr. Vijiaraghavachariar :—" My Lord, I beg to move the following amendment :—

That in clause 3 of the Bill as amended, after the word ' substituted ' the following be inserted : and add the following to the same sub-section :— ' It includes radio-telegraph but does not include installations, appliances and apparatus established and maintained in or in connection with an educational institution for purposes of instruction or research. '

" The definition in the existing Act, in my humble view, does not include radio-telegraphs. The Select Committee and the Member in charge of the Bill seemed to assume that the definition of the word ' telegraph ' in the present Act includes radio-telegraphs ; but when the question arises before a judicial tribunal, lawyers might be found of the same temper as myself who might say that at the time the Act was framed radio-telegraphs did not exist and could not be in the contemplation of the Act, and therefore that the definition in the Act cannot be said to include radio-telegraphs. In order to make provision for a certain class of people who might think like me and to remove an ambiguity, I propose this amendment.

[*Mr. Vijiaraghavachariar ; Mr. Clark.*] [25TH FEBRUARY, 1914.]

"I also desire to protect educational institutions and laboratories where radio-telegraph would not be installed for the purpose of carrying messages from place to place but simply to teach students; and it is not clear from the Act that teachers and professors, and installations for the purpose of instruction and research are excluded by the Act.

"For these two reasons I respectfully submit, Sir, that this amendment of mine may be considered."

The Hon'ble Mr. Clark:—"My Lord, this amendment really falls into two parts. The first part suggests that it is necessary specifically to define 'radio telegraph' in the Act. On that point we have very high legal authority. Two Advocates-General, including the present Advocate-General and two Hon'ble Law Members, including the present Hon'ble Law Member have expressed their opinion that radio-telegraphs are included in the present definition. The reason the Hon'ble Member gave for thinking as he does was that radio-telegraphs were not in existence or in contemplation at the time when the Telegraph Act was drawn up. But that point has already been decided in connection with the English Telegraph Law. It has been decided in the English courts that telephones are included in the definition of telegraphs; although at the time the English Telegraph Act was drawn up, telephones were not in existence or even thought of.

"The Hon'ble Member's second proposal is to exclude 'installations, appliances and apparatus established and maintained in, or in connection with, an educational institution for purposes of instruction or research.' To adopt that amendment and this definition would be to exclude those appliances from the Act altogether. In other words, it would exclude them from any possibility of control at any time. That is a thing we cannot possibly contemplate. All civilized Governments have insisted on the necessity of keeping wireless installations entirely under their control, and although the small models in use at present are of no importance, we have no means of telling what developments may take place in the future. The case of educational institutions is covered by the licensing power conferred by the proviso to section 4 of the present Act, and we cannot exclude them from the law.

"I cannot accept the amendment."

The Hon'ble Mr. Vijiaraghavachariar:—"Only one word, My Lord. As I take it, the object of these provisions is to protect Government in cases of malpractices. There can be no object in extending these provisions so as to include educational institutions and professors and teachers. I am sorry I must press the amendment and I accordingly do so. So far as the first portion is concerned, My Lord, I have no objection to dropping it after what the Hon'ble Member in charge of the Bill has said. So far as the latter portion is concerned, I beg that it be put to the vote."

The amendment was put and lost.

The Hon'ble Mr. Vijiaraghavachariar:—"My next amendment is consequential upon the loss of the previous amendment:—

That in clause 4 of the Bill as amended for the word 'proviso' the word 'provisos' be substituted and the following proviso be added after the one proposed to be added by the clause:—'Provided also the Governor-General in Council by general rules or by a special order permit the establishment and maintenance of telegraphs for purposes of instruction or research.'

"From the statement just made by the Hon'ble Member in charge of the Bill I gather that it is not intended to exclude educational institutions. If so, the wording of the licensing section is not very clear. That gives no specific power to the Governor General in respect of these institutions. I would therefore move this amendment."

The Hon'ble Mr. Clark:—"My Lord, I think it is quite clear from the existing proviso to section 4 of the Indian Telegraph Act, that the Governor General has power to license the use of apparatus in educational institutions. The proviso says that 'the Governor General in Council may grant a licence on such conditions, and in consideration of such payments,

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as he thinks fit, to any person. The word 'person' certainly includes institutions of this kind. Therefore, there is ample power to grant licences in regard to them. As a matter of fact, at present, where small models only are used, we do not require licences; but we must keep the power in our own hands. I am afraid, therefore, I cannot accept the amendment, which is really quite unnecessary from the Hon'ble Member's own point of view."

The Hon'ble Mr. Vijiaraghavachariar :—" My Lord, statements made in Council are not always made use of by the Courts when Courts have to construe the law. The proviso says the Governor General in Council may grant a license to any person to establish, maintain or work a telegraph within any part of British India. That is hardly calculated to cover the case of professors and teachers in educational institutions. If the Government is well advised in thinking that it does, I have no objection to withdrawing my amendment."

The Hon'ble Sir Ali Imam :—" I may give the assurance to my hon'ble friend there that the word 'any person' covers the cases that he has in view."

The Hon'ble Mr. Vijiaraghavachariar :—" Very well, My Lord, I withdraw the amendment. I take it that assurances given in this Council will be made use of when the law is construed by the Courts: so I hope there will be no difficulty."

The amendment was accordingly withdrawn.

The Hon'ble Rai Sita Nath Ray Bahadur :—" I beg to move that in clause 19A, sub-clause (1), the words—"

His Excellency the President :—" From the list of agenda I understand that you wish to move that sub-clause (2) of section 17 of the Indian Telegraph Act, 1885, be deleted."

The Hon'ble Rai Sita Nath Ray Bahadur :—" No, Sir. I beg to withdraw that amendment."

The amendment was, by permission, withdrawn.

The Hon'ble Rai Sita Nath Ray Bahadur :—" I beg to move that in clause 19A (1) the words 'an officer in charge of the nearest telegraph office' be substituted for 'any telegraph officer whom the telegraph authority may empower in this behalf.' My reason for this is that it will be more convenient to the public to send the notice in question, required under section 19 (A) (1), to the officer in charge of the nearest telegraph office.

" Otherwise, if it is intended that it should be sent to any telegraph officer whom the telegraph authority may empower, it is not possible for the public to know. The notification will, of course, appear in the gazette, but the Government Gazette is not often available to people in the *mufassal* in rural areas, and the people are not likely to know which officer may be authorised to act. It would therefore be convenient to the public in general to have the words 'An officer in charge of the nearest telegraph office' substituted for 'any telegraph officer whom the telegraph authority may empower in this behalf.' Otherwise the result would be that a person, not knowing who the telegraph officer is, who has been authorised to receive notice, would be obliged to send the notice to the telegraph authority, that is, to the Director-General of Telegraphs, and he, in turn, not knowing the particulars of the case, would be obliged to send it through the proper channel to the officer concerned; and then he will have to call for a report from him, and thus, I fear a whole month would be lost in correspondence. That is the only reason which had induced me to bring this amendment, that it should be sent to the officer in charge of the nearest telegraph office."

The Hon'ble Mr. Clark :—" My Lord, I can assure the Hon'ble Member that his point was very carefully considered by the Committee in relation to the convenience of the public, and it seemed to us better that the Director-

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General should have authority in each case to establish what should be the most convenient way for the notice to be given. If we laid down definitely in the Bill who was to be the person to receive it, that might not in working always be the most convenient arrangement in every case. Consequently, it has seemed better to give a discretionary power to the Director-General of Telegraphs. As to people not knowing whom to give notice to, that will be provided for by notification in the Telegraph Guide. I cannot accept the amendment."

The amendment was put and negatived.

The Hon'ble Mr. Vijiaraġhavachariar moved that in section 19A (1), proposed to be inserted by clause 5 of the Bill as amended, the word 'week's' be substituted for 'month's'.

He said :—" My amendment, My Lord, is simply this. In certain cases where the owner of a property is desirous of effecting repair and is called upon to give one month's notice, I simply ask that a week may be substituted. In the list of opinions invited, there are several authorities who think one month is too long, and therefore I beg that, as one week must ordinarily be sufficient, it may be substituted for one month."

The Hon'ble Mr. Clark :—" This is also a question which was very carefully considered in the Select Committee. The provision in the United Kingdom is for fourteen days' clear notice ; and we generally find that we have to allow twice as long here, owing to the vast size of the country. A good deal of time is required to make inquiries and to obtain the orders of the telegraph authority. Even the British period of a fortnight would be inadequate in India, especially when dealing with distant parts of the country, like Burma. We must maintain in this section the period of a month's notice."

The amendment was put and negatived.

The Hon'ble Mr. Vijiaraġhavachariar moved that to section 19-A proposed to be inserted by clause 5 of the Bill as amended the following sub-section be added :—

" () Nothing in this section shall apply to any person dealing with any property with the *bond fide* intention of averting imminent danger to property or human life."

He said :—" My amendment, My Lord, is this, that now that one month's notice is required to be given, there may be cases in which the delay caused by this provision as to notice may be dangerous ; that is to say, the house might be about to fall, or persons might be about to be injured, etc. My amendment is simply this : ' Nothing in this section shall apply to any person dealing with any property with the *bond fide* intention of averting imminent danger to property or human life.' I beg that it may be accepted."

The Hon'ble Mr. Clark :—" My Lord, after having had to reject several of the Hon'ble Member's proposals, it is a great pleasure to find one which Government can accept. But even this rose has its thorn, for we have to accept it in a somewhat modified form. There are inconveniences about including the phrase ' danger to property ' and that we propose to omit. We have prepared a redraft in consultation with the Hon'ble Member. I understand that he is prepared to accept it, and I would suggest, if he is agreeable, that he should move the redraft, which I have handed in, instead of the amendment as it stands.

The Hon'ble Mr. Vijiaraġhavachariar :—" I have accepted it on the principle that half a loaf is better than no bread. The amendment which the Hon'ble Member in charge is prepared to accept deals only with danger to human life, and excludes danger to property. So far as it goes it is something. I withdraw the present amendment, and in its place, I move the amendment which the Hon'ble Member in charge is prepared to accept, namely,—

(3) A person dealing with any property in the manner referred to in sub-section (1) with the *bond fide* intention of averting imminent danger of personal injury to himself or any other

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human being shall be deemed to have complied with the provisions of the said sub-section if he gives such notice of the intended exercise of the right as is in the circumstances possible, or where no such previous notice can be given without incurring the imminent danger referred to above, if he forthwith gives notice of the actual exercise of such right to the authority or officer specified in the said sub-section."

The amendment was put and carried.

The Hon'ble Mr. Vijayaraghavachariar moved that section 19B proposed to be inserted by clause 5 of the Bill as amended, be omitted.

He said :—" I beg to move that clause 19B of the Bill which gives power to licencees to enter private properties and houses, be omitted altogether. Licencees are private persons and to give them such power is too often likely to lead to mischief when the exercise of it is sure to be resented.

" This is a very objectionable statutory power to enter property. No time is mentioned, no manner is mentioned, and it is open to him to enter at midnight. No way is mentioned ; he may scale over the wall, or adopt any other method he likes. The chances are that there would arise conflict between owners of property and licencees ; and I beg to move that this section be omitted as being wholly unnecessary and mischievous ; the most obvious course is to apply to, and take the consent of, the owners for the purpose. No sufficient reason has been shown to exist and none can be gathered from the invited opinions or the Statement of Objects and Reasons. I see no reason for the retention of this clause."

The Hon'ble Mr. Clark :—" My Lord, I am afraid that the Hon'ble Member's last statements are not entirely consistent with fact. The reason why we have included this clause is that we have found that it is very necessary that private licencees should have this power. There was a case not very long ago in Rangoon, which was reported to Government at the time. The owner of land on the bank of a river at Rangoon refused to allow a cable to be laid on his land, which was the only suitable property for the purpose. The company came to Government and asked them to see that the thing was done. Government then found that they had no powers. The demand was reasonable and was really made in the public interest.

" I may say that exactly the same powers are given to private licencees in the United Kingdom. As to the chances of the powers being abused, I think the Hon'ble Member has overlooked that there is provision in the clause which lays down that the grant shall be ' subject to any conditions and restrictions which the Governor General in Council may think fit to impose.' I ask him to accept the assurance of Government that we will watch the matter most carefully in order to see that there is no abuse of their powers by licencees, and if any particular company to which any licence is given abuses the licence, the licence will be withdrawn. I think also he overlooks the fact that there are very few private licencees in India, and they are not very likely to cause trouble. Companies which possess licences exist only in Calcutta, Madras, Bombay, Ahmedabad, Rangoon and Moulmein, so that, I think, he need not be alarmed. I am afraid I cannot undertake to give up the clause."

The Hon'ble Mr. Vijayaraghavachariar :—" Sir, I am obliged to the Hon'ble Member for his statement. My point was only with regard to the meaning and scope of the restrictions and conditions that may be imposed. If the power to impose these conditions imply also a power to include time, place and manner of entering the property, I would beg leave to withdraw my amendment."

The Hon'ble Mr. Clark :—" Sir, I think there is no doubt that the words ' any conditions and restrictions ' mean what they say, and that we can impose such conditions and restrictions as we please. I can assure the Hon'ble Member that all reasonable care will be taken to secure that abuses shall not occur, but I cannot give the undertaking for which he asks, although if we saw

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there was an abuse of the power granted in any case, we should have to consider whether we should withdraw the privilege or only permit its exercise under specific conditions."

The Hon'ble Mr. Vijiaraghavachariar :—" Sir, there is a danger in these elastic conditions. In the circumstances Courts will have power, if no exact and specific conditions are laid down, to determine the question whether or not the right of private defence does exist where such an entry is resisted. Is it desirable in making a special Act to leave so uncertain a power to the Courts? I submit that the words restrictions and conditions are not precise and comprehensive enough. It is clear that the licensee and the owner may come into conflict. I have expressed my doubts in the matter. At the same time if the Hon'ble Member in charge of the Bill is not prepared to give the undertaking to the effect that a general rule applicable to all licensees would be made, then there is the danger I spoke of. I withdraw my amendment, but at the same time I would beg leave to say that the statement made is neither satisfactory nor conclusive."

The amendment was, by permission, withdrawn.

The Hon'ble Mr. Vijiaraghavachariar :—" Now, Sir, I come to move the following amendment :—

Add as section 35 to the Act the following :—' No prosecution for an offence under this Act shall be instituted except upon the previous sanction of the Governor General in Council or of some officer specially empowered by him in this behalf.'

" This amendment is obviously necessary. It is undesirable to allow private persons to institute prosecutions for breaches of conditions or other offences under this Act. Moreover, there are discretionary provisions in this measure under which native Indian subjects will be liable to prosecution while their fellow criminals who do not come under the same description would escape. It may be that the former will often be able to prove to the sanctioning authority their complete innocence; while, if no such provision exists, they can only prove their innocence in the Courts after prosecution has been launched and after considerable annoyance and expense."

The Hon'ble Mr. Clark :—" In the case mentioned by Mr. Acharia, as we could not prosecute both Hon'ble Members, we should have to content ourselves with prosecuting one only. That we could only prosecute the one is no reason for providing for any special protection of the other. This is a very sweeping amendment. It affects not only the Bill, but the whole of the existing law; and covers both large and petty offences. The Hon'ble Member has not suggested that any prosecution has been initiated in a vexatious or malicious manner under the Act in the past, and there is no reason to think that anything of the kind will occur under the Act, as amended, in the future. I cannot possibly accept the amendment."

The Hon'ble Sir Ali Imam :—" Sir, I venture to submit that on this question of sanction there seems to be some misconception. If the Hon'ble Mr. Acharia will look at section 188 of the Criminal Procedure Code, he will find that the point is not of such importance as he thinks."

The Hon'ble Mr. Vijiaraghavachariar :—" Sir, I should be exceedingly glad to fall in with the view of the Hon'ble the Law Member and give up the amendment, but as he does not cover all the points I have raised, and under all the special circumstances, I am sorry I am obliged to enter a respectful *caveat* and to decline to accept the suggestion. I beg to press my amendment."

The motion was put and negatived.

INDIAN TELEGRAPH (AMENDMENT) BILL; RESOLUTION 539
ON THE PROVINCIAL SETTLEMENTS.

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

The motion was put and agreed to.

RESOLUTION ON THE PROVINCIAL SETTLEMENTS.

His Excellency the President:—"We will now resume the discussion on the Hon'ble Mr. Surendra Nath Banerji's Resolution of yesterday."

The Hon'ble Pandit Madan Mohan Malaviya :—"My Lord, The Resolution which has been moved by the Hon'ble Mr. Surendra Nath Banerjee has for its object, as he explained to the Council yesterday, the appointment of a committee of this Council, consisting of official and non-official members, to consider the question of the existing financial arrangements between the Government of India and the Provincial Governments, and to recommend what changes might be introduced into them in order to improve them.

"My Lord, this is a matter in which the mover of the resolution and those who support it on the one side and the Government of India on the other are at one in regard to the principle. The principle of decentralization of Indian finance has been accepted by the Government of India for the last 40 years and more, and measures have from time to time been adopted to decentralize finance to a large extent. The Hon'ble Mover of the resolution acknowledged, and gratefully acknowledged rightly, the progress which has been made in this direction from the time before the days of Lord Mayo, when practically for every rupee which had to be spent the sanction of the Government of India had to be obtained, to the time when the Local Governments have been given considerable powers and have had comparatively large revenues assigned to them in order to carry on provincial administration. But, My Lord, while the Government of India have accepted the principle of decentralization, and while they have carried out many reforms in that direction, they have not yet accepted the principle in its entirety, and that is exactly where those of us who support the resolution and the Government of India are at a difference at present. We all acknowledge that Provincial Governments have been placed in comparatively very advantageous positions to what they occupied twenty years ago. When we remember the wail that went up from different Provincial Governments year after year, from almost every head of Local Governments in regard to provincial finance, and compare it with the state which obtains to-day, the difference is striking and satisfactory. But, My Lord, the Government have made it clear, in the last resolution they issued on the subject in 1912, that they are not prepared to go forward to the extent which those who advocate a real and effective decentralization desire to do. In dealing with the resolution it will be of help to briefly recall the history of this question as it has come down to us during the last half century. The first statesman who proposed decentralization in Indian finance was the great tribune of the English people, John Bright. Shortly after the Mutiny he pointed out the evils of over-centralization and advocated that the Government of India should decentralize so far as they could. Said he :—

I believe a great improvement may be made, and by a gradual process that will dislocate nothing. What you want is to decentralize your Government. You will not make a single step towards the improvement of India unless you change your whole system of Government, unless you give to each presidency a Government with more independent powers than are now possessed.

"It was not however until the experience of ten years had shown to the Government of India the hopelessness of expecting any improvement in their financial position, and until the Government of India were faced with difficulty in having adequate funds at their command to meet imperial responsibilities, that the first steps in the system of decentralization were taken by the Govern-

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ment of Lord Mayo. These steps were universally acclaimed as sound and beneficial—how beneficial is evidenced by the fact that Sir Henry Maine pronounced them to be ‘much the most successful administrative reform which had taken place in India in his time.’ But at the same time there were a number of other statesmen in India who were of opinion that the Government of India should go much farther. In his excellent *Life of Lord Mayo*, Sir William Hunter says:—

More than one of the predecessors of Lord Mayo had arrived at a similar conclusion, and, indeed, one school of Indian statesmen had gone so far as to advocate the almost complete financial independence of the Local Governments. This school would surrender to each separate administration the revenue raised in its own territories on the single condition of a rateable contribution for the expenditure common to the Empire, such as the Army and the public debt.

“ My Lord, a few years after that we had Sir Charles Trevelyan giving evidence before what is known as ‘ Mr. Fawcett’s Committee of the House of Commons ’. That evidence was referred to by my friend Mr. Surendra Nath Banerjee yesterday, and I do not propose to repeat it. My friend has brought out the fact that one of the objects with which Sir Charles Trevelyan urged a similar system of decentralization was that the Government of India should have a check applied to their spending propensities, and that they should not have as much of the surplus revenues in their hands as they would have if the unitary system continued to prevail.

“ A few years later Lord Dufferin appointed a Finance Committee. On that Committee there were Sir Charles Elliot, Sir William Hunter, Mr. Justice Ranade and Mr. Justice Cunningham. They made a specific recommendation to the same effect which I will, with Your Excellency’s permission, lay before the Council. In the note which they submitted to the Government of India on the subject, they made the following four proposals and urged that their adoption would be attended by very beneficial results:—

(1) That there be no divided departments, but that those departments of receipt and expenditure which are now wholly, or almost wholly, Imperial, or which it may be found convenient to make Imperial, should be set on one side for Imperial purposes, and that the receipts and expenditure of the provincialized departments should be entirely Provincial.

(2) That whatever the sum be by which the Imperial expenditure exceeds the income from those sources of revenue which are not provincialized, that sum should be declared the first charge on the Provincial revenues.

(3) That the provincial surplus which arises from the excess of receipts over expenditure should be the fund from which in the first place all Imperial necessities should be met before any increase can take place in provincial expenditure.

(4) And that as regards the future growth of revenue it should as far as possible be divided equally between Provincial and Imperial, subject to the condition that if the Imperial exigencies ever required a larger share, the Imperial share should be increased.

“ This recommendation was unfortunately not accepted and remains yet to be considered.

“ Then, My Lord, later on when the Welby Commission was appointed, several Indian gentlemen of eminence gave evidence before that Commission, and the Hon’ble Mr. Gokhale particularly brought out before the Commission the recommendation of the Finance Committee of 1886 quoted above.

“ A few years after that we had the Royal Commission on Decentralization. The matter was again pressed upon their attention, and the Commission did consider it in its several aspects and have left a record of their opinion regarding it. I would like here to say a few words about that opinion. It was referred to yesterday and Mr. Surendra Nath Banerjee drew attention to what the Commission say on page 35 of their Report. After considering the various proposals that had been put forward, the various alternatives that had been suggested as to how the scheme could be carried out, the Commission ended by saying:—

The above considerations apply to the existing conditions of administration, but we recognize that the grant to the Local Legislative Councils of material control over provincial finance, may 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 others within that of the Imperial, Government.

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“ This was the recommendation of the majority of the Commission, but two of its—Sir Steyning Edgerley and Mr Hutchins—members appended a supplementary memorandum on this point, which is to be found on page 200 of the Report. They said :—

‘ We think that the ultimate aim should be to give Provincial Governments independent sources of revenue and some separate powers of taxation, subject to the general control of the Government of India and the Secretary of State. While recognizing that this position can only be reached gradually and by cautious steps, we think that, in view of the wider powers which it is proposed to give to Provincial Legislatures, the time has come for a more definite movement in that direction than is necessarily implied in the Report of the Commission.

In the first place we would urge the importance of giving, subject to the general control of the Government of India and the Secretary of State, some separate powers of taxation to Provincial Governments, for it appears to us desirable that these should have more real financial responsibility than they possess to-day. At the present time, while they are to a considerable extent responsible for economical administration, the Provincial Governments are dependent for their resources on the Government of India. If they want to embark on fresh expenditure, they must either economize in other directions, look to an automatic increase in their revenues, or apply to the Government of India for larger grants, since they have no power to modify taxation, subject to the small exceptions referred to in paragraph 97 of the Report. If the Government of India accept the request of a Provincial Government for further financial assistance, they usually have recourse to the expedient of ‘ doles ’ discussed in paragraphs 75-9 of the Report.

“ That, My Lord, was the view of these two members, Sir Steyning Edgerley and Mr. Hutchins. We have therefore a large number of eminent men connected with the administration of India in favour of the view that the Provincial Governments should have a finance of their own. One of these I might further quote. Sir David Barbour also urged that a Government placed over a population of many millions is important enough to possess a financial system of its own. I have referred to these opinions to show that the proposal put forward before the Council has the support of experienced and distinguished administrators. But, My Lord, unfortunately, though the Government of India, as I have said, have been moving forward in the direction of greater decentralisation, they have not yet accepted the view that the Provincial Governments should be placed in a position of greater financial independence than they do occupy at present. In the Resolution which the Government of India issued in May, 1912, they have discussed the whole subject; they have adopted many recommendations which were made as side issues on the subject of decentralization, they have adopted some principles for regulating the granting of doles and lump grants concerned, and also for replacing large assignments of revenue by a share of the revenue. But, My Lord, they have not accepted the real principle of decentralization, and it is for the acceptance of that principle that the resolution appeals to the Council. The principle upon which the Government of India have hitherto acted has been the unitary system of finance. Under this system, as was pointed out yesterday, all the revenues of all the provinces of India are held to belong to the Government of India, and the Government of India, having possession of all such revenues, makes such grants as it thinks proper to the various Provincial Governments to carry on the administration of those Provinces. We seek, My Lord, to substitute for this unitary system a federal system of finance under which the finances raised in the different Provinces would be held to belong to those Provinces, and those Provinces will be liable to make a contribution to the Central Government for the purposes of that Government so far as the requirements of that Government are not covered by the Imperial sources of revenue which are contributed by the people of India as a whole.

“ My Lord, in the Resolution of the Government of India issued year before last, to which I have referred above, it was admitted that one principle on which the present arrangement was based was that the distribution of revenues between the Imperial and the Provincial Governments was made, except on occasions of

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grave emergency, with direct reference, not to the needs of the Central Government, but to the outlay which each Province might reasonably claim to incur upon the services which it administered. I submit that that is a principle which vitiates the whole arrangement; and it gives us ground for appealing to the Government to reconsider the situation. My Lord, the Government of India is responsible for Imperial expenditure; it is responsible for the defence of the Empire; it is responsible for the home charges; it is responsible for the public debt; it is also responsible for the expenditure incurred under the various heads of revenue which are Imperial, Customs, Post and Telegraphs, the Mint and so on. The expenditure on all these heads is more or less fixed, whereas the expenditure for which the Provincial Governments are responsible is ever growing because the needs of the people are multitudinous and must grow. What we therefore urge is that the revenues of the Government of India should be fixed with regard to their requirements, with a sufficient margin to meet the normal growth of expenditure and with a full margin to meet cases of emergency such as famine or the apprehension of a war. This would secure to the Government of India all that they would require for their purposes, and leave the rest of the revenues of every Province to be devoted to the moral and material well-being of the people who have contributed them. It was with a view to bring about such a result that the various recommendations to which I have invited attention were made to the effect that the Government of India's income should be confined to the Imperial heads and to a fixed contribution which should be made by every Provincial Government on some well defined principles.

"My Lord, the Government of India have on their side urged that they could not accept such an arrangement, for this reason among others that from the point of view of the Central Government a measure of this kind would not be satisfactory,—"

His Excellency the President :—"I must ask the Hon'ble Member to conclude his speech."

The Hon'ble Pandit Madan Mohan Malaviya :—"I will, My Lord. The Government of India have pointed out, My Lord, that they could not accept such a proposal as they were confronted with the loss of a considerable amount of revenue from opium and faced by the necessity of providing large and increasing funds for the extension of Education, for the improvement of Sanitation and for other kindred purposes. But I submit, My Lord, that all these purposes will be relegated to the provincial sphere once the principle is accepted that the Provincial Governments should primarily have charge of the Provincial revenues, and that only a certain limited proportion of it should be contributable to the Supreme Government. The expenditure on Education and Sanitation and much of similar other expenditure would then be met by the Provincial Governments.

"My Lord, I am sorry that I must finish, but I must not take up more time. It is impossible to discuss a subject of this importance in the short time allowed."

The Hon'ble Sir William Meyer :—"My Lord, I have awaited the development of my Hon'ble friend Mr. Surendranath Banerjee's Resolution with more than the usual interest which attaches to his public utterances in this Council and elsewhere. My Hon'ble friend has moved Resolutions of various characters supported by eloquent speeches, but this is, I think, the first instance in which he has invaded the realm of Finance. Then again the Resolution touches on a very large and intricate subject, and I was under some curiosity as to the reasons which the Hon'ble Member would adduce in support of the course he proposes. My Hon'ble friend has embarked on his mission with his usual eloquence, but I am afraid I am in no way convinced of the necessity or the expediency of the course which he asks the Council to adopt. My Hon'ble friend has, as I have said, attacked a very wide and important subject, and before dealing specifically with his arguments and those of the Hon'ble Members who have followed him, I must, in order to make the position of the Government perfectly clear, indicate how our present financial settle-

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ments have developed. I do not propose to delve into the very remote past. If time permitted, it might be interesting to recall the days of the Mogul rule, when there were large provincial governments, with capitals at places like Murshidabad, Patna and Kabul, and when a very eminent statesman, whom I may style my remote predecessor, the Hon'ble Raja Todar Mul, fixed the assignments to be taken from the Provincial Governments for the central exchequer at so many hundred cartloads of silver. I may, however, remark, in passing, that the ultimate result of the Hon'ble Raja's settlements were not very fortunate because, as everybody knows, the Provinces ultimately obtained such a large amount of that autonomy on which the Hon'ble Mover laid so much stress yesterday that many of them became independent States and the Central Government fell to pieces. Nor will I draw any moral from the state of things in China, where also the Local Governments possess large financial autonomy, and the Central Government is at present at its wits' end as to how to get money from them for the most necessary reforms and tasks.

" My Lord, taking India under British rule, it is again a matter of common knowledge that originally the Presidencies of Madras and Bombay were quite independent of that of Bengal, from which the remaining provinces of the India of to-day may be said to have grown. In time, however, they were made subordinate, and in 1833, when the Governor General of Bengal was for the first time officially recognized as Governor General of India, all financial powers were practically vested in the Central Government. This continued up to 1871, as the Decentralization Commission have observed in paragraph 54 of their Report. They there said :— ' Save in respect to local cesses which were levied in some Provinces, principally for roads, schools and other items of local expenditure, each Provincial Government was absolutely dependent on sums annually assigned to it by the Central Government for the upkeep of its administrative services.'

" As regards the subsequent stages, I need only refer the Council to paragraphs 54-62 of the Report of the Decentralization Commission, partly because, as I have reason to believe, my hon'ble friend the mover regards that Report, as a whole, with feelings, shall I say, of affectionate solicitude, and partly because I myself was primarily responsible for drafting it; and as Lord Morley once remarked—' If you think you have already said a thing well, it is better to repeat yourself than to risk the exhibition of the same matter in a different way.'

" I may add that the new departure effected in 1871, though it was the prelude to very much more important developments by itself included nothing towards the provincialization or partial provincialization of important heads of revenue. What makes the 1871 departure an important landmark is the fact that it introduced the idea of provincial responsibility. As mentioned by Sir Richard Temple, in his Financial Statement for 1871-72, though in somewhat more official phraseology, the Provincial Governments were given a little show of their own to run, and an allowance—not to be overdrawn—to run it with.

" The first settlements which gave to the Provincial Governments some share, though a very small one, of growing revenues were those effected by the Government of Lord Lytton in 1877-79. The 1882 settlements developed the sphere of Provincial revenues and the system of divided heads. There were some further developments every five years afterwards, culminating in the *quasi*-permanent settlements of 1904 effected by Sir Edward Law and Sir Edward Baker.

" I now come to the existing settlements, brought into effect under the inspiration of my immediate predecessor and his able Lieutenant Sir James Meston in 1911-12. As regards the sphere of Imperial and Provincial activities these settlements made no new departure. They built upon the previous *quasi*-permanent settlements and the principal changes were as follows :—

" (1) The settlements were made absolutely permanent instead of merely *quasi*-permanent. As a necessary corollary to the permanency of the settlements came the conditions referred to in paragraphs 52 and 53 of my pro-

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decessor's speech introducing the Financial Statement for 1911-12, which the Hon'ble Mover quoted yesterday.

"(2) In pursuance of a policy by which the Government of India was to give the Provinces as much of their resources as possible in the shape of growing revenues, some important changes were made in the previous distribution of revenue as between Imperial and Provincial, to which the Hon'ble Mover has already referred. I may say, however, that he was slightly inaccurate in regard to income-tax, which has for a long time been a shared head. Speaking generally, Forests became an entirely Provincial head, as did Excise in Bombay, while in regard to Excise and certain other heads of revenue the share previously enjoyed by certain other Provinces was materially increased.

"Now, My Lord, what I want to emphasize in this connection is that, although the system of giving different shares of certain heads of revenue in various Provinces appears to be *per se* a departure from a subsidiary principle stated by Sir James Meston and quoted in paragraph 60 of the Decentralization Commission's Report—that is, that 'so far as possible the same share of the chief sources of revenue shall be given to each province', and it does not in the least conflict with the more important principle that the Provinces should be treated equally. They were so treated in the *quasi*-permanent settlements, each of which had as its basis the existing recognized normal standard of provincial expenditure, and the 1911 settlements are no departure from this principle. The development made was that, since the principle of generally similar shares of divisible growing revenues had in some provinces led to a large amount of fixed assignments, *i.e.*, revenues which did not grow, it was decided, in accordance with the recommendations made by the Decentralization Commission in paragraphs 69 and 79 of their Report, to convert such fixed assignments as far as possible into growing revenues. And the different circumstances of the different provinces in this respect gave rise to the variations I have mentioned in dealing with their shares of divisible revenue. What I want to lay stress on is that no province was injured by this. On the contrary, every one of them profited by exchanging fixed for expanding receipts. The principle adopted was to put the Provincial revenues on a more elastic basis, and to make that basis equal in essentials for the various Local Governments, though no longer identical in mere outward form. I would refer to one more point in connection with these settlements. The Council are aware that, in the case of divided heads, Local Governments possess as full financial powers in regard to the creation and remuneration of appointments as they do under heads which are purely provincial; and, very soon after the new settlements came into being, these powers were largely increased as a result of the recommendations of the Decentralization Commission.

"Since then two things have happened; in the first place the territorial re-arrangements announced at the Delhi Durbar have necessitated the Provinces of Bengal, Bihar and Orissa, and Assam, as then newly constituted, going under a temporary settlement the character of which was described in paragraph 50 of the Financial Statement for 1912-13. This was necessary until such time as experience would warrant the conversion of these into permanent settlements. Obviously, the previous data derived from differently constituted provincial areas no longer applied, and for the sake of the new provinces themselves the Government of India did not want to rush into any hasty permanent settlements. The revision of these temporary settlements will take place during the coming year and will come into effect on the 1st April, 1915.

"Secondly, the prosperous state of its finances in the closing years of my predecessor's *régime* has enabled the Government of India to add considerable recurring grants to provincial resources, as well as very large non-recurring contributions. As regards the recurring grants already given or which may be given hereafter, we do not in any way lose sight of the principle previously referred to that by the Decentralization Commission and which we are acting on, namely, that when in any province these fixed assignments reach a figure which makes it worth while to convert them into an additional share of growing revenue under a new divided head, that conversion will, subject to the Secretary of State's sanction, which is required, be made.

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“ From the history of the case which I have given three main points emerge. The first is that the provincial settlement system really includes two quite different stages. In the earlier years, the system operated as an arrangement by which, to put it bluntly, the Imperial Government was enabled to exploit the Provincial Governments. In the later years, the exact contrary of this process has been taking place, and one may almost say that every change of method and principle has been adopted with the conscious desire throughout to improve and guarantee the financial well-being of the Provincial Governments.

“ The object of the earlier settlements was primarily to check the growth of provincial expenditure. The Government of India constantly made renewed demands upon the provinces as their own necessities increased, and the five years' period, in particular, gave an opportunity for resuming any surplus of revenue which the Local Governments might manage to accumulate in spite of the Supreme Government's careful dispositions. Almost every feature of the later settlement is in direct contrast to this attitude. First, we have the change of policy in regard to the *amount of revenue* with which a Province was to be started. The earlier settlements gave a sum less than the expenditure actually attained. Next came the acceptance of the theory that the revenue assigned should be equal to the standard of expenditure attained. Finally, though the theory remained unchanged, the practice was sensibly modified by the liberal way in which the standards of expenditure were calculated, and by the giving of large initial grants, in the 1904 settlement, and so forth. In effect, the Government of India began to give something in excess of the scale of expenditure which could be rightly claimed as obligatory at the time.

“ Next, we have the question of elasticity. The necessity for this was not recognized at all at the outset, and for many years was only admitted in a most haphazard manner.

“ It is only during the later part of the era which commenced 40 years ago that the necessity for some considered adjustment of the growing portion of a Province's revenue has come to be definitely realized as a point of principle. Even then the original idea was that some parts should be growing and some parts should be fixed. The later tendency has been to make the whole growing, and in several of the 1911 settlements the Local Governments were started with no non-growing revenues at all. It may be urged that further fixed assignments have since been made. In other words, it seems to be in some quarters a matter of complaint that when the Government of India makes a grant of say £50,000 a year to a particular province to meet new expenditure, they do not promise that this £50,000 shall be raised to £51,000 next year, to £52,000 in the next and so forth. This is obviously impracticable: we cannot always be making such petty tinkering.

“ Next, we have the principle of permanence. The Law-Baker settlements were *quasi*-permanent as opposed to quinquennial: the existing settlements are formally declared to be permanent. The matter has not been mentioned in the very moderate speeches of the Hon'ble Mover and his seconder, but from criticisms one has seen in other places it might almost seem to be felt in certain quarters that this is a device by which the Government of India hope to stereotype a set of unfair financial arrangements which they have succeeded in enforcing upon the Provinces. The exact contrary is the case. Under the older system the Local Governments were liable to have their surplus revenues resumed at frequent intervals. The idea of permanence was introduced for their protection, as the Local Governments themselves recognized readily enough. Indeed, the benefits thus conferred are not unlikely to prove somewhat greater than the Government of India anticipated. While, in practice, the Government of India are strictly bound by their own pledges, it seems rarely to occur to certain enthusiasts for provincial development that any corresponding obligations rest upon the other party. Finally, as a new practical development, we have, for the time being at any rate, a very vigorous application of the principle that a new policy, even in the case of a permanent settlement, must imply the grant of new resources. It would have been fully open to the

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Government of India to insist, on administrative grounds, that more must be done from the revenues already assigned to the Provinces in largely improving Education and Sanitation. In effect the Government of India have hitherto taken the main burden upon themselves.

“ Such being the history of this question, I do feel some wonder that the great developments made are not fully appreciated, and that we are now asked to throw them aside as unsatisfactory, and to embark on a new policy. I am somewhat surprised that the Hon'ble Mr. Banerjee should seek inspiration in the constructive efforts of an earlier period, which can be shown to be totally out of accord with the circumstances of to-day.

“ Then I pass on to a point with which the Council are possibly not so familiar as we are in the Finance Department,—that is, the fact that Provincial Governments are not exposed to demands for remissions of taxation. This is a peculiar feature of the Indian system. It would be natural enough if provincial expenditure were of such a nature as to be legitimately kept outside any general statement of the finances of India as a whole. That is not the case. No one can regard the vast bulk of the expenditure on civil administration, and the provincial share of the ordinary sources of revenue, as incidental matters which can be thrown into the background like the financial transactions of Local Boards. Yet, though Provincial finance is necessarily an integral part of Imperial finance in the widest and most legitimate sense, we have the striking feature that the Provincial Governments, administering three-eighths of the revenue or something like £30 millions out of a total of 80 millions, are totally exempt from finding their resources diminished by any public demand for remission of taxation. The Government of India have to face that in this Council and outside it. The new expenditure which the Local Governments propose from year to year cannot be criticized on the ground that the money would be better employed in being returned to the tax-payer. If we want to get at the spirit now underlying the Provincial settlements, we can hardly find more conclusive evidence of the generosity which has inspired them,—a generosity which the Hon'ble Pandit Malaviya evidently regrets when he says in effect ‘ Let us have a federal system, and so allow the Provinces to tax themselves and be subjected to demands for remission of taxation, and all the criticisms which the Government of India now have to bear alone.’

“ Well, My Lord, we thus reach the conclusion that the fundamental basis of the system cannot in present circumstances be further liberalized; and in so far as the object of this Resolution may be to obtain a sudden and large addition to Provincial resources at the expense of Imperial, *i.e.*, at the expense of the Indian tax-payer, the Government of India cannot hold out any hope of its being attained.

“ The only other main object which those who wish to recast the existing system can have in view must be to secure for Local Governments a higher degree of administrative independence by weakening the financial ties which at present connect them with the Government of India. The Hon'ble Mover's speech yesterday, I think, afforded considerable evidence of this. The idea presumably is that whatever may be the Government of India's theoretical right of interference from the administrative point of view, this power could not be effectively exercised in practice were it not for the system of a joint financial interest in the divided heads. Well, as I have already pointed out, the Local Governments enjoy exactly the same financial powers under the divided heads as they do under those which are purely Provincial. If the object is to enlarge the administrative independence of the Provinces, it seems to me that the attack should be made more directly on that side. The Government of India cannot be expected to weaken any of the subsidiary safeguards of an administrative position which they themselves hold to be justified. The question of decentralization is not a new one. A few years ago the Secretary of State, with the hearty concurrence of the Government of India, appointed that body to which the Hon'ble Mover attaches so much importance,

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the Royal Commission on Decentralization; and the Commission proposed many methods by which, without upsetting the framework of the existing system, Provincial Governments might get a freer hand. In many cases their recommendations have been acted on; in others these are still under consideration. Then, even in regard to purely financial matters, the interference of the Government of India has been considerably lessened in recent years. I have already referred to the larger powers which the Local Governments now have in regard to the creation and remuneration of appointments. Well, that may seem by itself a dry-as-dust, trivial, consideration; but anybody who thinks about it will know that it is not so, because every administrative scheme ends in the creation of certain appointments, or in the alteration of their remuneration. I can assure the Council, from very large experience, that these apparently dull, trivial, matters in which the Local Governments have been allowed larger powers have in effect enormously reduced the references that they have to make to Simla and Delhi. Again, the Provincial budgets are now essentially the budgets of the Local Governments themselves. When I was first connected with the Finance Department their budgets were constantly revised by the Finance Member and his assistants. That is not the case any longer.

“Turning now to details, the Hon'ble Member's speech contained some special references. We were asked to consider the scheme outlined by Sir Charles Elliott and three of his colleagues on a Committee appointed to advise the Governor General some 20 years ago during the Viceroyalty of Lord Dufferin. Well, the circumstances of that time were absolutely different from the circumstances of to-day. What led Lord Dufferin's Government to appoint that Commission? The answer is that they were so hard up that they said to themselves 'let us see if we can't get more money out of the Provinces,' and the primary instructions of the Commission were to get the money. The Commission produced two very bulky volumes, a perusal of which shows that they followed the clue given to them with the greatest industry and assiduity, and the 1887 settlements showed that the Commission had influenced the Government of India in the direction of not letting the Provinces have any more than they could possibly help.

“The Hon'ble Member also asked my special attention and deference to certain dicta of Sir Charles Trevelyan on the ground that I am a Madras Civilian, and that Sir Charles Trevelyan was once Governor of Madras. But, My Lord, if my memory serves me right, Sir Charles Trevelyan's tenure of the Governorship of Madras was not very lengthy, because he had to be removed for official insubordination for publicly attacking the Government of India in connection with an income-tax. I think I may fairly ask my hon'ble friend to provide me with a more auspicious *Guru*; and apart from that, I may point out that Sir Charles Trevelyan's remarks, to which the Hon'ble Pandit Madan Mohan Malaviya also attaches importance, were written, I gather, between 1871 and 1873, at a period when the Mayo settlements had just begun, and when Sir Charles Trevelyan's own experience in India had ended, that experience having been entirely under the system of absolute centralization which prevailed in the *ante-Mayo* period. If Sir Charles Trevelyan could revisit this earth, and attend the debate in this Council, I think he would be amazed at the enormous change that has taken place since his time, and would recognize that his remarks were entirely inapplicable to present conditions.

“Now I come to the proposals made by Sir Charles Elliott and certain colleagues of his. The first is that there should be no divided heads, that is to say, that all sources of revenue should be wholly Imperial or wholly Provincial. In this connection, my hon'ble friend the Mover did me the honour to refer specially to paragraph 72 of the Decentralization Commission's Report, and to a particular passage in paragraph 71. Well, My Lord, I see no reason to regret any recommendations that I put forward along with my colleagues in the Decentralization Commission. But such recommendations

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must be judged as a whole, not with reference to isolated passages. I must therefore read what the Commission had to say:—

Other proposals put forward are to the effect that the Local Governments should obtain permanent and separate resources, bringing in not less than their existing revenues, by having certain of the divided heads entirely assigned to them, the others becoming Imperial. The advocates of this view appear to imagine that such a separation would give the Local Governments larger financial powers than they at present enjoy; but, except in the possible matter of general budget control, this is not so, since a Local Government possesses the same detailed financial powers in regard to such matters as the creation of appointments, in the case of a divided head as it does in one that is wholly Provincial—

The Hon'ble Mr. Surendra Nath Banerjee:—"May I ask for the page?"

The Hon'ble Sir William Meyer:—"Page 34."

It is no doubt conceivable that, under the present system, a Local Government happening to be possessed of a considerable surplus, might desire to push expenditure in regard to a divided head such as forests ('forests, of course, is not now divided, but it was then), while the Government of India might at the same time find themselves in a position in which they could not conveniently meet the additional expenditure which the adoption of such a proposal would call for from them. That, however, would be a matter of rare occurrence, and as against the proposed change there are the following considerations:—

- (i) The Local Governments benefit by broadening the bases of their revenues. If, for example, the whole of the revenues they obtain under the present divided heads (which are the most important from the receipts side) were hereafter to accrue to them from, say, land-revenue only, or from land-revenue and excise, they would be much more at the mercy of fluctuating seasons than they are at present.
- (ii) The arrangement by which the Government of India share in the receipts and expenditure of some of the most important Provincial heads of administration makes them more interested in, and identified with, local development; and they can exercise the general control in matters of policy, which they must in any case retain as a Central Government, with less friction if they are also concerned pecuniarily.
- (iii) As a matter of general policy it seems undesirable to encourage the idea that the Government of India are chiefly concerned with relatively unpopular services, such as salt, military expenditure and Home charges.

Accordingly, our conclusion is that it would be undesirable to make any sudden and violent change in the present system of divided heads, but as already stated, we advocate the conversion of unduly large fixed assignments into shares of growing revenue. Moreover, it seems clear that, as the financial position permits, the resources of Provincial Governments will need to be increased, to provide for the expansion and improvement of local services. It may be, also, that the scope of Provincial financial responsibility will be directly expanded, e.g., irrigation might be made a more entirely Provincial item than it is at present. This increase of regular Provincial revenues should, in our opinion, be met by gradually provincializing heads of revenue which are now divided, and for which the Provincial Governments must always be specially responsible, such as forests or excise.

The high authority of Sir David Barbour may, it is true, be quoted in support of the thesis that a Province with a population of many millions is important enough to possess a financial system of its own. In theory that is true, but we are of opinion that present circumstances render the full application of this theory impracticable; and the objection to shared revenues which appears to have been mainly present to Sir David Barbour's mind, namely, the want of any assurance that revenues assigned to the Local Governments would be of a permanent character, has been met by the present *quasi*-permanent settlements.

The above considerations apply to the existing condition of administrations, but we recognize that the grant to the local Legislative Councils of material control over the Provincial finance, may 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 others within that of the Imperial, Government.

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“ Note the word ‘ *may* ’ I have emphasised in the above passage. The Commission merely said that hereafter it *might* be desirable to do away, as far as possible, with the divided heads. It is clear from their previous observations that they were against any sudden revolutionary change ; and I have already shown that the Government of India have proceeded, as far as circumstances yet admit, in the direction of greater provincialization of these heads.

“ As for the other proposals which Mr. Madan Mohan Malaviya advocated, they simply fill me with horror, and I do not know what the Lieutenant-Governor of the United Provinces will say when he comes to read them. Whatever the sum by which the Imperial expenditure exceeds the income from those sources which are not provincialized, that sum is to be the first charge on the provincial revenues. Well in 1908-09, we had an Imperial deficit of about £3½ millions. According to the Hon’ble Mr. Malaviya the Government of India should have plundered the Provinces to make it up ! Secondly, it was proposed that all Imperial necessities should be met before any increase could take place in Provincial expenditure. Under such a plan the Provinces would not know where they were, because on some unforeseen day, the Finance Minister might come suddenly down upon them and say ‘ Oh ! I am in a tight place, because I had to do this, that, or the other ; and you have got to hand over to me, say, a million pounds’. How could there be any certainty of steady administrative development in the provinces under such a plan ?

“ As regards the federal system which the Hon’ble Member advocates, how would it have worked in recent years ? Under any federal system, the revenue from opium and railways would be entirely Imperial ; the special allotments to the Provincial Governments made of late years which my hon’ble friends sneer at as dolcs have been due in the main to the application of surpluses arising from opium and railways. I do not find that Mr. Malaviya then protested against the donations thus made to the United Provinces, for instance. Still, as I said in a recent debate, there is such a thing as ‘ conscience money ’ ; and if the Hon’ble Member will induce the Government of the United Provinces to say ‘ This is railway and opium money, which ought not to have come to us, because it offends against the canons of the federal system,’ I for one should be very glad to have it back ! ”

The Hon’ble Pandit Madan Mohan Malaviya :—“ The Government of India would have had to disgorge crores upon crores if it had accepted my recommendations.”

The Hon’ble Sir William Meyer :—“ I must conclude, and so I only say this. What are the facts which stand out from this, I fear, somewhat lengthy explanation ? They are that the policy of the Government of India in respect of the Provincial settlements has been one of constantly increasing liberality, that the Provincial Governments are in a position at present which their predecessors of a generation ago would have looked on as too good to be hoped for, that they are permanently assured of far larger resources than their predecessors possessed, and that, in the case of famine, that great disturber of provincial financial equilibrium, the Government of India have given them large assistance both directly and occasionally in a shape which the United Provinces have lately found most useful, that of a guarantee of a minimum revenue. Finally, they are at present in a position as regards cash which, as custodian of the Imperial finance, I can only regard with friendly envy.

“ Now the last stage in this process of development was only reached some three years ago. It was the result of very careful inquiry by a Royal Commission and of further consideration by the Secretary of State and the Government of India, the Secretary of State’s approval being necessary to any important alteration in the terms of a provincial settlement. It is now proposed to appoint a fresh Commission, technically called a Committee, to consider the revision of this latest development. On behalf of the Government

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of India, I cannot accept any such recommendation. Why, even under the old system of temporary settlements, five years passed before one settlement was superseded by another. Now we are asked at a much earlier date to tear up the whole system of permanent settlements by the roots. Then again, such an inquiry can only have one of the following results:—

- (1) It would affirm the propriety of the existing settlement, subject possibly to a few minor alterations which the Government of India are quite competent to take up on their own initiative when circumstances require them.
- (2) It might make recommendations which, while not appreciably altering the balance of Imperial and Provincial revenues, would alter the respective spheres of the two parties. I have already indicated the objections found by the Decentralization Commission to suggested alterations of this character, and need only add that I am not prepared to assent to any inquiry which produces a mere re-shuffle of the cards.
- (3) It might propose that the provincial share of revenue should be considerably increased. In the present conditions of Imperial finance, that would involve an increase of taxation, which I am certainly not prepared to assent to on such a ground.
- (4) It might conceivably suggest that the Provinces are too well treated and should get less revenue than they obtain at present. Looking at the matter from the point of view of the Imperial Exchequer, that might be a satisfactory result; but, speaking as a Member responsible for the Government of India as a whole, I am not prepared to clip the wings of Provincial Governments in this way.

"I need only add one further remark with reference to the first point; that is, that the Government of India are in no way unmindful of the recommendation of the Decentralization Commission: that, as provinces obtain a large amount of fixed assignments, these should be converted into growing revenue. Well, as time goes on, if these fixed revenues should hereafter expand to a large extent, the Government of India will be quite willing to consider whether any further conversion should be made.

"This, however, is a matter of expediency; it is a matter that cannot come up for some time, and in regard to which I will observe, substituting a single word in the well-known saying, that sufficient for the day is the good thereof.

"I cannot therefore accept my hon'ble friend's Resolution."

The Hon'ble Mr. Surendra Nath Banerjee :—"My Lord, I regret the decision of my hon'ble friend the Finance Minister in regard to the Resolution which I have had the honour to move. But my first words will be words of congratulation on his lucid speech giving us a history of the development of decentralization in India. I am sure that we have greatly profited by that speech. My hon'ble friend says that there is a disposition in some quarters to find fault with the Government of India for the grants which the Government have made to the various Provinces. I think, My Lord, that that is not the temper of the non-official Members in this Council, as my hon'ble friend Pandit Madan Malaviya and I have both borne testimony to the liberality of the Government of India in the disposition of its grants. What we say is this: that these doles as they have been called—I do not use the word in any disparaging sense—these doles have had a demoralizing effect, and they are even wasted; and that it would conduce to economy, it would help to regularize our finances, it would lead to the progressive development of provincial finance if, instead of these doles being given to the Provincial Governments, the Government of India

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were to receive fixed contributions from the different provinces, contributions which would be fixed as the result of the deliberations of the Committee which I have had the honour to move for. My Lord, there is one part of my speech to which the Hon'ble the Finance Minister did not at all refer. I quoted the despatch of the Government of India of the 25th August, 1911. This despatch was issued in connection with the Royal visit, in fact at the time of the Royal visit. In that despatch the boon of provincial autonomy was distinctly outlined, and I urge that in order that we should have that boon, fiscal independence is the first condition necessary. My hon'ble friend did not refer to that part of my speech at all"—

The Hon'ble Sir William Meyer.—"There was no time."

The Hon'ble Mr. Surendra Nath Banerjee :—"My hon'ble friend had time for everything else except to deal with this particular matter. I venture to say that my position here was absolutely unassailable. A deliberate pledge was given by the Government of India. That being so, if it is necessary to carry out the pledge, I maintain without fear of challenge or contradiction that fiscal independence must be given to the Provinces, and if fiscal independence is to be given to the Provinces, my Resolution should be accepted; a Committee should be appointed for the purpose of considering what measures should be taken for carrying out this object. My hon'ble friend has rightly guessed the object of this motion; the object is to persuade the Government of India to take a further step forward in the line of administrative development. My Resolution is financial; in fact, all important Resolutions are more or less financial; but behind the financial aspect of this question there are large administrative considerations. Therefore, My Lord, it seems to me that, having regard to the fact that my hon'ble friend has not referred to that matter, my position as regards this particular aspect of the question remains unassailable. I am sorry that my hon'ble friend has not been able to see his way to appoint a Committee. The Bengal Provincial system is going to be revised next year; it was a temporary settlement extending from 1912 to 1915. If a Committee were appointed, and if it inquired into the systems of the different provinces, I am certain that Government would be in a better position to deal with the question affecting Bengal. My Lord, I regret the decision of my hon'ble friend; I am sure the country will regret the decision; the question however cannot be allowed to rest where it is; the question of the fiscal independence of the Provinces will be brought up again and again in this Council Chamber. We must urge the absolute and complete redemption of the pledge. No pledge made by the Government of India has gone unfulfilled. It takes time for the Government to move; it moves slowly, but deliberately; and in this matter I am confident that the Government will also redeem the solemn declaration which it has made."

The Hon'ble Sir William Meyer :—"My Lord, I just rise to say a few words regarding the point which the Hon'ble Member has raised. My hon'ble friend refers to a certain despatch and says that that constitutes a pledge of financial independence and other independence to the Local Governments. Well, I am not going to be led into any discussion as to the intention of that despatch. Its proper application has been expounded by a much higher authority—the Secretary of State for India in his place in Parliament. As regards the financial morale which the Hon'ble Mover seeks to draw, I will, however, say a word. I was not myself in the Government of India at the time, but I can produce the most practical evidence of what the Government thought about this. The Delhi arrangements were announced in January, 1912, and the Provincial Settlements were then in their infancy. They were enacted with effect from the 1st April, 1911. Had the Government of India thought that by the wording of this despatch they had pledged themselves at once to give the Provinces larger financial independence, surely they would have taken the opportunity of doing so; but they did not do it. In questions of this sort people are themselves surely the best judges of what they actually mean. On this occasion, the Government of India, by their action, or rather by their inaction, showed clearly what they did, and what they did not, intend."

The Resolution was put and rejected.

[Sir Gangadhar Chitnavis.] [25TH FEBRUARY, 1914.]

RESOLUTION ON THE RECENT BANK FAILURES.

The Hon'ble Sir Gangadhar Chitnavis said :—" My Lord, I beg to move—

That this Council recommends to the Governor General in Council the advisability of appointing a Committee, composed of persons with judicial, financial and commercial experience, to inquire into the causes of the recent bank failures and to report what, if any, measures are desirable to regulate and control banks and banking business in this country.

" I think I hardly need expatiate on the fact that within the last few months there have been numerous bank failures in various parts of this country, which have caused wide-spread distress and have to some extent shaken the public confidence in this class of commercial enterprise. The probability of collapses of this nature was not unforeseen by those who have been watching the recent industrial and commercial development which has been a feature of the last few years. In my budget speech on the 27th March, 1911, I spoke about this in the following words :—

Of late there has been a healthy change in the ideals of the people, followed by a spurt of industrial and commercial activity. Government should not only view the movement with satisfaction, and foster it as they have done in the past by guidance and serious efforts at the organization of rural capital: but they should closely watch it, with a view to keep it within safe channels and to prevent reckless speculation and gamble. My Lord, in this view of the responsibility of the Government, they would be justified in providing stringent legislative checks upon the operations of such important concerns as banks and insurance companies, and in providing for the periodical examination by official auditors of the accounts of all these Indian concerns. My Lord, the failure of these companies will not only entail present ruin upon many, but what is far more important, will make Indian capital a hundred times more shy than it is at present, will set back the industrial progress of the country by at least fifty years, and will add to the number of the unemployed. The better mind of India thinks that Government should take action at an early date.

" When the East, deserting its traditional methods, suddenly adopted the business methods of the West without the business experience which is the result of slow growth, it is not to be wondered at that shipwreck has occurred. Indeed, this view of the case must have also presented itself to the Government of India, for I find that Local Governments and other bodies are being consulted on the question of the necessity of legislating to control the matters I have specified in my resolution. I propose, therefore, to endeavour to establish the following propositions :—

- (1) that a state of affairs calling for investigation exists,
- (2) that the present is an appropriate time for holding such an investigation, and
- (3) that the method I suggest is the most suitable and effective manner in which it can be made.

" On the first head, I need say very little; the occurrence of the failures I have referred to creates a *prima facie* presumption that there is something radically wrong, which requires a radical remedy. Moreover, as Government have themselves been considering the necessity of the control of banking business anterior to these failures, I apprehend that I may conclude that they are at one with me on this point. As to the second head, I submit that the time is very apposite for holding the inquiry. Public feeling has been aroused by the occurrence of the disasters, and keen interest and assistance may reasonably be expected. On matters of this kind the public as a whole are apathetic unless under the stimulus of a recent object lesson; and for this reason it is desirable to strike when the iron is hot. As to the third head, it may, and probably will, be said by those who do not take the same view of the matter as I do, that sufficient material to deal with the subject will be derived from the reports of the liquidators who are winding up the insolvent companies, and from the replies to the inquiries that Government are making, so that the Committee will be a needless and expensive method of securing objects which could be equally well attained in other ways. This is a conclusion that I cannot myself accept, and I venture to think the Council will not do so either. As regards liquidators, they are primarily concerned with doing the best they can for the creditors of the concern; and, at the best, their reports can only be isolated examination of the affairs of the particular company with which they are dealing

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and will only notice the particular evils of the particular concerns they may be winding up. It will also be well to bear in mind that a thorough investigation of the failures does not mean the ascertainment of the principal heads of mismanagement which might perhaps be revealed in the course of liquidation proceedings. Even if the two were identical, it is a question how far the Court dealing with these applications for liquidation has jurisdiction to go into all the essential details, and, assuming for argument's sake that it has, how far it will care to exercise that jurisdiction.

" The provisions of the Indian law relating to liquidation, compulsory or voluntary, invest the Court with powers sufficient to enable it to collect the assets of the bankrupt company and to distribute them among the creditors. Certain powers ancillary to these authorise the Court to determine the assets and settle the list of contributories. These are large powers to be sure, and an examination of the financial position of the Company would undoubtedly fall within the purview of the law. It might also be conceded that a thorough judicial inquiry into the suspected fraud in the management would be not only a justifiable but a necessary procedure. But, as can well be seen, an investigation of the various subterfuges and malpractices by which the depositors and shareholders have been duped by an unscrupulous and scheming manager is certainly not within the primary function of the Court. To illustrate my meaning, suppose it transpires in the course of liquidation proceedings that the Manager has systematically misapplied the funds of the Bank and has successfully cooked the accounts even without the knowledge of the Directors. Now on this hypothesis an inquiry into the criminality or otherwise of the procedure is the utmost that the Court can undertake consistently with the object of the law. But this is not enough. There is yet another stage in the investigation absolutely necessary in the public interest, but not affecting the interests of the parties to the proceedings, and that is, a scrutiny into the method of management and the devices adopted to circumvent the law. And this is exactly the investigation which the Court may often not be competent to undertake for the purposes of liquidation, and will be most reluctant to undertake. It may well be that certain facts material to the issues involved in this investigation will come to light either in the course of liquidation proceedings or the attendant prosecution; but that can only be incidentally. From the nature of the case the facts are not subjected to that critical analysis which alone lends them weight and ensures their acceptance by the public. The apprehension of the investigation by a commission overlapping the judicial investigation by the liquidating Court is thus without a foundation in fact. The lines of the two investigations are different. In this view of the matter, the investigation recommended in the resolution is not, and cannot be, superfluous. Nor is it premature, for practically the same reasons. Had this investigation depended for its success upon the results of the liquidation proceedings, the contention would have had a semblance of validity; but in the light of the contention that the scope of the inquiry now recommended is altogether different, even that semblance disappears. There is nothing in the liquidation proceedings to make a thorough investigation by a commission injudicious, either absolutely or in point of time.

" Besides, how long is this investigation to be delayed? Liquidation proceedings are always slow, and it is no fault of either the liquidator or the Court if their termination is a question of months, nay of years. Is it wise for Government to allow things to drift for a long while yet without any attempt on their part to check abuse and fraudulent management by legislative or executive control? Few will answer this in the affirmative.

" Moreover, the liquidation proceedings are not in their initial stage, and it is extremely doubtful if any new facts relevant to them as also to the larger investigation that must precede legislation are likely to be revealed at a later period. According to the principle enunciated by the critics, therefore, the time has come for investigation by a commission preparatory to legislation. No useful purpose can be served by delaying the inquiry.

" As regards the Government inquiries, it may be argued that they are sufficient to elicit all the facts; but I venture to suggest that in the majority

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of cases, they will be answered by persons with no special knowledge or interest in the particular class of subject with which I am dealing. In so far as they may be from well-informed sources, they will be largely tinged by the particular interest of those concerns, and will not replace that sifting investigation in a judicial spirit which may be expected from the careful investigation of experts sitting together and devoting their energies to one particular end. The course I advocate is one which is well supported by precedent in many countries. After the disastrous failures of 1857 in England, and on many other occasions, Select Committees of the House of Commons have been appointed to consider the causes of financial disaster. A similar course was, I believe, followed in Germany after commercial disasters in the year 1891, which led to the Deposit Law of 1896. I will quote one other example. The wide-spread failures in the United States in 1907, which culminated in several restrictive measures in the New York legislature in 1908, were, I believe, minutely examined as a necessary preliminary to legislation. It may be suggested that an inquiry of the nature contemplated might shake public credit to a dangerous extent. I myself take an exactly opposite view. Look to the present depression in cotton trade and the falling off of prices. There is likely to be also a continuous run for deposits on well-managed banks. All this means that this money will be lost eventually to trade and industries. It appears to me that if no investigation is made the public mind will be left in a disturbed condition which will be most unfavourable to commercial development, and that Government will hardly be doing as much as we expect it to do to foster our growing trades and industries, if they fail to come forward and extend a guiding hand when events have shown that one is needed. To enable them to do so in the most effective manner and to frame well-considered measures, information, which, I venture to think, can be obtained in no other way, should be collected in the manner which I have suggested. There is a further practical consideration which will appeal to Government in a very direct manner. The credit of a country is a matter of such importance that no Government can fail to pay great attention to preserve it unimpaired. Any serious disturbance of its tranquillity must be a matter of intimate concern to Government, and, indeed, I believe that has been recognised by the fact that the Government have themselves stated, as Your Excellency was pleased to declare in your sympathetic speech at Madras, that they are prepared to make timely advances in suitable cases to stave off financial crisis. Before, however, you can give help in a disease, you must know its causes. To administer assistance in ignorance of the causes of the complaint may oftentimes do more harm than good, and here again, therefore, I find a strong argument in support of my contention that the matter should be investigated. I will not conceal from the Council that if my resolution is accepted and given effect to, as I hope it will be, I anticipate that it too will bear fruit in legislation. Indeed, I look forward to seeing the activity in banking business diverted into safe channels. I shall doubtless be told that in England no effective State control of banks of deposit, as distinguished from banks of issue, has been found necessary, and that as we very largely borrow from English law for our measures in this country, we should not depart from that principle. But I should like to draw the attention of the Council to the fact that the pressure of public opinion in England has itself secured the control which may be found necessary to impose by statutory provision in this country. In the earlier part of the last century, a very large number, and indeed the bulk of existing banks in England were small private concerns owned by a few persons who dealt with their neighbours, and the relationship between the Banker and customer was almost entirely personal. The pressure of public opinion has almost abolished the private bank in England and there are in its place large corporations subject to the control of the Companies Act, who alone can command the confidence of the public. I do not desire, nor do I think any one who has the good of India at heart would desire, that our experiments in commercial development should be attended by avoidable disasters. And yet if we trust to natural development it is only by the experience of such disasters that we can learn wisdom. Moreover, conditions in India are such that informed public opinion in these matters is a germ of very slow growth and our period of

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pupilage will be long and our experience bitter. I am one of those who think that there is much to be gained by the experience of others, so long as that experience is checked by local knowledge and careful investigation. All the dependencies of the Crown have not adopted the English principle of non-interference, and indeed in Canada there is a long and comprehensive Statute which deals with the subject. I am not sufficiently versed in the matter to say whether any of those provisions will be suitable in this country. But I am convinced that it is most desirable that material should be collected on which an intelligent opinion can be formed of what, if any, methods of control are desirable in this country; and it is with this object that I am moving my present resolution.

“ My Lord, capital is proverbially shy in India. The theory of hoarded wealth has the support of a large body of experts. But ‘ hoarded wealth’ or ‘ no hoarded wealth’ the fact cannot be gainsaid that the holdings of the people, whatever the total, are mostly locked up and do not find remunerative employment. Liquid capital has been the great want. The high bank rate with an annual average reaching at times 8.20 per cent as in Calcutta in 1898, and a normal annual average of a trifle over 5 per cent for all India has cramped commercial and industrial activity. The fact is deplored by all, official and non-official, and it has been the earnest endeavour of Government to induce the people to invest their money profitably and to secure an increase in the amount of loanable capital. After years of stagnation Indian enterprise has revived and Indian capital has found its way into normal channels through the banks. Private deposits in all the banks—Presidency, Exchange and Joint Stock—have increased enormously of late. The deposits of exchange banks secured in India advanced from 753 lakhs of rupees in 1890 to 1,030 lakhs in 1895 and 2,816 lakhs in 1911. In 21 years they nearly quadrupled, and the progress was throughout steady. I do not refer to the development of ‘ other deposits’ of the Presidency Banks from 625 lakhs in 1886 to 1,412 lakhs in 1891, to 3,419 lakhs in 1911 and to 3,578 lakhs in 1912, as a considerable proportion of these deposits must belong to Municipalities, trusts and like public bodies. The history of the Joint Stock Banks reveals the same satisfactory advance in the volume of deposits. It is a brighter picture. In 1911 the deposits amounted to 2,529 lakhs as against 807 lakhs of 1900, 565 lakhs of 1895 and 270 lakhs of 1890; or an increase of over 950 per cent in the same period of 21 years, and this exclusive of the large deposits held by the Indian Specie Bank of Bombay, for which the figures are not available. The outlook in 1911 was cheering indeed, but to my mind not free from anxiety. I have, however, always felt the need for close official control, which I have already alluded to. And our recent experience has amply justified the appeal I made in 1911. The only sense of surprise is the crash has not come before. But now that the crash has involved large number of people in ruin, Government cannot continue apathetic any longer. The absence of strict official control over the affairs of these Banks must be deplored by the staunchest supporters of *Swadeshi*. The worst has undoubtedly happened; but let us not waste our energy in vain regrets, let us be wise soon after the event, let us profit by the lesson we have learnt and adopt preventive measures against a future recurrence of the evil. We must recognise that an evil exists and also the absence of effective measures to control it. What those measures should be is a matter for determination. And this is a sphere of action in which the labours of an expert Committee will be found more productive than individual efforts.

“ I submit, My Lord, for the reasons I have given, that I have established my case and look forward with sanguine expectation to a favourable reply on behalf of Government.”

The Hon'ble Sardar Daljit Singh :—“ My Lord, the Resolution which my hon'ble colleague Sir Gangadhar Chitnavis has moved so ably to-day cannot but have the support of all well-wishers of the country, and there is hardly any doubt that the motive underlying it will be as well appreciated by this Council, as it is sure to be by the people at large. It is needless for me to say that it expresses a general desire now prevalent in this country for a searching inquiry into the present financial and commercial situation caused by the failure of so many banks and also for the suggestion of a

[*Sardar Daljit Singh ; Rai Sri Ram Bahadur.*] [25TH FEBRUARY, 1914.]

remedy which would render recurrence of such a misfortune, if not an unlikely thing, at any rate a remote possibility.

"I believe, Sir, that the Government is aware that the failure of the banks in India has entailed great misery and distress on the poor and the rich alike ; but the former have, within my own observation, suffered, as is only too natural, in a most cruel manner ; and I think it is incumbent on the well-wishers of the country to urge Government to adopt such measures which would in future obviate a similar disaster.

* "The situation affords a great object lesson and illustrates, in a most convincing manner, how such unfortunate incidents can upset the trade of the country, and how widespread its operations are ; even as regards foreign countries. It is indeed an irony of fate that no sooner the people of this country began to feel confidence in modern methods of circulating money than this bolt descends on them with such violence that it at once destroys their faith and puts a check (let me hope a temporary one) on their enterprising spirit. Another effect, which I am afraid will be worse than this, will be, that some people who were great unbelievers in the soundness of the banking system will now triumphantly declare that after all their own wisdom of burying money underground has been borne out by the verdict of time and experience.

"Sir, I feel that any economic disturbance, under the circumstances, as a result of speculative modern trade methods is likely to do great harm and put the clock back for many years of economic progress of the country. It applies with peculiar force to India, where such occurrences have generally produced unrest and vague discontent. In the interests of this country, therefore, I support this Resolution."

The Hon'ble Rai Sri Ram Bahadur said:—"Sir, I also support the Resolution moved by my friend the Hon'ble Sir Gangadhar Chitnavis. This Resolution asks for the appointment of a Committee to inquire into the causes of the recent Bank failures and to suggest what measures should be taken to regulate and control Banks and banking business in India. The recent Bank failures which have brought such a gigantic crisis in the banking business of India and caused depreciation of the general credit of the country are too well known. It is not only that the general credit of the country has been affected by these failures, but they have brought misery to a considerable number of persons who, placing faith on the promoters and managers of certain banking institutions, invested a large amount by purchasing shares and depositing their savings for the sake of alluring rates of interest which these banks offered to pay. These failures have ruined numerous families, and have deprived a large number of helpless widows and orphans of the scanty means of subsistence which they used to get from the deposits in those banks.

"For some time past, the number of banking institutions has been increasing very rapidly. In the last year the number of banking and loan companies registered under the Indian Companies Act had reached to 451, and they managed to create such confidence in the public that there was a very rapid increase in the amount of deposits. These deposits had reached from 12 to 25 crores of rupees between the years 1906 to 1911. The dangers to which the public was exposed by the growth of these banking institutions and their questionable methods of working were foreseen by the Government of India, as these institutions carried on business without getting the amount of shares paid up, kept no reserve fund at all, or in name only, published no balance sheets or, if they published any, they were not reliable, and took deposits without any regard to the amount of their paid-up Capital or their reserve fund. In August of the last year the Government of India invited the opinions of the Local Governments on the advisability of providing legislation to check and regulate the irregularities of these banking concerns and provide proper safeguards for the protection of depositors and shareholders.

"A note of alarm was sounded from a foreign quarter also : the *Economist* of London, a commercial newspaper of note, in its issue of the 13th September

[25TH FEBRUARY, 1914.] [*Rai Sri Ram Bahadur ; Raja Kushal Pal Singh ; Maharaja Manindra Chandra Nandi of Kasimbazar.*]

1913, wrote as follows on the form and organization of the general banking system of India :—

It is sufficient here to recall that during the last decade deposits have been increasing at a very rapid rate without anything like a corresponding increase in reserves. There has also been a great increase in recent years of concerns which have no strong financial standing, but carry on the business of banking. The dangers of the present situation in both these respects call for a definite policy of regulation which, while avoiding hampering restrictions, will save the banking system and the name of 'bank' from the discredit which is brought on it by worthless and irresponsible concerns.

"But before any action could be taken by the Government, the crash came ; and a number of banking institutions and other concerns connected with them closed their doors.

"In order to restore public confidence and encourage the public to invest their money in banking institutions, it is a matter of the highest importance that legislation, providing sufficient safeguards and at the same time not placing unnecessary restrictions, should be undertaken by the Government. But before doing so, a Committee to inquire into the causes of the recent failures and to suggest measures desirable to regulate and control banks and banking business should be appointed.

"With these remarks I support the Resolution."

The Hon'ble Raja Kushal Pal Singh said:—"Sir, I beg to associate myself with the Hon'ble Mover in the request made by him for the appointments of a committee to inquire into the recent bank failures, and to suggest the points that need legislation aiming at the protection of the interests of the investing public. The constitution and the personnel of the committee as proposed by him will command the approval and confidence of the public. There is no doubt that the recent failures of Indian Banks will have a very disastrous effect upon Indian industries. Industries cannot be established, nor commerce be made flourishing, without the support of banks ; and the collapse of Indian Banks must prove a deterrent to the development of the resources of the country by Indian enterprise. The natural result of such recurring failures is that people are losing faith in banks. These failures have been the ruin of vast numbers of simple, unsuspecting depositors and shareholders who had invested their hard-earned savings of years in these so-called banks.

"The Hon'ble Mr. Clark, replying to the question put by the Hon'ble Mover, said :

The Government of India, before the recent bank failures, addressed Local Governments and Administrations inviting their opinion and that of the mercantile community, on certain proposals for legislation on the subject of management of banks. On the receipt of their replies, the question whether legislation in regard to the matter should be undertaken will be decided. In arriving at any decision the Government of India will consider very carefully the causes of the recent bank failures on which much light will, no doubt, be thrown in the course of liquidation proceedings. The Government of India have not yet decided whether a special inquiry into these causes will be necessary but the possibility that special inquiry might usefully be undertaken at some suitable stage has already been under consideration and will not be overlooked.

"The speech made by His Excellency the Viceroy at Madras on recent bank failures was of a very sympathetic character. These pronouncements lead us to hope that the Government will see their way to accepting the Resolution."

The Hon'ble Maharaja Manindra Chandra Nandi of Kasimbazar :—"Sir, in supporting this Resolution, I feel that it is our first duty to express our grateful acknowledgments to the Government for their sympathetic and helpful attitude during the financial crisis due to the recent bank failures in the Punjab and the Bombay Presidency. There can be no question that public credit has received a severe shock by the almost simultaneous failure of several banks, and the panic has not yet abated. This disaster is doubly unfortunate, inasmuch as capital is notoriously shy in India ;

[*Maharaja Manindra Chandra Nandi of Kasimbazar*; *Maharaja Ranajit Sinha of Nashipur*; *Raja Saiyid Abu Jafar of Pirpur.*] [25TH FEBRUARY, 1914.]

and, after this bitter experience, it will be long before confidence is restored and Indian capital can be coaxed once more to flow into the channels of indigenous industries and local enterprise. It is not unlikely that these wholesale failures of Indian banks may lead to legislation to exercise better control over banking in this country, but that is a matter which does not arise out of the Resolution now before the Council. Nor are we at present concerned with the disclosures which may be made in the course of the inquiry which is being made by competent courts of justice. It seems tolerably certain, however, that banking has been overdone in this country in recent years and, in several instances, the managers and directors of banks had no practical or previous knowledge of the business of banking. Apart, therefore, from any action that may be taken by the Government and the inquiry in the law courts, the proposal made by the Hon'ble Sir Gangadhar Chitnavis has a great deal to recommend it, and I commend it to the acceptance of the Government."

The Hon'ble Maharaja Ranajit Sinha of Nashipur—"Sir, my hon'ble friend Sir Gangadhar Chitnavis does not demand any immediate action from the Government, nor does he ask that the Government should legislate on the matter at once. His prayer is that a Committee be appointed to inquire into the causes of the failures of the Banks and to take such steps as may be desirable to control banks and banking business in the country in future. I think the Resolution is a very modest one and should be accepted. The recent failure of banks has caused great disaster in the country. Many persons have been ruined, and it is necessary that some steps should be taken by the Government to check and control those Banks and to audit their accounts. However, before anything definite is undertaken, I think it is necessary that a Committee should be appointed to inquire into these matters.

"With these few observations, Sir, I beg to support the Resolution just moved by my Hon'ble friend Sir Gangadhar."

The Hon'ble Raja Saiyid Abu Jafar of Pirpur—"Sir, the year 1918 has been in a sense a very remarkable year. Perhaps it has been the most remarkable and disastrous year, during the last half a century or so, for the commerce and industry and the economic prosperity of the middle-class Indians. Thousands of families have been either totally ruined or their circumstances have become reduced all at once. Numerous banks have failed. These concerns were mostly in Bombay and the Punjab; but the chief Punjab banking concerns had numerous branches in the United Provinces and some in other parts of the country also.

"The failure of these banks, whether it was due to preventible or non-preventible causes, whether it was excusable or unpardonable, is a question of the first magnitude. In any other country it would have become the most vehement topic of discussion in the legislature. Though the economic and the industrial sense in our public men is not so keen, yet this blow has not been an ordinary one; so it is our duty to urge upon the Government the necessity of thoroughly investigating into the causes of these failures. I trust the Government would be pleased to accept this Resolution and the committee that is appointed would consist of official and non-official experts or men of experience. I hope its report would not only point out where the chief defects lay, so that it may be a warning and a beacon to investors and depositors, as well as to the directors; but, if the committee finds some legislation necessary, the Government may introduce the measures requisite to protect the poor investor or depositor from losing his all.

"Personally I do not think that the committee need enter into very elaborate discussions and lengthy evidence which may occupy years. Its practical business-like members should be able soon to touch the weak points of these banking undertakings. The inquiry need not be confined to the Punjab and Bombay, but to gigantic failures that have taken place of late of some banks in Burma.

"With these remarks, I have great pleasure in supporting this Resolution of the Hon'ble Sir Gangadhar Chitnavis."

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[Sir Fazulbhoy Currimbhoy.]

The Hon'ble Sir Fazulbhoy Currimbhoy said :—“ Sir, I have listened with deep interest to the careful speech of my friend the Hon'ble Sir Gangadhar Chitnavis and to the speeches of the other speakers. The views of Sir Gangadhar Chitnavis are always entitled to our respectful consideration. He has put the case for the appointment of a Commission perhaps as high as it can be, but I regret to confess I remain unconvinced. I stick to the view that a commission of inquiry will be a costly machinery for the ascertainment of facts which by this time are fairly well known in India, if not abroad. The liquidation proceedings have exposed the whole inner situation. A Commission cannot throw fresh light. The Hon'ble Mover urges that the particular methods followed by the Managing Directors or Agents of these bankrupt banks to hoodwink the public have to be ascertained for our future protection, and hence a commission of inquiry is necessary. But *cui bono*? It is a matter of common knowledge now that the transactions of some of these banks amounted to gross fraud. It is all a miserable tale of fraud and gamble. And no amount of legislation can cope with the malicious ingenuity of swindlers. The only law required for the suppression of fraud and swindling is an effective criminal law, but that we have already. Nobody wants to add to it; neither has it been found deficient. If it has not prevented swindling by unscrupulous bank managers, the defect lies not in the Statute but in human nature. If laws always proved deterrent in effect, the work of the administrator would be easy enough. But we have not got to that stage of human development as yet. The suggestion of fresh effective legislation is thus one that does not need elaborate investigation. The lines of the requisite legislation, besides, have been ascertained, and the various replies to the Government letter on the subject have made the position clear. Government can legitimately assume control only in the matter of periodical audit of banking accounts. That is the consensus of opinion. The Hon'ble Mover disposes of these replies somewhat cavalierly as embodying the uninformed opinion of people without special knowledge. It will perhaps help a better understanding of the situation if Hon'ble Members are reminded that the bulk of them at least emanated from commercial and financial bodies whose representatives are sure to be associated with any mixed commission Government might be disposed to appoint. The Hon'ble Sir Gangadhar Chitnavis has himself admitted that in England the banks of deposit, such as all Indian banks are, as distinguished from banks of issue, are under little or no legislative control; but in his opinion the absence of a strong public opinion in India provides a reason for differential treatment. I beg to remind my hon'ble friend that in regard to those concerns the chief effective public opinion, be it in England or in India, that can influence their transactions is that of the depositors and shareholders. Other people count for little. The Press takes interest, it is true; but it labours under a serious disadvantage. Criticisms that might be necessary cannot always be published without clear proof, and this is not often forthcoming. It thus happens that the sole controlling force is that of depositors and shareholders. It is to the interest of the depositors and shareholders to check abuse by the manager, and when they fail, they fail, not because they lack the will and the power, but because they lack knowledge of the real state of affairs. No legislative interference, except by providing for periodical audit by Government officials of accounts, can help in the dissemination of this knowledge. In view of these facts investigation by a commission into the possibilities of additional legislation is clearly purposeless.

“The fact of the matter is, as in the West, the depositors are the masters of the situation, and they may be left to exercise the most effective control upon banks by withdrawing their money whenever anything goes wrong. As a matter of fact, the recent bank smashes were hastened by, if not largely due to, a sudden run upon them by the depositors. No control is more effective than this. Some difficulty might possibly arise in the case of fixed deposits, but the period is generally short, and the universal practice among bankers is to pay up the money on demand, even during the period, in consideration of

[*Sir Fazulbhoy Currimbhoy; Mr. Abbott; Sir* [25TH FEBRUARY, 1914.]
Ibrahim Rahimtoola.]

a small discount. During the late crisis this practice was followed by some of the banks now in liquidation. Moreover, after all these failures, depositors will be more cautious, and the Banks that want to do business and thrive will find it to their interest to attract deposits by fair dealing. It is a mistake to suppose that the failures have scared away the depositors and have made legitimate banking unusually difficult. A number of joint stock banks, Indian-managed and European-managed, are even now doing excellent business.

“The Bank of India, the Bank of Upper India, the Allahabad Bank, and many others are prosperous concerns. There will not be a serious set-back, and a few years will be sufficient to restore public confidence. The failure of concerns like the Credit Bank and the Indian Specie Bank will have as little effect upon our financial operations as the failures of Messrs. Arbutnot and Company and the Bank of Burma. Banks fail in the West too, but banking goes on as usual. Here too, deposits have revived. Receipts, generally speaking, are expanding within this short time, and many a banking concern has had to refuse deposits. The truth is, the ideas of the people have changed; the days of ‘hoarding’ are past. Money will therefore flow into the normal channels of industrial and commercial activity through the banks. Restrictive legislation, beyond the provision for periodical audit of accounts by Government officials, is calculated to do more harm than good to the cause of Indian banking, and if nothing comprehensive in the matter of legislation is contemplated, there is no case for investigation. Further, the time is most inappropriate for the inquiry advocated by my friend, and that for the reasons underlying the Government reply to his recent interpellation on the subject. The liquidation is also pending and inquiry will be too premature. I accordingly oppose the Resolution.”

The Hon'ble Mr. Abbott :—“Sir, I am happy to be able to support this Resolution of my Hon'ble friend; the people of India deserve this consideration at the hands of Government.”

The Hon'ble Sir Ibrahim Rahimtoola :—“Sir, it was to be expected that the subject of recent bank failures should be brought before this Council for discussion in order that some ways may be found to protect the depositing public in the future. Whether the means advocated by the Hon'ble Mover are acceptable to Government or whether the appointment of a Commission is at present premature, is the question we have got to deal with to-day.

“It is natural that we should run to our Government and ask them to protect us in such a contingency, without in the first place trying to investigate the causes that have led to these catastrophes. The previous speeches seemed to suggest that bank failures were an unusual occurrence. Such is certainly not the case. Every civilised country has had to pass through this experience, and where credit at any time assumes irresponsibility, it is natural that these smashes should come and open the eyes of people investing in different kinds of banking concerns. It appears to me that the main reasons which have led to recent failures are quite obvious, and certain remedial measures are called for. It is perfectly true that you cannot make a people either moral or honest by legislation. At the same time there are certain obvious points which need legislative protection. But the real remedy to my mind, lies in the hands of the people themselves. The whole question is a question of the care that is bestowed by depositors in investing their money in different institutions. I would divide banking institutions in India into three categories. There are firstly, the Presidency bank, secondly, the Exchange and other old established banks, and thirdly, there are the new *Swadeshi* banks distributed all over the country which are started with comparatively small capital. The smaller Indian banks have got to face strong competition with the Presidency banks, and with old established banks in the matter of their borrowings. It is an admitted fact that the rate of interest that a bank has got to pay for its borrowings is regulated by the standard of security it is able to offer. *Swadeshi* Banks cannot expect to borrow at the same rates as

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are offered by the older banks and the Presidency banks. If the newer Indian banks have to pay higher rates of interest for the monies that they must borrow in order to be able to lend, they must charge a higher rate of interest for their lendings; otherwise banking business cannot be profitably carried on. In order to obtain such higher rates, they must lend money on securities which are not considered sufficiently good by the older banks, unless the standard of security is lower, the borrowers would not pay higher rates of interest which must be obtained by these Indian banks in order to secure profitable balance-sheets. To be obliged to pay higher rates for borrowings and to obtain correspondingly higher rates on lendings is not an easy position for any bank. The question, therefore, is a very wide one, and a great deal depends upon the manner in which the depositors discriminate between the security that the different banks in India offer for their investments. I am one of those who feel that every encouragement should be given to Indian banking institutions, in order that they may thrive, because they serve a very useful purpose in providing funds for those industrial enterprises which are not regarded as first class by the leading banks: it is again a question of extending the fostering care of the State during the period of infancy which they must pass before getting well-established. But, Sir, the reasons which led to recent bank failures are perfectly well-known, and it has been rightly said that the principal cause is their involving in speculation. The remedies to my mind are plainly obvious. As I have already pointed out there are two things necessary; (1) State assistance and (2) greater education in financial matters amongst the depositors. Dealing with the first point, I think that the State would confer a great benefit upon the public, as well as upon the new banking institutions, if they were to lay down by legislation that no bank shall be permitted to make advances upon its own shares. The way in which the subscribed and the paid-up capital was made up in these institutions is now well-known, and I think it is very necessary that the State should prohibit the lending of money by these banks on their own shares. That is the first thing which is necessary. The second thing which is of even greater importance is to prohibit transactions in shares and even in Government paper for far forward delivery. It is the system of forward contracts in share script and in Government paper which encourages extensive speculation; and it is such speculation which ultimately ruins banking institutions. They find that they could not carry on business in competition with the older banks successfully, and show a profitable result, and they are therefore obliged to advance monies on less stable shares and other similar securities. In Bombay, forward transactions take place for every monthly delivery, and each month these transactions are transferred to the next and succeeding months. In very few cases delivery is actually taken on the due date of the first contract. If the Contract Act was amended and it was laid down that all contracts for share script and Government paper would be regarded as wagering contracts, and shall not be enforceable, unless within a week or a fortnight the transfer form was signed by the buyer, it would go a great way to restrict speculation. At present blank transfers are handed in and they are kept for months without being signed by the buyers. This practice easily lends itself to continued speculation.

“If it was laid down by law that the buyer shall disclose his name by signing the transfer form say within a week or a fortnight, or even a month, I do not mind which period is acceptable to Government, the present practice of forward sales and carrying such sales further forward from month to month would be put a stop to, and business would be confined to *bond fide* investors. This is another direction in which the State can reduce the scope of speculative tendency and help to secure the stability of banking institutions.

“I have heard it suggested that Government should lay down that no person or association shall be authorised to use the name of the word ‘bank’ unless the minimum paid-up capital was fixed at a sufficiently high figure. I do not think that this course would be acceptable to many of those who desire to see Indian banking institutions increase. There is another way of dealing with the point, and it is that the State should provide by legislation that no one shall be allowed to use the word ‘Bank’ and do banking business unless at least half the subscribed capital is paid up. I have

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tried to show only a few of the directions in which State help would be of material assistance. The difficulty really lies in the fact that the Presidency and older banks are able to borrow at cheaper rates and can therefore lend at lower rate of interest. If Indian banking institutions are obliged to borrow at higher rates, they must necessarily charge higher rates for lending. There is however ample scope for profitable banking business in spite of this drawback, if sufficient experience is available and adequate care is exercised by the management.

"I venture to submit that a great deal must necessarily depend upon the manner in which the depositors and shareholders exercise their individual judgment in choosing the institutions in which they will buy shares and deposit money. In India there is a large number of strong banks and if the depositors are satisfied with a smaller rate of interest for their investments the question of being ruined by these new banks would not arise. The question as I have pointed out is a complicated one, and requires very careful handling. Whether the liquidation proceedings that are now pending will disclose something more than is already known by the public or whether a commission such as my Hon'ble friend advocates if appointed would bring forward any new reasons or suggestions is a matter on which I do not wish to express any opinion at present. If Government are willing to appoint such a commission in order to secure an authoritative recommendation before taking action, I have no objection to that course being adopted, but my own opinion is that it is a bit premature to appoint a commission at present. Liquidation proceedings are now pending and the whole question in connection with these failures is now being investigated by the courts of law. The question therefore is *sub judice*, and it would, I think, be well to wait till the findings of the courts are known before any action is taken.

"There is only one further remark which I should like to make in conclusion, and it is that I trust that the Government of India will regard with favour the attempts the non-official members are making in approaching them for assistance in the matter of the economic and industrial progress of India. In this connection much depends upon facilities for credit and for obtaining advances for industrial and trade purposes. I think that the best course to be followed by this Council is to ask the Government of India to appoint a commission dealing with the whole question of the economic and industrial advancement of India. If the Government of India would be graciously pleased to accede to such a request, they would be conferring a lasting benefit upon this country."

The Hon'ble Rai Sita Nath Ray Bahadur:—"Sir, if only a year before a Resolution like the one before us had been moved I would have opposed it and not only opposed but characterised it as an attempt to stifle *swadeshi* enterprises. But since then failures and collapses of *swadeshi* banks have followed in such quick succession and in such a bewildering manner, that they are sufficient to stupefy the hardest optimist and to break the stoutest *swadeshi* heart. With reference to the Resolution in question, I can only say this much that I admit that it is desirable that legislation should be undertaken which would allow some control being exercised by Government over all sorts of banks; not only Indian banks but all classes of banks, and there should be official auditing of those banks every year as suggested. A further suggestion that I would make is that every bank should be required to publish weekly or monthly returns of their accounts that would go to show to the public the actual state of the bank, and they would be in a position to judge whether they should deposit their money there or not. In my opinion it would be premature to ask the Government to take immediate measures for the appointment of a commission. It may, as some of my Hon'ble friends have observed, create a panic and there may be a rush of depositors upon some of the existing banks. For all these reasons and more especially in view of the liquidation proceedings now going on which will go to disclose the true state of affairs of these banks, I think it would be premature, and no useful purpose would be served by the appointment of a commission, and I do not think it would be wise to do so."

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[*Mr. V. R. Pandit.*]

The Hon'ble Mr. V. R. Pandit :—“ Sir, I wish to offer just a few observations in answer to the criticisms which have been levelled at the Resolution moved by my Hon'ble friend. Hon'ble Members who have spoken in support of it have from various points of view urged the desirability of such a course as has been suggested by the Hon'ble Sir Gangadhar Rao Chitnavis. Objection has been taken to the course on the ground that such a machinery would be very costly and would not throw any light which is not already before the world ; that the causes of these recent bank failures which have produced widespread misery in various parts of this country, especially to the poorer people who, confiding in these concerns, deposited their savings with them, that the causes are too well-known to everybody and that therefore no useful purpose will be served by such a committee. So far as the general public knows at present, there may be cases where there have been fraudulent or reckless dealings, but with regard to these failures all over the country, one might say, because the failures in the Punjab, Bombay and Sind have not affected only those particular provinces but have also affected other parts of the country where people have invested or dealt with these banks, these failures could not all be attributed to such fraudulent motives or conduct or in every case to mere reckless speculation. When we have so many failures it is necessary to know what it is that has been principally contributory to them, and an inquiry such as is proposed by the Hon'ble Mover would be most helpful in knowing what are the essential conditions under which banking can be carried on without unnecessary risks to depositors and shareholders.

“ The next objection which has been taken is that liquidation proceedings are pending with regard to most of these banks and in the course of these proceedings everything that is required to be unearthed will be disclosed. But the scope of liquidation proceedings, everyone must remember, is confined to the collection of the assets of the company the discharge of the liabilities and the distribution of the available balance among shareholders. In the course of the collection of the assets or the discharge of the liabilities inquiries with a view to proving the personal liability of certain shareholders or directors could be made; but it does not follow that the liquidator or the court dealing with liquidation proceedings would go into all the matters relating to a Banking Company in order to find out what really has been amiss with regard to the Bank and what are the causes which have contributed to these failures. Moreover if we are to wait for the termination of these liquidation proceedings before we proceed upon any inquiry into this matter of such grave concern to the public at large, judging from the experience that we have of liquidation proceedings, we shall, I am afraid, have to wait for many long years. Liquidation of a company is not an easy business, and even within the scope of the liquidator's work the details requiring settlement are so numerous that it must necessarily take many years before he has wound up the company finally and has been able to put in his final report disclosing, if at all, anything that has gone wrong with the company. The present, so far from being an inopportune moment, is the most opportune moment for undertaking some inquiry of the kind suggested, and for this reason. At the present time the public has severely felt the shock of these Bank failures, and the vagaries or speculations disclosed or suspected have roused in the public mind a keen desire to find out what has gone wrong in order that such mistakes may not occur again. After a few years all that feeling will have disappeared and it will be very difficult to get people to come forward and state, after a lapse of years, what was wrong with a particular banking company at any particular time. It does not follow from the proposal which the Hon'ble Mover has put before this Council that the State must necessarily take steps for special legislation with regard to banks. We are not prejudging the question as to banks. One fully realises that it is not altogether a simple matter to make an inquiry into such a business as that of banking. An inquiry which would involve the revelation to all and sundry of secrets which are valued by business men so highly may not be desirable in the interests of the concerns themselves ; but with due regard to all these considerations, if a committee composed of gentlemen such as are described in the terms of the Resolution, who will be able to look at the questions involved from the experts standpoint as well as from a fair and judicial standpoint, be appointed

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that committee will certainly be of the greatest use to the Government and to the country at large by submitting its report and recommendations.

"There is perhaps one more objection which might be raised, and that is as to whether a committee such as is proposed could, under law, require the evidence to be furnished which would enable it to decide upon the questions involved. It may be urged that such a committee will have no power to require these concerns to explain and exhibit all that they have been doing. In connection with liquidation proceedings pending before it, of course, the court has the power, and this committee, it might be urged, would not have such power. I may point out that the Government have the power by an Ordinance to arm such a Committee with powers to require such evidence to be produced, and that would be the procedure which would have to be employed if the committee is to be empowered to carry on these inquiries and make specific recommendations. My Hon'ble friend, Sir Ibrahim Rahimtoola, has made some suggestions as to the steps that might be taken in order to give the assistance which is required from the State, and he has very rightly pointed out that to prevent the recurrence of such catastrophes as have befallen them, the people themselves must also be vigilant and cautious. I do not wish to deal with these points because we do not at present wish to commit ourselves to what the legislation, if any, should be. In conclusion, I heartily support the Resolution which has been moved by my friend on the grounds that I have explained."

The Hon'ble Srijut Ghanasyam Barua :—" Sir, I rise to speak just one word in support of the Resolution which the Hon'ble Sir Gangadhar Ohitnavis has moved. The Resolution that he moves does not want a report on the circumstances or the facts of the particular failures which are being inquired into in the law courts, but wants simply an inquiry into the matter with a view to report as to what measures are desirable to be taken to regulate and control banks and banking business in this country, so that the confidence of the people may be restored. There is no doubt that banking institutions are very necessary for the commercial and industrial development of the country and the recent bank failures have in a way given a set back to the trust of the people in these institutions. How the Government can come to their rescue and save them from the injury which these failures have caused is the particular aim and object of the Resolution moved by my friend, and in that view, I beg to submit that I think we cannot but approach the Government as our best guardians to find some means by which the injury caused by these bank failures and their evil effects, can be removed. To remove the evil effects I think something should be done in the nature of what my Hon'ble friend has suggested—to appoint a committee consisting of some Government officers and including one or two outside commercial men to particularly go into the facts with a view to find out how these failures can be prevented and how the confidence of the general public may be restored in these banking institutions. With these remarks I beg to support the Resolution."

The Hon'ble Mr. Clark :—" Sir I hope the Hon'ble Members, who have travelled somewhat beyond the terms of the Resolution, will not think me discourteous if I do not attempt to follow them in a discussion of the opinions they have expressed. The Hon'ble Sir Fazulbhoj Currimbhoy gave us his views against any special legislation under any conditions, so far as I understood him, and the Hon'ble Sir Ibrahim Rahimtoola, in a very interesting and closely-reasoned speech, gave us certain suggestions which he thought might form the basis of banking legislation in the future. These views were, I am sure, very interesting to Council, but it would certainly be premature for me to express any opinion upon them at present, and they are not entirely relevant to the discussion which has been initiated to-day, namely, whether government should or should not appoint a committee of inquiry now to examine into this whole question.

"I have listened very attentively to the arguments which have been adduced by my Hon'ble friend Sir Gangadhar Chitnavis and by those Hon'ble Members who have supported his Resolution in favour of the appointment

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of a Committee of inquiry, but I think I ought to say at once that I do not find in them sufficiently strong reasons to modify the views which I expressed on behalf of Government in reply to a question which my Hon'ble friend put on this same subject a few weeks ago. That reply has already been read to the Council by my Hon'ble friend Raja Kushal Pal Singh, and I will not inflict it upon the Council again. I will only recall the last sentence of it. I said then 'the Government of India have not yet decided whether a special inquiry into these causes will be necessary; but the possibility that a special inquiry might usefully be undertaken at some suitable stage has already been under consideration and will not be overlooked.' The attitude of Government in the matter remains the same, but perhaps I may explain it a little more fully to the Council. When our proposals for amending the Company Law were in circulation we received suggestions from quarters entitled to every respect in favour of this question of banking legislation being taken up then and there as part of the Companies Bill. My Hon'ble friend Sir Gangadhar Chitnavis himself, as he has reminded us to-day, called attention to the same question in Council a couple of years ago. Even then rumours were beginning to be rife suggesting a situation sufficiently serious to demand that Government should make some attempt at regulating banks in the interests of depositors. It seemed to us, however, that it was undesirable to take the matter up then as part of the Company legislation. We thought that it required fuller examination, fuller consultation of commercial and financial interests, and we also thought there was some objection to attempting to deal with a specific matter of this kind in the general body of the Company law. We thought that it would be more suitably dealt with in the same way as we had already dealt with Life Insurance Companies and Provident Societies by a separate measure. We accordingly addressed Local Governments and asked them to give us their opinions after consulting commercial interests on the general question whether legislation was necessary, and if so as to what form it should take; and we laid certain suggestions before them so that these proposals might come in in a concrete form. Those inquiries have been circulated by Local Governments to the different bodies concerned, and we expect to get their opinions in a short time. All that took place before the present crisis occurred. Then there came this series of failures, which we must all deplore, and which no one deplures more than Government, and these failures are now the subject of judicial proceedings. I do not think it is by any means the case, as has been suggested by some Hon'ble Members (I think the Hon'ble Mr. Pandit especially expressed this view) that these judicial proceedings will not afford a great deal of information on the subject of the nature and causes of what has happened. Of course they are not primarily instituted for that purpose; they are instituted primarily to see what can be done in the interests of shareholders and depositors, but they cannot fail to throw a great deal of light upon what has occurred. We shall therefore have before us in good time the result of these proceedings and the experience which will be gained from them, together with the material which we are collecting from Local Governments.

"What seems to me to be a fatal objection to the adoption of my Hon'ble friend Sir Gangadhar Chitnavis' proposal is that such an inquiry as he suggests must inevitably cut across the judicial proceedings which are now in process of being carried on. I was glad to find that that view received support from the Hon'ble Sir Ibrahim Rahimtoola and also from the Hon'ble Sir Fazulbhoy Currimbhoy, who have special and first-hand knowledge of the matter in Bombay. It is impossible to have two inquiries, one a judicial one and one instituted by the executive running concurrently without risk of their seriously interfering with one another and without risk of creating a great deal of friction and difficulty. What Government propose to do is to take up the consideration of this question when they have received the results of the judicial proceedings and of the inquiry which they have addressed to Local Governments. They will then be able to consider whether on such information as they have obtained they can proceed at once to take action, or whether they should then institute some special form of inquiry.

"Let me assure Hon'ble Members that there is no question of Government being apathetic on the subject, as I think the Hon'ble Sir Gangadhar Chitnavis was inclined to suggest at the end of his speech. We are very

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far from apathy in the matter, as indeed we are on any subject connected with the economic progress and development of India which the Hon'ble Sir Ibrahim Rahimtoola pressed so vigorously on our attention. I can promise Hon'ble Members that when a suitable stage is reached this question of whether or not a special inquiry is necessary will be very carefully considered by Government, and in that consideration the views expressed by Hon'ble Members to-day will most certainly not be overlooked. In the meantime I am afraid that I cannot accept the Resolution."

The Hon'ble Sir Gangadhar Chitnavis :—"Sir, I have the satisfaction to feel that the debate on the Resolution has justified the motion. I need not refer here to the remarks of friends who have spoken in favour of the Resolution, but I must deal with the remarks of my friend the Hon'ble Sir Fazulbhoy Currimbhoy. I can well understand that representative of the most industrially and commercially advanced Province, the Hon'ble Sir Fazulbhoy Currimbhoy's experience about deposits and the banking situation should be different to ours. I am prepared to accept only in reference to Bombay his statement that the country will get over the shock in a short time. The home of millionaire millowners and merchant princes, possibly recuperation has already set in in Bombay. But Bombay stands alone in this respect. Throughout the rest of India indigenous capital has to some extent been scared away, and it is bound to be scarce for years to come. The succeeding annual statistics of deposits will prove the justice of my remark. He has referred to some banks, but every one knows what crisis they have passed through of late.

"I am glad that the remarks of Sir Ibrahim Rahimtoola, though his is only a half-hearted support, justify my Resolution. He says that a special training is necessary for the management of these banks. The Committee of inquiry I want, if formed, will go a long way to determine what such training should be and what other precautions are necessary for the good and successful management of such concerns. In reply to the Hon'ble Rai Sita Nath Ray Bahadur's remark that the appointment of a committee will create panic and distrust, I need only say that I hold in my hands letters from some Directors of well-managed European and Indian banks who think that my proposal is most opportune and the course I recommend most desirable; as this procedure will go far to ensure the stability of well-managed banks and to restore public confidence. My friend the Hon'ble Mr. Pandit, I am glad, has replied to the other points raised, and has relieved me of that duty.

"No doubt, opinion may be divided about the utility and desirability of a thorough investigation into the causes of the bank failures by a joint body of official and non-official experts, but it is equally unquestionable that a strong feeling exists in the country in favour of such investigation. In view of that feeling it would have been wrong on our part not to press this matter in this Council. The measure of support that Hon'ble Members have accorded to the Resolution shows clearly that, however, inexpedient a commission at this stage might appear to Government, it is demanded by a large section of the public whose wishes are entitled to sympathetic consideration. The Government decision will naturally cause some amount of public disappointment. While I freely admit that cautiousness in this matter on the part of Government is not altogether groundless, the reasons advanced for their present attitude of *non possumus* appear to me far from convincing. An exaggerated idea of the scope and purpose of the pending liquidation proceedings seems to have overshadowed all other considerations, and the material point has been missed that liquidation courts, however competent from their intimate knowledge of some of the facts, are obviously unable to suggest a constructive scheme of protective legislation such as the bulk of us want.

"Sir, my main object in bringing forward this Resolution was to make it clear that the reply given by the Hon'ble Mr. Clark to my question on the subject had not given satisfaction to the public. But as I find Government are still determined to wait, and as the appointment of a Committee is only a question of time, as stated by the Hon'ble Mr. Clark in his reply, I think it will not be wise on my part to press this Resolution."

The Resolution was, by permission, withdrawn.

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[*Rai Sri Ram Bahadur.*]

RESOLUTION FOR LEVYING LOCAL RATES AND CESSSES ON PERSONS IN RURAL AREAS WHO ARE NOT AGRICULTURISTS.

The Hon'ble Rai Sri Rām Bahadur :—“ Sir, I beg to move the Resolution which runs in these words :—

That this Council recommends to the Governor General in Council that the Government of the United Provinces of Agra and Oudh and of such other provinces as the Government of India may consider proper be invited to express their opinion on the advisability of extending the principle of levying a portion of the local rates and cesses on persons residing in rural areas who are not agriculturists but carry on other professions or trades.

“ The inhabitants of rural areas may generally be classified into (1) landholders, (2) agriculturists, (3) money-lenders, dealers in grain, shop-keepers and tradesmen, and (4) artizans and labourers.

“ In the United Provinces of Agra and Oudh the whole burden of paying rates and cesses has always fallen on the first two classes, *i.e.*, on the people connected with land. The agriculturists pay rent to the landholders and the latter pay to the Government, along with their instalments of Land Revenue, certain percentage out of those rents in the shape of rates and cesses. These rates and cesses, combined with some local incomes and supplemented by contributions from the provincial funds, constitute, for each district, what is called the District fund. This fund is spent by District Boards chiefly on—

- (a) the construction and maintenance of public roads and other means of communication ;
- (b) the establishment and maintenance of institutions for giving medical relief ;
- (c) the establishment and maintenance of schools, either wholly or by means of grants-in-aid, and the construction of school houses and boarding houses ; and
- (d) the construction and repair of wells, tanks and other works for the supply of water and the carrying out of other sanitary measures.

“ All classes of the rural population, without any distinction, get the benefits accruing from the objects on which the proceeds of rates and cesses are spent. Roads and other means of communication afford facilities for the import of goods and export of grain and other local produce. The village tradesmen, shopkeepers and dealers in grain take advantage, to a larger degree than others, of the facilities afforded by the improvements of means of communication. They and the money-lenders receive medical relief in the same way as other classes of rural population. The children of this class of people are taught in the village schools, rather in larger numbers, than those of the other classes. With the exception of those who are assessed to pay income-tax—and the number of such assesseees is comparatively inconsiderable,—the rest of the individuals falling in this category do not pay any tax and do not contribute anything towards the expenses incurred by the District Boards. These expenses come, to a very large extent, from rates and cesses paid solely by classes connected with land.

“ It is not the object of this Resolution to touch those classes of rural population who are artizans and labourers and whose earnings are very small and who, in the majority of cases, have very precarious means of living and are thrown out of employment when famine and scarcity make their first appearance. But it will be an act of justice if Government is pleased to take steps that the money-lenders, shop-keepers, dealers in grain and tradesmen, who pay no tax at all and have the means of paying it, be made to contribute a portion of the money spent on objects from which they derive benefits equally with the landholders and agriculturists. The laws at present in force impose upon landholders and agriculturists alone the liability of paying rates and cesses.

“ The main object of this Resolution is to draw the attention of the Government of India to the fact that the classes connected with land alone have to pay the taxes which are spent on objects whose benefits are enjoyed equally

by the rest of the village population, and that there are persons among the latter classes who though capable of contributing towards these expenses have remained exempt all along. The Government as an act of justice should take steps to make these people also pay their proper share of the expenses.

“When the Government decides to impose taxation of the kind suggested in the Resolution relief will be possible to agricultural classes by lowering the high incidence of taxation in the shape of rates and cesses. The Government will have to consider whether opportunity should not be taken of giving partial relief to the landed classes by reducing the rate of cesses *pro tanto* to the amount which may be realized by the introduction of the proposed change into the system of taxation.

“In this connection with your permission, Sir, I beg to make the following remarks. It is the classes connected with land who have borne in the past the principal share in the increase of taxation. It is these classes who suffer most grievously from famine—a calamity which has now become of frequent occurrence.

“A study of the history of taxation on land in Northern India shows how the burdens on classes connected with land have been increasing from time to time. In the closing years of the rule of the East India Company, Lord Dalhousie laid down, for Northern India, the salutary rule of fixing the Government demand at half the actual rental. Very shortly after the assumption of the Government of India by the Crown the necessity to increase the taxation of the country was felt by the Government. When Lord Lawrence became Viceroy he found the finances of the country in a most unsatisfactory condition on account of the very heavy cost incurred by the Government in suppressing the mutiny. He endeavoured to distribute the burden of taxation by imposing taxes on trade as well as on land. But his endeavour to tax trade was at that time vetoed by the then Secretary of State for India.

“Though subsequently an income-tax with certain limitations was imposed but it was repealed after a short time. Then experiments were made to levy license-tax on trades and professions, but these experiments did not prove successful. It was not until the year 1886 that the income-tax was imposed as a permanent tax and it is in force now.

“Lord Lawrence’s successor Lord Mayo, when introducing his famous Decentralization Scheme of 1870, allowed the provinces to impose new cesses on land in addition to Land Revenue, in order to make up the deficiencies in the allotments made out of the general revenues to the different provinces and the estimated provincial expenditure. In 1871, in the provinces of Agra and Oudh, in pursuance of that policy, new rates were imposed.

“In 1878, the late Sir John Strachey, who then held the portfolio of Finance, created the so-called Famine Insurance Fund and a further rate at Rs. 2 per cent on the revenue was imposed. Later on a patwari cess was also imposed. All these rates and cesses remained in force for many years and used to be levied in full from the classes connected with land. It was not until 1905 that the Famine cess was repealed in Lord Curzon’s time and the Patwari rate was abolished in the year following, *i.e.*, 1906 in the time of Lord Minto. The landed classes are very grateful to the Government of India for the abolition of these rates and cesses. But since then no further relief has been given to them. They have been appealing from time to time to the Government to relieve them of the cess imposed on them to meet the expenses of rural police, and they had been looking forward with great hope that they would be placed on an equal footing in this respect with the Municipalities by being relieved of village police charges. But it is a matter of great regret that their hopes have not been realised, and the Police cess regarding which an announcement was made in the Financial Statement in March of last year was abolished in name only. The sum formerly spent on village police has now been transferred to the District Board fund, and the liability of the landed classes to pay the rate, though in another shape, remains the same.

“The request contained in the Resolution which I have the honour of moving is a very moderate one. It simply asks the Government to invite the opinion of the Government of the United Provinces of Agra and Oudh and

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of such other provinces as the Government of India may consider proper on the advisability of levying a tax of the same kind as the local rates and cesses on persons other than landholders and agriculturists residing in rural areas and carrying on other professions or trades and who though possessing means do not pay any tax whatsoever.

" With respect to other particulars, I beg to submit that the Local Governments when submitting their opinions on the subject will be in a position to estimate the amount which the tax might bring in their respective provinces, the number of persons from whom the tax is likely to be collected, and the method to be adopted, and the machinery to be employed for collecting the tax.

" With these remarks I beg to move the Resolution."

The Hon'ble Raja Kushal Pal Singh :—“ Sir, I rise to support the Resolution which has been so ably moved by the Hon'ble Rai Sri Ram Sahib. After the mutinies of 1857 an immense increase of expenditure took place ; their suppression and the restoration of order involved an addition of more than £12,000,000 to the public debt ; there was hardly a branch of the administration which was not more or less re-organised, and demands arose for every sort of improvement. The revenues were insufficient, and the financial difficulties of the Government were serious. The imposition of an income-tax by Lord Lawrence called forth the vehement indignation of the trading and mercantile classes. Adopting the policy of least resistance, Lord Lawrence's successor, Lord Mayo, imposed cesses on land to be paid by the voiceless class of agriculturists. This was done in utter violation of the half-rental rule introduced by Lord Dalhousie. The income derived from the cesses is spent on rural police, district roads, district dāk, village education and sanitation. Landholders who pay cesses are not the only people who use roads and benefit by schools, dispensaries, post-offices, etc.

" The money-lender is a well-known figure in every Indian village. In his ' Administrative Problems of British India ' Mr. J. Chailley says—' the village money-lender is ordinarily a dealer in produce. He sells grain, sugar, condiments, and spices, and he buys sugar-cane, wheat, rice, and millet. At present, at any rate, the most prosperous class in India are the money-lenders. Recent inquiries show that in the United Provinces 78 per cent of the lands of the cultivators are under mortgage, and that three-quarters of the ryots owed more than a year's rent. The average rate of interest was nominally 25 per cent. ; but it was really greater, since it was calculated for each year on the amount due at its commencement, without taking into account payments made during its course. The money-lender sends in his account after the harvest, and is paid in kind, allowing for the crops at such prices as seem good to him. In such circumstances property is not secure, and those who have money hoard it.'

" In rural areas non-agricultural classes, especially the money-lenders referred to above, make more use of these public works than the agricultural classes, but pay nothing for these facilities provided at the expense of poor agriculturists. There is no reason why these non-agricultural classes should live and flourish by deriving full advantage from them without contributing their share to the taxes borne by agriculturists alone in the shape of cesses.

" The following quotation from the late Lord Salisbury's despatch shows the desirability of lightening the burden of taxation on land :— ' So far as it is possible to change the Indian fiscal system, it is desirable that the cultivator should pay a smaller portion of the whole national charge.'

" A perusal of the majority of assessment-statements prepared by settlement officers will show that the Government revenue is not usually calculated on the amount of rent which the land-holder actually gets, but on the aggregate assets made up of actual rents paid by the tenants, possible rents assessed on rent-free grants and on lands considered as let on favourable rates of rent and *Siwai* or *Sayar* income. Although the proportion of the revenue demand to the rental demand is 50 per cent yet landholders pay cesses in addition to land revenue which amount to 10 per cent of the latter. The reports of the Court of Wards of the United Provinces will show that the charges of management fall, at about 8 per cent on the gross income of the estates. The landholder

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does not generally realize the whole of the rental demand from his tenants. The amount of rent which remains uncollected is about 5 per cent.

"The figures given above show that the average net profits of landholders even in the best managed estates are about 30 per cent of the rental demand. The landholder has to meet his own expenses, those of his family and of other persons dependent upon him from the net profits left to him. This margin is not sufficient in the generality of cases, especially in the case of small landholders, to leave any thing for effecting improvements on their estates or for meeting the strain of calamitous seasons. It is, therefore, most necessary in the interests of agriculture that the burden on land should be lightened in the manner indicated in the Resolution before the Hon'ble Council.

"India is pre-eminently an agricultural country. Of its total population, 72 per cent are engaged in pasturage and agriculture. In a country like India, the main industry of which must for all time be cultivation, the agricultural community must form the back-bone, the very pith and marrow, of its vast and multitudinous population. 'The nation dwells in the cottages' is the memorable utterance of England's great orator. Any steps taken in the direction of mitigating imposts upon the cultivating classes will conduce to the well-being of the Indian nation. I therefore accord my cordial and whole-hearted support to the Resolution before the Hon'ble Council."

The Hon'ble Sir Reginald Craddock — "Sir, my Hon'ble Colleague the Finance Member will of course answer this Resolution on behalf of the Government, but I desire to make a few observations to the Council on this subject, because it is one that has for a long time interested me very closely. When I was Chief Commissioner of the Central Provinces I sent up a Bill to the Government of India to create means for raising local taxation for local purposes, and though I am largely in sympathy with the Hon'ble Mover of this Resolution on the point that non-agriculturists do not contribute for these local purposes their fair share, yet at the same time, as I shall explain, I cannot follow him when he expresses a desire that the agriculturists should be relieved of part of the cesses, the burden being thrown on his non-agricultural fellows. I was very anxious, when in the Central Provinces, to develop local self-government on sound lines as far as it is possible. In municipalities there has arisen in the course of the last 25 or 30 years a real sense of civic responsibility.

"The people there are themselves responsible for voting the taxes that they impose and for collecting and spending them. In the case, however, of district and rural boards, this incentive to responsibility and to keen interest in management is to a very large extent lacking. The cesses at present are assessed along with the land-revenue; they are collected by the revenue officer and they go into the capacious maw of the Sirkar; and to the ordinary villages it matters not what happens to them afterwards; he does not follow their subsequent history. They are credited afterwards to the district funds by book transactions, and there is nothing so far as the rural public are concerned to distinguish those cesses from any other grant or contribution that the Government may place at their disposal. Now this sense of responsibility and reality in the management of rural and local boards is very often sadly deficient. When I was in the Central Provinces my efforts were always concentrated on trying to decentralize as far as possible from the Government to the District Board and from the district to the rural boards in order to create this very sense of responsibility to which I am referring. Accordingly, and in furtherance of that object, I sent up a proposal in the shape of a draft Bill by which the cesses themselves should be fixed by law between a certain minimum and a certain maximum, and it might then be open to district boards to raise or lower the cesses on the land-revenue within those minima and maxima, that is to say, if the district board felt that it ought to raise something more for schools or roads or for any other purpose, it could do so by imposing one pice in the rupee or half a pice in the rupee or something of that kind on the land-revenue. This would give them the responsibility; they would have no pressure from Government; though of course they would require the formal sanction of the Government. The initiative should come from them; and they would therefore be taxing themselves, and taking a much more lively interest in these cesses than would otherwise be

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the case. That is what my proposals were as far as regular cesses were concerned, which are levied primarily on land. But I also desired to supplement this by small local rates collected in villages or groups of villages, and imposed there by the people concerned on the initiative of the district board or with their sanction; such rates for instance as a small school rate to meet the expenses of the village school; and I fully agree with what the Hon'ble Mr. Sri Ram has said about the way in which non-agricultural people in villages do not pay their fair contributions for this purpose. I know a village of 4,000 inhabitants; in the village school there are 130 boys; out of those over 90 were sons of non-agriculturists; there remain about 40, sons of agriculturists. The parents of those 90 pay only a very nominal fee of 1 auna a month which is levied in the Central Provinces, whereas the land-holding interest at all events does contribute towards the education cess, although the parents of the 90 no doubt are probably better off on the whole than the parents of the 40. But although I am perfectly willing to concede the point that the non-agriculturist does not pay enough, or in fact anything at all in many cases, I am not willing to concede the point that the agriculturist pays too much. I think that when, for purely local purposes, money is raised by himself, assessed by himself, collected by himself, and spent by himself, each man must take his share as an inhabitant of the village. Let us take a small municipal town. There, the cultivator, if he is a resident of the town, pays the municipal rates like everybody else. If you go to a township on a lower scale, which goes by the name of 'notified area' in the Central Provinces, and by other names in other provinces, there again the agriculturist is viewed as a householder; if he is well enough off to pay a tax, he pays it; if he is not well enough off, he does not pay it. The Bania would probably pay much more; but if you had a very well-to-do ryot who was really quite as well off as the Bania, there is no reason why the ryot should not pay his share as well; and in the Central Provinces particularly there is every reason why the ryot should contribute; because it is not correct to say that he pays a penny to these cesses. Rents there are fixed entirely by the settlement officer and by Statute. They are simply based on the rental value of the land that he cultivates, and they take no account whatever of the cesses. The cesses fall upon the landlord entirely, and he has no means of passing them on to the tenant. The tenant does not pay the cesses and therefore if we were to have any such local taxation as I have indicated in the Central Provinces, the ryot would have to pay just as much as anybody else; and I think it would be a very sound thing if he did. Another point is that although a ryot or landlord may derive a good part of his income from land, he may also at the same time be engaged in lending money or grain, or in dealings of other sorts, and it is quite unjustifiable to exempt him, in respect of that mode of income, from contributing his mite to a village school or for any other local purpose. It is not exempted in Municipal towns or in those minor municipal organisations which pass under various names in various provinces; but, what I would suggest, if I were introducing or recommending any form of legislation of that kind, would be that in the area, a village or group of villages, in which it was determined by the people themselves that a *panchayat*, or any other local body that might be organised should collect a little money for local purposes, that in that area every person, whether landlord, tenant, or any one else, should be valued at a certain assessment according to his total means. That being so, I would, in the case of non-agriculturists, exact the full amount, and in the case of the agriculturist, I would deduct from his assessment any sum which he could show that he had already contributed to rates and cesses. That would be the general line of proposals which will have my sympathy; and I think they are sound. But the great principle which I would advocate would be that no taxation of this kind should be imposed at all by the Imperial Government or even by the Provincial Government. It should be imposed if at all by the district boards themselves and by these smaller bodies, in villages and groups of villages, that may come into existence. All that is required really is to provide in the enactments dealing with local self-government power to these bodies to assess these rates, if and when they so desire. If the local feeling in favour of this sort of taxation was not there then nothing would happen; directly it arose, and directly public opinion justified the raising of small sums for local expenditure, there would be the power there. Those are the lines which I think would be sound. I am speaking for

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myself, and I do not bind my Hon'ble colleague the Finance Member, nor do I say that what would be sound in one province would be sound in another. I think that these lines would be sound in the province that I know, and possibly there may be other parts of India in which they may also be practicable. Provided that there is a real local option in this matter, I do not think any harm can be done by this power."

The Hon'ble Mr. Surendra Nath Banerjee :—"Sir, I think there is some little difference between the speech of the Hon'ble the Home Member and the Resolution which has been placed before us this evening. The Hon'ble the Home Member in his speech outlined a scheme of further local self-government; I think many of us would be in sympathy with that scheme; I think it would be something like union committees consisting of groups of villages with power to tax for local purposes in which agriculturists and artisans are to be included. I believe that is the sum and substance of the Hon'ble the Home Member's speech. My friend, the Hon'ble Mr. Sri Ram, however, wants something different, he wants that the cesses which are now levied upon the landowning classes should be distributed among the artisan classes and that relief should be given to the landowning classes and agriculturists. I believe that is the sum and substance of my Hon'ble friend's motion. I always view with suspicion any proposals suggesting an expansion of the area of taxation, I think the effect of my friend's suggestion if carried out, would be that, whereas the artisan would be taxed, the agriculturist would have no relief whatsoever, the agriculturist would continue to pay the same taxes as before and at the same time the artisan would be further taxed. I am confirmed in this view by the observations which fall from the Hon'ble the Home Member. I think he said that the artisans ought to be taxed, but that the money which is taken from the agriculturists should continue to be taken for various rural purposes. Therefore the load of taxation will not in the smallest degree be lightened, it will be added to by the imposition of fresh burdens. The Hon'ble the Home Member suggests that this should be done in the interests of local self-government, that is a very broad question and I have very great sympathy with it; but the proposal regarding the extension of local self-government is quite a distinct proposal from that which has been outlined by my Hon'ble friend, Rai Sri Ram Bahadur. Well, Sir, with reference to this matter, perhaps there can be no harm if it were referred to the Local Governments for an expression of their opinion, but I feel convinced that it is bound to give rise to considerable agitation in all the Provinces if proposals of this kind are suggested. It is for the Government to decide whether it should accept the recommendation or not, but I think my Hon'ble friend is mistaken if he imagines that the effect of his proposal would be to lighten the burden of the land-owning classes by an equitable distribution between the land-owning classes and the artisans. I believe the artisan will be burdened with fresh taxation and the agricultural classes will obtain no relief. Whether they ought to be taxed is another matter independent of the proposal of my Hon'ble friend."

The Hon'ble Mr. Rayaningar :—"Sir, the Resolution has a special interest for me as there is already a proposal before the Madras Government for the imposition of a surtax on land for increasing the resources of the local bodies. The Hon'ble the Home Member's remarks seem to proceed upon the assumption that the Hon'ble Mover means that the agriculturist should be exempt from taxation altogether. That does not appear to be the intention of the Mover. He suggests that in addition to what he is paying there should be taxation on other professions. Increased taxation upon land would be against the declared policy of Government. In March, 1912, the Hon'ble Sir James Meston, speaking on behalf of Government on the Resolution about the resources of local bodies, observed: 'If it has been a sound policy on the part of the Government of India in the past to lighten the taxation on the land, it cannot hardly be sound policy to allow local bodies to increase it.' In Lord Curzon's celebrated Resolution on the Land Revenue Policy of the Government of India, it is definitely laid down that the cesses upon land should be within the limit of 6½ per cent of the land revenue. There is hardly an area in India in which this maximum is not reached, while in many parts it is exceeded.

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An increase in the burdens upon land is thus beyond the pale of practical politics. It can only be effected by the abandonment of the declared revenue policy of Government and attended by hardship upon the agricultural classes. But the problem of additional resources for local boards has to be solved; some solution must be found soon. It is a generally accepted fact that the resources of rural boards are inadequate and must be increased without delay. We are therefore forced to view with favour the alternative principle of rural taxation suggested in the Resolution. It has the sanction not only of authorities on taxation, but of the Decentralization Commission. Mr. Armitage-Smith, in his inspiring little treatise on *Taxation*, observes: 'Again manufacturers, traders, shopkeepers and farmers all benefit by improved roads, thoroughfares, drainage and other measures which render their markets accessible, their expenses are diminished and their business increased; and for these advantages they should contribute to the cost of local developments'. The Decentralization Commission, on a review of the whole situation, came to the sound conclusion that, bating the cess upon land at one anna in the rupee on the rent value, rural boards should have no power to tax land, but with this exception, we should allow rural boards to levy rates and fees at their discretion within the limits laid down in the various Local Board Acts.'

"These rates and fees must accordingly be levied upon the non-agricultural population of rural areas. The principle now advocated by the Hon'ble Mover has thus the sanction of authority. The Resolution therefore deserves to be supported by Hon'ble Members. At present this non-agricultural section of the rural population contributes little or nothing to the local funds. There is the further reason for support in that the recommendation at present is only for the ascertainment of the views of Local Governments on the points raised. The Resolution is thus unexceptionable both in principle and form, and I heartily support it."

The Hon'ble Sir Gangadhar Chitnavis:—"Sir, the Resolution raises a question on which a good deal may be said on both sides. It is undeniable that the local bodies almost everywhere want more funds for rural improvement; at the same time it has been generally acknowledged that any surtax upon land is neither expedient nor possible. The question has therefore been debated more than once and by more than one experienced administrator whether local bodies should not have the power to impose special taxation upon the people to carry out a reasonable programme of improvement. A special drainage tax, an education cess, a railway cess and other cesses have been suggested from time to time. There may be some force in the contention that the well-to-do section of the non-agricultural section of rural population does not contribute its due share to the resources of local bodies for services rendered for their convenience as for improving the amenities and comforts of life. The view that a scheme of special taxation upon non-agriculturists may prove oppressive may still further press down village industries is equally sound. It is a question of additional taxation, and many factors of village economy must be considered along with the principle of theoretical equalisation of incidence of taxation upon all sections of the community. I know special taxation of non-agriculturists is gaining favour. In the Central Provinces, the Hon'ble Sir Reginald Craddock as Chief Commissioner as he has himself just stated, recommended such taxation powers to the District Councils, and the principle is embodied in the Local Self-Government Bill which will be the first legislative measure before the new Provincial Council. But the fact must not be missed that the rural traders and artisans are not always a prosperous class especially in these times when the tendency is generally to leave villages and congregate in towns where the amenities of life are much greater. Their profits have been cut very fine. Even the village *Soukar* has little now in the shape of profits. Many causes like co-operative credit societies, etc., have contributed to this result. There is also the fact that a number of people pursue both agricultural and non-agricultural occupations. These are already sufficiently taxed, because in their case the Settlement Department imposes a special scale of rents. Their rents are enhanced at every revision of land-revenue far more than the rents of purely agricultural people. The non-agricultural trade is thus in a manner already taxed. Any unusual addition

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to the existing tax will obviously be unduly onerous in such cases both to the agricultural and non-agricultural community. The need for a cautious advance will thus be clear. The principle I approve, but the taxation must be carried out in each case after the most careful consideration of local conditions. And there is room for doubt if the necessary care and circumspection will uniformly distinguish the proceedings of the local bodies, and if the assessment will not prove in the end more oppressive than productive in some cases. But the present motion being for elicitation of the views of the various Local Governments, I support it. I think much light will be thrown on this difficult problem in the course of the inquiry suggested."

The Hon'ble Raja Saiyid Abu Jafar of Pirpur :—" Sir, the Resolution proposed by my Hon'ble friend regarding the advisability of levying a portion of local rates on non-agriculturists residing in rural areas and asking the opinion of the Provincial Governments in this behalf is one for which it is hardly necessary to advance any very lengthy arguments. All of us feel that the health and primary education of the rural areas require to be improved, and the burden of agriculturists needs to be lightened. Any amount of money could be profitably spent on these counts. The number of dispensaries of any system of medicine, *Ayurvedic*, *Yunani*, or English and even of private practitioners in such areas, is very small. Sanitation in most places is attended to only cursorily and in a very small portion of the smaller towns or villages. Schools are also very few. The lighting of such places is generally neglected. Most of these defects are due to the want of funds in the hands of the district boards. The district boards have large areas to administer, and the money in their hands comes only from the rates imposed upon the landlords who are already too much over-burdened with various demands. The necessary improvements must stand still for want of money. Therefore any legitimate taxation by which the condition of the areas administered by the local boards could be improved, should be welcome to all who want to see the sanitary and the educational advancement of the country. The thousands of non-agriculturists who live within this area and who as a matter of fact as money-lenders, dealers in grain, tradesmen and shopkeepers earn a good deal out of the necessities of the agriculturists should be asked to contribute rateably; not that they should help the agriculturists by whose exertions their wealth is generally produced, but because as inhabitants of these places they also partake of all the benefits of the taxation that is laid only upon the agriculturists landlords. Some of them, due to their wealth and status, derive even greater advantages.

"I have no doubt, Sir, that when the matter is referred to the Government of the United Provinces, and to other Local Governments as well, they would be glad to suggest a scheme that would meet with the necessities of the situation."

The Hon'ble Srijut Ghanasyam Barua :—" Sir, I must say, I am sorry, that I have not been able to reconcile myself to the principle which has been laid down by the Resolution that has been moved. It becomes a necessary consequence of social existence that we should all contribute more or less reciprocally to the service of one another. The Hon'ble mover's intention no doubt is to see more fair treatment in the matter of these taxes, and he seems to think that there is no fair contribution made by the non-agricultural people living in rural areas, corresponding to the taxes that the agriculturists pay for the upkeep of roads and communications and for sanitation, water-supply, village education and similar matters. The first difficulty I find, Sir, is that it will be extremely difficult to enunciate any sound principle upon which the proposed taxation could be imposed. The local rates and cesses are, I think, really indirect charges on the land, and they vary according to the quantity of land held by any individual whether for agricultural or other purposes; so we should not, in the first place, think that local rates and cesses are particularly agricultural taxes. Of course it unfortunately happens that the agricultural classes have to pay the most of it as a necessary consequence of their having to depend more upon land than other people have to do. As

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they have to derive all their profits from land so they pay the extra charge on them, and other people who depend upon sources other than agriculture pay taxes towards which the agricultural people do not contribute. If we come to any other corresponding taxation upon other classes of people, I do not see what principle we could adopt. It could not be on population because we must admit that even in large municipal areas there is a large class of the population to whom we have to give a supply of water and some other things gratis. In all large municipal towns there are pipes from which the poorer classes draw water without payment, and the same rule would hold with regard to rural population. There may be many people who are unable to pay anything for water supply, and still it will be the duty of the village corporation to see that these do not starve for water. Then there is another and better class who make their profits from trade or merchandise. If their profits are of any magnitude this class generally pay income-tax ; if their profits are small they escape both from the payment of income-tax as well as from the payment of the local taxes, and that is the class which, I think, my Hon'ble friend moves should be affected. This class of people living in villages are, in the first place, not numerous, and their existence in the villages is necessitated by the necessities of the village. If they were not wanted by the villages they would not at all be there, and if they are there because the villages want them, it is for the sake of the villages that they are there, and it is for the villagers to contribute to their convenience and comfort. If we go to fix a tax on them on any other principle of taxation then there will be a great conflict with the principle applied to agricultural classes. As some of my friends have pointed out, there are among the agricultural classes and families people who take to other pursuits and earn money otherwise. If a man holds one acre of land and pays a small local tax on that acre and also cultivates it he is an agriculturist with regard to that acre of land ; if the other members of his family are employed otherwise, I think that family will be saved from other contributions because it happens to contribute a little to the land tax. There may be similar differences with regard to the income and property of the other people also. Supposing we have a merchant who owns a bit of land and has a house on it and makes a profit of Rs 10,000, and we go to assess on his income, he will at once plead that he pays the local rate, however nominal it may be. The number of people who actually have the use of water and other supplies met by the rural boards may in his family be much in excess of some other merchant or trader who only perhaps earns Rs. 500 a year but pays no local rate and holds no land ; how are we to make a distinction between these two ? If we go to take income-tax or a valuation of income as the basis, I think those people will at once say, ' subject the agriculturist also to the same principle ;' for although the agriculturist may as such earn amounts for which he would otherwise be liable to income-tax he escapes the payment of income-tax for his being an agriculturist. Why should then the merchant not say ' because I pay income-tax I should be exempted from paying local rates and cesses ?' Similarly with regard to an assessment on the basis of property objections will not be wanting. We could not possibly adjust any principle which would apply to all classes without some reason for objection being raised by the others, and therefore I think the land basis can be the only safe basis for any taxation for the rural boards so far as the Government may be prepared to accept. Of course in any special local area if the civic duties of the people themselves incite them to make any contributions, they will be welcome ; but on any other enforced principle I think it will be very difficult to make a stand.

" In these days when we are supposed to be coming into a greater sense of civic duties and responsibilities, these differences are expected to be more waived than pressed upon, as all people have more or less to make a contribution to the service of others, while the others in a similar manner reciprocally serve them. These people, agriculturists, do not pay income-tax and other taxes which other people like traders may pay ; perhaps they pay income-tax, or they contribute more to telegraph funds or stamps and registration and so forth. In some way or other they compensate for the rates and cesses paid by agriculturists, and therefore I do not think we should particularly come down upon these people with vengeance simply because they are not paying some

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local taxes as a contribution towards village necessities which are kept up by local rates and cesses. It would be rather better for us to hold that these people are necessary for the service of the village people, they are there simply because they are wanted and they are things like roads and other things which are necessary for the village people and which have to be kept up at their cost.

"I am sorry I have to record my dissent to the Resolution moved even though it asks simply that the opinions of the Local Governments be collected with regard to this point. On the face of it, I think, the principle is so undesirable that I do not recommend the Resolution even as it stands, as the Local Governments have work enough to do and should not be saddled with any additional work from which clearly no useful results can be expected."

The Hon'ble Maharaja Ranajit Sinha of Nashipur:—

"Sir, if I have understood my friend the Hon'ble Rai Sri Ram Bahadur, properly his idea is that in municipal areas all persons have to pay for roads and water but within the rural areas only the agriculturists are to contribute for the roads, sanitation, education, etc. Persons whose income is more than Rs. 1,000 have to pay income-tax, but those whose incomes are below Rs. 1,000 are neither to pay the rates nor the income-tax, and they enjoy the benefits of the roads and sanitation without any taxes. My friend's object is perhaps that the amount required for the purpose of roads and sanitary improvement should be distributed amongst the agriculturists and other persons who do not pay income-tax. But, Sir, personally I am not in favour of the extension of any taxation, and as my friend on the right has observed, if we are to accept the Resolution, the result will be that the agriculturists will have to pay the taxes as they are paying now, and over and above that the other people will also be taxed. Of course there is some justification in it as I do not see any reason why these persons should not contribute.

"The Hon'ble the Home Member has said that the local bodies should have the power to levy taxes for local purposes. At least in Bengal there are union committees who have the power to levy such taxes for the purpose of village improvements, and I think that system may also be extended to other Provinces if that is desirable. But as regards this question which my hon'ble friend has raised, if the agriculturists are not relieved, I think the object which he has in view will not be fulfilled, and so I am not in a position to support the Resolution."

The Hon'ble Sir William Meyer:—"Sir, there was once a very eminent financial official in England who, I regret to say, got so absorbed in his official duties that he rather forgot his religious studies. A friend once remonstrated with him about this and persuaded him to take up a book which he had long neglected, the New Testament, and to begin with the Gospel of St. Luke. A day or two afterwards the official said to his friend, 'I have followed your advice, and I am extremely glad I did so; that is a magnificent book, and here is one passage in it which I have already seen, and which bears the marks of plenary inspiration.' The friend was rather curious and asked what passage he referred to. He said 'that beautiful text which commences Chapter II, 'And there went forth a decree from Cæsar Augustus that all the world should be taxed.' Well, Sir, on such a topic I may perhaps be supposed to have some kindred feelings with the man in England whom I may venture to call my eminent colleague. Certainly my heart leaped within me when I first saw this Resolution. Here, I thought, is a Resolution which for once in a way, instead of asking the Government to remit taxes or to give doles or to do this, that or the other, proposes an increase of taxation. I was also very gratified by the fact that it did not propose the appointment of a Commission or a committee. It took what has now become quite an original course in this Council; it suggested that the Government of India should venture to act for themselves without the Committee or Commission machinery. However my glee was a little damped when I listened to the excellent speech of the mover, because I found that it was no longer a question of all the world being taxed, but he merely wanted a re-adjustment of taxation. Well, as regards such a re-adjustment he has raised an extremely difficult and complicated subject. Of course on general principles

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one may well admit that it is not very fair that the whole burden of local administration should practically rest on the agricultural classes. At the same time, as another speaker very aptly pointed out, if the agriculturist class do pay the bulk of the local taxes, they also form the bulk of the population. Further, the Government have gradually removed certain burdens which rested on the agricultural classes; the famine cesses have been taken away from my Hon'ble friend's Province, so has the *patwari* cess.

"I won't go into the vexed question of the incidence of Land Revenue, beyond observing that it has been very clearly shown that the Government do not take nearly as much in the shape of land-revenue as they used to do in the past generation, and as they might do now according to their own settlement principles.

"Then we come to the difficulties arising from my Hon'ble friend's proposal. He says, as I understand, 'I do not want to raise a larger total revenue, but I want Peter, the agriculturist, to pay less and Paul, the sowcar, or whatever profession he exercises, to pay more.' Well, I say that involves very complicated questions. They are questions that have been discussed for a long time in England. Some years ago the late Unionist Government adopted the remedy which is so dear to some of my non-official colleagues here, they appointed a Commission presided over, I think, by Lord Balfour of Burleigh, to discuss the incidence of taxation in local areas. That Commission took a great deal of evidence and made a very able report and nothing has been done.

"The difficulties in this country would be practical: how are you going to get your alternative sources of revenue? That the District Boards cannot afford to see their total revenue diminished is, I think, perfectly clear. On the contrary, and I think I may say, with the unanimous approval of this Council and of preceding Councils, the Government has helped them materially of late years, commencing in Sir Edward Baker's time, by giving a large contribution from Government, proportionate to the amount collected by the land cess, and ending with the last budget, in which the proceeds of certain cesses were handed over to the District Boards instead of being used by the Provincial Governments. So that I think it may be agreed that the Boards cannot afford to forego revenue if we lighten the burden of the agriculturist. Well, what are the ways in which they can get further revenue? It is a possibility that may have occurred to some members that just as land cesses are to a large extent determined by the amount of Land Revenue paid, so those who pay income-tax should contribute an additional fraction of this to local requirements. Well, at first sight, that seems quite a nice and excellent proposition. But look a little further. The great bulk of the income-tax is paid in municipal or semi-municipal areas, and we are talking here of rural areas. When you take rural areas proper, the balance available from the income-tax though it might still seem respectable if you take aggregate figures for India as a whole, would dwindle down to perhaps a few hundred rupees when you come to a particular District Board. Then there are other possible methods. You might have a tax on professions and trades, such as exists in municipal towns in Madras; you might have house taxes, and so on: but all these methods, unless they were applied to what would be regarded as an oppressive extent, would raise very little money, and you would have to take a lot of trouble and would create a lot of discontent, for small results. It is an accepted canon of political economists that, in considering taxation, a statesman should have regard to the ease with which a tax can be collected and to the amount of discontent which it excites. Well, the land cesses may be said to be sanctified by custom. They are collected with perfect ease; in fact, as my Hon'ble colleague Sir Reginald Craddock has just shown, the agriculturist often does not realise that he is being collected at all. Any new tax, if imposed by the Provincial Governments on the advice of the Government of India, would, I think, raise acute discontent, and therefore, so far, I say 'let sleeping dogs lie.'

"Then there is another objection I have to take to my Hon'ble friend's Resolution. We are recommending things to the Local Government which, I think, ought to be in their sphere. I do not go so far as my Hon'ble friend

[*Sir William Meyer ; Rai Sri Ram Bahadur.*] [25TH FEBRUARY, 1914.]

Mr. Banerjee does in the direction of autonomy for the provinces, but in so far as the provinces have received powers, I am not going to be a party to encroaching upon these, and I regard this question of altering the terms of local taxation as one for the Provincial Governments to raise in the first instance, and not as one in which the Government of India should dictate or suggest to them.

"Then there is another side to the case, brought out in the very interesting speech of my Hon'ble colleague, Sir Reginald Craddock. Now, like the Hon'ble Mr. Banerjee, I am in considerable sympathy with these ideas, and I would ask the Council to note the difference in the spirit underlying such methods and that involved in the suggestion of my Hon'ble friend the Mover. My Hon'ble friend, the Mover, would like fresh taxes to replace existing ones, and would like these fresh taxes to be imposed from above. My Hon'ble colleague suggests what one might call 'local option' taxes—taxes which come from below, suggested often by the people themselves. There is an interesting practical instance of this in the Punjab where, I understand, villages already have considerable funds called *Malba* funds voluntarily and informally raised by the people themselves and administered by the people themselves for useful local purposes. As the Hon'ble Mr. Banerjee so aptly remarked, that is a development of self-government; the system suggested in the Resolution would be represented as merely another turn of the bureaucratic machine. Therefore, I say there is all the difference in the world between the proposal in this Resolution, which I cannot accept, and such proposals as the Hon'ble Sir Reginald Craddock has outlined. As regards the latter category, it is not for me now to express on behalf of the Government of India any specific view upon specific proposals. We are going to leave these things to the Local Governments. If a Local Government thinks fit to suggest to us that—as an entirely fresh measure, or it may be in connection with the modification for other purposes of its Local Self-Government Act—certain new taxes might be imposed at the discretion of District Boards and the like, we will give the matter our most careful consideration. The sanction of the Government of India would be necessary to such legislation, so would the sanction of the Secretary of State. But the views of the Local Government, especially if it appears that the Local Government is supported in this case by local opinion, would naturally weigh very strongly with us. Then the matter would, as my Hon'ble colleague has said, be left to the Local Boards themselves. The Local Boards would have the power in certain eventualities to raise rates up to certain limits. In so doing, they would bear in mind what were the general objects in view, and whether for the amount they gained it was worth while making this small impost.

"That is all I have to say on this subject. I cannot accept the Resolution of my Hon'ble friend, Rai Sri Ram Bahadur, for the reason that he has proposed what is, I think, an inexpedient thing—a complicated re-adjustment of taxation, and because he proposes that the Government of India should take initial action in a field where any proposals that reach them should be those of the Local Governments and the people below them. I have already said, I think, sufficient to show that on certain proposals put in a different way the Government would keep a perfectly open, and I may even say a sympathetic, mind. Perhaps my Hon'ble friend, after hearing what has been said, may see fit to withdraw his Resolution. In any case I am afraid I cannot accept it."

The Hon'ble Rai Sri Ram Bahadur :—"After what has been already said, I think I shall follow the advice of the Hon'ble the Finance Minister and withdraw the Resolution for the present."

The Resolution was, by permission, withdrawn.

The Council adjourned to Friday, the 27th February, 1914.

W. H. VINCENT,
Secretary to the Government of India,
Legislative Department.

DELHI :
The 6th March, 1914.

APPENDIX A.

[Referred to in the Answer to Question 6.]

Statement showing admissions and deaths among prisoners in India from tuberculosis in 1903-1912.

Year.	Admissions.	Deaths.
1912	891	295
1911	1,016	355
1910	858	331
1909	980	368
1908	951	381
1907	704	256
1906	844	306
1905	803	298
1904	763	279
1903	769	281