

*Tuesday,  
19th March, 1918*

**ABSTRACT OF THE PROCEEDINGS**  
**OF THE**  
**Council of the Governor General of India,**  
**LAWS AND REGULATIONS**

**Vol. LVI**

**April 1917 - March 1918**

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**OF**  
**THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA**  
**ASSEMBLED FOR THE PURPOSE OF MAKING**  
**LAWS AND REGULATIONS,**

**April 1917 - March 1918**

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**1918**



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER  
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.  
(5 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on  
Tuesday, the 19th March, 1918.

PRESENT :

The Hon'ble SIR GEORGE LOWNDES, K.C.S.I., K.C., *Vice-President, presiding*,  
and 56 Members, of whom 52 were Additional Members.

STATEMENT LAID ON THE TABLE.

**The Hon'ble Sir C. Sankaran Nair** :—"Sir, I lay on the table a 11-6 A.M. statement regarding the amounts spent by the various Local Governments on anti-malarial measures during the last ten years, which was promised in reply to a question asked by the Hon'ble Maharaja Sir Manindra Chandra Nandi on the 5th September 1917."

INDIAN SOLDIERS (LITIGATION) BILL.

**The Hon'ble Sir William Vincent** :—"Sir, I move that the Bill 11-7 A.M. to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under war conditions be taken into consideration.

"I explained the objects of this Bill as fully as I could when I introduced it. There was then no indication of any disapproval on the part of the Council, and the only amendments that have been received do not in any way suggest that the principle of the Bill is disapproved; they rather seek to enlarge the privileges that are granted to soldiers under this Bill. In these circumstances, I do not think that I need add anything to what I said on the last occasion."

The motion was put and agreed to.

**The Hon'ble Captain Ajab Khan** :—"Sir, I beg to move the 11-8 A.M. following amendment, that after clause 8, the following clause be inserted :—

'9. When any document is produced before any Court by or on behalf of an Indian soldier who is a party to any proceeding in such Court purporting to be signed by his Commanding Officer and to the effect that such soldier—  
Postponement of proceedings against Indian soldier on leave.

[ *Captain Ajab Khan* ; *Sir William Vincent* ; *Mr. M. A. Jinnah* ; *Mr. K. K. Chanda*. ] [19TH MARCH, 1918.]

(a) is on leave of absence for a period not exceeding 2 months and is on the expiration of his leave to proceed on service out of India, or

(b) is on sick leave for a period not exceeding 3 months and is on the expiration of his leave to rejoin his unit with a view to proceeding on service out of India,

the Court shall postpone the proceeding as against such soldier in the manner provided in section 7.

"I also beg to move that clauses 9 to 14 be re-numbered 10 to 15, and that in clause 11 for '9 or 10' '10 or 11' be substituted.

"Sir, the reason that prompted me to move these amendments is, that the protection embodied in the Act be extended to the Indian soldiers during their periods of leave which they usually get before proceeding on field service.

"Under the existing rules an Indian soldier usually gets leave for two months or less, as circumstances permit, before proceeding on active service. He similarly gets sick leave for three months or more, when he is invalided back to India, through wound, injury, or ill-health, from any of the overseas theatres of war.

"As the periods of such leave were not covered by any provision in the Act, I know of several instances in which wounded soldiers, who came home on sick leave to recruit their health, and who had a civil suit suspended against them, were immediately visited by that fairly expensive but unavoidable and unwelcome but indispensable guest, the civil court *piyadah* for service of summons in the suspended suit; and in consequence of this the wounded soldier who got leave to rest and get fit for service again, had to hang about for days in the civil Courts for his suit.

"I hope, Sir, that in view of the facts, which I have briefly stated, this amendment will be accepted and the Indian soldier will not be harassed when he is on leave at his home before going on field service."

11-10 A. M.

**The Hon'ble Sir William Vincent:**—"Sir, the attitude of Government towards this amendment is that we are prepared to accept the experience of the Hon'ble Mover as proving the necessity for it, provided that there is no indication of disapproval from a substantial body of the Members of this Council.

"The Government see no reason *prima facie* to refuse to grant to Indian soldiers the additional privilege which the Hon'ble Member seeks to obtain for them, and I realize that he is in a position to explain with greater accuracy than I can the actual difficulties which soldiers returning from service on leave encounter in this matter."

11-11 A. M.

**The Hon'ble Mr. M. A. Jinnah:**—"Sir, I am very pleased indeed to hear the view expressed by the Hon'ble the Home Member. It seems to me, Sir, that it is obvious that the object of this Act is to give protection to soldiers who are on active service, so that they may not be harassed with litigation during the period of the war. The object is stated in the preamble of the Bill, and it is quite clear that, if you are going to give them this protection while they are on active service, you should also see that they are not troubled with litigation when they come back to their district, either wounded or sick for a temporary period on leave with the intention of returning back to active service. I am sure that every non-official Member will support this amendment, and I will only say this that the Hon'ble Captain Ajab Khan, as the Hon'ble the Home Member himself said, is more conversant with this matter than anybody else, and therefore this amendment coming from him as it does ought to carry weight."

11-13 A. M.

**The Hon'ble Mr. K. K. Chanda:**—"Sir, I wish to support this amendment."

11-14 A. M.

**The Hon'ble Sir William Vincent:**—"May I inquire, Sir, whether all the amendments have been put as one. The Hon'ble Mover read more than one, I think, in his opening speech?"

INDIAN SOLDIERS (LITIGATION) BILL; RESOLUTION 1105  
*RE* INTERNMENTS UNDER THE DEFENCE OF INDIA  
ACT.

[19TH MARCH, 1918.] [*The Vice-President; Captain Ajab Khan; Sir William Vincent; Mr. S. N. Bannerjea.*]

**The Hon'ble the Vice-President:**—"There is only one substantive amendment: the others are merely consequential. If the Council accept the first amendment, the others being merely consequential amendments will follow as a matter of course."

The motion was put and agreed to.

**The Hon'ble Captain Ajab Khan:**—"Sir, the other amendments are only consequential on the first amendment, and I need not deal with them separately as the first amendment has been accepted."

The amendments were accordingly put and agreed to.

**The Hon'ble Sir William Vincent:**—"Sir, I now move that the Bill, as amended, be passed."

The motion was put and agreed to.

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**RESOLUTION *RE* INTERNMENTS UNDER THE  
DEFENCE OF INDIA ACT.**

**The Hon'ble Mr. S. N. Bannerjea:**—"Sir, I have the honour to 11-16 A. M.  
move the following Resolution:—

'This Council recommends to the Governor General in Council that a Committee with an adequate Indian element thereon be appointed in each Province to inquire into and report upon:—

- (1) all cases of internment under the Defence of India Act;
- (2) all cases of detentions under Bengal Regulation III of 1818 and cognate Regulations in Madras and Bombay, and
- (3) all cases of persons who may hereafter be dealt with under the aforesaid Act and Regulations, the Committee being empowered to make recommendations with regard to the health, allowance, place of detention and other matters relating to the prisoners referred to above.'

"Sir, I am anxious that there should be no misinterpretation as to the scope and purport of this Resolution. My Committee would be an advisory body, the final decision resting, as now, with the Government. What is sought for is to create a machinery that will help the Government in the performance of a delicate and difficult duty without in the smallest degree weakening its authority or impairing its sense of responsibility. Sir, this disposes of an objection which has sometimes been urged in regard to this Resolution, and I am sorry to have to say, by competent official authority, namely, that the effect of the appointment of an advisory body would be to take away from the responsibility of the Government. It will do nothing of the sort, I venture to submit. Sir, we are here in this Council as an advisory body. Do we in any way usurp the functions of Government or displace its authority? Barring our occasional frictions which I think only add to the relish of our debates, I claim that on the whole we perform a very useful and serviceable function. Sir, before I proceed any further, you will permit me to clear my ground and to guard against a misapprehension which this Resolution might give rise to. Sir, I wish it to be distinctly understood—and I trust that my Hon'ble friends on the Government benches will accept the assurance in the spirit in which it is offered—that we do not in the smallest degree desire to embarrass the Government or to handicap it in the performance of what indeed is one of the primary duties of Government, namely, the maintenance of law and order and the preservation of the security of life and property. Indeed, we want to co-operate with the Government, to help it to dissipate the mistrust and suspicion and the gathering clouds of uneasiness and unrest which the administration of the Defence of India Act and of the Regulation, under existing conditions, has created.

[ *Mr. S. N. Bannerjee.* ] [ 19TH MARCH, 1918. ]

"Sir, it is useless to disguise the fact that the Government has assumed large and some say extraordinary powers in dealing with the situation which has arisen. Whether the Government was wise in assuming those powers, whether that was expedient or otherwise, that is not the question which confronts us to-day. Here are these powers, perhaps unthinkable under normal conditions but justified by the exigencies of war. These powers involve dispensing with the ordinary safeguards of judicial procedure to which we have been accustomed, which constitute the strongest guarantee of personal liberty and which we, the people of India, regard as being one of the noblest gifts of British rule. Sir, when you lock up a number of people, be they only a handful, without a trial, without confronting them with their witnesses, without giving them the opportunity of testing their credibility, you naturally create suspicion and mistrust. People in their ignorance, not knowing what you are doing, begin to believe that some of them must be innocent. This feeling grows, spreads, infects the whole community, and I am bound to say that among the younger and the more excitable section of the people, it fosters dissatisfaction and discontent. Time elapses, no improvement is perceptible, and the elders begin to participate in the same feeling. Why, Sir, the other day a public meeting was held at the Town Hall of Calcutta in order to appoint a vigilance committee to inquire into these cases; and among those who were present was the Hon'ble Sir B. C. Mitter, late Advocate-General of Bengal, and the venerable Sir Rash Behari Ghose, the prince of Indian jurists, whose public benefactions have made his name a household word in Bengal, lent the weight of his personality to the meeting and allowed himself to be placed on the committee. Young men, for the Act concerns them most, sometimes the hopes of their families, graduates and undergraduates, brilliant students of the Calcutta University, one of them an Ishan scholar, the first man of his year, have been snatched away from their homes without their parents and their guardians knowing the reason why. The mysteriousness of the proceedings adds to the concern, the anxiety and the alarm of those nearest and dearest to them. I have often been approached by Bengali fathers, and even Bengali mothers, begging of me to try to find out the causes of the arrest of their sons. Not long ago, a Bengali lady of the highest respectability, a Kulin Brahmin widow, called on me and besought me to do what I could in order that her son, an M.A. of the Calcutta University, might be sent to Mesopotamia so that he might fight the battles of his King and country, for to her the thought was intolerable that he should pine away and waste his life by inches in a malaria-stricken place in Bengal where he had been interned. Now, Sir, it seems to me that if you appoint an advisory committee consisting of men in whom the public have confidence, and if they are to inquire into these cases and record their verdicts, and if you publish those verdicts with or without a statement of the reasons, that would go a long way to allay the anxiety of parents and guardians, to soothe public feeling and to create a calmer atmosphere than what now prevails. The Government would lose nothing; it would gain a great deal for the administration of the Defence of India Act and of Regulation III would become far less unpopular than what it is at the present moment. Sir, I urge the appointment of the advisory committee not merely because it would produce a better feeling, but on the higher ground of practical expediency. It must not for one moment be supposed that the ordinary judicial safeguards which the law provides are the fads of lawyers and judges. They represent the accumulated wisdom of ages as being necessary in the interests of justice, and in order to guard against the commission of mistakes. No human institution is infallible. An administration is one long-drawn effort to commit as few mistakes as possible, or to avoid them altogether. Have you not been guilty of the gravest mistakes in the administration of the Defence of India Act? I am not talking of the Government of India, but of the Government as a whole, and my remarks are applicable in a special sense to the Government of Bengal. I say that they have been guilty of the gravest mistakes in the administration of this Act. Take the Sindubala case. These were two young women, belonging to the poorer middle class,

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residing at Bankura in the presidency of Bengal. The Criminal Investigation Department in Calcutta, in searching the house of a political suspect, found a scrap of paper, more binding, more sacrosanct apparently than even Charters and Treaties; the name 'Sindubala' was written on that bit of paper; forthwith they sent a wire to the District Superintendent of Police to arrest Sindubala. Unfortunately for that officer there were two Sindubalas. What was he to do? He was quite equal to the occasion; he cut the gordian knot, arrested both, knowing perfectly well that one of them must be innocent. But that is not all. These Sindubalas were *purdanashin* ladies, not accustomed to appear in public; they were marched through the public streets from their homes to the zemindari outchery, and again from the Bankura railway station to the Bankura jail. One of them was at the time in the family way. The other had a little child whom she carried to the jail. They were in confinement for a period of 13 or 14 days while the investigation was going on. They were then discharged as being absolutely innocent, without the shadow or a shade of suspicion being found against them. The Government felt itself in a somewhat awkward position. The Government issued a Communiqué ascribing the blunder to an error of judgment—error of judgment forsooth—which deprives respectable young women of their personal liberty and consigns them to the degradation of prison life. Sir, I can scarcely speak without feeling a sense of indignation in a matter like this. The honour of our families in Bengal, and elsewhere all the world over, is bound up with the honour of our women. If our women are discredited, dishonoured in any way, we feel the insult as a personal one; that is the sentiment of the Bengali community to-day in connection with this Sindubala case. I know not what will happen to these two young women or their families. I know not whether their status or that of their families will suffer. I know not whether they will be degraded and outcasted owing to their having been imprisoned, and if they are, I should like to know who will pay the penalty for re-admission into caste. Sir, this case has produced a sense of consternation throughout the length and breadth of Bengal. If women can be treated in this way, what about the men? What about the hundreds of young men (there are about 900 of them I learn from the latest figures) who are rotting in their places of internment in different parts of Bengal? What guarantee is there that some of them have not been interned without any sort of evidence against them as guileless and guiltless as the Sindubalas? The whole fabric of public confidence in the administration of these internments has been shaken to its foundations. Sir, I would have asked you to repeal the Act. Of course you would not do it, I am certain. But if you are not able to repeal it, the least thing that you can do is to appoint an advisory committee which would be a check upon vagaries of this kind. Let me proceed. I have not come to the end of this dismal story. I observed that the Sindubalas were arrested upon a telegram being sent to the District Superintendent of Police by the Criminal Investigation Department of Calcutta. There was no investigation, no inquiry, no examination of witnesses; arrest first, and inquiry afterwards, in violation of all law and justice, and even of the canons of propriety and decency. Sir, I do not condemn the high and trusted police officials who have grossly erred in this matter. My feelings are, if anything, those of sympathy with them in their unfortunate position. They are the victims of a system which should be revised. But for that bad system they would not have acted in the way that they did. Trusted, honest, honourable men, anxious to safeguard the rights of personal liberty, they were hurried into a series of blunders by the illimitable and irresponsible powers with which they were vested. Irresponsible power always leads to abuse, and therefore in all earnestness do I appeal to the Hon'ble the Home Member to appoint an advisory committee. Sir, if we had such a committee I am perfectly certain that these unfortunate occurrences would not have happened, and that the Government would not have been put to the humiliating position of confessing to an error of judgment on the part of high and trusted officials in dealing with respectable women. Sir Reginald Craddock, speaking on the Bill almost to a day three years

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ago, on the 18th March, 1915, said that no loyal or peaceful citizen need be alarmed at the introduction of the measure. We are all loyal and peaceful citizens here; I am one, I claim to be one though I do not know if my claim will be admitted. Sir Rash Bihari Ghose, Sir Benode Chunder Mitter, Rai Debendra Chundra Ghose, there are hosts of Bengalis who are loyal and peaceful citizens, and they have been alarmed, filled with consternation and forced to appoint a Vigilance Committee to inquire into these cases. I do hope, therefore, that my Hon'ble friend will accept the Resolution that I have the honour to move. Sir, in connection with this matter I have got some further cases, but I do not wish to elaborate the point. I should like however to mention the case, of Manindra Nath Sengupta who died of consumption. His relations had been informed only a few days before his death that he was keeping good health. This fact has been published and nobody, so far as I know, has contradicted it. One Hari Dass Dass committed suicide because he was practically starving. Government admitted that they got his letter a few days after his death. Sarada Charan Maitra died of malaria in the district of Jessore. A few days before his death he wrote to a friend who desired to see him (not to come, as the place was malarial. The Committee of the Indian Association inquired into this matter. We have got 50 cases and if my Hon'ble friend wants to have them, I am prepared to place them at his disposal.

"I now pass on to the second part of the Resolution which deals with cases of detentions under Bengal Regulation III of 1818 and cognate Regulations in Madras and Bombay, that is Regulation II of 1819 of Madras and Regulation XXV of 1827 of Bombay, Regulation III is old and in the words of Lord Morley 'a rusty weapon' hung up in the armoury of the Government of India. It was taken down in 1908 to deal with some of our most prominent Swadeshi workers. Lord Morley never liked it, his whole nature revolted against it, and he only succumbed to the pressure of his official environments. Writing on the 4th of December, 1908, to Lord Minto, he says in his 'Recollections':—

'One thing I do beseech you to avoid a single case of investigation in the absence of the accused. We may argue as much as we like about it and there may be no substantial injustice in it but it has an ugly continental, Austrian, Russian look about it.'

"I should like to ask my Hon'ble friend the Home Member if this part of the instructions of Lord Morley is being carried out in connection with the investigation of cases of prisoners under Regulation III of 1818? I should like to ask the question, but my Hon'ble friend may answer it or not as he pleases. Regulation III of 1818 says 'that due regard shall be paid to the health of prisoners and adequate provision made for the maintenance of themselves and their families in a manner befitting their rank and station.' I am bound to say that in 1908 this part of the Regulation was scrupulously followed except perhaps in the case of my esteemed friend, Baboo Krishna Kumar Mitter, who was confined in the Agra Jail, and whose health broke down in consequence. But since then there has been a change for the worse; possibly it may have arisen owing to the large number of persons dealt with under Regulation III, and to financial considerations arising therefrom. The Hon'ble Sir William Meyer keeps a tight hold over our purse strings; and perhaps in consequence of this consideration there has been a change in the manner of treatment of prisoners under Regulation III. But, Sir, there is no complaint, more persistent or more loud-mouthed than that these persons are kept in solitary cells. My Hon'ble friend the Home Member has been good enough to furnish me with the rules relating to the treatment of political prisoners. I find that one of the rules is as follows 'Prisoners shall be confined separately in cells and shall not be allowed to associate or communicate with criminal prisoners nor with each other except as provided below.' In other words, I am sorry to say that these rules sanction solitary confinement. Sir, political prisoners in England and in all parts of the civilised world are treated as first class misdemeanants, which means that they are subject to personal restraint; but all other forms of liberty are accorded to them. Solitary confinement is one of the severest



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forms of punishment that can be awarded to a prisoner, and the Indian Penal Code provides that solitary confinement shall in no case exceed three months and in no case fourteen days at a time. But here are men kept in solitary confinement for months and months together. No wonder that you have these stories of the breakdown of health, stories of attempts at suicide, stories of nervous prostration. I earnestly appeal to my Hon'ble friend the Home Member to revise this part of the Regulation. Now these prisoners are not allowed access to newspapers. I think the reading of the *Bengalee* might do them good. But why interdict newspapers, why not take *The Times*, *The Manchester Guardian*, *The Daily Chronicle*, *The Daily News*, *The Illustrated London News*, *The Graphic*, *The War News*? Pile on books and newspapers so that they may pass a decent and comfortable life in their prison cells. Give them a modicum of books, otherwise a man would go mad in the circumstances in which they are placed. I do most earnestly appeal to my Hon'ble friend in the name of justice and humanity to revise this part of the rules. For some little time I was a visitor to the Alipore Jail. Nothing impressed me more than the mercy and humanity that pervaded the British administration of jails. But this rule is in contradiction of the spirit of British administration in the matter of the treatment of prisoners. I do beseech my Hon'ble friend to revise this part of the Rules. I have referred to cases of an absolute breakdown of health; I hold in my hand a petition addressed on behalf of Jyotish Chunder Ghosh, a lunatic confined in the lunatic asylum of Berhampore. The mother has addressed the petition to the Government of India. May I read one or two extracts. It says 'that after the memorial, dated the 9th February 1918, had been written, your Excellency's humble memorialist's brother Babu B. B. Mitter went to Berhampore on the 10th February last to see her son Jyotish Chunder Ghosh in the lunatic asylum after duly receiving permission from the Government'; 'that when her brother went there Jyotish was lying straight on his back on a bedstead in the corridor of his cell. His look was vacant, his hair was almost all grown grey, his jaws were firmly closed, he could not speak, his legs were stiff and crooked, most likely paralysed, he could not walk, he could not move his limbs, Jyotish could not recognise your Excellency's memorialist's brother, nor did he respond when called aloud by name. Babu B. B. Mitter tried to attract the sight of Jyotish from all directions but to no purpose'. The allegations are as grave as any allegation could be. The mother says that her son has to be artificially fed, that he has been lying on his back for a period of six months, that he is paralysed and comatose. Sir, Regulation III of 1818 says 'that on the 1st of January and the 1st of July of every year, health reports should be submitted regarding the prisoners detained.' I should like to know if there have been such health reports with regard to this prisoner, and I should deem it a favour if my Hon'ble friend were to lay them on the table if there are any. I feel certain that if we had an Advisory Committee, complaints of this kind would never have been made. Sir, in this connection I desire to say this, that in order to render effective the working of these Advisory Committees, it will be necessary to appoint non-official visitors, and you can have a large number of them. You have got your Municipal Commissioners, Members of District Boards, Honorary Magistrates, all of them would be only too glad to visit and see these prisoners and make their reports. These reports would be a very valuable material for the Advisory Committee to work upon.

"Sir, our Act is based upon the English Act. Sir Reginald Craddock claimed that though more comprehensive in its operations it is less drastic. The statement is only true in one respect, and that is Home internments are not allowed under the English Act, they are permissible under our Act; but in every other respect our Act suffers in comparison with the English Act. The English Act does not oust the jurisdiction of the High Court. Under the English Act no person can be interned without the intervention of an Advisory Committee presided over by a High Court Judge. I do not go so far as the

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English Act. I claim much less, and I hope and trust my Hon'ble friend will see his way to accede to my request.

"Some objections have been raised to the appointment of an Advisory Committee, and with one of these objections I have already dealt. A second objection is that an Advisory Committee will not be able to deal with details. Surely they will be in a position to command the advice of experts; Government servants will help them; Government will be in a position to supplement their information on its own initiative with the means at its disposal. Then again, it has been said that members of the Advisory Committee would be exposed to the grave risk of assassination. That assumption is absolutely unfounded. We have got our special tribunals upon which Indian members sit. They try men for anarchical crimes; they have sentenced some of them for long terms of imprisonment, but they have never been exposed to any threats of violence.

"Lastly it is said that there is the Rowlatt Committee sitting, inquiring into a similar matter. I may point out that the function of the Rowlatt Committee is entirely different. The Rowlatt Committee deals with the question of the existence of a revolutionary conspiracy if any. My Committee will deal with individual cases, inquire as to whether the persons interned should be kept in internment or not. Sir, I claim that Lord Ronaldshay is on my side and he supports the appointment of an Advisory Committee. I will read an extract from His Lordship's speech:—It is taken from the Calcutta Gazette of 12th December 1917. His Lordship says:—

'But while I hold this belief I realise that there may be persons among the public who are genuinely apprehensive lest injustice should be done..... If however, it is suggested that a small Judicial Committee would be regarded as a more satisfactory form of safeguard against possible error on our part, we should be prepared in future to submit our cases against all persons whom we propose to place under restraint under the Defence of India Act, the Ingress Ordinance or Regulation III of 1918 to such a body consisting of two judges for their opinion. This would ensure that the case of every individual concerned was investigated and pronounced upon by an impartial body having no interest in his conviction.'

This is what I am asking for. Lord Ronaldshay is on our side. He says that the Committee should consist of two Judges. I have not indicated what according to my opinion ought to be the personnel of the Committee. But if I may be permitted to make a suggestion for the favourable consideration of my Hon'ble friend, I would say that the Committee should consist of three members, because two may be divided in their opinion. Two of them should be High Court Judges, one High Court Judge being an Indian not necessarily from the same province, and the third should be an Indian lawyer or educationist. The constitution of the Committee would involve expenditure, but when the Government has spent lakhs and lakhs upon the prosecution of political prisoners, it may spend a few thousand rupees to do them justice. I do not know that I should detain the Council any longer. I am sure if an Advisory Committee is appointed, it will help to soothe public feeling and ease the situation. It will do much more than that. It will go very far to undo the mischief wrought by the Sindhubala case, it will demonstrate the responsiveness of a great Government to the growing volume of public opinion on the subject, and restore the vanishing rays of hope and confidence to many a desolate and grief-stricken home in Bengal and elsewhere.

"I have a personal appeal to make to my Hon'ble friend the Home Member. He is a Bengal Civilian; I am sure he loves the people of Bengal. I desire to tell him this, that I know of no Act, the administration of which has within living memory caused wider dissatisfaction and discontent than that of the Defence of India Act. There is no feeling more deep-rooted in the heart of the Indian than love for his offspring. The Bengali father who has got a grown-up son reading in a college or school is haunted with the daily fear that he may be spirited away in a mysterious fashion and under the operation of a mysterious law. There is a sense of consternation abroad. The atmosphere is surcharged with the elements of distrust and suspicion. I appeal to my Hon'ble friend to remove them, to remove this feeling which sits like a nightmare on the troubled bosom of

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our people and to take them into his confidence and that of the Government by appointing an Advisory Committee. Sir, the result of to-day's debate, I am sure, is awaited with interest and expectancy by large classes of the population in Bengal and elsewhere. May they not be disappointed. May the result represent a distinct advance towards the conciliation of public opinion in a matter in which the heart of the people has been so deeply stirred.

"It is in that hope, I may add, in that confidence that I have ventured to place this Resolution before the Council for their acceptance, and I am sure my anticipations will not be belied."

**The Hon'ble Sir William Vincent:**—"Sir, my Hon'ble friend, 11-51 A.M.  
by the form in which he has cast his Resolution, recognises—and I congratulate him on his political acumen in this matter—that the special powers with which we have armed ourselves are a necessity in these troublous times, and he has confined himself to a recommendation which is directed to secure as far as may be that the innocent are not confounded with the guilty, that the measures of restraint imposed on these persons are as mild as the exigencies of the case permit, and that the health and welfare of persons against whom action is taken are carefully safeguarded. These, Sir, are objects which the Government always has had and always will have in view, and if we differ at all, I think it will be as to means and not as to aims. I believe that another matter in his mind—indeed he has said so—is the desire to satisfy public opinion that our machinery has been worked fairly and without undue harshness. Here, again, we are on a common platform. I, therefore, do not think it necessary to detail the general arguments which, in my judgment, have justified Government in using the powers it possesses to eradicate political crime, but I will refer to one aspect of the matter. I saw an article recently in a newspaper, a Calcutta paper I believe, in which the German-Indian plot was referred to as a joke. Sir, I wish it was or ever had been a laughing matter. It is not. Even at this present moment men are being tried for connection with that conspiracy in America and some have been convicted. I should have thought that the terrible events in Singapore in 1915, I should have thought that the serious conspiracy trials in India and Burma, would have afforded ample evidence to any one who sought the truth of the real and serious nature of these criminal conspiracies against the Government. I am glad that my Hon'ble Colleague has not taken up that attitude. Of conspiracies in India, also many of which are fostered by external assistance, the Council has abundant evidence in the numerous cases of murder and assassination and desperate crimes committed not only in the Mofussil but in the city of Calcutta, the chief commercial centre of India.

"But, Sir, there is another side to this question. The Government may be satisfied with the reality of these plots and with the necessity of measures to repress them; they may have excellent grounds for believing that the law is used considerately, but it remains to satisfy Indian opinion that, as a matter of fact, the machinery of the law is worked reasonably and fairly, and that these men who are under restraint are really men engaged in these conspiracies and that they cannot be released without prejudice to the public safety. Further, it is felt by many that systematic inquiries should be made to ascertain whether these persons have not, in the course of time, shown by their conduct that they have mended their ways to such an extent that their further detention is unnecessary. It is on this aspect of the case that I propose to address the Council.

"At present in every case—I say this with particular reference to the inquiries of my Hon'ble friend as to the steps taken by Government before any person is placed under restraint—before any warrant under Regulation III of 1918 is issued, a report is sent to the Government of India with a full history of the life of the person and of all the information against him, and this information is very carefully scrutinised. I myself, I may say, in addition to others, take part in this scrutiny. A full summary of each case is, when the warrant is issued, despatched to the Secretary of State for his information. In the case of persons upon whom restrictions are imposed under

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the Defence of India rules the procedure is similar, though the action is taken by the Local Government and no report is submitted to the Secretary of State. The information in such cases is carefully examined by a judicial officer in accordance with the promise made by my predecessor last year. In fact, I can assure this Council that everything is done to ensure that no action is taken against any man unless we are convinced that there are grounds for believing that the imposition of restrictions is necessary, and that the person is directly implicated in a conspiracy which is responsible for violent crime. I should like also to inform the Council that the Local Government constantly and regularly re-examines and revises these cases, and wherever such a course is possible, relaxes or removes restrictions imposed. Thus, many who are at first domiciled away from their villages are subsequently allowed to live in their own homes subject only to minor restrictions, and when a detenu's conduct continues to improve, all restrictions are removed.

"Well, Sir, I cannot deny that in some cases mistakes have been made. The Hon'ble Member has referred in particular to this case of two ladies in Bankura, the Sindubalas. I think the very fact that the Government admitted the error at once is sufficient indication that they scrutinize these matters with great care. The Local Government did not seek in any way to mitigate or palliate the mistakes in this case. I can assure the Hon'ble Member that no one regrets this unfortunate incident more than the Government of India and the Local Government, and that they feel the greatest sympathy for these ladies for the ill-advised action which was taken against them. The Government of Bengal has made inquiries into this matter, full inquiries, and far from taking the attitude suggested by the Hon'ble Member, namely, that of sympathising with those officers who were responsible for their action, they have, as I understand, censured them. I do not deny, and I cannot deny, that there was a mistake made in that case, and I should be the last person to seek in any way to palliate it. But I do say that with the number of cases which the Government have to deal with, a certain number of mistakes is inevitable, and it is, I think, to the credit of the Bengal Government that this is the only case in which any mistake at all has been proved. At the same time, I also recognise that the very fact of such an occurrence having taken place has shaken the public confidence in the administration of this Act to a considerable extent. I am informed that many loyal and good citizens by reason of this mistake have had a suspicion created in their minds—there may have been similar mistakes in the past—and that some of the persons under restraint are not rightly confined. There is also a feeling in the minds of some that the system is one under which the police exercise too much power. Nor can the Government neglect the views of men whose opinion carries such weight, as those of the gentlemen named by my Hon'ble Colleague just now. Speaking for the Government, we believe that there is no ground whatever for the assertion that is frequently made that any of these men are confined without reason and without ample material to justify the orders. In Bengal, the Province in which the Hon'ble Mover is directly interested, a great part of the work in these cases has been done by an officer who, I think the Council will admit, is well known for his scrupulous fairness, honesty and ability, a man whose natural temperament is, while doing justice to love mercy, I mean Mr. J. G. Cumming, and I do not think that in this Council there is anyone who has any acquaintance with him who would believe that he would ever be a party to the imposition of unnecessary restraints on an innocent man. The officer now in charge of this work is also of equal ability, patience and impartiality, in whom the Government have every confidence. Nevertheless, as I have said, Government recognise that this feeling of alarm is widespread, and that there is a genuine desire in the minds of many like my Hon'ble friend that steps should be taken by Government to insure that the cases of men already interned and those against whom such action is contemplated, should be investigated by some independent authority, and it is for this reason mainly that he has agitated this question in Council.

RESOLUTION *RE* INTERNMENTS UNDER THE DEFENCE 1117  
OF INDIA ACT.

[19TH MARCH, 1918.] [Sir William Vincent; Mr. S. N. Bannerjea.]

"His Resolution, if I may say so, raises two entirely separate points. It suggests that inquiries should be made into—

- (1) the necessity and propriety of the orders restricting the liberty of individuals;
- (2) the treatment of such persons when under restraint.

"It is quite clear, I think, that the agency which might be employed for the first inquiry would not necessarily be at all suitable for the second. I propose, therefore, to treat these questions separately.

"I will deal first with the proposal in so far as it suggests a Committee for the purpose of inquiring into the necessity and propriety of individual orders of restriction. Here, again, we shall clear the issues if we consider matters first as regards future cases and then as to past cases.

"Now, as to future cases, His Excellency the Governor of Bengal in a recent speech, from which the Hon'ble the Mover, I think, made a quotation, announced what the intentions of the Government of Bengal are in respect of this matter. I need only say, at this stage, that the Government of India are in complete agreement with those proposals.

"Well, there remains the question of persons against whom action has been taken in Bengal since the Act came into force, and their number is very considerable. I have already told the Council that most of these cases have been examined by a judicial officer; but this does not, I gather, content my Hon'ble friend....."

**The Hon'ble Mr. S. N. Bannerjea:—**"That is so."

**The Hon'ble Sir William Vincent:—**"Well, Sir, in view of the feeling on the subject, the Government of India are prepared to ask the Local Government to appoint a Committee consisting of one Indian and one English officer of judicial experience, of whom one at least shall, if possible, be a High Court Judge, or an officer who has served in that capacity, again to make careful inquiry into each case, to sift the materials on which the order of restraint or confinement is based, to consider any memorials that are put in on behalf of the persons whose cases are under investigation, and to advise the Government whether these orders are justified by this material that is placed before them. Further, this Committee will, in the case of a person for whose detention originally sufficient grounds are proved, inquire, so far as may be possible, whether by his subsequent conduct the detenu has shown such signs of reform or amendment that the removal of the restriction imposed on him is possible or whether, by reason of any other circumstance, this course is feasible without danger to the public tranquillity. For reasons which have been fully explained to this Council on former occasions, the inquiries of this body cannot be made in public and must be held *in camera*, and there can be no question of pleaders or advocates appearing before it. But this will, I hope, be the less necessary as every effort will be made to secure that the members are persons well able, without extraneous assistance, to sift and test the value of the evidence placed before them. The powers of the Committee will be advisory and confined to advice as to whether the material facts placed before it justify the imposition of restrictions, the nature of these restrictions being finally determined by the Local Government or, in the case of persons confined under Regulation III, by the Government of India.

"There is one more point in this connection to which I must refer. There are some cases, very few, I believe in which any investigation by a Committee might necessitate the disclosure of facts which concern our relations with foreign powers on matters of international importance, disclosures which might involve complications with foreign powers and the publication of information which we cannot divulge. The Government must reserve the right to decline to refer such cases to any Committee. I do not believe myself that there will

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be many such cases, certainly not under the Defence of India Act, and the intention of the Government of India is that this reservation shall be used as sparingly as possible.

" Well, in other Provinces the number of detenus is comparatively small, but we will ask Local Governments if a similar procedure cannot be followed there.

" I now turn to the second part of the Resolution which deals, as I said, with a separate point, namely, whether adequate care is taken to ensure that the health, welfare and comfort of detenus is properly attended to. I explained as fully as I could yesterday the action that is taken in regard to these detenus, and I laid a copy of the rules on the table, but I had better deal with particular points to which the Hon'ble Member has adverted. In the first place, he has referred to the possibility of financial stringency being in some way responsible for our not treating these people or their dependants more generously. I can scarcely believe that any Member here can accept that view, but, if it is necessary, I may assure the Council that there is no foundation whatever for such a suggestion. The Hon'ble Member went on to complain that newspapers and books were not supplied to these persons. Well, Sir, we have been in correspondence with the Government of Bengal on the subject of newspapers, and I may say that copies of one of the papers to which the Hon'ble Member referred, namely, the Weekly War News, are already provided for the use of the prisoners. As to books, I should like to read the rules. From what the Hon'ble Member said perhaps Council were under the impression that books are not supplied. Well, the rule runs thus—' Political prisoners should not be allowed to see or read newspapers, but books and magazines both in the vernacular and in English may be allowed from the jail library and from outside, provided they are passed by the Superintendent of the jail. In fact, it is desirable to encourage the perusal of suitable literature and, so far as may be practicable, facilities should be given for obtaining it'. That is the position in regard to books.

" I turn now to the question of the solitary cells. I think that the impression which the Hon'ble Member has created by his speech is not entirely correct. He has testified himself to the humanity of our jail administration in Bengal. I can assure the Council that the prisoners under Regulation III whom I have personally seen—and I saw, I think, about 20 or 30 of them—were treated, and rightly so treated, with very much more consideration than any other prisoners. The allegation of separate cells comes to this, that the prisoners are in small separate rooms side by side. In those rooms adequate furniture, books, papers and so on are provided. Ordinarily they are confined in these rooms, but during the day they are allowed to take exercise outside their cells for a period of one hour each morning and evening, and we have, as a matter of fact, asked the Local Government to consider if this time cannot be increased. Opportunities are also given to prisoners to practise any useful work in which they like to employ their time, such as carpentry. I may mention that among other things they were encouraged to go in for Swedish exercises....."

**The Hon'ble Mr. S. N. Bannerjea :—**" Typewriting, that is a useful thing."

**The Hon'ble Sir William Vincent :—**" I am glad to receive confirmation of what I say from the Hon'ble Member. If we take such trouble to provide typewriters and encourage them to take Swedish exercises, is that consistent with the theory that they are confined in separate cells and subjected to ill-treatment ? ....."

**The Hon'ble Mr. S. N. Bannerjea :—**" I did not use the word ill-treatment."

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**The Hon'ble Sir William Vincent** :—"The Hon'ble Member did not say so, but it has been frequently suggested. I withdraw the remark so far as the Hon'ble Member is concerned.

"As regards communications with their parents and relatives I should like the Hon'ble Member one day to pay a visit to the office of Mr. Cumming or Mr. Stephenson and see the pains and patience taken in interviewing the parents and relations of those interned explaining to them exactly what has been done and encouraging them in every possible way to assist in reforming these young men."

**The Hon'ble Mr. S. N. Bannerjea** :—"May I say at once that I have often visited the offices of these gentlemen, and I can testify to the absolute accuracy of that statement."

**The Hon'ble Sir William Vincent** :—"Long hours are spent by Mr. Cumming and also by Mr. Stephenson in explaining the facts to the parents and guardians of these detenus."

**The Hon'ble Mr. S. N. Bannerjea** :—"I know that as a matter of fact."

**The Hon'ble Sir William Vincent** :—"Again, I must congratulate myself on having such valuable corroboration of what I say. Well, Sir, I think all that I have said makes it clear that the Government really is doing all it can to ensure the welfare of these persons.

"I admit, however, that here again there is a feeling that non-officials should be associated with the official agency in this matter, and we are prepared to do what is possible to meet public opinion in this matter. Though I hope that the Council will agree with me that any such agency must be entirely different from the agency appointed to inquire into the necessity of the orders. The persons concerned are detained under Regulation III in different jails and under the Defence of India Act in different localities, and no committee of Judges could without great inconvenience visit these centres, nor would they afford a suitable agency for that purpose. The Government of India propose however to ask Local Governments to appoint for each locality in which detenus are confined or restrained under this Act one or more non-official visitors to be associated with the official visitor to visit at short and regular intervals the men who are under restraint or detention, to ascertain that necessary measures are being taken for their health and welfare, to inquire into any complaints and ascertain if they are reasonable and well-founded, and to report directly the result of their inquiries to the Local Government with their recommendations. I ought to say here that in respect of Regulation III prisoners, proposals to this effect had already been made by the Government of Bengal. It would be unfair if I suggested that this action had not been taken by them of their own motion. And I may add that the Government of Bengal were, I think before we addressed them in connection with this Resolution, also considering the possibility of appointing some non-official agency in the case of persons upon whom restrictions have been imposed under the Defence of India Act.

"The personnel necessary to give effect to this proposal will be selected by the Local Governments, and I fear that in some cases there may be difficulty in securing suitable non-officials to undertake the duty. But in view of all that has been said in this Council and elsewhere the Government of India think it imperative that measures should be taken to satisfy public opinion that the welfare of these prisoners is being attended to. I am anxious that the views of the Government of India on this subject should not be misinterpreted. They have every confidence in the work of the officials to whom the duty of visiting these men has been entrusted, and they believe that these men are well tended. The charges that have been made from time to time, so far as the Government can ascertain—we have had charges but not from the Hon'ble Member—are unfounded. They recognise, however, that there is a considerable

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amount of popular feeling in the matter, and they think it their duty to take such action as lies in their power to satisfy the public. I hope the Council will accept this as an indication of the desire of Government to meet non-official opinion in this matter, and I trust that the Hon'ble Mover will recognise that the Government of India have really gone as far as possible to meet his wishes. At the same time I ought to say that it is not our intention in any way to relax the efforts which have been made to maintain the public tranquillity, and I feel I ought at the same time to say a word or two about the great work which has been done by the Government of Bengal in combating these dangerous conspiracies. I think that Members of this Council realise that the measures taken have been successful. But I do fear that the public has not realised the great strain which has been put upon the Local Government by this work, or the very constant and anxious care which the local officers have exercised in using the powers vested in them by the law.

'I will only, before I sit down, Sir, refer to one or two of the cases which the Hon'ble Member mentioned. I was prepared for the mention of some of these names. The first case is that of Manindra Nath Set. This a Press Communiqué which was issued by the Government of Bengal on the subject:—

'The attention of the Government has been called to an article in the *Amrita Basar Patrika* on the 18th January 1918, regarding the death of a detenu Manindra Nath Set. It is suggested that Manindra Nath Set was arrested in consequence of a visit he paid to Hon'ble Mr. Cumming at Darjeeling to inquire about the arrest of his brother Sachindra; that he was then detained in jail an unusually long time, and that this detention had its effect on his constitution as phthisis developed soon after he left jail.

'The facts are these. It is quite untrue to suggest that Manindra Set was arrested for the reason alleged; he was arrested on the 28th August 1917, for quite different reasons. The first report about his health was made on the 11th September when the Superintendent of the Presidency Jail reported that he was under observation for insanity. Orders of domicile were passed on 26th September in accordance with which he would have forthwith been released from Jail; but the Jail authorities reported at the time that he was dangerous and not in a fit condition to be sent away alone; he was therefore kept under observation. On the 28th October Government received the report of the Police Surgeon that Manindra was not insane and that he was responsible for his action. At the same time a report from the Jail medical authorities was received that tuberculosis of the lungs was suspected in Manindra's case and that he himself had said that he was convinced he would die of phthisis like all his family. Endeavours were accordingly made at once to get a relative to take him to his house and look after him and after considerable difficulty a relative in Calcutta was induced to take him in for the time. This relative, however, suggested that Manindra might be sent to another relative, at Deoghur. (Deoghur, as the Hon'ble Member is aware, is a health resort) Manindra was therefore domiciled with his relative in Calcutta on the 4th November, and inquiries were made through the Bihar and Orissa Government whether the relative in Deoghur would take him in but this the relative subsequently refused to do. On the 6th November at the request of the relative with whom he had been domiciled in Calcutta who was unwilling to keep him any longer, Manindra was sent to the Medical College Hospital where he remained till his death.

'As regards the statement in the article in question that Manindra was pining during his illness to see his brother Sachindra, no request to this effect was received by Government.'

'Then there is the case of Jyotish—the last case I propose to read, because, if I proceed to examine the details of every case the discussion will be endless and in general all I need say is that we are satisfied that Local Governments make every inquiry possible and take every care with regard to these men. This is the statement that I have about Jyotish:—

'About three months after his arrest it was reported he was suffering from hallucination.'

'And here I should like to intervene for a moment and say that it has been unfortunately the case that many of these men are of weak intelligence, the very fact that they take so readily to these criminal courses is in itself an indication that their minds are not normal. For no normal man would join in such wild and wicked plots, nor be guilty of the desperate crimes of which my Hon'ble Colleague, living in Calcutta as he does, has full knowledge. Well, my statement continues:—

'He was melancholic and was under the delusion that the Criminal Investigation Department were trying to poison him. He refused all food. On the 27th March the



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Government of Bengal wired that the prisoner's condition was bad and that Major Peebles, Superintendent of the Berhampur Lunatic Asylum, had been ordered to proceed to Rajshahi and examine him.

'Being suspected of lunacy he was transferred to the Berhampur Jail to be under the continuous observation of an expert there and as he refused to take food the authorities had to resort to forcible feeding. As a matter of fact during that process the prisoner gained 12 lbs. in weight. Also a man was put to keep him company all through the day and night. This prisoner noted that Jyotish refused to speak though he every now and then forgot the rôle he was playing and did something that was quite intelligent. On the 16th May it was reported again that the prisoner was lying in a state of apparent coma, while his physical condition was good. The Government of India at once directed that he should be examined by a Medical Board consisting of Major Peebles and Lieutenant-Colonel Deare, and they, after careful examination, expressed it as their deliberate opinion that he was feigning insanity. That was the opinion on which we moved him. They added that in his own interests it would be better to remove him to the asylum where his mental condition could be scientifically investigated.

'On the 26th September Major Peebles again wrote that Jyotish was feigning insanity and that he was in fair health otherwise. Captain Hume, who examined the prisoner on 25th February, could not say definitely whether he was insane or not.'

"Well, the prisoner is still reported to be lying in this condition. He is fed and tended with the utmost patience, and the Government of India are now in communication with the Government of Bengal regarding any possible treatment which may improve his condition. We are arranging for a visit to this man by a non-official medical officer, although we believe our own men are doing everything possible. We are also inquiring whether his mother cannot be allowed to nurse him, and if in any way the treatment undergone is found to be unsuitable or if he can be liberated with safety, I can assure the Hon'ble Member we shall not hesitate to do what is possible.

"I have now finished. I have endeavoured to the best of my ability to convey to the Council the attitude of Government in this matter, and I hope that it will be understood and accepted that we are anxious to satisfy reasonable opinion in this matter. We know that there is a certain body of public opinion here in India, more particularly in Bengal, which nothing will satisfy. On the other hand, there are reasonable men whose minds are open to conviction; those reasonable and loyal citizens we do seek to convince that we are doing our best to satisfy the public that all possible action is taken to ensure the welfare of these prisoners and to ensure that the innocent are not confounded with the guilty. The Hon'ble Member will, in the circumstances, understand me when I say that I cannot accept the Resolution exactly as it stands, but I hope that this will meet him sufficiently."

**The Hon'ble Maharaja Sir Manindra Chandra Nandy** 12-23 P.M.  
of Kasimbazar:—"Sir, the question of the operation of the Defence of India Act of 1915 and of Bengal Regulation III of 1818 has assumed a really serious aspect in the province where I and the Hon'ble Mover of this Resolution come from. In reply to a question recently put by a member in the Bengal Council, the total number of persons interned and deported under these Acts was given as nearly a thousand. Sir, the internment of such a large number of people has naturally affected thousands of families in Bengal and drawn towards these men the indiscriminating sympathy of perhaps the bulk of the educated community of my province. Now, Sir, most of us believe in the existence of a rather widespread conspiracy against law and order in Bengal, and also in the fact that crimes of a certain character have been greatly reduced by the operations of the Acts in question. The fact of the practical suppression of political dacoities and murders loudly proclaims the wisdom of the Defence of India Act and of the Bengal Regulation of a hundred years ago, but the public refuse to believe that all the men so far dealt with under these Acts are guilty people. At present, the whole responsibility of investigating into these crimes lie with the Criminal Investigation

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Department which, like other human institutions, cannot be considered to be infallible or above mistakes and suspicion. The men of the Criminal Investigation Department may be very clever people themselves, but they cannot claim the trained lawyer's skill and ability to sift evidence properly, and in consequence mistakes have occurred and are likely to occur over and over again. These mistakes actually put the Government in a very awkward position and, as Lord Ronaldshay stated so frankly in his Council a few days ago, the Government would do everything in their power to prevent their occurrence and not to give needless trouble or pain to the people. What is, therefore, wanted is to make the position of the Government unassailable, and to secure the confidence of the people in the administration of the Acts in question. I cannot suggest any better means of gaining that end than by the adoption by the Government of the Resolution so ably moved by the Hon'ble Mr. Surendra Nath Bannerjee. An advisory committee, composed of men in whom the people have confidence and who are not likely to be influenced by cooked police reports and are used to sift evidence properly, may influence public opinion greatly in favour of the impartial administration of the Acts in question, and may also take off a good deal of the sting from the acrid criticism now levelled against the Government out of sheer ignorance. Sir, the Defence of the Realm Act of England, after which model the Defence of India Act has been shaped, has given a statutory recognition to such a Committee in the United Kingdom as is suggested in Mr. Bannerjee's Resolution, besides allowing all persons arrested under the Act an opportunity of being tried by a Jury. Sir, to an Englishman these are only minimum safeguards : and if both of these cannot be extended in India, I hope, for the good name of the Government and with a view to promote trust of the people in their *bond fides*, the Government will see their way to accept Mr. Bannerjee's Resolution. That would relieve in a very large measure the tension in the public mind in connection with the subject, and effectually prevent the Government being impugned, maligned and discredited before the public eye in season and out of season."

12-30 P.M.

**The Hon'ble Sir Gangadhar Chitnavis:**—"Sir, we are glad that this Resolution has been virtually accepted by Government. It must be admitted that the main object of Government in enacting this Regulation is to combat anarchy and lawlessness. In doing so, it is possible that mistakes must and will sometimes occur; but the partial acceptance of this Resolution is in itself clear proof that Government are as anxious as the Hon'ble Mover himself to avoid mistakes, to arrange for necessary comforts and conveniences to persons detained and to secure public co-operation with a view to remove distrust and suspicion in the working of these regulations. It is therefore right that when we condemn Government for mistakes which they themselves sincerely admit and regret, we must be prepared to congratulate them on the success that they have been able to achieve in combating the main object these Regulations had in view, and also thank them for what they have done in spite of many difficulties in the interests of loyal and law-abiding citizens of this country."

12-37 P.M.

**The Hon'ble Mir Asad Ali, Khan Bahadur:**—"Sir, after hearing the speeches of the Hon'ble Mover and the Hon'ble the Home Member and the sympathetic views taken by him, it is not necessary to say more, and it only remains for us to thank him for his sympathetic attitude. The Hon'ble Mr. Bannerjee's Resolution makes a modest proposal. It does not aim even at the slightest alteration of any clause or provision in the Defence of India Act or the deportation Regulations. It wants the defence to remain on the defensive and not assume the rôle of the offensive. It seeks to ensure the just and proper application of the Act or the Regulations to individual cases. It asks, therefore, for the appointment of a mixed committee of officials and non-officials.

"First, such public opinion as we have in this country desires to be satisfied in certain cases as to the justness of the enactment or enforcement of the

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Act as well as of the Regulations. Whether rightly or wrongly people have come to entertain a doubt as to their correct application in some cases. The sentiment is there, and it is growing stronger and stronger. In practical politics sentiment counts a good deal. With due deference to the authorities whose vast powers, resources and methods of investigation may unearth facts which otherwise can hardly be known to an unsuspecting public, I feel bound to remark that, even with the best of intentions, the best of officials are after all human, and are liable to err. They are no more infallible than non-officials are. Even should there be one unjust case for a hundred just cases, the effect that that single case would produce upon public opinion would be so great that no enlightened Government could afford to neglect it. Hence the Government should be prepared to satisfy public opinion. It may be that the Government have in their possession such assured information as may not be disclosed to the public in the interests of public safety. But they can furnish the proposed Committee with such information as might be let in the course of investigation, and thus help the Committee to arrive at safe and sound conclusions.

"Secondly, justice requires that the sacred personal rights of the individual should be protected from envy or malice which too often in the affairs of men may involve even absolutely innocent persons into unexpected trouble. I consider it is one of the functions of a civilised Government to protect and safeguard the personal rights of the individual.

"Thirdly, in the name of prestige which the Government values so much, and in the interests of efficiency of which the administration is so jealous, the Government should favour the appointment of the proposed Committee, so that there may be greater cordiality between the rulers and the ruled. Even where the prestige of the Government is assailed, the public will then voluntarily rush towards the support of constituted authority and help to maintain its prestige.

"Fourthly, the appointment of a Committee will go a great way in securing that public co-operation which the police badly miss to-day for want of mutual confidence between them and the people. With accurate knowledge of facts the public will be less and less disposed to stand aloof from police investigation of the right sort.

"For these reasons, I heartily support the Resolution before the Council, and trust that it will meet with the unanimous acceptance of the Council."

**The Hon'ble Rai Bahadur B. D. Shukul :—**" Sir, after the 12-32 P.M.  
reply that has been received from the Hon'ble the Home Member, I have only to offer thanks to him on behalf of myself and that of the Province which I have the honour to represent, for the announcement he has made with regard to the appointment of a Committee as desired by the Hon'ble Mover. I am sure this announcement will be received by the whole country with a sense of great relief and gratitude. It will be a good thing if the benefits of inquiries with the aid of Advisory Boards will be extended to the existing cases, a course which will hardly leave any room for further complaint in this matter."

**The Hon'ble Mr. K. K. Chanda :—**" Sir, after hearing the Hon'ble 12-33 P.M.  
the Home Member's speech in reply to that of the Hon'ble Mover of the Resolution in which he so eloquently and abundantly made out a case for an Advisory Committee, one does not see the necessity of speaking at length on the Resolution or of making a speech. The Government is prepared to meet us half way, it offers to appoint a board of two judges, one of whom is to be an Indian and also to allow non-official visitors to visit these unfortunate young men. For this concession, although it does not go the length we desire, I wish to thank the Government of India. We are grateful that the Government of India is not stationary but is moving and progressive. Last year when a Resolution was moved by Mr. Dadabhoj on similar lines to the present Resolution, I moved an amendment to it suggesting the appointment of

[ *Mr. K. K. Chanda; Mr. S. N. Bannerjea.* ] [19TH MARCH, 1918.]

a Committee consisting of a High Court Judge and an Indian practising lawyer and a District Judge. But, Sir, the then Home Member, Sir Reginald Craddock refused to accept our suggestion and he interposed a high stone wall in front of us. To-day the Hon'ble Sir William Vincent accepts our suggestion and, although he has not removed the wall, the opening he makes is now fairly wide and will admit of a passage. If we again have to come before the Government in this matter, though I hope and sincerely trust there may be no need to do so,—but if unfortunately our grievances are not removed, we shall not cease to knock at the door—and then I feel sure that the door will fully be opened. I am sure that if on another occasion we do come up Sir William Vincent will absolutely remove the wall, and will grant our request in full. The Government of India have gone further and almost unasked have agreed to the appointment of non-official visitors. In this matter also the Government of India are moving, it was only the other day during the present Session that I suggested the appointment of such visitors through an interpellation. At that time the Government of India had not made up its mind and was waiting for the reply of local Governments. To-day Sir William Vincent has been pleased to announce the appointment of non-official visitors. Looking to the attitude of Government in this matter to-day, one feels that if the Government was pleased to take this attitude before, what a world of difference it would have created. I feel sure that many homes in Bengal would not have been desolated, that many brilliant young men might have continued to be useful citizens, might for instance, have shed their blood on the plains of Mesopotamia, fighting for their King and Country. Many of them, alas! have unfortunately taken their lives with their own hands, or are inmates of lunatic asylums or are otherwise wrecks. Sir, we are grateful to Sir William Vincent for the decision as to the composition of the Committee, but we regret it in so far as he has not seen fit to accede to our request for the association of a non-official on this Committee. Speaking for myself, I confess I do not understand what the objection is. Surely there must be some non-official in whose integrity and judgment Sir William Vincent may have confidence. If it has been found possible to appoint non-officials on the Council of the Secretary of State, to appoint one on the Executive Council of the Government of India and as members of Provincial Councils,—not only so but if they could be appointed as judges of the special tribunals for trying these very cases, and what is more if one is associated with the Committee presided over by Mr. Justice Rowlatt who is inquiring into a much bigger question, Sir, I do not understand what reasonable objection there could be to the appointment of a non-official member to inquire into a particular case. However, Sir, I accept the decision with perfect gratitude and respect. I should, however, like to utter a word of caution on one point. The whole thing depends on the personnel of the Board, upon the persons who are appointed visitors. There are judges and judges as there are men and men. Unless you give us the very best men, those in whom the public have confidence, I am afraid the result will be worse than useless. I trust that Sir William Vincent will be pleased to consider it and appoint men who will carry weight in the country. With these words, Sir, I respectfully accept the decision of Government and associate myself with the Resolution”.

12-30 P. M.

**The Hon'ble Mr. S. N. Bannerjea :—**“Sir, I think the one feeling that pervades the minds of non-official Indian Members on this occasion is one of deep thankfulness to the Government for the attitude which it has displayed in connection with my Resolution. Sir, I am quite sure that when the result of this debate is known, it will have a soothing effect on public opinion in Bengal and elsewhere. Public opinion has been in a state of consternation, I do not use the language of exaggeration, but I have not the slightest doubt that the Hon'ble the Home Member's speech will have a very ameliorating effect upon public opinion. Sir, my Resolution divides itself into two parts as the Hon'ble the Home Member pointed out. The first part suggests the appointment of an Advisory Committee, and in the second I make a recommendation that there should be visitors to visit prisoners confined under Regulation III and the Defence of India Act. I think

[19TH MARCH, 1918.] [ *Mr. S. N. Bannerjæ; Sir William Vincent.* ]

my Hon'ble friend has substantially accepted my Resolution. The point of difference I shall presently indicate. I suggested in my speech, and not in the Resolution itself, that there should be three members on the Advisory Committee. My friend says two, and that is the recommendation of the Government of Bengal of Lord Ronaldshay, and an effort will be made, I understand, to obtain at least one High Court Judge, as a member of that Committee. I hope one High Court Judge will be a member of that Committee, and I do not think there will be any difficulty in obtaining a High Court Judge as a member of the Committee. We have a High Court Judge as a member of the revolutionary committee that is now sitting, from Madras and another has been brought out from England, and if my Hon'ble friend were to make a serious effort, I have not the slightest doubt that he will obtain a High Court Judge to sit as a member of the Advisory Committee. I need hardly point out that the personnel of the Committee is a matter of the greatest importance. If the personnel is satisfactory, public opinion will be soothed ; if the personnel is unsatisfactory public opinion will be suspicious. Therefore, it is a matter of the first importance to see to it that the personnel is such as will inspire public confidence. And I should like to add a third member if my Hon'ble friend could possibly see his way to accept that suggestion, because there may be a division of opinion amongst the two, but if there are three, a settlement could be arrived at, and I think it would be a distinct advantage to have a third member if the Hon'ble the Home Member could see his way to accept that suggestion. It is a question of expense I am told, but I hope this consideration will not be permitted to stand in the way, and I would like to press this point upon the sympathetic consideration of the Hon'ble the Home Member.

" Well, Sir, then, with reference to the second part, namely, the Board of visitors, my Hon'ble friend has practically accepted my suggestion, that there will be non-official visitors to go and see these prisoners whether confined under Regulation III or under the Defence of India Act. I do not think that I shall be justified in detaining the Council any longer. Our feeling is one of deep thankfulness to the Government, and I offer my congratulations to the Hon'ble the Home Member for having seen his way to accede to a feeling which is uppermost in the minds of educated Indians throughout the length and breadth of the country. As my Hon'ble friend says, there may be some who will not be pleased but they do not count. I think all that Government need do is to conciliate the good, the true and the thinking and if that is done, I think the duty of the Government is fulfilled."

**The Hon'ble Sir William Vincent :—**" I have very little to add, 19-43 P. M.  
Sir, to what I have already said. For the reasons which were given by the Hon'ble Sir Reginald Craddock in the debate last year which reasons appear to me to be very cogent, the question of appointing a non-official on to this tribunal must, I think, be decided in the negative. I do not wish to repeat those reasons, but I am satisfied myself, and I think I could satisfy the Council, that they are reasons which would commend themselves to any reasonable person.

" I quite agree, however, with what both the Hon'ble Mr. Chanda and Mr. Bannerjæ said that it is of great importance that the personnel of the Committee should be such as will command the confidence of the public, and I am quite sure that the Local Governments will bear this matter in mind.

" The other point to which the Hon'ble Member referred was the question of appointing three members instead of two on these committees, and I do not know if I should be divulging a confidence if I mention that the suggestion has been put to me from another source that an educational officer should be employed for this work. All I can say in regard to this proposal is, that I do not think that an educational officer would be of much use on these Advisory Committees as they will really be employed in investigating, examining and scrutinising the evidence that comes before them. But I will have the point

[ *Sir William Vincent ; Mr. S. N. Bannerjea.* ] [ 19TH MARCH, 1918. ]

put to Local Governments for consideration. I may say that many of these persons against whom action has been taken are men of middle age. We have some men of 40 interned, and I think it is a little too much to suppose that an educational officer would be able to influence men of that age; there are, however, many cases in which the persons against whom action has been taken are young men, and I will ask Local Governments to consider whether at least in the case of visiting committees,—and that I think will meet my Hon'ble friend's wishes,—an educationist should not be appointed as a visitor where such a course is possible....."

**The Hon'ble Mr. S. N. Bannerjea:**—"I could mention some names."

**The Hon'ble Sir William Vincent:**—"Then the Hon'ble Member went on to say that having conciliated Mr. Bannerjea we had conciliated Bengal. Was that the suggestion?"

**The Hon'ble Mr. S. N. Bannerjea:**—"I did not put it in that way. That is the Hon'ble Member's version."

**The Hon'ble Sir William Vincent:**—"I admit it is rather a perversion. However, I am glad to think that by anything we have done, we have been able to secure the approval of what I may call moderate opinion in that province, and I accept the assurance of my Hon'ble friend that that is so."

"Then my Hon'ble friend went on to say that as regards the visiting agency I have practically met all he asks. I was reminded of the old saying of an eminent judge that the word 'practically' always conceals a fraud, and I am not quite sure how far really I have met my Hon'ble friend or not. But what the Government intend to do is, I think, plain from what I stated, and if it in any degree satisfies the Hon'ble Member and the rest of this Council, I am more than content."

**The Hon'ble Mr. S. N. Bannerjea:**—"Sir, after what has fallen from the Hon'ble the Home Member I beg leave to withdraw the Resolution."

The Resolution was, by leave of the Council, withdrawn.

## RESOLUTION *RE* APPOINTMENT OF AN INDIAN MEMBER TO THE NEXT IMPERIAL WAR CONFERENCE.

12-48 P. M.

**The Hon'ble Mr. S. N. Bannerjea:**—"Sir, I beg to move that—

'This Council recommends to the Governor General in Council that the Indian Members for the next Imperial War Conference be appointed on the recommendation of the elected members of the Imperial Legislative Council.'

"Sir, I do not think that this Resolution will take long. It will be in the recollection of Hon'ble Members that at the Simla Session of the Legislative Council my Hon'ble friend Mr. Shafi moved a Resolution recommending that India should be officially represented at the Imperial Conference, and that

RESOLUTION *ET* APPOINTMENT OF AN INDIAN MEMBER 1127  
TO THE NEXT IMPERIAL WAR CONFERENCE.

[19TH MARCH, 1918.] [ *Mr. S. N. Bannerjee.* ]

a representation in that behalf be addressed to His Majesty's Government through the Right Hon'ble the Secretary of State for India. That Resolution was strongly supported by the then Viceroy (Lord Hardinge,) and it was unanimously accepted by the Council. As a result, in 1917, India was represented at the Imperial War Cabinet by the Secretary of State aided by an Indian deputation nominated by the Government of India. The Indian deputation consisted of His Highness the Maharaja of Bikaner, Sir Satyendra Prasanna Sinha, and Sir James Meston. The association of an Indian deputation in the deliberations of the highest Council in the Empire was a notable event in our annals and marked a new departure in our relations with the British Empire. The conduct of the deputation demonstrated that India was in every way worthy of the great confidence that was bestowed on her. The tact, judgment, practical capacity, and in the case of the Indian members, their loyalty and unflinching devotion to the British connection were the theme of universal praise and profoundly impressed the Imperial Conference. The Conference decided by a unanimous vote that India should henceforth be represented at every session of the Conference.

"That was a great, a distinct gain. In pursuance of that Resolution a deputation will soon leave India for the representation of this country. Sir, when the Indian deputation left India last year there was a general feeling in the country, which found expression in the public prints and in a question recently asked in the House of Commons, that the deputation had not behind it the imprimatur of the people and the high sanction of popular choice. It is with a view to remove this defect in the title of the coming deputation that I have ventured to submit this Resolution for the acceptance of this Council. The Resolution is that the Government of India should appoint the deputation, but subject to the recommendation of the elected members of this Council. I am well aware of the fact that the Indian representative of the deputation that will sit at the Imperial Conference will be the representative of the Government of India, and, being the representative of the Government of India, the Government of India must appoint him. We do not in the slightest degree want to interfere with the authority of the Government of India. He must be a nominee of the Government of India, but at the same time we want to support the choice of the Government by his election by the elected members of this Council. Sir, the effect of the acceptance of this Resolution would be to place the Indian member of the deputation somewhat approximately on the same footing with the Colonial representatives. The Colonial representatives are the members of the Colonial Governments, but they are also the elect of the people, the Governments being popular. Our representatives will be the nominees of the Government and, unless there is behind them the sanction of popular choice which I am anxious to secure, they would not be the colleagues of the Colonial representatives in the full sense, echoing the voice of the Government and of the people. This would be a distinct advantage to the Government. The Government will be the authority that appoints, only we want to have our share and our voice in the matter. We fortify the appointment of the Government by the choice of the elected members of the Legislative Council. It seems to me, Sir, that that is an eminently reasonable proposition and should be accepted by the Government, because it does not in the smallest degree take away from the authority or the decision of the Government, but strengthens that decision by the voice and the vote of the elected Members of this Council.

"Sir, in this connection there was a question and answer in the House of Commons. I will place them before the Council :

'In Commons to-day (25th March) Mr. Denham suggested that the Elected Members of the Legislative Council should be invited to select one of the representatives of India to attend the sitting of the Imperial War Cabinet in order to avoid the recurrence of the grievance of educated Indians last year.'

"There was a grievance last year and it found expression in the public prints, as I have just mentioned. Dr. Fisher replied that 'the War Cabinet

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TO THE NEXT IMPERIAL WAR CONFERENCE.

[*Mr. S. N. Bannerjee; Mir Asad Ali, Khan Bahadur.*] — [19TH MARCH, 1918.]

consisted of representatives of the Governments of the chief portions of the Empire and therefore it was impossible to adopt the suggestion."

"Evidently the suggestion was that the appointment should be made by us, but we do not claim that at all. We only claim to have a voice in the making of the appointment. Therefore this answer of the Government does not preclude the acceptance of my Resolution. The Government is to appoint subject to the election made by the elected members of this Legislative Council. I do hope that, under the circumstances, my Resolution will be accepted. In fact, I am prepared to go a little further, and if the Government see its way to accept it, I would say, let us have a pannel of, say, a number of members elected by the elected members of this Council, and Government may pick and choose from that pannel.

"I do not know that I need detain the Council any longer. With these words I beg to move the Resolution."

12-56 P. M.

**The Hon'ble Mir Asad Ali, Khan Bahadur** :—"Sir, while taking exception to the form in which the Hon'ble Mr. Bannerjee's Resolution is worded, I fully sympathize with the object of the Resolution. By the 'Indian member for the next Imperial War Conference,' I suppose Mr. Bannerjee means an Indian representative chosen to assist in his advisory capacity, the Secretary of State for India on the Imperial War Conference 'formally agreed on the motion of the Prime Ministers of the great Dominions to modify its own constitution so as to permit of India being fully represented at all future Imperial Conferences,' we are not entitled, I presume, to send our own representatives to the Conference until its constitution is changed. We do hope that it will shortly be amended in the direction indicated. Until such time we must rest content that our representatives can be sent only in their advisory capacity, as was done last year. Since no Indian representative can have a vote in the Conference it is immaterial whether he is nominated by the Government either directly or on the recommendation of the elected members of this Council. Mr. Bannerjee evidently desires that the Government should be pleased to recognize the principle of election by appointing a representative recommended by the elected members of this Council. While no doubt or fear is entertained as to the excellence of the choice of the Government, patriotic feeling suggests a popular method of nomination.

"The Resolution, Sir, might have gone further and suggested the election of a non-official representative by the elected members of the Council. But it modestly suggests, for the ready acceptance of the Council, that the recommendation of the Council should influence the Government nomination of at least one Indian representative. Since it is to be, as it was, primarily a War Conference, it is but fitting in the nature of things that a popular representative should give expression to the popular feeling that India is prepared in these troublous times to share the burden of the Empire, and it shall be his duty as India's spokesman to pledge India to give her best and materially assist the Empire in all possible ways to achieve a glorious victory. In fact, such a loyal expression will come out with better grace of peoples representative. I do hope, therefore, that the elected members of this Council will be allowed the proud privilege of recommending to His Excellency the Viceroy one or two names of Indian representatives, one of whom he may be pleased to nominate to assist the Secretary of State for India on the Imperial War Conference. India's position and status within the Empire having been raised by admitting Indian representatives last year into the inner Councils of the Imperial War Cabinet, as well as of the Imperial War Conference, it is but meet that India should be allowed the choice of nominating her representative. More words are not needed to commend this timely Resolution to your acceptance. I, therefore, desire to give my hearty support to Mr. Bannerjee's Resolution."



RESOLUTION RE APPOINTMENT OF AN INDIAN MEMBER 1129  
TO THE NEXT IMPERIAL WAR CONFERENCE.

[19TH MARCH, 1918.] [Sir William Vincent.]

**The Hon'ble Sir William Vincent:**—"Sir, in answering this 1 P. M. Resolution, I think there is very little to add to what was said by His Excellency when he addressed this Council on the 7th of February, 1917, and I will ask the Council to bear with me while I read what appear to me to be the relevant portions of that speech. His Excellency then said :—

'Criticism has been made of the method of representation and the manner of selection of India's special delegates. I think our critics have misapprehended the nature of the Conference and of the representation. The Conference is of the Mother Country, the Dominions and India. Each Dominion is represented by its Prime Minister, and has but one voice in the Conference, but the Prime Ministers are permitted to bring with them such other Ministers as they may desire, and may invite these Ministers to speak on behalf of the Dominions on any particular question. It is obvious that in the case of India, so long as the Secretary of State is directly responsible to Parliament for the policy of the Indian Government, the Secretary of State must be the head of the Indian delegation, and the policy propounded by India must be the policy of the Secretary of State in Council, but I have the Secretary of State's assurance that he will be glad to leave his colleagues from India to speak, whenever possible, on behalf of India.'

'The Conference then being a Conference of Government, it follows that the responsibility for the choice of the representatives must rest with the Government. No Government could divest itself from that responsibility, and so in the case of India, the Secretary of State, in consultation with the Government of India, has chosen the three gentlemen whose names you know. The choice in fact goes beyond the promise made by Lord Hardinge in his speech of 22nd September, 1918.'

"The next paper to which I would refer in this connection is the declaration of the Prime Minister in the House of Commons. I have only a telegraphic summary of it. It is dated the 18th of May, 1917. He began by saying, that the Imperial War Cabinet was an important event and constituted a landmark in the constitutional history of the British Empire.' He went on to explain how great the success of that Cabinet had been and added :—

'As far as the Government were concerned they could state with confidence that the experiment had been a complete success and the Imperial War Cabinet was unanimous that the proceedings had been of such service not only to its members but to the Empire that it ought not to be allowed to fall into desuetude. Accordingly it was agreed that meetings should be held annually. The Imperial War Cabinet would consist of the British Premier and such of his colleagues as dealt with Imperial affairs, of Dominion Premiers or specially accredited representatives and an Indian representative appointed by the Government of India. The essence of the institution was that responsible heads of Governments of Empire with ministers specially entrusted with the conduct of Imperial policy would meet together at regular intervals to confer about foreign and Imperial policy and come to decisions regarding them.'

In a later part of the speech he said : 'It was felt, however, that the experiment of constituting Imperial Cabinet, in which India was represented, had been so fruitful in better understanding and unity of purposes and action that it ought to be perpetuated, and he believed that the proposal would commend itself to all the nations of Europe.'

"Well, Sir, on a later occasion than that, a few days later, in reply to a question by Mr. Charles Roberts as to what modifications in the position of India relative to the Empire were affected as a result of the Imperial Conference, the Secretary of State gave the following reply :—

'In answering my Hon'ble friend's question it will be convenient to consider together the results, so far as published, of the Imperial War Cabinet and the War Conference. As my Hon'ble friend is aware the Imperial War Conference recommended to the Governments concerned that steps should be taken to amend the constitution of the Imperial Conference so that India should be represented at future sittings with the same right of speech and vote as is accorded to the representatives of other Governments. Further, India will be represented at the annual session of the Imperial Cabinet by a nominee of the Government of India as well as by the Secretary of State for India who will sit as one of the British Ministers especially concerned with Imperial affairs.'

"This decision marked an immense advance in the position of India within the Empire.

"Well, the only other communication I have is the telegram to which reference was made by the Hon'ble Mr. Bannerjee. In that telegram, which

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is dated the 5th of March, 1918, in answer to a question by Mr. Denman. Mr. Fisher replied 'that the War Cabinet consisted of Governments of chief portions of the Empire, and it was impossible to adopt the suggestion that one of the representatives of India should be selected by the elected members of the Legislative Council.'

"That, then, is the decision of His Majesty's Government, and in the face of that decision I do not think that it would be possible for me to accept this Resolution, and I trust that the Council will realize the position of the Government of India in the matter having regard to the very clear statement made by a Minister of His Majesty's Government. Indeed, I cannot help feeling the the Hon'ble Member is on this occasion rather beating his head against a wall...."

**The Hon'ble Mr. Bannerjea:—**"We always do that."

**The Hon'ble Sir William Vincent:—**"Well, on this occasion I am afraid it will serve no useful purpose.

"Then, the Hon'ble Member said: 'Oh! yes, you may continue to appoint a man, but we must really select him.' That is a form of *camouflage* which, I think, will deceive nobody. Either a man is appointed by the Government or he is selected by the Council. The two things are really different and incompatible. If the Council is to select the man, why then, well and good, let them do it; if Government is to nominate him, then surely the Government must be entitled to select any man in whom they have the greatest confidence, whether that person is the man selected by the members of the Legislative Council or not. In such circumstances, however deeply members of the Council may sympathise with the aspirations which prompt this Resolution, I fear that its acceptance by Government would not be consistent with the present constitution of the Imperial Conference, which is a Conference of those who are responsible for the Government of the different parts of the Empire; and I think a gentleman who had no such responsibility and who was selected by members of the Council, who, however eminent, are not responsible for the Government of India, would be out of place in an Imperial Conference of this character.

"I submit really that this Resolution is opposed to the logic of existing facts, and, on the part of the Government of India, I must oppose it. At the same time I hope that Members of Council will remember that on the occasion of the last War Cabinet the Government nominated an Indian who was not only in the confidence of the Government of India, but who also, I believe, commanded the respect and trust of Indians generally, a gentleman who a few years ago presided, if I am right in my recollection, over the National Congress, and whose liberal sentiments, loyalty, patriotism and devotion to his country are well known. I was glad to find that this view is endorsed by what the Hon'ble the Mover said, and I think that the Council will rest assured that the choice of the Government on this occasion will fall on less suitable a person."

1-9 P. M.

**The Hon'ble Pandit Madan Mohan Malaviya:—**"Sir, in view of the answer given by Mr. Fisher in the House of Commons, we were prepared to hear that the Government of India could not accept the Resolution. But I submit, Sir, that if the Government of India thought fit to make a recommendation to the British Cabinet that the matter might be reconsidered, they could do so without violence to any official propriety. However, I do not wish to argue the question now. I only want to make one thing clear, and that is that, whosoever the Government of India may appoint, so long as that appointment is made by the Government of India, will not go as the representative of the Indian people. It is expected that at the Imperial Conference important fiscal questions will be considered; questions of Imperial Tariffs and Imperial Preference. If this expectation is wrong, there is nothing more to be said about it. But if it should not be, I want to make it clear that we, the elected members of this Council, having a sense of our responsibility

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[19TH MARCH, 1918.] [*Pandit Madan Mohan Malaviya; Sir William Vincent; Mr. M. A. Jinnah.*]

to our people, feel that no representative appointed by the Government of India should be regarded as representing the people of India, and as being in a position to commit the country, directly or indirectly, to any fiscal policy including Imperial Tariffs, which may be discussed at the Conference.

"Our object in bringing this Resolution before the Government was to offer to co-operate with the Government in having the Indian point of view represented at the Conference. If the Government do not think that the time has come when this should be done, or do not care to see it done, we have nothing more to say about it. Only I want that it should be clear that the representative who goes will not represent the Indian point of view in the opinions which he will express. I have not one word to say against my esteemed friend..."

**The Hon'ble Sir William Vincent.**—"Does the Hon'ble Member say that Sir Satyendra Sinha does not represent the Indian point of view?"

**The Hon'ble Pandit Madan Mohan Malaviya.**—"I was just going to say that, if my Hon'ble friend had waited half a minute. I have nothing to say against Sir Satyendra Sinha. We esteem him as a lawyer, a gentleman and a patriot. But even he will not be accepted by the people of this country as representing them, unless he is elected by their chosen representatives. That is the position. No one whosoever he may be, who goes to the Conference as a mere nominee of Government, should be regarded as a representative of the Indian people in the sense which I have indicated. The questions which will be discussed will be of very great importance, and I am anxious, as I am sure many of my Hon'ble friends are anxious, that the situation should be correctly understood."

**The Hon'ble Mr. M. A. Jinnah.**—"Sir, as we all know, the fate of this Resolution was sealed long before to-day in view of the answer that Mr. Fisher gave in Parliament. But, Sir, I must say I am not satisfied with the reasons that are advanced. I think, Sir, there is a confusion in regard to the Imperial Conference and the Imperial War Conference. It seems that there was an Imperial Conference which was in existence long before the Imperial War Conference came into existence; and I find from the proceedings of the Imperial War Conference of 1917 that the position was stated in this way by one of the members, who said: 1-11 P.M.

'May I suggest that it will become necessary before we conclude to rescind the resolution of the Imperial Conference itself bearing upon the admission of the Indian representative, because to-day we have the Indian representatives here and they are here because this Conference is called, not under the name of the Imperial Conference but under another name so as to admit of the representatives of India attending. Now if some important subjects which affect India were to come up at an ordinary Imperial Conference, the present is a Conference which should clear the road so as to enable those representatives to be summoned as members of the Imperial Conference, or otherwise the Imperial Conference is faced with the difficulty that there is no record now of any resolution bearing on that matter of Indian representatives being summoned to the Imperial Conference.'

Therefore the two Conferences, namely, the Imperial Conference and the Imperial War Conference, are quite different.

"Sir, the Resolution that was passed by this Imperial War Conference is to the effect that arrangements should in the meanwhile be made to secure the representation of India on the Imperial Conference when it meets after the War; and the Resolution runs in the following words:

'That the Imperial War Conference desires to place on record its view that the resolution of the Imperial Conference of the 20th April 1907 should be modified to permit of India being fully represented at all future Imperial Conferences, and that the necessary steps should be taken to secure the assent of the various Governments in order that the next Imperial Conference may be summoned and constituted accordingly.'

"Sir, the Hon'ble Mr. Bannerjee referred to the Resolution which was passed in this Council, moved by the Hon'ble Mr. Shafi, but that Resolution was with

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[ *Mr. M. A. Jinnah ; Dr. Tej Bahadur Sapru.* ] [ 19TH MARCH, 1918. ]

regard to the Imperial Conference. At that time there was no Imperial War Conference at all.

"Now, with regard to this Imperial War Conference with which we are concerned to-day—what is its object? The object of this Conference is stated by Mr. Long, the Secretary of State for the Colonies, and this is what he said.—

'They were engaged in a war, the greatest and the most terrible in history, and their object both in the Cabinet and in the Conference was to deal with the immediate war problems, with those which will arise on the conclusion of peace, and with any other questions which it may be desirable to discuss or decide as being of Imperial interest without delay.'

Now, I take that to be the object of the Imperial War Conference. This being the object, we have got to get representatives from different parts of the Empire on it. It is also clear that each Government has one vote, but all representatives have the right to speak. Therefore, so far as the voting is concerned, each Government has got one vote, and I take it that so far as India is concerned the Secretary of State for India will have that vote. But you find that from most parts of the Empire more than one person is represented on this Conference and is entitled to speak. You find, for instance, that there are 4 representatives from Canada. You have got the Prime Minister, the Minister of Overseas, the Minister of Public Works, the Minister of Marine, Fisheries and Naval Service. But it is said: That may be—there may be more than one representative, but who has nominated those representatives? And it is said that the Government in this country is the only body that can nominate like the Governments of the Dominions. But is there any analogy between the Government of the Dominions and the Government of India? Well, Sir, I will ask this question of the Hon'ble the Home Member. May I know why you are sending an Indian? Is the Indian who is going there to the War Conference to represent the views, the feelings and the sentiments of the people of India, or is he not? If that is so, then what is the best machinery by which he is to be selected? By the nomination of the Government of India as it is constituted? Is that the best machinery? That is the question that I put to the Council. Or would it not be the best way of ascertaining, whether he is a true representative of the people, to resort to another machinery, namely, the machinery of the votes of the representative men in this Council or if you like in all the Councils of India? That is only one method that is suggested. The point of this Resolution is this, that if an Indian is allowed to speak at the Imperial War Conference—mind you, he has no vote, he can only speak—he can only express his views. The Conference will be called upon to consider most important and vital questions affecting India during the progress of the war and after the war; then what objection is there to this Council saying 'Perfectly true; we have eventually got to have an Indian member on this War Conference, to express the views of the people, therefore let us have a man who really and truly represents the people.' Therefore, Sir, I cannot understand what difficulty there is in the way of the Government adopting a machinery—it is a pure question of machinery—by means of which you will choose a man who will command the confidence of the people and who the people feel is sure to represent their views properly and truly."

1-20 P. M.

**The Hon'ble Dr. Tej Bahadur Sapru :—**"Sir, in the course of my speech on the budget last year I referred to this question and expressed the hope that on the next occasion the Government would see their way to allow the elected members of this Council to elect a representative of their own to the Imperial Conference. I must say, Sir, that the decision which has now been arrived at by the Government in this matter is extremely disappointing to us. Well, it has been asked by a paper, what right have the 27 gentlemen sitting in this Council to pose as the representatives of the people? And what right have they to elect a representative of their own to the Imperial Conference? Well, rightly or wrongly, the situation is that these

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27 gentlemen here are supposed to be the elected members of the Council as representatives of the people, and if their number is not larger the fault is not theirs. Well, it has further been pointed out that there is a material distinction between the case of India and the case of the Colonies. It is urged that it is the Colonial Governments who send their representatives there, and therefore the people here ought not to send a representative of their own. May I be permitted to point out that the Colonial Governments represent the people; the ministers who go there have got the vote of the people behind their back, and that cannot be said with regard to the representative of the Government of India. As Mr. Jinnah has very pertinently asked, why is it that after all an Indian is sought to be sent? Surely the only object with which an Indian is sent, is that he would be able to put the Indian point of view before the Conference. Well, if that is considered desirable, then I respectfully submit that it seems also extremely desirable that the Indian who goes there goes with the confidence of the people. On these grounds, Sir, I would strongly support my friend the Hon'ble Mr. Bannerjee."

**The Hon'ble Mr. S. N. Bannerjee:**—"Sir, I am sorry that my 1-23 P. M.  
Hon'ble friend, the Home Member, has not been able to see his way to accept this Resolution. The point which he took up and upon which he mainly relied was that no Government could divest itself of its responsibility in this matter. We do not want the Government to divest itself of its responsibility at all. We want the Government to have that responsibility to the fullest measure; only we want in our own humble way to associate ourselves with that responsibility. Surely that does not mean a diminution of the measure of responsibility which the Government possesses in this direction. The Hon'ble the Home Member says that according to the logic of facts this Resolution is absolutely inadmissible. Sir, I am prepared to take my stand upon the logic of facts. But in these days since the war, facts are rapidly changing and everything is in a fluid state; why not this one too? The whole atmosphere is surcharged with the spirit of change; and that being so, why should we not move with the changing times, adapt ourselves to changing circumstances? Therefore, even upon the logic of facts I venture to submit that this Resolution should be accepted by the Government.

"Then my Hon'ble friend says 'Oh, you are proceeding in a circumlocutory fashion. (He did not actually use the word 'subterfuge' but I think it was at the back of his mind.) If you want to elect, elect straightaway. But let not this sort of proceeding be resorted to.' I want to remind my Hon'ble friend that this sort of proceeding was exactly the sort of proceeding that the Government of India had recourse to before the Minto-Morley Reforms scheme came into operation. Under the Statute of 1892 constituencies were allowed to elect, but the Government did not accept that election at all; in the Statute there was no mention of 'elected'. The Government continued as before to appoint the members thus elected. Cannot the Government have recourse to its own precedent and follow the same precedent that it adopted before? It is a familiar thing for Government to appoint after election. It used to do so in scores of cases before the Morley-Minto scheme. Why, then, hesitate now, in view of practically the unanimous demand on the part of the elected members of the Legislative Council? Government has followed the same procedure before and Government now says 'No, no. Go straight on to election if you want; but you are not going to have this circumlocutory procedure.' As Mr. Jinnah pointed out, if you want an Indian let him be one elected by the people having behind him the choice of popular sanction. That would strengthen his position. He would then not only be a nominee of the Government, but the representative of the people. He would go to the Conference in that double capacity and with that double weight; that is the capacity in which the Colonial members sit at the Conference, and that is the capacity in which we want our Indian representative to sit there. We want to approximate his position so

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far as practicable to the position of the Colonial ministers who are the representatives of Government as well as the elected of the people. I am sorry that the Government should not see the cogency of our views in this matter and should not accept the Resolution which I have the honour to move."

The motion was put and at the request of the Hon'ble Mr. Jinnah the Council divided as follows :—

*Ayes—16.*

The Hon'ble Mr. S. N. Bannerjee.
" " Dr. T. B. Saprú.
" " Pandit M. M. Malaviya.
" " Mr. S. Sastri.
" " Mr. R. Ayyangar.
" " Mr. B. N. Sarma.
" " Mir Asad Ali, Khan Bahadur.
" " Mr. M. A. Jinnah.
" " Rai Sitanath Ray Bahadur.
" " Maharaja Sir M. C. Nandi of Kasimbazar.
" " Rai Krishna Sahay Bahadur.
" " Raja of Kanika.
" " Mr. Mahtarul Haque.
" " Captain Ajab Khan.
" " Rai B. D. Shukul Bahadur.
" " Mr. K. K. Chanda.

*Noes—89.*

The Hon'ble Sir Claude Hill.
" " Sir Sankaran Nair.
" " Sir George Lowndes.
" " Sir George Barnes.
" " Sir William Vincent.
" " Sir Robert Gillan.
" " Sir Hugh Bray.
" " Sir John Campbell.
" " Sir John Wood.
" " Sir James DuBoulay.
" " Mr. A. H. Ley.
" " Mr. H. Sharp.
" " Sir Edward MacLagan.
" " Mr. R. A. Mant.
" " Mr. H. P. Howard.
" " Major-General A. H. Bingley.
" " Mr. G. B. H. Fell.
" " Mr. F. C. Rose.
" " Sir Hamilton Grant.
" " Mr. C. H. Keateven.
" " Surgeon-General W. R. Edwards.
" " Colonel A. J. Caruana.
" " Mr. A. P. Muddiman.
" " Mr. W. M. Hailey.
" " Sir Robert Clegg.
" " Mr. F. J. Monahan.
" " Mr. Abdur Rahim.
" " Nawab Ali Chaudhri Khan Baha- dur.
" " Mr. E. H. C. Walsh.
" " Khan Bahadur Allahando Shah.
" " Sir J. S. Donald.
" " Raja Sir Rampal Singh.
" " Khan Zulfikar Ali Khan.
" " Sardar Sunder Singh.
" " Mr. P. J. Fagan.
" " Sir James Walker.
" " Mr. A. W. Botham.
" " Lieutenant-Colonel S. L. Aplin.
" " Maung Bah Too.

The Resolution was accordingly negatived.

The Council adjourned to Friday, the 23rd instant, at 11 A.M.

A. P. MUDDIMAN,

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

DELHI :

The 27th March, 1918. }