

# COUNCIL OF STATE DEBATES

Wednesday, 3rd April, 1946

Vol. I—No. 14

## OFFICIAL REPORT



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PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI  
PRINTED BY THE MANAGER GOVERNMENT OF INDIA PRESS, NEW DELHI  
1946

*Price Annas Five or 6d.*

Copies of the Debates of the Legislative Assembly and of the Council of State are obtainable on sale from the Manager of Publications, Civil Lines, Delhi

## COUNCIL OF STATE

Wednesday, 3rd April 1946

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Hon. the President in the Chair.

### QUESTIONS AND ANSWERS

#### EXPORT OF RICE

235. THE HON. RAJA YUVERAJ DUTTA SINGH: Is it a fact that about 61,797 tons of rice, valued at nearly Rs. 247,00,000 was exported to foreign countries from Calcutta during the period, May-October 1945, according to the daily export list issued by the Calcutta Customs House? If so will Government State why they permitted this export of rice, in spite of the acute scarcity of rice prevailing in India?

THE HON. SIR JWALA PRASAD SRIVASTAVA: The attention of the Hon. Member is invited to the reply given to question No. 225 asked by the Hon. Mr. G. S. Motilal on the 29th March 1946.

#### ALLOCATION OF GERMAN SHIPPING

236. THE HON. RAJA YUVERAJ DUTTA SINGH: Are Government aware that Great Britain, Russia and the United States agreed at the Potsdam Conference to divide the German merchant fleet equally among themselves with the provision that other Allies should be given appropriate shares?

(b) Have Government represented to His Majesty's Government or taken other suitable steps to secure for India a share of German fleet which has been assigned or will be assigned to England or other Allies, in view of India's splendid war efforts? If not, why not?

THE HON. MR. Y. N. SUKTHANKAR: (a) Government are not aware of any such agreement.

(b) The question of allocation of German shipping to claimant countries was considered at the Paris Reparations Conference. According to the Agreement reached at that Conference German merchant ships available for distribution as reparations amongst the Signatory Governments shall be distributed among them in proportion to the respective over-all losses of merchant shipping, on a gross tonnage basis, of the Signatory Governments and their nationals through acts of war. A Shipping Committee has been appointed by the Assembly of the Inter Allied Reparations Agency at Brussels to make recommendations concerning the allocation amongst claimant countries including India of German merchant ships available for distribution, and India is represented on that Committee by her delegate to the Agency. India's claim will thus receive due consideration by the Shipping Committee.

#### TECHNICAL SCHOOLS STARTED BY GOVERNMENT

237. THE HON. MR. SURPUT SINGH: Will Government state:

(a) The number of technical schools started by Government for the production of war materials during the war?

(b) The number of technicians trained in these schools for manufacture of technical goods for the war?

(c) The number of such schools still in existence?

(d) The number of technicians still working in these schools?

(e) The number of Bevin boys employed in these schools?

(f) Whether these schools will be continued now?

(g) What is proposed to be done with the technicians who will be discharged from these schools?

**THE HON. SIR MAHOMED USMAN** (on behalf of Industries and Supplies Deptt.): (a) No regular technical school was started for the production of war material. Nine training centres were, however, established to supplement the practical training given in Ordnance Factories, and certain workshops or parts of workshops were reserved for the purpose. This was to assist the Ordnance Factories in coping with the great access of work and these centres performed a very important and successful part in this.

(b) The majority of the 2,360 Supervisors, Draughtsmen and Estimators and 9,950 skilled and superior semi-skilled workmen trained by the Ordnance Factories during the war received part of their instruction at a centre.

(c) and (f). All the centres have been closed. It is hoped to re-open one of them shortly.

(d) Nil.

(e) Eight Bevin scheme trainees were employed on the training staff of Ordnance Factories and all of them were for some time engaged in giving instructions in a centre.

(g) Efforts will be made to find suitable employment for them through the agency of Employment Exchanges. From reports received, however, it seems unlikely that many of them will long remain unemployed.

**THE HON. KHAN BAHADUR KERAMAT ALI**: May I know whether the technical schools established in India for giving training to military trainees are still in existence?

**THE HON. SIR MAHOMED USMAN**: The Hon. Member is asking a question as regards military trainees. I am dealing with a question concerning the Industries and Supplies Department.

**THE HON. PANDIT HIRDAY NATH KUNZRU**: The Hon. Member is not asking for information relating to the War Department. He is asking for information in regard to the technical schools which were started during the war for the training of technicians.

**THE HON. SIR MAHOMED USMAN**: I should like to have notice.

#### PAY OF TEACHERS IN RAILWAY SCHOOLS

238. **THE HON. PANDIT HIRDAY NATH KUNZRU**: (a) Are Government aware that in concluding the General Discussion on the Railway Budget for 1929-30 in the Legislative Assembly Sir George Rainy made the following statement with regard to the pay of the teachers in the Railway Schools:—

“It is our intention that, without waiting for the transfer of the schools, the pay of the existing teachers in the railway schools should be raised to the level prevailing in the province in which the school is situated.”

(b) Is it a fact that the pay of the teachers in the E. I. Railway High and Middle Schools has been raised to the provincial level in accordance with this undertaking?

(c) Has the salary of the teachers in the schools maintained by the B., B. & C.I. Railway whose management was taken over by the Railway Board on the 1st January, 1942, been fixed in accordance with this policy? If not, what action do Government propose to take to apply to them from 1st January 1942 the scales of salary in force in the Government schools in Ajmer-Merwara?

**THE HON. SIR ERIC CONRAN-SMITH**: (a) The reply is in the affirmative.

(b) Yes, wherever comparable scales existed.

(c) The reply to the first portion is in the negative. As regards the latter portion, the B. B. & C. I. Railway school teachers are eligible for the ex-Company scales of pay in accordance with the terms offered to ex-B. B. & C. I. Railway Company non-gazetted staff taken over by Government on and from 1st January, 1942, and the question of bringing their scales of pay into line with the scales of pay in force in Provincial Government schools of the Provinces in which they are situated is being examined as part of the general question of postwar scales of pay.

**THE HON. PANDIT HIRDAY NATH KUNZRU :** Why has not action been taken so far to implement the policy laid down by Sir George Rainy as far back as 1929 ?

**THE HON. SIR ERIC CONRAN-SMITH :** As my Hon. friend is aware, the policy laid down by Sir George Rainy could only be applied to State-owned Railways. The B. B. & C. I. Railway became State-owned in January, 1942, and it is true that the scales have not been revised between 1942 and now. But, as I have explained, the whole question of revising the scales of pay of school teachers in Railway schools is being examined, and I should add for the information of the Hon. Member, it will come before the Commission which, as he knows, has been set up to examine scales of pay. That Commission will no doubt consider, as a possibility, the policy of bringing the pay of these school teachers into line with the provincial scales.

**THE HON. PANDIT HIRDAY NATH KUNZRU :** What has this question got to do with the post-war scales of pay, when the policy in regard to the salaries of teachers in Railway schools whose management is taken over by the Government was laid down in 1929 ?

**THE HON. SIR ERIC CONRAN-SMITH :** I have already explained, Sir, that this Railway only became a State-owned Railway in 1942 and the Railway Administration, although they are aware of the desirability of revising these scales of pay have not thought it advisable to make any change during the war. The question is however, now coming up as part of the general question of the revision of scales of pay.

**THE HON. PANDIT HIRDAY NATH KUNZRU :** Why should it be dependent on decisions reached in regard to the post-war salaries of Government employees ? Why should not the policy laid down in 1929 have been given effect to between the 1st January 1942 and the end of 1945 ? Why did the Railway Board not carry out that policy ?

**THE HON. SIR ERIC CONRAN-SMITH :** I thought I had explained that, Sir. Though the Railway were aware of the desirability of some revision, they have thought it inopportune to do so during the war and now that we have reached a position when there is to be a general examination of scales of pay, it seems very logical and I think common sense that these scales should also form part of the general question.

#### REORGANISATION OF THE CENTRAL SECRETARIAT

239. **THE HON. MR. M. THIRUMALA ROW :** (a) Is it a fact that the existing set up of the Central Secretariat is unsuited to present requirements of the Government of India ? If so, how do Government propose to remedy the situation ?

(b) Have Government under consideration any reorganisation of the Central Secretariat ? If so, what are the broad lines of the reorganisation in contemplation, with particular reference to their superior staff, and what is the present stage of their investigations ?

(c) When is it proposed to bring into force the new organisation ?

**THE HON. MR. A. E. PORTER :** (a), (b) and (c) Sir Richard Tottenham has been placed on special duty to examine *inter alia* a tentative scheme prepared by a Committee of Secretaries for the reorganization of the Central Secretariat. His report has just been received and after examining it Government will decide upon the nature and extent of reorganization.

**THE HON. MR. M. THIRUMALA ROW :** How long will it take for Government to take a decision on that Report ?

**THE HON. MR. A. E. PORTER :** I cannot say that, Sir, I am afraid.

#### REORGANISATION OF THE CENTRAL SECRETARIAT

240. **THE HON. MR. M. THIRUMALA ROW :** (a) What is the work on which Sir R. Tottenham has been engaged during the last few months ?

(b) Has he submitted his report, if not, when is he expected to do so ?

(c) When do Government expect to be able to formulate their conclusions on the report, and would they consider the desirability of avoiding the usual method of further reference to committees or sub-committees and reaching quick decisions ?

**THE HON. MR. A. E. PORTER :** (a) I place on the table of the House a copy of the terms of reference to Sir Richard Tottenham.

(b) and (c). His report has just been received. Until the report is examined Government can form no estimate of the time which will be necessary for examination of the recommendations made in it and for necessary decisions on them.

Government will assuredly adopt such a procedure as will in their opinion result in the earliest possible formulation of and action in accordance with decisions upon the report.

**THE HON. MR. M. THIRUMALA ROW :** With regard to (c), does the Report entail further reference to other Sub-Committees and Departmental Secretaries ?

**THE HON. MR. A. E. PORTER :** As I have indicated in my reply, the best and quickest methods of reaching decisions will be adopted by Government, what those will be we cannot at present say.

*Terms of reference of Officer on Special Duty—Sir Richard Tottenham.*

(a) Organisation of Departments and possible re-allocation of departmental business ;

(b) whether, owing to the difficulties reported by the Provincial Governments in lending officers to the Centre and their desire for the return of some of the officers already lent, any early reduction is possible in the number of officers now on deputation from the Provinces ;

(c) the question raised in the tentative scheme prepared by a Committee of Secretaries for the re-organisation of the Secretariat system ;

(d) question of providing as far as practicable for temporary Government servants who will have to be retrenched now that the war has come to an end, including arrangements for finding them employment in non-Government occupation.

**RETURN OF I. C. S. OFFICERS TO PROVINCES**

241 **THE HON. MR. M. THIRUMALA ROW :** (a) Is it a fact that Provincial Governments have asked for the return of their I. C. S. men at present on deputation with the Central Government, if so, which are these Governments ?

(b) Has the Government of Madras asked for the return of its I. C. S. men of certain seniority, if so, why ?

(c) Are Government aware that the need for experienced men of the I. C. S. is greatly felt in the Provinces which are facing the threat of famine ? If so, how is it proposed to assist the Provincial Governments in the matter ?

(d) In particular, would Government consider the desirability of returning all Madras I. C. S. officers to Madras in view of the particularly difficult situation confronting the Provincial authorities ? If not, why not ?

**THE HON. MR. A. E. PORTER :** (a) The Madras Government have asked for the return of 10 officers and the Central Provinces and United Provinces Governments for the return of one officer each, before the expiry of existing tenures.

(b) The Madras Government asked for the return of certain specified officers who are broadly speaking in the middle years of their service.

(c) *First part.*—Yes.

*Second part.*—The Government of India are closely examining the possibilities of assisting Provincial Governments and have already arranged for the release of 7 Madras officers and 1 United Provinces officer.

(d) The Government of Madras have not asked for the return of all Madras Indian Civil Service officers, nor would it be possible to arrange this.

**THE HON. MR. M. THIRUMALA ROW :** With regard to (d), you have said that you are sending back 7 I. C. S. officers to Madras. Are Government then making arrangements to fill those places from the non-I. C. S. cadre of the Secretariat ?

**THE HON. MR. A. E. PORTER :** No, Sir. At present Government is endeavouring to reduce the number of officers employed in the Central Secretariat.

**THE HON. MR. M. THIRUMALA ROW :** Does it mean that there is not sufficient work for the existing number of officers ?

**THE HON. MR. A. E. PORTER :** It may mean, Sir—that some work can be left undone, that certain kinds of work may have to be postponed until the situation in regard to officers is easier. But in the meantime efforts are being made to re-arrange the work so that it can be done with a smaller number of officers.

**THE HON. MR. M. THIRUMALA ROW :** In view of large development schemes which are foreshadowed in the speeches of Hon. Members, does the Hon. Member agree to the statement that you do not require more officers in the Centre ?

**THE HON. MR. A. E. PORTER :** I did not say that. What I said was that we were endeavouring at present to re-arrange work so that we can get on for the time being with fewer officers. I think it is quite clear that if you go in for large schemes of development, you require a large number of extra officers.

**THE HON. MR. M. THIRUMALA ROW :** Do Government feel that the superior staff in the non-I. C. S. are not competent to fill the places of I. C. S. officers vacant now ?

**THE HON. THE PRESIDENT :** That is a very general question.

**THE HON. MR. A. E. PORTER :** I do not know, Sir, that that question arises out of this and I am not sure that I know what the answer is. I cannot say either yes or no. You certainly cannot say that non-I. C. S. officers are not competent to do certain work that is done by I. C. S. officers nor can it be said that all work done by I. C. S. officers can equally well be done by non-I. C. S. officers. The question, so far as I am concerned, is almost meaningless.

I. C. S. OFFICERS AT THE CENTRE

242. **THE HON. MR. M. THIRUMALA ROW :** Will Government state :

(a) The total number of I. C. S. officers from the Provinces on deputation with the Government of India on 1-3-46 ?

(b) The number of such officers employed by the Government of India on 1-3-39 ?

(c) The quota fixed for each Province ?

(d) The actual numbers contributed by each Provincial Government on 1-3-46 ?

**THE HON. MR. A. E. PORTER :** (a) 238.

(b) The information asked for is not readily available, but the pre-war quota for each Province is given in the answer to the next clause.

(c) and (d) The information is as follows :—

	Quota fixed for Provinces	No. contributed by Provinces on 1-3-46
Madras . . . . .	19	43
Bombay & Sind . . . . .	17	22
Bengal . . . . .	20	26
United Provinces . . . . .	23	44
Punjab . . . . .	19	45
Bihar & Orissa . . . . .	13	19
Central Provinces & Berar . . . . .	9	32
Assam . . . . .	5	7
Total . . . . .	125	238

**THE HON. RAI BAHADUR S. K. DAS :** May I know why there is an excess number from Bengal ?

**THE HON. MR. A. E. PORTER :** There is an excess number, I am afraid, from all Provinces.

**THE HON. SIR N. GOPALASWAMI AYYANGAR :** Are these quotas pre-war quotas ?

**THE HON. MR. A. E. PORTER :** Yes, Sir.

**THE HON. SIR N. GOPALASWAMI AYYANGAR :** I take it that the increase is due to increased work during the war ?

**THE HON. MR. A. E. PORTER :** Partly that, Sir, and partly to the increase in the work in the Government of India in any case.

**THE HON. MR. M. THIRUMALA ROW :** For a quota of 125, 238 officers have been drawn from all the Provinces. Do Government realise that they are depriving the Provinces of their experienced and capable men and rendering the administration of the Provinces more difficult ?

**THE HON. MR. A. E. PORTER :** We do realise that we would like to get the best men from the Provinces for the Centre and that this really deprives them—if you put it that way—of a certain number of qualified and experienced officers and we also recognise that it puts the Provinces possibly to certain difficulties.

**THE HON. SIR N. GOPALASWAMI AYYANGAR :** Isn't it a fact that the Government of India do not recruit to the I. C. S. for their own jobs ?

**THE HON. MR. A. E. PORTER :** That is a fact and that is why a quota is fixed. Each provincial cadre includes a number for deputation some of whom are supposed to come to the Centre, and those are the figures which I gave: these total 125.

**THE HON. SIR N. GOPALASWAMI AYYANGAR :** If that proportion was properly fixed, there need be no depletion of the number of officers required for provincial work ?

**THE HON. MR. A. E. PORTER :** That, I think, is so.

**THE HON. MR. M. THIRUMALA ROW :** Is there a statutory obligation for every province to contribute a certain quota of their I. C. S. officers for Central services ?

**THE HON. MR. A. E. PORTER :** I think it can be said to be a statutory obligation, because the number of officers allotted to a particular province includes provision of a certain number whom the Government of India can claim from the province for central administration in Delhi.

**THE HON. MR. M. THIRUMALA ROW :** In view of the fact that popular Governments are being set up in all the provinces, will the Government of India consider the desirability of discharging all these officers who are being demanded by the provinces and recruit for their own requirements from among the staff they have got already here from the non-I. C. S. cadre ?

**THE HON. MR. A. E. PORTER :** I cannot answer that question off-hand. It is a large question, of which I require notice.

#### I. C. S. OFFICERS AT THE CENTRE

243. **THE HON. MR. M. THIRUMALA ROW :** Will Government state :

(a) the usual period of tenure of I. C. S. officers from the Provinces serving with the Central Government ?

(b) The number of officers (by Departments separately) who have been kept on, since 1921, beyond the originally intended period of deputation, and the reasons for so doing ?

(c) Will Government consider the desirability of returning these officers to their respective Provinces at a very early date, if not, why not ?

**THE HON. MR. A. E. PORTER :** (a) The tenure of posts under the Government of India is as follows :—

Secretaries, Additional Secretaries and Joint Secretaries	5 years
Deputy Secretaries	4 years
Under Secretaries	3 years

(b) The information is not readily available and I do not think that I should be justified in undertaking the heavy task of collecting it.

(c) I assume that the question is intended to refer to officers now serving in the Government of India in posts for which their original tenure has been extended. The extent to which it is possible to return to their respective Provinces such officers (as well as officers whose tenure has not yet expired) is already under close examination by the Government of India, and every effort will be made to reduce the demand made on the Provinces to the minimum necessary to prevent a breakdown of the central administration in any sphere.

**THE HON. MR. M. THIRUMALA ROW :** Is it a fact that there is some difference in emoluments and amenities between officers who are employed by the Central Government and those who are employed by the Provincial Governments ?

**THE HON. MR. A. E. PORTER :** I think it can be generally said that an officer on deputation to the Centre ordinarily gets a higher pay than he would in his province. The rates of pay for instance, of Secretaries, Joint Secretaries and Under Secretaries are higher than they are in provinces.

**THE HON. MR. M. THIRUMALA ROW :** Does it not create an inducement for officers never to return to their provinces but some how manage to remain at the Centre ?

**THE HON. MR. A. E. PORTER :** That does not rest with the officer himself : to prevent it is the object of the tenure system.

**THE HON. MR. M. THIRUMALA ROW :** Is it a fact that one officer has been here for 22 years and has never returned to his province ?

**THE HON. MR. A. E. PORTER :** I do not know. If the Hon. Member will give me his name, I will enquire.

**THE HON. MR. SUSIL KUMAR ROY CHOWDHURY :** If a Deputy Secretary becomes a Joint Secretary and then becomes Secretary, he can be here for 15 years, 5 years in each office ?

**THE HON. MR. A. E. PORTER :** He might. But I do not think it has happened recently.

#### TRIAL OF PERSONS FOR COLLABORATION WITH THE JAPANESE

244. **THE HON. MR. M. THIRUMALA ROW :** (a) Is it a fact that a number of Indians are being prosecuted in the Andamans for collaboration with the Japanese ? If so, what is the number ?

(b) Are there any lawyers in the Andamans to defend these people ? If not, do Government propose to see that proper arrangements are made for their defence ?

**THE HON. MR. A. E. PORTER :** (a) No, but 16 persons will be tried on charges of offences against the ordinary criminal law committed during the Japanese occupation.

(b) There is one law graduate in the Andamans who will be engaged if necessary for the defence as Crown counsel. Upon production of each accused before the court he will be asked whether he wishes to engage counsel or to be defended by counsel provided by the Crown : in the first alternative an adjournment will be allowed to secure the attendance of the lawyer selected by the accused who, if willing to accept the case will be given facilities to proceed to the Islands and conduct the defence.

#### RESTRICTIONS ON COAL BRICK-BURNING

245. **THE HON. RAI BAHADUR S. K. DAS :** (a) Do Government propose to remove all restrictions regarding booking of brick-burning coals from collieries to all brick-manufacturing centres throughout the country ?

(b) If the answer is in the affirmative, will they take steps accordingly ?

(c) Are Government aware that in the absence of any such steps most of the brick-manufactures are stopped and the labourers skilled in the manufacture are without work ?

(d) Will Government state the action they have taken or propose to take for giving all facilities to the brick-manufacturers ?



**THE HON. SIR MAHOMED USMAN** (on behalf of Industries and Supplies Department) : (a) and (b) No, Sir. Coal for brick burning cannot be dealt with independently of coal for other purposes, and so long as coal control is necessary to ensure supplies to essential consumers such as railways, control over despatches for brick burning purposes must continue.

(c) Government have not received any complaint except from the Bengal Brick-field Owner's Association about the stoppage of brick manufacture due to inadequate coal supplies.

(d) Government are fully aware of the importance of ensuring adequate supplies of coal for brick burning purposes and have already taken and will continue to take steps to ensure maximum despatches. From October 1945, to the middle of March 1946, 301,000 tons were despatched including 38,000 tons of surplus Army coal, as against 32,000 tons in the corresponding period last year.

#### SOFT COKE ADMISSIBLE TO INFERIOR SERVANTS AT THE CENTRE

246. **THE HON. MR. V. V. KALIKAR** : (a) Will Government state the quantity of soft coke admissible to the inferior servants of the Government of India, and the price at which it is supplied to them ?

(b) Whether the quantity admissible to them is sufficient to meet their requirements ?

(c) Is it a fact that the soft coke is not being supplied to the bachelor and single persons of the inferior staff ?

(d) Is it a fact that the inferior staff get more charcoal and firewood than soft coke ?

(e) Do Government propose to increase the quota of soft coke for the inferior servants according to their requirements ?

**THE HON. MR. A. E. PORTER** : (a) and (c) Half a maund monthly. This is allowed to bachelors and single persons as well as to men with families but only to those inferior Government servants who, on electing to participate in the scheme, originally asked for an allocation of soft coke. Its present price is Rs. 1-10-9 per maund.

(b) and (d) The quantity is not enough for a month's requirements but the allotment was made on their own option and in view of the limited supplies available, it can be supplemented (within the total allowed) by purchases of charcoal or firewood or both.

(e) The limited supply of soft coke available has not hitherto rendered this possible.

**THE HON. SAYYED MOHAMED PADSHAH SAHIB BAHADUR** : Are Government aware that charcoal is about 2½ times as costly as soft coke and do not Government therefore consider that by giving them a larger quantity of charcoal they are denying them the use of soft coke which would be within their means to buy ?

**THE HON. MR. A. E. PORTER** : The price of soft coke is certainly very considerably less than the cost of charcoal. I am afraid I did not catch the second part of the question.

**THE HON. SAYYED MOHAMED PADSHAH SAHIB BAHADUR** : Are not the Government aware that on account of the fact that charcoal is very much more costly than soft coke to give them a larger quantity of charcoal would be to deny these low paid staff the use of soft coke which is within their reach and that they are not able to purchase charcoal and they are not able to utilise the quantity which is allotted to them.

**THE HON. MR. A. E. PORTER** : I do not know about that. But it is a fact that it would be more economical if they were able to get a larger amount of soft coke. Hitherto the limited supplies have not made it possible to do that. The allotment of soft coke or permission to buy soft coke was given upon an enquiry conducted, when the scheme came into effect, with the object of finding what people used coke and those people who actually did so and elected to get soft coke were permitted to have soft coke.

**THE HON. SAYYED MOHAMED PADSHAH SAHIB BAHADUR:** Isn't the fact patent on the face of it, since charcoal is  $2\frac{1}{2}$  times as costly, it will not be possible for the low paid staff to go in for charcoal and they must of necessity deny themselves the use of charcoal?

**THE HON. MR. A. E. PORTER:** I do not know that that is so. We have had no complaint.

**THE HON. MR. HOSSAIN IMAM:** May I suggest that the quota allowed to richer people be reduced and the quota of these poor men be increased?

**THE HON. MR. A. E. PORTER:** I note the suggestion.

**HOUSE-RENT ADMISSIBLE TO INFERIOR SERVANTS AT THE CENTRE**

247. **THE HON. MR. V. V. KALIKAR:** (a) Will Government state the house-rent admissible to their inferior servants?

(b) Are they aware of the increased population, exorbitant house-rent and scarcity of house accommodation in Delhi?

(c) Whether they are responsible for providing free house accommodation to the inferior servants, if so, have they provided?

(d) Will Government state whether it is possible to rent a house for the amount of the house-rent admissible to the inferior servants? If not, will Government consider the desirability of increasing their house-rent?

**THE HON. SIR CYRIL JONES:** (a) House-rent allowance at the rate of Rs. 3 p.m. is admissible to all Central Government inferior servants (excluding sweepers and Bhisties) employed in Secretariat Departments, attached and subordinate officers at Delhi who are not provided with rent-free quarters.

(b) Yes.

(c) and (d) Government have not accepted responsibility for providing residential accommodation for all their employees. To assist inferior servants, free residential accommodation is provided as far as possible and house-rent allowance is granted to help them to secure other accommodation when government accommodation is not available. Government will consider the suggestion to increase the allowance.

**INCLUSION OF SPECIAL PAY FOR PURPOSES OF PENSION**

248. **THE HON. MR. V. V. KALIKAR:** (a) Is it a fact, that the Government of India have allowed special pay to some of their staff according to the nature of duties and work?

(b) If the reply is in the affirmative, will they state whether the benefit of the special pay is admissible to the staff at their retirement, if so, to what category?

(c) If the reply is in the negative, will Government state the reasons therefor?

(d) Do Government propose to consider that in future pension should be calculated on salary including the special pay?

**THE HON. SIR CYRIL JONES:** (a) Special pay is granted for a specific addition to the work or responsibility of a Government Servant.

(b) Special pay is counted towards pension in all cases.

(c) and (d) Do not arise.

**BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE**

**SECRETARY OF THE COUNCIL:** Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table a copy of the Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances, which was passed by the Legislative Assembly at its meeting held on the 2nd April, 1946.

## ELECTION OF MEMBERS TO STANDING COMMITTEES

**THE HON. THE PRESIDENT:** Hon. Members, with reference to the announcement made on the 26th March, regarding elections to certain Committees I have to announce that the following Hon. Members have been nominated for election to the following Committees :—

1. Standing Committee for the Home Department :—

1. The Hon. Pandit H. N. Kunzru.
2. The Hon. Mr. Hossain Imam.
3. The Hon. Mr. Khurshid Ali Khan.
4. The Hon. Mr. Surput Singh.

There are 4 candidates for 4 seats and I declare them duly elected.

2. Standing Committee for the Labour Department :—

1. The Hon. Mr. N. K. Das.
2. The Hon. Mr. S. K. Roy Chowdhury.
3. The Hon. Sardar Bahadur Sir Sobha Singh.
4. The Hon. Mr. H. D. Townend.
5. The Hon. Hajee Syed Muhammad Husain.

There are 5 candidates for 5 seats and I declare them duly elected.

3. Standing Committee for the Department of Agriculture :—

1. Flt./Lt. the Hon. Rup Chand.
2. The Hon. Sir K. Ramunni Menon.
3. The Hon. Sardar Bahadur Sir Sobha Singh.
4. The Hon. Khan Bahadur Keramat Ali.
5. The Hon. Mr. Surput Singh.

There are 5 candidates for 5 seats and I declare them duly elected.

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### RESOLUTION RE ENTRY OF INDIANS INTO KENYA—*contd.*

**THE HON. PANDIT HIRDAY NATH KUNZRU** (United Provinces Northern : Non-Muhammadan): Mr. President, I had just time to move the Resolution that stands in my name on the last non-official day. I hope you will permit me now to make a few observations in support of the various parts of this Resolution relates to three questions of vital interest to the Indians in East Africa.

There is, first, the question of the removal of all restrictions, direct or indirect, on the entry of Indians into Kenya. Then comes, Sir, the question of the recent re-organisation of the Executive Council of Kenya, in connection with which a non-official European, who is a member of the settler community, has been placed in charge of a portfolio and lastly there is the question of the inter-territorial organization proposed by His Majesty's Government for legislation on questions of common interest to the East African dependencies and in certain cases for their common administration also. I shall take up these questions in the order in which they are mentioned in the Resolution.

It is well known, Sir, that the Indians in East Africa and for the matter of that in other Colonies have never claimed any special advantage for themselves which might be to the detriment of the permanent population of the Colony concerned. They have only asked that they should be allowed to live on a footing of equality with the other races. The right of Indians to live as self-respecting citizens of East Africa was questioned about 25 years ago by the European community of Kenya. An agitation was set on foot in order to press His Majesty's Government to transfer control over the Government of Kenya to the representatives of the settler

community. An agitation was also set on foot in order to restrict Indian immigration into that Colony. Both these questions were set at rest by the Kenya White Paper, which was issued in July 1923. It was stated then by His Majesty's Government that:—

"In the administration of Kenya, His Majesty's Government regard themselves as exercising a trust on behalf of the African population and they are unable to delegate or share this trust, the object of which may be defined as the protection and advancement of the native races."

Not content with the enunciation of a general principle, the Government went further and said:—

"His Majesty's Government cannot but regard the grant of responsible self-government as out of the question within any period of time which need now be taken into consideration. Nor, indeed, would they contemplate yet the possibility of substituting an un-official majority in the Council for the official majority."

This pronouncement, Sir, has been taken to mean that His Majesty's Government were not prepared to take any step which would directly or indirectly strengthen the claim of the British settler community in Kenya to the control of its Government.

The next question on which His Majesty's Government gave their considered decision was that of immigration. "It may be stated definitely," they said, "that only in extreme circumstances could His Majesty's Government contemplate legislation designed to exclude from a British Colony immigrants from any other part of the British Empire. Such racial discrimination in immigration regulations, whether specific or implied, would not be in accord with the general policy of His Majesty's Government, and they cannot countenance the introduction of any such legislation in Kenya." The question was, in their opinion, to be decided in the light of the economic interests of the applicants. But as no information was available in 1923 to show the number of immigrants following any particular occupation that could be absorbed by Kenya, they said:—

"It will therefore be an instruction to the Governor of Kenya to explore the matter further on his return to the Colony, and in concert with the Governor of Uganda, to submit proposals to the Secretary of State for the Colonies for giving effect to that amount of control of immigration which the economic interests of the natives of both Dependencies require."

I am not aware that any action was taken in pursuance of this decision to place any restriction on Indian immigration till the war broke out. Action was, however, taken during the war to pass a regulation relating to the immigration of male persons into Kenya, Uganda and Tanganyika, under the authority conferred on these Colonies by the Parliamentary statute known as the Emergency Powers Defence Act, 1939, as amended by subsequent enactments. Because of these regulations, no one could enter the Colonies that I have named without an entry permit, and it was laid down that certain classes of persons were exempt from the necessity of obtaining permits for re-entry. Among these categories were persons normally resident in the Colony who were absent from it, provided that such persons had not been absent from the Colony for more than two years.

Sir, when the contents of these regulations came to be known in India, a great deal of dissatisfaction was created and the matter was debated in the House in April, 1944. The Government of India were then assured by the higher authorities that these regulations would be of a temporary character, and, as they were of general application, that is, applied to all non-native races, the Government of India gave their consent to the passing of the regulations. It is unfortunate that the Government of India have no representative of their own in Kenya or in any other East African Dependency who would keep them informed of the trend of developments there and of the views and sentiments of the Indian community. Serious exception was taken by the Indian community to the provision that persons normally resident in these Colonies who had been absent from them for more than two years should obtain permits before being entitled to go back to them. Through the efforts of the Government of India this restriction was subsequently relaxed. Certain other administrative provisions were also made in order to remove the complaints of the Indian community. But they were never fully removed. In any case, the chief complaint of the Indian community that there is an immigration law on the statute books of the Colonies mentioned by me which, though general in its nature, is meant to apply in practice to the Indian community, has not been remedied.

[Pandit Hirday Nath Kunzru]

I need not go into the reasons which were given to justify the passing of the regulations I have referred to. All that we are concerned with is that, although the war is over, the regulations complained of are still in force. When the Governor of Kenya returned to Kenya after his recent visit to London, he is reported to have said that the Defence regulations pertaining to immigration would be repealed as soon as demobilization was completed, which was expected to be some time in June or July next, and that it was proposed to introduce into the East African Legislative Councils an Immigration Bill which "in its nature would not follow the Defence regulations". This announcement created some hope in East Africa. But the recent speech of Mr. Creech Jones, Under Secretary of State for the Colonies, at a meeting of the Fabian Society, dashed this hope to the ground. I shall read out to the House an important passage from this speech :

"The problem of Indian immigration into East Africa is very thorny, but we have had to face it, and have hammered out a policy concerning which there will be an announcement shortly. There is enormous opposition among the Africans to Indian penetration, for they argue that their position is increasingly prejudiced by Indian initiative and they hope that Indian activities can be curbed to their advantage. This raises considerable feeling in India and the Indian group in Kenya is too much actuated by Indian policy instead of adjusting itself to East African life."

Now, Sir, the Indians in East Africa take strong exception to this pronouncement, and I am sure that this House too will wholeheartedly condemn this unwarranted pronouncement which is utterly one sided. The opposition to Indian immigration into Kenya is of long standing. It has been engineered by the Europeans who have always pretended that they wanted to restrict Indian immigration in the interests of the indigenous inhabitants. It has always been said, whenever this question has been raised, that the Africans themselves desire that Indians who entered into competition with them should be prevented from coming to their country. But one would like to know whether the hut tax and the poll tax and other similar measures that are in force in order to compel the African labourer to work on the European plantations have been passed in the interests of the Indians. One would like to know whether the Africans want European immigration into Kenya or any other colony. Sir, if the matter had been impartially investigated it would have been found that the feelings between the Indians and the Africans were quite cordial. The Indians, by always insisting on the doctrine that African interests must be given the first place in the administration of Kenya and that Kenya should be regarded primarily as an African country, have done a great deal to protect the interests of the Africans and prevent them from falling under European domination. The House can easily imagine what would have been the position not merely of the Indians but of the Africans also had East Africa become a Dominion like South Africa. We need have no doubt that East African policy would have been the same as that of South Africa and the Africans are well aware of this. Though they are not free to express their views there is no doubt that they recognised the great service rendered to them by the Indian community by opposing the demand of the European community to be made masters of Kenya.

Another question that arises in this connection is, "what are the grounds on which His Majesty's Government think that the immigration of Indians into Kenya is detrimental to the interests of the Africans?" It was contemplated in 1923 that an inquiry should be made into the capacity of Kenya and Uganda to absorb more people but so far as I know, no such inquiry has been carried out and although the number of Indians is greater today than it was 20 years ago, they are, I understand, on an average more prosperous than they were before, and what is more, their prosperity has not interfered with the progress of the African community. Apart from this, Sir, schemes for the development of Kenya are under consideration. Development schemes are under consideration in the colonies too. Who can, therefore say how many new immigrants into Kenya or Tanganyika or Uganda can be allowed. For the Under Secretary of State for the Colonies to deliver a speech of the kind that he did before the Fabian Society is to do the greatest injustice to the Indian community and to commit the Labour Government to the pursuit of an anti-Indian policy on absolutely in adequate grounds. I am sure, Sir, that it will be recognised that this is opposed in spirit to the policy laid down by the Labour Government in 1930. Sir, this is an important matter which should receive the immediate

attention of the Government and I think the least that they can do is to demand that any Bill which would affect Indian immigration before being introduced into the Kenya Legislative Council, or for the matter of that in the Legislative Council of any other East African dependency should be sent to them for an expression of their views.

Sir, I have referred in my Resolution to the restrictions placed on the entry of Indians into Kenya. Those restrictions apply to the other East African colonies also. But I have referred to Kenya because, if the restrictions are removed there, there need be no doubt whatsoever that they cannot exist in any shape or form in any of the other colonies.

Sir, I shall now pass on to the second part of my Resolution which deals with the recent re-organisation of the Executive Council of Kenya. After the war, the Government of Kenya considered what steps should be taken to re-organise the administration of Kenya which would be more in accordance with its post-war needs. The opening paragraph of the Sessional Paper No. 3 of 1945, which deals with this subject summarises the main questions that the Government considered in this connection as follows :—

"The Government of Kenya has been engaged for some time on the study of the organisation which will be necessary if it is to meet efficiently and expeditiously the complexity of post-war conditions and the present problems of development and reconstruction. The conclusion has been reached that two things are needed: (i) a reorganization of the machinery of Government and (ii) a means of bringing to the difficult tasks of peace the confidence and collaboration between Government and public which have made possible the remarkable achievements of the Colony in war."

Now, Sir, the collaboration between the Government and the public, which the sessional paper referred to, was not merely between the Government and the European community but also between Government and other sections of the Kenya public. One would have thought, therefore, that the Kenya Government would desire to bring into existence a new administrative machinery which would enable it to receive the co-operation, in an increasing measure, not merely of the Europeans but also of the Indians and Africans. But, as a matter of fact, the re-organisation has been entirely in the interests of the British settler community. The main proposals contained in the Government White Paper to which I have referred and which were subsequently debated in the Kenya Legislative Council were that two new portfolios, one dealing with Development and Reconstruction and the other with Agriculture, Animal Husbandry and Natural Resources and Settlement should be immediately created. It was also proposed that a Member of the Executive Council who should be in charge of the portfolio of Agriculture, and it was stated that this Member should be the most suitable Member available for the work in question, whether he be an official or not. It was further proposed that later on the portfolio of Local Government should also be created. When these proposals were discussed in the Legislative Council of Kenya it was feared by the representatives of the non-white races that the Member of the Executive Council appointed to take charge of the portfolio of Agriculture would be a non-official Britisher. They were therefore opposed to these proposals. Indians, Arabs and Africans joined hands in order to protest against them. Nevertheless they have been given effect to. A member of the British settler community in Kenya who is well-known for his anti-Indian views has been appointed to take charge of the portfolio of Agriculture. It is feared that in the near future when the portfolio of Local Government is created another non-official European will be added to the Kenya Executive Council. Now, Sir this is a matter of the most profound concern to the Indian community in East Africa and also to us, whose duty it is to watch over the interests of our countrymen abroad. We have always stood for the principle that ultimate control over the Government of Kenya should be maintained by His Majesty's Government in their own hands and that nothing should be done by them which would hasten the day when the Europeans would enjoy virtually a monopoly of political power there. We cannot therefore view with equanimity a step which is practically a partial reversal of the policy laid down in the White Paper of 1923. We do not know, Sir, where this policy of the increasing association of the British community only with the Kenya Administration will stop. If the process of appointing non-official Britishers as Members of the Kenya Executive Council goes further, the time will

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soon come when the settler community will virtually have the Government of the Colony in its hands or will be able to exert so powerful an influence as to compel the Kenya Government to bow to its wishes on all important matters. Sir, what has been done is in our opinion the thin end of the wedge. It is regarded as a danger signal by the entire Indian community in East Africa, and judging from past experience I am sure that the Government of India will consider themselves bound to offer an uncompromising opposition to the step that has been taken and demand that, if it cannot be retraced, Indians must be associated with the Kenya Government to the same extent to which the Europeans have been.

Sir, it was announced, I think in September or October last, that the Government of India were going to take up the consideration of the more important questions concerning the Indian community in East Africa with His Majesty's Government and for that purpose were going to depute Mr. Pai, Joint Secretary in the Commonwealth Relations Department, to England in order to help Sir Ramaswami Mudaliar to represent their views to His Majesty's Government. Sir Ramaswami Mudaliar has returned to this country. The Government of India should therefore be in a position to tell us what has been the net result of the representations made through him to His Majesty's Government on the questions that we have already discussed. Do His Majesty's Government propose to do justice to the Indian community and to take steps to see that Indians are allowed to live in Kenya, and for the matter of that in every East African Dependency, on a footing of equality with the Europeans? His Majesty's Government have more than once expressed their anxiety to make India a free country. They are well aware of the feelings roused in this country and in East Africa by the measures taken in the past which tended to depress the position of the Indian community. Do they expect a free India to take a step like that which they have recently taken in connection with the reorganisation of the Kenya Executive Council lying down? Can they not see what has been the effect of the step on Indian public opinion and how seriously the treatment of Indians a broad roact on Indo-British relations? If they are wise, Sir, if they have any regard for the permanent interests of the British Commonwealth, they will do well to follow a policy which both in the letter and the spirit would retain the trusteeship for the welfare of the East Africans in their hands and give all members an equal chance of political, social and economic advancement.

Now, Sir, I shall pass on to the last part of my Resolution. Till about 1924 there was no connection between the administrations of Kenya, Tanganyika and Uganda. As a result, however, of the Ormsby Gore Commission of 1924 it was decided to hold periodical conferences of East African Governors and responsible officials of various departments to deal with matters of common interest such as communications, taxation and land policy.

The first Governors' Conference was held in 1926, but this was not regarded as enough by His Majesty's Government and Mr. Amery, as Secretary of State for Colonies, appointed the Hilton Young Commission in 1927 to consider the question of closer union between the East African Dependencies. The recommendations of this Commission gave rise to bitter controversy in East Africa as they envisaged in course of time the federation of the East African territories to which the Indians being afraid that the Federation would be dominated by the spirit pervading the European community of Kenya were staunchly opposed. His Majesty's Government then sent Sir Samuel Wilson, Permanent Under-Secretary of State for the Colonies, to East Africa to ascertain what measure of agreement that could be obtained locally on the recommendations of the Commission. They formulated their own tentative conclusions on the reports of the Commission and Sir Samuel Wilson and laid down them before the Joint Select Committee that was appointed, I believe in 1931, to consider the policy which should be followed in future in East Africa. The Joint Select Committee came to the conclusion that the time was not ripe for any far-reaching steps in the direction of closer union, but was in favour of economic co-operation in regard to transport, customs, scientific and technical services and posts and telegraphs. Consequently, before the war, co-operation between the various Colonies was practically restricted

to these subjects. During the war, however, inter-territorial organisations were created to co-ordinate and direct the joint war effort of all the three Colonies and, of the pre-war inter-territorial services. This arrangement, Sir, was open to a serious objection. The defect of the Governors' Conference was that decisions were arrived at on subjects of considerable public interest behind the backs of the public, whose representatives had no opportunity of modifying the measures placed before their Legislative Councils as a result of the agreement arrived at between the Governors at the Governors' Conference. The new proposals made by His Majesty's Government are designed to remove this defect. They have made it clear that these proposals do not involve either political closer union or the fusion of the East African Governments, but they say:—

“ It is necessary to establish a constitutional and juridical framework for the inter-territorial services, including a joint Legislature in order to provide an effective means of doing what needs to be done. ”

In view of this, they have suggested a constitution for the common service which involves (a) the setting up of an East African High Commission, consisting of the Governors of Kenya, Uganda and Tanganyika, with the Governor of Kenya as Chairman; (b) a Central Legislature; and (c) an executive organisation with which in appropriate cases Advisory Boards would be associated. The Legislative Assembly, as the new Central Legislature will be called, will deal with such matters as customs and excise legislation, income-tax, inter-territorial communications and so on. It is proposed that the Assembly should consist of 36 members; 12 officials, or rather *ex-officio* and nominated and 24 unofficials. There will be six European and six Indian members elected by the territorial Legislative Councils. There will also be six members representing Africans, but they will be nominated by the High Commission as the trustees for African interests. Then there will be two members nominated by the High Commission to represent Arab interests and four other members nominated by the High Commission.

It will thus be seen that the new proposals are based on the principle of parity of representation between the three principal races inhabiting Kenya. This is a proposal, Sir, that has been proposed for the first time by the British Government. In view of the fact that certain common services have been established and that there are periodical Governors' Conferences the Indian community of East Africa have come to the conclusion that the arrangement proposed is in principle better than the arrangements that are in force now. They also approve of the principle of equality of representation of all races and have made it clear that they will accept no inter-territorial organisation which disturbs this principle in any way. They are anxious that the representatives of the Africans should be Africans themselves. As their own position in East Africa and the future of East Africa as a whole depends on the maintenance of the doctrine of paramountcy of native interests, they insist that this principle should be scrupulously maintained and are consequently anxious that the African community should be represented by the Africans themselves. They have in this matter the support of the Africans themselves who, at a meeting recently held in Kenya, I believe, have expressed the same view. The Indians further desire, Sir, that this principle of parity of representation should be observed not merely in the Legislature but also in the Advisory Boards that may be established in connection with the inter-territorial services. The British settlers of Kenya, the House will not be surprised to learn, are against the equal representation of the other races with the whites. Their racial arrogance will not allow them to co-operate with others on a footing of equality. They must be masters of East Africa and others must be content with the privilege of carrying out their behests. They do not want a common Legislature for the East African Colonies lest the development of Kenya on racial lines should be impeded. I have no doubt that this Council and the Government of India will consider the position of the Indian community to be perfectly reasonable and will lend them their full support in their just demands.

Sir, I have already exceeded my time. I do not therefore wish to deal with the issues involved any longer. But I shall, with your permission say just this to the Government of India. They are trustees for the welfare of the Indians wherever they may be settled. This is a crucial moment in the history of East



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Africa, and they will be guilty of betraying the interests of their nationals if they do not staunchly stand by them at this juncture. Indeed, I personally feel that the time has come when the Government of India should demand that they should be treated as the administering power for one of the British Colonies in East Africa. Mr. Ramsay MacDonald said years ago that the administration of Kenya should be placed under the Indian Government. I suggest, Sir, that the Indian Government should request His Majesty's Government to have the mandate for Tanganyika transferred to them. I am sure that this will be in the best interests not merely of the Indian community there but also of the African community, because those distinctions of race and colour which have embittered relations between the various communities in East Africa are foreign to our nature. We, I am sure, will treat the indigenous inhabitants on a footing of perfect equality and set an example which all European powers owning colonies in East Africa will be almost compelled to follow. Sir, I move.

THE HON. THE PRESIDENT: The Hon. Mr. Kalikar will please move his Amendment now. But before he moves it, I want to ask him whether he wants it to be embodied in the Resolution as clause (d), or whether it is intended to be embodied only as a sort of conclusion.

THE HON. MR. V. V. KAL KAR (Central Provinces: Non-Muhammadan): I am not putting it in as a clause; it should be an addition to the Resolution itself.

THE HON. THE PRESIDENT: If the Hon. Member wants my advice, I would ask him to embody it as a separate clause (d).

THE HON. MR. V. V. KALIKAR: If my Hon. friend Pandit Kunzru is prepared to accept it in that form, I have no objection.

THE HON. PANDIT HIRDAY NATH KUNZRU: All that I want is that these words should be made part of the Resolution. I do not care in what form they are included in the Resolution. If you consider it desirable that they should form a separate clause by themselves, I shall gladly agree to your proposal.

THE HON. THE PRESIDENT: I think so.

THE HON. MR. V. V. KALIKAR: Sir, the amendment that I move runs thus:—

“That at the end of the Resolution the following be added as clause (d), namely:—  
and that Indians should occupy a position of equality with the non-official Europeans both in the Legislative Assembly and any advisory bodies that may be established.”

Sir, my Hon. friend Pandit Kunzru has already dealt with this question at very great length. We know the lot of Indians overseas is very miserable. This question was debated in this House and in the other House many times and we made certain demands, that unfortunately the British Government have not yet recognised us as human beings. Recently I read in the papers an answer to a question by a member of the House of Commons. In that answer, given by Mr. Creech Jones, I find that there is an implication that whatever rights the Indians are enjoying at present in Kenya will be impaired, that there will be deterioration in those rights. The White Paper proposals which have recently been announced are opposed even in Kenya by the Europeans led by a gentleman called Lord Francis Scott. I understand that his objection to these White Paper proposals is that he does not want the disloyal Indians to enjoy the same rights as the so-called loyal Europeans in Kenya. (*Interruption*). I do not know. We fought the war for them. We shed our blood, and we helped in winning the victory for Africa, and we are still regarded as disloyal.

Sir, I have further read that in Kenya they are going to settle 500 European families, and the argument advanced for settling these families is that these people are taking their capital and that they are trained men. Well, I put a straight question: Will Indians be allowed to settle in Kenya if they take their capital with them, and if they are equally well-trained? Sir, it is no use asking the question. I quite realise my position. I am a slave in this country, and therefore I am not respected anywhere.

THE HON. THE PRESIDENT: Why should you put a condition for immigration?

**THE HON. MR. V. V. KALIKAR :** I submit that we are now going to be independent in a very, very short time. The Colonial Office at least must recognise that India has also a claim to having her nationals treated in foreign countries as human beings.

My Hon. friend the Mover has already dealt with the White Paper proposals, and so I do not want to take the time of the House. At present the Indian Executive Councillors have not been given portfolios. If you take into consideration the population of Indians, Europeans and Africans, the population of Indians in Kenya is about 38,000—much more than that of Europeans. We developed Kenya. We took our capital there, we built the Uganda and Kenya Railway, we developed agriculture. We were wanted for all these purposes. But, in the matter of giving equal rights with Europeans, we are not treated as human beings. I will draw the attention of the House to the conclusion reached by His Majesty's Government after the second White Paper of 1930.

"The conclusion to which His Majesty's Government have come is at this juncture to leave the constitution of the Kenya Legislative Council substantially unchanged and to retain the official majority. The 11 elected European Members, the 5 elected Indian members and one elected Arab member, together with the 20 official members should for the present remain unaltered and the Councillors, whatever their ways, and whether they are or not Government officials, will of course be on an equal footing as members of the Council and they will in particular be entitled to a proportionate share in the membership of any committee that may be set up."

These are the conclusions of His Majesty's Government and these are the conclusions of a Labour Government. The present Labour Government, more forward and more progressive than the old Labour Government, are bringing proposals in the White Paper which even a moderate man like H. H. the Aga Khan thinks are practically an inroad on the rights and privileges of the Indians. Sir, nobody can say of H. H. the Aga Khan that he holds extremist views. Even he, during his travels in Kenya, Tanganyika and Uganda, has brought to the notice of the Indians there that they should take urgent steps to see that there are no inroads on their rights and privileges. Sir, the opposition of the European settlers there led by Lord Francis Scott seems to me not that they do not want the proposals but they want Dominion status to be established in Kenya. That appears to my mind the reason why the proposals are objected to. Sir, this question was debated in the other House and we were told that the Government of India have not yet formulated their views on these proposals. I hope, Sir, the Hon. Member in charge of Commonwealth Relations Department will tell us today whether the Government of India have formulated their views or not about these proposals and what their views are. Sir, the public in India is entitled to know this. I am quite sure that the Government of India and we will see eye to eye with each other at these things. But we are entitled to know what are the conclusions of the Government of India on the proposals contained in the White Paper. We urge on the Government of India that all these proposals should be scanned carefully, and that the interests, rights and privileges of Indians should be guarded carefully so that there may be absolutely no racial discrimination as regards the conditions of Indians and White settlers there. In fact, I may go to the extent of asking that we should get more representation because our population is larger. I find from the resolution passed by the meeting of the standing Committee of East African Indian National Congress that they say that equal racial representation be extended also to the membership of all inter-territorial advisory boards, membership of the Standing Finance Committee and so on. What I suggest is that as our nationals are there they must be put on an equal footing with the European settlers and if the Colonial Office is not prepared to act up to the advice tendered by them, then we must represent to His Majesty's Government that, as suggested by my Hon. friend Pandit Kunzru, the administration should be transferred to the Government of India and we should be responsible for the administration of that territory.

**THE HON. SIR DAVID DEVADOSS :** That will never happen.

**THE HON. MR. V. V. KALIKAR :** I know that it will never happen. If we get independence and if we are ready to fight with them, it will happen. We must have guts and courage to fight them. I do not know whether we have guts and courage to fight them.

**THE HON. SIR DAVID DEVADOSS** : I do not know.

**THE HON. MR. V. V. KALIKAR** : I have nothing else to say, Sir, except to express the hope that Government will accept the Resolution as amended and will press on the Colonial Office to treat our nationals in Kenya as human beings, having equal rights and privileges with the White settlers.

**THE HON. THE PRESIDENT** : Amendment moved :

“ That at the end of the Resolution the following be added as clause (d) namely :—

‘ and that Indians should occupy a position of equality with the non-official Europeans both in the Legislative Assembly and any advisory bodies that may be established. ’ ”

The debate will now proceed on the whole Resolution. Hon. Members will remember that this is the last non-official day and we have got many Resolutions to go through. I shall therefore ask them to confine themselves to 15 minutes on the Resolution.

\***THE HON. SAYED MOHAMED PADSHAH SAHIB BAHADUR** (Madras : Muhammadan) : Sir, I give my whole-hearted support to the Resolution which has been so very ably moved by my Hon. friend Dr. Kunzru. Sir, as regards the first part of the Resolution, which asks for the abolition of all those restrictions which have been imposed on the entry of Indians into East Africa during the war, I suppose there will not be any two opinions in India. Sir, we know that even from their very inception those restrictions were not at all justifiable. The war was simply taken advantage of by the White Settlers in Kenya and two other territories, Tanganyika and Uganda, to enact measures which though they ostensibly appeared to be non-discriminatory, in effect they actually were to the detriment only of Indians. Even though in reply to the persistent enquiries of the Government of India those East African territories gave assurance that these measures were only temporary and they were meant to be enforced against all non-native population without any partiality, without fear or favour, in actual practice these regulations were simply made an instrument of oppression against Indians alone. The result of it was that though statutorily there was no discrimination, administratively in actual practice there is every discrimination against Indians. Indians were made to go out of East Africa on this ground that their presence was not necessary for war effort, actually the presence of a lot of Indians there was an impediment to the war effort in the territory. In spite of the fact that Indians had offered to co-operate whole-heartedly in the war effort, their offer was rejected and all ways and means were adopted to try and send them out of East Africa ; and on the top of that this Regulation, some time about the beginning of 1944, was enacted which made it compulsory for the residents of those territories in Africa to have a permit for returning to East Africa in case they had stayed away from the country for more than 2 years, unless their absence for that period could be accounted for by circumstances which were outside their control. You know, Sir, how difficult was the shipping position. The result is a number of Indians, 8,000 to 10,000 or even more, have been away from East Africa and are now unable to go back on account of these Regulations. Again, as I said at the outset of my speech, these Regulations were totally uncalled for, because the one justification which was advanced for enacting these Regulations was the conditions created by the war and the necessity to meet those conditions, and the conditions stated were that on account of the war, on account of war effort, there was shortage of food and also of accommodation. Both these grounds were not quite correct. You know, Sir, as a matter of fact that during these years in which these Regulations were enacted, East Africa was not only self-sufficient in the matter of food but was actually exporting a large quantity of foodstuffs to countries outside East Africa, and so far as the accommodation question was concerned, this was nothing more than a myth, because there was enough of space in East Africa, and also in recent times, before this enactment was passed, new localities had been opened up in East Africa. It is quite obvious that the whole thing was meant only to drive the Indian element out of East Africa, which has been the tendency in Kenya particularly. It is therefore just and proper that the Government of India should bring pressure upon those territories to abolish these

\*Not corrected by the Hon. Member.

Regulations and allow Indians to go back without having to obtain any permit for their return to those territories.

Just one word about the policy which the Under Secretary of State for the Colonies enunciated the other day and to which my Hon. friend Dr. Kunzru has made reference. The *raison d'être* for the adoption of this policy seems to be untenable. The Under Secretary of State Mr. Creech Jones seems to think that there is strong opposition on the part of the Africans against the Indians, against any further increase in Indian immigration into the country. So far as we are aware, we have not known of any such view held by Africans in those territories. There has not been any expression of opposition to Indian immigration or to the question of Indian settlers remaining in the country on the part of the native population in Kenya, Uganda or Tanganyika. If there is any record about the attitude of the natives of those places in relation to Indian immigrants, that record gives evidence which is quite contrary to what Mr. Creech Jones says in his recent speech. I will just refer to what Mr. Andrews says in his publication called the *Indian Question in East Africa* when Mr. Andrews visited the country to find out as to what the opinion of the native element was in those territories as regards the Indian population there, as to whether these Indians who had gone there had only engaged themselves in exploiting the country without any benefit whatever to the native population or to any other elements of the population in that country; and he has been able to elicit from the native population there through one of the Prime Ministers, Sir Apolo Kagwa, this opinion, Sir:

"That the indigenous inhabitants require the presence of our nationals both from the economic and sociological points of view. The presence of the Indians in East Africa has been extremely helpful both in the economic plan, where they discharge the functions of traders, and artisans, and in the social plan, where they beneficially intervene between the "superior" white community and the native population."

The fact that these people are acting as a liaison between the native population who are looked down upon by the Europeans and the European population with their superiority complex is possibly one of the reasons which is responsible for this anti-Indian policy on the part of East Africa. The reason given in every part of Africa for adopting this anti-Indian policy is that the Indian population has been competing with the White settlers there, that their interests are prejudicial to the interests of the White settlers in more respects than one, that the Indians there have not that high standard of life as the Europeans have and that they on account of their low standard of life are in a position to compete very successfully against, and to the detriment of, the European population in those places. But, Sir, this reason seems to have been kept back by the East African White settlers and they are wise enough now to make out that the presence of the Indian population in these territories is prejudicial to the interests of the natives. That is contrary to facts so far as we know and the facts as they have been disclosed by an expression of opinion on the part of the native elements there.

Now, Sir, a number of Commissions which have been established, for instance the Hilton Young Commission even, have stated in their reports that the presence of Indians in East Africa is really not prejudicial to the interests of the country but that it is necessary—very necessary—that the Indians should be there so that there should be a continuity on their part to develop the economic resources of the country. It has been recognised that much of the prosperity of those territories today is due to Indian enterprise. Even Mr. Winston Churchill also recognised this, Sir, some years ago. He said that it is the Indian who has been responsible to open closed parts of the country in those territories and it is the Indian who has taken a very prominent part in the commercial and economic activities of those territories.

It is, therefore, Sir, but just and fair that the Indians in East Africa should not be persecuted as they are and that they should be allowed to have the same rights and privileges as any other element in the population of those territories and that the least that could be given to them would be a position of equality with the European elements there.

Now, Sir, I would like to say a few words by way of general observation about this kind of crusade against the Indians who are nationals abroad. I think, Sir, it

[Saiyed Mohamed Padshah Sahib Bahadur.]

is high time that something should be done not only with reference to what is being done in India or in East Africa or anywhere else and that a quietus be given to this question once and for all. In this connection, I am glad to say that the Hon. Member in charge of the Commonwealth Relations Department has given an inkling of the direction in which his mind is working. While he spoke at Nagpur some time in the middle of last month he stated, Sir, in reply to an address presented to him by the Chamber of Commerce of the Central Provinces that it was very advisable—I am not quoting or repeating what he actually said; I am just giving a gist of his speech—to make an appeal to the United Nations Organisation to take up this question and he made a reference in connection with the Asiatic Land Tenure Bill that is now under consideration in South Africa and he was perfectly justified in saying, Sir, that unless the United Nations Organisation took up this matter and settled it once, and for all, there was certainly a menace—and a great menace—to the peace and harmony of the various nations in the world and he stressed this fact that unless this question is tackled the United Nations Organisation would be sure to be defeated in its object to bring about the peace and tranquillity in the world. I am glad, Sir, that the Hon. Member who is in charge of these matters is taking such active interest in this and since he has had the portfolio of the subject under him, Sir, there has been a steady improvement in this connection all along, though due to accumulated disadvantages and handicaps that the department has been working under he has not been able to make ahead to the extent that we would desire him to do, but whatever is possible he has done in this respect. I am sure, Sir, that in conformity with the view that he has expressed he will persist in his view and try to do what he can to bring this matter to the notice of the United Nations Organisation and see that this anti-Indian policy is given a quietus once and for all at least in the British Commonwealth of Nations. This is, Sir, as he said a very great menace to the peace and tranquillity of the country. It is a pity, Sir, that these White settler Colonies have not been able to take a lesson from the last war. They do not seem to have realised that it was this racial prejudice, this arrogance, this superiority complex, which was at the bottom of the last war and which was the cause of the downfall of such a powerful nation as the Germans and if this anti-Indian tendency is allowed to go apace, as it seems to be, without being curbed by the United Nations Organisation, all the efforts that the Security Council is making will end in smoke and this conflict, for which preparations seem to be growing in various parts of the world, this conflict between the white and the coloured races may come much sooner than we expect. That, Sir, is a conflict which everybody who has the interest of humanity, of civilization, at heart would very much wish to avoid.

The Council then adjourned for Lunch till half past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Hon. the Chairman (the Honourable Mr. M. N. Dalal) in the Chair.

FLIGHT-LIEUT. THE HON. RUP CHAND (Punjab: Non-Muhammadan): Sir, my Hon. friend and colleague, Pandit H. N. Kunzru, has studied the problems of Indians in foreign countries so thoroughly by his personal contacts during his recent tours that he is perhaps the best authority on the subject in our country. As a matter of fact, I am looking forward to the day when in the newly constituted National Government, representing all parties, Pandit Kunzru will hold the portfolio as the Minister-in-charge of the Department of Indians overseas. Surely no better choice can be made for this particular department.

Now, Sir, the Resolution moved by the Hon. Dr. Kunzru and amended by the Hon. Mr. Kalikar is one with which hardly any patriotic Indian will differ. It is strange that in an empire which is supposed to be based on the principles of equality, the conditions of entry and living of the millions of Asiatics and native populations should be decided by Kenya. It is also an irony of fate that the Governments in the British Empire, which swear by the principles of the Atlantic Charter, should deny equal rights to Indians.

Sir, Indians are scattered all over the world and quite a number of them are in the Dominions and colonies of the British Empire. But wherever they might be, it is our duty, and that of the Government of India, to protect their interests. Our Countrymen in Kenya did not force themselves on the people of Kenya. They went as labour Settler and have contributed enormously towards the economic life of Kenya. India has gained new strength, new life and new consciousness. She must now be able to look after and safeguard fully the interest of Indians in foreign lands.

All the three demands in Pandit Kunzru's resolution are just and deserve the full support of the House. We want justice between man to man. I strongly feel that His Majesty's Government should back up Indian's rights in other parts of the Empire, but unfortunately it is not so. India's honour must be vindicated in any case and we are here to see that this is done. The charge against the present Government of India is that it is very slow in taking action against governments which adopt anti-Indian policies. For instance, the Government of India recently decided to break off economic relations with South Africa after years of agitation by the Indian community. If this Government were vigilant and active, the authorities in other countries will not readily discriminate against Indians. It is the weak vacillating policy of the present Government which is injuring the cause of Indians overseas. With these words I support the resolution.

THE HON. DR. N. B. KHARE (Commonwealth Relations Member) :  
Mr. Chairman, I think my intervention at this stage may cut short the debate.

Sir, I have listened with great attention to the speech made by the Hon. Mover of the Resolution. The Hon. Pandit Kunzru is a widely travelled gentleman, and he has first-hand knowledge of the difficulties and hardships under which Indians abroad labour. Consequently he has come to be regarded more or less as an expert on these matters, and his views, therefore, command great respect from all quarters. He has given expression to certain fears and apprehensions about Indians abroad in general and Indians in East Africa in particular. I may straight-away tell the House that I share all his fears and apprehensions. I have accepted the responsibility of this office under very difficult circumstances and inherited the legacy of the notorious case of South Africa. I came here with the determination solemnly and sincerely made in my own mind to strive hard and do my best to afford relief to the Indians who suffer great hardships wherever they have gone outside India. I did not come here to eat "double roti": I have come here to this office to fight for that ideal. I believe that Indians, wherever they have settled down and have adopted that country as their country, should be treated on a footing of complete equality with the local inhabitants there. This is the ideal which I have set before me, and I will continue to fight for it as far as it is ordained for me to fight.

During the course of the debate, some Hon. Members mentioned some of the arguments raised by the European settlers against the Indians who have settled in East Africa. It was mentioned that the Indians are regarded with suspicion by the African population and are not liked by them there. I do not think this argument, whoever uses it, is relevant to the issue at all, because I am sure that the Africans do not regard the European settlers there as angels. It has also been said that Indians get no better treatment in East Africa because they are disloyal. This also, according to me, is quite irrelevant and futile in view of the Cabinet Delegation of His Majesty's Government at present visiting India to negotiate with political parties in India including the Congress High Command. Indians have settled in East Africa long before the British came on the scene. History points that that they have been residing there and also carrying on trade. Zanzibar is referred to as Zangbar in medieval history. I do not think that at that time they were suffering from any disability whatsoever. Whatever that may be, the present position is that Indians, wherever they are settled, suffer from irksome and sometimes insulting restrictions imposed on them and East Africa is no exception. I do not want to labour the point any further and I think it is sufficient to say that these hardships arise from the subordinate status which we enjoy here in our own country. Until that is remedied I do not think there is any real remedy for these hardships. We have no representative in East Africa, as the Hon. Pandit Kunzru has mentioned. But it is a fact that East African Indians themselves are not very keen

[Dr. N. B. Khare.]

to have a representative of the Government of India there. Some time ago a deputation came from those colonies—if I remember aright, from Tanganyika and Kenya—and they tried to impress upon me that to appoint an Agent there will be worse than useless. It is not our fault. We cannot help it. Had there been Agent, we would have been better informed, and informed in time, before anything which is harmful to the interests of Indians could be brought into effect.

Among the various points raised by Pandit Kunzru one important point is about the administration of the colonies in East Africa. He has specifically mentioned that the Government of India should try to get the mandate of Tanganyika transferred to them. I want to assure the House that Government has considered this matter and it will be raised with His Majesty's Government at the proper time.

I need not say anything more with regard to the general remarks made by Pandit Kunzru and others. I now come to the particular issues raised in the Resolution. They are three. As regards the first, namely, restrictions on the entry of Indians into Kenya, the matter was discussed in the House in April, 1944, soon after the promulgation of the Defence Emigration Regulations in March of that year. We went on making representations against the continuance of these Regulations. In fact, we demanded their immediate withdrawal. Unfortunately, the Colonial Governments and the Colonial Office did not accede to our representations. Perhaps it may be due, as I mentioned before, to the constitutional status under which we labour. I hope that as a result of the negotiations which are going on, an interim National Government as conceived by the Political Parties will come into existence soon and all these problems will be solved in the fashion of "Open Sesame". However, as a result of our representations they agreed to give permits freely to Indians who had been normally resident in the colonies even though their period of absence from the colonial homes might exceed two years. We have now been definitely told that these Regulations will be withdrawn about the middle of this year. With regard to the second question—

**THE HON. PANDIT HIRDAY NATH KUNZRU :** May I interrupt the Hon. Member? The war time restrictions on the entry of Indians into Kenya and other territories will certainly terminate very soon. But what is intended by their Governments is to replace the war time legislation by fresh legislation imposing practically the old restrictions on the entry of Indians.

**THE HON. DR. N. B. KHARE :** We have not lost sight of this possibility.

**THE HON. PANDIT HIRDAY NATH KUNZRU :** There is the speech of Mr. Creech Jones which has been brought to the notice of the Government of India by the Indians of Kenya.

**THE HON. DR. N. B. KHARE :** We are quite alive to it. With regard to the second question raised in the Resolution, namely, the appointment of Indians as Members of the Executive Council, I have to state that we made strong representations against the expansion of the Executive Council of Kenya only to make room for European non-officials to administer certain portfolios. We urged that Indians must have their share in any direct association of non-official representatives with the Executive Council of Kenya, that apart from the question of principle, the addition of 2 non-official Europeans while the Indians had only one representative would be a legitimate grievance for the Indian community and that there must also be some increase in Indian representation in the Council. Unfortunately we have not had any satisfactory reply from the Secretary of State to our representation and I hope that when the interim National Government comes into existence the response will be much better. We are, however, pursuing the matter.

As regards part (c) of the Resolution, the proposal about inter-territorial organisation have been considered by us very carefully in the light of views taken by the local Indian community of their possible effect on their interests. As the Hon. Pandit Kunzru is aware, we have also discussed these proposals at a meeting of the Standing Committee of the two Houses attached to our Department. The Government of India have since formulated their views on these proposals and they have

also forwarded them to His Majesty's Government for earnest consideration. We have welcomed the assurance that the proposals are not intended to be a prelude to any sort of fusion of the three territories. We have also urged that the principle of equality of representation of the Indian community with the European community must be maintained, that representation of the African population must be by Africans and that Europeans should not be allowed to secure any dominance in the new Central Council by being allowed to represent Africans; also that Indians must have an equal share in the various advisory bodies and organisations envisaged in the scheme, and that the Chairman of the High Commission should be appointed from the ranks of non-official statesmen in the United Kingdom. We expect that these precautions will prevent the colony of Kenya securing a position of predominance in the proposed Central constitution.

We have done all that we can so far and we promise we will always keep ourselves alive and alert.

I am also grateful for some compliments paid to me in his speech by my friend Mr. Padshah. I do not know whether I deserve them, but I accept them in all humility.

I am glad to mention that I accept the Resolution as amended on behalf of the Government.

MR. CHAIRMAN (the Hon. Mr. M. N. Dalal): (to the Hon. Pandit Hirday Nath Kunzru). In view of the fact that the amended Resolution has been accepted by Government, is it necessary to make a speech?

THE HON. PANDIT HIRDAY NATH KUNZRU: I just want to ask one question. Sir.

I asked my Hon. friend the Member in charge of the Commonwealth Relations Department what has been the result of the negotiations carried on behalf of the Government of India with His Majesty's Government through Sir Ramaswami Mudaliar. I understood that Mr. Pai left for England to help Sir Ramaswami Mudaliar in dealing with the questions relating to the restrictions on the entry of Indians into the East African Dependencies and of the re-organisation of the Kenya Executive Council about which I have already spoken. But we have had no information regarding the result of the negotiations. My Hon. friend told the House that he had received assurances that the Defence Regulations relating to immigration which were passed by the East African Dependencies in 1944 will soon cease to operate. But he did not tell us whether he had been assured by His Majesty's Government that no new law would be introduced in any of these Colonies which would mean a re-imposition of the old restrictions. Unless we have this assurance the termination of the war-time legislation can give us no satisfaction. That legislation must end some time or other, because it has been passed, as I said, under the authority of the Emergency Powers Defence Act which has to be renewed annually by Parliament. When the renewal ceases the Regulations passed under it will cease to have effect. No assurance is needed, therefore from His Majesty's Government on this point. What we should like to know is whether they are prepared to say that the position with regard to the entry of Indians hereafter will be the same as it was before the war. I stress this point, Sir, because it appears from the speech of Mr. Creech Jones that the British Government think that the restricted entry of Indians into East Africa will be harmful to the Africans. But there never was an unlimited entry of Indians into East Africa. Anyone who cares to look at the statistics relating to new entrants into Kenya and those leaving it annually would find that in lean years the number of those leaving the Colony has always been greater than the number of new entrants. In other words, Indian immigration into Kenya has adjusted itself to the economic situation prevailing there. Apart from this, as the Government of India know, an Indian member of the Kenya Legislative Council Mr. S. G. Amin was supplied with information extending to 5 years regarding the number of Indians who entered Kenya and left it during that period. Anyone who looks at the figures supplied by the Kenya Government can see that the two sets of figures practically balance one another. There was no net Indian immigration into Kenya I think during the 5 years preceding the passage of the Defence Regulations



[Pandit Hirday Nath Kunzru]

relating to immigration about which so much discussion has already taken place. My Hon. friend Dr. Khare is doubtless aware of all this. He is also aware that a fairly large number of Indians went to Kenya in 1944-45 because of the propaganda carried on by the Kenya Government in this country to persuade Indians to go to Kenya. They wanted Indians there for war-time jobs. They asked the Government of India for help in recruiting men of the type they wanted. As the Government of India was not satisfied with the Kenya Government's policy regarding Indians, it refused to co-operate with it. The Kenya Government then carried on propaganda through the Indian Members of the Kenya Man Power Committee to persuade Indians to go there. They were told that there were jobs waiting for them and that nobody who went there would be without employment. It was because of this propaganda carried on by the Kenya Government that Indians went there during the war; otherwise few people would have gone there. I should therefore like my Hon. friend to tell us whether he has represented these matters to His Majesty's Government and has received any assurance with regard to them. The termination of war-time legislation by itself cannot give us full satisfaction—

**MR. CHAIRMAN** (the Hon. Mr. M.N. Dalal): There is a heavy programme on the agenda and the Resolution has been accepted by Government. Bring your remarks to a close.

**THE HON. PANDIT HIRDAY NATH KUNZRU**: It may have been accepted, but I have a right to ask for information on vital points. This is a matter which interests the whole country and we are entitled to ask for such information as is available.

The other point on which I want information relates to the re-organisation of the Kenya Executive Council. My Hon. friend Dr. Khare said that the Government of India had made the necessary representation but had not received a satisfactory reply. What I should like to know is whether the Government of India are still pursuing the matter or have dropped it. I earnestly hope that they will give no rest to His Majesty's Government till an Indian is appointed as a permanent Member of the Kenya Executive Council. He complained that the inability of the Government of India to make stronger representations was due to our subordinate status in our own country. We hope that our status will soon be much higher and that we shall before long be a free country. I trust therefore that the Government of India will not give up their efforts in this connection and continue to pursue the matter.

**THE HON. DR. N. B. KHARE**: Sir, I have already said that I shall ever be alert and alive to all these issues. I do not think I am called upon to say anything more than that. As for the specific assurance wanted by my Hon. friend Pandit Kunzru about future legislation, we have not got any such assurance about future legislation. About all the matters raised by him in his second speech I assure the House that we shall relentlessly pursue the matter with His Majesty's Government. Whatever may be the result we cannot help it. For our part we shall pursue the matter.

About the information he wants as to what transpired when there were negotiations between Sir Ramaswami Mudaliar and His Majesty's Government, I do not think that any matter concerning East Africa was raised there—

**THE HON. PANDIT HIRDAY NATH KUNZRU**: Why was Mr. Pai sent there?

**THE HON. DR. N. B. KHARE**: It was a visit to discuss the matters arising out of the Soulbury Commission's Constitutional Report on Ceylon.

**THE HON. MR. V. V. KALIKAR**: Was not Mr. Pai sent there for this purpose?

**THE HON. DR. N. B. KHARE**: Yes, he was sent for this purpose, and I am sorry to say that His Majesty's Government's attitude has not been very helpful to India. I cannot say anything more than that.

**THE HON. MR. V. V. KALIKAR :** I had raised a specific point in my speech. I wanted to know from the Government whether they have formulated their views on the White Paper proposals. As long ago as the 5th February, the Secretary to the Commonwealth Relations Department stated in the other House that the Government of India are formulating their proposals. Have the Government of India formulated their proposals on the White Paper proposals and will the Government of India let us know their view about those proposals ?

**THE HON. DR. N. B. KHARE :** I cannot help feeling that my Hon. friend has not been attentive. I have already said that the Government of India have since formulated their views on those proposals and they have also forwarded them to His Majesty's Government for earnest consideration. Previous to this I have also said that we had discussed all these proposals at a meeting of the Standing Committee of the two Houses attached to the Department and I may tell him that we had discussed the White Paper and all those things in great detail and had formulated our views in accordance with the views expressed by that Committee. More than that I cannot say.

**THE HON. MR. V. V. KALIKAR :** What I wanted to know was whether the Hon. Member would let this House know the views that have been formulated by the Government of India. I was equally attentive.

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : But he has replied to your question.

**THE HON. MR. V. V. KALIKAR :** He has formulated views and he has sent those views to His Majesty's Government. We want to know those views.

**THE HON. DR. N. B. KHARE :** I have nothing to add.

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : It is not necessary to move the original Resolution, I shall only put the amended Resolution to the vote.

Resolution moved that :—

“ This Council recommends to the Governor-General in Council to urge His Majesty's Government that—

(a) as the war is over the entry of Indians into Kenya should not be subject to any direct or indirect restrictions ;

(b) in the reorganised Executive Council of Kenya, Indians should be appointed to hold charge of portfolios to the extent that Europeans are ;

(c) in any arrangements made for the establishment of an inter-territorial organisation in East Africa, Kenya should not be allowed to occupy a predominant position ; and

(d) that Indians should occupy a position of equality with the non-official Europeans both in the Legislative Assembly and any advisory bodies that may be established. ”

The question is that the amended Resolution be adopted.

The Motion was adopted.

## RESOLUTION *RE* ELECTION OF THE PRESIDENT OF THE COUNCIL OF STATE

**THE HON. MR. M. THIRUMALA ROW** (Madras : Non-Muhammadan) : Mr. Chairman, I move the following Resolution :—

“ This Council recommends to the Governor-General in Council that the place of the President of the Council of State be thrown open for election by the non-official members of the Council of State and to secure the necessary constitutional changes, before the next session of the Council. ”

Sir, the purpose of this Resolution is quite obvious and it does not require any lengthy argument in support of the contention that we have arrived at a stage in the development of this country, politically and constitutionally, when this House as well as its Presidentship has become an anachronism and an event which should have been one of the long past, but still, Sir, in spite of the professions of the British Government, it has not appealed to them, or it has not suggested itself to them, that the power of election should have been conferred long ago on this House as the same

[Mr. M. Thirumala Row]

privilege is enjoyed by the other House. When the constitution under the Montagu-Chelmsford Reforms was inaugurated in 1921 by the Duke of Connaught, the first President, Mr. Alexander Muddiman, was nominated to this House and when I looked back at the proceedings of that session of this House I was amused to read a small sentence from the speech of His Royal Highness the Duke of Connaught while inaugurating this House and its constitution :—

“For years it may be for generations, patriotic and royal Indians have dreamt of Swaraj for their motherland”.

This was in February, 1921. Although now we have passed a quarter of a century yet this House has been firmly planted at the milestone of 1921 and has not advanced a whit beyond that.

“Today you have beginnings of Swaraj within my Empire”.

This was said in February 1921 and now in 1946 we are still in the beginnings of Swaraj. After a quarter of a century we remain where we began.

“and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy.”

And, of course, applying this last sentence to this House, you and I, every one of us, know it to our cost what widest scope and ample opportunity for progress to the liberty of the people we have been enjoying within the four walls of this House.

Later, Sir Montague Butler was President for a short time and then in 1925 the next President, Sir Henry Moncrieff-Smith, was nominated. After him, in 1933, our present august incumbent in office, our President, Sir Maneekji Dadabhoj was installed on the gaddi of this House. Ever since, he has been carrying on the duties of President that devolve upon him without, I think, any sign of tiresomeness, or old age, in him. He has been the envy of younger men because we do not expect to live so long, or, even if we live so long, so vigorously and full of energy. With all the goodwill that is possible, for a President under the constitution it is not possible to widen the bounds of freedom in this House, constituted as it is, with about 26 nominated members always as a deadweight on the other side, the 32 elected members representing different and varied constituencies and different interests in a country with kaleidoscopic interests, many getting tired of having no hope of seeing any new light from this House, many getting very indifferent to the proceedings of this House and absenting themselves for long spells, expect to retain the title of “The Honourable.” This House, I tell you, is a fossil of the past which should have been consigned to the limbo of oblivion rather than kept up with artificial respiration from time to time, and to be the President of such a House you require a lot of energy and sense of humour. If, I or anybody else, is placed in that position, I think we can dispose of our work in half an hour owing to the very limited scope of usefulness which that office carries in this House.

But, Sir, the other House can enjoy the privilege of its elected presidentship. After the first President, Sir Frederick White, had been nominated and served his term, Mr. V. J. Patel was elected as President. He was succeeded by Sir Shanmukham Chetty, who was followed by Sir Ibrahim Rahimtoola, and then for a long period Sir Abdur Rahim, because on account of the exigencies of the war, the life of the Assembly also enjoyed an artificial length and now Mr. Mavlankar. They have a choice to express their dissatisfaction on any occasion with the rulings or the conduct of the President by a no-confidence motion. They have a choice of expressing their disapprobation when the President has failed to uphold the liberties and privileges of that House. But this is a place where you have no other choice, except one of meekly, humbly and loyally submitting to the procedure of this House, whether you like it or not. There is no procedure laid down in the rules, as far as I can see, for the moving of a no-confidence motion against the President; you can only convey to His Excellency the Governor General an expression of your opinion that you have no confidence in the Chair. Nothing more than that. In the year 1946, the constitution of 1921 still holds good. It is really time even for the members of this House, both the nominated and the elected sections combined, to tell the Governor-General in Council: “Let us have, during the short period of the existence of this Council, the luxury and pleasure of having an elected President from our own House and from our own group”. That is the purpose of my Resolution.

I do not want to cast any reflection on anybody as to the way in which business is conducted under the present regime. Still, a nominated President cannot but feel conscious of a sort of gift that has descended on his shoulders from His Excellency, and that consciousness is bound to have an unconscious effect on the temperament and the mind of the occupant of the Chair. And without any prospect of the term of the President, being terminated, if one were to continue in office for decades, this feeling will have a corroding effect on the mind of the occupant of the Chair. All these things will operate in a way that is not conducive to the growth of a democratic atmosphere or to the healthy development of the institutions which we want to foster. It is from this point of view that I have brought this Resolution.

We have now got Provincial Assemblies under the 1935 Act. I just want to take you back for a while to this new Act of 1935, part II of which was enforced in the province, but part I of which has remained in suspended animation for want of agreement under the great statesmanlike leadership of Lord Linlithgow. If that Act had come into force and if Federation had been formed, the composition, the structure, the complexion of this House would have been entirely different and the occasion for this Resolution would not have arisen. I want the Government to accept this Resolution in the spirit in which it is conceived.

I know there is the constitutional difficulty, that in the Act of 1919 they have a provision that the President of the House should be nominated under section 63A of the Government of India Act, 1919 and that you have to get that section amended in Parliament by another Act of Parliament. I have therefore incorporated the words here "and to secure the necessary constitutional changes before the next session of the Council." It would be a one-clause Bill, and it could very well be brought in the Houses of Parliament, if only the Government of India took it into their head to get it changed.

I have said "before the next session of the Council". That only shows my anxiety to put an end to the present state of affairs as soon as possible. It should not be taken as a reflection on anybody. I do not want to cast any reflection on the occupant of the Chair, whatever differences of opinion there might be. My anxiety is that we should have an elected President as soon as possible, and that has induced me to add that sentence there.

With regard to the reference to non-official members of this Council, I have given expression to my fear that the official element has always to act under instructions from an outside authority; they are under an obligation to act that way, and they are not always free to exercise their judgement on the merits of any candidate. That has induced me to incorporate that reference to non-officials in my Resolution.

I want that an elected President from this House should be installed as soon as possible and as long as this House lasts we should have a President elected from among us. With these words, I commend this Resolution for the acceptance of the House.

THE HON. MR. V. V. KALIKAR (Central Provinces: General) Mr. Chairman, the amendment that stands in my name runs thus:—

"(1) That the word 'Non-official' be omitted.

(2) That for the words 'before the next session of the Council' the following be substituted, namely:—

'before the first session of the next Council'."

Sir, I would have been very glad if you, Mr. Chairman, had been with us this afternoon to support my amendment, as the same amendment appears in your name. My Hon. friend Mr. Thirumala Row is very anxious to change the constitution of this House. He has spoken at length about the futility of this House. But, at the same time, Sir, I may bring to the notice of the House the fact that after he finished his work in the Assembly, he stood for election to this House and was elected. I think he was overworked there and wanted some rest, and therefore he got himself elected to this House. That is my impression: I may be wrong.

THE HON. MR. M. THIRUMALA ROW: I wanted the Hon. Member's company.

**THE HON. NAWABZADA KHURSHID ALI KHAN :** He was not wanted in a popular House.

**THE HON. MR. V. V. KALIKAR :** I myself have not been able to trace any rule of any parliament or assembly in the world where officials and non-officials have got different rights and privileges so far as membership of the House is concerned. My Hon. friend has referred to the provincial legislatures brought into being under the 1935 Act. In the upper house there are nominated members. In the lower house, too, the ministers who occupy the treasury benches are in a sense servants of the Government. Therefore, the analogy which the Hon. Member gave does not apply in this case. I for one think that every member of the House is entitled to vote for or against any measure brought before the House. We know that the present Government is not a responsible Government. They have to take directions from outside—from Whitehall. But I have not seen non-official members who have been nominated to this House being forced by the Government to vote for them. The Government have a definite policy, and they are guided by that policy. But the non-official members who are nominated to this House are not guided by that policy. That is at least my impression : if I am wrong, my Hon. friends who are non-official nominated members will correct me.

Therefore, I say, Sir, that so long as the House exists, and unless the new Constituent Assembly decides that this House should evaporate in the air, the present position should stand. I do not know why my Hon. friend Mr. Thirumala Row is in such a great hurry about it. He knows that we may have only one more session and after that the House will be dissolved and there will be a new election to this House. I have therefore given notice of this amendment so that, when the next session commences, the House itself and not merely the official or non-official members should elect its own President. I agree with the Hon. Mover so far as the election of the President is concerned. But I do not want him to be in a hurry. There may be difference of opinion on the question whether this House is necessary or not in the future Constitution. Why should the Hon. Mr. Thirumala Row be in a hurry about it ? If he wants to abolish this House, he may make recommendations to the Constitution-making body that this House is of no use. He has said in his speech that this House is useless and that it serves no democratic purpose. The Hon. Mr. Thirumala Row should be consistent. He says all these things in spite of his being elected as a member of this House. After his long work in the Assembly he preferred to be elected to this House. That shows that though he may say that this House is useless, he attaches some importance to it. I will request him to wait for some time. It is not a very long time. The next elections will be held probably in November or December or January next, when a new House will come in and then all the Members may be given the right to have a President elected by them. I therefore submit that my Hon. friend should accept my amendment and the amended Resolution should be accepted by the House. Sir, I move.

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : Amendment moved :

“(1) That the word ‘ Non-Official ’ be omitted.

(2) That for the words ‘ before the next session of the Council ’ the following be substituted, namely :—

‘ before the first session of the next Council.’”

The debate will now proceed on the original Resolution as well as the amended Resolution.

**THE HON. SIR MAHOMED USMAN** (Leader of the House) : Has the Hon. Mover accepted the amendment ?

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : Are you prepared to accept the amended Resolution of Mr. Kalikar ?

**THE HON. MR. M. THIRUMALA ROW** : Should I accept the amendment at this stage ?

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : Not necessary.

**THE HON. MR. M. THIRUMALA ROW** : I am prepared to accept the amendment if Government are prepared to accept the amended Resolution.

**THE HON. SIR MAHOMED USMAN :** Sir, I have listened carefully to the speech of my Hon. friend Mr. Thirumala Row. He said that the general complaint was that we did very little work. Though he and I have differed on many questions I am not blind to the good work that he has done in the short time that he has been here. He himself will realise it, I am sure. He referred also to the work which our present President has done in this Council. During the last four years it has been my good fortune, as the Leader of the House, to work with the President and I should like to take this opportunity of paying my highest tribute of respect to the sense of duty and the sense of fairness which our present President has brought to the work of this House. He has been the guardian and protector of every section of this House. I am glad that my Hon. friend Mr. Thirumala Row made it amply clear that his moving this Resolution is in no way a reflection on the work of our present President.

Coming to the Resolution itself, I should like to say, Sir, that this is a matter on which it would not be appropriate for official members to vote one way or the other. But that does not mean that Government will be indifferent to the views expressed by the Hon. Members of this House. On the contrary, Government will accord full consideration to the views expressed in the course of the debate. This is a very important resolution and I would like to leave it to the Hon. the Non-Official Members to decide its fate. I might add, however, that the Resolution is defective in one material respect. So far as I know, there is no legislative body where the President is elected by a section of the House. The President is the guardian of the rights and privileges of the whole House and of every Member thereof. I am glad the amendment proposed by the Hon. Mr. Kalikar seeks to remove this defect. Mr. Kalikar's amendment also clarifies the point as to the time when the proposed change should take place. If the Hon. Mover accepts the amendment, Government will remain neutral. The Resolution as it stands is open to two objections and I cannot allow the Government to be neutral on the Resolution, but if my Hon. friend accepts the amendment of the Hon. Mr. Kalikar, then I shall leave the Resolution to be disposed of by the Non-Official Members.

**THE HON. MR. M. THIRUMALA ROW :** I am prepared to accept the amendment.

(The Hon. Sir Ramunni Menon rose to speak.)

**MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) :** The amended Resolution has been accepted by the Mover of the original Resolution.

**THE HON. SIR RAMUNNI MENON :** I thought it was understood that other Members would be allowed to express their opinion in the matter.

**THE HON. MR. M. THIRUMALA ROW :** I should like to reply for one or two minutes.

**MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) :** You will have a right of reply.

**THE HON. SIR RAMUNNI MENON :** Am I to understand that the Mover has accepted the amendment?

**THE HON. MR. M. THIRUMALA ROW :** Yes.

**THE HON. SIR RAMUNNI MENON :** (Nominated Non-Official): Sir, I recognise with very great pleasure the sincerity of feeling with which the Hon. Mr. Thirumala Row has explained his Resolution. At the same time I think the Hon. Mr. Kalikar has taken the Resolution a little further on the road to practical achievement by insisting that all the Members of this Council should be entitled to take part in the election of the President. I also feel that we are obliged to the Hon. the Leader of the House for explaining the position of the Government. With these three positions in front of me it is with embarrassment that I propose to strike out a way of my own. The Resolution before us relates to a matter of procedure and when we examine this matter of procedure against the general background of the nature, structure and functions of the Council of State, we shall find that the question of procedure sinks into a very subordinate place. That does not mean that it is not important enough for our consideration or action. I do not think anybody has claimed that the Council of State as at present constituted is in full conformity with democratic theory or practice. We all know that it is subject to a very great limitations both in its composition and in its working. What do we find in the Council? We have

[Sir Ramunni Menon]

about 56 per cent. of elected members, members elected on a very high franchise, and we have about 44 per cent.—these are rough proportions—official and non-official nominated Members, including Members of the Executive Council who are not elected at all and who are not in any way responsible to the Council. In a body composed in this fashion and constituted in this way I submit it is not at all incongruous to find a provision for filling the office of President by the method of nomination. We all know that changes are impending which will result in a new constitution for India and there can be very little doubt that the future Council of State, if there is going to be a Second Chamber, will be constituted along purely democratic lines, and doubtless a provision will be incorporated in the constitution allowing for the election of a President. I therefore submit, Sir, while we are fully justified in anticipating a democratically constituted Council of State, there is no particular reason, either on account of necessity or urgency, why we should change the existing constitution now. What are the facts? The Council has been in existence, as the Hon. Mr. Thirumala Row has told us, for a quarter of a century, and I submit, notwithstanding the limitations, and, so to speak, the cramped atmosphere in which it has had to function, that the results achieved are not at all unworthy of a Second Chamber and as regards the President, tribute has been very deservedly paid to him and I am not at all prepared to say as a mere matter of argument whether the method of election is in any way preferable to the method of appointment. That is a question which should be decided on a due consideration of actual experience. I quite admit that sentiment is in favour of election. But, on the other hand, I am not at all prepared to say that recent experience has strengthened the belief in many of us that the method of election is likely to lead to any harmonious feeling. I submit, Sir, that the question of the best method of choosing the President of the Council is one which we may well postpone till the new constitution is framed. Various defects have been pointed out as emanating from the un-democratic constitution of this Council. But I suggest that not in a single one of them can we trace any connection between the evil result and the method of filling the presidential chair. The President, whoever he may be, should be a man who can keep an impartial mind, who can bring to bear on the discharge of his duties an absolute sense of justice and fair-play. *Prima facie* a person of that type should not be a man who owes any allegiance to a Political Party, or for that matter to a Government. But in the circumstances in which we are situated, if the President is to be elected, he is certain to belong to a Political Party. On the other hand, if he is to be nominated, it is quite as likely as not that he would be a nominated member. Those are incidents, inevitable concomitants, of the system as it exists at present; but there is no ground to suppose; one method is to be preferred to the other. I feel, therefore, that there is not much in the question of principle. We must judge by the results and the results, as far as I am aware, have been not at all unsatisfactory. If the present constitution has produced results their unsatisfactory nature has no relation whatever to the particular principle that we are now considering. I therefore feel, Sir, that this amendment is neither necessary nor urgent and it is a matter which can be well postponed without any evil consequences till a new constitution for the Council of State is established.

THE HON. MR. V. V. KALIKAR : You oppose the amendment ?

THE HON. SIR RAMUNNI MENON : Yes, I oppose the amendment and the Motion.

THE HON. RAJA CHARANJIT SINGH (Nominated Non-Official) : Mr. Chairman, I am glad the words "non-official" are proposed to be deleted from the original Resolution. The inclusion of these two words would have implied a distinction which I do not think my Hon. friend the Mover of the Resolution meant or desired. Even in the other House there is no such distinction. The rules lay down that the President of the Council is to be appointed by the Governor General from among the members. But the Resolution wants to take away that power from the Governor General and to make the appointment by election. The Resolution as it is worded does not say whether the election of the President would be from among the members only. As the Resolution raises a very important and constitutional point, I should not like to give my silent vote, but would like to put before the House, both

this side and that, my views for their consideration. The whole constitution is being reviewed. I could have thought that the question of selection of the President should well have been deferred for the present. But as it has been raised and the Resolution admitted by the Hon. the President, we have no option but to consider it in all its bearings.

First, let us see how this method of selection by the Governor General has worked so far for the last 25 years or more. I have had the honour of serving in this House since the days of the first Council. I have no hesitation in saying without fear of contradiction that each and every President has carried out his duties in a very impartial manner and has upheld the dignity and privileges of this House in a way which reflects great credit on all the occupants of the Chair. Coming to recent times, the Hon. Sir Maneckji Dadabhoy has been in the Chair for nearly 14 years. Every Hon. Member knows that no President, no matter in which way he was selected, whether by nomination or election, would have occupied the Chair with greater dignity. Sir Maneckji has upheld the traditions left to him by his distinguished predecessors in office, Sir Alexander Muddiman, Sir Montague Butler and Sir Henry Moncrieff Smith. Sir Maneckji has been impartial to both sides of the House and has shown an indulgence to each and every member whether official or non-official, which no one can complain of. I am sorry my Hon. friend the Mover brought in the question of elected *versus* nominated members in his speech. I refuse to believe, Mr. Chairman, that my Hon. friend wishes to deny the quality of sincerity and patriotism to nominated members. This would be a very unjust and uncharitable view to take. I give my elected friends credit for sounder views. Personally I have no doubt that the elected members are as sincere and patriotic as the nominated members—not more. The Hon. Sir Maneckji Dadabhoy himself and some of my other Hon. friends like the Hon. Sir Ramaswami Mudaliar, the Hon. Maharajadhiraja of Darbhanga and the Hon. Sir Jogendra Singh, have been at one time or other elected and later on nominated members or *vice versa*. Surely no one for a moment believes that the change in the method of selection has brought about any change in conscience, sincerity and patriotism. Some of my Hon. friends might be under the impression that selection by bodies other than the Government would bring in the millennium. If so the experience of the past 25 years, I am afraid, does not justify that assumption. On the other hand, selection by constituencies other than the Government has reduced the attendance in the House to a considerable degree. The number of elected members is 32 and that of the nominated, excluding the President, 25. The elected are therefore in a majority of 7. But the division list show that they have never succeeded in getting together more than 20 at the most and that too on very rare occasions, no matter how important the subject under discussion was. Some are inclined to think that this is because the constituencies after the elections are over have no touch with or control over their nominees. Or it may be that a large number of elected members purposely absent themselves because they and their constituencies do not wish to lend their support to some of the resolutions moved by their other colleagues. I do not think their absence is due to the fact that they find other work more important. Had that been so they would have left the work of this house to other and more willing shoulders. Or it may be due to the fact that some Hon. members are under the impression that the Government does not attach any importance to the work of this second chamber, on account of what is rightly or wrongly thought by some to be an evasive and lighthearted manner in which some of the suggestions of the Hon. members are treated. I am afraid I cannot agree with this. It may or may not be correct as regards the personal opinions of some members. Every one, whether elected or nominated, official or non-official, is perfectly entitled to hold any opinion he likes. But surely such an opinion, if it is held by any member cannot be considered the measure of importance which H. M. G. or the Government of India attach to the second chambers. Had it been so, where was the necessity of having this second chamber at all, or for the matter of that of having a second chamber in the mother of Parliaments itself.

As this chamber is constituted somewhat on the model of the second chamber in England, at least as regards its functions, it would be worth considering what is the practice in that House. The Chair in that House is always occupied by the Lord



Chancellor who is appointed by the Government of the day. This practice has been going on for centuries. As far as I know, no Government—Labour, Conservative or Liberal—has ever thought of replacing the Lord Chancellor by an elected President. Only in the House of Commons is the Speaker elected. So is the case in India. The President of the Assembly is elected.

Would we be justified in holding that the past experience of centuries be scrapped and that too at this particular juncture. I cannot see my way to subscribe to this view. In my humble opinion, we should in any case wait and see where we stand in the new constitution which is on the anvil. Moreover, we have no right to bind future Councils to any particular method which may appeal to us but may not possibly appeal to them. (*Applause.*)

**\*THE HON. MR. HOSSAIN IMAM** (Bihar : Muhammadan) : Mr. Chairman, I find that whatever be the defects of this Council of State, there is one thing in common with the Assembly : that we are as expansionist as the Assembly. The matter at issue was a very small one—whether the Presidentship should be an elected one or a nominated one—but from the Mover onwards people have indulged in passing remarks on subjects which are not at all germane to the present discussions. If I am also tempted, Sir, I might take an amount of time which you have generously allowed to be 15 minutes, but which I do not think is required on such a small Resolution. I feel, however, Sir, that there is an element of unreality in the situation. While the whole question of the future constitution of India is on the anvil it is rather too small a matter to bother our heads about. Nevertheless, it is a matter in which there is deep interest. I, Sir, do not wish to make any remarks about the occupation of the chair in the past, because on that issue I do not think it is proper that remarks should be made but I do feel that it is not compatible with our sense of dignity to regard that we are incapable of electing our own President. The example which was cited by Raja Charanjit Singh that the House of Lords has a permanent occupant did not take account of the nature of that House. There the whole House is a permanently imposed one. It does not go to the electorate for renewal of its credentials and I do regard it as a great honour that I have to go to my electorate and get my credentials renewed. If I had fulfilled the mandate which had been given to me I can come back again but if I fail I am not likely to come back here, whereas the nominated element has to please a very restricted and very small coterie and as such the Hon. Raja Charanjit Singh will find that even in the 1935 constitution the nominated element has been eliminated for the second Chamber. There is no future for the nominated element whether it be in this House or in the other House. It is because of their conduct and the way in which they have behaved that I think they are being eliminated. I am making these remarks, Sir, without any disrespect to any of my colleagues because it is not only the audience I am addressing I am making a general remark. It is the experience all over the world and especially in India that the nominated element which could have served a very good purpose of representing those interests, those people, who are unrepresented and voicing their difficulties and serving any useful purpose has become a fifth wheel and as such it is meeting with the fate which it deserves.

Sir, I wish to say one word more that I agree with the amendment of Mr. Kalikar because it does not look seemly that the change should be made during the currency of the present Council of State. I was thinking, Sir, that it is quite likely that the future constitution of India, which may be framed, may eliminate the second Chamber but that is no reason why as long as I am in the House I should call it names. If I do not like this House there is no reason for me to remain here. It is wrong in principle to ask to be elected and to come to the House and then to call it names. We have, I do not deny, a great sentimental feeling that I cannot carry a Resolution in this House, but in the last analysis is it any different from the Assembly where you carry your Resolutions. The executive at the moment is irresponsible, is not bound to carry out the mandate and the Assembly can refuse demands which are restored by the Governor General. If after all is said and done this is the fate of the Resolutions—ween our defeated Resolution and the Assembly's carried Resolution.

\*Not corrected by the Hon. Member.

If the Government is willing to concede to your desire it is not necessary to carry your Resolution—Government accepts it. If it is not willing to accept it and you carry it in spite of it, as we did once in a blue moon—in the 16 years that I have been in this Council I have only succeeded once.

**THE HON. SIB MAHOMED USMAN :** Was not a Resolution carried now ?

**THE HON. MR. HOSSAIN IMAM :** The Resolutions are carried according to your own convenience and with your permission, Sir. I say that inspite of it, if we carry a Resolution it is vetoed. The Viceroy's power of veto is being used here, as it is being used in the Assembly. To me it does not make any difference, although from the viewpoint of sentiment, I do feel it, and therefore I regard the remarks of the Hon. Raja Charanjit Singh as a warning that it is the fault of the elected members, who, after getting a mandate from the people, disregard their duty and do not remain present in the House. I think it is the duty of the Government of the day—especially of the Legislative Department—to see that the provisions of the rules are applied so that habitual absentees do not retain their seats and those seats are declared vacant.

I was saying that this question which we are discussing now is unreal in itself. We have outlived the mandate which we received from our electorate. We are all now practically nominated members, whether on this side or on that side. It is years since our mandate expired. We have been artificially revived on the oxygen of extensions, and it is because of extensions that many of our friends are here. Fortunately I was not one of them. So, the question of nomination is not bad in itself. It is the misuse of nomination which accounts for the unsatisfactory state of things. And when we ask for the right of election, it is no adverse reflection on the occupant of the Chair. It is in keeping with the changed nature, with the changed atmosphere, that we want that in future the Presidentship should be filled by election and not nomination. Sir, I support the amendment.

**THE HON. MR. SURPUT SING (West Bengal : Non-Muhammadan) :** Sir I beg to support the Resolution as accepted in the amended form by my Hon. friend Mr. Thirumala Row. Sir, the reasons for supporting such a change are based on two clear-cut facts. The first is the hard reality that a nominated President supported by a large block of nominated members always overboars the free atmosphere of this House. Secondly, there is the convention that has gained ground elsewhere that it is high time now for an elected President to come and preside over the deliberations of this House also. Sir, this Resolution, as amended, ought to receive the fullest support of all the members, elected and nominated. Let us declare our wishes in the most unequivocal terms about the change we want, and let us see that the Government does accept this Resolution as amended. With these words, I beg to support the Resolution as accepted by the Mover in the amended form.

**THE HON. MR. M. THIRUMALA ROW :** Sir, since there is not much controversy about the Resolution, I do not want to take up the time of the House. I am always ready to accept the sage advice of my Hon. friend Mr. Kalikar. I know I had not got much experience of this House when I was in the other House. One cannot understand all that happens by merely reading excerpts from proceedings. I have now gained enough experience of this House, having come here and worked as a member. I am not disparaging anybody. I am not calling names. I do not want to do anything of the sort. I am not accustomed to calling names. I merely pointed out the disadvantages under which members were labouring. I am willing to accept the amendment proposed by my Hon. friend Mr. Kalikar. I gave the reasons why I had put in those words in my Resolution, and I am willing to accept the suggestions of my Hon. friend Mr. Kalikar.

With regard to my Hon. friend Raja Charanjit Singh, I do not want to engage in wordy warfare with him, because he has been accustomed to such an atmosphere that it is impossible for his mind to imagine an atmosphere different from that to which he is accustomed. He is made to think all along, all these years, that the Council of state is equivalent to the House of Lords. The House of Lords is a hereditary chamber to which there is no election, and every member should be a Peer. A person has to be created a Lord before he can take his seat in the House of Lords

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And the Lord Chancellorship is the highest judicial office in England to which great judicial dignitaries and legal luminaries aspire. It is not a question of patronage, or of siding with the bureaucracy where there is perpetual opposition from the popular side. The biggest men in England aspire for the office. It is a place of honour in England. Therefore, to bring in such analogies does not look nice in this House. But that is exactly the reason why my suggestion should be accepted. When we go on living in an atmosphere in which some feel that election is inferior to selection and nomination, the time has come when we should rub our eyes and think well of ourselves. I am glad, Sir, that the Government is remaining neutral and allowing the free passage of this Resolution, and I hope—

**THE HON. SIR DAVID DEVADOSS :** The Government have accepted the Resolution.

**THE HON. MR. M. THIRUMALA ROW :** Accepted the Resolution, in the sense that they do not block the way. I hope the House will accept it.

**MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) :** Amendment moved :—

(1) That the word " Non-official " be omitted.

(2) That for the words " before the next session of the Council " the following be substituted namely :—

" before the first session of the next Council " .

The question is that this Amendment be adopted.

The Motion was adopted.

**MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) :** The question is that the Resolution, as amended, be adopted, namely :—

" This Council recommends to the Governor General-in-Council that the place of the President of the Council of State be thrown open for election by the members of the Council of State and to secure the necessary constitutional changes, before the first session of the next Council."

The Motion was adopted.

**MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) :** The next Resolution on the Agenda is No. 3, by the Hon. Pandit Kunzru. Government have agreed to give a separate day for the discussion of this particular Resolution. We shall therefore, take up the next Resolution on the Agenda.

#### RESOLUTION *RE* ENFRANCHISEMENT OF WIVES IN THE QUALIFICATIONS OF THEIR HUSBANDS

**THE HON. MR. SURPUT SING (West Bengal : Non-Muhammadan) :** Sir, I beg to move :—

" This Council recommends to the Governor General-in-Council that (i) steps may be taken for the enfranchisement of wives in the qualification of their husbands and (ii) persons who acquire the requisite qualifications up to September next may be enlisted as voters. "

Sir, the purpose for which I have brought this Resolution is quite evident on the face of it. What I want is (1) that wives are to be enfranchised on their husbands' qualification for the general election of the Council of State, and (2) that persons who were eligible to be enlisted as voters, but were not enlisted by January last, are to be enrolled as voters, provided they satisfy the qualification required by September next.

Sir, in the provincial Legislature, I speak from experience of Bengal—wives are enfranchised in the right of their husbands, both for the Lower and Upper House elections. The relevant provisions in that respect are to be found in Part IV of the Sixth Schedule, Bengal for the Assembly, and in Part IV of the Government of India Order, 1936 (Provincial Legislative Councils) for the Council. As those provisions, I am sure, will not be disputed, I refrain from reading them out to the House *in extenso*. What I now submit is that the analogy should be extended to the case of wives in respect of Council of State male voters. When the franchise is extended to vast majorities for the Assembly and the Council, there should be every reason for extending the same right to a very small minority, as the number in the case of Council of State will not be very large.

Women in their own rights possessed no franchise so far as this House is concerned till their disqualification was removed by this House only in recent years.

Then, Sir, if the franchise sought for is granted, the electorate will not be far beyond the limits of administrative possibilities, besides, the new franchise will qualify an important section of the community so far debarred from expressing its needs and opinions in the House of Elders. Then, Sir, in enfranchising, a number of women, who by reason of their age, experience and status in life, will bring to bear on the prospective candidates a deeper sense of responsibility as well as awaken political interest among women and make their votes an effective lever, particularly in matters of reforms concerning women and children.

As regards my second point to include as voters persons who have been left out in the electoral roll, which was prepared in great hurry and in a haphazard manner, without sufficient advertisements and circulation, as it was then thought that the general election for the Council of State would take place in next May or June, a lot of people whose cases were *sub judice* in the Income-tax Department from the middle of the last year as well as those people, who had not got their acquittance from Revenue or Agricultural Income-tax authorities in due course, could not get their names entered in the roll that was then being prepared. Most of these people have since then acquired the requisite qualifications to be enrolled as voters. It will, therefore, be an act of sheer injustice to them if in spite of their having acquired the necessary qualification they are to be shut out when the life of the Council itself has been extended till the end of this year.

In conclusion, Sir, I beg to submit that justice, good conscience and fair play impel us to provide franchise to wives on their husbands' qualifications, as done in the case of the Provincial Assembly and Council as also to make persons eligible as voters who would acquire the requisite qualification by the end of September 1946. In the event of my Resolution being accepted there will not arise any insuperable administrative difficulties in giving effect to the recommendations. For the first case a circular letter conveying the acceptance of the Resolution to the different Provincial Governments will introduce the necessary change forthwith and the roll already printed will just have a supplementary list. For the second a timely notification to the Income-tax Department and Collectors of the Districts will bring up the list up to date.

With these words, Sir, I commend this Resolution for the acceptance of this House.

**THE HON. SIR MAHOMED USMAN** (Leader of the House): Sir, I regret, I am unable to commend this Resolution to this House. As I have pointed out on previous occasions, this is the most inopportune time for attempting any piecemeal alterations in the structure of the franchise qualifications for either Chamber of the existing Central Legislature. Hon. Members are doubtless aware that the present Central Legislature is avowedly on a transitional footing and it would, I submit, be unwise to embark on a revision of the franchise qualifications for the Council of State at this stage.

There are also practical difficulties in the way accepting this Resolution as the electoral rolls for the constituencies of the Council of State have either been revised or are in the process of revision. I therefore oppose this Resolution.

**THE HON. MR. M. THIRUMALA ROW** (Madras: Non-Muhammedan): Sir, I rise to support this Resolution. I am not able to understand where the difficulty lies in accepting this Resolution. People who have already got electoral qualifications are on the register and if Government permit the registration as voters of the wives of these people who have got qualifications as voters, I do not see where the difficulty comes. That will also be giving an opportunity to a large number of women to come into the register and exercise their vote and take an intelligent interest in the affairs of our country. Government should welcome such an opportunity to encourage our womenfolk to get interested in our public affairs rather than fight shy of it. After all, there is a huge mechanism. I do not think also that this work will devolve on the Central Government. They can give directions to the Provincial Governments and all the Election Officers of the Provincial Governments. Just now there is only one election to be conducted for the Council of State and I do not see any strength in the argument adduced by the Leader of the House. I request the House to accept this Resolution.

**THE HON. MR. SURPUT SING :** Sir, it is for the Government to accept or reject my Resolution, because in this House it is generally the case that if Government does not like a Resolution, we cannot carry it. My Resolution is a very moderate one. There is no dispute that income-tax proceedings are pending and final assessment has not been made for the last two years in many cases and as such many names have been omitted from the lists. I want their names to be included in the voters' list. Another part of my Resolution relates to the enfranchisement of the wives of the qualified persons. I want their wives to be entered as voters on the qualification of their husbands. If Government has a mind to give franchise to the women, as has been done in the Provincial Assemblies and Councils, it can do so. I ask the Leader of the House to reconsider and if he finds any difficulty in accepting the 30th September, 1946, it may be made the 31st March, or any other date which the Government considers to be convenient and possible.

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : Resolution moved :—

" This Council recommends to the Governor General-in-Council that (i) steps may be taken for the enfranchisement of wives in the qualification of their husbands and (ii) persons who acquire the requisite qualifications up to September next may be enlisted as voters. "

The Question is that this Resolution be adopted.

The Motion was negatived.

### RESOLUTION *RE* EXEMPTION OF FOREST INCOME FROM TAXATION

**THE HON. MR. V. V. KALIKAR** (Central Provinces : General) : Sir, the Resolution that stands in my name runs thus :—

" This Council recommends to the Governor General-in-Council to take immediate steps to introduce legislation in the Central Legislature with a view to exclude forest income from being taxed under the Indian Income-tax Act, 1922. "

Sir, when the 1922 Income-tax Act was being discussed in the Assembly in the year 1922 an assurance was given on behalf of Government by the then Finance member, Sir Malcolm Hailey, that forest income will not be taxed. Rai Bahadur S. P. Bajpai moved an amendment to this effect :

"after clause 2(1) (b) insert the following :

\* \* \* \* \*

' Provided the piece of land on which the forest grows is either assessed to land revenue in British India or subject to a local rate assessed and collected by officers of Government as such'."

In opposing this amendment, Sir Malcolm Hailey said—

" I would add that if this point is not sufficiently clear from the Act, I am prepared to make it perfectly clear by executive instructions that if a land-owner grows on his own land, which is assessed to land-revenue, for rests or trees and derives income therefrom, he will not be assessed on such income. "

After that this practice continued up till 1940. In 1940, I believe, a decision of the Patna High Court made the Government of India change their practice. This was the case of the Province of Bihar versus Maharaja Pratap Uday Nath Sahi Deo, 20 Patna, 699. The facts of the case were that forest income was included under agricultural income and the Bihar Provincial Agricultural Income-tax Act and the Government of Bihar wanted to impose tax on income from forests. The defendants in the case opposed it and it was decided in this case that income from forest is not an agricultural income and from that day, Sir, the Government, I believe, issued departmental instructions to assess forest income and I think in all the Provinces the income-tax department is following the same practice. So far as I know in my province income derived from forest is assessed to income-tax. I would also like to cite the instructions under the Income-tax Manual of 1940. We find under Agricultural income they have included income received by a landowner from the sale of timber or lease of his own land and this income is excluded from income-tax under section 2(1) and section 2(1) (a). In this connection I first thought that the Act should be amended and therefore I tabled an amendment to the Act itself. But the Governor General withheld his consent to this amendment and therefore I have brought in this Resolution. I do not dispute the point that the contractor who purchases forest wood and derives income from it should

be taxed. But we, zamindars and malguzars grow forest on our own land. The income derived from forest growth forms part of the assessment of a village and we already pay land revenue to the Government. In my part of the province it is called Sivaijama, extra income. This practice of the Government is in contravention of their professions and promises, which they have followed up till 1940.

I therefore submit that Government should have no difficulty whatsoever in accepting my Resolution. It is a very small point but it causes great inconvenience to the forest owner and we think we are being doubly taxed. We are taxed with land revenue on that land and we are also taxed income-tax. It would have been much better if I had been allowed to discuss an amendment of the Income tax Act here. But as the Governor General has withheld his sanction for my proposed amendment of the Act, I have brought in this Resolution. I hope, Sir, the Council will accept it.

**THE HON. MR. G. S. MOTILAL (Bombay : Non-Muhammadan) :** Sir, I should like to give my support to the Resolution moved by my friend Mr. Kalikar. He has made a very good case. He has stated all the relevant facts. We know why agricultural income is exempted from income-tax. The reason is this, that they pay land revenue ; and once land revenue has been paid the same income is not to be assessed to income-tax. That is the principle of exemption. This principle applies also to forest income. And this was the practice followed by the Government up to 1940. The Patna High Court, however, took a different view and I think that is based on the language of the provincial Act. The phraseology of the provincial Act is not before me now. So far as the Government of India is concerned, they should not have departed from that policy. They should have stuck to the principle and given instructions that whatever the decision so far as provincial income-tax is concerned the Government of India ought not to have imposed a tax on agricultural income. I therefore give my support to it.

**THE HON. RAI BAHADUR SRI NARAIN MAHTHA (Bihar : Non-Muhammadan) :** Sir, I have just one point to add, which is peculiar perhaps to the Province of Bihar. There we pay land-revenue for the lands we cultivate or let out to the tenants. Another tax we pay is that known as the Road Cess. This goes to local Bodies for the roads they maintain. The third tax we pay is the Agricultural Income-tax on whatever we grow on the land for which we pay land revenue and cess. Then on the top of that, income derived from trees or from fruits is subjected to Income-tax. As the Agricultural Income-tax is not an incidence of taxation common to every Province, I thought I should place this point also before the House.

**THE HON. SIR CYRIL JONES (Finance Secretary) :** Sir, the object of the Resolution is to secure exemption of all forestry income from liability to Central income-tax. It is true that in 1922, when the Income-tax Act was before the Legislature, an attempt was made to include in agricultural income any income derived from forestry on land assessed to land revenue. I may point out in passing, Sir, that there is plenty of forest land which is not assessed to land revenue. I refer to forests in Zamindari estates in respect of which the assets, that is the income from forest land, were not taken into account in the calculation of the land revenue.

**THE HON. MR. V. V. KALIKAR :** I may inform the Hon. Member that in my Province that is not the case.

**THE HON. RAI BAHADUR SRI NARAIN MAHTHA :** Nor is it so in my Province.

**THE HON. SIR CYRIL JONES :** It is the case in certain Provinces, Sir. That is a distinction of which this Resolution takes no cognizance. When this amendment was before the Legislative Assembly, the then Finance Member explained that he had found it, and his legal advisers had found it, impossible to devise a formula which would limit the income derived from forests to that of income from the land only. However it was worded, it brought in other income which could not possibly be regarded as agricultural income, such as contractors' profits in working forests, to which my Hon. friend the Mover has referred, accordingly Sir Malcolm Hailey said that he would leave the matter to the ordinary operation of the Act, and gave the assurance that if the position were not clear executive instructions would be issued to remove any uncertainty as to the assessment of forestry income derived

[Sir Cyril Jones]

by land-owners from land assessed to land revenue. That undertaking was given, Sir, and that undertaking was implemented. But we are going back right to 1922, and since 1922 circumstances have changed in several respects. For instance, the uncertainty has been largely resolved, in that a number of judicial pronouncements have established that forest income, or at least certain classes of forest income, is not agricultural income as defined in the Act. Secondly—and more important—the executive instructions which were issued in pursuance of the assurance given by Sir Malcolm Hailey have now been removed from the competence of the executive Government by Act of the Legislature itself. The executive instructions were to have been issued, and were issued, under section 60, sub-clause (1) of the Indian Income-tax Act, which permitted the Central Government to make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income and so on. But in 1939 the Legislature saw fit to remove that power from the executive Government when they inserted clause (3) in section 60 of the Indian Income-tax Act, to the effect that after the commencement of the Indian Income-tax (Amendment) Act, 1939, the power conferred by sub-section (1) shall *not* be exercisable except for the purpose of rescinding an exemption, reduction or modification already made. In the light of these two changes, Sir, namely, that forestry income, using that term in a broad sense, had been held by judicial pronouncements to be not agricultural income, and that the power of exemption by executive instructions had been withdrawn from the executive Government by the Legislature, the central income-tax officers had no option but to assess this income when they came across it.

There is yet another vital change in conditions since 1922. The whole basis of the amendment which was then urged was the argument about double taxation, as my Hon. friend is pleased to call it. It was expressed by the Mover of that amendment in these words:—

“It is not fair simply because a Zamindar grows a forest that he should be called upon to pay both land revenue and income-tax.”

Now, that contention, Sir, was very shortly after turned down by the Taxation Enquiry Committee, and it had been finally rejected in the 1935 Government of India Act itself, which empowers Provincial Governments to levy income-tax on agricultural income. This development, I suggest, Sir, is a fundamental change in the circumstances in which Sir Malcolm Hailey's assurance was given. The point then at issue was whether income derived from forest should or should not be liable to income-tax. Now the point is only whether in such a case the income-tax should be levied by and accrue to a Provincial Government or the Central Government, and that, I submit, Sir, is a very secondary consideration when we are dealing with a question of principle. If we amend the Indian Income-tax Act to include forestry income in the definition of agricultural income, then it would cease to be taxable by the Central Income-tax Department but would immediately be taxable by the provincial Income-tax Department in those Provinces in which a system of agricultural income-tax is in being. A further change that has taken place is in regard to the ideas in the matter of progressive taxation. The argument put forward in 1922 was that Zamindars were over-taxed and they should be treated lightly because they were useful members of society and their beneficial activities should not be curtailed, but, according to the modern ideas, Sir, it is entirely unjustified that large net incomes, after payment of land revenue where land revenue is paid, of the land-owning classes—land-owners and Zamindars—should be exempted from progressive taxation.

The Government do however recognise that, where a landowner has an estate part of which yields him agricultural income which would be assessable by the province and part of which yields him income which would be assessable by the Centre, there is a certain degree of inconvenience caused to the landowner; and the Central Government, for its part, would be prepared to remedy that inconvenience, after consultation with the Provinces and with their concurrence, by including in agricultural income forest income derived by landowners from land assessed to land revenue. That is to say, they would be prepared to give away this revenue, provided in relinquishing it they were giving it to Provincial Governments and not to the Zamindars or land-owners themselves. Such a course would

obviously not be possible until every Province had introduced an Agricultural Income tax Act. The result of amending the Act in the way indicated, namely, by including forest income in agricultural income, would subject the income derived from forest by landowners in certain Provinces to income taxation by the Provincial Governments and in other cases would subject them to no income-tax at all; and we should have the disparities of taxation which exist as between the various Provinces still more clearly marked. In the circumstances, Sir, and until the position I have indicated is reached, the Central Government have no option but to oppose the suggestion put forward in this Resolution.

THE HON. MR. V. V. KALIKAR : Sir, my Hon. friend the Principal Finance Secretary has referred to the judicial pronouncements that have been made since 1922. In order to avoid citing cases in this House, and in order that I should not take a brief for any particular community—I mean the zamindars—I just wanted to bring to his notice the statement of Sir Malcolm Hailey and the procedure that was followed until 1940—his own Department's regulations and instructions—and to see whether, if he thinks that his own Department is going against his own instructions, he would take steps to remedy that. His first argument is that since 1922 many judicial pronouncements have been made, and, therefore—if I understood him correctly—his Department have issued instructions in regard to the taxing of forest income. Now, I will cite certain judicial pronouncements which are in my favour. It is my misfortune that I have to cite them and take the valuable time of the House.

Well, Sir, this question was first decided in Madras, and you will find a case in 45 Madras, 518. It was decided in that case that income from forests is included under agricultural income and that it is not a separate income. Then, Sir, we have another Madras case, I.L.R. 52 Madras, 12. In this case, under protest the assessee had paid the tax on income from forests and the court, asked the Government to refund that amount. Then, Sir, there is 51 Cal., 504; 52 Cal., 546; and 58 Cal., 430—Privy Council. In all these cases it has been definitely decided that income derived from forest comes under agricultural income and it cannot be taxed under the Income-tax Act. I am very sorry I have not been able to get a recent Federal Court case. But the Privy Council judgment was followed in the recent Federal Court case and it was decided that income derived from forests is included in Agricultural income and cannot be taxed under the Income-tax Act.

I will now read from page 240 of the Income-tax Manual issued on 31st December, 1945 :—

“Agricultural income :— This definition has not been amended by the Income-Tax Amendment Act, 1939, and the following examples merely illustrate what is, or what is not, agricultural income within the meaning of the definition. Examples of agricultural income :

Income received by a landowner from the sale of timber or trees grown on his own land.  
Land revenue assigned to a Jagirdar.”

It further says :—

“ Examples of income which is not agricultural income..... ”

I have already conceded that point. So, even in 1945, the Government of India had made no corrections in their instructions. And now my Hon. friend comes here and argues that times have changed, that judicial pronouncement have been made, that Provincial Governments have levied income-tax on agricultural income, and so on.

So far as the Provincial Governments are concerned, I would ask my Hon. friend to leave that point aside altogether, because, after all, in some of the Provinces they have an agricultural income-tax and in some others they have no such tax. So, that point should not be taken into consideration at all. But I charge the Government of India with taxing the people doubly, when they have made no correction in their own instructions, and when they have not brought in a Bill in the Assembly to change the Income-tax Act. I may be excused, in the circumstances, if I use the words “daylight robbery”. You have in your instructions said definitely that agricultural income includes such and such income. What right have you to issue instructions to your Department to get money from the agriculturist or from the forest owner because he owns a certain piece of forest? I cannot understand the view of the Government. When a certain point of view appeals to them, they should find



[Mr. V. V. Kalikar.]

out whether it is reasonable or unreasonable, instead of trotting out weak arguments. In this very case, the assessee has been taxed doubly during the last four years, in spite of the recent instructions of 1945. I know there are cases going on in my Province and we shall get the point decided by the Privy Council again. My point is that Government should follow their own instructions and should abide by the promises they have given to the public. Therefore, I want my friend to accept this and amend the Indian Income-tax Act if he thinks that the Act requires to be amended. Sir, in my Province—and I know this is also the case in some other Provinces too—the Income tax officers got power to assess forest income after these instructions were issued. The instructions were confidential, I know, because the public instructions are quite different. After the confidential instructions were issued by the Finance Department they have levied income-tax on forest income for the last 4 years. Government had no moral right whatsoever to tax this income when their own instructions were that forest income should be excluded. Sir, I am very sorry that I am not convinced by the argument advanced by my Hon. friend. In fact he has no argument. He tried to make out a weak case by some plausible arguments. He had absolutely no case. He knows it. I brought to his notice the instructions of 1940 and also 1945. I brought to his notice the promises given by Sir Malcolm Hailey. They want to go back over these promises. They do not want to keep the promises. They do not want to stick to the instructions. They want to issue confidential instructions to their officers and to take money from us. This is most objectionable on the part of the Government and I therefore request the House to accept my Resolution.

**THE HON. SIR CYRIL JONES:** Sir, on the question of law I do not wish to say anything. To every pronouncement which my Hon. friend can quote, I can quote two on the other side. It is settled law, I firmly believe, that income from forests of spontaneous growth is not agricultural income, and we have very good reason for holding from pronouncements of High Courts Judges of more than one High Court that income from cultivated forests is also not agricultural income. My Hon. friend has entirely overlooked the point I made that an assurance given in one set of circumstances cannot be operative when those circumstances change in such a way that it is impossible within the law to give effect to that assurance. The assurance given was that executive instructions would be issued not to assess forest income. Those executive instructions were issued. Latterly, since 1939, those executive instructions have become illegal by action of the Central Legislature.

**THE HON. MR. V. V. KALIKAR:** What about the instructions of 1940 ?

**THE HON. SIR CYRIL JONES:** There has been a lag in changing our practice and there has been a considerable lag in changing our instructions. That has now been remedied and the current instructions are in accordance with the law. Any instructions, confidential or otherwise, not to assess incomes to central income-tax which under the Act are assessable or liable to income-tax would be a breach of the law, and that I submit settles that point.

The last remaining point is that the argument of principle in regard to double taxation has been set at rest by the constitutional power vested in Provinces to impose tax on agricultural income. If Provinces can rightly and properly assess to income-tax net incomes, after payment of land revenue, derived from agriculture, there can be no objection in principle to the Central Government assessing net incomes which are akin to agricultural income but are not agricultural income, such as incomes derived from sylvicultural operations or from forest of spontaneous growth. These are my main arguments which, in my opinion, have not been met by the Hon. Member and I must maintain my opposition to this Resolution.

**MR. CHAIRMAN** (the Hon. Mr. M.N. Dalal): Resolution moved :

“ This Council recommends to the Governor-General-in-Council to take immediate steps to introduce legislation in the Central Legislature with a view to exclude forest Income from being taxed under the Indian income-Tax Act, 1922. ”

The Question is that this Resolution be adopted.

Question put : the Council divided :

AYES—13

<p>Buta Singh, Hon. Sir. Das, Hon. Mr. N. K. Das, Hon. Rai Bahadur Satyendra Kumar. Gibbons, Hon. Mr. J. M. B. Kalikar, Hon. Mr. V. V. Kunzru, Hon. Pandit Hirday Nath.</p>	<p>Mahtha, Hon. Rai Bahadur Sir Narain. Motilal, Hon. Mr. G. S. Niamatullah, Hon. Chaudhri. Roy Chawdhury, Hon. Mr. Susil Kumar. Rup Chand, Flt. Lieut., the Hon. Surput Singh, Hon. Mr. Yuveraj Datt Singh, Hon. Raja.</p>
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NOES—23

<p>Assadulla Khan Raisani, Hon. Sardar Bahadur Nawab. Ayyangar, Hon. Sir Gopaldaswami. Charanjit Singh, Hon. Raja. Chinoy, Hon. Sir Rahimtoola. Conran-Smith, Hon. Sir Eric. Das, Hon. Mr. M. L. Devadoss, Hon. Sir David. Ghosal, Hon. Sir Josna. Hissamuddin Bahadur, Brig. the Hon. Sir. Hutton, Hon. Lt.-Genl. Sir Thomas. Jones, Hon. Sir Cyril.</p>	<p>Khare, Hon. Dr. N. B. Khurshid Ali Khan, Hon. Nawabzada. Lal Hon. Mr. Shavax A. Mahomed Usman, Hon. Sir. Menon, Hon. Sir Ramunni. Mukherjee, Hon. Sir Satya Charan. Porter, Hon. Mr. A. E. Prior, Hon. Mr. H. C. Row, Hon. Mr. Thirumala. Sobha Singh, Hon. Sardar Bahadur, Sir. Sukthankar, Hon. Mr. Y. N. Townand, Hon. Mr. H. D.</p>
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The Resolution was negatived.

MR. CHAIRMAN (the Hon. Mr. M. N. Dalal) : I think this is a convenient time to adjourn the House.

THE HON. MR. M. THIRUMALA ROW (Madras : Non-Muhammadan) : I have got the last Resolution on which I do not want to make a speech. Government, I think, will accept my Resolution. We can rise before the scheduled time.

THE HON. SIR MAHOMED USMAN (Leader of the House) : There is no use of accepting the Resolution, because we have carried out the terms of the Resolution. We have in fact bought all drugs and medical and surgical equipment from the United States which have been declared surplus in India. We have already done what the Resolution wants. So it is not necessary to move it.

THE HON. MR. M. THIRUMALA ROW : On what is the Hon. Member making a statement ? I have yet to move my Resolution.

THE HON. SIR MAHOMED USMAN : I am telling the Hon. Member if he moves his Resolution without making a speech, we may be able to finish it after the reply of the Government Member.

RESOLUTION *RE* PURCHASE OF DRUGS, SURGICAL AND MEDICAL EQUIPMENT FROM THE AMERICAN ARMY IN INDIA

THE HON. MR. M. THIRUMALA ROW (Madras : Non-Muhammadan) :  
Sir, I move :—

“ This Council recommends to the Governor General in Council that all drugs and medical and surgical equipment of the American Army in India be purchased by the Government of India for use by the health services of the country. ”

The Resolution is self-explanatory. We hear a lot of things published in the papers that much American equipment is being destroyed. Even this morning's paper said that even tinned foods were being destroyed. In Cocanada we have got a hospital with 800 beds and up to date equipment run by the military. We were told that some of the equipment is being taken away. I do not know how it is being disposed of. They have got much medical stores and surgical equipment and other hospital equipment. I urge upon the Government of India to purchase all the material that is available and use it for the national health services.

THE HON. SIR MAHOMED USMAN (Leader of the House) : As I have already said, we have in fact bought all drugs, and medical and surgical equipment declared as surplus in India from the United States Forces. All the things they have left we have purchased. There is therefore no point in accepting the Resolution. The Hon. Member may as well withdraw the Resolution because we have already done what he wants.

**MR. CHAIRMAN** (the Hon. Mr. M. N. Dalal) : Hon. Members is it your pleasure that leave be granted to withdraw the Resolution.

**THE HON. MR. M. THIRUMALA ROW** : Why don't you oppose it ?

**THE HON. SIR MAHOMED USMAN** : I am not opposing it, because we have already carried out the terms of the Resolution. On the assurance given by me that we have already carried out the terms of the Resolution, I think the Hon. Member need not press his Resolution.

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

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#### ELECTION OF MEMBERS TO COMMITTEES.

**MR. CHAIRMAN** (the Hon. Mr. M.N. Dalal) : With reference to the announcement made on the 26th March regarding elections to certain Committees I have to announce that the following Hon. Members have been nominated for election to the following Committees :—

1. Advisory Board of Archaeology :—

The Hon. Mr. V. V. Kalikar.

There is one candidate for 1 seat and I declare him duly elected.

2. India Central Tobacco Committee :—

The Hon. Mr. M. Thirumala Row.

There is one candidate for 1 seat and I declare him duly elected.

3. All India Council for Technical Education :—

1. The Hon. R. B. S. K. Das.

2. The Hon. K.B. Keramat Ali.

There are 2 candidates for 2 seats and I declare them duly elected.

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The Council then adjourned till Eleven of the Clock on Monday, the 8th April, 1946.