

15th September, 1921

THE  
LEGISLATIVE ASSEMBLY DEBATES  
(Official Report)

VOLUME II

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SECOND SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1921



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# CONTENTS

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	Page
<b>THURSDAY, 1ST SEPTEMBER, 1921</b> . . . . .	1—6
Caths.	
President's Speech.	
<b>SATURDAY, 3RD SEPTEMBER, 1921</b> . . . . .	7—17
Inauguration of the Second Session of the Council of State and Legislative Assembly.	
<b>MONDAY, 5TH SEPTEMBER, 1921</b> . . . . .	19—155
Statements laid on the Table.	
Questions and Answers.	
Procedure in regard to Question and Answer.	
Motion for Adjustment to consider Moplah Outbreaks.	
Arrangement of business of the Assembly.	
Resolution <i>re</i> : Addressed of Welcome to H. R. H. the Prince of Wales.	
Resolution <i>re</i> : Welcome to H. E. Lord Reading.	
Demand for Supplementary Grant.	
The Indian Factories (Amendment) Bill.	
The Indian Electricity (Amendment) Bill.	
The Indian Penal Code (Amendment) Bill.	
The Maintenance Orders Enforcement Bill.	
The Code of Civil Procedure (Amendment) Bill.	
The Indian Emigration Bill.	
The Negotiable Instruments (Amendment) Bill.	
The Carriers (Amendment) Bill.	
The Indian Post Office (Amendment) Bill.	
The Indian Marine (Amendment) Bill.	
The Indian Works of Defence (Amendment) Bill.	
The Indian War Relief Trust Bill.	
The Moplah Outbreaks.	
<b>TUESDAY, 10TH SEPTEMBER, 1921</b> . . . . .	157—243
Oath.	
Questions and Answers.	
Message from the Council of State.	
Point of Procedure.	
The Exclusion from Inheritance Bill.	
The adoption (Registration) Bill.	
Resolution <i>re</i> : Repeal of Workmen's Breach of Contract Act.	
Postponement of the Discussion on Mr. Samarth's Resolution.	
Procedure for taking Divisions.	
Legislative Business.	

	PAGE
<b>THURSDAY, 15TH SEPTEMBER, 1921</b> . . . . .	245-379
Questions and Answers.	
Statement of Government Business.	
The Maintenance Orders Enforcement Bill.	
The Indian Penal Code (Amendment) Bill.	
The Negotiable Instruments (Amendment) Bill.	
The Indian Post Office (Amendment) Bill.	
The Indian Marine (Amendment) Bill.	
The Indian Works of Defence (Amendment) Bill.	
The Indian Lac Cess Bill.	
The Land Acquisition (Amendment) Bill.	
The Press Law Repeal and Amendment Bill.	
Resolution <i>re</i> : the Distinctions between Indians and Non-Indians and the Removal of their Mode of Trial.	
<b>MONDAY, 19TH SEPTEMBER, 1921</b> . . . . .	381-483
Oaths.	
Questions and Answers.	
Allotted Days for Voting on Supplementary Grants.	
Statement of Government Business.	
Election of Deputy President.	
The Indian Electricity (Amendment) Bill.	
The Carriers (Amendment) Bill.	
The Indian Lac Cess Bill.	
The Indian Income-tax Bill.	
The Indian Contract (Amendment) Bill.	
Message from the Council of State.	
<b>TUESDAY, 20TH SEPTEMBER, 1921</b> . . . . .	485-638
Death of Raja Sivanandan Prasad Singh	
Questions and Answers.	
Motion for adjournment.	
Bills passed by the Council of State.	
The Transfer of Property (Amendment) Bill.	
The Adoption (Registration) Bill.	
Resolution <i>re</i> : the Purity of Administration in the various Depart- ments of the Government of India.	
Resolution <i>re</i> : the Separation of Judicial and Executive Functions.	
Precedence of Notices of Bills and Resolutions.	
<b>WEDNESDAY, 21ST SEPTEMBER, 1921</b> . . . . .	637a-671
Oath.	
Questions and Answers.	
Election of Deputy President.	
Resolution <i>re</i> : Reconstitution of the Provinces of India.	
Resolution <i>re</i> : Transfer of Judicial Administration of the North- West Frontier Province.	

<b>THURSDAY, 22ND SEPTEMBER, 1921 . . . . .</b>	<b>673-903 -</b>
Questions and Answers.	
Unstarred Questions and Answers.	
Notice of Questions.	
Distribution of Blue Books	
Election of the Deputy President.	
Demands for Supplementary Grants.	
<b>FRIDAY, 23RD SEPTEMBER, 1921 . . . . .</b>	<b>909-975</b>
The Maintenance Orders Enforcement Bill.	
The Indian Penal Code (Amendment) Bill.	
The Indian Limitation (Amendment) Bill.	
The Indian Income-tax Bill.	
Resolution <i>re</i> : Purchase of Stores by the High Commissioner for India.	
Resolution <i>re</i> . the Construction of the Sukkur Barrage.	
Resolution <i>re</i> : Indian Autonomy.	
Programme of Government Business for the Rest of the Session.	
Use of the Chamber Precincts for a Non-Parliamentary Purpose.	
<b>MONDAY, 26TH SEPTEMBER, 1921 . . . . .</b>	<b>977-1064</b>
Statement laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Message from His Excellency the Viceroy.	
Programme of Government Business for the Rest of the Session.	
The Indian Factory (Amendment) Bill.	
The Code of Criminal Procedure (Amendment) Bill.	
The Exclusion from Inheritance Bill.	
The Press Law Repeal and Amendment Bill.	
The Code of Criminal Procedure (Amendment) Bill.	
The Cattle Trespass (Amendment) Bill.	
The Land Acquisition (Amendment) Bill.	
The Musalman Waqfs Registration Bill.	
Resolution <i>re</i> : Limitation of Hours of Work in the Fishing Industry.	
Resolution <i>re</i> : Establishment of National Seamen's Code.	
Resolution <i>re</i> : Unemployment Insurance for Seamen.	
Resolution <i>re</i> : Minimum Age for Admission of Children to Employment at Sea.	
Resolution <i>re</i> : Unemployment Indemnity Case of Loss or Foundering of a Ship.	
Resolution <i>re</i> : Facilities for finding Employment for Seamen.	
Message from the Council of State.	
Resolution <i>re</i> : Enhancement of Pensions of Civil Pensioners.	
Last Day of the Session.	

<b>TUESDAY, 27TH SEPTEMBER, 1921</b> . . . . .	<b>1065—1139</b>
Questions and Answers.	
Unstarred Questions and Answers.	
The Code of Criminal Procedure (Amendment) Bill.	
The Invalidation of Hindu Ceremonial Emoluments Bill.	
Resolution <i>re</i> : the Anti-Drink Movement in India.	
Messages from the Council of State.	
Resolution <i>re</i> : Equalizing the Number of Indians and Europeans in certain Posts.	
Resolution <i>re</i> : Amendment of Indian Evidence Act.	
<b>WEDNESDAY, 28TH SEPTEMBER, 1921</b> . . . . .	<b>1141—1218</b>
Questions and Answers.	
Unstarred Questions and Answers.	
Election of the Deputy President.	
Resolution <i>re</i> : Medical Diplomas of Indian Universities.	
Resolution <i>re</i> : Permanent Capital of India.	
Resolution <i>re</i> : Reserve Railway Compartments for Different Communities.	
Resolution <i>re</i> : the Postal System in India.	
Resolution <i>re</i> : Reserved Railway Compartments for different Communities.	
<b>THURSDAY, 29TH SEPTEMBER, 1921</b> . . . . .	<b>1219—1299</b>
Questions and Answers.	
Unstarred Questions and Answers.	
The Indian Income tax Bill.	
The Maintenance Orders Enforcement Bill.	
The Code of Civil Procedure (Amendment) Bill.	
Resolution <i>re</i> : Indian Autonomy.	
Resolution <i>re</i> : Recruitment for All-India Services.	
<b>FRIDAY, 30TH SEPTEMBER, 1921</b> . . . . .	<b>1291—1331</b>
Statements laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Point of Order.	
Resolution <i>re</i> : Recruitment for All-India Services.	
The Code of Criminal Procedure (Amendment) Bill.	
Resolution <i>re</i> : Railway Committee's Report.	
Resolution <i>re</i> : the Contribution to the Governor General in Council by the Government of Bengal.	
Provisional Date of re-assembling.	
<b>INDEX</b> . . . . .	<b>1—150</b>

# LEGISLATIVE ASSEMBLY.

Thursday, 15th September, 1921.

The Assembly met in the Assembly Chamber at Half Past Ten of the Clock. The Honourable the President was in the Chair.

## QUESTIONS AND ANSWERS.

### LISTED POSTS IN THE INDIAN CIVIL SERVICE.

148. **Rai G. C. Nag Bahadur**: Will the Home Secretary inform the House whether the Government intends to take any action to give effect to the Resolution adopted in this Assembly on the 17th February 1921, recommending that the listed posts in the Indian Civil Service be raised to one-fourth of the superior Civil Service posts in each Presidency or Province? If so, when?

**The Honourable Sir William Vincent**: The Government of India have drawn the attention of Local Governments to the Resolution referred to and have pressed them to consider whether the number of listed posts could not be raised at once to the maximum limit permissible under the present rules, *viz.*, one-sixth of the superior posts in each Province. They have also suggested for the consideration of Local Governments that as new superior posts are created on the executive side, the number of listed posts should be increased until this number becomes equivalent to 25 per cent. of the total number of superior posts. The Honourable Member will, however, understand that the rate of progress towards the attainment of these limits must necessarily vary with the conditions of the Indian Civil Service cadre in each Province.

### CIVIL SURGEONCIES IN ASSAM.

149. **Rai G. C. Nag Bahadur**: (a) With reference to the statement\* made on the 14th March 1921, in answer to my Question No. 456, namely, that three appointments of Civil Surgeons are reserved for Military Assistant Surgeons and one appointment for Civil Assistant Surgeons, will the Home Secretary tell the House how many Civil Surgeoncies including officiating appointments are at present actually held by the Military and Civil Assistant Surgeons respectively in Assam?

(b) With reference to the following passage contained in the reply given to my Question† No. 457 on the 14th March, 'The recommendation of the Public Services Commission was that after satisfying existing vested interests no more than one-third of the superior appointments not reserved for officers of the Indian Medical Service should be allotted to promoted Military Assistant Surgeons,' will the Home Secretary please explain clearly what he means by this statement? How many superior posts are there in the medical service of Assam, and what proportion of them is reserved for the Indian Medical Service, and what for the Assistant Surgeons, Civil and Military?

(c) With reference to the following statement made in the answer to the same question, namely, 'it is doubtful whether these appointments (namely,

\* *Vide Legislative Assembly Debates, Vol. I, pages 983-84.*

† *Vide Legislative Assembly Debates, page 984.*

Civil Surgeoncies of certain Hill Districts) would be much sought after by Civil Assistant Surgeons,' will the Home Secretary state for information of the House the nature of the evidence on which the statement is based? Has the Government come to this conclusion after ascertaining the views of the Civil Assistant Surgeons of Assam?

(d) Is it not a fact that during the war, the posts of Civil Surgeons in the Lushai Hills, the Garo Hills, the Naga Hills and the Sadiya Frontier Tract were actually held for a number of years by Civil Assistant Surgeons?

**Mr. H. Sharp :** (a) At present 3 permanent Civil Surgeoncies are held by Military Assistant Surgeons and 1 by a Civil Assistant Surgeon. One officiating Civil Surgeoncy is held by a Military Assistant Surgeon and 1 by a Civil Assistant Surgeon.

(b) The Honourable Member does not state which portion of the passage referred to by him is enigmatical. The words 'existing vested interests' no doubt apply to holders of existing appointments who cannot in fairness be removed from their posts or deprived of their prospects of higher posts. The reply was in answer to a Question regarding the recommendations of the Public Services Commission and quoted the terms of that recommendation. There are 16 superior posts in the medical service in Assam excluding the post of Director of the Pasteur Institute, Shillong, which is held by an officer of the Bacteriological Department. Of these, 11 are at present reserved for officers of the Indian Medical Service, 3 for Military Assistant Surgeons and 1 for a Civil Assistant Surgeon. The extent to which the employment of officers of the Indian Medical Service will be necessary in future under rule 12 of the Devolution Rules is at present under consideration as stated in the reply given by Mr. O'Donnell to Mr. S. Mudaliar's Question to which the Honourable Member was referred in Mr. O'Donnell's reply, dated the 14th March 1921.

Except so far as Local Governments may be required to employ Indian Medical Service officers under the rule above referred to, the recruitment of the medical services will now be regulated by them.

(c) The Government of Assam (that is to say, the Governor and Minister of Education) have informed the Government of India that though they are not in a position to say that Civil Assistant Surgeons would not accept Civil Surgeoncies in hill districts, there are certain conditions inseparable from life in such districts other than the Khasi and Jaintia Hills which, it is believed, are distasteful to Civil Assistant Surgeons. The Government of Assam further state that one drawback to posts in hill districts is the lack of educational facilities for the children of Civil Assistant Surgeons and the loneliness of the life for their wives. It is believed that most of them prefer to live and work in the plains districts where they and their families are better able to enjoy the amenities of life. The views of the Civil Assistant Surgeons were not sought for or obtained. The so-called statement was merely an expression of opinion.

(d) The answer is in the affirmative.

#### EXPORT OF FOOD GRAINS FROM INDIA.

150. **Rai Bahadur Fakshi Sohan Lal :** Is there any proposal for consideration before the Government to stop export of food grains from India in view of the unprecedented high prices of the grains in all parts of India?

**Mr. J. Hullah :** The export of all food grains and flour is already under severe restrictions amounting to almost complete prohibition.

I would invite the Honourable Member's attention to this Government's communiqué of the 2nd September, in which it was said that the existing prohibition of the export of wheat and flour would continue in full force until at least the end of March 1922.

The export of barley, gram, maize, jowar, bajra and all kinds of dal is restricted even more severely than that of wheat and flour. As in the case of wheat and flour, export of these commodities is allowed only in definite quantities to certain countries most of which have large or considerable Indian populations.

No licenses may be granted for the export of any grain, pulse or flour to any European country, except for a very small quantity of broken rice from Burma.

Finally, I may say, that the total export of grain, pulse and flour from India during the last 12 months has been less than one fourth of the annual average exported before the war. More than half of the last Burma rice surplus was reserved for India, and imports of Burma rice into India during the last 12 months have been more than double the total exports of all food grains and flour from India. No further proposals for the restriction of exports are under consideration.

#### INSINUATIONS AGAINST A JUDGE OF THE CALCUTTA HIGH COURT.

151. **Mr. K. C. Neogy :** (a) Has the attention of Government been drawn to certain articles that have appeared from time to time in the Press of Bengal, particularly in the *Hitabadi*, dated 16th July 1920, 27th May 1921, and 17th June 1921, in which certain insinuations have been made against a Judge of the Calcutta High Court in connection with the engagement of certain relatives of his as lawyers in cases tried by the said learned Judge ?

(b) Have Government any information as to whether these articles have attracted the attention of the Chief Justice and Judges of the Calcutta High Court ?

(c) If not, do Government propose to draw the attention of the learned Judges thereto and inquire whether any action has been or is proposed to be taken in the matter ?

**The Honourable Sir William Vincent :** (a) The Government of India have seen the articles referred to.

(b) No.

(c) The Government of India do not propose to take any action in the direction suggested.

#### COST OF OFFICERS IN THE IMPERIAL SERVICES.

152. **Mr. K. C. Neogy :** (a) What was the average annual cost per head of officers in the different Imperial Services, under (i) salary, (ii) pension, and (iii) allowances, etc., according to the scales in force on the following dates :

April 1, 1900, April 1, 1919, and April 1, 1921 ?



(b) What would have been the average annual cost per head in the case of these different Services, had the recommendations of the Public Services Commission (presided over by Lord Islington) in regard to salary, etc., been given effect to ?

**The Honourable Mr. W. M. Hailey :** I regret that I cannot undertake to have these statistics worked out for the Honourable Member. He will admit that we always do our best to supply information as to facts within the cognizance of Government ; but to require our officers (already hard put to it to answer in time the many questions asked of them) to work out a series of hypothetical figures would be to cast on them an unreasonable burden. I think that I may well ask the Honourable gentleman to exhibit greater consideration to our staff.

#### IMPERIAL SERVICES IN INDIA.

153. **Mr. K. C. Neogy :** Will Government be pleased to lay on the table all papers relating to proposals, that may be under consideration, for further improving the terms and conditions of the different Imperial Services in India ?

**The Honourable Mr. W. M. Hailey :** The orders of the Secretary of State on the memorials of the Imperial Services as to their pay have already been published in the Resolutions of the Government of India No. D.-449 in the Home Department, dated the 26th July 1921, and No. 1559-E.A. in the Finance Department, dated the 16th August 1921. Government do not propose to lay on the table any further papers.

#### MEMBERS OF THE CENTRAL LEGISLATURE WHOSE ELECTION HAS BEEN SET ASIDE.

154. **Mr. K. C. Neogy :** Will Government be pleased to make a statement giving, province by province, the names of Members of the present Central Legislature, whose election has been set aside upon election inquiries, together with a summary of the findings as given in each such case by the Election Commissioners ?

**The Honourable Dr. T. B. Sapru :** The only Member of either Chamber of the Indian Legislature whose election has been set aside as the result of an election inquiry is Mr. Sambanda Mudaliar who was elected to the Legislative Assembly by the Salem and Coimbatore *ex* North Arcot (Non-Muhammadan Rural) Constituency. The Honourable Member is referred to the Gazette of India, Part I, dated the 28th May 1921, in which the Report of the Commissioners was published.

#### RETURN OF POLITICAL PRISONERS FROM THE ANDAMANS.

155. **Mr. K. C. Neogy :** With reference to the statement made by the Honourable Sir William Vincent in the Legislative Assembly on the 11th March 1921, that 'we have issued orders that all political prisoners shall be immediately returned from the Andamans,' will Government be pleased to state the date on which the said orders were issued, the number of political prisoners belonging to each province who were in the Andamans on the said date, and the different dates on which they were actually returned ?

**The Honourable Sir William Vincent:** On the 23rd November 1920 we asked Local Governments concerned if they would be willing to take back their political prisoners provided accommodation was available.

According to our information, there were then 46 in the Settlement of whom 2 belonged to Bombay, 13 to Bengal, 2 to the North-West Frontier Province; 5 to Burma and 24 to the Punjab. Of these, the Bombay prisoners left Port Blair on the 2nd May and the Bengal prisoners on the 28th July. The transfer of the Punjab prisoners is being arranged by the Chief Commissioner and the Local Government in direct communication. We understand that so far 19 of them have been transferred to Madras. Orders have been issued for the return of the 2 men from the North-West Frontier Province. The Burma political prisoners are self-supporters and one at least has married locally. They will be sent back if they wish to go.

VALUE OF SURPLUS STORES.

156. **Mr. T. V. Seshagiri Ayyar:** (a) What is the total face value of the surplus stores which the Government had for disposal on the completion of the war?

(b) How much has been sold and how much yet remains to be sold?

(c) Are the stores offered for sale as the property of the British Government or as belonging to the Government of India?

(d) If the former, is it a fact that the British Government has debited the Government of India with the face value of the surplus stores?

(e) Is it a fact that in many cases on such sale these stores realise only a fraction of their face value?

(f) What has been the loss to the Government of India from these sales?

(g) Has any representation been made to the British Cabinet against debiting the Indian Government with the face value of the surplus stores?

**Sir Godfrey Fell:** A comparatively insignificant quantity of stores belonging to the Indian Government has, since the Afghan operations, been discovered to be surplus to requirements. Their sale is now proceeding, and up to the end of last July about four lakhs have been realized by the sales organisation. This sum, less 3½ per cent. commission, *on sale* will of course be credited to Indian revenues.

It is not possible to compute the original face value of these Indian surpluses. Nor can the loss, if any, incurred by selling them below their face value be computed. As a whole, however, such stores cannot be expected to fetch second hand as much as they originally cost.

2. The Honourable Member's question is, however, understood to refer to the great bulk of surplus stores remaining in India at the end of the Great War, which were accumulated on behalf of the British Government, and are the property of that Government. These stores are now being disposed of by a special Commissioner sent by the British Government to India for that purpose. It is not a fact that India has been debited with the face value of these surplus stores, excepting such as India has actually consumed or has retained for her normal consumption; and India has suffered no loss from the same.

In view of the foregoing statement of fact, the remaining portions of the question do not require an answer.

## PREPARATION OF COST ACCOUNTS.

157. **Mr. T. V. Seshagiri Ayyar:** (a) Is it true that a firm of Chartered Accountants has been requisitioned from Great Britain to assist the Government of India in the matter of cost accounts?

(b) What are the terms of their remuneration, what is the period of work for which they have been requisitioned and what is the total estimate of the expenditure on them?

(c) Are there none in the Indian Civil or Military Accounts Departments competent to do the above work?

(d) Is not work of similar nature being done at present in the Railway Accounts Office by the Government Staff?

(e) Did the Government consider the desirability of sending a few men of experience and marked capacity in the Civil and Military Accounts Service for special training to England instead of importing new men from England for a short period?

**The Honourable Mr. W. M. Hailey:** (a) The answer is in the affirmative. The information is contained in the reply laid on the table.

(b) The Honourable Member is referred to the answer given on 10th September 1921 in reply to a Question by Mr. Neogy on the same subject.

(c) We have no officers in the Indian Civil or Military Accounts Service capable of giving us the expert advice we require from this firm.

(d) Work of somewhat similar nature, but of a far more simple character, is being done in the Railway Accounts Offices.

(e) It was considered whether it would be preferable to send selected officers for special training in England. In general, the Government of India have expressed themselves as favouring this procedure instead of importing specialists from England. In this case, however, the Auditor General considered and the Government of India concurred that the matter was both urgent and important, and that no officer of the Department studying at Home for a few months could offer advice which would compare in value with that now being obtained from the firm who have undertaken this investigation.

## DEATHS OF PASSENGERS IN TRAINS.

158. **Rai Sahib Lakshmi Narayan Lal:** (a) Will the Government be pleased to state how many deaths of passengers in trains have been reported during the last hot weather?

(b) How many of them are third class passengers? What causes have been reported for their deaths?

(c) Is it a fact that many of these deaths are on account of the want of proper arrangement for drinking water for third class passengers?

(d) Is it a fact that although water pipes have been provided in the trains, they seldom supply water and even when they supply water, it is considered objectionable to be used for drinking purposes as the pipes have been placed in the privies?

(e) Does not the Government propose to make adequate arrangement for drinking water for passengers in the train itself by providing water pipes outside the privies ?

**Colonel W. D. Waghorn :** The information asked for in items (a), (b) and (c) is not available.

(d) The water supplied in railway carriages is intended to be used for washing, and not for drinking purposes.

(e) The necessity for the provision of an ample supply of drinking water for passengers is fully realised and railways arrange for this supply by means of watermen specially appointed for the purpose. Standpipes are also provided on railway station platforms. The question of providing a supply of drinking water for passengers by means of pipes fitted in railway carriages has received consideration but is considered impracticable.

DISBANDMENT OF THE 2ND-73RD MALABAR INFANTRY.

159. **Mr. K. M. Nayar :** (i) Is it a fact that the authorities are considering the disbandment of the 2nd-73rd Malabar Infantry ?

(ii) Is the Government aware of the great anxiety and heart-burning which the news has caused in Kerala and to all her well-wishers ?

(iii) Is it not a fact that the above regiment is the only one of its kind set apart for the Malayalese ?

(iv) Is it not a fact that the above regiment is the outcome of great exertions, at the outbreak of the late war, on the part of those interested in the revival of the old martial spirit, among Malayalese ?

(v) Is it not a fact that the above regiment has elicited praises and compliments from officers who have had to work with the regiment ?

(vi) Do the Government propose to consider the question and order the retention of the regiment, or if already too late, the rectification of any serious blunder in this matter ?

**Sir Godfrey Fell :** (i) Orders for the disbandment of the 2-73rd Malabar Infantry issued on the 5th July 1921.

(ii) Government are aware that the decision to disband any Indian regiment must inevitably cause a feeling of regret in the district from which the regiment was raised ; but owing to the reductions which are being made in the Indian Army, the disbandment of units which are surplus to India's requirements must be carried out.

(iii) Yes, the 2-73rd Infantry is the only unit in the Indian Army for which Malayalese were authorised.

(iv) The Government of India have no doubt that considerable efforts were made to raise this regiment and these efforts are fully appreciated.

(v) The Government of India regret that it is not the case that the battalion fully justified the hopes that may have been entertained regarding the revival of the martial spirit amongst the class of which the battalion was formed. It was considered unfit for service in Mesopotamia and had therefore to be returned to India.

(vi) The Government of India regret that they cannot reconsider the decision to disband the battalion.

## RECOMMENDATIONS OF THE INDIAN JAILS COMMITTEE.

160. **Mr. B. S. Kamat:** (a) With reference to the Report of the Indian Jails Committee, 1920, will Government be pleased to state if any action has been taken or is proposed to be taken in the matter of the following recommendations of the Committee, *viz.* :

- (1) Paragraph 121 of the Report, classification of non-habitual prisoners into (a) a Star class and (b) Ordinary class, the Star class to have special treatment in respect of sleeping accommodation, parade and labour.
- (2) Paragraph 130, recommendation to divide simple imprisonment into two kinds, (a) without liability to any labour, and (b) with liability to light labour.
- (3) Paragraph 132, recommendation that no special treatment be granted to political offenders (such as is allowed in Great Britain to offenders in the first Division in respect of separate accommodation, supply of one's own food, clothing, etc.).
- (4) Paragraphs 272 and 273. Provision of compulsory education, books, and periodicals or manual instruction for prisoners under 25 years of age.
- (5) Paragraph 303, recommendation that a prisoner appearing in a Court as a witness should be in ordinary clothes, without fetters.
- (6) Paragraphs 369, 370, recommendation for creation of children's courts for hearing of all cases against children and young persons?
- (7) Paragraph 454, recommendation for the creation of Revising Boards composed of the Inspector-General of Prisons, the Sessions Judge, and a non-official to consider the release of prisoners in advance of their terms of imprisonment.
- (8) Paragraphs 279, 280, recommendation for providing Hindoo, Muhammadan, Buddhist or Christian Ministers of religion for the religious and moral instruction of prisoners.
- (9) Paragraph 290, as much variety as possible in jail diet.
- (10) Paragraphs 472 to 486, better treatment for undertrial prisoners in respect of accommodation, food, clothes, supply of books, tobacco, etc.
- (11) Abolition of solitary confinement in jails; and abolition of transportation from the Indian Penal Code.

(b) Do Government intend to place the Indian Jails Committee's Report for discussion before the Legislative Assembly in the present Session?

**The Honourable Sir William Vincent:** (a) I lay on the table copies of the letters issued to Local Governments on the subject of the recommendations of the Jails Committee. The Honourable Member will be able to ascertain from these letters the action taken on the points to which he particularly refers. The recommendations in paragraph 369 for the creation of children's courts are still under the consideration of Government.

It has been decided to abolish the punishment of transportation, and legislation to effect this decision will be introduced as early as possible.

(b) Copies of the Report were placed in the hands of the Members of this Assembly in the course of the last Delhi Session and it is open to them to ascertain by questions what action the Government propose to take on any point or to indicate by the adoption of Resolutions the opinion of the Assembly on any of the Committee's recommendations or the Government's proposals. The Honourable Member will perhaps agree that a general discussion of a report like that of the Jails Committee, with its multifarious recommendations, is not likely to be profitable. If, however, I can give the Honourable Member any further information which he requires, and he will ask for it, I shall be only too glad to assist him.

No. 305, dated Delhi, the 16th December 1920.

From—S. P. O'Donnell, Esq., C.I.E., I.C.S., Officiating Secretary to the Government of India, Home Department,

To—

- { The Secretary to the Government of Madras, Home (Judicial) Department.
- { The Secretary to the Government of Bombay, Judicial Department.
- { The Chief Secretary to the Government of Bengal.
- { The Secretary to the Government of the United Provinces, Judicial Department.
- { The Revenue Secretary to the Government of the Punjab.
- { The Secretary to the Government of Burma, Judicial Department.
- { The Secretary to the Government of Bihar and Orissa, Municipal Department.
- { The Second Secretary to the Honourable the Chief Commissioner of the Central Provinces.
- { The Second Secretary to the Honourable the Chief Commissioner of Assam.
- { The Honourable the Chief Commissioner and Agent to the Governor General North-West Frontier Province.
- { The Chief Commissioner of Coorg.
- { The Chief Commissioner of Delhi.

I am directed to forward, for the information of His Excellency the Governor in Council His Honour the Lieutenant-Governor (in Council), etc.

advance copies of the report of the Indian Jails Committee of 1919-20. As it has not yet been decided whether the report is to be published or not, I am to request that it may for the present be treated as strictly confidential and shown only to such selected officials as the Governor in Council etc. may decide to consult on the subjects discussed in this and subsequent letters.

2. The report forms the first general survey of Indian prison administration that has been made since 1889. During the 30 years that have elapsed since that date, there have been important developments both in the theory and practice of prison administration and extensive reforms have been carried out in India as in other countries. In certain respects the improvement effected has been particularly marked, for example, in buildings, in the dietary of prisoners, in the regulation of their labour, in the system of remissions and especially in the sanitation of prisons. At the same time, the Committee have reached the conclusion that Indian prison administration has not made equal progress on the reformatory side of its work. It has, to some extent, possibly not realised the effect which humanising and civilizing methods have on the mind of the individual prisoner and has rather focussed its attention on his material well-being, his diet, health and labour, with the result that Indian prison treatment has been criticised as deterrent rather than reformatory in its results. The Government of India feel that the time has come when a serious effort should be made to remedy this defect in our prison administration, and they consider that the report now enclosed, which by reason of the composition of the Committee, its searching investigations and its carefully formulated conclusions, is a document which carries great weight, forms an admirable foundation for such a policy. The responsibility for carrying out that policy must rest in the main on local Governments. Under the reforms scheme, prison administration

will be a provincial subject and, in view of this, the Government of India are about to address Local Governments in a separate communication on the question whether the Governor General in Council should retain or should delegate the statutory powers of control which he now exercises under Act IX of 1894. But, whatever may be the decision on that question, Local Governments will have to provide funds for, and carry out such measures of reform as may be approved, and though some of these measures may have to be postponed for some time for financial reasons, it is desirable that a decision on all the more important matters discussed in the Committee's report should be arrived at as soon as possible.

3. The Government of India have carefully considered what would be the most convenient procedure for attaining this object and have decided that the best course will be to address Local Governments in a series of five or six letters, each of which will discuss a group of chapters in the report dealing with subjects of a more or less cognate nature. The present letter relates to the recommendations of the Committee contained in Chapters III (General propositions), IV (Inspection and superintendence of prisoners), V (Prison establishment), VI (Convict officers), XVIII (Visitors) and XX (Subsidiary Jails). These chapters will be discussed *seriatim* and the discussion of each will, where necessary, be divided into two parts :

- (a) matters in regard to which the Government of India feel themselves to be now in a position to issue directions or offer advice ; and
- (b) matters in regard to which the Government of India will be glad to have the opinions or advice of Local Governments. The latter sub-division will necessarily include such of the proposals of the Committee as would involve legislation.

#### *Chapter III.*

4. The Governor General in Council presumes that all Local Governments will agree with the general propositions regarding the aims and essentials of prison administration laid down in this chapter. Most of these propositions are now accepted by the general consent of penologists throughout the world. None of them are inconsistent with the policy at present regulating prison administration in this country, though in certain respects—for example, in the provision of reformatory influences in prisons and of assistance to prisoners on release—practice has hitherto not kept pace with theory. The practical measures required to give effect to these general propositions will form the subject of this and subsequent letters and the Government of India feel that in the circumstances a detailed discussion of the contents of Chapter III at this stage would serve no useful purpose.

#### *Chapter IV.*

5. The Government of India accept the view of the Committee (paragraph 27) that the concentration of prisoners in central jails is, as a matter of principle, desirable on grounds both of efficiency and economy. They also agree with the Committee (paragraph 26) that theoretically the number of prisoners to be placed under the charge of a single Superintendent should, where possible, be restricted to a thousand, though for the present the maximum accommodation to be provided in any one jail cannot for practical reasons be fixed at less than 1,500. The latter figure is, however, as pointed out in a subsequent paragraph of the report (Chapter XII, Section V), exceeded in the case of several of the existing central jails in provinces where overcrowding is rife, and the Government of India think that, where this has not already been done, Local Governments should draw up a carefully considered programme of jail construction, to be spread, if necessary, over a number of years, the object being to concentrate all prisoners as far as possible in central jails and to disperse with the smaller district jails, the cost of which is relatively high and where discipline is apt to be lax. In provinces where the figures show that one or more new central jails are required, sites for such jails should be selected at once, and financial provision should be made for their construction as soon as circumstances permit. The Government of India also accept the view of the Committee (paragraph 29) that there is no object in retaining the existing distinction between first and second class central jails and that every central jail should, as a matter of principle, be provided with a whole-time Superintendent. They also agree that there should be a whole-time Superintendent for all district jails of an average population of 300 or more (paragraph 33), though they recognise that some time must elapse before a sufficient number of trained Superintendents can be available, and that in the interval the only practicable course will be to retain the present system under which the charge of the district jail is part of the duties of the Civil Surgeon. Where eventually the whole-time Superintendent is not a medical man, the medical charge of the jail must be entrusted to the Civil Surgeon or to one of his

headquarter assistants, as recommended in paragraph 38. It does not seem likely that, as suggested in paragraph 40, one result of the reforms will be to relieve the Civil Surgeon of the responsibility for medical institutions belonging to local bodies.

6. The Government of India think all Local Governments will probably accept without cavil the recommendation contained in paragraph 34 that picked men of the jailor service should be eligible for promotion to the rank of Superintendent of a district jail. They agree with the Committee (paragraph 35) that such promotion would be more suitable than the appointment of jailors as Deputy Superintendents in charge of the manufacturing departments of the larger central jails. With regard to the suggestion made in paragraph 36 of the report that recruitment to the rank of Superintendent should occasionally be made from other departments, this is a matter which the Government of India leave to the discretion of Local Governments. They suggest, however, that in provinces where such promotion would be suitable, the Local Government should define in a rule made under Section 60 (c) of Act IX of 1894 the classes of officials to be considered eligible for such promotion.

7. In paragraphs 41-43 the Committee have discussed at some length the question whether the executive and medical charge of a central jail should be combined in the person of a single officer, as at present, and have come to the conclusion that the existing system of recruiting Superintendents of central jails from the Indian Medical Service and of giving them combined executive and medical charge has been successful and should on grounds of economy be continued. At the same time they think that a fair proportion of posts of Superintendents of central jails should be reserved for selected officers, whether medical or non-medical, who have done good service as Superintendents of district jails. These proposals are accepted by the Governor General in Council, subject to any decision that may be arrived at regarding the general reorganisation of the State medical services. The percentage of posts to be filled by selected Superintendents of district jails must be fixed for each province by the Local Government. In paragraph 45 the Committee have recommended that with a view to securing uniformity in important matters of jail administration, there should be held in every alternate year a conference of Inspectors-General of Prisons, to which selected jail Superintendents and non-officials interested in jail administration might be invited. The Government of India entirely agree with this proposal and consider that it is on many grounds preferable to the appointment of a Director-General of Prisons under the Government of India, who would visit all provinces and advise Local Governments. They hope, if possible, to hold the first Conference during the winter of 1921-22 and it would be of great assistance if Local Governments would, by the end of June 1921, submit a list of subjects suitable for discussion at the first Conference.

8. There remain a few recommendations made in Chapter IV on which the Government of India would be glad to have the opinions of Local Governments. These are :

- (a) the rate of pay recommended (Rs. 500—25—750) for whole-time Superintendents of district jails,—paragraph 37 ;
- (b) the allowances suggested in paragraph 38 for the medical charge of a district jail when entrusted to the Civil Surgeon ;
- (c) the allowance of Rs. 200 a month proposed in the same paragraph when both the administrative and medical charges of a district jail are entrusted to the Civil Surgeon ;
- (d) the proposal in paragraph 44 that the post of Inspector-General of Prisons should be thrown open to all Superintendents of central jails; whether medical or non-medical, Indian Medical Service or non-Indian Medical Service. This is a question in regard to which the Government of India feel some doubt. One of the most important functions of an Inspector-General is to give advice and guidance to Superintendents on matters connected with health, dietary and sanitation, and for the proper discharge of this duty expert medical knowledge would seem to be an indispensable qualification. If the Inspector-General is not himself a medical man, it might be necessary to provide him with an expert medical adviser. Such an arrangement would obviously be more expensive than the appointment of a medical man as Inspector-General.
- (e) In paragraph 46, the suggestion is made that before any person who has not had previous service in the Jail Department, is appointed as a whole-time Superintendent of a district or central jail, he should undergo a period of 6 months'



training under a selected Superintendent of a central jail. The Government of India are inclined to approve this recommendation in principle, but are not certain that it will be at all times practicable. Before coming to a definite decision on the question, they would be glad to have the views of Local Governments.

- (f) The same remarks apply to the suggestion made in paragraph 47 that the rules relating to study leave should be so extended as to enable Superintendents of district or central jails to devote some period of their leave to a study of jails and connected questions in Europe or the United States of America.

*Chapter V.*

9. The recommendations regarding prison establishments contained in this chapter all concern points on which local Governments are competent to pass orders, either in exercise of the power of appointing prison officers vested in them by section 6 of the Act of 1894, or by means of rules under section 60 of that Act, or by executive orders. The Government of India do not, therefore, think it necessary to discuss in detail these recommendations of the Committee, with which they generally agree, but they desire to emphasize certain points which seem to them of special importance.

These are—

- (a) the necessity for granting better pay and gazetted rank to jailors and relieving them, as far as possible, of clerical work (paragraphs 52 and 54). The minimum rate of pay (Rs. 200 rising to Rs. 450 per mensem) suggested by the Committee is substantially higher than those in force at present, though in at least one province temporary allowances have been granted in addition to salaries, pending a consideration of the Jails Committee's recommendations. It must be left to local Governments to fix such rates of pay as they think necessary to secure men of the right stamp and education and to prevent corruption. But the Governor General in Council considers that a contented service is an essential preliminary to the general reform of our prison system ;
- (b) on the same grounds, the Government of India endorse the recommendations contained in paragraphs 62-64 regarding the necessity for increasing the attractions of service as a warder. As the Committee have pointed out, these subordinates possess great potentialities for exercising a good or evil influence over the men committed to their charge, and the Government of India agree that in order to secure honest and contented service, their pay should be distinctly better than that given to police constables and that family quarters should be provided on a more generous scale. They also endorse the proposal for the appointment of a chief warder in every central jail (paragraph 66), and they hope that those local Governments whose jails are at present admittedly under-staffed will take early steps to bring the strength of their warder establishments up to the necessary level (paragraphs 68 and 69) ;
- (c) as regards the subordinate medical staff, the Government of India are of opinion that good reasons have been given in paragraph 73 of the report for adopting the Madras system of selecting sub-assistant surgeons for jail work on the basis of a regular roster, on which every sub-assistant surgeon's name is entered. The only possible objection to this proposal which occurs to them is that it might have the result of supplying to the Jail Department only junior sub-assistant surgeons, as in all probability most men of this class would desire to serve their term in the Department at as early a stage in their service as possible. This difficulty could doubtless be overcome by suitable arrangements between the Surgeon-General or Inspector-General of Civil Hospitals and the Inspector-General of Prisons ; while if the jail allowances given to medical subordinates are increased as recommended in paragraph 74, service in the department should be more popular than it is at present and should, therefore, attract a certain proportion of senior sub-assistant surgeons ;
- (d) the recommendation contained in paragraph 80 for the appointment of a technical expert to manage the manufacturing department of each jail in which any large organised industry is carried on, appears to the Government of India to be a sound one. Such experts will probably require high salaries, but if suitable men can be secured, the revenue accruing to Government should ultimately more than counterbalance this expenditure. It is possible that in certain provinces Directors of Industries may now be in a position to recommend men of sufficient

technical skill to fill these appointments and also that of the technical assistant to the Inspector-General proposed in paragraph 82.

*Chapter VI.*

10. In this chapter the Committee have made drastic recommendations for changes in the existing system of employing convicts as prison officers. They admit that among those who gave evidence before them opinions were sharply divided as to the intrinsic merits of this system and the Committee themselves were not in complete agreement on the question. One member was indeed in favour of abolishing the system altogether and even the chairman considered that its abolition was in principle desirable, though he felt that the recommendations of the Committee, if carried out, would effect an advance that might be regarded as sufficient for the present.

11. The Government of India have taken the opportunity of examining the latest figures available showing the extent to which convicts are employed as prison officers in each of the larger provinces. The percentage of the total average number of male prisoners of all classes (convicted, under-trial and civil) employed as prison officers was as follows: Burma 22, the Punjab 12, Bombay 10, United Provinces 9, Central Provinces 8, Madras 7, Bengal 6 and Bihar and Orissa 4. The figures for Burma are for the year 1918 and for other Provinces 1919. The corresponding percentages for 1913 were slightly higher in Madras, the Punjab and Bihar and Orissa, and lower in Burma. In other Provinces they were the same. These figures appear to the Government of India to support the main conclusions of the Committee, *viz.*, that the system of employing convict officers has degenerated in some parts of India into a mere means of effecting an economy in the pay of establishments, and that the extent of such employment is excessive and should be reduced. The Committee cite the case of the United Provinces, where both the present and past Inspectors-General of Prisons agreed with the second of these propositions, but the figures just quoted show that there are three provinces to which the Committee's remarks apply with even greater force than to the United Provinces. At the same time the Government of India are not in favour of the complete abolition of the system, which they consider must, with proper safeguards and under adequate supervision, have a valuable reformatory influence. They are, however, inclined to think that in each province a maximum number of convicts to be employed as prison officers should be fixed by the local Government and that this maximum should be distributed over the jails of the province by the Inspector-General in proportion to the daily average population of each jail. What the total provincial maximum should be must to course depend on local circumstances, and especially on the pace at which recruitment to the free warder establishment may proceed, but the Governor General in Council suggests that in no province should the maximum exceed 10 per cent. of the total average daily population. I am directed to ask for the opinions of local Governments on this proposal.

12. The employment of convict officers is one of the subjects in regard to which the rule-making power is at present vested in local Governments, subject to the control of the Governor General in Council, under section 60 (m) of the Act of 1894, but inasmuch as the Committee have recommended that in many respects the system should be uniform throughout India, it is desirable that the Governor General in Council should in the exercise of his statutory power of control lay down certain general directions in regard to these matters. Before this is done, the Government of India desire to be favoured with the views of local Governments on the more important recommendations of the Committee summarised below:

- (a) Convict officers should not be employed on the duty of guarding prisoners in cells and dormitories at night and no convict officer should be outside his barracks at night (paragraph 86). This is a far-reaching proposal, which will necessarily mean a substantial reduction of the number of convict officers and an increase in the staff of free warders. Nevertheless, the Government of India are disposed to think that, subject to any objections on the part of local Governments, it should be accepted.
- (b) No convict officer should have independent charge of any file, gang or other body of prisoners or should have independent power to issue orders to prisoners (paragraph 87). It seems doubtful whether this general prohibition would not in certain cases lead to practical difficulties and there would not seem to be any insuperable objection to permitting a convict officer to take temporary charge of a small gang of prisoners engaged on, say, fatigue duty inside the main wall.

- (c) The proposed abolition of the grade of convict warder (paragraph 88).  
 (d) The proposed scale of remissions and gratuities for convict officers (paragraph 90).  
 At present the remissions for such officers are :  
     for convict warders eight days per month,  
     for convict overseers six days per month, and  
     for night watchmen four days per month.

[*Vide* rule 7 of Appendix I to the Home Department Resolution No. 161—172 (Jails), dated the 25th June 1906.]

The Committee propose to raise this scale in the case of watchmen by one day per month and to retain it in the case of convict overseers. The Government of India think that for overseers also the scale might well be raised by one day per month.

- (e) The proposal to abolish everywhere and at once the system whereby first offenders are employed as night watchmen in habitual barracks (paragraph 92), and the consequent recommendation that the employment of habituais in that capacity, but not as overseers, in habitual barracks, should be sanctioned. The Government of India trust that all Local Governments will accept this recommendation, which is indeed the corollary of the general principle that habitual and casual offenders should be completely segregated. You will be addressed in a separate letter regarding the proposal, made elsewhere in the report, that all habituais should be confined in cellular jails. Should effect be given to that proposal, it would be possible greatly to reduce the number of night watchmen.
- (f) The proposal that convict officers should be exempted from the liability to wear ankle-rings and fetters (paragraph 93).

#### Chapter XVIII.

13. The Governor General in Council concurs with the commendation bestowed by the Committee on the Indian system of appointing official and non-official visitors with wide but undefined powers of inspection and supervision, as superior to the system followed in other countries of appointing visitors with definite powers and duties who tend to become more or less identified with the prison administration. He also agrees that the Indian system should be extended and improved with the object of creating in the public mind an interest in prisons and prisoners. There are already signs of an awakening interest among the educated classes in these questions. A large number of non-official gentlemen gave evidence before the Committee, and it is probable that the publication of their evidence and the report will stimulate public interest in prison administration.

The appointment of visitors is, however, a matter in regard to which the power of making rules is vested in the Local Government under Section 60 (r) of the Act, and the Governor General in Council does not think it necessary in this instance to exercise his power of control in regard to such rules. He is content to leave it to Local Governments to make such amendments in their rules as they may consider calculated to give effect to the recommendations of the Committee, but he trusts that all Local Governments will give careful consideration to the specific proposals made in paragraphs 518 to 522, first, for the adoption of the Bombay method of a weekly inspection by an individual visitor and a quarterly inspection by the whole board of visitors; secondly, for the assimilation of the powers and duties of official and non-official visitors; and, thirdly, for the appointment of lady visitors for all jails where female prisoners are kept.

#### Chapter XX.

14. This chapter also deals with matters regarding which Local Governments are competent to make rules under Section 60 (s) of the Act, but the recommendations of the Committee include two proposals of general application and of such importance that it is desirable that the Government of India should make a definite pronouncement in regard to them. In paragraph 534, the Committee observe that in most provinces it is a common practice to confine under-trial prisoners in magisterial and police lock-ups which are not classed as subsidiary jails and where the prisoners are practically, if not theoretically, under police control. This practice violates the accepted principle that under-trial prisoners should not be left in the hands of the police longer than is absolutely necessary, and the Committee accordingly propose that all lock-ups used for the detention of such prisoners should be notified as subsidiary jails and that the prisoners detained in them should be guarded by a regular

staff of warders and not by the police. The Government of India entirely agree with the principle underlying this proposal, but they recognize that its acceptance would commit Local Governments to some increase in expenditure and might conceivably lead in certain localities to practical difficulties which were not brought to the notice of the Committee. They trust, however, that Local Governments will give effect to the proposal as soon and as widely as circumstances permit.

Again in paragraph 541, the Committee recommend that, assuming that in future no sentence of imprisonment will be for less than 28 days, no convicted prisoners should serve their sentences in subsidiary jails. You will be addressed in a separate letter on the proposal to abolish short term sentences of imprisonment, but I am to enquire whether, if legislative

His Excellency the Governor in Council

effect is given to this proposal, His Honour the Lieutenant-Governor (in Council) would be prepared

etc.

to accept the Committee's recommendation regarding the use to which subsidiary jails should in that event be put.

15. The Government of India concur with the Committee (paragraph 544) regarding the desirability of appointing visitors for the larger subsidiary jails.

No. 306, dated Delhi, the 16th December 1920.

From—S. P. O'Donnell, Esq., C.I.E., I.C.S., Officiating Secretary to the Government of India, Home Department,

To—	{	The Secretary to the Government of Madras, Home (Judicial) Department.
		The Secretary to the Government of Bombay, Judicial Department.
		The Chief Secretary to the Government of Bengal.
		The Secretary to the Government of the United Provinces, Judicial Department.
		The Revenue Secretary to the Government of the Punjab.
		The Secretary to the Government of Burma, Judicial Department.
		The Secretary to the Government of Bihar and Orissa, Municipal Department.
		The Second Secretary to the Honourable the Chief Commissioner of the Central Provinces.
		The Second Secretary to the Honourable the Chief Commissioner of Assam.
		The Honourable the Chief Commissioner and Agent to the Governor General, North-West Frontier Province.
		The Chief Commissioner of Coorg.
The Chief Commissioner of Delhi.		

With reference to paragraph 2 of my letter No. 305, dated the 16th December 1920, I am directed to address you on the question of the delegation by the Governor General in Council to Local Governments of all or any of the powers conferred upon him by the Prisons Act, 1894. Under Section 59 of that Act the Governor General in Council and Local Governments have concurrent powers to make rules on certain subjects, but rules so made by Local Governments require the previous sanction of the Governor General in Council. Under Section 60 rules made by Local Governments on certain other matters are subject to the control of the Governor General in Council. In addition there are references in Section 46 (4), (6) and (7) to rules made by the Governor General in Council, while under the proviso to Section 6 the Government of Bombay has to obtain the previous sanction of the Governor General in Council to an order declaring that the offices of jailor and superintendent in any specified prison shall be held by one and the same person.

2. The intention of the Government of India was at one time so to amend the Act that the only function under it to be discharged by the Governor General in Council would have been that specified in the existing Section 59 (8), viz., the making of rules regulating the transfer from one part of British India to another of prisoners whose terms of transportation or imprisonment is about to expire. This proposal was in conformity with the policy of relaxing the statutory control of the Government of India over provincial subjects which took legislative shape in the Devolution Act, 1910, passed at the last session of the Indian Legislative Council. Had the Prisons Act then been amended, the only statutory control which the Government of India would have retained over prison administration would have been the general power of superintendence, direction and control over

local Governments vested in the Governor General in Council by section 45 of the Government of India Act. It is very doubtful how far this power could have been exercised legitimately merely in order to secure uniformity in the prison administration of all provinces.

3. In consequence, however, of a letter from the Indian Jails Committee, No. 810, dated the 4th of September 1920, a copy of which is enclosed, the Government of India decided to omit all reference to the Act of 1894 from the Devolution Act, and to consult local Governments on the question whether any delegation is desirable, or whether it is preferable to retain the Act substantially in its present form, as proposed by the Committee.

4. The views of the Committee are entitled to great respect and the Government of India think that there is much force in their conclusions, (a) that if important variations in practice are allowed in regard to such questions as the remission of sentences and prison offences and punishments, the effect of judicial sentences will be substantially different in the different provinces; and (b) that on certain matters of principle in prison administration uniformity throughout India is essential, and can only be secured by means of a central controlling authority. In regard to the latter point, it must not be overlooked that in the future the Government of India may have to meet criticism on questions of jail administration both in the Legislative Chambers and elsewhere, and on this and on other grounds the Governor General in Council is inclined to think that the retention by him of some, at any rate, of the controlling powers conferred by the Act of 1894 would be generally acceptable to Indian public opinion.

5. There are, moreover, two other considerations which point to the same conclusion. In the first place, the Governor General in Council is clearly the only authority who can make rules for the purpose specified in the existing section 59 (8) and he must, in any event, retain adequate powers of direction and control over the prisons in the Andamans which are directly under the Government of India. Secondly, it is probable that the consideration by the Government of India and by local Governments of the Jail Committee's report will result in a thorough overhauling of our prison system and the initiation of important measures of reform. It is obviously the duty of the Government of India to lay down the general lines on which such reforms should proceed. Prisons have in fact been declared to be subject to legislation by the Indian Legislature in the rules approved by the Joint Committee, with the express object of enabling the central Government to regulate the general principles of jail administration. It will, however, handicap the Government of India in discharging that duty effectively if at this juncture they divest themselves of their statutory power of controlling the action of local Governments.

6. The Government of India are therefore disposed to take the view that it will be better for them to retain, for some years to come, both their own rule-making power and the power of control over rules made by local Governments under section 60. Those Governments will probably agree that the powers in question have not in the past been exercised in the direction of excessive or meticulous interference, that due consideration has been paid to the views of local Governments and that there has been no unreasonable insistence on uniformity. Section 60, for example, deals with many matters of minor importance, in regard to which the Government of India do not in practice exercise control, e.g., the food, bedding and clothing of prisoners, the preparation and maintenance of history tickets, the appointment of visitors, etc. There are, however, other matters, such as the classification of prisons, the regulation of prison labour, the appointment of convict officers and the classification and separation of prisoners, in regard to which rules framed or approved by the Government of India are at present in force in all provinces. On all these and on other matters uniformity throughout India is, in the opinion of the Jails Committee, essential and in certain respects the existing rules require amendment. There is much to be said in favour of amendment by a central co-ordinating authority.

7. Assuming that the powers conferred by sections 59 and 60 are to be retained, the amendment of the Act in minor details (such as the removal of the control of the Governor General in Council over rules made by local Governments under certain of the less important sub-sections of section 60) seems scarcely necessary.

(So far as the Government of India are aware, no reference has for many years been made to them under the proviso to section 6. I am to enquire whether, in the opinion of His Excellency the Governor in Council, its retention in the Act is likely to cause any practical inconvenience.)

8. I am directed to enquire whether His Excellency the Governor in Council agrees in these views, or whether he has any alternative proposals to put forward.

No. 307, dated Delhi, the 17th December 1920.

From—S. P. O'Donnell, Esq., C.I.E., I.C.S., Offg. Secretary to the Government of India, Home Department,

To—

- The Secretary to the Government of Madras, Home Department.
- The Secretary to the Government of Bombay, Judicial Department.
- The Chief Secretary to the Government of Bengal.
- The Secretary to the Government of the United Provinces, Judicial Department.
- The Revenue Secretary to the Government of the Punjab.
- The Secretary to the Government of Burma, Judicial Department.
- The Secretary to the Government of Bihar and Orissa, Municipal Department.
- The Second Secretary to the Honourable the Chief Commissioner of the Central Provinces.
- The Second Secretary to the Honourable the Chief Commissioner of Assam.
- The Chief Commissioner of Coorg.
- The Chief Commissioner of Delhi.

In continuation of my letter No. 305, dated the 16th December 1920, I am directed to address you on the subjects discussed in Chapters VII (Classification and Separation of Prisoners) and VIII (Separation at Night) of the Indian Jails Committee's report.

2. The most important proposal made in the first section of Chapter VII is that separate jails should be provided for habitual prisoners, on the ground that it is difficult, if not impossible, to comply with the existing orders requiring the segregation of habituals from non-habituals so long as both classes are confined in the same jails. The Committee regard this as "one of the most important reforms yet to be introduced into Indian prison management" (paragraph 98), and think there should be little difficulty in most provinces in setting aside at once one or more jails for the accommodation of habituals only.

The Government of India agree that this would be a great advance in our prison system, and by minimising the risk of the contamination of first offenders by hardened criminals, would do much to remove the reproach often directed against Indian jails that they tend to harden, if not to degrade, and that most men come out of prison worse than they went in (compare Chapter II, paragraph 14 of report). The Government of India would, therefore, be obliged if all Local Governments would give the proposal their early and detailed consideration and would report to what extent effect can be given to it, both immediately and in the future when new jails have been constructed.

3. In paragraphs 99-110 the Committee discuss certain defects in the existing definition of the term "habitual" and suggest a fresh definition. It may here be remarked that the Committee are not quite accurate in referring in paragraphs 99 and 102 to a revised form of the definition as having been circulated to all Local Governments with the Home Department letter No. 53-61, dated the 22nd February 1910. What was then circulated was not a revised form of the original definition of 1886, but an extract of certain rules from the Bombay Jail Manual, which were presumably made by the Bombay Government under Section 60 (j) of the Prisons Act, 1894. For facility of comparison the complete original definition contained in the Government of India Resolution No. 27-1804-14, dated the 14th December 1886, is reproduced as an appendix to this letter. The principal differences between the old and proposed definitions are:

- (i) under the old rule a prisoner could be classified as habitual, either on account of one or more previous convictions for certain specified offences, or because the court believed from the circumstances of the case, that he depended on crime for a livelihood, or had attained a certain eminence in crime. Under the proposed rule two conditions must be satisfied. There must be a previous conviction or convictions for certain offences (except in the case of persons confined in default of security under Section 128, read with Section 110 of the Code of Criminal Procedure), and the court must be satisfied that the prisoner is by habit a person who commits certain specified offences. In short, the main object of the new definition, as explained in paragraph 108 of the report, is to ensure that only those prisoners who have formed a habit of crime should be classified as habituals;

- (ii) the proposed definition enlarges the list of offences, a second conviction for which is one of the conditions qualifying for classification as a habitual, by including Chapters XVI and XVIII of the Indian Penal Code ;
- (iii) the term "conviction" is defined for the first time in the rule now proposed, the definition being an adaptation of that given in Section 75 of the Penal Code, extended to include convictions by courts in Great Britain or any British colony ;
- (iv) the new definition gives a specific power of revising the classification in all cases. Under the existing rule revision is only possible when a prisoner has been classified as non-habitual and subsequently proof of a previous conviction is furnished ;
- (v) under the existing rule all members of criminal tribes are *ipso facto* treated as habituals. In the proposed rule there is no reference to members of such tribes (cf. paragraph 109) ;
- (vi) the new definition provides that no prisoner should in future be classified as habitual until he has had an opportunity of showing cause against such classification ;
- (vii) the proviso to the proposed Rule V will enable the Inspector-General to transfer to a jail intended for habituals any non-habitual prisoners of vicious and depraved character who do or could exercise an evil influence on their fellow-prisoners. The classes of prisoners suitable for treatment under this proviso are indicated in paragraph 110 of the report.

4. The Governor General in Council thinks that, subject to the observations made below, good reasons have been given for all these changes, but he does not consider that he would be justified in finally approving the proposed definition as the basis of rules to be made by Local Governments under Section 60 (j) of the Act of 1894, until those Governments have had an opportunity of stating their views, and I am accordingly to enquire whether His Excellency the Governor in Council etc. has any objection to urge against the adoption of the definition given in paragraph 107 of the report.

In regard to two minor points it seems to the Government of India that that definition is susceptible of improvement. In the explanation to Rule I the words "United Kingdom or in any British Dominion or Colony" might be substituted for "Great Britain or in any British Colony." In the proviso to Rule II the Government of India are disposed to omit the words "has received notice of the proposal to classify him as an habitual, with the reasons, and," as they appear to imply the formal service of a written notice on the prisoner and would give the proceedings too formal and judicial a character, a result which the Committee themselves deprecated (paragraph 105).

It has also been suggested to the Government of India that it would be more satisfactory if Rule II were to leave the duty of classifying prisoners primarily to the jail authorities, subject to the control of the District Magistrate, rather than to the convicting Court, on the ground that previous convictions often come to light after sentence has been pronounced, and that the Courts have, as the Committee themselves admit (paragraph 102), done the work of classification perfunctorily in the past. On the other hand, the Committee have pointed out that classification as a habitual may make a greater difference to a prisoner in the future than in the past, both as regards the length of his sentence and his treatment in jail. It is, therefore, essential to make the classification a regular judicial finding and also to give the prisoner an opportunity to show cause against classification as an habitual. On a consideration of these arguments, the Government of India are inclined to think that the balance of advantage lies in retaining the convicting Court as the ordinary classifying authority, though it is desirable that the necessity for discharging this duty carefully and conscientiously should be impressed on all Sessions Judges and Magistrates. The opinion of Local Governments on the question would, however, be of great value. It will be observed that if new information be available after an order was first made, it would be possible, under the proposed Rule IV, to ask the Court or District Magistrate to revise his classification.

5. The Government of India concur with the Committee (paragraph 111) in their condemnation of the rule in force in certain provinces under which every prisoner who escapes or attempts to escape must be treated as an habitual. The authority cited for rule in question in at least one provincial Jail Manual is the letter of the Government of India in the Home

Department, No. 285, dated the 26th August 1909. All that was said in that letter, however, was that there was nothing in certain earlier instructions framed by the Government of India inconsistent with such a rule.

The Government of India also accept the conclusions of the Committee that prisoners classified as habituals should not be excluded from the benefits of the remission system (paragraph 112), and should not be subjected to specially severe forms of labour (paragraph 113). They also agree that the existing prohibition against the employment of habituals as convict officers should be maintained (paragraph 115). The opinions of Local Governments have already been invited in paragraph 11 (e) of my letter No. 305, dated the 16th December 1920, on the suggested exception to this general prohibition, namely the employment of habituals as night watchman in habitual wards. The Government of India endorse the observations contained in paragraph 116 of the report regarding the desirability of providing separate accommodation for female habituals.

6. In the second section of this chapter the Committee have recommended the introduction into Indian prisons of the Star class system in force in Great Britain, which is described in paragraphs 118 and 119. The Government of India regard this as an excellent suggestion, which should do much to mitigate the evil effects of the promiscuous association of all offenders other than those classed as habitual. But before definitely approving the proposal, they would prefer to have the views of Local Governments both on the question of principle and on the definition of the Star class contained in paragraph 121. That definition seems at first sight to be a somewhat loose one, but this is clearly the intention, as the essence of the system is that the case of each individual should be carefully considered on its merits. Other points on which the opinions of Local Governments would be of assistance are whether the classification should be made by the prison authorities only, as proposed by the Committee, or whether the convicting court should also have a voice in the matter: and to what extent it would be possible to introduce the system without expensive structural alterations in the existing jails.

7. Important proposals are also made in Section 3 of this chapter, in which the Committee recommend (paragraph 130) the Amendment of Section 53 of the Indian Penal Code so as to provide for two classes of simple imprisonment: (a) without liability to labour, and (b) with liability to light labour, only Magistrates of the first class or Courts of higher status being empowered to order simple imprisonment without liability to labour.

The Government of India are disposed to think that recommendation is a sound one, not only because the system of first and second division offenders in Great Britain (described in paragraphs 123 to 127) has been successful, but also because the conclusion they draw from the statistics of prisoners sentenced to simple imprisonment in India in recent years (paragraph 128) is that the Courts in India are prone to sentence offenders to this class of punishment without appreciating the consequences. It cannot be good either for the individual prisoner or for the discipline of the jail that he should spend his time in complete idleness and on this ground alone there is much to be said for making an obligation to light labour a normal feature of simple imprisonment.

I am to request that the Government of India may be favoured with the views of Local Governments on the proposed Amendment of Section 53 of the Indian Penal Code and on the subsidiary recommendations contained in paragraphs 130 and 131.

8. The question of the special treatment of "political" offenders, discussed in paragraph 132, has recently formed the subject of separate correspondence between the Government of India and Local Governments. The Government of India are now considering the opinions of all Local Governments on the proposals contained in their letter No. 15, dated the 5th January 1920, as well as the views of the Jails Committee, and their decision will be conveyed to you in due course.

#### Chapter VIII.

9. Although the Committee were unable to agree on the main question of principle discussed in this chapter, namely the degree of association *inter se* that should be permitted at night between prisoners of the three classes, they were unanimous in condemning the system of cabins in association barracks found in certain provinces (paragraph 135), and in holding that in most provinces the existing supply of cells should be increased so as to provide 25 to 30 per cent of cells in all jails both for males and females (paragraph 136).



The following statement shows, for all the major provinces, the type of sleeping accommodation provided on the last day of the year 1919 :

*Number of prisoners who could be accommodated on the 31st December 1919,*

Province.	In cells.	In barracks with separate sleeping accommodation.	In barracks without separate sleeping accommodation.	TOTAL.
Madras... ..	4,948	837	7,065	12,850
Bombay ... ..	896	1,322	5,175	7,393
Bengal... ..	868	4,164	10,708	15,740
United Provinces ... ..	3,846	...	30,373	34,219
Punjab... ..	1,864	2,479	10,344	14,687
Burma* ... ..	864	...	17,658	18,542
Bihar and Orissa ... ..	607	983	9,187	10,777
Central Provinces ... ..	395	773	5,822	6,990

\* Figures taken from the 1918 Report.

According to these figures, Madras is the only province in which the number of cells reaches the standard laid down by the Committee, while the United Provinces, the Punjab and Bombay are the only other provinces where cellular accommodation exceeds ten per cent. of the total. The cubicle system is commonest in Bengal, the Punjab and Bombay, the words "United Provinces" in paragraph 134 of the report being apparently a misprint for "Bengal."

10. The Government of India have no hesitation in endorsing, on sanitary grounds, the Committee's condemnation of cubicles in association wards, and they hope that in all provinces early steps will be taken to remove these obstacles to free ventilation and cleanliness and to provide in lieu of them berths of the type described in paragraph 835 (Chapter XII) of the report. This change should not be expensive. The Government of India also accept the view that, in order to provide for those prisoners who prefer to sleep in cells, and for those whom it is desirable, on account of their evil character or for other reasons, to segregate at night, 30 per cent of the total accommodation of every jail to be constructed hereafter should be of the cellular type. They recognise, however, that the attainment of this standard in existing jails must involve expensive structural alterations, and while they regard the principle as one of great importance, they must leave it to Local Governments to decide to what extent its immediate application would be compatible with other demands on provincial finances.

11. The Governor General in Council has given careful consideration to the arguments on the rival merits of the association and cellular systems contained in paragraphs 138 to 187, though he realises that the discussion is necessarily mainly academic, because, whatever may be the decision on the question of principle, the provision of a separate cell for every one of the 120,000 prisoners confined in Indian jails cannot, for many years, be a practical measure. But apart from this consideration, the Government of India are inclined to think that the principle laid down by Sir James DuBoulay (paragraph 188), *viz.*, that habituals and short-term prisoners should sleep in cells, and long term non-habituals in association barracks, represents the limit to which it is necessary or desirable to go. They are impressed by the fact that a universal cellular system is emphatically condemned by the only two Members of the Committee, Sir Walter Buchanan and Colonel Jackson, who have had practical experience of the management of large Indian Jails and also by D. M. Dorai, Raja of Pudukottah, the representative on the Committee of educated Indian opinion. While the Government of India are prepared to agree with the President and Mr. Mitchell-Innes (paragraph 177) that separation at night is more deterrent form of punishment, they cannot believe, in spite of what is said in paragraph 184, that it can be humane to confine prisoners in the hotter provinces of India for long periods in small cells which must be so designed as to prevent conversation. It seems to them that such cells must ex-hypothesi be less well ventilated than large and lofty sleeping barracks designed to accommodate some 50 men. Inadequate ventilation is admittedly a

condition favourable to the development of tuberculosis, a disease already too common in Indian jails; and no one who has had experience of the Punjab and Sind in May and June, or of lower Bengal in the rains, can deny that a small sleeping room tends to lower the vitality far more than a large one. Further the provision in each separate cell of such essential amenities as pure drinking water and sanitary arrangements which would not be offensive could only be carried out at prohibitive cost.

As regards the risk of moral contamination under the association system, the Governor General in Council agrees with Sir Walter Buchanan and Colonel Jackson (paragraph 145) that with proper classification and selection, and properly patrolled wards, the risk is small. The weight of evidence is to the effect that unnatural vice is not actually practised in the sleeping wards (paragraph 153), and the Governor General in Council readily accepts the view of these two experienced officers that the ordinary Indian prisoner would not tolerate such practices in his presence. Even if it be admitted that the cellular system would reduce the temptation to unnatural vice, it might, as hinted in paragraph 181, encourage other abuses.

Moreover, as the opponents of the cellular system have pointed out (paragraph 145) the Indian prisoner is, by custom and habit, sociable and averse from solitude, and cellular confinement has therefore peculiar terrors for him. It would also probably be correct to say that in many cases his mentality is far more introspective than that of the average European prisoner. If cut off altogether from social intercourse for many hours daily and condemned to complete solitude, he might be apt to degenerate rapidly into a definitely melancholic state of mind. Such degeneracy has been recognized as a possible consequence of solitary confinement by students of prison problems in other continents (compare paragraph 161), and the possibility of it is a danger which cannot be disregarded in India.

These are the reasons which have led the Government of India to concur provisionally with the conclusions stated in paragraph 188 of the report, though they are not convinced that even in the case of habitual and short-term prisoners, cellular confinement at night should be rigidly enforced without regard to the disposition and character of the individual. They would be glad, however, to have the opinions of Local Governments on those conclusions.

12. In paragraph 149 those members of the Committee who are in favour of association at night have expressed the opinion that the idle time between 5-30 P.M. and the hour of sleep should be occupied by education, reading and simple indoor games, and in paragraph 183 the Chairman and Mr. Mitchell-Innes have endorsed this suggestion on the assumption that association at night is to be continued, as being evidently better than leaving the prisoners unoccupied in their wards. The subject is discussed again in a later passage in the report (Chapter XI, paragraph 275), where the Committee have unanimously recommended that a portion of each sleeping-barrack should be cut off or turned into a recreation room, where prisoners should be allowed under supervision to read; play quiet games or receive education. The Government of India commend this proposal and think that recreation rooms might well be tried as an experimental measure in a few selected jails. But the matter is one which they are content to leave to the discretion of Local Governments.

13. It will be convenient to recapitulate the matter discussed in this letter in regard to which the Government of India desire to be favoured with the views of Local Governments. These are:

- (a) the extent to which effect can be given, both immediately and in the future when new jails have been constructed, to the proposal that separate jails should be provided for habitual prisoners (paragraph 2 of this letter);
- (b) the new definition proposed for the term "habitual," and in particular the question whether classification should ordinarily be made by the convicting Court or by the jail authorities (paragraph 4);
- (c) the proposed introduction of the Star Class System of classification and the definition of the Star Class (paragraph 6);
- (d) the proposal to amend Section 53 of the Indian Penal Code so as to provide for the two kinds of simple imprisonment (paragraph 7);
- (e) the view that the cellular system is best for habituals and for short-term non-habituals; and that association at night is best for long-term non-habituals (paragraph 11).

## APPENDIX.

Extract from paragraph 5 of the Home Department Resolution No.  $\frac{28}{1804-14}$ , dated the 14th December 1920.

For the purposes of jail discipline, the words 'habitual criminal' shall mean a prisoner so classed:—

- (1) By the Court or Magistrate that heard the case :
  - (a) because he has been convicted of an offence punishable under Chapter XII or XVII of the Indian Penal Code with three years' imprisonment or upwards, and has been previously punished on conviction for an offence under either of these Chapters and similarly punishable ; or
  - (b) because, from the circumstances of the case, the Sessions Judge, or Magistrate believes the prisoner to depend on crime as a means of livelihood, or to have attained such an eminence in crime as to warrant his being classed with habitual or class B criminals.
- (2) By the District Magistrate, or any Magistrate empowered by him on this behalf, the classification being made in accordance with the principles suggested for the guidance of the courts in clauses 1 (a) and (b) of this definition.
- (3) Subject to the control of the District Magistrate by the officer in charge of the jail, when the prisoner is :
  - (a) sentenced or believed to be liable to punishment under Section 75 of the Indian Penal Code ;
  - (b) under sentence enhanced by reason of more than one previous conviction ; or
  - (c) known to have been repeatedly imprisoned for similar offences ; or
  - (d) a member of a criminal tribe. Provided that :
    - (1) any such Court or Magistrate as is mentioned above may direct that a prisoner shall not be classed as an habitual criminal, and
    - (2) when there is room for doubt whether a prisoner should be so classed or not, the officer in charge of the jail shall refer the case for the orders of any such Court or Magistrate.

*Explanation.*—The classification when made by the convicting Courts shall be final. If the Courts omit to classify a prisoner as an habitual, the District Magistrate, or any Magistrate empowered by him, may do so. In case of omission on the part of the Court and of the Magistrate, the officer in charge of the jail may make the classification, subject to the general control and supervision of the District Magistrate.

No. 13, dated Delhi, the 14th January 1921.

FROM—S. P. O'Donnell, Esq., C.I.E., I.C.S., Officiating Secretary to the Government of India, Home Department,

To—

- The Secretary to the Government of Madras, Home (Judicial) Department.
- The Secretary to the Government of Bombay, Judicial Department.
- The Secretary to the Government of Bengal, Revenue Department.
- The Secretary to the Government of the United Provinces, Judicial Department.
- The Revenue Secretary to the Government of the Punjab.
- The Secretary to the Government of Burma, Judicial Department.
- The Secretary to the Government of Bihar and Orissa, Municipal Department.
- The Second Secretary to the Government of the Central Provinces.
- The Second Secretary to the Government of Assam.
- The Honourable the Chief Commissioner and Agent to the Governor General, North-West Frontier Province.
- The Chief Commissioner of Coorg.
- The Chief Commissioner of Delhi.

In continuation of my letter No. 307, dated the 17th November 1920, I am directed to address you on the subject of prison labour and manufactures, discussed in Chapter IX of the report of the Indian Jails Committee.

3. Local Governments are competent to make rules under Section 60 (a), (g) and (k) of Act IX of 1894 in regard to the employment of prisoners, the forms of labour and the disposal of the proceeds of such labour. But the rules so made are subject to the statutory control of the Governor General in Council, and whilst the Government of India are anxious to confine this control within the narrowest limits practicable it is necessary for them, having regard to their responsibility under the statute and to possible reactions on central subjects or extra provincial interests, to indicate certain general conditions with which it is important that the rules made by Local Governments should conform. To take only one example, the extent to which jail manufactures should be allowed to compete with private enterprise is clearly a matter in which the central Government are concerned, as diversity of practice might be injurious to important industries not organised on purely provincial lines.

3. All Local Governments will presumably concur with the four main proposition stated in the earlier paragraphs of Chapter IX, viz. :—(a) that the main object of prison labour should be the reformation of the criminal (paragraph 191); (b) that non-productive labour should be avoided (paragraph 192); (c) that short-term prisoners must necessarily be employed mainly on unskilled labour (paragraph 193); and (d) that the principal mode of employment for long-term prisoners should be intra-mural (paragraph 195). The latter three principles have for many years been followed in most, if not all, Indian jails. The first has never been explicitly and authoritatively laid down in this country, but it is an obvious consequence of the proposition, stated in paragraph 19 of the report to be established by the general consent of penologists throughout the world, that one of the objects of imprisonment is the reformation of the prisoner's character.

Similarly the Government of India do not think that any objection can be taken to the Committee's conclusion (paragraph 196) that the greatest benefit to the prisoner is conferred by giving him the best available instruction in up-to-date methods of labour and so enabling him to earn a livelihood on release. It follows that some industrial employment must be provided in all jails where long-term prisoners are confined, and it would obviously be uneconomical to have multifarious forms of employment in the same jail. This point was emphasized in paragraph 9 of the Home Department Resolution No. 10-605-18 of the 7th of May 1886, and is re-affirmed by the Committee in paragraph 197 of their report. The Governor General in Council has no doubt that Local Governments will approve the principle, which he understands accords with the existing practice in all provinces, that in each jail attention should, as far as possible, be concentrated on one or two large industries.

4. It has for many years been a principle of Indian jail administration that prison industries should be adapted, as far as possible, to meet the requirements of the consuming departments of Government and that those departments should be compelled to purchase articles of prison manufacture, subject to the condition that they are of similar quality and not of greater price than those obtainable in the open market. The Committee have, however, pointed out (paragraphs 199—202) that both now and in the past there have been many grave infractions of this rule, though they were not in a position to say whether consuming departments or the jail authorities were to blame. The Governor General in Council is convinced of the soundness of this principle, which is in accordance with the recommendation contained in paragraph 198, and he hopes that all Local Governments will take such steps as are possible to secure more general compliance with it. The reluctance of the consuming departments to take prison manufactures may possibly be due in part to delay in complying with their indents for goods required at short notice, and to the elaborate procedure laid down for filling in indents and receipts. The question whether this procedure cannot be simplified should be examined. But the main obstacle to the enforcement of the rule that jails must cater for Government departments and that Government departments must buy from jails is probably to be found in the backward condition of jail manufactories and especially in the absence of up-to-date machinery.

5. This leads up to what is perhaps the most important question discussed in Chapter IX, namely, the use of power-driven machinery in jails. The existing orders on this subject are contained in the following extract from the Resolution of the 7th May 1886 :

With regard to intra-mural employments, the Governor General in Council admits that, in provinces having a completely organised system of central jails there must be in such jails well-regulated industrial employments on a large scale; but His Excellency in Council considers that jails should not be converted into steam factories. The use of steam machinery in jails will not, however, in future be absolutely prohibited although care should be taken that limits are set to its employment in individual cases where it is found to be incompatible with the penal character of convict labour, or where there is strong reason to believe that it enables the jails to compete injuriously with private capitalists in the neighbourhood. If any jail industry is proved seriously to injure any local trade, it should be discontinued in favour of some other kind of employment. The

existing arrangements with regard to steam machinery in the jails of the Lower Provinces of Bengal will not be disturbed; but His Excellency in Council desires that, in the event of any extension of such machinery being contemplated in that or in any other province, the considerations above set forth will be carefully borne in mind by the Local Government or Administration concerned, and in the case of any extension of magnitude, that the sanction of the Government of India will be previously obtained.

The question was again discussed in a Home Department letter to Local Governments, No. 151 160, dated the 10th of August 1906, paragraph 13 of which ran as follows:

As regards the use of steam machinery, the Government of India consider that it is not necessary that a jail should purposely handicap itself by the use of obsolete or inferior machinery. In the case, too, of a jail press or similar institution which works solely for the Government, there can be no objection on economic grounds to the installation of steam machinery on a large scale. One important aspect of this question, however, is the necessity for preserving the penal element in jail industries; and no doubt this necessity will always be borne in mind. While the principle laid down in 1886 with regard to the use of steam machinery seems generally sound and suitable to present requirements, it may be advisable to provide expressly that when it is proposed to lay down steam machinery for the first time in any jail the objects of the installation and the possibility of its interfering with private enterprise must be very thoroughly examined; and if the proposal stands, the sanction of the Government of India must be obtained. Subject to these remarks each case must be judged on its own merits.

8. The Committee take the view, which can hardly be controverted, that familiarity with power-driven machinery is more introductive and mind-awakening than manual labour. The use of such machinery is therefore, in their opinion, justifiable, both as serving the true functions of jail administration and as increasing production and thereby giving greater relief to the tax-payer. They have accordingly recommended (paragraph 210) that the existing restrictions on the use of power-driven machinery should be relaxed, but that it should be employed in well-established and organised industries and care should be taken to avoid any interference with nascent or unorganised industrial enterprises. Subject to this safeguard, it should be the duty of the Jail Department to develop their industries so as to meet the requirements of the consuming departments.

These recommendations are admittedly at variance with those contained in paragraphs 215 and 216 of the report of the Indian Industrial Commission of 1916-1918, and also with the views of those chambers of commerce whose letters are printed in Appendix V of the Jail Committee's report. The subject was discussed at a conference of provincial Directors of Industries held at Cawnpore last November, which generally accepted the recommendations of the Jails Committee, but considered that it was desirable that the Inspector-General of Prisons should consult the provincial Director of Industries before the introduction of any new industry into a jail. The conference was also of opinion that jail training in an organised industry was less harmful from the point of view of industries than such training in small cottage industries. Speaking generally, they considered that the fear of jails competing with established industries was more imaginary than real.

The Government of India are inclined to think that the conclusions of the Cawnpore Conference should be accepted but before communicating their final views on this matter they would be glad to learn whether Local Governments see any objections to their adoption.

7. The necessity for employing skilled supervision in every jail where manufactures are carried on on a large scale, discussed in paragraph 212, has been dealt with in paragraph 9 (d) of the Home Department letter No. 305, dated the 16th December 1920.

In paragraph 213 the Committee have recommended the abolition of statement XIII appended to the annual provincial jail reports and the substitution for it of statement XII-A. The latter statement has never been prescribed for general use, though it now appears in the annual reports of most provinces. Its adoption as a standard form was suggested by several Local Governments so long ago, as 1903, and the Government of India would be glad to learn whether in the opinion of His Excellency the Governor in Council

etc.

there is any objection to the acceptance of the Committee's proposals.

The Governor General in Council agrees with the Committee (paragraph 214) that the question of uniformity in the assessment of tasks might well be discussed at the first conference of Inspectors General, which it is hoped to hold next cold weather. The problem of providing suitable labour for prisoners of defective intelligence (paragraph 215) might also suitably be discussed at that conference.

8. The existing orders on the subject of extra-mural labour are contained in the following extract from the Resolution of the 7th May 1886:

As regards the employment of convicts extra-murally, it is clear from the tenour of the reports submitted by the Local Governments that, in view of the practical difficulties surrounding the matter, it is scarcely possible to anticipate the time when extra-mural labour can form the principal mode of employing long-term prisoners throughout British India. The Governor General in Council, however, continues to be of opinion that this form of employment has been allowed to drop too much out of sight, and that convicts may with advantage be employed on public works,

subject to the conditions laid down by Her Majesty's Secretary of State, that is, in cases where the works are so large and concentrated and likely to last so long a time as to justify the erection on the spot of such accommodation as would be required for the exercise of the same sanitary care and the enforcement of the same system of discipline, penal labour, and classification which are now exercised and enforced in central jails. Convicts should not be drafted to public works where from conditions of climate their regular employment out of doors is not possible throughout the greater part of the year, and they should be only men selected for that class of work on due consideration of their physical fitness and the sentences passed upon them.

4. The employment on railway works of gangs of convicts, lodged in portable jails during the progress of the works, does not meet with the approval of the Secretary of State, who considers it undesirable that local Governments and Administrations should be directed or even encouraged to have recourse to this system of employing convicts. At the same time His Lordship is willing that it should be left to the discretion of local Governments to resort to this system of employing convicts should any exceptionally favourable opportunity present itself, provided that, in any case in which the experiment may be tried, its working is carefully watched and specially reported on to the Government of India and the Secretary of State. These orders should be carefully observed.

5. The practice followed in the Madras Presidency and in parts of the Bombay Presidency of employing small gangs of prisoners on station roads and municipal works of various descriptions should be discontinued. Such a system cannot but be detrimental to discipline, and is opposed to sound principles of extra-mural employment. In Assam and British Burma a similar practice prevails but, for the special reasons given in each case by the local Administration, the Government of India are for the present not disposed to interfere with it in either of those provinces. The proposal made by the Chief Commissioner of the Central Provinces to employ a gang of prisoners at the Warora coal mines appears to be open to no *prima facie* objection, and is sanctioned as an experimental measure.

The general tenour of these observations agrees closely with the conclusions stated in paragraphs 216—225 of the report, and only in two respects do the orders of 1886 appear to require modification. In the first place it would hardly be true now to say that extra-mural employment "has been allowed to drop too much out of sight," as the Committee have shown that all the conditions which make such employment suitable can seldom be found in combination, and that consequently the bulk of prison labour must be employed intra-murally. But where the conditions described in paragraphs 219 to 221 can be fulfilled, the Government of India see no objection to the employment of prisoners on large public works. They desire, however, to invite special attention to the necessity for the proper separation of habituals from casuals where both classes are employed on extra-mural labour. Secondly, the orders of 1886 conveyed a qualified approval of the system, prevalent in certain localities, of employing convicts on outdoor work for municipalities and other local bodies. The Committee have, however, in paragraph 217 stated the strong objections to this system and have recommended its stoppage, and the Governor General in Council hopes that the Administrations concerned will find it possible to give effect to this recommendation at an early date.

No. 34, dated Delhi, the 31st January 1921.

From—S. P. O'Donnell, Esq., C.I.E., I.C.S., Officiating Secretary to the Government of India, Home Department,

To—

- The Secretary to the Government of Madras, Home (Judicial) Department.
- The Secretary to the Government of Bombay, Judicial Department.
- The Secretary to the Government of Bengal, Revenue Department.
- The Secretary to the Government of the United Provinces, Judicial Department.
- The Revenue Secretary to the Government of the Punjab.
- The Secretary to the Government of Burma, Judicial Department.
- The Secretary to the Government of Bihar and Orissa, Municipal Department.
- The Second Secretary to the Government of the Central Provinces.
- The Second Secretary to the Government of Assam.
- The Honourable the Chief Commissioner and Agent to the Governor General, North-West Frontier Province.
- The Chief Commissioner of Coorg.
- The Chief Commissioner of Delhi.

In continuation of the Home Department letter No. 13, dated the 14th January 1921, I am directed to address you on the subject of settlements constituted under the Criminal Tribes Act, 1911, discussed in Chapter XXII of the report of the Indian Jails Committee.

2. As local Governments are aware, the whole question of the administration of the Criminal Tribes Act, 1911, was discussed at a conference held at Delhi in December 1919, which was attended by representatives of all local Governments and many of the Indian States. The proceedings of the Delhi conference were forwarded to local Governments with the Home Department letter No. 297 of the 16th February 1920, and certain general observations of the Governor General in Council on its conclusions were communicated in a subsequent letter, No. 593 of the 3rd April 1920. It was there stated that the Government of India had no intention of interfering with the discretion of local Governments in regard to the detailed administration of the Act but desired to leave them absolutely free, as heretofore to manage their own affairs. At the same time the Government of India laid down certain general principles which should, in their opinion, be observed in establishing and managing settlements constituted under the Act. Local Governments were also informed that the question of amending the Act was under consideration and you were addressed on this subject in Mr. Gwynne's letter, No. 112-Police, dated the 13th January 1921.

3. The Government of India understand that the proceedings of the Delhi conference were considered by the Jails Committee before Chapter XXII of their report was written. The Committee have expressly refrained from expressing any opinion on the working of the Criminal Tribes Act, 1911, as a whole or on the policy underlying it, and their investigations and findings have been restricted to questions connected with settlements. On most of these questions they agree with the conclusions of the Delhi conference, which have already been commended to the consideration of local Governments. It would serve no useful purpose to discuss in this letter points on which there is no substantial difference of opinion between the Committee and the conference, and the paragraphs that follow accordingly deal only with matters on which the Committee have dissented from the conclusions of the conference and with proposals of the Committee on subjects not discussed by the conference.

4. In paragraph 665 the Committee recommend that commitment to settlements should be as far as possible by gangs and not by individuals and condemn the procedure followed in some of the Bombay and Punjab settlements of selecting individuals for commitment. In paragraph 666 the Committee, while admitting that the practice of committing individuals is apparently legal under the Act as at present worded, point out the opportunities for blackmail which this practice places in the hands of the subordinate police, and in paragraph 667 they propose that before any individual is dealt with under sections 11 or 16 of the Act there should be a formal inquiry of which notice should be given to the person concerned, and that he should have an opportunity of meeting the charges against him.

Although this subject was not specifically discussed at the Delhi conference, it was then held that family ties should be respected and that the families of all persons committed to a settlement should be allowed to remain with them, (*vide* paragraph 35 of the proceedings of the conference). The Committee would apparently go somewhat further than this and would compel the wives and children of persons committed to reside in the settlement. On the other hand, the conference were against any amendment of section 16 of the Act (*vide* paragraph 14 of its proceedings) and there can be no doubt that that section, as now worded, covers the commitment of individuals to a settlement.

The Government of India recognise the force of the Committee's remarks regarding the danger of blackmail inherent in the system of committing individuals. At the same time they doubt whether it would be wise to amend the Act so as to permit the commitment only of whole tribes or sections of tribes or of whole gangs—such an Amendment is not indeed specifically suggested by the Committee—as there may be gangs or tribes of which only a few members have shown criminal tendencies, while the remainder would lead an honest life if the few black sheep were removed. The Government of India are, however, inclined to concur in the suggestion that there should be a full and formal enquiry before any individual is committed, and should that suggestion be generally accepted, it would seem desirable to give it statutory effect either by amending section 123 of the Code of Criminal Procedure, 1898, as suggested by the Committee, or by an amendment of sections 16 and 19 of the Criminal Tribes Act, 1911. The authority which should hold the enquiry must obviously be designated. The Government of India would be glad to learn the views of local Governments, both on the question of principle and on the subsidiary question of the manner in which effect should be given to it.

5. In paragraph 669 the Committee recommend that in selecting the agency for managing settlements preference should be given to persons of the same religious belief as the tribe or gang to be detained in the settlement. It appears from paragraph 29 of the proceedings of the Delhi conference that this is already the practice in the Punjab, and the Government of India have no doubt that the principle is one which will be readily accepted by

all local Governments. The Committee also express the view that no embargo should be placed on the employment of Christian agency in the management of settlements, and pay a tribute to the self-sacrificing efforts of the Salvation Army and many missionary bodies in promoting the welfare of the criminal tribes. There is ample testimony in the proceedings of the Delhi conference to the value and success of these efforts, and the Governor General in Council has great pleasure in endorsing the tribute paid to them by the Committee. He is confident that well-informed public opinion throughout the country would, for the present at any rate, deprecate any curtailment of the valuable reformatory work which is being done by these bodies.

6. In the same paragraph the Committee make the novel suggestion that any person who is in a settlement under private management should have a well-understood right to claim to be transferred to a settlement under Government management. Under the Act as at present worded, no person possesses such a right, but any person can be transferred from one settlement to another at the discretion of the local Government. The Government of India apprehend that the general confèrment of such a right might lead to practical difficulties and possibly to some increase in expenditure, but they do not under estimate the arguments of the Committee and would be glad to learn the opinions of local Governments on the merits of the proposal.

7. In paragraph 671 the Committee condemn the proposal, which has been put forward on more than one occasion, to transfer criminal tribes or gangs to distant provinces or to fresh language areas. On this question the Committee are in agreement with the general sense of the Delhi conference, *vide* paragraph 44 of its proceedings. But in paragraph 10 of the Home Department letter of the 3rd April 1920, the Government of India stated that if the Assam Administration could arrange matters with other local Governments, they would have no objection to criminal tribesmen being sent from other provinces to work in tea gardens in Assam, subject to certain safeguards. This pronouncement should, however, be read subject to the qualification that no tribe or gang should be transferred to Assam unless it has clearly signified its consent.

8. In paragraph 672 the Committee express disapproval of a proposal put forward by the Salvation Army that so far as possible the children of members of criminal tribes should be separated from their parents, the object being to save the younger generation from corruption, and in paragraph 673 they also condemn the suggestion that there should be a boarding-house in close proximity to each settlement where the children could reside and where their parents would be permitted to visit them from time to time. It appears from paragraph 42 of the proceedings of the Delhi conference that the representatives of certain provinces were in favour of separating the children of the more depraved criminal tribesmen from their parents, and that in certain parts of the country such a system is actually in force and has had good results. In view of this the Government of India do not feel themselves able to endorse without qualification the Committee's views, but the matter is one which they are content to leave to the discretion of local Governments, which will doubtless bear in mind the importance of saving the rising generation from contamination by their elders.

9. The Committee would, however, make one exception to the rule that parents should not be separated from their children. In proposing in paragraph 679 that there should be special or penal settlements to which incorrigible persons should be sent from ordinary settlements, they suggest that persons sent to such special settlements should be allowed to take with them their wives but not any children over five years of age. Older children should be sent to cottage homes organized for the purpose. This again is a matter which the Governor General in Council is content to leave to the discretion of the local Governments.

10. In paragraph 676 the Committee recommend the formal prohibition of the practice of automatically registering children as members of a criminal tribe. The Government of India are not aware how far such registration is now the practice. They would be glad to have information on this point and also to be favoured with the views of local Governments on the Committee's proposal. If it is generally approved, statutory effect should presumably be given to it by an Amendment of the Act.

11. The Government of India would be glad to learn the opinions of local Governments on the proposal contained in paragraph 680 that the procedure under which final release from a settlement can be attained should be definitely laid down in the Act or in the rules made under it. They are inclined to think that it might also be desirable to prescribe by rule the conditions under which a person once registered as a member of a criminal tribe can



have his name removed from the register. It appears from paragraph 33 of the proceedings of the Delhi conference that at present the practice differs in the various provinces. In most of them continued good behaviour is generally treated as justifying removal from the register, but the period of such behaviour has not been defined and it would seem desirable that this should be done for the guidance of District Magistrates.

12. The Governor General in Council commends to local Governments the two suggestions made in paragraph 681 of the report, *viz.*, that there should be periodical conferences between provincial officers in charge of criminal tribes, and that all such officers should be furnished with a small library of books bearing on questions likely to arise in the course of their duties.

13. It will be convenient to summarise the matters dealt with in this letter on which an answer from local Governments is desired. These are:

- (a) the proposal that commitment to settlements should as far as possible be by gangs and not by individuals and that a full and formal enquiry should be held before any individual is committed (paragraph 4 of this letter);
- (b) the method by which statutory provision should be made for such an enquiry, if it is decided that it should be held, (paragraph 4);
- (c) the suggestion that any person in a settlement under private management should have a right to claim a transfer to a settlement under Government management, (paragraph 6);
- (d) the extent to which children are now automatically registered as members of a criminal tribe, and whether it is desirable that the practice should be formally prohibited, (paragraph 10);
- (e) the suggestion that the procedure under which final release from a settlement can be claimed should be definitely laid down in the Act or in the rules under it, (paragraph 11);
- (f) the proposal to define by rule the conditions under which a person registered as a member of a criminal tribe can claim to have his name removed from the register, (paragraph 11).

No. 104, dated Delhi, the 4th April 1921.

From—S. P. O'Donnell, Esq., C.I.E., I.C.S., Officiating Secretary to the Government of India, Home Department,

To—

- The Secretary to the Government of Madras, Home (Judicial) Department.
- The Secretary to the Government of Bombay, (Judicial) Department.
- The Secretary to the Government of Bengal, Revenue Department.
- The Secretary to the Government of the United Provinces, Judicial Department.
- The Revenue Secretary to the Government of the Panjab.
- The Secretary to the Government of Burma (Judicial) Department.
- The Secretary to the Government of Bihar and Orissa, Municipal Department.
- The Second Secretary to the Government of the Central Province.
- The Second Secretary to the Government of Assam.
- The Honourable the Chief Commissioner and Agent to the Governor General, North-West Frontier Province.
- The Chief Commissioner of Coorg.
- The Chief Commissioner of Delhi.

In continuation of my letter No. 305, dated the 18th December 1920, I am directed to address you in regard to Chapters X (prison discipline), XI (reformatory influences in prisons), XII (prison hygiene and medical administration), XIV (assistance to prisoners on release), XVII (special classes of prisoners) and XIX (principles of prison construction) of the report of the Indian Jails Committee.

#### Chapter X.

2. As regards corporal punishment for prison offences, the Governor General in Council is disposed to agree with the Committee's conclusion (paragraph 227) that this form of

punishment should be kept in reserve as the last resource of authority and should be inflicted only for mutiny or incitement to mutiny and for serious assaults on any public servant or visitor. At present the prison offences for which flogging can be inflicted are not defined, though the general direction that it should be reserved for serious offences (*i.e.*, offences dealt with by major punishments), contained in paragraph 4 of the Government of India Resolution Nos 297—307 of the 18th February 1887, is still in force. The Governor (General in Council thinks that it is desirable, in view of the increasing antipathy of public opinion to this form of punishment, that the offences for which it can be inflicted should be authoritatively defined, and he would be glad to learn whether local Governments see any objection to the passing of a statutory rule under section 56 (3) of Act IX of 1894, giving effect to the Committee's recommendation. It should be noted that several local Governments have already expressed views very similar to those of the Committee in answer to the Home Department letter No. 22, dated the 6th January 1920, though some were in favour of enlarging the list of offences punishable with whipping by including contumacious refusal to work, wilful damage to prison property, conspiring or attempting to escape, etc.

Should such a rule be passed, it would seem desirable that it should include a direction for the submission of a special report on every case in which flogging has been inflicted to the Inspector-General of Prisons, as suggested in the last sentence of paragraph 227.

The Governor General in Council would also be glad to know whether local Governments approve of the suggestion made in paragraph 228 that section 53 (2) of the Act should be amended by the omission of the words "not less than." The two subsidiary instructions suggested in the same paragraph might well be included in the Jails Manuals of all provinces.

3. The existing statutory rules regarding the imposition of handcuffs and fetters as a punishment are contained in Parts II and III of Appendix I to the Home Department resolution Nos. 500—510 of the 31st August 1896. Separate, cellular and solitary confinement are defined in section 46 (8), (10), and (11) of the Act of 1894. I am to enquire whether His Excellency the Governor in Council <sup>etc.</sup> accepts the modifications of the rules and the amendment of the Act proposed in paragraphs 230, 231 and 232 of the report.

4. The Government of India agree with the Committee (paragraph 233) that the practice as to exacting labour from prisoners undergoing penal diet should be uniform throughout India. The question might suitably be discussed at the conference of Inspectors-General proposed in paragraph 7 of my letter No. 13, dated the 14th January 1921.

5. In paragraph 234 the Committee recommend that section 46 (2) of the Act of 1894, should be amended by the interpolation of the words "for a stated period" after "change of labour," and in paragraph 235 they propose various additions to, and changes in, section 47, which deals with the combination of punishments. The opinions of local Governments are invited on these recommendations and also on the minor changes in the statutory rules published as Appendix II to the Home Department Resolution of the 31st August 1896, which are suggested in paragraphs 236 and 237. These latter changes appear *prima facie* to be unobjectionable.

6. Under section 56 of the Act of 1894 a superintendent has complete discretion, subject to rules and instructions sanctioned by the local Government, to confine any prisoners in irons if he considers such precaution necessary for their safe custody. In paragraph 242 the Committee recommend the adoption in all provinces of rules which would materially limit this discretion and which would confine the use of irons for safe custody to prisoners sentenced to transportation and to those who are violent or dangerous, or who have escaped or planned or attempted to escape. The existing divergence in practice in regard to this matter renders judicial sentences most unequal in severity, as pointed out in paragraph 238 of the report, and the Government of India agree with the Committee that as a matter of principle some degree of uniformity is desirable. They would be glad to learn whether local Governments see any objection to the adoption of the rules suggested in paragraph 242 for intra-mural prisoners and of those proposed in paragraph 243 for prisoners employed extra-murally.

[The Governor General in Council has read with concern the remarks contained in paragraph 240 regarding the use of irons and the indiscriminate association of habitual and non-habitual prisoners in the jails of the United Provinces. He has no doubt that the local Government will devote its early attention to the revision of the rules and practice in regard to this matter.]

7. The use of the belchain, except as a strictly temporary expedient for prisoners confined in insecure huts or tents outside the jail wall, is strongly condemned in paragraphs 244 and 245. The Governor General in Council is impressed by the Committee's objections to this device and he hopes that all local Governments will take steps to limit its use to occasions when it is absolutely indispensable as a precaution against escape.

8. The remarks in paragraph 246 on the subject of rewards for the recapture of escaped prisoners should, in the opinion of the Government of India, form the subject of discussion at the first conference of Inspectors-General.

#### *Chapter XI.*

9. Up to 1908 the system of remission in force was based on the marks earned by good conduct. The existing system of remission by days, to the value of which the Committee pay high tribute in paragraph 247, is regulated by statutory rules made by the Governor General in Council under section 59 (5) of the Act of 1894. These rules were originally published as Appendix I to the Home Department Resolution No. 161—172 of the 25th June 1908, and were amended by the subsequent Resolutions No. 84—94, dated the 11th April 1911, and No. 1058-C.—1071-C., dated the 22nd December 1914. Under the executive instructions contained in Appendix II to the Resolution of the 25th June 1908, forfeiture of the remission earned and temporary or permanent exclusion from the remission system were included among the punishments that can be awarded for a prison offence, and the Resolution of the 22nd December 1914 amended the statutory rules by the addition of the rule referred to in paragraph 251 of the report, under which conviction for certain specified offences, committed after admission to jail, not only involves forfeiture of all remission earned up to the date of conviction, but also disqualifies the convicted prisoner from earning ordinary remission during the period of his sentence for the specified offence.

In paragraphs 248 to 254 the Committee makes several recommendations with the object of making the remission system more liberal. The Government of India are disposed to accept all these proposals on the general grounds that the more generous the scale of remission, the greater will be its reformatory influence, but before amending the statutory rules they would prefer to be favoured with the views of local Governments on the specific recommendations of the Committee, which are summarised in paragraphs (196) to (202) of Chapter XXIII.

10. The observations in paragraphs 256 and 257 on the working of the gratuity system in England and the United States of America have been read by the Governor General in Council with great interest, and he endorses the Committee's commendation of the principle underlying the system. Its general introduction into Indian jails would, however, be an almost complete innovation, and the Government of India are not at present prepared to pass any orders on the subject. They are content to leave the matter to be dealt with by local Governments by means of rules under section 60 (π) of the Act of 1894. I am, however, to suggest that the whole question should be considered by the first conference of Inspectors-General, which should be in the best position to advise local Governments as to the probable cost of the system and as to the extent to which uniformity throughout India would be feasible.

11. The Government of India agree with the Committee (paragraph 265) as to the valuable reformatory influence on prisoners of interviews and letters, and they accept the view that the rules on this subject should be as liberal as is compatible with Indian conditions and should be uniform throughout India. With this remark they commend the model set of rules appended to Chapter XI to the consideration of local Governments, and they suggest that statutory effect should be given to them as rules under section 60 (q) of the Act of 1894, with such minor modifications as may be necessitated by local circumstances.

12. So far as the Government of India are aware, no form of literary education is at present provided in Indian jails other than institutions reserved for juvenile or adolescent offenders. The Committee now recommend (paragraph 272) that elementary education, including some manual training, should be made compulsory for all prisoners not over the age of 25 in all central and district jails. The Governor General in Council regards this proposal as one of great value and he suggests that it should be carefully examined, first by the Inspector-General of Prisons in each province in consultation with the Director of Public Instruction, and later at the inter-provincial conference of Inspectors-General. The recommendations in paragraph 274 that a small library should be provided in every jail and that prisoners should be encouraged to read in their spare time might be similarly examined.

The proposal made in paragraph 275 regarding the occupation of prisoners during the hours between lock-up and bed-time has already been discussed in paragraph 12 of my letter, No. 307, dated the 17th December 1920.

13. The Governor General in Council attaches great importance to the recommendation made in paragraphs 279—283 regarding provision of religious and moral instruction in prisons, and he has no doubt that the Committee's views would be emphatically endorsed by educated Indian opinion. In his judgment it should now be recognized that it is the duty of the Government to provide religious and moral instruction for all prisoners in its charge, and he considers that this principle should be explicitly affirmed in all provincial jail manuals. The methods by which effect should be given to it must be defined for each province by the local Government, either by means of executive instructions or in statutory rules under Section 60 (e) of the Act of 1894. Uniformity of practice throughout India is for obvious reasons impossible; but the universal recognition of the principle will, in the opinion of the Governor General in Council mark a great advance in our prison system.

14. The Government of India are confident that all local Governments will give due consideration to the recommendations contained in paragraphs 285—288 on the subject of certain religious and caste observances, and will make the necessary Amendments in their jail manuals in regard to matters on which they accept the Committee's views.

#### Chapter XII.

15. In the first four sections of this Chapter the Committee discuss points of detail connected with the food, clothing and bedding of prisoners, and the sanitary and hospital arrangements in jails. It has not been the practice in the past for the Government of India to interfere in regard to such matters and they do not consider that their interference at the present juncture is required. They have no doubt that local Governments and their executive officers will give their most careful consideration to the Committee's suggestions and will introduce as soon as practicable such reforms as are obviously called for. In an earlier passage in the report (paragraph 13) the Committee have recorded their deep appreciation of all that has been accomplished by prison workers during the last 30 years to promote the material well-being of prisoners, and the Governor General in Council believes that in respect to most of the matters dealt with in this Chapter Indian jails already compare favourably with those of most other countries. In regard to diet and health, the Indian prisoner is probably better off than the bulk of the free population. During the four years ending 1917 the average death rate in all jails in British India was 18.55 *per mille* whereas in the same period the rate among the free population was 30.44. Even allowing for the heavy infant mortality among the free population, the figures are a striking illustration of the excellent sanitary conditions prevalent in Indian prisons.

16. The subject of overcrowding discussed in the fifth section of this Chapter stands, however, on a different footing. The figures quoted in the report show that in certain provinces this evil has attained very serious proportions and the Government of India agree with the Committee as to the desirability of very early steps being taken to provide a remedy. The only effective remedy is obviously the construction of new buildings, combined with the definite recognition of the principle, advocated in paragraph 335, that a separate berth should invariably be provided for each prisoner. The local Governments concerned have already been asked, in paragraph 5 of my letter No. 305, dated the 16th December 1920, to draw up a carefully considered programme of jail construction, to select at once sites or such new central jails as may be necessary, and to make financial provisions for their construction as soon as circumstances permit. In view of the comment which this Section of the report is likely to cause, the Government of India would be glad if local Governments would keep them informed of all steps taken to relieve overcrowding.

#### Chapter XIV.

17. It is unquestionably a serious defect in the Indian prison system that the released convict is thrown entirely on his own resources, and that except in a few of the larger towns there is no organisation to help him in the struggle to regain a place in society. The Government of India agree with the Committee that there is at the present day a wide field for societies, formed with the object of assisting released prisoners, and that such societies, while depending in the main on voluntary efforts, should at the outset receive a large measure of official recognition and support. Whether the time is yet ripe for the creation of the elaborate net-work of societies contemplated by the Committee is a question on which the Government of India do not feel competent to express an opinion. The decisive factor must obviously be the extent to which voluntary effort may be forthcoming. A start might however, be made in the Presidency towns and provincial capitals on the lines suggested by

the Committee, and the organisations there formed might gradually extend their activities to less advanced localities as popular interest in the movement increases. But the initiative must obviously come from Local Governments, and the Governor General in Council considers that they should have complete discretion to make such experiments as may seem best suited to their own circumstances. While, therefore, he approves the principles underlying the Committee's proposals, he does not think that any useful purpose would be served by discussing these proposals in detail.

#### *Chapter XVII.*

18. The Government of India agree with the Committee as to the desirability of completely segregating civil from criminal prisoners. The number of the former is, however, so small that the provision of separate buildings for them would hardly be justified and accommodation of the type suggested in paragraph 464 should, in the opinion of the Government of India, suffice for the present. The remarks contained in paragraph 465 regarding the treatment and employment of civil prisoners are commended to the notice of local Governments.

19. It is apparent from the observations made by the Committee in section IV of this Chapter that the existing arrangements for under-trial prisoners are susceptible of great improvement, and the Governor General in Council trusts that the matter will receive the early attention of local Governments. He has reason to think that Indian opinion strongly disapproves the existing lack of discrimination between the treatment of convicted and unconvicted prisoners. The practice of placing under-trial prisoners in charge of convict officers, referred to in paragraph 473, should be stopped, and every effort should be made to prevent the association of prisoners charged for the first time with hardened offenders. For this purpose the sub-division of the under-trial yard on the lines recommended in paragraph 476 would seem to be essential, and the change should not be a very expensive one. The provision of separate cells for every under-trial prisoner is, however, a reform that can obviously only be carried out gradually. The Government of India are disposed to agree with the majority of the Committee (paragraph 475) that it is unnecessary to confine under-trial prisoners to their cells during the day time, but this and the other recommendations regarding the treatment of such prisoners contained in paragraphs 478 to 486 are questions which they are content to leave to Local Governments. They would be glad to learn the views of Local Governments on the proposal that half the period of detention before and during trial should be counted as part of the substantive sentence (paragraph 477).

20. The Governor General in Council agrees with the Committee's condemnation (paragraph 488) of the practice prevalent in certain provinces whereby the police provide the guard over prisoners sentenced to death. He also agrees that the use of leg-irons and of the belcham for such prisoners should not be permitted. Generally speaking, the Government of India think that condemned prisoners should be treated with all possible consideration and that such alleviations as are compatible with their safe custody should be allowed to them. They suggest that the provincial jail manuals should be revised by the light of the Committee's remarks on this subject.

21. The Government of India have nothing to add to the remarks of the Committee on female prisoners and lepers (sections VI and VII of Chapter XVII). As regards lunatics, they agree that non-criminal lunatics should not be committed to jail, and that criminal lunatics should not be detained in jail a day longer than is necessary. But the problem can only be solved by the provision of more expert alienists and more institutions for the reception of mental cases, and this is primarily a matter of money. There would not, however, appear to be much difficulty in setting aside part of a selected jail, as suggested in paragraph 509 for such lunatics as must be kept in prison and this proposal is commended to local Governments.

The Governor General in Council is pleased to accept the recommendations made in paragraph 510 of the report and to direct the withdrawal of the Home Department letter No. 15-1609-1617, dated the 15th October 1888, regarding the treatment of recovered lunatics.

#### *Chapter XIX.*

22. The Government of India are not in a position to comment on the observations of the Committee regarding the principles of prison construction, but they have no doubt that these observations and the standard plans enclosed with the report will receive careful consideration from, and will be of great assistance to, all local Governments which have to extend their prison accommodation.

23. It will be convenient to give a summary of the points dealt with in this letter on which the opinion of the Local Government is invited. They are:

- (a) the proposed introduction of a statutory rule under section 59 (3) of Act IX of 1894 to give effect to the suggestion that corporal punishment should be inflicted only for mutiny or incitement to mutiny and for serious assaults on any public servant or visitor (paragraph 2);
- (b) the suggestion that Section 53 (2) of Act IX of 1894 should be amended by the omission of the words "not less than" (paragraph 2);
- (c) the modifications proposed in the existing statutory rules regarding the imposition of handcuffs and fetters as a punishment and the Amendment suggested in Act IX of 1894, regarding separate cellular and solitary confinement (paragraph 3);
- (d) the proposed Amendment to Section 46 (2) of Act IX of 1894 by the interpolation of the words "for a stated period" after "change of labour" and the suggested additions to, and changes in, Section 47 of the same Act, dealing with combination of punishments, and also the minor changes in the statutory rules published as appendix II to the Home Department resolution of the 31st August 1896 (paragraph 5);
- (e) the proposed adoption of some uniform rules in regard to the use of fetters for the safe custody of intra-mural prisoners and of those employed extra-murally (paragraph 6);
- (f) the specific recommendations regarding the remission system summarized in paragraphs (196) to (202) of Chapter XXIII of the Jail Committee's report (paragraph 9);
- (g) the proposal that half the period of detention before and during trial should be counted as part of the substantive sentence (paragraph 20).

No. 141, dated Simla, the 19th May 1921.

From—C. W. Gwynne, Esq., I.C.S., O.B.E., Deputy Secretary to the Government of India, Home Department,

To—	{	The Secretary to the Government of Madras, Home (Judicial) Department.
		The Secretary to the Government of Bombay, Judicial Department.
		The Secretary to the Government of Bengal, Revenue Department.
		The Secretary to the Government of the United Provinces, Judicial Department.
		The Revenue Secretary to the Government of the Punjab.
		The Secretary to the Government of Burma, Judicial Department.
		The Secretary to the Government of Bihar and Orissa, Financial Department.
		The Second Secretary to the Government of the Central Provinces.
		The Second Secretary to the Government of Assam.
		The Honourable the Agent to the Governor General and Chief Commissioner, North-West Frontier Province.
		The Chief Commissioner of Coorg.
The Chief Commissioner of Delhi.		

In continuation of the Home Department letter No. 305, dated the 16th December 1920, I am directed to address you on the subject of the award of indeterminate sentences to convicts discussed in Chapter XVI of the report of the Indian Jails Committee.

2. The Committee are of opinion that long sentence of imprisonment may frequently be harmful rather than beneficial. They point out that punishment is awarded with regard to the crime committed, and that no consideration is or can be given to its suitability to the criminal or its likelihood to attain the object of reformation. To remedy this defect a system of indeterminate sentences and release on parole has been adopted in the United States. The Committee have outlined a procedure based on the American system but modified to meet Indian conditions. They propose that the sentence of every long term prisoner should be brought under revision as soon as he has served half the period awarded by the court, in the case of the non-habitual, or two-thirds of that period in the case of the habitual convict

subject to a minimum of two and a half years, inclusive of the remissions earned but exclusive of remissions granted on special occasions. There would be constituted in each province a revising board consisting of the Inspector General of Prisons of the Province (who would be the Chairman), the District and the Sessions Judge of the area in which the jail is situated and a non-official appointed by Government. The Board would be assisted by a Secretary, who would collect and place before them such information regarding the convict as would enable them to judge of his fitness for release in advance of the expiry of his sentence, and to make a recommendation to the Local Government concerned for release with or without conditions and with or without an intermediate period of probation.

3. The Government of India are generally disposed to favour a system of Advisory Boards on the lines proposed by the Committee. They recognize, however, that the necessary preliminary to their establishment is an examination of details of their working and in particular of the instructions which will have to issue from Local Governments to the courts and from Inspectors-General of Prisons to Superintendents of Jails as to the manner in which the requisite information regarding the individual prisoner should be collected and placed before the Boards. They would be glad, therefore, if the proposals could be examined from the practical point of view and the final opinion of His Excellency the Governor in Council etc. could be communicated to them.

4. The Government of India also desire to know the views of the Local Government on the further recommendations contained in this Chapter, viz.:

- (a) the introduction of a probationary period, during which the convict should be gradually released from the restrictions of jail life, and the appointment of special officers to help and supervise them during this period (paragraphs 455, 456, 458 and 459);
- (b) that when a prisoner is released on parole the Revising Board should have power to suspend and set aside any order regarding him made under section 565 of the Code of Criminal Procedure (paragraph 459); and
- (c) that, in the event of the system of release on parole being accepted, the practice of granting remission of sentence on occasions of public rejoicing should be abandoned (paragraph 460).

With regard to the second point I am to state for the information of the Government of Madras etc. your information

that in the Criminal Procedure Amendment Bill which was introduced in the Council of State on the 21st February 1921, an Amendment of Section 401 of the Code has been included so as to cover orders made under Section 565 of the Code, but not so as to vest the power of suspending and setting them aside in any authorities lower than the Local Government.

No. 178, dated Simla, the 24th June 1921.

From—C. W. Gwynne, Esq., Deputy Secretary to the Government of India, Home Department,

To—

- The Secretary to the Government of Madras, Home (Judicial) Department.
- The Secretary to the Government of Bombay, Home (Judicial) Department.
- The Chief Secretary to the Government of Bengal.
- The Secretary to the Government of the United Provinces, Judicial Department.
- The Revenue Secretary to the Government of the Punjab.
- The Secretary to the Government of Burma, Judicial Department.
- The Secretary to the Government of Bihar and Orissa, Municipal Department.
- The Second Secretary to the Government of the Central Provinces.
- The Second Secretary to the Government of Assam.
- The Honourable the Chief Commissioner and Agent to the Governor General in the North-West Frontier Province.
- The Chief Commissioner of Coorg.
- The Chief Commissioner of Delhi.

In continuation of the Home Department letter No. 806, dated the 16th December 1920, I am directed to address you on the subject discussed in Chapter XIII (insanity, mental deficiency and abnormality of prisoners) of the Indian Jails Committee's report.

2. The Committee are of opinion that the existing arrangements for the treatment of prisoners suffering from mental aberration in jails in India not amounting to insanity in its certifiable form are not satisfactory and they are in favour of adopting measures for remedying existing defects. The Committee therefore recommend that in each Province a special institution for mental defectives should be provided in which all persons falling within the definition of defective as laid down in the British Mental Deficiency Act, 1913 (3 and 4 Geo. 5, Chapter 28) with the omission of the reference to "birth and early age" can be collected for care and treatment. It is proposed that accused persons proved by medical evidence to be defective should be committed by the court to this institution and that the Inspector-General of Prisons should have the power to transfer defective prisoners from jails to it by recognising it as a prison for purposes of the Prisoners Act, 1900.

3. In Appendix VII to the report a minority of the Committee have advocated the following extensive measures :

- (i) that all young adults and children who commit crime should, as far as possible, be medically examined by an expert, in order to ascertain whether they are mentally abnormal or not ;
- (ii) that all persons should be similarly examined before they are released on probation ;
- (iii) that all prisoners should be similarly examined before they are released on parole ;
- (iv) that all mentally defective and mentally abnormal prisoners should be sent to a special prison ;
- (v) that selected medical officers in the prison service should be sent to the United States to study the subject and the methods there in use ; and
- (vi) that, where a lunatic asylum is near a prison, the Superintendent of the Asylum should be appointed 'consulting alienist' to the prison (paragraph 342).

4. These measures which are largely based on American experience have not yet been accepted by alienists and criminologists in England and it would probably be premature to adopt them in India until alienists have had an opportunity of subjecting them to a careful examination in the light of actual experience of conditions obtaining in this country. At the same time, it appears to the Government of India, a great deal may be done in this direction and the following practical propositions have been recommended :

- (a) That Appendix VII to the report should be circulated in book form to Superintendents of Jails throughout India and Burma.
- (b) That mentally defective boys should be detained for purposes of education in special schools and that mentally defective habitual criminals who would otherwise be a danger to the community at large should be kept in special prisons. Further, boys incapable of education should be removed from reformatories and Borstal institutions and prisoners who have committed criminal assaults, sexual offences or burglaries should not be released until they have been examined by expert alienists.
- (c) That expert alienist advice should be given to the court in any case in which there is reason to suspect mental abnormality in the accused person.
- (d) That if a qualified Superintendent of a jail or reformatory school considers a prisoner mentally abnormal and therefore likely to be a menace to society, if released, he should be sent to the Central Jail for expert examination by the alienist of the Province concerned. His subsequent treatment should depend on the report of the specialist and his case should again be considered by the court if necessary.
- (e) That one prison in each Province should be placed under the supervision of a skilled alienist and psychologist and should comprise a reformatory and a school as well as a mental hospital for treatment in addition to being a place of permanent detention for those not amenable to treatment.

The Government of India are of opinion that all these propositions cannot be given effect to until a sufficient number of alienists are appointed. In this respect I am to invite your attention to the Home Department circular letter No. 10-Lunatic Asylums, dated the 22nd June 1921, in which the views of the Local Governments have been asked for on the question of appointing alienists from the United Kingdom on contract service for seven years in connection with the reorganization of the Alienist Department. You will observe that



the recommendations of the Jails Committee give support to the suggestion made regarding the appointment of alienists. The Government of India attach considerable importance to these appointments, being made at an early date and would be glad to know what action the

Government of <sup>Madras</sup> ~~the~~ propose to take in the matter. The Government of India, however, <sup>you</sup> are of opinion that the suggestion (a) above can be fully carried out at once and that the suggestions (b) and (d) can be partially carried out by local medical officers and I am to suggest, that if <sup>His Excellency the Governor in Council</sup> ~~the~~ sees no objection, steps should be taken to give effect to them in the manner most suitable to the particular circumstances of each Province. Superintendents of jails should also be encouraged to study the questions discussed in this chapter of the report and subject them to the test of Indian experience. With the appointment of alienists and a growing interest on the part of responsible jail officers it will be possible to formulate a policy suitable to India with a greater degree of confidence than at present.

#### DISCONTENT AMONG THE STAFF OF THE MILITARY ACCOUNTS DEPARTMENT.

161. **Mr. B. S. Kamat:** (a) Will Government be pleased to state if they are aware of any discontent among the clerical staff and the Subordinate Accounts Service of the Military Accounts Department?

(b) Is it true that promotions in the Subordinate Accounts Service in that Department have not been notified during the last 15 months; if so, will Government be pleased to state if this is in accordance with any decision to discontinue the practice of notifying promotions?

(c) Is it a fact that the revised list of the Subordinate Service showing the standing of each member has not been issued since 1919, and is it intended not to issue the same any further?

(d) Will Government be pleased to state if their orders contained in F. D. letter No. 1672 of 22nd November 1919, with reference to regulating the pay of subordinates have been strictly given effect to by Heads of Offices; if they have been departed from, will Government be pleased to state the reasons that led to such a departure?

(e) Will Government be pleased to state if there are any cases in the Military Accounts Department in which Senior Accountants and clerks are, as a matter of fact, drawing less pay than some of their juniors although belonging to the same grade, borne on the same roster, and serving at the same station; if so, is any action proposed to be taken to remove such an anomaly?

(f) Will Government be pleased to state how far the principle of the 'next below' rule, sanctioned in paragraph 3 (4) of the Finance Department letter No. 1020-Accounts, dated 26th October 1920, has been actually acted upon by Heads of Offices, and in how many cases?

(g) Will Government be pleased to state whether promotions to the grade of Superintendents and Deputy Examiners were made during the war according to seniority? If the answer is in the negative, are any steps being taken now to safeguard the interests of such of the senior men who remained unpromoted for no apparent disqualification of their own, in respect of fixing the initial pay under the time-scale rate of pay? When is it proposed to revert to the pre-war system of promotion by seniority on one roster?

(4) Have Government come to any decision regarding the extent and nature of recognition to be accorded to Associations or Unions of Clerks in the Military Accounts Department? Is it a fact that the Military Accounts Association, Poona Division, has not been even provisionally recognised by the Military Accountant General on the ground that its President is a retired member of the Military Accounts Department? If so, have Government ruled that ex-service men should not join such Associations, or should be ineligible to be office-holders therein?

**The Honourable Mr. W. M. Hailey :** (a) Government have received a number of memorials from members of the establishments mentioned requesting certain concessions additional to those sanctioned in Finance Department letter No. 1020-Accts., dated the 26th October 1920, and this circumstance must presumably be interpreted as meaning that some degree of discontent exists. On the other hand, the memorialists themselves acknowledge the value of the concessions which they have already received, and the Government of India are satisfied that no legitimate ground for discontent now exists.

(b) Promotions in the Subordinate Accounts Service of the Military Accounts Department, in all vacancies which had occurred up to the 30th June 1921, have been notified.

(c) The maintenance of a general roster of Accountants for the whole of India was prescribed by orders issued in October 1920. A roster corrected to the 1st April 1920, the date from which the reorganization of the Subordinate Accounts Service of the Military Accounts Department had effect, has recently been issued, and another roster corrected to the 30th of June 1921, the date up to which promotions have been made, will issue shortly. In future, similar lists will be issued periodically.

(d) The Government of India have no information that Heads of Offices have failed to observe strictly the orders of the Government of India contained in the letter quoted by the Honourable Member.

(e) The only cases of the kind are those in which a junior clerk or accountant received special promotion prior to the 1st April 1920, and by virtue of such promotion received a higher rate of pay on the time-scale introduced from that date. Accidental anomalies have arisen in this manner which it is impossible wholly to rectify.

(f) The Government of India have information that the rule mentioned has been acted upon by Heads of Offices to the full extent permissible. It is not considered necessary to call for details of individual cases.

(g) During the period of the war, temporary promotions were made, according to local seniority, to the grades of Deputy Examiner and Superintendent, but the next below rule quoted in the preceding clause of the Honourable Member's question fully safeguards the interests of all senior men, who did not receive such temporary promotion, in respect of their initial pay in their substantive appointments as accountant. The grade of Superintendent has been abolished from the 1st April 1920, and permanent promotions to the grade of Deputy Examiner are now made by selection from the senior Accountants on the permanent list.

(h) The answer to the first and third part of this clause is in the negative : the whole question of the recognition by Government of Associations of Government employees is under consideration and orders are about to be issued. The answer to the second part of the clause is, that a letter of the Military

Accountant General refusing recognition of the Military Accounts Association, Poona Division, on the ground stated, has since been withdrawn.

#### WAGES, CONDITIONS OF SERVICE AND REPRESENTATIONS ON COMMITTEES OF MINERS.

162. **Mr. N. M. Joshi :** (a) Will Government be pleased to give :—

- (i) The average daily wages that a miner (man, woman and child) working both above and below ground, (a) use to get in 1914 before the commencement of the war, and (b) gets to-day? and  
(ii) The percentage in the rise, if any, of wages during this period?

(b) Will Government be pleased to give the average percentage in the rise of the cost of living since 1914?

(c) Will Government be pleased to state (i) whether they have considered the question of having a miner's representative or representatives on the Mining Boards, constituted under Section 9 of the Indian Mines Act, 1901; and (ii) if so, whether they intend to amend the said Act so as to make provision for such representative or representatives on the Mining Boards?

(d) Will Government be pleased to state (i) whether they have considered the question of having a miner's representative or representatives on the Committees, constituted under Section 10 of the Indian Mines Act, 1901; and (ii) if so, whether they intend to amend the said Act so as to make provision for such a representative or representatives on the Committees?

(e) (i). Has the attention of Government been drawn to the rise in the number of fatal accidents that took place in mines in the year ending 31st December 1919? (ii) If so, will they be pleased to state whether they have taken, or propose to take shortly, any steps to check this rise, and if they have taken steps to state what they are?

**Mr. A. C. Chatterjee :** (a) The Government of India are at present in consultation with Local Governments and employers with regard to a wage census. Until the census is taken, it is not possible to give an answer to this question, but I have certain figures collected unofficially which I shall be glad to show to the Honourable Member in confidence. These figures are not representative and cannot be guaranteed to be accurate.

(b) The Government of India are in consultation with Local Governments with regard to the preparation of Cost of Living Index Numbers, and it is not possible at present to give any accurate figures regarding the average rise in the cost of living since 1914.

(c) and (d). The revision of the Indian Mines Act is now under consideration and the Honourable Member's suggestion will be borne in mind.

(e) (i). The Honourable Member is referred to the answer given to Question No. 479, asked by Mr. Sachchidananda Sinha on the 15th of March 1921.

(ii) Rules have now been drafted adapting the existing rules to modern mining practice. In view of the constitutional reforms, it has been necessary to reconsider the position of the Central and Local Governments as regards the power to make rules and regulations and, accordingly, it will not be possible to issue the new rules until the Act has been amended.

LEGISLATION FOR THE REGISTRATION AND PROTECTION OF TRADE UNIONS.

163. **Mr. N. M. Joshi**: Will Government be pleased to state whether they propose to introduce legislation for the registration and protection of Trade Unions as per Resolution passed by the Legislative Assembly on the 1st of March 1921? If so, when?

**Mr. A. C. Chatterjee**: The lines of the proposed legislation are at present under the consideration of the Government of India. It is hoped to address Local Governments very shortly and to introduce a Bill, if possible, in the spring of 1922.

RECOMMENDATIONS OF THE INDIAN JAILS COMMITTEE.

164. **Mr. N. M. Joshi**: Will Government be pleased to state what steps they have taken to give effect to the recommendations of the Indian Jails Committee?

**The Honourable Sir William Vincent**: The Honourable Member's attention is drawn to the papers laid on the table in connection with the Question No. 160 asked by Mr. B. S. Kamat.

LEGISLATION ON THE LINES OF THE ENGLISH WORKMEN'S COMPENSATION ACT.

165. **Mr. N. M. Joshi**: Will Government be pleased to state whether they propose to introduce legislation on the lines of the English Workmen's Compensation Act? If so, when?

**Mr. A. C. Chatterjee**: I would invite the Honourable Member's attention to the Supplement to the 'Gazette of India,' dated the 6th of August 1921, in which was published a letter from the Government of India No. L-859, dated the 29th July 1921, to all Local Governments and Administrations. This letter asks for the views of the Local Governments on the question of 'Workmen's Compensation.' We hope it may be practicable to introduce legislation early next year.

CONDITION OF LABOURERS IN MINES AND PLANTATIONS.

166. **Mr. N. M. Joshi**: Do Government propose to appoint, at an early date, a Committee to inquire into the conditions of the labourers working (a) on mines, and (b) on Tea, Coffee, and Indigo plantations in India?

**Mr. A. C. Chatterjee**: The Labour Bureau in the Department of Industries has devoted particular attention to the conditions of the classes of labourers referred to in the Honourable Member's question, by means both of personal investigations and of inquiries through officers of Local Governments. The information so far acquired does not indicate the desirability of the appointment of the suggested Committees which would moreover entail very heavy expense. It should also be remembered that conditions among these classes of labourers vary greatly in different Provinces and if any Committees are required, they ought to be provincial in character.

**Mr. N. M. Joshi**: May I ask whether the information collected by the Bureau of Labour will be available to the Members of this Assembly?

**Mr. A. C. Chatterjee:** I should like notice of that question.

PAY OF POSTAL AND TELEGRAPH PEONS, BOMBAY.

167. **Mr. N. M. Joshi:** Will Government be pleased to state whether they propose to reconsider the rates of pay of the postal and telegraph peons in Bombay City, and if so, will they be pleased to state what their proposals are?

**Colonel Sir S. D'A. Crookshank:** Government do not propose to reconsider the rates of pay of the postmen and telegraph delivery messengers in Bombay City. The present rates were fixed early last year on the recommendation of the Postal Committee.

The second part of the question does not, therefore, arise in their case. The case of telegraph peons other than delivery messengers employed in the Bombay Telegraph Office, is, however, under consideration.

WOMEN VOTERS FOR THE LEGISLATIVE ASSEMBLY.

168. **Mr. N. M. Joshi:** Can Government estimate the number of women who will be qualified to vote in the different territorial constituencies for the election of the Members of the Legislative Assembly if the sex disqualification be removed?

**The Honourable Sir William Vincent:** The Government of India have no information which would enable them to make an estimate of any appreciable value.

NON-VOTABLE POSTS.

169. **Mr. N. M. Joshi:** Will Government be pleased to state the number of new non-votable posts created in the different Departments of all Presidencies and Provinces and in the Government of India since the beginning of the year 1918?

**The Honourable Sir William Vincent:** The information is being collected and will be supplied to the Honourable Member in due course.

INDIANS IN IMPERIAL SERVICES.

170. **Mr. N. M. Joshi:** Will Government be pleased to state (a) the percentage of Indians in the various Imperial Services in India to the total strength of those services; (b) the maximum percentage of posts intended to be given to Indians; (c) the ratio at which the appointments are at present being filled by Indians to the total number of appointments filled; (d) the number of years that will be required for the Indians to actually attain the maximum percentage of posts open to them?

**The Honourable Sir William Vincent:** A statement is laid on the table.

INDIANS IN THE FOREIGN AND POLITICAL DEPARTMENTS ON RS. 1,000  
AND ABOVE.

171. **Mr. N. M. Joshi:** Will the Government be pleased to state (a) the total number of posts in the Foreign and Political Departments carrying a monthly salary of Rs. 1,000 and more and how many of these are held by Indians; (b) their proposals regarding the appointment of Indians to the higher posts of these Departments?

**The Honourable Sir William Vincent** (on behalf of the Honourable Sir John Wood) : (a) There are 15 posts in the Political Department of the Government of India carrying a fixed salary of over Rs. 1,000 per mensem. The remainder of the officers of the Political Department are on a time-scale of pay rising from Rs. 650 to Rs. 2,500 per mensem. At present 104 officers on the time-scale are drawing Rs. 1,000 or over. There are no Indians in the Political Department of the Government of India, as they have hitherto been admitted into the Political Department only in very exceptional cases.

(b) The Government of India have decided that in future a substantial proportion of Indians will be admitted to the Political Department and an announcement on the subject has recently been made in the Press.

INDIAN TRADE COMMISSIONER IN EAST AFRICA.

172. **Mr. N. M. Joshi:** Will the Government be pleased to state whether it is a fact that Mr. C. F. Andrews has expressed to the Government his approval of its proposal to appoint a European Officer of the Indian Civil Service as the first Indian Trade Commissioner in East Africa; (b) whether any representative Indian in East Africa has also expressed similar approval?

**The Honourable Mr. C. A. Innes:** It is recorded in the Commerce Department file on the subject that Mr. Andrews in the course of conversation expressed himself in favour of the appointment of a European as the first Indian Trade Commissioner in East Africa. Sir Benjamin Robertson on his return from East Africa, also reported that the Indian commercial community in East Africa felt strongly that a European should fill the appointment for the present, but while they urged that a European should be appointed, they also urged that he should have an Indian Assistant. A private letter from a leading Indian business man in Mombassa also stated that it was the general feeling that a European should be appointed in the first instance.

DIFFUSION OF MEDICAL KNOWLEDGE THROUGH VERNACULARS.

173. **Rai Sahib Lakshmi Narayan Lal:** (a) Has the Government taken any action under the Resolution moved by Dr. M. N. Banerjee in the Imperial Council in 1916 recommending the adoption of measures for the diffusion of sound medical knowledge through the vernaculars for the relief of the rural population which was accepted by the Government? If not, why not?

(b) If any step has been taken, will the Government be pleased to give full information regarding the same?

(c) If no step has been taken, will the Government be pleased to state whether there is any hope of any step being taken to carry the said scheme into effect in the near future?

**Mr. H. Sharp:** (a) The answer is in the affirmative. The Government of India addressed the Local Governments in the manner proposed by the Honourable Dr. M. N. Banerjee in his Resolution.

(b) and (c). The replies received from the Local Governments and Administrations show that they did not approve the proposal to establish vernacular medical institutions. The Government of India, however, again in December 1918 addressed the Local Governments and Administrations. I should be glad to show the Honourable Member a copy of this letter if he so desires. The Government of India were unable to proceed further in the matter, as the question was one which fell within the province of the local Governments and is now a provincial transferred subject.

**MEDICAL DEGREES OF INDIAN UNIVERSITIES TO BE NON-REGISTRABLE IN THE UNITED KINGDOM.**

174. **Mr. B. S. Kawat:** (a) Have Government noticed the indignation caused among the Medical graduates of the Indian Universities by a reported decision of the British Medical Council whereby it is proposed to make the medical degrees of Indian Universities non-registrable in the United Kingdom?

(b) Will Government be pleased to place on the table all the information they may have on the subject as to the action proposed to be taken by the British Medical Council, and the steps Government have taken, if any, to safeguard the interests of Indian Medical graduates, especially their eligibility under the present rules for admission to the Indian Medical Service examination?

**Mr. H. Sharp:** (a) Yes.

(b) A copy of the Resolutions passed by the Executive Committee of the General Medical Council regarding this subject is laid on the table. The Government of India immediately on receiving intimation of the intentions of the General Medical Council communicated with the Secretary of State and the Local Governments. The question of the eligibility of Indian Medical Graduates for admission to the Indian Medical Service examination forms part of the general question involved. The Government of India realize the importance of the whole question and are giving their careful consideration to it.

*Resolutions adopted by the Executive Committee of the General Medical Council at its meeting on the 21st February 1921.*

(1) That the Executive Committee having carefully considered the evidence furnished in the replies of the Indian Universities and Colleges to the President's circular letter of June 8, 1920, set forth in the President's Memorandum of December 1920, regarding the course of study in Midwifery pursued by candidates for Indian Medical Diplomas now registrable in the United Kingdom, and entitling practitioners possessing them to practise midwifery in this country, is not satisfied that such diplomas under existing conditions furnish 'a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of midwifery' within the meaning of Section 13 (i) of the Medical Act, 1886.

(2) That the Executive Committee direct that a copy of the above Resolution and of the President's Memorandum be sent to each of the Indian Universities on the list contained in the Medical Register, with the intimation that unless evidence is received by the Executive Committee before the date of its meeting in February 1922 that their respective arrangements and requirements with regard to midwifery have been brought into satisfactory

accordance with the Council's Resolutions with reference to professional education, the recognition hitherto accorded to their respective medical diplomas in pursuance of the above-mentioned Section of the Medical Act, 1886, will forthwith thereafter terminate.

(3) That a copy of the foregoing Resolutions and of the President's Memorandum be forwarded to the Secretary of State for India, for his information.

APPOINTMENT OF PASSENGER SUPERINTENDENTS ON RAILWAYS.

175. **Rao Bahadur T. Rangachariar:** (a) Will the Government be pleased to state what action has been taken both by the Railway Board and by the various Railway managements to give effect to the Resolution of this Assembly recommending the appointment of Passenger Superintendents mainly to look after the third class passengers?

(b) Do the Government propose to lay on the table a list of Superintendents, if any, so employed showing their nationality, pay and dates of appointments?

**Colonel W. D. Waghorn:** (a) The attention of Railway Administrations was drawn by the Railway Board to the Resolution referred to and they were requested to give effect to its terms.

The Railway Board also drew the attention of Railway Administrations to the necessity for providing Passenger Superintendents with a training which would enable them to carry out their duties effectively and to the advantage of the public. It will be seen from the statement referred to in part (b) that the more important railways have already appointed Passenger Superintendents.

(b) The Honourable Member is referred to the statement laid on the table in response to part (a) of Lala Girdharilal Agarwala's question on this subject.

APPOINTMENT OF COUNCIL SECRETARIES FROM AMONG MEMBERS OF THE ASSEMBLY.

176. **Rao Bahadur T. Rangachariar:** Will the Government be pleased to state whether the Governor General proposes to take action under Section 43A of the Government of India Act and appoint from among the Members of the Assembly Council Secretaries so as to give them opportunities of knowledge of the inner workings of the Departments of Government, and if so, when? If no action is intended to be taken, will the Government be pleased to state why not?

**The Honourable Sir William Vincent:** I have nothing to add to the reply given by me to a similar question asked by Dr. H. S. Gour on the 5th September 1921.

EMOLUMENTS OF THE INDIAN CIVIL SERVICE AND THE IMPERIAL SERVICES.

177. **Rao Bahadur T. Rangachariar:** Will the Government be pleased to state whether there are any proposals or requests to further enhance the pay or emoluments of the Indian Civil Service and the Imperial Services, and if so, whether the matter will be brought up before the Assembly before any definite commitments are made on behalf of the Government?



**The Honourable Mr. W. M. Hailey :** No such proposals are at present under consideration ; but the Honourable Member has doubtless seen the Home Department Resolution No. D.-449, dated the 26th July 1921 and the Finance Department Resolution No. 1559-E.A., dated the 16th August 1921, in which the orders of the Secretary of State on the memorials submitted on the subject by officers of the Imperial Services during the past two years have recently been announced. These orders disposed of the matter to which I understand the Honourable Member is referring.

**Rao Bahadur T. Rangachariar :** Will the Assembly have any voice in revising the proposals now sanctioned ?

**The Honourable Mr. W. M. Hailey :** I am afraid I do not understand the exact process by which this Assembly would revise orders already passed by the Government of India and the Secretary of State.

#### MINING CONCESSIONS TO COLONEL FRANK JOHNSON.

178. **Rao Bahadur T. Rangachariar :** Will the Government be pleased to state whether it is a fact that Colonel Frank Johnson has obtained either directly or indirectly some mining concessions from the Burma Government or any other Local Government ?

**Mr. A. C. Chatterjee :** No mining concessions have been granted to Colonel Frank Johnson personally in Burma, but concessions for oil have been granted by the Local Government to two Companies in which he is interested. In the Punjab, Colonel Frank Johnson has been granted by the Local Government a prospecting licence for oil over 1½ square miles in the Attock district. A prospecting licence is ordinarily granted for only one year in the first instance in order to enable the concessionaire to test the property.

Development of mineral resources which are Government property, is a provincial subject under the rules issued under Section 45A of the Government of India Act, and Local Governments have full powers to grant prospecting licences and mining leases without reference to the Government of India, provided that they are in accordance with the mining rules prescribed by the Government of India.

The Burma Government have stated that the concessions have been granted to the two Companies in pursuance of the ordinary industrial development of the province that they employ expert staff and have expended money freely investigating the mineral resources of the province, and that in all respects mineral concessions rules and regulations have been scrupulously observed and Colonel Frank Johnson's connection with the administration of martial law in the Punjab was not considered relevant.

The Honourable Member's question and this answer will be communicated to the Local Governments concerned.

**Mr. Jamnadas Dwarkadas :** Will the Honourable Member be good enough to state when the year expires ?

**Mr. A. C. Chatterjee :** I should like notice of that Question. I cannot give the reply offhand, but it will probably expire some time next year.

**Mr. Jannadas Dwarkadas :** A further question, Sir. Is it likely that the licence will be renewed or will it not be renewed ?

**Mr. A. C. Chatterjee :** That depends on the discretion of the Punjab Government.

**Mr. Jannadas Dwarkadas :** Burma Government ?

**Mr. A. C. Chatterjee :** I thought the question referred to the Punjab.

PROSECUTION OF GENERAL DYER.

179. **Rao Bahadur T. Rangachariar :** Will the Government be pleased to state whether they have considered the question of the desirability of prosecuting General Dyer or at least of depriving him of his pension and to explain why no such action has been taken hitherto ?

**Sir Godfrey Fell :** The attention of the Honourable Member is invited to the statement (item 13) laid on the table at the meeting held on the 19th February last, in reply to Question No. 163\* asked by Rai Bahadur Bakshi Sohan Lal.

*(Question No. 180 was not asked and no reply was given.)*

JURY SYSTEM IN FORCE FOR TRIAL OF EUROPEANS.

181. **Rai G. C. Nag Bahadur :** Having regard to the composition of the jury for the trial of Reed, the Assistant Manager of the Khoreal Tea Estate, do the Government of India propose to amend the jury system, as it now obtains, for the trial of Europeans accused of a criminal offence by an Indian ?

**The Honourable Sir William Vincent :** The question is under the consideration of Government and I hope to be able to make a fuller statement as to the intentions of Government later.

PAY AND ALLOWANCES OF INDIAN IMPERIAL SERVICES.

182. **Rai G. C. Nag Bahadur :** Is it true that the Government of India are engaged in considering the question of increasing the pay and allowances of the Indian Imperial Services? If the answer is in the affirmative, will the Government take the opinion of the Assembly upon the proposals before coming to a final decision ?

**The Honourable Mr. W. M. Hailey :** I would refer the Honourable Member to the reply which I have already given to a similar question by Rao Bahadur T. Rangachariar.

PROSECUTIONS UNDER SECTIONS 124A AND 153A, INDIAN PENAL CODE.

183. **Mr. T. V. Seshagiri Ayyar :** (a) What has been the number of prosecutions in all the Provinces in India for offences under Sections 124A and 153A of the Indian Penal Code between April 1921 and August 1921 ?

(b) What are the corresponding figures for the same period in the years 1919 and 1920 ?

**The Honourable Sir William Vincent :** I place a statement on the table giving the information asked for by the Honourable Member so far as it is available in our records, but the Honourable Member will understand that this is a

\* Vide Legislative Assembly Debates, Vol. I, pp. 207-10.

matter with which Local Governments are chiefly concerned, and it would be more appropriate for him to obtain such information from them.

*Number of prosecutions instituted under Sections 124A and 153A, Indian Penal Code, between April 1919 and August 1920 and for the same period in the year 1921.*

	1919.	1920.	1921.
Madras ... ..	...	...	5
Bombay ... ..	...	...	5
Bengal ... ..	...	...	4
Punjab ... ..	76	4	...
United Provinces *	...	...	58
Bihar and Orissa ...	...	...	5
Central Provinces ..	...	1	7
Assam ... ..	2	...	3
North West Frontier Provinces *	Not known.		...
Coorg *	...	...	...
Delhi ... ..	...	...	...

\*These provinces have not reported specifically the number of prosecutions instituted in 1919 and 1920.

**Mr. S. C. Shahani:** May I ask a Supplementary Question, Sir? I should like to know the number of prosecutions under Section 144 of the Criminal Procedure Code and Sections 124A and 153A of the Indian Penal Code in the Province of Sind.

**The Honourable Sir William Vincent:** I will obtain the information for the Honourable Member, but I am afraid I have not got it at my fingers' ends.

#### RAILWAY WORKSHOPS FOR TRAINING APPRENTICES IN MECHANICS AND ENGINEERING.

184. **Mr. K. C. Neogy:** Will Government be pleased to make a statement in regard to the different Railway Workshops where apprentices are trained in mechanics and engineering, showing:

- the number of Indians and Europeans and Anglo-Indians so trained during each of the last five years, and at present;
- the preliminary qualifications for admission in the case of different nationalities;
- the periods of training;
- the different rates of allowances drawn by them, the nature of residential accommodation and comforts provided to the different classes, and the different leave rules and holiday privileges governing them;
- the nature of appointments generally given to passed apprentices of different nationalities, and the maximum and minimum salaries usually attached thereto?

**Colonel W. D. Waghorn:** Railway Administrations have been asked to furnish the information called for in reply to this question but, with the exception of one or two, it has not yet been received. It will be recognised that to obtain complete information from all railways will take some time and moreover the rules for the training of apprentices are still in their infancy. The Railway Board have, however, got this question under their consideration.

As regards the East Indian Railway apprentices, however, a complete statement of the situation has been received from the Agent and a copy is laid on the table.

*Extract of letter No. 990, dated 27th August 1921, from the Agent, East Indian Railway Company, to the Secretary, Railway Board, Simla.*

Question 184 (a)—Statement attached.

" (b)—European and Anglo-Indian apprentices have to pass an examination as to their educational qualifications and physical fitness before admission, a copy of rules regarding which is enclosed.

Indians have no educational tests to undergo, but the following qualifications are required in the cases of:

- (1) Special Grade apprentices—B. Sc., or M.A.
- (2) 1st class apprentices—Matriculation passed.
- (3) 3rd class apprentices—Illiterate (No educational qualifications are required).

(c) *Periods of Training:*

Europeans and Anglo-Indians ... .. 5 years.

Indians:—

Special grade	1st class	3rd class.
3 years.	5 years.	6 years.

(d) *Rates of allowance:*

				E. and A. I.	Indians Special Grade.	Indians 1st class.	Indians 3rd class.
				Rs.	Rs.	Rs.	Rs.
1st year	...	...	...	45	30	16	7
2nd year	...	...	...	45	45	18	8
3rd year	...	...	...	55	60	19	9
4th year	...	...	...	60	...	20	10
5th year	...	...	...	75	...	23	11
6th year	...	...	...	...	...	...	12

*Nature of residential accommodation and comforts.*

Almost all the European and Anglo-Indian apprentices are accommodated in the Company's Boarding House and others live with their parents or guardians in the stations. The Boarding House has a Superintendent and a Matron looking after the food and other comforts of the boys.

*Hostels.*

The question for the provision of hostels for the Indians is at present under consideration. Meanwhile two private houses are rented by the Company for the accommodation of the Special and 1st class Indian Apprentices, who have no guardians or relative to put up with in the stations. The management of these houses is in the hands of a Committee under

the presidency of an officer of the Railway. The Company provides cooks, servants and necessary furniture, cooking utensils, etc.

3rd class Indian apprentices are mostly sons or relatives of the Indian workmen. They reside in their own houses either in the town or in the adjacent villages, except a few Indian Christians, who live in the Fraser Hostel, which is under the management of the Church Missionary Society.

Institutes fitted with libraries and play-grounds are provided both for Europeans and Indians.

*Leave Rules and holiday privileges.*

*Anglo-Indians.*—14 days' casual leave and gazetted holidays.

*Special Grade Indians.*—15 days' casual or casual sick leave in a year.

*1st class Indians.*—On reaching Rs. 20 per month, they become compulsory Members of the Provident Fund, and are allowed 15 days' casual or casual sick leave in a year.

*3rd class Indians.*—No leave with pay.

All apprentices get free medical attendances. In addition, pure European apprentices get sick leave under European Leave Rules.

(a) Passed apprentices when considered suitable are appointed as Mechanics.

*Europeans and Anglo-Indians.*—Minimum pay on appointment Rs. 90 in grade Rs. 250 according to merits and qualifications.

*Special Grade Indians.*—None have yet completed their training. The pay of those that will be appointed will be fixed according to merits and qualifications.

*1st class Indians.*—Rs. 45 on probation for 3 months. On completion of apprenticeship, Rs. 60 on confirmation. Maximum Rs. 100.

*3rd class Indians.*—Rs. 15 minimum; Rs. 36 maximum.

In addition, there are higher grades than those quoted above, to which men are promoted when they are found qualified and on vacancies occurring.

EAST INDIAN RAILWAY.

LOCOMOTIVE DEPARTMENT.

*Statement showing the number of European and Anglo-Indian Apprentices and Indian Apprentices, Special Grade, 1st Class and 3rd Class, trained in Jamalpur Works during the last 5 years, that is those who completed their apprenticeship during these years.*

Particulars.	1916.	1917.	1918.	1919.	1920.
European and Anglo-Indian	21	11	15	14	10
Indian Special Grade ...	...	...	...	...	...
Do. 1st Class ...	2	1	7	10	3
Do. 3rd Class ...	77	119	79	132	88

	Under training 1921.	Time expired 1921.
European and Anglo-Indian ...	78	22
Special Grade ...	13	Nil.
1st Class ...	28	10
3rd Class ...	1,079	86

EAST INDIAN RAILWAY.

LOCOMOTIVE DEPARTMENT.

*Rules as to selection of Bound Apprentices for the East Indian Railway Locomotive Workshops at Jamalpur.*

1. European and Anglo-Indian lads will be admitted to the Workshops as Bound Apprentices as vacancies occur, after having passed a satisfactory examination as to their qualifications and fitness.

2. Candidates must not be under 15 (fifteen) nor over 18 (eighteen) years of age and when applying must submit their Baptismal or Birth Registration certificates and must also produce a certificate of general respectability and good character from some respectable person (not relative) to whom they are personally known. Successful candidates will require to produce a signed agreement from their parent or guardian on the annexed \* form A.

3. An examination of candidates will be held by the Locomotive Superintendent at Jamalpur from time to time, due notice being issued of the date fixed and intending candidates will be furnished, on application, with passes over East Indian Railway to Jamalpur and back.

4. The subjects of examination are :

Simple Arithmetic  
 " Algebra  
 " Mensuration  
 " Geometry

General knowledge.  
 Elementary Drawing.

An examination as to physical qualifications, for which marks will be given, will also be made by a Medical Officer.

5. Candidates, who pass these examinations successfully and are nominated to a vacancy, must serve three months' probation before finally signing their agreements on annexed \* form B and if found to be in any way unsuitable during that period will be rejected.

6. Boys educated at the Company's School at Mussoorie will have preference over those of equal qualifications who have been educated elsewhere.

LOCO. SUPERINTENDENT'S OFFICE,  
 JAMALPUR,  
 The 14th June 1920.

W. J. TOMES,  
 Loco. Superintendent.

Case No. 31-20.

EAST INDIAN RAILWAY.

LOCOMOTIVE DEPARTMENT.

*Apprentices' Night School.*

*Arithmetic.*—Up to Junior Cambridge.

*Algebra.*—Up to Junior Cambridge.

*Geometry.*—Practical (drawing with compasses and squares), bisecting lines, angles, erecting perpendiculars, dividing lines into equal parts, parallel lines, construction of squares, triangles, rectangles, rhombus, rhomboid, trapezium, trapezoids, etc., regular hexagons and other polygons, simple scales, tangents to circles, finding centre of circles, etc., all of an elementary nature.

*Mensuration.*—Areas of all plane figures, rectangles, circles, regular polygons, surface areas of cylinders, cones, frustums, spheres, etc., cubic contents of plane solids, cubes, cylinders (solid and hollow), rings, pyramids, cones, prisms, sphere.

*General Knowledge.*—Consists of the ordinary subjects taught in School up to Junior Cambridge, i.e., History, Geography, common sense questions in observation, authors and names of popular books, current events, spelling and a short essay on simple subject.

*Drawing.*—Free hand—Floral scrolls and simple objects.

\* Not attached.

### RACIAL DISCRIMINATIONS IN RAILWAY WORKSHOPS.

185. **Mr. K. C. Neogy**: Is any discrimination made in the terms and conditions of apprenticeship and the general treatment of apprentices in Railway Workshops on racial grounds?

**Colonel W. D. Waghorn**: So far as the East Indian Railway is concerned the reply to this question regarding discrimination in terms and conditions of apprenticeship will be found in the statement laid on the table in reply to the previous question. There is no discrimination in treatment.

### INDIAN APPRENTICES AT THE JAMALPUR WORKSHOPS.

186. **Mr. K. C. Neogy**: (a) Is it a fact that the Indian apprentices at the Jamalpur Workshops of the East Indian Railway are not given the same opportunities for training as European and Anglo-Indian apprentices?

(b) How many Indian apprentices of Jamalpur have been selected for training in the Sibpur Engineering College, or sent to the Drawing Office during each of the last five years; and how many European and Anglo-Indian apprentices have been selected for the purpose during the same periods?

**Colonel W. D. Waghorn**: (a) Indian apprentices are given the same opportunities as European and Anglo-Indian apprentices. This of course does not refer to the illiterate apprentices.

(b) The Sibpur class was only started in 1918, and so far those apprentices who have attended it are:

European and Anglo-Indian in 1918 two, 1919 two, and 1920 one.

These apprentices were specially selected for their qualifications. The number of European and Anglo-Indian apprentices receiving instruction in the Drawing Office at Jamalpur during the 5 years ended 1920 were:

1916 five, 1917 two, 1918 two, 1919 three, and 1920 three.

So far, the training of higher grade Indian apprentices being in its infancy, the necessity for sending them to Sibpur or the Drawing Office has not arisen. It is found that at present they need all the practical training in the shops that it is possible to give them.

### DIFFERENTIAL TREATMENT OF APPRENTICES AT JAMALPUR.

187. **Mr. K. C. Neogy**: (a) Is it a fact that in regard to allowances, residential comforts, leave and holiday rules, and facilities for Railway travelling, the Indian apprentices at Jamalpur are treated differently from European and Anglo-Indian apprentices?

(b) Is it a fact that these Indian and non-Indian apprentices have to enter the workshops by different gates, that the Indians have to use a passage meant for ordinary workmen, and that they are subjected to search every time they pass through it?

(c) Is it a fact that these Indian and non-Indian apprentices have to use different devices for the purpose of marking attendance, the Indians having to lift brass tickets just like illiterate workmen?

(d) Is it a fact that the Indian apprentices are paid their allowances on the same day as ordinary workmen with whom they have to stand in a line for receiving the same, and that the Indian apprentices like illiterate workmen are not allowed to sign their names on the pay sheet ?

**Colonel W. D. Waghorn:** (a) I would refer the Honourable Member to the answer given to Question 184 (d). As regards facilities for travelling, Indian apprentices of the special grade are allowed one set of inter class passes per year during their three years of apprenticeship. Indian apprentices of the 1st and 3rd class are allowed one set of 3rd class passes a year. European and Anglo-Indian apprentices are allowed inter class passes, one set during the first 3 years of apprenticeship and two sets during their fourth and fifth years. During the Puja vacation, those lads who are proceeding to their homes are given an extra set of passes.

(b) Yes, Indian and non-Indian apprentices enter the shops by different gates. This is due to the fact that the Indian quarters are on the west side of the works and the quarters for Europeans on the east. (Laughter.) It is not a fact that Indians and Europeans are subjected to a search every time they pass through the gates. The staff are all liable to be searched.

(c) Indian apprentices lift brass key tickets and non-Indian apprentices turn keys in Bundy recorders.

(d) All Indian workmen, irrespective of pay (including men on Rs. 200 a month) are paid under the ' Box system of payment ' and signatures of the payees are not required under this system. This is the quickest method of disbursement.

LETTER OF MR. GUR PRASAD IN THE 'AJ' AND PUNISHMENT OF STATION SUPERINTENDENT, MOGHUL SARAI.

188. **Munshi Mahadeo Prasad:** (a) Has the attention of the Government been drawn to the letter of Mr. Gur Prasad printed at page 7 of the *Aj* of the 10th June 1921, under the heading 'Goreka apradh, Kale ko dand' ?

(b) If so, will the Government please state what punishment, if any, was meted out to Mr. Egan, the Station Superintendent at Moghul Sarai Railway Station, the officer referred to in the above letter ?

(c) Is it not a fact that Mr. Gur Prasad has been served with a notice by the East Indian Railway Company to discontinue service ?

(d) Has any representation been made by the Railway Indian Staff and the merchants in connection with the same and with what result ?

**Colonel W. D. Waghorn:** (a) The attention of Government has not been drawn to the letter in question and I have not been able to get a copy of it.

(b) Mr. Egan was not considered in any way to blame in the matter and has not therefore been punished. The facts of the case are :

A female passenger died in No. 5 Up Express on the 25th May 1921 and the husband and other relatives of the deceased decided to take the corpse to Benares for cremation. Accordingly, a wagon was attached to No. 5 Up Oudh and Rohilkhand Railway passenger and the husband of the deceased, with a view to having the corpse booked, approached Gur Prasad, Assistant Parcels Clerk. Gur Prasad was evidently not prepared to assist in the matter



unless offered a gratuity by the passenger. A complaint was made to the Station Superintendent, Mr. Egan, who immediately inquired into the matter and had the corpse loaded up and despatched.

**Mr. President :** I think the rest of this story can be laid on the table.

**Colonel W. D. Waghorn :** An inquiry was subsequently held and it transpired that Gur Prasad did attempt to obtain a gratuity from the passenger in particularly heartless circumstances and Mr. Egan took Gur Prasad to task for his unseemly conduct. It has been ascertained that there was nothing in what Mr. Egan said that could be misconstrued as an insult to an individual, or a community.

(c) Gur Prasad was given a month's notice of discharge as he was considered an undesirable person to retain in the Company's employ.

(d) Two representations were sent to the Agent, East Indian Railway, one said to be from the mercantile community of Benares and Moghul Sarai, and the other from the Indian staff at Moghul Sarai. No action was taken on these representations.

#### EXPORT OF FOODGRAINS FROM INDIA.

189. **Bai T. P. Mukherjee Bahadur :** Has the Government taken any steps to remove the restrictions on export of foodgrains from India in accordance with the Resolution of the Council of State, dated 9th March 1921? If so, will the Government be pleased to state what steps have been taken?

**Mr. J. Hullah :** No steps have been taken.

#### WAGON DIFFICULTIES ON RAILWAYS.

190. **Bai T. P. Mukherjee Bahadur :** Is the Government aware of the wagon difficulties and its consequences? If so, will the Government be pleased to state what steps have been taken?

**Colonel W. D. Waghorn :** It is presumed that the Honourable Member refers to general complaint of the shortage of wagons, and consequent difficulty in meeting demands. I am glad to be able to assure him that the position in this respect is at present much improved. Indents for wagons in the coal-fields are being met practically in full and it is anticipated that the demands will shortly be fully met. As regards general merchandise, the present position is equally satisfactory. There has been a slight congestion of traffic on the Bengal and North Western Railway due to a heavy rush of grain and seeds to the ports, but apart from this exception, which is receiving attention, railways generally are reported to be coping satisfactorily with public requirements for wagons.

It is anticipated that some 6,000 wagons will be added to the stock during the current year and these, it is hoped, will assist to mitigate the shortage of wagons when an increased movement of traffic has to be met.

WAITING ROOMS FOR INTER CLASS PASSENGERS.

191. **Rai T. P. Mukherjee Bahadur** : Is the Government aware of the inconvenience of the intermediate class passengers for want of waiting rooms in Railway Stations? If so, do the Government intend to remove the alleged inconvenience by providing waiting rooms for intermediate class passengers, just like the Bengal Nagpur Railway?

**Colonel W. D. Waghorn** : As a general statement, it may be said, that Government are not aware of the inconvenience suffered by intermediate class passengers for want of waiting accommodation at Railway Stations.

Railway Administrations will, however, be invited to express their views on the subject.

SHORTAGE OF SECOND CLASS ACCOMMODATION.

192. **Rai T. P. Mukherjee Bahadur** : Is the Government aware that in all passenger trains, only two second class compartments are attached, one for females and another for males, but the latter always being monopolised by railway officers, the second class passengers are put to great inconvenience? Does the Government intend to remove the inconvenience by attaching more compartments?

**Colonel W. D. Waghorn** : It has been ascertained that the number of second class compartments provided on mail and passenger trains in India varies from 18 to 1 according to traffic requirements and considerations affecting train operation. Complaints of shortage of accommodation on any particular section receive attention from the railway administration concerned.

Reserved accommodation for ladies, where not ordinarily provided, can be arranged for on due notice being given to the Station Master concerned.

It is incorrect to say that the second class accommodation for males, where only two compartments are provided, is always monopolised by railway staff to the inconvenience of paying passengers. Orders already exist to the effect that pass-holders should give way to the travelling public.

In the circumstances, Government do not propose to take any action in the matter.

EXPORT OF HIDES, SKINS, ETC.

193. **Haji Wajih-ud-din** : (a) Will the Government be pleased to lay on the table a detailed export statement showing quantities of hides, skins, and guts, class by class, in each month from June 1919 to July 1921 from each port of India, respectively?

(b) When was the export duty on hides first imposed and how many representations have since then been made by the exporters urging removal of the same? Has any attention been paid to them?

(c) Are the Government aware of the fact that the export duty on hides has had a most detrimental effect on the trade in cow and buffalo hides especially in this inopportune time of high rate of exchange which now prevails and it has brought business practically to a standstill and, if so, do the Government propose to remove the same as soon as possible?

**The Honourable Mr. C. A. Innes :** (a) The Government fear that for the detailed statistics required they must refer the Honourable Member to the monthly statistical accounts of sea-borne trade, which are available in the Library. For the purposes of his question, however, the following information will be sufficient. In the six months ending December 1919 the monthly average export from India of raw cow hides was 3,923 tons; in the first six months of 1920 the monthly average export was 2,178 tons; in the second six months 773 tons, in the first 3 months of this year 1,187 tons; in the second 3 months 1,427 tons. The corresponding figures for goat-skins are :

2nd half of 1919	...	...	...	...	2,923 tons.
1st " " 1920	...	..	...	...	1,731 "
2nd " " "	...	...	...	...	545 "
1st quarter of 1921	...	...	...	...	772 "
2nd " " "	...	...	..	...	1,477 "

(b) The export duty was imposed with effect from the 11th September 1919. Numerous representations have been received against the continuance of the tax in the last 15 months and the subject has been under the continuous consideration of the Government of India.

(c) The Government of India do not understand the Honourable Member's reference to the present high rate of exchange. Nor do they accept his statement that the tax has brought the trade to a standstill. The Honourable Member appears to have forgotten that the subject was fully discussed in this House on the 18th March last and that the House negatived an amendment to the Finance Bill that the tax should be removed. The question, however, is one which is under constant examination in the Commerce Department.

#### ASSAULT ON AN INDIAN WIDOW BY PRIVATE MULLIGAN OF SIALKOT.

194. **Rao Bahadur T. Rangachariar :** (a) Has the attention of the Government been drawn to the case in which one Private Mulligan of Sialkot was charged with making advances to an Indian widow on the bank of a *Nallah* and with assaulting her on her resistance, before the Cantonment Magistrate of Sialkot ?

(b) Do the Government propose to call for the records of that case, if they have not already got them and peruse the judgment ?

(c) Do the Government propose to take notice of the remarks of the Magistrate in that case ?

(d) Do the Government propose to take such deterrent action as will prevent the repetition of such quests on the part of His Majesty's soldiers stationed in India ?

**The Honourable Sir William Vincent :** (a) and (b). Government have read the judgment referred to.

(c) The answer is in the negative.

(d) If by 'deterrent action' the Honourable Member means further disciplinary action against Private Mulligan, the reply is in the negative. Private Mulligan has been tried and sentenced by a criminal court for the specific offence with which he was charged, and no further punishment is admissible under military law for the same offence.

If, however, the Honourable Member refers to preventive action with the object of obviating incidents of this kind, the answer is that the local military

authorities have the power to place out of bounds for troops any locality or localities in or in the neighbourhood of cantonments which they consider it undesirable for any reason for soldiers to visit. Any soldier, who, in contravention of orders placing a locality out of bounds, visits such locality, renders himself liable to punishment under military law for disobedience of orders.

THEFTS ON RAILWAYS.

195. **Mr. Manmohandas Ramji** : Will the Government be pleased to state the number of thefts both in the coaching and goods sections of Railways during the last three years ?

**Colonel W. D. Waghorn** : The information asked for is not available.

Railways may have statistics to show the number of cases in which the loss of whole or part consignments has been reported. These would not, however, necessarily represent the number of thefts committed. The prevalence of theft and pilferage on railways and the means of remedying these evils have been examined in detail by the Railway Police Committee whose recommendations as embodied in their Report are being taken up with Railways.

REVISION OF PAY OF POSTAL CLERKS, BOMBAY.

196. **Mr. B. S. Kamat** : (a) With reference to the revision of pay of postal clerks will Government be pleased to say whether the Director-General of Posts and Telegraphs gave an assurance to a deputation of postal clerks in Poona in July 1918, to the effect that war allowance at such rates as might be sanctioned by the Bombay Government for their subordinates in the Bombay Mofussil would be paid to the Post Office officials ?

(b) Is it also true that on the 5th of August 1918 the Director-General of Posts and Telegraphs informed the Honourable Mr. Paranjpye who had interviewed this officer on behalf of the postal clerks in the Bombay Presidency that special consideration would be shown to the Bombay Presidency postal clerks at the time of the general revision of pay then under consideration, with a view to compensate them for the difference in the scales of war allowance as sanctioned by the Bombay Government and the one for the Postal Department ?

(c) Is it not correct that the Bombay Government granted to their subordinates outside Bombay City, war allowance at the rate of 33½ per cent. on salaries from Rs. 20 to Rs. 30 and 25 per cent. on salaries from Rs. 30 to Rs. 70 with retrospective effect from 1st January 1918 ; and subsequently raised it to 70 per cent. for men up to the Rs. 50 grade ?

(d) If the answers to (a) and (b) are in the affirmative, will Government be pleased to say, if the assurance by the Director-General has been carried out so as to bring up the revision to rates quoted in (c) ? If not, will Government be pleased to state the reasons ?

(e) Are the Government of India aware that the postal clerks in the Bombay Presidency submitted memorials through the proper channels, addressed to His Excellency the Viceroy and Governor General in Council in September 1919 and August 1920, praying for arrears of war allowance from 1st January 1918 to 30th November 1919 at the rate sanctioned by the Bombay Government to their subordinates in the Mofussil ?

(N) Will Government be pleased to say whether they considered the request contained in these memorials for payment of arrears of war allowance, and if so, how they have been disposed of?

**Colonel Sir S. D'A. Crookshank :** (a) The Director-General of Posts and Telegraphs cannot recall any verbal assurance given by him to a deputation of postal clerks at Poona in July 1918. He may have told them that the question of the extension of the Bombay Government allowance to officials of the Bombay Postal Circle would be recommended by him.

(b) The Director-General informed the Honourable Mr. Paranjpye that special consideration would be shown to the postal clerks in the Bombay Presidency at the time of the general revision of pay then under consideration and that due regard would be paid to the high cost of living in the Bombay Presidency, especially as war allowance at rates higher than those sanctioned for the Postal and Telegraph subordinates had been sanctioned for the subordinates of the Local Government.

(c) Yes.

(d) The rates of pay sanctioned for the postal clerks of the Bombay Presidency at the time of the general revision of February 1920 were higher than the rates sanctioned for other parts of India. The revision sanctioned by Government on the recommendation of the Postal Committee further enhanced the rates of pay for the comparatively dearer localities comprised within the Bombay Postal Circle. As the recommendations of the Postal Committee were framed after careful investigation and with the full knowledge of the fact that special rates of local allowance were paid to the Local Government subordinates no special examination has been made to ascertain whether the rates of pay finally sanctioned in September 1920 are equivalent to the rates quoted in (c).

(e) Yes.

(f) The memorials were considered. As a general revision of pay was then contemplated, the grant of the war allowance was not considered necessary. An interim allowance was, however, granted from the 1st September 1919.

#### WANT OF WAITING ROOMS AT THE VICTORIA TERMINUS STATION, BOMBAY.

197. **Mr. B. S. Kamat :** (a) Are the Government of India aware that passengers at the Victoria Terminus, Great Indian Peninsula Railway, Bombay, are put to great inconvenience for want of waiting rooms for men, 1st, 2nd and 3rd class?

(b) Have the Railway Board asked the Great Indian Peninsula Railway Administration to consider the feasibility of at least converting a portion of the large 1st and 2nd class waiting rooms for ladies into some temporary accommodation for men who have to travel through this important Terminus and are seriously inconvenienced during nights while waiting for their trains?

**Colonel W. D. Waghorn :** (a) Government have received no complaints regarding waiting accommodation at Victoria Terminus, Bombay.

(b) The proposal to convert a portion of the existing 1st and 2nd class waiting rooms for ladies into temporary accommodation for gentlemen is not feasible. It is, however, proposed to provide 1st and 2nd class waiting rooms

for gentlemen when the new station building at Victoria Terminus is constructed, while, as regards third class passengers, a large waiting hall is already provided at the north end of the station and it is not considered that any additional accommodation is required for this class.

PROHIBITION LEGISLATION.

198. **Mr. P. P. Ginwala :** Will the Government be pleased to state :

- (a) Whether legislation for the prevention of intoxicating drinks has been initiated in any Provincial Councils, and if so, in which of them ?
- (b) Whether it is the fact that a Prohibition Bill which was to be introduced as a private Bill in the Bombay Legislative Council had to be postponed because it required the sanction of the Government of India, and, if so, whether such sanction has been accorded ?
- (c) The policy of the Government of India with reference to Prohibition Legislation in Local Legislative Councils ?

**The Honourable Mr. C. A. Innes :** (a) It has been reported to the Government of India that a Member of the Legislative Council in the Central Provinces has signified his intention to move for leave to introduce during the current Session a Bill to promote temperance with a view of securing the total prohibition of liquor traffic in the Central Provinces by conferring on voters in prescribed areas power to control the grant of license under the Central Provinces Excise Act, 1915. No similar reports have been received from other Local Governments.

(b) Mr. Gupte, who desired to introduce the Bill in question, was informed by the Government of Bombay that his Bill, the purpose of which was to prohibit the manufacture, sale and import of liquor in the Bombay Presidency, required the previous sanction of the Governor General under Section 80A of the Government of India Act. A letter has been received by the Government of India from Mr. Gupte applying for previous sanction. The question whether such sanction should be accorded is under the consideration of the Governor General.

(c) The Government of India can make no statement on the subject at present.

HIGH COURT IN BURMA.

199. **Mr. P. P. Ginwala :** Will the Government be pleased to state :

- (a) Whether the despatch of the Government of Burma relating to the establishment of a High Court in Burma has been transmitted to His Majesty's Secretary of State for India and, if so, on what date ?
- (b) The probable date on which the establishment of such High Court may be expected ?

**The Honourable Sir William Vincent :** The despatch has not yet issued. It is hoped that it will issue shortly and revised estimates of the cost of the proposals which have been received from the Government of Burma since the answer was given to a similar question by Mr. O'Donnell will be included in it.

## JUDICIAL SERVICES IN BURMA.

200. **Mr. P. P. Ginzala :** Will the Government be pleased to state whether the proposals of the Government of Burma relating to the reorganization of the Judicial Services has been transmitted to His Majesty's Secretary of State for India, and, if so, when a reply may be expected ?

**The Honourable Sir William Vincent :** The case is connected with that relating to the proposed High Court. It is hoped that the recommendations of the Government of India will be forwarded to the Secretary of State very shortly and that the scheme, if sanctioned by the Secretary of State, will be introduced from early in 1922.

## RICE AND PADDY TRAFFIC IN BURMA.

201. **Mr. P. P. Ginzala :** Will the Government be pleased to state :

- (a) the market rate of paddy and white rice in Burma on the 30th of April 1921, and every subsequent week thereafter until the 9th of July 1921 ;
- (b) whether it is not the fact that the Government of India had declared that it would introduce some form of control if the market price of paddy at any time exceeded Rs. 180 per 100 baskets ;
- (c) the date on which the order suspending the issue of licenses for export to foreign ports was issued ;
- (d) the reasons why it was not issued earlier when the prices of paddy showed a marked tendency towards exceeding the limit of Rs. 180 ;
- (e) whether any, and if so, what communication or instructions were received from His Majesty's Secretary of State for India with reference to the issue of such order ?

**Mr. J. Hullah :** (a) The statement asked for is placed on the table.

(b) No. The Government of India only declared that they reserved power to do so.

(c) 1st July 1921.

(d) The Government of India saw no reason for action till the amount of rice available for export to foreign countries was approaching exhaustion. The primary object of their action was not to control prices but to conserve, in accordance with their announcement of the 4th December 1920, adequate supplies for India.

(e) No instructions were received from the Secretary of State. On the 27th June, the Government of India received a telegram from him with reference to a question in Parliament, suggesting that the Rangoon rice market had been entirely suspended, owing to the rise in the price of paddy, that supplies had been cornered and that the local merchants were demanding the intervention of Government. He therefore asked for information as to the actual position and what steps were being taken to meet it. This information was supplied to him, and he has not addressed the Government of India further on the subject.

Statement showing the weekly market rate of paddy and white rice from the 30th April to the 9th July 1921.

Week ending	Paddy per 100 baskets.	White rice (Big Mills Specials) per 100 baskets of 75 lbs. each.
30th April ... ..	Rs. 190 to 195 ... ..	Rs. 480 to 487-8.
7th May ... ..	" 197 to 198 ... ..	" 460 to 467.
14th May ... ..	" 203 to 205 ... ..	" 525 to 540.
21st " ... ..	" 203 to 206 ... ..	" 495 to 513.
28th " ... ..	" 203 to 206 ... ..	" 520 to 525.
4th June ... ..	" 201 to 206 ... ..	" 510.
11th " ... ..	" 208 to 212 ... ..	" 555 to 560.
18th " ... ..	" 215 to 220 ... ..	" 550 to 580.
25th " ... ..	" 220 ... ..	" 555 to 565.
2nd July ... ..	" 225 to 230 ... ..	" 585.
9th " ... ..	" 225 to 227 ... ..	" 550 to 570.

NATIONAL AND GOVERNMENT SCHOOLS AND COLLEGES.

202. **Mr. P. P. Ginwala:** Will the Government be pleased to lay on the table a statement showing with reference to each Province, since the 1st of January 1921:

- (a) the number of 'National' Schools and Colleges opened;
- (b) the number of students in such Schools and Colleges;
- (c) the number of students in Government or aided Schools and Colleges, now as compared with the year 1920?

**Mr. H. Sharp:** (a), (b) and (c). The information is being collected and will be supplied later.

MUNICIPAL CONTRIBUTIONS TO 'NATIONAL' EDUCATIONAL INSTITUTIONS.

203. **Mr. P. P. Ginwala:** Will the Government be pleased to state whether any and, if so, what Municipalities have made or promised to make contributions towards the maintenance of 'National' Educational Institutions?

**Mr. H. Sharp:** The full information is being collected and will be supplied later. The information received from Burma, Bihar and Orissa, and the minor administrations shows that in those areas no municipalities have made or promised contributions towards 'National' educational institutions. In the Central Provinces, the municipalities of Raipur and Amraoti have resolved to give Rs. 1,000 and Rs. 475, respectively, to the Tilak Swaraj Fund for national education.

The Government of Madras have no information on this matter.

MUNICIPAL SUPPORT FOR 'NATIONAL' EDUCATION.

204. **Mr. P. P. Ginwala:** Will the Government be pleased to state:

- (a) Whether any Local Governments have defined their policy with reference to Municipal and other local bodies desirous of supporting 'National' Education out of Municipal Funds?
- (b) If the answer to (a) is in the affirmative, the nature of such policy?



• **Mr. H. Sharp:** (a) Only two Local Governments—Madras and Bombay—have so far defined their policy in this matter. The Government of Bihar and Orissa have had to take action in one particular case which came to their notice.

(b) Information regarding the policies adopted by the Governments of Madras and Bombay and the action taken by the Bihar and Orissa Government is laid on the table.

*Policies adopted by the Governments of Madras and Bombay and the action taken by the Government of Bihar and Orissa in connection with the support of national education out of municipal funds.*

The Madras Government have issued orders under rule 37, Schedule IV of the District Municipalities Act, 1920, prohibiting expenditure of municipal funds on educational institutions not recognised by Government, the District Educational Council or other specific authority. A similar draft rule has been published under the Local Boards Act, 1920. The object is to prohibit expenditure of local and municipal funds on so-called national institutions not conforming to the requirements of the Education Department.

The general attitude of the Bombay Government may be summarised as follows :

- (1) They approve the proposal that a municipality which is able and willing to do so should defray the cost of primary education from its own funds.
- (2) The powers of inspection and control vested in Government by statute must remain unimpaired and unaffected by any such decision on the part of a municipality, and they will be used.
- (3) The rights and emoluments of the existing staff of teachers in municipal primary schools must be fully safeguarded.
- (4) Facilities will be provided by Government for the children of those parents who do not wish to send them to the municipal schools.

It is understood that it is not intended to put into immediate practice the powers mentioned in (2) above.

In Bihar and Orissa, it came to the notice of the Local Government that a municipality was showing sympathy with the non-co-operation movement and that there was a possibility of funds being used for national schools. The Local Government accordingly directed that the grant should not be paid till the municipality had given an assurance that the school would be conducted according to the rules of the Department. Apart from this instance, the Local Government have had no occasion to state a definite policy, but they would not refrain from utilising the powers which are given to them to prevent any assistance being given to 'national schools.'

**SALE OF OPIUM BY INDIA TO CHINA.**

205. **Mr. P. P. Ginwala:** Will the Government be pleased to state:

- (a) Its policy and how the position now stands with reference to the sale of opium by India to China?
- (b) Whether the Government intends to stop the manufacture and sale of opium for other than medicinal purposes, and if so, when it proposes to give effect to such intention?

**The Honourable Mr. W. M. Hailey:** (a) The export of opium to China from Indian ports is prohibited, and there is no sale of opium by Government for export to China.

(b) I assume that the second part of the Honourable Member's question refers to the manufacture and sale of opium for export. The use to

which Indian opium may be put in foreign countries which import it is determined by the Governments of such countries and not by the Government of India.

INDIANS IN FOREIGN COUNTRIES.

206. **Mr. K. Ahmed:** (a) How many Indians of all ranks are abroad in Egypt, Persia, Asia Minor, Palestine, Mesopotamia, Turkey, Africa, and other places in connection with British undertakings beyond India?

(b) How many of them are Muhammadans and how many non-Muhammadans of all grades?

(c) Do the Government propose to withdraw the Indians, specially the Muhammadans, employed in the Muhammadan countries abroad without delay?

**Sir Godfrey Fell:** (a) On the 1st August 1921, the number of Indians of all ranks of the Army serving outside India was approximately:

Combatants	...	...	...	...	...	54,789
Followers (including Labour Corps)	...	...	...	...	...	42,182

(b) The Government are not in possession of statistics showing the number of Muhammadans and non-Muhammadans serving in all the units employed out of India. The following figures, however, are available, and the Government trust that they will suffice for the Honourable Member's purpose:

In the Cavalry, Infantry and Pioneers serving out of India on the date mentioned, 37 per cent. were Muhammadans and in the Artillery 38 per cent.

(c) No. A reference is invited to Resolution No. 2 passed at the meeting of the Legislative Assembly held on the 28th March 1921.

STAFF IN THE EAST INDIAN AND BENGAL NAGPUR RAILWAY OFFICES.

207. **Mr. K. Ahmed:** (i) Will the Government be pleased to state the number of officials and the number of clerks (respectively) at present in the:

(a) East Indian Railway Office at 105, Clive Street, Calcutta, and

(b) Bengal Nagpur Railway Office at 12, Garden Reach Road, Calcutta?

(ii) How many among them are Hindus, Muhammadans, Europeans and Anglo-Indians, respectively?

(iii) What are the number of appointments made in the last five years among clerks and officials (respectively) in those offices and how many among them are Hindus, Muhammadans, Europeans and Anglo-Indians, respectively, mentioning their grades and their initial salary at the beginning?

(iv) What principle was followed in making those appointments?

(a) Was it notified for filling up such vacancies; or

(b) were individual candidates brought in by some officers or head clerks who were in a position to give such information to the

candidates for such vacancies without the knowledge of the public ?

(v) Do Government propose to adopt the above method of securing such appointments and make it a rule that whenever a vacancy occurs in any department it should be notified in the public gazette and that Associations of the important Communities may be informed about such vacancy by sending notices to them as well ?

(vi) Are the Government aware of the Bengal Government Circular that in filling up a vacancy preference will be given to Muhammadans until one-third of the entire posts are filled up by Muhammadans ?

(vii) Do Government propose to follow that rule in all its departments if the Muhammadan Associations and the Community are in a position to supply such qualified men as may be required for such vacancies ?

**Col. W. D. Waghorn :** The information required in regard to the nationality of the officials and clerks employed in the head offices of the East Indian and Bengal-Nagpur Railway Companies, is not yet ready. When it is received, it will be sent to the Honourable Member.

CIVIL AND CRIMINAL APPEALS, ETC., IN THE CALCUTTA HIGH COURT AND APPOINTMENT OF ARBITRATION COURTS.

**208. Mr. K. Ahmed :** (i) Will the Government be pleased to state how many appeals, motions and references, both civil and criminal, were heard by the Calcutta High Court on the Appellate Side for the last five years and among the parties to those appeals, motions and references, how many of them were Muhammadans and how many Hindus ?

(ii) Are the Government aware that arbitration courts have been started in each District and that a very few cases are tried in Government Courts in consequence ?

**The Honourable Sir William Vincent :** (i) A statement, showing the number of cases disposed of by the Calcutta High Court on the Appellate Side during the years 1916 to 1920 under the heads specified therein, is laid on the table. Government have no information as to how many of the parties to the suits were Hindus or Muhammadans.

(ii) Government are aware that arbitration courts have been started in certain districts, but they are not aware that very few cases are tried in Government Courts in consequence.

*Statement showing the cases disposed of by the Calcutta High Court (Appellate Side) during the five years 1916-20.*

Year.	CIVIL.			
	First appeals.	Second appeals.	Motions.	Reference.
1916 ... ..	499	2,793	4,806	14
1917 ... ..	372	2,695	5,575	6
1918 ... ..	399	3,405	4,931	7
1919 ... ..	427	2,767	3,184	33
1920 ... ..	389	2,749	1,477	19

Year.	CRIMINAL.		
	Appeals.	References.	Revision.
1916 ... ..	261	74	801
1917 ... ..	207	86	817
1918 ... ..	250	76	836
1919 ... ..	165	96	712
1920 ... ..	195	86	904

EMPLOYMENT OF INDIANS IN HIGHER SERVICES.

209. **Mr. K. Ahmed :** Will the Government be pleased to lay on the table a statement showing in detail what steps have so far been taken to give effect to the recommendation of the Public Services Commission as regards the employment of Indians in the higher grades of the various services in India ?

**The Honourable Sir William Vincent :** The Honourable Member is referred to the statement laid on the table to-day in connexion with Mr. N. M. Joshi's question on the subject.

DIARCHICAL SYSTEM IN THE CENTRAL GOVERNMENT.

210. **Mr. K. Ahmed :** Will the Government be pleased to state whether they propose to introduce the Diarchical System in the Central Government ?

**The Honourable Sir William Vincent :** An Honourable Member of this Council has given notice of a Resolution on the subject of Constitutional Reforms and Government will announce their policy in the debate on that Resolution.

OFFICE OF THE DIRECTOR OF INFORMATION IN BENGAL AND THE CENTRAL BUREAU.

211. **Mr. K. Ahmed :** (a) Are the Government aware that the office of the Director of Information in Bengal is being abolished ?

(b) Are the Government aware that the public look upon this Department as an unnecessary burden on the public revenues ?

(c) Do Government propose to emulate the example of the Bengal Government and abolish the Central Bureau of Information ?

**The Honourable Sir William Vincent :** (a) The Government of India are aware that the office of the Director of Information, Bengal, has been abolished.

(b) and (c). The answer is in the negative.

ABOLITION OF THE STAFF SELECTION BOARD.

212. **Mr. K. Ahmed :** Do Government intend to abolish the Staff Selection Board, and substitute a scheme for recruitment of officers selected by the official and non-official Members of the Provincial Councils ?

**The Honourable Sir William Vincent :** The answer is in the negative.

### EXEMPTION OF BRITISH SHIP COMPANIES FROM INCOME-TAX.

**213. Mr. K. Ahmed :** Will the Government be pleased to state whether any notifications were issued under Section 44 of the Income-tax Act of 1918, exempting British Ship Companies from paying Income-tax and state the reasons for such exemption, if any ?

**The Honourable Mr. W. M. Hailey :** Non-resident shipping companies were exempted from the tax under Section 5 of the Act of 1886. In introducing the Bill which became the Act of 1918, Sir William Meyer, in his speech in the Imperial Legislative Council on the 6th February 1918, stated that the exemption granted in 1886 was due to the difficulty anticipated in estimating the Indian profits of such companies and in collecting the tax, that the provisions of the new Bill might avoid these difficulties, that the exemption was therefore omitted from the Bill in order that the Government might have a free hand to deal with the matter, but that so long as war conditions continued, the Government of India did not propose to take any active steps to tax these companies and that the existing exemption would be maintained by a Notification under clause 44 of the Bill leaving the final decision over for consideration when peace conditions returned. In accordance with this statement a notification was issued on the 28th March 1918 exempting from the tax all non-resident shipping companies. When rules for assessing such companies to the tax were framed, the exemption was withdrawn with effect from the 1st April 1919, except as regards shipping companies incorporated or registered in the United Kingdom or in any of His Majesty's Dominions. The exemption in favour of the latter companies was also withdrawn on the 22nd April 1921, and all shipping companies are now liable to the tax. The reason for not withdrawing the exemption in favour of British and Dominion shipping companies at the time when the exemption was withdrawn in favour of other non-resident shipping companies was that it was decided not to withdraw the exemption in favour of the former until arrangements had been come to with the Government of the United Kingdom for relief from double income-tax where the same income was liable to tax in the United Kingdom and in India.

**Mr. K. Ahmed :** May I ask a Supplementary Question, Sir ? Could not the Honourable Member in charge give an idea regarding the amount per year, if it is available in the office for the last few years ?

**The Honourable Mr. W. M. Hailey :** Will the Honourable Member kindly repeat his question ? I did not catch what he said.

**Mr. K. Ahmed :** Will the Honourable Member be good enough to give an idea to the Honourable Members of this Assembly with regard to the average amount of loss in income per year that India has sustained ?

**Mr. President :** The Honourable Member had better give notice of that Question.

### HARDSHIPS OF PORTERS AND COOLIES AT RAILWAY STATIONS AND CORRUPTION OF STATION SUPERINTENDENTS, ETC.

**214. Mr. K. Ahmed :** (1) Are the Government aware that owing to the insufficiency of their income, the porters and coolies of Railway Stations suffer great hardships and miseries ?

(ii) Do the Government know that Station Superintendents and Station Masters take a portion of their income ?

(iii) Will the Government be pleased to state what is the salary per month of the Station Superintendents of Sealdah and Katihar Railway stations on the Eastern Bengal Railway and how much is their additional income per month from the share of the wages of the coolies and from other sources, if there be any ?

(iv) Are the Government aware that beside the Station Masters' and Station Superintendents' percentage the coolies are compelled to pay some portion of their income to the Sirdars and other officers of the railway station ?

(v) Are the Government aware that a good many coolies are not taken into the service of the Railway Company because they do not pay bribes to the Railway officers concerned ?

**Colonel W. D. Waghorn :** (i) and (ii). Porters on the Eastern Bengal Railway are paid at a rate of Rs. 11—1—14 per mensem which is considered adequate.

Coolies are engaged by Station Superintendents and Station Masters in their capacity as Contractors for loading, unloading and transhipment of goods, parcels and luggage. At certain of the larger stations, the Station Superintendents or Station Masters also arrange for the supply of licensed coolies for the carriage of passengers' luggage. The supply of labour in Bengal is usually short of the demand and if the wages earned by these coolies were insufficient, it is presumed, they would not undertake this work.

(iii) The pay of the Station Superintendent, Sealdah, is Rs. 600 and the Station Master, Katihar, Rs. 480 per mensem. The former has a contract for the supply of labour for handling luggage, parcels and passengers' luggage, under which he receives Rs. 120 per mensem. The latter supplies labour for loading, unloading and transhipment of goods, luggage and parcels, for which he receives Rs. 337-8-0 per mensem.

(iv) Porters employed by the Railway are certainly not called upon to pay any portion of their income to Sirdars or others. Station Superintendents and Station Masters settle terms with the coolies engaged by them direct. If the coolies are dissatisfied there is nothing to prevent them leaving.

(v) The reply is in the negative.

**MESSERS. BIRD AND COMPANY'S INCOME IN RESPECT OF TRANSMISSION OF PARCELS, ETC., FROM RAILWAY WAGONS.**

215. **Mr. K. Ahmed :** (i) Will the Government be pleased to state what is the annual income of Messrs. Bird and Company from each station in respect of which they are given contract for transmission of parcels, baggages and goods from the Railway wagons and steamers and at what rate and how much they pay for such transmission to the coolies employed by them ?

(ii) Do Government propose to remove Messrs. Bird and Company's service and introduce a more popular method for transmitting passengers' luggage and parcels and goods from wagons ?

**Colonel W. D. Waghorn :** (i) A statement showing the amount paid to Messrs. Bird and Company for handling goods and coaching traffic at each station on the Eastern Bengal Railway for which they had a contract with the

railway during the year ended 31st March 1921 (the latest figures available), is placed on the table. It is not known at what rate and how much Messrs. Bird and Company pay coolies employed by them for this work.

(ii) It is proposed to cancel Messrs. Bird and Company's contract which is reported to be working satisfactorily.

*Statement showing the amount paid to Messrs. Bird and Company, for handling goods and coaching traffic at each station during the year ended 31st March 1921.*

Station.	Amount.		
	Rs.	A.	P.
Santahar ... ..	2,04,801	6	0
Lalgola ... ..	11,859	7	9
Lupen East ... ..	2,103	0	0
Goalundo ... ..	20,925	1	9
Serajsunj ... ..	59,871	2	3
Khulna ... ..	49,152	8	3
Naraingunge ... ..	10,785	12	6
Jugannathgunge ... ..	62,986	5	0
Godagari ... ..	2,193	12	0
Koothis ... ..	9,169	1	6
Calcutta ... ..	23,689	10	3
Cossipur Road ... ..	16,717	1	0
Chitpur ... ..	14,137	8	0
Chitpur Ghat ... ..	9,984	9	9
Ultadanga ... ..	5,252	2	6
Non-contracted stations for Miscellaneous works ... ..	32,653	0	0
Total ... ..	5,32,284	8	6

#### LICENSES OF VENDORS OF SWEETMEATS, ETC., AT RAILWAY STATIONS.

216. **Mr. K. Ahmed :** (i) Is it a fact that the vendors of sweetmeats, fruits, sundry goods and other articles in railway stations incur extra cost in order to get license from the station authority?

(ii) Are the Government aware that there is always a hard competition among station masters in order to get their transfer to important stations where they get more additional income apart from their salary?

**Colonel W. D. Waghorn :** (i) The station staff are not authorised to make any charge to vendors for the license or privilege of offering for sale sweetmeats, fruit, etc., on the platforms of railway stations. Government have no information on which deterrent action could be taken, that illicit charges, such as the question suggests, are made.

(ii) Transfers are ordered by the Railway Administration in the interests of the Railway and not of the individual.

#### PASSENGER SUPERINTENDENTS ON THE EASTERN BENGAL RAILWAY.

217. **Mr. K. Ahmed :** (i) Will the Government be pleased to state how many Passenger Superintendents there are on the Eastern Bengal Railway and

what is their pay per month and since how long they are in the service of the Railway Company?

(b) What are their duties and what service have they rendered and what amount in total have they been paid since their appointment?

(c) Are the Government aware that as a rule these people are very old and on account of their not being familiar with the habits, customs, convenience, comfort and pleasure of the Bengali passengers, they are not of any use to them and the object of keeping them as Passenger Superintendents is frustrated thereby?

(d) Do Government propose to remove the present incumbents and bring in better substitutes to promote the object of these appointments?

**Colonel W. D. Waghorn:** (a) The number of Passenger Superintendents employed on the Eastern Bengal Railway is 20, of whom 1 is paid Rs. 155, 15 are paid Rs. 150 each, 1 is paid Rs. 145 and 3 Rs. 140 each per mensem.

As regards their service, 8 were employed in 1910, 1 in 1911, 2 in 1912, 5 in 1913, 1 in 1919 and 3 in 1920.

(b) A statement of the duties performed by these Passenger Superintendents is placed on the table. They are recruited from retired Military Officers on the recommendation of the Military Secretary to His Excellency the Commander-in-Chief. Information regarding the total amount paid to them since their appointment is not readily available and it would necessitate a reference to the records of 11 years to compile the figures. The pay of Passenger Superintendents when first appointed in 1910 was fixed at Rs. 105 and the pay drawn at present has been stated in part (a) of this reply.

(c) It has been ascertained that only 3 out of the 20 Passenger Superintendents employed on the Eastern Bengal Railway are over 55 years old and Government are not aware that owing to their age and unfamiliarity with the habits and customs of Bengali passengers they are of little use as Passenger Superintendents.

(d) It is not proposed to remove the present incumbents but to make it a condition in future that Passenger Superintendents should possess some knowledge of English and, if possible, of the language of the province in which they are employed.

#### EASTERN BENGAL RAILWAY.

##### DETAILS OF DUTIES TO BE PERFORMED BY PASSENGER SUPERINTENDENTS.

1. To mix freely with passengers in waiting halls, on platforms and in trains, ascertain their wants and, if practicable, have them attended to, and if necessary, report the same to the station master. To also bring to the notice of the Station Master any high-handedness on the part of any railway servant towards passengers.
2. To be present at the ticket issuing windows and to see that not more than the correct fares are realised from passengers, that tickets are issued to the proper destination stations and that the ticket windows are open in good and sufficient time before the arrival of trains.
3. To protect passengers from being harassed by the police or any railway servant, and to see that no illegal gratification is demanded.
4. To see that railway police or other persons entrusted with money for purchasing tickets do not take more than the correct fare.



5. To visit booking offices to see that passengers are being promptly attended to in regard to the issue of tickets.

6. To direct passengers to the class of carriage for which tickets are held, to prevent overcrowding, and to see that Ticket Collectors and other railway servants are attentive and treat the public with proper courtesy.

7. To bring to the notice of the District Traffic Superintendent with the least possible delay any serious high-handedness or 'zoolum' on the part of any railway servant towards the travelling public or any other matter which will tend to the comfort of passengers.

8. Generally to assist passengers and intending passengers, specially those of the lower classes, in all things tending to their convenience and comfort whilst on the railway.

9. To visit parcels and luggage offices and watch the booking.

10. To occasionally re-weigh parcels or small consignments of goods.

11. To make over to Station Masters for realization of excess fare, passengers detected by them travelling without tickets or in a higher class than that for which they hold tickets.

12. To submit reports to the District Traffic Superintendent for information or action whenever necessary, and to see the District Traffic Superintendent or Assistant Traffic Superintendent whenever directed to do so.

**Mr. W. M. Hussainally:** Sir, may I rise to ask a Supplementary Question? Will the Honourable Member please say whether these Passenger Superintendents are Europeans, Eurasians or Indians?

**Colonel W. D. Waghorn:** I think without exception they are all Indians.

SALE OF MAGAZINES, ETC., BY MESSRS. WHEELER AND CO., AT RAILWAY BOOKSTALLS.

218. **Mr. K. Ahmed:** (i) Will the Government be pleased to state since how long Messrs. Wheeler and Company's Stalls have been supplying magazines, periodical books and newspapers, etc., and what amount of money for license per year they pay to the Railway Company?

(ii) Is it a fact that the majority of the passengers ask for the *Indian Daily News, Bengales, Amrita Bazar Patrika, Servant, Nayak, Bangabasi, Hitabadi, Sanjibani, Bussumati* and many other vernacular papers and these Stalls sell only the *Statesman* and *Englishman* and sometimes the *Empire* at Sealdah station?

(iii) Do Government propose to keep and maintain popular Stalls on Railway platforms to meet the demand and convenience of the greater bulk of the passengers?

**Colonel W. D. Waghorn:** (i) The information relating to three railway administrations is laid on the table.

(ii) No representation in regard to this matter has been made to the Railway Administrations.

(iii) Messrs. Wheeler and Co. have already commenced selling vernacular publications at their bookstalls and are now extending in this direction, so that everything possible is being done to make the stalls popular and to meet the needs of all classes of the travelling public. It is in the interests of the Book-Stall Contractors themselves to stock papers, magazines and books that find a ready sale.

In the circumstances explained, Government do not propose to take any action.

Railway.	Since how long Messrs. Wheeler and Coy.'s Stalls have been supplying Magazines, etc.	Payment made by Messrs. Wheeler and Company to Railway for licence.
E. I. R. ...	1882	2 per cent. on the gross sales at book-stalls except on the Delhi-Ambala-Kalka section where 5 per cent. is paid.
E. B. R. ...	1901	2 per cent. on the gross sales at book-stalls. In 1920, Rs. 500-11-9 was paid out of Rs. 29,530-13-9 realised from sales.
B. N. R. ...	1902	<i>Nil.</i>

FEMALE BOOKING CLERKS ON THE EAST INDIAN AND BENGAL NAGPUR RAILWAYS.

219. **Mr. K. Ahmed:** (i) Will the Government be pleased to state when and under what circumstances the female booking clerks, ticket checkers, and other assistants came to be first employed in the service of the Railway Company on the East Indian and Bengal Nagpur Railway lines, respectively?

(ii) Are the Government aware what incalculable suffering the third class passengers are put to, when they are to purchase tickets from them?

(iii) Is it a fact that these female booking clerks while selling third class tickets and giving back the balance of the money handed over to them, very often take advantage of the ignorance of the poor passengers and treat them contemptuously?

(iv) Do Government propose to replace these female booking clerks by male clerks?

(v) Is it a fact that the cost incurred by the Railway Company in maintaining the staff of female booking clerks and assistants is much higher than a similar staff of male booking clerks and assistants?

**Colonel W. D. Waghorn:** (i) Howrah is a joint station between the East Indian and Bengal Nagpur Railways, but the East Indian Railway has entire control over the staff in question. Female Booking Clerks were originally employed on the East Indian Railway in 1906 due to a partial strike of the Indian Clerical Staff. The arrangement in its initial stage was purely temporary, but the employment of European and Anglo-Indian labour clearly illustrated the extent to which the ignorant third class passenger was being over-charged at Howrah by Indian Booking Clerks.

With a view, therefore, to improvement, it was decided to employ female European and Anglo-Indian labour permanently for the purpose. It has been found that women employed in this class of work are more even-tempered and patient than men and treat ignorant third class passengers with greater sympathy.

In regard to ticket checking staff, the necessity for employing Female Ticket Collectors arose as a result of complaints from the public who

objected to the practice of Male Ticket Collectors examining the tickets of female passengers and Purlah ladies in particular.

Such staff were appointed in 1896.

(ii) It is not correct to say that third class passengers are put to an incalculable amount of suffering when purchasing tickets issued by the Female Booking Clerks at Howrah.

(iii) Occasional complaints from the public are received and if found to be correct, the Female Booking Clerk concerned is suitably punished. It may, however, be stated that complaints are not confined to the Female Booking Clerks, as similar complaints in far greater numbers are also received against Indian Booking Clerks employed at other stations.

(iv) No advantage would be gained by replacing the Female Booking Clerks at Howrah by Indian Clerks of the other sex and such is not the intention.

(v) A statement showing the cost incurred monthly in employing Female Booking Clerks at Howrah as compared with the cost of the employment of Indian Booking Clerks at the same station, is laid on the table.

The figures are based on average monthly salaries.

*Comparative Statement showing the expenditure involved in maintaining Female Booking Clerks at Howrah and of Indian Booking Clerks at the same station.*

	Rs.
45 Female Booking Clerks at Rs. 100 per mensem average monthly salary	4,500
Cost of maintenance of Booking Clerks Home, inclusive of lighting charges and salary of Home staff	155
	<hr/> 4,625
45 Indian Booking Clerks at Rs. 45 per mensem average monthly salary	2,025

**Mr. K. Ahmed :** Sir, I rise to ask a Supplementary Question, is it not a fact that there have been complaints made against them at the Howrah Criminal Court? Were not references made from the Court of Khan Bahadur Maulvi Fazlul Haq, Deputy Magistrate of Howrah, with regard to it?

**Colonel W. D. Waghorn :** Sir, I am afraid I cannot answer that question.

**PASSENGER TRAINS FROM SEALDAH AND HOWRAH UNPROVIDED WITH ELECTRICAL FANS AND LIGHTS.**

220. **Mr. K. Ahmed :** (i) Will the Government be pleased to state how many passenger trains run from Sealdah on the Eastern Bengal Railway and Howrah on the East Indian Railway without fans and electric lights?

(ii) Are the Government aware that many passenger trains running from the above stations stop at many places where no sufficient light and sometimes no light at all is kept burning and that passengers suffer a great deal of inconvenience and particularly lady passengers are unable to travel at all by those trains?

(iii) Do the Government propose to make suitable arrangements for the convenience, comfort and pleasure of the third class passengers in proportion to the income derived from them as compared with the income received from first and second class passengers?

(iv) Are the Government aware that in all the passenger trains running from the above stations, the third class compartments are packed with passengers without a single fan and a single electric light, while the first and second class compartments sometimes with one or two passengers and generally without any passenger, are fitted with a sufficient number of electric fans and lights?

(v) Do Government propose to order fans or at least one fan to be fitted inside each third class compartment without delay?

**Colonel W. D. Waghorn:** (i) On the Eastern Bengal Railway the majority of carriages on main line trains starting from Sealdah are electrically fitted, the first and second class with electric light and fans, and the intermediate and third class with electric lights only.

The stock of 20 trains running between Sealdah and the Diamond Harbour, Port Canning and Budge Budge branches—distance of 37, 28 and 18 miles, respectively—is not electrically fitted.

On the East Indian Railway first and second class carriages are generally fitted with electric lights and fans. Intermediate and third class carriages are not electrically fitted except those on mail trains which are provided with electric lights.

(ii) Government are not aware that the lighting arrangements are insufficient at stations where trains stop nor of the inconvenience to passengers referred to. Platform lamps are provided at all stations at certain intervals prescribed by rules and railway administrations are prepared to consider any specific complaint regarding the lighting arrangements at stations.

(iii) Government and the railway administrations realise the necessity for making suitable arrangements for the comfort and convenience of third class passengers and improvements to this end are made from time to time as far as funds permit.

(iv) Government cannot accept the general statement made in this part of the question as quite representative of the conditions of travelling in the different classes of accommodation provided by railways.

As already stated, first and second class carriages are generally fitted with electric lights and fans and passengers who elect to travel in these classes pay for this and other conveniences in the shape of high fares.

Railway Administrations can hardly be expected to provide the same standard of equipment in carriages of all classes.

(v) Government do not propose to order electric fans to be fitted in third class carriages.

**Mr. K. Ahmed:** Is it not a fact that there are a large number of Inspectors, Supervisors and officers attached to your office who can give you statistics of the consumption of electricity for light?

**Colonel W. D. Waghorn:** There are Inspectors in the Carriage and Wagon shops.

**Mr. K. Ahmed:** Is there not a number of Inspectors and officers who can tell you whether the lights are sufficient or not?

**Colonel W. D. Waghorn:** I ask for notice of that question please.

CONDITIONS OF SERVICE OF ANGLO-INDIAN AND INDIAN OFFICERS AND  
CLERKS OF THE EASTERN BENGAL RAILWAY.

221. **Mr. K. Ahmed:** (i) Will the Government be pleased to state with reference to the answer to Question No. 383 given by Colonel Waghorn at the last Delhi Session on what grades and initial salary the Anglo-Indian officers and clerks of the Eastern Bengal Railway are being appointed and on what grades and initial salary the Hindu and Muhammadan officers are being appointed?

(ii) Will the Government be pleased to state what is the procedure followed in appointing Station Masters and Assistant Station Masters and in promoting the clerks and other subordinates to those grades?

**Colonel W. D. Waghorn:** (i) As stated before, the grades and initial salary are the same for Anglo-Indian, Hindu and Muhammadan clerks. Occasionally clerks regardless of race or religion are appointed on a higher initial salary owing to superior education or qualifications.

The scale of pay of clerks is:

Combined class A-B,	Rs.	25 - 5— 60
" "	C "	65— 5— 80
" "	D "	85— 5—100
" "	E "	110—10—140
" "	F "	150—10—200
" "	G "	210—10—250
" "	H "	260—10—300

(ii) Station Masters are recruited from the list of Assistant Station Masters who in turn are recruited from among qualified guards, signallers and other station staff.

APPOINTMENT OF HINDU, MUHAMMADAN AND ANGLO-INDIAN OFFICERS AND  
CLERKS ON THE EASTERN BENGAL RAILWAY.

222. **Mr. K. Ahmed:** (i) With reference to the answer to Question No. 382 put at the last Delhi Session regarding the appointment of Hindu, Muhammadan and Anglo-Indian officers and clerks on the E. B. Railway, do the Government propose to follow the circular of the Bengal Government that in filling up vacancies preference will be given to Muhammadans until one-third of the entire posts are filled up by them?

(ii) Do the Government propose to follow that rule whenever there will be vacancies and appoint Muhammadans, if the Muhammadan Associations and the Communities are in a position to supply such qualified men as may be required for such vacancies?

(iii) Do the Government propose to notify such vacancies in public gazettes and send copies of such notifications to Muhammadan Associations?

(iv) Will the Government be pleased to state what principle has hitherto been followed in making such appointments?

(a) Were notifications issued for filling up such vacancies? Or

(b) Were individual candidates brought in by officers or clerks who were in a position to give information to the candidates for such vacancies without the knowledge of the public?

**Colonel W. D. Waghorn:** (i) No. It is proposed that in future officers shall be appointed by Selection Committees from passed students of Colleges and Muhammadan candidates have to take their chance with other candidates.

It is not practicable to fill vacancies in the clerical staff of the Eastern Bengal Railway by appointing a proportionate number of Hindus and

\* Vide Legislative Assembly Debates, Vol. I, p. 503.

† Ditto ditto ditto p. 503.

Muhammadans. But the Railway Administration is quite willing to employ more Muhammadans if suitable men present themselves.

(is) It is not possible to ask the Muhammadan Association to nominate candidates on the occurrence of vacancies, but if the Association is prepared to make recommendations, the candidates so recommended will be registered and their qualifications considered by the Railway authorities when making appointments.

(is) The reply is in the negative. It is not practicable to notify vacancies to the Muhammadan Association and other denominational bodies. In the interests of work, it is usually necessary that vacancies should be filled up immediately.

(iv) Vacancies are filled by the selection of the most suitable candidates from the large number of applicants constantly on the list.

(a) The reply is in the negative.

(b) A register of qualified candidates is maintained and on the occurrence of a vacancy the best qualified men available is selected.

#### INCONVENIENCE TO PASSENGERS ON THE JORHAT RAILWAY.

223. **Rai D. C. Earua Bahadur :** (a) Are the Government aware that great inconvenience is felt by the travelling public to and from stations on the Jorhat (Provincial) Railway, in the absence of the system of issuing 'through tickets' in connection with the Assam Bengal Railway and other railway connections? If so, will the Government be pleased to take early steps in the matter to remove this inconvenience?

(b) Are the Government aware that great delay and loss take place in goods transports along the Jorhat (Provincial) Railway, at the terminal junctions at Moriani and Titubar due to difference in gauge of the Jorhat (Provincial) Railway and the Assam Bengal Railway?

(c) Do the Government propose to take into consideration the question of conversion of the present narrow gauge on the Jorhat (Provincial) Railway to one of metre gauge in order to facilitate through goods transport, with the Assam Bengal Railway?

**Colonel W. D. Waghorn :** The Jorhat (Provincial) Railway is under the administrative control of the Government of Assam and this question should accordingly have been put in the Provincial Council. The views of the Assam Government have, however, been obtained and are as follows :

(a) No complaints have been received and the Government are unaware that the inconvenience felt by the travelling public for the reasons alleged is appreciably great. The matter was fully considered in 1917 and the decision arrived at was that receipts from passenger traffic on the Jorhat (Provincial) Railway were insufficient to justify the expenditure which through booking would involve.

(b) Where transshipment has to be resorted to, a certain amount of delay is inevitable but no complaints have been received either in regard to loss or delay.

The Agent, Assam Bengal Railway, who was also addressed, states that that administration is not aware that loss takes place in goods passing to and from the Jorhat (Provincial) Railway at Moriani and Titubar Junctions.

- (f) In the present state of the finances of the province, the Government of Assam are not prepared to consider the proposal to convert the gauge of the line; nor, in their opinion, do the volume of traffic and the earnings of the line justify conversion.

#### DISCONTENT AMONG OFFICERS SUBJECT TO INDIAN SERVICE LEAVE RULES.

224. **Rai D. C. Barua Bahadur** : (a) Are the Government aware that great discontent prevails among the officers subject to the Indian Service Leave Rules on account of the restrictions imposed upon their privilege of commuting furlough on half average salary into furlough on average salary?

(b) Will the Government be pleased to explain why the privilege has been extended only to those officers who proceed on leave out of India or Ceylon, or who take furlough on medical certificate?

(c) Do the Government propose to take early action to remove these restrictions, and place the officers subject to the Indian Service Leave Rules on the same footing with the officers of European Services and to extend the provisions of Article 316A of the new Leave Rules to them with necessary modifications of clause (e)?

**The Honourable Sir William Vincent** : (a) The existence of such discontent has not been brought to the notice of Government.

(b) and (c). The attention of the Honourable Member is invited to my speech in connexion with the Resolution moved by the Honourable Sardar Jogendra Singh in the Council of State on the 9th March 1921.

As a result of the recommendations of the Public Services Commission, Government intend to restate the criteria according to which officers are brought under one or the other set of rules, and the matter is now under consideration.

#### TRANSFER OF THE PROTECTORATE OF ADEN.

225. **Mr. M. K. Reddi Garu** : (a) Has the attention of the Government been drawn to a speech of Mr. Winston Churchill, Secretary of State for the Colonies, wherein it is stated that the protectorate of Aden will be taken over under the Colonial Office?

(b) Will the Government be pleased to state if they have been consulted in the matter and if this proposal has been accepted by them?

(c) Will the Government be pleased to lay on the table the papers connected with the transfer of Aden to the Colonial Government?

(d) Will the Government be pleased to furnish a tabular statement showing :

- (i) the date when Aden came under the Indian Government,
- (ii) the annual cost debited to the Indian exchequer in the administration of the Protectorate from the time of its having been taken over,
- (iii) the total cost of capital works and all improvements done in the Protectorate during the period of its administration by the Indian Government.

**The Honourable Dr. T. B. Sapru** (on behalf of the Honourable Mr. Depys Bray): (a) Yes. As the control of the Aden Protectorate, which consists of the territory of Arab Chiefs in treaty relations with His Majesty's Government, was transferred to His Majesty's Government during the war and matters connected with it are no longer the concern of the Government of India, the Honourable Member presumably refers to the Aden Settlement, and if that is correct, I would refer the Honourable Member both generally and as regards (b) and (d) (i) and (ii) to my reply to Question No. 129 on the 10th September 1921, and also to the reply given by the Honourable Mr. Bray to a similar question in the Council of State on the 23th March.

(c) The whole question, including the future incidence of expenditure, is still under discussion, and the correspondence cannot be laid on the table at present.

(d) (iii). It is regretted that complete information is not readily available but the present book value of the Government buildings in the Settlement is, civil buildings Rs. 20 lakhs; permanent military buildings Rs. 60½ lakhs; and temporary (war) buildings Rs. 5½ lakhs.

#### CONSTRUCTION OF OFFICES AND QUARTERS NEAR EGMORE RAILWAY STATION, SOUTH INDIAN RAILWAY.

220. **Mr. M. K. Reddi Garu**: (a) Will the Government be pleased to state if it is a fact that the South Indian Railway Company have contemplated the acquisition of house and land sites near the Egmore Railway Station, for the construction of offices and quarters now located at Trichinopoly?

(b) Do the Government propose to advise the Railway Company that in view of the already congested condition of the city and dearth of proper housing accommodation, they should not sanction any such proposals, but should locate their offices outside the Municipal limits of the City?

**Colonel W. D. Waghorn**: (a) The South Indian Railway Company have at present no intention of acquiring house and land sites near the Egmore Railway Station (Madras) for the construction of offices and quarters now located at Trichinopoly. It may, however, be necessary to acquire a small area of land at that station to build quarters to house local staff.

(b) In view of the answer given in (a) above, Government do not propose to take any action in the matter.

#### PAY AND PROSPECTS OF THE INDIAN CIVIL SERVICE AND OTHER SERVICES.

227. **Mr. M. K. Reddi Garu**: Will the Government be pleased to lay on the table a statement showing the pay and prospects of the Indian Civil Service, Indian Medical Service, Indian Educational Service, Posts and Telegraphs, Engineering, Police and Forests, as they stood in the year 1917 and as they stand now?

**The Honourable Mr. W. M. Hailey**: I lay on the table a statement giving the required information.



Statement showing the pay and prospects of the various important services in 1917 and 1921.

Service.	1917.			1921.			REMARKS.
	Appointments.	No.	Pay.	Appointments.	No.	Pay.	
Imperial Customs Service.	Collectors	1	Ra. 2,500	Collectors	1	Ra. 3,000	Under the old scale, Collectors on Ra. 2,500 and Ra. 2,350 were entitled to a local allowance of Ra. 250 and those on Ra. 2,050 of Ra. 200 when posted to Calcutta, Bombay or Raugoon. These local allowances have been absorbed in the new scale. The Collector of Customs at Raugoon, however, draws a Burma allowance of Ra. 165 a month.
	Do.	2	2,350*	Do.	4	2,250-100-2,750	
	Do.	2	2,050				
	Civilian Assistant Collectors.	3	1,000-100-1,300- $\frac{1}{2}$ -1,400.	Civilian Assistant Collectors.	3	1,000-100-1,500	
	Non-Civilian Assistant Collectors.	19	300-50-1,150- $\frac{1}{2}$ -1,400.	Non-Civilian Assistant Collectors.	21	350-50-1,500	
Indian Audit Department.	Comptroller and Auditor General.	1	4,500	Auditor General	1	5,000	Temporary appointments (the present incumbent of one of these appointments is an Accountant General who draws his pay as such in the regular line.)
	Controller of the Currency.	1	3,000-125-3,500	Controller of the Currency.	1	3,000-125-3,500	
	Accountants General, Class I.	2	2,750	Accountants General, Class I.	4	3,000	
	Accountants General, Class II.	3	2,500	Accountants General, Class II.	9	2,250-100-2,750	
	Accountants General, Class III.	4	2,250	Deputy Controller of the Currency.	1	2,000-100-2,500	
	Chief Examiners, Class I	2	2,000	Deputy Controllers of the Currency.	2	1,500-60-1,900	
	Chief Examiners, Class II	1	1,800				
	Class I—Enrolled List	7	1,500-60-1,800	Class I—General List	9	1,500-60-1,800†	
	Public Works List	4		Public Works List	5		

†Officers who were serving on 23rd June 1920 draw their old pay plus an addition to pay of Ra. 500.

State Railway Engineering Service.	Classes II and III—Enrolled and Public Works Lists.	Classes II and III—General List Public Works List	Classes II and III—General List Public Works List	Classes II and III—General List Public Works List	Classes II and III—General List Public Works List
Chief Engineers, 1st Class.	2	2,750	Chief Engineers ...	5	2,750—125—3,000
Chief Engineers, 2nd Class.	3	2,500			
Superintending Engineers, 1st Class.	4	{ 2,000 Imperial. 1,600 Provincial.	Superintending Engineers.	13	1,750—100—2,150
Superintending Engineers, 2nd Class.	5	{ 1,700 Imperial. 1,400 Provincial.			
Superintending Engineers, 3rd Class.	4	{ 1,500 Imperial. 1,200 Provincial.			
Executive Engineers	102	{ 800—50—1,250 Imperial. 535—35—850 Provincial.	Executive Engineers	102	{ 750—50—950 51—1,200, 1,200, 1,250, 1,300.
Assistant Executive Engineers.	85	{ 380—40—700, 750 Imperial. 250—25—475 Provincial.	Assistant Executive Engineers.	60	{ 300—50—450 450—50—550, 550, 600.
Agency Department.			Agency Department.		
Agents ...	2	3,000	Agents ...	2	3,500
Agent ...	1	2,500	Agent ...	1	3,000
Deputy Agents ...	2	1,750	Deputy Agents ...	2	1,750—100—2,150
Do.	2	1,500	Do.	2	1,850—50—1,900
Traffic Department.			Traffic Department.		
Traffic Managers ...	3	2,000	Traffic Managers ...	1	2,500
Deputy Traffic Managers.	9	1,500	Deputy Traffic Managers.	9	2,300—100—2,500 1,750—50—2,000
District Traffic Superintendents.	41	700—1,100	District Traffic Superintendents.	48	750—50—950 950—50—1,200, 1,250, 1,300, 1,350,
Assistant Traffic Superintendents.	79	200—550	Assistant Traffic Superintendents.	75	200 250, 300—50—450, 450—50—550, 550, 600.

Officers who were serving on 23rd June 1924 draw their old pay plus an addition to pay ranging from Rs. 100 to Rs. 500.

Under new scales European recruited Assistant Executive and Executive Engineers draw in addition to these Rs. 75 per mensem technical pay and overseas pay of Rs. 150 per mensem from 1st to 7th year of service, Rs. 200 from 8th to 11th and Rs. 250 from 12th year and onwards until promoted to administrative rank.

Under the new scales European recruited District and Assistant officers get in addition overseas pay of Rs. 150 from 1st to 7th year of service, Rs. 200 from 8th to 11th and Rs. 250 from 12th year onwards until promoted to administrative rank.

Service.	1917.			1921.		
	Appointments.	No.	Pay.	Appointments.	No.	Pay.
Locomotive and Carriage and Wagon Establishments.	Locomotive Superintendents.	1	Rs. 2,500	Locomotive Superintendents.	1	Rs. 2,500
	Locomotive Superintendants.	2	2,000	Locomotive Superintendants.	2	2,300-100-2,500
	Carriage and Wagon Superintendent.	1	1,750	Carriage and Wagon Superintendent.	1	2,000-100-2,300
	Deputy Locomotive Superintendants.	5	1,500	Deputy Locomotive Superintendants.	6	1,150-60-2,000
	Deputy Carriage and Wagon Superintendant.	1	1,250	Deputy Carriage and Wagon Superintendant.	1	1,750
	District Superintendants.	38	700-100-1,100	District Superintendants.	37	750-50-1,500, 950-1,200, 1,300, 1,250, 1,250, 1,300, 900-50-1,450, 1,500, 80-550, 550, 600.
	Assistant Superintendants.	34	300-850	Assistant Superintendants.	41	750-50-1,500, 950-1,200, 1,300, 1,250, 1,250, 1,300, 900-50-1,450, 1,500, 80-550, 550, 600.
Stores Establishment, State Railways.	Control'g of Stores	1	1,250	Control'g of Stores	1	1,750-50-2,000
	Ditto	1	1,400	Ditto	1	1,650-50-1,900
	Ditto	1	1,250	Ditto	1	1,500-50-1,750
	District Officers	11	600-1,150	District Officers	14	750-50-950, 950-1,200, 1,300, 1,250, 1,250, 1,300, 900-50-1,450, 1,500, 80-550, 550, 600.
	Assistant Officers	8	200-500	Assistant Officers	8	200-50-450, 450-50-550, 550, 600.
	Signal Engineer	1	1,000-1,250	Signal Engineers	2	750-50-1,150, 950-1,200, 1,300, 1,250, 1,250, 1,300.
	Ditto	1	700-900	Senior Assistant Signal Engineers.	3	800-50-1,150, 1,300, 1,250, 1,250, 1,300.
	Senior Assistant Signal Engineers.	3	700-900	Junior Assistant Signal Engineers.	6	300-50-450, 450-50-550, 550, 600.
	Junior Assistant Signal Engineers.	6	400-600			

Under the new scales European recruited District and Assistant officers get in addition Rs. 75 a month technical pay and Rs. 150 excesses pay from 1st to 7th year of service, Rs. 200 from 8th to 11th and Rs. 250 from 12th year onwards until promoted to administrative rank.

Under the new scales European recruited officers get in addition Rs. 75 per month technical pay and excesses pay of Rs. 150 per month from 1st to 7th year of service, Rs. 200 from 8th year onwards until promoted to administrative rank.

State Railways Coal Establishment and Mining Managers.	Mining Engineer ...	1	900-50-1,500	Mining Engineer ...	1	2,000-10-2,500	
	Mining Manager ...	1	1,000-100-1,400	Mining Manager ...	1	1,200-50-1,500	
	Coal Superintendent	1	950	Coal Superintendent	1	1,500-100-1,800	
	Senior Assistant Coal Superintendents.	4	600-50-800	Senior Assistant Coal Superintendents.	3	1,000-50-1,200	
	Junior Assistant Coal Superintendents.	4	450-50-600	Junior Assistant Coal Superintendents.	7	700-50-900	
	Assistant Mining Managers.	1	375-25-500	Assistant Mining Managers.	2	700-50-900	
	<i>Mint Department.</i>			<i>Mint Department.</i>			
	Senior Mint Master	1	3,000	Senior Mint Master	1	2,000-900-3,000	
	Junior Mint Master	1	2,000	Junior Mint Master	1	1,250-50-1,750	
	Deputy Mint Master	1	1,250-50-1,500	Deputy Mint Master	1	1,250-50-1,750	
Mint and Assay Departments.	<i>Assay Department.</i>			<i>Assay Department.</i>			
	Assay Masters ...	2	1,750-100-2,250	Assay Masters ...	2	1,400-50-1,800	
	Deputy Assay Masters.	2	600-100-1,000	Deputy Assay Masters	2	500-50-560	
	Total.			during probation, 600-50-1,200 when confirmed.			
	Geo. logical Survey of India Department.	Director	1	2,000	Director	1	3,000
		Superintendents ...	8	1,000-8-1,400	Superintendents ...	6	1,500-100-2,000
		Assistant Superintendents.	16	850-50-900-50-1,000.	Assistant Superintendents.	22	400-50-1,200
		Total.			p/ur overcas pay ranging from Rs. 150-250.		
		Chemist	1	500-50-1,000	Chemist	1	400-50-1,200
		<i>Residents.</i>			<i>Residents.</i>		
1st Class		7	4,000	1st Class	7	4,000	
2nd Class		8	2,700	2nd Class	78	3,000	
<i>Appointments on time-scale.</i>			<i>Appointments on time-scale.</i>				
Superior		47	450-2,400	Superior	48	3050-3,500	
Inferior	39		Inferior	40			
Indian Political Department.	<i>Residents.</i>			<i>Residents.</i>			
	1st Class	7	4,000	1st Class	7	4,000	
	2nd Class	8	2,700	2nd Class	78	3,000	
	<i>Appointments on time-scale.</i>			<i>Appointments on time-scale.</i>			
	Superior	47	450-2,400	Superior	48	3050-3,500	
	Inferior	39		Inferior	40		
				† Includes temporary appointment of Resident, Wastrian.			
				‡ Includes overcas pay of 150-250.			

Service.	1917.			1921.			REMARKS.
	Appointments.	No.	Pay.	Appointments.	No.	Pay.	
Indian Service of Engineers.	Secretary, Government of India, Public Works Department.	1	Rs. 3,500	Secretary Government of India, Public Works Department.	1	Rs. 3,750	
	Chief Engineers—Imperial and Provincial Services—	26		Chief Engineers ...	26	2,750—125—3,000	
	1st class ...	} 6	2,750				
	2nd class ...		2,500				
	Superintending Engineers—			Superintending Engineers.	68	1,750—100—2,150	
	Imperial Service, 1st class.	} 68	2,000				
	Imperial Service, 2nd class.		1,750				
	Imperial Service, 3rd class.		1,500				
	Provincial Service, 1st class.	} 68	1,600				
	Provincial Service, 2nd class.		1,400				
Provincial Service, 3rd class.	1,300						
Executive Engineers—							
Imperial Service	} 357	80—50—1,250	Executive Engineers (Europe-recruited).	179	1,025—1,625*	* Includes overseas and technical pay.	
Provincial Service		585—35—950	Executive Engineers (India-recruited).	159	650—1,300		
Assistant Engineers—							
Imperial Service	209	38)—40—700—750	Assistant Executive Engineers (Europe-recruited).	137	525—875*		
Provincial Service	113	250—85—475	Assistant Executive Engineers (India-recruited).	114	300—600		



Service.	1917.			1931.			REMARKS.
	Appointments.	No.	Pay.	Appointments.	No.	Pay.	
			Rs.			Rs.	
	Assistant Superintendents, Telegraph Engineering.	18	250-25-450-500 -35-850 (Provincial Service.)	Assistant Divisional Engineers.	24	300-50-450-480 -50-550-580- 50-600 (Junior scale).	
	Superintendent, Telegraph Workshops. Chief Storekeeper	1 1	700-50-1,250 600-10-800	Superintendent, Telegraph Workshops. Assistant Superintendent, Telegraph Workshops.	1 1	1,025-50-1,585 600-50-1,000	
	Officer attached for Wireless.	1	380-50-700-30- 1,350	Director of Wireless Traffic Manager, Wireless, Research Officer.	1 1	2,820 800	
				Wireless, Research Officer. Wireless Divisional Engineer.	1 1	1,600-50-1,500 925	Temporary.
				Wireless Instructor Assistant Engineers	1 12	780 350-50-550-30- 700	
				Assistant Electricians.	3	350-60-480-30- 700	
Posts and Telegraphs (Telegraph Traffic).	Deputy Director General, Telegraph Traffic. First Division	1	1,750-50-2,000	Deputy Director General, Telegraph Traffic. First Division	1	1,750-100-2,150	
	Ditto	2	1st grade-1,200- 40-1,400	Do.	12	800-50-1,200	
	Ditto	4	2nd grade-1,000	Do.	2	800 (temporary)	
	Ditto	6	3rd grade-830	Second Division	36	350-50-450-30- 700	
	Second Division	27	250-15-400-20- 600				
Indian Educational Service.	Educational Commissioners. Directors, Public Instruction.	1 3	2,500-100-3,000 2,000-100-2,500	Educational Commissioners. Directors, Public Instruction.	1 3	2,600-100-3,000 2,500-100-2,600	

Ditto	2	2,000	2,000	4	2,250-100-2,750	
Ditto	1	1,750-50-2,000	1,750-50-2,000	1	2,000-100-2,500	
Ditto	2	1,500-100-2,000	1,500-50-1,500	1	1,750-50-2,000	
Ditto	2	1,250-50-1,500	1,250-50-1,500	1	2,000-50-2,250	
Appointments on the time-scale.	234	500-50-1,000, with allowances of Rs. 100 after fifteen years' service to officers whose total salary did not exceed Rs. 1,000 and 16 junior and 10 senior personnel allowances of Rs. 200-10-250 and Rs. 250-50-500, respectively.	500-50-1,250, 15 per cent selection grade on Rs. 1,250-50-1,500, 5 per cent selection grade on Rs. 1,550-100-1,750.	378	400-50-1,250, 15 per cent selection grade on Rs. 1,250-50-1,500, 5 per cent selection grade on Rs. 1,550-100-1,750.	* In addition overseas pay of Rs. 150-250 is admissible to officers of non-Indian domicile and to existing members who joined before the 1st December 1919.
Inspector General of Forests.	1	2,650	2,650	1	3,250	
Chief Conservators of Forests.	3	2,150	2,150	7	2,500-125-2,750.	
Conservators of Forests.	22	1,500-1,700-1,900	1,500-1,700-1,900	30	1,750-100-2,150.	
Assistant and Deputy Conservators of Forests.	209	380-40-700-750-50-1,250	380-40-700-750-50-1,250	304	325-50-725-800-850-900-900-50-1,350.	† In addition overseas pay of Rs. 150-250 is admissible to those of non-Indian domicile.
Indian Forest Ser-vice.	1123	See Government of India's Home Department, Resor-tution No. 361-873, dated the 17th April 1905.	See Government of India, Home De-partment, Resor-tution No. 306, dated the 3rd March 1921.	331	See Government of India, Home De-partment, Resor-tution No. 306, dated the 3rd March 1921.	‡ Includes 15 retired Indian Medical Service officers re-empoyed and 6 officers on leave.
Indian Medical Ser-vice (Civil).	.....	.....	.....	.....	.....	Note.—A detailed answer would require more time than the notice allows.







Service.	1917.		1921.		REMARKS.	
	Appointments.	No.	Appointments.	No.		
Indian Civil Service —contd.	POSTS UNDER LOCAL GOVERNMENTS—contd. Superior—contd.		Ra.		Ra.	
	Municipal Commissioner.	1	3,000	1	3,000	
	Commissioner of Settlements and Fireworks of Land Records. Ditto	1	Grade pay plus allowance of Ra. 250. 1,800—50—2,000			
	Commissioner of Court.	1	3,500			
	Chairman, Calcutta Corporation and Improvement Trust	2	3,570	3	3,500	
	Judicial Commissioners.	3	3,000	4	3,500	
	Ditto	1	3,380½	4	3,000	
	Additional Judicial Commissioner.	1	3,000	1	3,330½	
	Ditto	2	2,750	13	3,000	
	Ditto	1	3,000			
	District and Sessions Judges.	9	3,750	155		
	Ditto	5	2,500			
	Ditto	45	2,250			
	Ditto	20	2,000			
	Ditto	29	2,325			
Ditto	6	1,800				
Ditto	20	1,833½				
Ditto	10	1,666½				
Ditto	5	1,500				
Ditto	8	1,500				
District Judges — Sessions and Subordinate Judges.	4	1,800				
					Pay on the superior time-scale for the Indian Civil Service plus the allowances and sub-jest to the maximum indicated in the Government of India, Home	

Judge, Small Cause Court, Simha.	1	1,250	Assistant Judge, exercising Appellate and Additional Sessions powers.	3	Department Resolution No. 286, dated the 13th February 1920.
Inspectors-General of Police.	6	2,500—100—3,000	Opium Agent ...	1	2,500—100—3,000
Ditto	1	2,250—100—2,750	Political Appointment	1	3,000
Opium Agent ...	1	2,500—100—3,000	Collectors or Deputy Commissioners	344	/
Resident of Travancore.	1	2,800	Commissioner of Coorg.	1	
Political Appointment	1	3,000 or 2,250	Commissioner, Agency Tracts.	1	
Collectors, Magistrates and Collectors or Deputy Commissioners.	9	2,500	Commissioner of Settlements and Director of Land Records.	1	
Ditto ...	105	2,221	Commissioner, Kananak Division.	1	Pay on the super-annuation for the Indian Civil Service plus the allowances, and subject to the maxima indicated in the Home Department Resolution No. 286, dated the 3th February 1920.
Ditto ...	97	1,800	Commissioner of Excise.	1	
Ditto ...	13	2,325	Deputy Commissioner, Upper Sind Frontier.	1	
Ditto ...	79	1,300	Deputy Commissioner of Salt and Excise.	1	
Ditto ...	31	1,833½	Secretaries to the Commissioners, Land Records and Salt and Abkhari Revenue.	5	
Ditto ...	16	1,668½	Secretaries to the Commissioners, Land Records and Salt and Abkhari Revenue.	2	
Ditto ...	3	1,000	Registrar, High Court.	5	
Ditto	1	1,300	Registrar, Chief Court.	1	
Ditto	2	1,500—60—1,500	Private Secretaries to Government.	3	
Secretaries to the Commissioners of Land Revenue and Salt and Abkhari.	1	1,500—60—1,500	Sub-Collectors, 1st grade, Madras.	23	
Registrars, High Court.	1	1,700			
Ditto ...	2	1,700			
Ditto ...	1	1,600			
Registrar, Chief Court.	1	1,400			

Service.	1917.			1921.			Remarks.
	Appointments.	No.	Pay.	Appointments.	No.	Pay.	
Indian Civil Service —contd.	Registrar, Chief Court.	1	Rs. 1,250	Assistant Remuneration, Legal Affairs.	1	Rs.	Pay on the superior time-scale for the Indian Civil Service plus the allowances and subject to the maxima indicated in the Home Department Resolution No. 206, dated the 13th February 1920.
	Private Secretaries to Governor.	3	1,500	Assistant Commissioner in Sind.	1		
	Superintendent, Dehra Dun.	1	1,500	Judge, Small Cause Court, Simla.	1		
	Deputy Chairman, Calcutta Corporation.	1	1,500				
	Assistant Remuneration, Legal Affairs	1	1,250—50—1,500				
	Tahildari Settlement Officer.	1	1,100				
	Assistant Collectors	10	1,000				
	Under Secretaries	3	1,250				
	Sub-Collectors and Joint-Magistrates.	19	1,300				
	<i>Inferior.</i>						
	Under Secretaries ...	18	1,000	<i>Inferior.</i>			
	Ditto	1	800	Assistant Commissioners, Assistant Collectors, Sub-Collectors, Joint Magistrates, etc., including certain special appointments classed as inferior.	734		
	Sub-Collectors and Joint-Magistrates or Assistant Collectors or Assistant Commissioners.	26	1,000				
	Ditto	92	800				
	Ditto	8	800				
Ditto	128	700					
Ditto	10	600					
City Magistrate, Lucknow.	1	1,000					



Service.	1917.		1921.		Remarks.	
	Appointments.	No.	Pay.	Appointments.		No.
Indian Civil Service —concd.	Postmasters General	5	1,789, 2,084, 2,286 and 2,509.	Postmasters General	5	Indian Civil Service time-scale plus extra pay of Rs. 280.
	Commissioners, Northern India Salt Revenue Department	1	2,500			
	Collectors of Customs	8	2,450, 2,350 & 2,500	Collectors of Customs.	3	3,000, 2,350—100—2,750.
	Assistant Collectors of Customs.	3	1,003—100—1,370 — 50—1,400	(Inferior). Under Secretaries ...	6	
	Under Secretaries ...	6	1,500	Personal Assistant to Director, Intelligence Bureau.	1	
	Ditto	1	1,800—100—1,900			
	Personal Assistant to the Director, Criminal Intelligence	1	Salary in the regular time-scale plus a local allowance of Rs. 300 subject to a maximum of Rs. 1,200.	Personal Assistant to Chief Commissioner, Delhi.	1	Pay under the Indian Civil Service inferior time-scale with the allowances and subject to the maxima indicated in the Home Department Resolution No. 286, dated the 18th February 1920.
	Personal Assistant to the Chief Commissioner, Delhi.	1	Pay on the Political time-scale subject to a maximum of Rs. 1,600.	Assistant Commissioner employed as Additional District Magistrate, Delhi.	1	
	Assistant Commissioner employed as Additional District Magistrate, Delhi.	1	Pay on the Political time-scale subject to a maximum of Rs. 1,450.	Assistant Commissioner employed as Secretary to the Secretary to the Municipality, Delhi.	1	
	Ditto	1	Pay on the Political time-scale subject to a maximum of Rs. 1,450.	Assistant Commissioner employed as Secretary to the Municipality, Delhi.	1	
	Assistant Commissioner employed as Secretary to the Municipality, Delhi.	9	1,000—100—1,300—50—1,400			
	Assistant Collector of Customs, Imperial Customs Service.	1				

POSTAL ADVERTISEMENT AND THE ALLIANCE ADVERTISING ASSOCIATION.

228. **Mr. M. K. Reddi Garu**: Will the Government be pleased to state on what consideration the 'sole advertising agency' has been conferred on the Alliance Advertising Association, by the Postal Department in respect of advertisement on stamp booklets, and whether it is the intention of the latter to extend the concession to the same Association or any other body in respect of booklets of stamps of other values which the department issues?

**Colonel Sir S. D'A. Crookshank**: (1) The consideration is that the sum to be paid by the Alliance Advertising Association to the Postal Department should be 3 pies per complete booklet which is expected to cover the present cost of manufacture of the booklets.

(2) The intention is to give any other firm the opportunity to obtain such advertisements if the Alliance Advertising Association fails to secure advertisements for all the booklets within a reasonable time.

**Mr. President**: Order, Order. In the case of questions requiring answers of the length of Nos. 214—222, the entire answers should be laid on the table in accordance with the arrangement made in the last Session of this Assembly.

I now ask the Leader of the House to make a statement of Government business to be set down for this House on the 19th of September.

STATEMENT OF GOVERNMENT BUSINESS.

**The Honourable Sir William Vincent**: Sir, on the 19th September we propose to introduce a Bill to consolidate and amend the law relating to Income-tax and Super-tax.

The following Bills will probably also be taken into consideration:

- (1) Bill further to amend the Carriers Act, 1865;
- (2) Bill to provide for the levy of a customs duty on lac exported from British India.

Reports of the Joint Committee on the Indian Factories (Amendment) Bill and the Indian Electricity (Amendment) Bill will be presented if ready.

THE MAINTENANCE ORDERS ENFORCEMENT BILL.

**The Honourable Sir William Vincent**: Sir, I beg to present the Report of the Select Committee on the Bill to facilitate the enforcement in British India of maintenance orders made in other parts of His Majesty's Dominions and Protectorates and *vice versa*.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

**The Honourable Sir William Vincent**: Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Penal Code, 1860.



### THE NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

**The Honourable Mr. C. A. Innes :** Sir, I beg to move that the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration.

I explained the objects, Sir, with which we have introduced this small Bill into the Assembly in full detail in my opening speech on the 5th of this month. The Bill has got, so far as I know, the commercial community in India entirely behind it, and I hope that it will be regarded by this House as an entirely non-controversial Bill.

The motion was adopted.

**The Honourable Mr. C. A. Innes :** I now move, Sir, that the Bill be passed.

Clause one was adopted.

**Lala Girdharilal Agarwala :** I am advised not to move the amendment to clause two, Sir.

Clause two was adopted.

Clause three was adopted.

**The Honourable Mr. C. A. Innes :** I now move, Sir, that the Bill be passed.

The motion was adopted.

### THE INDIAN POST OFFICE (AMENDMENT) BILL.

**The Honourable Mr. C. A. Innes :** I move, Sir :

That the Bill further to amend the Indian Post Office Act, 1898, be taken into consideration.

Here again, I explained the reasons for this Bill very fully on the 5th of September. I pointed out that the practice of sending articles liable to Customs duty by the letter mail had been forbidden by two International Postal Conventions, and that the prohibition had been embodied in a rule in the Postal Guide. I pointed out also, Sir, that we had reason to believe that this prohibition is being, and has been for many years consistently evaded. I further pointed out that the loss of revenue which was accruing to Government from the evasion of this prohibition was likely to increase very considerably in the near future owing mainly to the large increase in our import duties.

After consulting the Collector of Customs at Bombay I ventured to make the estimate that the loss might amount to something like Rs. 20 lakhs per annum. The Government of India did not feel themselves entitled to take the responsibility of continuing to acquiesce in a loss of this kind.

Consequently in this Bill we have made a suggestion to remedy the evil for the consideration of the House. I explained in my previous speech that we had no intention of holding up the ordinary foreign mail in any way at all and that I had every hope that we will be able to make arrangements with the London Post Office and the Colonial and Continental sorting offices by which the delay to the registered foreign letter mail would be reduced to a minimum. I move, Sir, that the Bill be taken into consideration.

**Mr. President:** The question is that the Bill to amend the Indian Post Office Act, 1898, be taken into consideration.

The motion was adopted.

Clauses 1, 2, 3 and 4 were adopted without debate.

**The Honourable Mr. C. A. Innes:** I move, Sir, that the Bill be passed.

**Mr. President:** The question is that the Bill further to amend the Indian Post Office Act, 1898, be passed.

The motion was adopted.

### THE INDIAN MARINE (AMENDMENT) BILL.

**Sir Godfrey Fell:** Sir, I move :

'That the Bill further to amend the Indian Marine Act, 1887, be taken into consideration.'

**Mr. President:** The question is that the Bill further to amend the Indian Marine Act, 1887, be taken into consideration.

The motion was adopted.

Clauses 1, 2 and 3 were adopted without debate.

**Sir Godfrey Fell:** I now move that the Bill be passed.

The motion was adopted.

### THE INDIAN WORKS OF DEFENCE (AMENDMENT) BILL.

**Sir Godfrey Fell:** I move that the Bill further to amend the Indian Works of Defence Act, 1903, be taken into consideration.

**Mr. President:** The question is that the Bill further to amend the Indian Works of Defence Act, 1903, be taken into consideration.

The motion was adopted.

Clauses 1, 2, 3 and 4 were adopted without debate.

**Sir Godfrey Fell:** I move that the Bill be passed.

The motion was adopted.

### THE INDIAN LAC CESS BILL.

**The Honourable Mr. C. A. Innes:** Sir, I move for leave to introduce :

'A Bill to provide for the levy of customs duty on lac exported from British India.'

I hope, Sir, that this is another entirely non-controversial Bill. Shellac is one of our most important trades and the total value of the exports of shellac amounted in 1917-18 to 2½ millions sterling and in 1918-19 to nearly 2 millions sterling. Apart from small quantities of somewhat indifferent lac grown, I believe, in Indo-China, India may be said to have a monopoly of lac and shellac. Shellac is being used in increasing quantities for various purposes

[Mr. C. A. Innes.]

notably the manufacture of gramophone records. The demand has exceeded the supply and during the war a great feature of the trade was the extraordinary fluctuations in the price of shellac. Before the war, the price of what is ordinarily known as T. N. shellac varied from between Rs. 30 and Rs. 40 a maund. In January 1920, the price touched Rs. 250. At the present time, it is something like Rs. 135 a maund. Now these high prices induce a very real danger, namely, the danger that some synthetic substitute may be found. As far as I know, no satisfactory substitute has yet been found, but Mr. Lindsay, the Director-General of Commercial Intelligence, informs me that distinct progress has been made in that direction. We have had this question under consideration for some time now, and in 1919, the whole question was considered by a Committee of Forest officers and of representatives of commercial firms interested in the shellac trade. On the recommendation of that Committee, we put two officers on special duty to inquire into the whole matter, namely, Mr. Lindsay and Mr. Harlow of the Forest Department. These two officers wrote a very valuable report which was published in May of this year in the series of Indian Forest Records. They tell us that for the present state of affairs in the shellac trade there are two main remedies. In the first place, the production of the best quality of lac must be stimulated. The effect of the present high prices is to encourage indifferent output and premature collection, with disastrous results to quality. Their recommendation here is to extend the cultivation of lac in Government forests and the distribution of good brood lac. That of course is entirely a matter for the Local Governments and it has been taken up by two Governments who are chiefly concerned, namely, the Governments of the Central Provinces and Bihar and Orissa. The other suggestion they made was this. They say that a scheme of research is required on the chemical and entomological side and in Appendix III of their Report a comprehensive scheme of research has been outlined by the late Mr. Howlett. They recommended that for the purpose of this research the trade should organise itself into a research association and that the research should be financed by a small export cess on lac. I am glad to say, Sir, that the trade took up this suggestion warmly. A representative committee of 7 gentlemen, four of them representing Indian brokers and manufacturers and 3 of them representing shippers and European manufacturers, was appointed in July to work out a scheme for an association and as the result of their labours an Indian Lac Association for Research has been formed by the trade itself. Its object is to promote improvements in the breeding of lac and its manufacture by means of scientific research. It has been organised on the most democratic lines and as far as we can see provision has been made for the representation of every branch of the lac trade. All firms or individuals interested in the trade whether as a cultivator, manufacturer or shipper, dealer or broker are eligible for election; and the rules provide for a committee of 8 to be elected by the various sections of the trade, two members by Indian manufacturers, two by Indian brokers, two by Calcutta shippers and one by European manufacturers and one by European brokers. This Association by a unanimous Resolution has approached the Government with a request that a small cess should be placed on exports of lac at the rate of 4 annas per maund for shellac and 2 annas per maund for refuse lac.

I may mention that the incidence of the cess proposed is so light as to be almost nominal. The price of shellac at the present time is Rs. 135 per maund.

We propose a cess of only four annas a maund. On the other hand, we hope that the cess will yield an income of about one lakh of rupees a year.

I do not think I need say very much about the Bill itself. It has been drawn up on the lines of the Indian Tea Cess Act of 1903.

We propose, as a safeguard, in clause 5 of the Bill that the Lac Association must keep accounts and that these accounts shall be examined and audited by auditors appointed by Government, and we also provide that the accounts shall be published. It is also suggested that, in the first instance at any rate, the Bill should remain in force for only five years.

I hope, Sir, that this Bill which has been recommended by the trade itself by an unanimous vote will be accepted as unanimously by this House.

I move, Sir, for leave to introduce the Bill.

**Mr. President :** The question is :

'That leave be given to introduce a Bill to provide for the levy of customs duty on lac exported from British India.'

The motion was adopted.

**The Honourable Mr. C. A. Innes :** I now introduce the Bill, Sir.

#### THE LAND ACQUISITION (AMENDMENT) BILL.

**Mr. J. Hullah :** Since the beginning of this morning's Session certain circumstances have been brought to my notice which indicate that the Government themselves may have to propose amendments in the Bill. I have also received copy of a notice of a amendment from Sir Sivaswamy Aiyer. I do not wish to object to the shortness of the notice, but, in all the circumstances, I would ask that further consideration of the Bill to amend the Land Acquisition Act may, if possible, be postponed.

**Mr. President :** Do you move that as a motion?

**Mr. J. Hullah :** I will, Sir. I move, Sir :

'That further consideration of the Bill further to amend the Land Acquisition Act, 1894, be postponed.'

The motion was adopted.

#### THE PRESS LAW REPEAL AND AMENDMENT BILL.

**The Honourable Sir William Vincent :** Sir, I move for leave to introduce :

'A Bill to repeal the Indian Press Act, 1919, and the Newspapers (Incitements to Officers) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers and to provide for the seizure and disposal of certain documents.'

I confess, Sir, that after the warning I received on the last date this Assembly met, I make this motion with some apprehension. For various reasons I was unable to circulate a copy of the Bill which I move for leave to introduce until late yesterday, and I was of two minds at the time as to

[Sir William Vincent.]

whether it was advisable to make the motion to-day or to ask the Assembly to postpone it. But Government have always felt that it was a matter of the utmost importance that their intentions in regard to the report of the Press Committee should be made known to this Assembly and, as this was only a first reading, I thought possibly the Assembly might overlook the fact that the Bill has been in their hands only a short time. Even now, however, if it is the general sense of the Assembly, I shall be quite willing to postpone consideration of the Bill, but I can promise the Assembly a full opportunity of discussing it at a later stage. The subject matter is one which so many Members of the Assembly have at heart, that I hope they will not treat me to-day in the way they treated my Honourable Colleague the other day.

The Assembly are aware, that a Resolution was moved in this Assembly during the last Session, and that later the Government of India appointed a Committee on which there were a majority of non-officials, men, who, if I may say so, were well qualified to undertake this task, to examine the Press Act, the Press and Registration of Books Act, and the Newspapers (Incitements to Offences) Act. That Committee made certain recommendations which have been published, and copies of the report have, I believe, also been supplied to all Members of this Assembly. The Government of India have decided to accept those recommendations in full. (Hear, hear.) The Bill, in fact, does nothing but give effect to the report of the Committee. It repeals certain Acts which are regarded by many educated Indians as obnoxious, namely, the Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908. Power is, however, retained to confiscate openly seditious documents though that power is subject to this safeguard, that any person, who has an interest in a document which is seized, may make an application to a High Court, in which case the onus will be on the Government to show that the document is of the seditious character alleged by Government. If the Government fail to make that point good, then the order will be set aside. A necessary corollary of that is a provision for the prevention of the import of seditious documents by the ports of India, and of their transmission by post. If the law is to be effective, we must have power to seize openly seditious documents either in transmission through the post or at the time of import, but that seizure is also subject to the scrutiny of the High Court, and, if the case is taken to the High Court, then, again, the onus is on Government to show that the document is of the character stated.

The Press and Registration of Books Act has been retained with modifications, the most important of which are, firstly, that we prescribe that persons registering under that act must have attained majority—that, I think, is a reasonable recommendation—and, secondly, we come to a more contentious proposition, namely, the suggestion that in the case of newspapers the name of the editor should be clearly printed on the front page of each issue. That provision has excited a good deal of comment and will have to be examined in Select Committee carefully later. Minor amendments are that the term of imprisonment prescribed under the Press and Registration of Books Act has been reduced—I think that this change is made at the instance of one of the witnesses before us—Mrs. Besant—and technical changes have been made in the method of registration to suit both the printer and the publisher.

I think that this Assembly will endorse the bold policy that was embarked upon and will express their approval of the work of this Committee,

**Mr. President :** The question is :

'That leave be given to introduce a Bill to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers and to provide for the seizure and disposal of certain documents.'

The motion was adopted.

**The Honourable Sir William Vincent :** Sir, I now introduce the Bill.

### RESOLUTION *RE* THE DISTINCTIONS BETWEEN INDIANS AND NON-INDIANS AND THE REMOVAL OF THEIR MODE OF TRIAL.

**Mr. N. M. Samarth :** Sir, I beg to move the following Resolution :

'This Assembly recommends to the Governor General in Council :

- (a) that all distinctions between Indian and European members of the Indian Civil Service in regard to criminal jurisdiction over European British subjects be abrogated ; and
- (b) that subject to the provisions of sub-section (3) of Section 65 of the Government of India Act, all distinctions in the Criminal Law of India as between Indians on the one hand and European British subjects, Europeans who are not European British subjects and Americans on the other, in regard to mode of trial, sentence to be passed and right of appeal, be removed.'

Sir, this Assembly will remember that during the last Session, that is to say, the first Session of this Assembly at Delhi, I had given notice of a Resolution on this subject in general terms. That Resolution, however, was not reached, and consequently under the rules it lapsed. I have brought this Resolution again before this Assembly, and if it had to be ballotted for, I am afraid, I would have had hardly any chance of moving it ; and I must say that I am thankful to Government for the courtesy that they have shown me in putting it on an official day. It is a subject in which every Member of the Assembly is interested, European and Indian and I take it that the Government themselves are keen on a proper solution of the subject. We all remember that at the inauguration of this Assembly at its second Session by His Excellency the Viceroy that. His Excellency gave expression to his views on the subject in terms which could hardly be mistaken ; he said, he brought to our notice in particular the fact that his attention had been directed to the differences in the legal procedure applicable to Europeans and Indians, and he added that Local Governments had been consulted and an opportunity would be taken in the course of the present Session to lay before the Assembly the proposals of the Government as to the steps which would be taken for further examination of this question, and he trusted that in the result means would be found to satisfy public opinion that justice would be done both to Europeans and Indians. I, Sir, will not say or do anything which will make this Assembly going into any concrete instances of what may be called miscarriages of justice. I for one do not think that any useful purpose will be served by a discussion of that character. In the first place, every concrete case has its *pros and cons*, and the moment I start a concrete case of that character, it will side-track the discussion of the main subject and unnecessarily cloud the issues. I would beg my European colleagues as well as my Indian

[Mr. N. M. Samarth.]

colleagues in this Assembly not to introduce, and I am sure they will not introduce, any heat into the discussion of this Resolution. I hope my Indian friends will bear in mind the European point of view, and I hope my European friends will bear in mind the Indian point of view, and, in a spirit of cordiality and good-will, arrive at a solution which will be satisfactory to all Members of this Assembly. I propose, Sir, shortly to pick out two or three incidents in the past history of this subject which have a direct bearing on the subject matter of this Resolution, and which perhaps are not so widely known as they should be.

In the days of the East India Company, before 1833, every European, who had to go into the interior of the country, had to go under sufferance and under a license; he was in the mofussil practically under police surveillance. When Lord William Bentinck came as Governor General, he thought that it necessary to do away with that policy and to make provision by law to allow Europeans to settle in the country as traders or planters in order that the material condition of the country may be improved. He, therefore, made proposals to that effect to the Court of Directors and to the Crown, but at the same time he took care to lay down the condition that if these restrictions were to be removed, it should be made obligatory on the Governor General in Council to make laws and regulations so as to prevent any injustice being done to the natives of the territories by insulting conduct on the part of European settlers. Accordingly, afterwards, what is known as the Charter Act of 1833 was passed, *viz.* 3 and 4 William IV. Chap. 85; and in that statute two provisions were introduced which are of importance as having a direct bearing upon this question. One of them, Section 85, laid down as follows:

'Whereas the removal of restrictions on the intercourse of Europeans with the said territories will render it necessary to provide against any mischiefs or dangers that may arise therefrom, be it therefore enacted that the said Governor General in Council shall, and he is hereby required by law and regulations to, provide with all convenient speed for the protection of the natives of the said territories from insult and outrage in their persons, religions or opinions.'

And Section 87 which is famous laid down:

'And be it enacted that no native of the said territories nor any natural born subject of His Majesty resident therein shall, by reason only of his religion, place of birth, descent, colour or any of them, be disabled from holding any place, office or employment under the said Company.'

This Charter Act of 1833 was followed by a Despatch from the Court of Directors in 1834 in which they explained the provisions of the Act and conveyed to the Governor General in Council their orders as to how effect was to be given to those provisions. I shall refer, if time permits, to some passages later on in connection with another aspect of the question, but I may here state that the Court of Directors laid down that the provisions of the statute made it obligatory on the Governor General in Council to make laws and regulations in such a way, now that these restrictions on the residence of Europeans in the interior of the country were going to be removed, as to make them liable and amenable to the civil and criminal jurisdiction of the country tribunals of the Company throughout the land equally with the native inhabitants. They said so in specific terms; and, in accordance with their Despatch, legislation was undertaken and enacted in 1836 whereby all European British subjects or European foreigners were placed under the civil jurisdiction of the civil courts of the country throughout, in the same manner as the natives of the territories of the East India Company were. Perhaps some of those who are acquainted with the history of the subject will

remember that that legislation was denounced by the European residents at the time as Lord Macaulay's Black Act of 1836, and the agitation at that time was more opprobrious than at a later period in the history of the subject; but I am concerned with the arguments advanced at the time. European residents, some of them, I mean, who were more clamorous, said: 'You are going to subject us to country tribunals, that is to say, the Indian civil courts, which are courts both of law and fact. We have no juries here to whom the adjudication of facts could be entrusted, and the law only applied by the Judge. This is, therefore, an infringement of our birth-right and we are not going to submit to it and it is wrong that such a law should be enacted.' They further said, in effect that justice could not be expected from Indian Judges any more than you can expect figs from thistles or grapes from brambles. However, the statesmen of the period were great men, who had founded and consolidated the British Empire, great men indeed in British Indian history, and those men had a long sight and a judgment which was not warped by any considerations of class privileges and they enacted the Act of 1836.

There were gloomy forebodings at the time and it was said that this Act would prove a great handicap on British trade in India. No British trader or planter or other settler would care to risk his capital and personal liberty by going into the interior of the country where he will be subjected to the civil tribunals presided over by Indian Judges. Nothing of the kind ever came true. Trade has prospered, English traders and planters have settled and British factories have been started in great numbers throughout the country. Human nature is such that people are apt to look on the black side of things rather more prominently than they look on the bright side and this oftentimes blinds and clouds the perception of those who are called upon to decide large issues. That is applicable not only to Europeans, but to Indians also, and I make that observation in regard to all generally.

Well, that Act having been passed in 1836, the next question was to give effect to the directions contained in the Despatch of 1834 in regard to criminal jurisdiction; and in 1849, Lord Dalhousie's Government drafted an Act which practically placed all Europeans, in regard to criminal jurisdiction, in the same category as the natives of this country, that is to say, the Government of the day wanted to do for the Criminal Courts what they had done for the Civil Courts.

The draft Act, however, was postponed for consideration on account of a Minute written by Lord Dalhousie in which he stated that while he was wholly in agreement with the principle of the draft, he wished to postpone consideration of it until the criminal law of the land had been brought into line with the criminal law of England. As lawyers know, before the Penal Code was enacted, in the Presidency Towns the criminal law of England was in vogue, but outside those towns it was not. The law administered in the mufassil was the law of the Nizamat, that is to say, what was practically Muhammadan criminal law; and, I think, it was quite natural and reasonable on the part of the English people at that time who were living outside Presidency Towns to say that, 'While we are quite ready to submit ourselves to the criminal jurisdiction of competent courts, surely the law administered by those courts must be of such a character as to be more or less the same as that administered in Presidency Towns.' That was a reasonable objection and consequently the draft Act was postponed, and in 1860 the Penal Code was enacted and made applicable all over British India. Then, naturally, the question cropped up again of giving effect to the terms and



[Mr. N. M. Samarth.]

orders which the Court of Directors had conveyed in their Despatch of 1834, and in the year 1861 the Code of Criminal Procedure was being enacted and a Section in that draft Code was introduced which gave power to the Magistrates, of whatever grade, to have jurisdiction over European British subjects in the same manner as they had over the natives of the land. However, after due consideration, that Section was deleted and the matter came up again in 1872 when the Code of Criminal Procedure was being re-considered and amended, and in that year there was an amendment of the Bill in Select Committee moved by the Honourable Mr. Ellis to the effect that in any case you must place both the Indian and the European members of the Covenanted Civil Service on a footing of perfect and absolute equality so far as criminal jurisdiction over European British subjects was concerned. Unfortunately, that amendment was lost by a very narrow majority, but the minority comprised the majority of the Viceroy's Executive Council of that period, and, if only one vote in favour of the amendment had been given the other way, the amendment would have been carried by the casting vote of the Governor General himself.

Well, Sir, I do not wish to weary this Assembly by reading out the arguments then urged by the Honourable Mr. Ellis and those who supported him, but one observation and one argument I can scarcely resist citing here. It was made by the then Commander-in-Chief in India, Lord Napier of Magdala. With the frankness, straight forwardness and directness of outlook and expression which are the characteristics of a fine soldier, he put forward these views in regard to the matter :

'The native members of the Covenanted Civil Service having been to Europe, having become acquainted with European feelings, ideas and customs, and having qualified themselves to take their places with the European members of the Civil Service, he would frankly accept them as real members of the Covenanted Civil Service and allow them to exercise all the functions which the European members exercised.'

The first clause of my Resolution is moved with a view to reviving the old amendment of the Honourable Mr. Ellis which he made nearly 50 years ago. At that time there was only a very small percentage of Indians who would have been affected by that amendment, but since then, as everybody knows, the number of Indians in the Civil Service has increased, is increasing and will be increasing every year as the rate of 33 per cent. with  $\frac{1}{2}$  per cent. added from year to year. Now, I put it to the Assembly, is it fair, is it wise, is it politic, is it just to make these young men feel as they are bound to feel, that in this respect, they are treated practically as outlanders in the land of their birth? I trust that the sense of this Assembly will be in favour of abrogating these distinctions between Indian members of the Civil Service on the one hand, and European members on the other, in regard to criminal jurisdiction.

It is with the object of bringing to prominent notice this controversy of 1872, and the battle that was fought by the Honourable Mr. Ellis and the Governor General and the Commander-in-Chief on behalf of the Indian members of the Civil Service, that I have brought out specially in my Resolution this first clause which will, I hope, attract the notice of both the Government and the public. But that does not mean that I do not wish to give the powers to anybody else.

The second part of my Resolution is comprehensive enough and I might as well have omitted the first, but I put it with a view to bringing to the notice of the Government the old controversy of 1872 in regard to putting

the Indian members of the Civil Service on a footing of equality with the European members.

Now, in coming to the second part of my Resolution which is before the Assembly, I wonder how many people outside the legal profession are aware of the curious definition of a 'European British subject' as given in the Code of Criminal Procedure. A European British subject means not only a subject of His Majesty born in England or in Europe, but also any subject of His Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or possessions of His Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal, or any child or grand-child of any such person by legitimate descent. It will be seen that the definition is arbitrary and absurd. It includes persons who are neither British nor European. An Aya by giving birth to a child in London, although of Indian parentage, makes that child a British born subject, and an Indian child born in Natal would be a European British subject. As I said, it includes those who are neither European nor British and excludes those who are to all intents and purposes Englishmen, although not of legitimate descent. Now, I wish that some great satirist or some great master of the English language had brought this definition to prominent notice, or that he had even modified the definition. Well, Sir, although such is the definition in this Code of a European British subject, in my arguments I will take the ordinary meaning of the term 'European British subject' as understood in common parlance and show what anomalies result from the provisions of the Criminal Procedure Code in which distinctions are made between Europeans on the one hand and Indians on the other. Chapter 33 of the Code is the Chapter to which I desire to refer, but of course there are other provisions in the Code which also have a direct bearing on the matter, but Chapter 33 is the main one.

The Chapter, however, is improperly worded in the authorised edition by Government as Criminal proceedings against Europeans and Americans. The whole of the Chapter excepting two Sections refers to European British subjects only. So far as Europeans who are not European British subjects and Americans are concerned, they are amenable to the same jurisdiction as Indians except that they have the right of trial by a jury in which not less than half shall be Europeans or Americans. But in so far as the jurisdiction of the tribunal is concerned, there is no distinction between Europeans who are not European British subjects and Americans and Indians. They are all triable by the same courts. Nor is there any distinction in the punishment to be inflicted on them. But so far as European British subjects are concerned, according to the Chapter excepting those two Sections already referred to, the differences are many. By a Section, Section 443, it is laid down that no Magistrate of the first class unless he is a European British subject and a Justice of the Peace, can Enquire into or try a charge in which a European British subject is involved. In other words, Magistrate, unless he is a District Magistrate or Presidency Magistrate, has jurisdiction over the offence but he has no Indian jurisdiction over the offender if he happens to be a European British subject. That is the position to which the Code of Criminal Procedure reduces us. Now, by another Section, Section 22 of the Criminal Procedure Code, it is practically laid down that in the mufassil, no person, unless he is a European British subject, can be appointed a Justice of the Peace. Therefore, an Indian member of the Civil Service cannot be appointed a Justice of the Peace, although by the provisions of Act II of 1869 which the Government of India passed

[Mr. N. M. Samarth.]

before the Criminal Procedure Code of 1872 was passed, it was laid down that the Governor General in Council shall appoint in the mufassil Justices of the Peace who will be either European British subjects or members of the Covenanted Service, no distinction being made between Europeans and Indians. That Act practically remained a dead-letter so far as this point was concerned, but three years subsequently, this Section 22 was inserted in the Criminal Procedure Code preventing Government from appointing Indians as Justices of the Peace in the mufassil. In 1882, some additional privileges were given, namely, a District Magistrate, although an Indian, was given jurisdiction to try a European British subject. The Sessions Judge, that is to say, the particular Sessions Judge of the District, who is called under the Criminal Procedure Code 'the Sessions Judge' was given power to try a European British subject: Section 444 was accordingly enacted, and they were made *ex-officio* Justices of the Peace by another Section, Section 25, and they were given power to try European British subjects. Here, again, I bring to the notice of Government that the marginal note to Section 444 in the authorised edition of the Code is absolutely wrong. The marginal note says, 'Sessions Judge to be an European British subject,' but the Section itself says that the Sessions Judge need not be a European British subject in order to have that jurisdiction. In regard to criminal jurisdiction over European British subjects the matter now stands thus. An Indian High Court Judge can try a European British subject and give him capital punishment if the offence so deserves. A Presidency Magistrate, although an Indian, can inquire into and try a European British subject and give him punishment within his jurisdiction, including the punishment of solitary imprisonment and whipping. In the mufassil, the Sessions Judge, even if he is an Indian, has the power; the District Magistrate has the power and certain Assistant Sessions Judges, if they have been specially empowered in this behalf, have the power to try a European British subject. But take the case of an Additional Sessions Judge who happens to be an Indian. Now he is not 'the Sessions Judge' under that Section, and he does not get the power, although he presides over the court in a Court of Sessions, he has not the power to try a European British subject, though, in all other respects, he is on a level practically with the Sessions Judge. Another anomaly is that the Additional Sessions Judge, as I have said, has not the power to try a European British subject, although his Assistant who may be a Joint Judge, or an Assistant Sessions Judge who is a European British subject, can inquire into and try such cases. The Additional Sessions Judge, who is an Indian, has, however, the power to hear appeals from him in such cases but not to try the original cases!

These are some of the anomalies arising on account of the jurisdiction of the court; but the mode of trial leads to more anomalies and involves greater hardship. Very often, rustics, who may have legitimate cause of complaint against certain European British subjects, who may have offended their feelings or insulted them, or committed any other offence against them, are dragged on to long distances. Any Magistrate under the Code can take cognizance of the case, but he cannot inquire into and try it unless he is a European British subject or unless he is a Sessions Judge or a District Magistrate. The rustic has therefore to go 40 miles or 50 miles, or perhaps more, with all his witnesses, to where the District Magistrate may be, and as you know, the District Magistrate is an itinerary officer going about from

place to place, touring all over the district. You can imagine the hardship to which people are subjected in order that they may get justice in a court of law against offences which may have been committed by European British subjects. The hardship is then on account of their having to go to a District Magistrate or a Sessions Court. If, for instance, within the limits of jurisdiction which are permissible to Magistrates, they are authorised not only to take cognizance but to deal with petty cases by fine or something of the kind as an adequate punishment, then, at any rate, this great hardship would be removed for the class of litigants to whom I refer.

As to the mode of trial, the European British subjects have the right to ask for a Jury or Assessors if the case is tried by Assessors in which not less than half shall be either Europeans or Americans or both as the case may be. Well, I am not going now into the question whether that is a correct procedure, whether that is a proper provision, or whether anything could be done in regard to this matter to bring the law of British India into conformity with the notions which prevail at present in England with regard to jury trials and petty cases.

Then, again, if you go to the powers of Sessions Judges and District Magistrates, you will find that the Sessions Judge cannot inflict a punishment of more than one year upon European British subjects, and if at the time of writing the judgment he thinks that the offence is such that it requires a higher punishment, then he can send up the case to the High Court. Now, taking human nature as it is, even if the Sessions Judge thinks that something more than a year is needed, he may naturally say to himself, 'Well, I had better decide this case within my powers. What is the good of sending this rustic complainant and his witnesses all the way to Bombay or to Calcutta or to Madras, as the case may be, that is to say, to the High Court of the Province, and put them to all this unnecessary hardship and annoyance?' So he decides it within his powers and gives one year to the offender. The ordinary public do not understand that it is on account of these limitations upon his powers of giving punishment that what they call miscarriage of justice has taken place. The public do not realise that the Sessions Judge, whether he is a European or an Indian, has done his best under the circumstances and given such punishment as he can under the law, and that he has no power to inflict a higher punishment. But if power is given to him to inflict punishments to the extent to which he has power under the Code, so far as Indians are concerned, then complaints about miscarriage of justice would, I think, be considerably reduced.

I now come to the right of appeal. A European British subject, although he may be fined a pie or given a day's imprisonment, has the right of appeal, and he can go in appeal at his option either to the Sessions Court or to the High Court. Take another case. Suppose a European British subject and an Indian are tried together as co-accused, and the European is sentenced say, to a day's imprisonment. He has the right to go in appeal either to the Sessions Court or to the High Court, whereas a day's imprisonment, or it may be two days or three days, is non-appealable by the Indian co-accused and he has no right of appeal.

It may be that he has to rot in jail, whereas his co-accused gets off in the High Court. It may be 3 days or 30 days. I am taking an extreme case. Another thing is that even if the sentence was appealable, the Indian co-accused can only appeal to the lowest tribunal of appeal. Supposing he has been convicted by the District Magistrate, he can go up in appeal to the Sessions

[Mr. N. M. Samarth.]

Court. If the Sessions Court confirms the conviction and sentence, then he can go up to the High Court only by way of revision and, as every lawyer knows, the High Court rarely interferes in revision unless there is a substantial question of law involved. On facts, nothing could be done, whereas his co-accused goes to the High Court and he has a hearing on facts and on points of law and it may be he gets off, and the Indian co-accused rots in jail.

**Mr. President :** Under Standing Order 62 I must ask the Honourable Member to bring his remarks to a close.

**Mr. N. M. Samarth :** I did not notice that I had exceeded the time. Sir, I will now conclude my remarks. I need not go into detail but I will say one thing. I would draw attention to the Despatch of the Court of Directors of the year 1834 and, if I remember aright, in paragraphs 58, 59 and 60 of that Despatch directions are given to the Governor General in Council speedily to put European British subjects on the same footing in regard to criminal jurisdiction as British Indian subjects, that is to say, to subject them to the ordinary tribunals of the country equally, without any preference or distinction in favour of either. I keep an open mind on the subject. And though I have my own view as to the proper solution of the question, I trust, Sir, that every one concerned in this subject will look at it dispassionately and calmly and, in accordance with what the Viceroy told us, try to arrive at a conclusion satisfactory to both the communities in India, Indian and European.

**Mr. C. W. Rhodes :** Sir, in rising to make my first speech in this Assembly, I consider myself fortunate in commanding that sympathy always shown on such occasions when I have to deal with such a difficult and controversial subject and that I can appeal, if on that ground alone, to a hearing amongst my friends here. The mover of the Resolution has given us a very interesting historical resume of the subject. I do not intend to waste the time of this Honourable House by attempting to paint the lily or follow him upon those attractive paths of historical research. In fact, I think that what this House is most concerned with is not the reasons which led to the enactment of certain legislation, but whether it now presses heavily on any one or safeguards any one.

Although I speak from a very different standpoint, I have no fault to find with the tone of the Honourable Mover's speech. He feels strongly on the subject, but so do we. But strong feelings do not necessitate strong words and I intend to follow his excellent example to the best of my ability. I ask him and the Assembly to realise that I speak under a grave sense of responsibility, a responsibility accentuated by the knowledge that I am speaking both to and on behalf of people beyond these walls.

I know that many throughout India will open their papers to-morrow morning, expecting to read of violent speeches in this House and not a few are hoping for signs of parties splitting and of racial illwill. They will I trust be disappointed. All who have sacrificed not only time and money, but in some instances popularity also, to join this Assembly have a sense of responsibility which will enable them to rise above the language and the passions of the market place. I trust we shall prove to-day that the Reform Scheme has done something to moderate the old bitter animosities of the Ilbert Bill days. But outside, bitter racial feelings still exist, to be killed only by the calmness and courage with which this Assembly faces one by one the chief causes of our differences.

I will not add a single word to that bitterness and illwill, but this I must say, does anyone here present imagine for one moment that the bitter anti-British tone of a portion of the press and of politicians outside these walls, is calculated to allay the feelings of many of our community in regard to the repeal of these Sections of the Criminal Procedure Act at the present time? In such an atmosphere, how can we convince our fellow countrymen that the time has come to relax precautions considered necessary during the past 150 years? Do not forget that there are extremists on both sides, at one only in their determination to wreck the reforms, as all of us in this house are at one to make those reforms a success.

In this Assembly there are doubtless some who honestly believe that these clauses of the Act cast a slur on the Indian races. Others with equal sincerity believe them to be a necessary safeguard to meet exceptional circumstances. Let us agree, however, on two general principles, firstly equal and impartial justice for all members of the British Empire and for the stranger within our gates, and secondly, a mutual desire to respect the feelings and sentiments of our fellow citizens. I have frankly admitted the bitterness both of the past and present for nothing is to be gained by minimising the gravity of the situation. But the two principles I have mentioned will guide all I have yet to say. I have laid down the standard of equal justice, but does this imply identical laws and identical procedure for all? Certainly not. Only the other day in this House, I was impressed by the warmth with which our Hindu friends cried 'Hands off our ancient and peculiar Hindu Law.' That, of course, was civil law, but in regard to criminal law also, is the Hindu or Muhammadan to be punished for observing his own marriage laws, performing what in him is a virtue, in me an offence punishable with imprisonment.

The customs, beliefs and prejudices of the peoples of this land have not been stereotyped into one dead weight of common law, pressing heavily on one and lightly on another. All nations beside the Indian affirm that the British are a difficult race to understand. I agree, but does not that very fact require that we should be tried, at least in a last recourse, by those that do understand us?

Remember that in these days a European committing any offence is pursued, relentlessly, not only by the law but also by the administration right up to the British House of Commons. The Honourable Member told us that in the old days, a European, when he went upcountry, went under police surveillance. He goes up, to-day, under the surveillance of the police, the executive power and the press. I do not complain. Any European who cannot behave himself has no right to be in this country. Any European, if there are any, who fails in his duty on a jury is doing a greater disservice to his own fellow countrymen than to anyone else. But I may be told that if the average Indian does not understand the average European, the converse is also true. I am under no necessity to contest the point. If the Legislature will relieve us of the irksome and disagreeable obligation of sitting as jurymen in judgment on our Indian fellow citizens, we shall be truly grateful. If not, we are prepared to accept the responsibilities of citizenship and do our duty to the best of our ability.

But may I press another aspect of the question and one which affects not only the question of justice but also the equally important question of national sentiment. For, I frankly admit, that in the past these protective clauses, imposed on the Indian people as they were from outside, and against their will, have caused feelings of resentment and irritation. But do we abolish these

[Mr. C. W. Rhodes.]

feelings by transferring them from the Indian to the European? Times have changed. The government of the country now lies within these walls. The laws now on the Statute Book remain there by the will of the people as expressed by this Assembly. What our Indian friends deny to the European as a political right, may they not now, with the power in their own hands, and of their own free-will, grant as a measure of justice. It is a new ideal, but in it lie the seeds of all mutual understanding and good-will in the days that are to come. In itself of course it is no new principle, for special laws have been made for Hindu and Muhammadan, as well as for the European. We, Europeans, have entered wholeheartedly into the Reform Scheme (Hear, hear) in full confidence, that though in a minority, any appeal to justice and reason will not be made in vain. I can assure the Honourable Mover, that if he will withdraw this Resolution in the spirit I have indicated, the impression created in the public mind will be such as to close the chapter which began with the Ilbert Bill and to open a new era in the history of India.

But, whilst I must oppose this sweeping Resolution, I make no claim for the retention of any particular legal formula. If the interests of justice to the European can be safeguarded in any way more in consonance with Indian sentiment, by all means let us explore new avenues. But, above all, Sir, let us do so in a spirit of good fellowship and mutual trust, with the single idea of equal, even-handed justice for all.

**Mr. Harchandrai Vishindas :** Sir, I am quite sure that I shall follow the exhortation which the Honourable Mover of this Resolution has held out to the whole of this Assembly and also follow the very excellent example of good temper that has been shown by Mr. Rhodes, so that no heat may be imported into the discussion of this question. Those of us who remember the controversies that arose on the well-known Ilbert Bill will be perfectly anxious that the bitterness and racial antipathy that had been produced in those days should not at all be repeated now. I think Europeans and Indians, both in this House and outside, will have recognised that there has been a material change of atmosphere so far as the equality of races is concerned and that, although a veiled dissentient note was struck by the last speaker, I think the majority of his co-religionists and Europeans will rather be of opinion that the inequality which the law has laid down in the Criminal Procedure Code should be removed in the interests not only of Indians but also of Englishmen themselves. Therefore, it is with confidence that I think that the other Members of the Assembly will not join with Mr. Rhodes in asking Mr. Samarth to withdraw his Resolution.

Now, Sir, pardon me for challenging some of the assertions that have been made by Mr. Rhodes. He says that these provisions which are intended to be removed by this Resolution are a kind of protective safeguard. I do not understand that language at all, because, if you go through the provisions which have been properly analysed by Mr. Samarth in his speech, and the definitions, you will find that it is not a question of personal law, in which you have to observe one law for Hindus, another for Muhammadans, another for Christians. It is criminal law which has to be administered towards all the people who come before the courts in an equal manner. Now, you cannot say that a man belonging to one race is not guilty of the offence of assault if, under similar circumstances, you make a man of another race guilty of assault. How are the positions entirely divergent? I think that this distinctive restrictive chapter in the Criminal Procedure Code should not have found a place in that

legislation at all. It has been productive of great harm but productive of no good at all. On the contrary, a civilised Government like the British Government should set an example to the world that they are above all racial prejudice and that in the eyes of their law the European and Indian are alike. I think that from the change of atmosphere that we have been observing of late, the Government's angle of vision has also altered and that they seem to think, from the pronouncements we have been hearing from time to time, that the time has come when equality in this respect must be established. Otherwise, the Reforms which have been ushered in with so much *eclat* would be to a certain extent a mockery. If, as Mr. Rhodes says, that now the Government of the country rests within the four walls of this House, and if that Government is conducted with these racial distinctions on the Statute Book, how can it be said to be the Government within the hands of this House?

I think that after the exhaustive speech of Mr. Samarth no further arguments are required to support the Resolution. The only flaw that I found in Mr. Samarth's Resolution, for which purpose I have sent notice of an amendment which appears on the agenda, was that he confined the removal of the distinction only as regards the Covenanted Civilians of the two races, but, after the explanation that he has given in his speech that this restriction was intended to bring out the episodes that took place about 50 years ago, that even so far back as half a century ago, the feeling of the most intelligent portion of the Council was that there should be no distinction between the European and the Indian Covenanted Services, I say the explanation that he has offered just now shows that he is in perfect accord with my amendment, to which I shall be speaking later on and to which it will be premature to refer now.

All that I say is that if this Resolution is now withdrawn or in any way whittled down, the moral effect in the country will be disastrous. People have been aware from time to time that Questions and Resolutions on this subject have been put and moved respectively, and also of the pronouncements that we have had from His Excellency the Viceroy and Members of Government; and I say that if this Resolution is withdrawn or in any way whittled down as is suggested, the result would be disastrous, in so far as the country will lose confidence in the Assembly, and think that the Assembly is not able to accomplish one of the most essential duties that lie upon it. Now, Sir, let me remind Mr. Rhodes that a very unhappy belief has been fostered among the Indian people, which may not be entirely justified, but which has received impetus from certain cases which have been brought to the notice of the public of late, that these provisions are designed for the purpose of letting European offenders escape justice altogether. The various provisions that have been pointed out by Mr. Samarth go to show that there is a most glaring and barefaced inequality in the treatment that has to be accorded in the criminal courts to Europeans and to Indians and that in these days of Reform it is an anomaly which must be removed at once. Now, one cannot see why an Indian Presidency Magistrate, as has been pointed out by Mr. Samarth, should be competent to try a European justly and why an Indian of an equal or even higher status in the mofussil should be incompetent. Now, it might be lurking in the minds of some European gentlemen here, which out of good taste they do not think it advisable to give expression to, that Europeans cannot expect to receive the same kind of justice at the hands of Indian Magistrates as at the hands of European Magistrates. But I would certainly disabuse them of this belief entirely if they entertain that. If there is any Indian Magistrate who is not capable of doing justice to a



[Mr. Harohandrai Vishindas.]

European, then he is not fit to hold his post at all. Very often in criminal cases applications for transfer are made to higher courts in order that a case might be transferred from one Magistrate to another. Oftentimes a Hindu complains that a particular Magistrate is a Muhammadan and therefore he does not expect to receive justice at his hands and that the case should be transferred to some other Magistrate; yet the reply of the High Court is, 'We have the fullest confidence in our Magistrates. We expect a Hindu Magistrate to do as much justice to a Muhammadan or a Christian or a Parsee as to a Hindu.' Now, if in the abstract you recognise this principle, then, Sir, I fail to see what is the justification for the continuance of this unfortunate provision on the Statute Book at all. Therefore, Sir, without laying very great stress upon this point, because the moment you go into the question it is very likely that we may import some racial feeling into the subject, as people in this Assembly and outside are perfectly familiar with the various aspects of this question, with the history of the whole trouble from the beginning to the end, I wish only to impress upon this Assembly that they will be doing their duty not only to one race but to all the races here by passing this Resolution. I would appeal also to my European brethren in this Assembly that it is in their interests that these distinctions should be removed and that this Resolution should be passed, and the feeling should go abroad in the country that the Government at this juncture, after the introduction of the Reforms, are quite prepared to accord equality to all the races and not in any way be partial in the administration of their law to one community as against the others. With these few words, Sir, I entirely support the Resolution.

**Munshi Iswar Saran:** Sir, I have listened with much interest to the calm and temperate speech of the Honourable Member on my right; but I feel rather inclined to think that the picture which he has drawn of Europeans in this country is a bit over-drawn. He tells us that a European now goes into the country not only under police surveillance, but under the surveillance of the executive and of the press. If that be so—and I submit it is not so—then our hearts go out in sympathy to the unhappy miserable unfortunate Europeans whose lot is cast in this country. The speech of the Honourable gentleman on my right, Sir, is like a quinine pill with a sugar coating; he has given expression to those very sentiments here which were given expression to in former days in offensive and aggressive language, but he has now put them forward as gently, as kindly, as calmly and as temperately as he could. Sir, we hear a good deal about the Reforms. I appreciate the Reforms as very many people do; but I wish to make it perfectly clear that we do not wish to seek the co-operation of anybody either in this House or outside it on any ground other than that of perfect equality. What I submit, Sir, is this: whether the Reforms succeed or whether they fail, Indians now demand that they and others in the country should be treated on terms of perfect and absolute equality. We want justice for ourselves and we want justice for those who happen to be in this country, be they Europeans or others. The Honourable Member said: 'Please consider this question in two aspects: does this press heavily on any one? Does it safeguard the rights of any one?' I agree to accept these two standards of judgment, and I shall beg the House to consider the question from these two points of view.

Sir, does this press heavily on any one? Most assuredly, most certainly it does; it is a constant reminder to the Indian people that there is a distinction

in law between the trial of Europeans and Indians, which in other words is a hall-mark of our inferiority in our own country. It is, therefore, that you find not only in this Assembly, but also outside it, a strong feeling that all these distinctions must go. As regards the safeguarding of their interests, I may assure the Honourable gentleman on my right that very many Indians now understand the English people much better than they used to do before.

Men who have been to England, men whose business it is to study English literature, English manners and customs, English thoughts and English ways of living, surely they should be considered to be competent to try cases in which Europeans appear as the accused. Has the Honourable Member on my right ever taken into consideration this fact that if a civil case between two Europeans comes before a Court—a case full of legal difficulties and intricacies it comes before a Civil Court presided over by an Indian, and an Indian is called upon to pronounce his decision on most intricate points of personal and English law. Why not then say, 'this man cannot understand us, he cannot understand our customs, he cannot understand our ways of living and therefore he is incompetent to try our case'. I submit, Sir, that if the argument of the Honourable gentleman on my right applies to criminal cases, with much greater force should it apply to civil cases, but as the Honourable gentleman on my right is fully aware, there is no objection, either here or elsewhere to-day and indeed there has been none at any time before to Indian judges having jurisdiction over such cases. Sir, the Honourable gentleman on my right said that 'Indians do not understand us' and by implication he admitted that Europeans did not understand Indians, and speaking on behalf of an important Association he said, 'Oh! relieve us of our duty of serving as jury men in cases where Indians were the accused'. But he forgets that so many cases of Indians come before European Magistrates, is it his desire that these Europeans should be relieved of their duty to deal with cases in which Indians are the accused? Surely not, because if that be so, then the whole fabric will crumble to pieces if we are to proceed on the assumption that Europeans are not to try Indians and Indians are not to try Europeans. Let us quite clearly understand the position now. The position has most assuredly changed, you have got before you a changed and changing India, and you must recognise that fact and take it into account; the feeling of that changed and changing India is that we will not submit to any racial distinction whatsoever. We claim perfect freedom and equality of treatment, and, at the same time, we are anxious that equality of treatment and of justice should not only be enjoyed by us alone but by all those Europeans who happen to be in this country. The freedom we are seeking is not for the purposes of self aggrandisement, we desire freedom for ourselves, for the Europeans, and indeed for all the races that are to be found in this country.

I humbly wish to ask this House to take this changed feeling into account and to remove all these distinctions. Only then can there be any possibility of a peaceful, friendly and brotherly feeling which fosters sympathy between Indians and Europeans and which, I am sure, we all sincerely hope, will come about in course of time.

**Mr. Muhammad Yamin Khan:** Sir, I do not wish to take up too much of the valuable time of this House in supporting the Resolution which has been moved by my Honourable friend, Mr. Samarth, because he has fully explained, and other speakers who have spoken in favour of it have fully explained, the principle and the ideas from an Indian point of view. But I

[ Mr. Muhammad Yamin Khan. ]

should like to refer to a portion of a speech which was made by my Honourable friend, Mr. Rhodes, in which he said that Indians may marry a second time and have two wives but they could not be held guilty of a criminal offence for so doing, while if he were to do likewise, he would be held to be guilty of a criminal offence. I submit, Sir, that this view is a very narrow one because wherever an Indian goes, his personal law goes with him. Even if an Indian goes to England he takes his personal law. Hindus and Muhammadans go there and they have to take their personal laws. If an Indian does marry a second time, he goes scot-free in this country and he would not be liable for punishment even in England.

Then there is another aspect of the question ; if an Indian commits a crime in England, he is tried by an English Magistrate, who perhaps does not know anything at all about Indian ways and customs. In the same way, as stated by my Honourable friend who has just sat down, that some of the English Magistrates who are appointed to serve in this country, in fact nearly all when they first come out, know very little about Indian ways and manners, but they are called upon to try Indians in the Criminal Courts of the country. If such differences do exist that Englishmen should try only their fellow-countrymen, and Indians should try only Indians, then the whole fabric of the Government must surely crumble away.

For the good will of the people, Europeans should remember and consider that they are living in the same atmosphere as Indians, and they are holding the same position in the Empire as Indians, and they must at least recognise that equality of treatment is only fair and just and a matter of the first importance. If Indians are not properly treated in their own country, how can they expect to receive fair treatment outside their own country. I have been practising as a lawyer for many years on the Criminal side and I know that the Magistrates who hold office to-day are not the same Magistrates who held office 20 years ago. Certain provisions in the Code of Criminal Procedure may have been all right 20 years ago when we had Magistrates in this country who did not know English at all and if an Englishman came up before a Magistrate who did not know English, he could not properly try him because he would not understand him. Nowadays, nearly 90 per cent. of Indian Magistrates are graduates and they have been trained in the atmosphere of English culture and English ideas. The Magistrates of to-day are superior to those of twenty years ago and to let those provisions remain in the Code of Criminal Procedure is considered at present a slur on the Indian community and on those Indian Magistrates who are quite fit to try an Englishman. As Mr. Harchandrai Vishindas said, if an Indian Magistrate is not fit to try an Englishman, I think it stands to reason that he is not fit to try an Indian and therefore not fit to hold his post. The Government should be careful to select those persons who are quite fit to try both English and Indian, in which case, I suppose, there would be no objection to my Honourable friend, Mr. Rhodes, in regard to this matter. I will not take up any more of the time of this Assembly.

**Mr. President :** I think it will be convenient to the House if I take the adjournment now and call upon the Honourable Home Member to move his amendment at 2-45.

The House is therefore adjourned till 2-45 P.M.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock. The Honourable the President was in the Chair.

**The Honourable Sir William Vincent :** Sir, I move that :

For sub-clauses (a) and (b) of the Resolution, the following be substituted, namely, ' that a Committee be appointed to consider the desirability of amending those provisions of the Code of Criminal Procedure, 1898, which differentiate between Indians and European British subjects, Americans and Europeans who are not British subjects, in criminal trials and proceedings and to report on the best methods of giving effect to their proposals. '

I have reason to believe, Sir, that one or two words in this amendment have been criticised by certain Members of this Assembly. After consulting one of the leading Members of the Assembly I am quite prepared to substitute, with your permission, Sir, for the words ' the desirability of amending ' the words ' what amendments should be made in. ' I do not know how far this meets the objections of those who think that the wording of my amendment is defective. Turning to the Resolution itself, I may say that we have heard in this Assembly speeches admirable for quality and moderation on the question under discussion, and I can only trust that Members will continue to adopt the same temperate note in dealing with this very difficult question. I have every confidence that this will be the case and I hope that I myself shall not be guilty of any extravagant expression which can give offence to anybody.

Sir, the Honourable Mover has every reason for saying that the law is anomalous on many points at present. It is particularly so in regard to officers of the Indian Civil Service and equally so in regard to Presidency Magistrates. If Members of this Assembly will examine the law, they will find for instance that this special right of appeal, which is so highly treasured by many Europeans in this country, does not extend to sentences awarded by Presidency Magistrates, who may be, and indeed very often are, Indians. Similarly, the Honourable Member is on very strong ground indeed when he attacks the definition of the term ' European British subject ; ' we have been well aware of the inconsistencies arising from the definition for a long time but, for obvious reasons which I think would commend themselves to this Assembly, we have not in the past attempted any amendment of it. At the same time, the defects do indicate the necessity for a modification of the law.

Before, however, I proceed to consider the particular subject of my amendment, I should like Honourable Members of the Assembly to be quite clear on what really the differentiation and the distinctions between Europeans and Indians are. The Honourable Mover put several of them before us, but not all. I shall enumerate them as shortly as I can. In the first place, the provisions of the Code regarding security for good behaviour do not apply to European British subjects who come within the mischief of the European Vagrancy Act. Then, as the Honourable Mover said, European British subjects have more extensive rights of appeal. They also have an option of appealing either to the High Court or to the Court of Sessions. They have more extensive rights in the matter of *habeas corpus*. They are not triable by second or third class Magistrates or even by a Magistrate of the first class unless he is a Justice of the Peace. The jurisdiction of Assistant Sessions Judges, District Magistrates and Presidency Magistrates over European British subjects has already been dealt with ; also the question of sentences. Then finally, in cases of trials before a High Court, a Sessions Court or a District Magistrate, European British subjects are entitled to be tried by a jury of which not less than half shall be European British subjects. I think that exhausts the most important of the privileges, I have left out minor points because they would not interest

[Sir William Vincent.]

the Assembly. But in connection with this last privilege, the Assembly ought not to overlook the fact that under Section 275 of the Code of Criminal Procedure, in a trial by jury before a Court of Session, an Indian accused may, if he so desires, require that the majority of the jury shall consist of persons who are neither Europeans nor Americans. I do not pretend for one moment that that privilege is co-extensive with the privilege of European British subjects, because it is not. But it does go some way in the direction of an equality of privileges. Then there is another matter which is important, and that is the fact that in many districts now this racial discrimination does not arise because many District Magistrates and Sessions Judges who are *ex-officio* Justices of the Peace are Indians. I have the figures here for one province, but I really do not think that I need draw attention to them.

The position, I may say, is generally that Europeans are, without objection or criticism, in many cases triable by Indians and therefore much of the feeling about such trials appears to me to be based on sentiment.

I turn now to the reasons for these privileges and I may say at once as I understand the facts, that in my opinion they are not those which were put forward by the Mover of the Resolution. I have made some study of this matter and I trace the differentiation rather to the jealousy with which in the 18th Century and much later, the jurisdiction of the East India Company's courts was regarded. For many years in this country the courts of the East India Company had no kind of jurisdiction over European British subjects. Civil and Criminal jurisdiction was vested in such courts as the Mayor's Court, the Recorders' Court, Courts of Justices of the Peace, Courts of Oyer and Terminer and finally the Supreme Court and the High Court. It is quite true that the earlier Charters gave extensive powers to the East India Company as regards the administration of justice over all subjects of His Majesty, but, as a matter of fact, an examination of the records will show that the powers were not exercised effectively and actually up to 1872 criminal jurisdiction continued to be vested in Crown Courts. Up to 1861, for instance, European British subjects could not be bailed or committed for trial except by Justices of the Peace. Now the origin of this system was, as I understand it, in the desire of the Crown from the earliest period that English settlers in this country should receive justice on some system analogous to that which prevailed in their own country. Indeed, it is rather interesting to see that up to 1813, this privilege extended to civil cases also and even then when a civil case was decided in the *muffassil* by one of the Company's courts the appeal in the case of Europeans lay to the Supreme Court whereas in the case of Indians it lay to the *Suddar Diwani Adalat*. I cannot be sure about the year, but my recollection is that this continued till 1836.

Now when these privileges were originally conceded, there was good deal of reason for this distinction, because the powers of administering criminal justice were vested in Muhammadan courts according to Muhammadan Law, at least in Bengal. I am speaking of that province. The Court of *Suddar Nizamat Adalat* was not indeed instituted till 1772 and it was left entirely under the control of the Nawab Nazim until 1793. In view of recent discussions as to the separation of Judicial from the Executive, I may note also that the Governor General and his Council used to sit as Members of that Court until 1803. After that, separate judges were appointed, but even then the court had no jurisdiction over Europeans until 1861, when the High Court was

created. Later in 1870, various anomalies in the system regarding the trial of Europeans were apparent, and it was proposed to amend the Code. I do not wish to go into details as to what the proposals were, save to say that they were more extensive than those finally adopted, but the law then enacted was very much as it stands now and here I will quote to the Assembly the words of Professor Cowell who has written the best work on this subject that we have had for many years on this subject. Professor Cowell says :

'The system by which the exemption of Europeans from liability to the criminal jurisdiction of the Mofussal Courts was secured was considered to work a great and real political injury. It ensured to English wrongdoers practical immunity from punishment; the inconvenience and expense and difficulties attending their trial serving to render conviction uncertain and improbable. Two extreme opinions seemed to prevail upon this subject: one that to maintain any distinction at all between European and Native in respect of criminal offences was a great injustice, and contrary to the principles on which the British Government ought to rule; the other that Englishmen were entitled to trial by an English jury, before an English Judge, in all cases of a degree above the class of petty offences with which a Justice of the Peace could deal in a summary manner.'

On the same point, Mr. Fitz-James Stephen, who was then Law Member, expressed his views in the following words :

'In countries situated as most European countries are, it is no doubt desirable that there should be no personal law; but in India it is otherwise. Personal, as opposed to territorial laws, prevail here on all sorts of subjects, and their maintenance is claimed with the utmost pertinacity by those who are subject to them. The Muhammadan has his personal law. The Hindu has his personal law.'

And so on.

It is clear therefore that at that time there was a good deal of feeling on both sides in regard to this question and it is to illustrate that that I have read the extracts put before you, one being the opinion of Professor Cowell who voiced the Indian view and the other that of Mr. Fitz-James Stephen.

Now this discussion brings me at once to the question of the desirability of retaining or abrogating these privileges, for many of the arguments that applied in 1870, I think, apply with equal force now. Indians claim that the existence of the privilege really is a great political evil. They say that such a system, as I understand it, is not consistent with their self-respect and finally they add that it results in grave miscarriages of justice. I am not quoting the arguments used in this Assembly, but arguments which I have gathered from discussions with people outside and also from an examination of various speeches in the past. And so far as jury cases are concerned, I am bound to say that in certain trials there is a good deal of justification for this view. I myself as a Sessions Judge have asked the High Court to transfer to its own file cases of this kind and have myself tried such cases. I have examined the records of others and it does seem to me that it is not infrequently a matter of some difficulty to get a fair and reasonable verdict. I do not want to go into recent cases and I hope that other speakers who follow me will take my example and avoid what is really a very dangerous topic particularly as such a course might be unfair to individuals. At the same time while I admit that the results are not always satisfactory, I believe miscarriages of justice are not nearly as numerous as people seem to think. The real truth is that a few cases are brought prominently before the public. They excite a lot of controversy and feeling while the many cases which are tried perfectly fairly escape notice. I have got some figures from the Legislative Department on this point and I find for instance that the Allahabad High Court figures for 1896 show that 14 Europeans were convicted in Sessions trials and 12 acquitted. In an earlier

[Sir William Vincent.]

period in the Punjab the number of Europeans convicted was very much larger, 50 being convicted against 11 acquitted. Now let me take the case of jury trials of Indians in Bengal. Then I find that in two years, in trials at Sessions, the numbers were 3,700 convicted and 2,300 acquitted. If that indicates anything, it indicates that Punjab European juries were no more lenient to criminals than Bengal Indian juries.

But I do not want to pin my faith to those statistics at all because it is really the rarer cases of what are believed to be unfair acquittals that are much criticised in the Press and that occasion great resentment in the minds of educated Indians, particularly in cases of violence by Europeans to Indians; it is those cases that I had in my mind when I said quite frankly that I had known instances in which I could not honestly say that I thought justice had been administered. I do not believe however that in the case of trials before Magistrates there is any cause for complaint. I speak with some experience. I was a Magistrate myself for many years and also a Sessions Judge and I have dealt with a great number of cases in which Europeans were complainants and Europeans were accused, and my belief is—and I offer this as a considered opinion—that Magistrates deal with these cases very fairly and honestly.

Further, as regards jury trials, it is very difficult to say whether an Indian jury would be much better in most of the cases than an English jury or a European jury. I am told that Magistrates are fully cognisant of the customs of Europeans indeed. One gentleman said to me that they have made it a study of their lives. I do not think in any case that the same can be said of Indian jury men, nor do I think that it is quite fair to compare civil and criminal trials, because in one case a man's property may be at stake but in the other case his life and his liberty may be in danger. Then we cannot overlook the peculiar difficulty in regard to European women. One of the great essentials in any system of criminal justice is that the person accused should have absolute confidence in the tribunal by which he is being tried, and that is the consideration which every one who has to examine this subject will have to bear in mind in connection with this question particularly in regard to women.

I think the Assembly will give me credit for having approached this subject in an unprejudiced manner and with a desire to do what is fair and right, but it is one of very great difficulty. I am well aware that Indian feeling is much exercised on the subject, that they believe that the present system is entirely unfair and that it is based on a racial mistrust which is inconsistent with any co-operation with Europeans. I think the history of the privileges arises from different causes. I have explained, it mainly arose from the desire of the Crown to give to His Majesty's British subjects in this country the same method of justice to which they were accustomed at home. And if Indian opinion on this matter is disturbed, European opinion is equally so. Englishmen regard, rightly or wrongly, the present system as conferring on them an ancient and valued privilege and when in 1885 it was proposed to amend the law and the Ilbert Bill was introduced, the most acute feeling was roused over this subject. In dealing with a subject of this kind, I may, therefore, fairly appeal for a great deal of patience and forbearance both to Europeans and Indians, and I am confident, I shall not appeal in vain. (Hear, hear.) The question is one of great importance and highly controversial. It is, at the same time, necessary that the Government should face it; it is the more necessary, if I may say so, in view of His

Excellency the Viceroy's frequent declarations as to his intentions in regard to racial equality in this country. (Hear, hear.) It is, and will be, the duty of the Government to give effect to those sentiments to the utmost degree in their power. At the same time, I have said that Europeans in this country value their privileges very highly. For many years, there has been an impression for the correctness of which I do not vouch, that Englishmen carried with them their personal law wherever they went in British India. You will find that statement made by the greatest authorities from the middle of the 18th century to the end of last century and it is a serious matter to tinker with such a valued privilege. At the same time, as I said, we had to face this difficulty and knowing the question would be raised, before this Resolution was moved, the Government of India addressed a letter to all Local Governments inviting their opinions on it. The replies to that letter are not complete, in fact comparatively few Local Governments have answered, and we are in some difficulty in arriving at a final decision on a difficult question of this kind in the absence of the views of those whose interests are affected. Further, I do not think, it would be possible to discuss in the full Assembly a delicate, complicated and controversial question of this character in a reasonable and satisfactory manner. There is always a difficulty in the public discussion of a question of this kind, but I think that Honourable Members who have sat on Committees with me and with other Europeans this year will bear me out when I say that difficulties which arise and would seem to be insuperable in a public discussion can often be solved in a friendly discussion across the table (Hear, hear), particularly if the Members of the Committee approach the subject in a genuine spirit of cordiality, with a desire to meet one another and to do justice; I hope that this will be the case in reference to this matter also. I have explained that we have not received the full replies of Local Governments and that has increased our difficulties. What I therefore propose in this amendment is that we, the Government, should appoint, on the recommendation of this Assembly a Committee consisting of Europeans and Indians, officials and non-officials, on which Indian opinion should be adequately represented to examine the whole question. This Committee would not necessarily be a Committee of this Assembly but might well include eminent judges and lawyers who will be able to give the greatest assistance. The idea is that this Committee should consider the question of amending these provisions in the Code to which I have referred and should report to the Government the best manner in which their proposals might be effected. I hope that will meet the wishes of the Assembly; I feel that the subject is a very difficult one and that any hasty decision to take immediate action may cause great rancour, resentment, bitterness and even worse in various parts of the country. It is for Honourable Members of this Assembly—I have often said this before, and I cannot help reminding them of it again—remembering their responsibility for the peace and good government of this country, remembering the influence, the very great influence which they exercise upon the Government now, to consider whether the appointment of a Committee such as I propose is not the best method of dealing with the question, whether it will not meet the ends of justice and satisfy all fair requirements in this matter.

I have only to say one thing more and that is, that in any case, whatever be the decision of this Assembly on this amendment, Government are determined that the law shall be so framed as to prevent, so far as is humanly possible, all failures of justice either in the case of Europeans or Indians. It is our desire that equal justice should be meted out to both, and that those who commit offences



[Sir William Vincent.]

under the law, be they Europeans or Indians, should receive sentences adequate and commensurate with their guilt.

**Mr. President:** The original question was that :

'This Assembly recommends to the Governor General in Council :

- (a) that all distinctions between Indian and European members of the Indian Civil Service in regard to criminal jurisdiction over European British subjects be abrogated ; and
- (b) that subject to the provisions of sub-section (3) of Section 65 of the Government of India Act, all distinctions in the Criminal Law of India as between Indians on the one hand and European British subjects, Europeans who are not European British subjects and Americans on the other, in regard to mode of trial, sentence to be passed and right of appeal, be removed.'

Since which an amendment has been moved that for sub-clauses (a) and (b) of the Resolution the following be substituted, namely :

'That a Committee be appointed to consider what amendments should be made in those provisions of the Code of Criminal Procedure, 1898 which differentiate between Indians and European British subjects, Americans and Europeans who are not British subjects in criminal trials and proceedings and to report on the best methods of giving effect to their proposals.'

The question I have to put is that that amendment be made.

**Mr. P. P. Ginwala:** Sir, I rise to a point of order. I have got an amendment\* standing in my name. Would I be in order in moving this amendment while speaking on the amendment moved by the Honourable the Home Member ?

**Mr. President:** As regards the point raised by the Honourable Member from Burma : the proposal which he makes is substantially covered by the proposal made by the Honourable the Home Member, further it cannot be moved at this stage because it is not an amendment to the amendment. As regards other amendments, the amendment standing in the name of Mr. Kabir-ud-din Ahmed is, I think, covered by the Resolution. In any case I should take that point when the Honourable Member's opportunity comes.

**Mr. J. Chandhuri:** I rise to a point of order, Sir. I have given notice of an amendment. I got Sir William Vincent's amendment last night and I gave notice of my amendment this morning. I find that it has been admitted. This is a substantive motion of Sir William Vincent, and I should like to know whether I am entitled to move my amendment now.

**Mr. President:** The amendments handed in by the Honourable Member are in order. Has he any reason to suppose they are not ?

**Bao Bahadur T. Rangachariar:** May I move my amendment, Sir ?

**Mr. President:** The Chair is placed in some difficulty in dealing with amendments of which such short notice has been given. I am aware that framers of the amendments are not always to blame, for reasons of which the Assembly is aware, but meanwhile I shall have to take into consideration those

\* The amendment was : 'After clause (b), the following clause be inserted, namely : (c) that a Committee consisting of European and Indian Members of both Houses be appointed to make suitable detailed proposals, to give effect to the principles involved in clauses (a) and (b).'

amendments of which short notice has been given and deliver my opinion upon them at a later stage in this debate.

**Mr. B. S. Kamat:** With reference to this point of order, Sir, I wish to invite your attention to rule No. 118, at p. 40 of this book, which says that when an amendment of a Resolution is moved or when two or three amendments are moved, the President shall take the sense of the meeting. I gather from that, that two or three amendments must be moved before any particular amendment could be put to the Assembly. Personally, I do not wish to move my amendment after the statement which the Honourable Sir William Vincent has made; but I just draw the Chair's attention to this rule, especially emphasising the point that two or three amendments must be moved before any particular amendment can be put to the House.

**Mr. President:** There is no rule or standing order obliging the Chair to permit discussion of two or three amendments simultaneously. If there be such a rule it would have to be abrogated at once.

**Mr. S. C. Shahani:** I rise to oppose the amendment that has been proposed by the Honourable Sir William Vincent, and the reason is this. The opinion of the House has not been well defined. Before the opinion of the House on this question has been well-defined, this amendment has been proposed. In order to substantiate my argument I would refer to what transpired the other day when my friend, Mr. Joshi, moved a Resolution with regard to the Workmen's Breach of Contract Act. Sir William Vincent on that occasion said that the Government accepted in principle and in theory the arguments that had been advanced by Mr. Joshi. I know that this created a wrong impression upon the House. I and many of my friends considered that the principle on which Mr. Joshi's Resolution was based was wrong. It is all very well to say that when a labourer who has accepted advances refuses to repay the advances or to perform the work undertaken, he only breaks a civil contract and therefore should not incur criminal liability; but my long experience has taught me to believe that if we go in for legislation of the kind suggested we shall only teach dishonesty to the labourer and make right organisation of Indian society impossible.

Precisely on these grounds I wish that the opinion of the House on this occasion should be clearly defined. We have listened to my Honourable friend, Mr. Samarth, on the one hand, and my Honourable friend, Mr. Rhodes, on the other. Mr. Samarth does not believe in any distinction whatever being made in Criminal Law between Europeans and Indians. Mr. Rhodes has come forward to say that the special proceedings for Europeans are justifiable on the ground firstly that they serve as a necessary safeguard for Europeans, and secondly that their repeal would argue want of respect for European sentiment. In support of his contention he has referred to certain customs, prevailing in India not being adequately understood by Europeans. A Muhammadan can marry two or more wives. If this can offer any difficulty in the case of any European Magistrate in deciding a case in which a point of monogamous marriage is involved, then I would say, that such cases ought not to be sent to them at all. To take another instance, the law of adultery is viewed differently both by the Indians on one hand and by Europeans on the other. So much so that in the Upper Sind Frontier, I see, that the present Indian Criminal Law is greatly resented by some of my constituents. When I went about canvassing their votes,

[Mr. S. C. Shahani.]

I was given to understand that I should make a point of bringing up this question in this House, and having it properly discussed. I do not believe that differences of customs would operate as an incapacity to try certain cases on the part of Judges. Magistrates and Judges are ordinarily highly cultured and they should be assumed to have the requisite ability to try these cases. Mr. Rhodes added that the atmosphere of India was surcharged with political hatred. I would come forward to say, 'examine the causes of it.' I think one of the chief causes of the present condition of things is the differential treatment that is being meted out to the different sections constituting the Indian people; so that it is very necessary to understand whether, in any form whatever, this differential treatment should be tolerated. I have liked very much my Honourable friend, Mr. Samarth's bringing up this question for debate. He has some influence with the Government and he has persuaded the Government to include this—his Resolution, in the agenda for an official day. I am thankful to him for all that. But when he distinguishes between major anomalies and minor anomalies, I must say I am not at one with him. The principle, which is incorporated in the second clause of this Resolution, should be accepted and accepted wholeheartedly. So far as I have been able to gauge the feeling of the Members of this House, I feel that they are all agreed that all distinctions between Indians and Europeans in the matter of criminal jurisdiction should be abolished. If this House does clearly recognise this principle, I should not have the slightest objection to accepting the amendment that has been proposed by my Honourable friend, Sir William Vincent.

Real safeguards for different sections constituting a society are mutual regard and mutual respect. The appointment of a Committee will be calculated to do harm, if first the principle of abolishing the distinction is not clearly recognised. The political atmosphere of India is surcharged with political hatred, and the only remedy for this evil that I can see is for different sections to fraternize, to unite as brothers in all matters, and then and only then will the present difficulties disappear.

**Mr. T. V. Seshagiri Ayyar:** I take Sir William Vincent's amendment to mean that the Honourable the Home Member recognises that all distinctions of race should be put an end to and that he requests that a Committee may be appointed for the purpose of deciding in what way effect should be given to that principle. If I understand the language of the amendment correctly, I take it that that is what he is really aiming at. Well, if that is so, then most of the objections that have been put forward by my Honourable friend, Professor Shahani, fall to the ground. The Honourable the Home Member has given one very excellent reason for the step he has taken, and that is, that the Head of the Government, His Excellency the Viceroy, has expressed in public that there should be equality as regards the status in this country between the races inhabiting it. After this reference to the opinion of His Excellency the Viceroy, the words 'what amendment should be introduced into the Code of Criminal Procedure,' make it quite clear that the Home Member accepts the principle and wants a Committee to report in detail the various amendments which should be introduced into the Acts which have from time to time been passed. If I may say so, one more reason might be advanced by the Honourable the Home Member, namely, while we are agitating—and the Government are in sympathy with us—that all distinction of race should be abolished in the Colonies, how can we go to the Colonies with a good face if we perpetuate

racial distinctions in our own country between Indians on the one hand and Europeans on the other. I am glad that principle that we should claim equality elsewhere has been recognised by the Government and given expression to. I take it, therefore, the Honourable the Home Member has framed his amendment in order to meet these two contentions—he has therefore recognised the principle and asks that a Committee may be appointed, as I said before, to work out the details and report what amendments should be introduced into the various Acts so as to give effect to the principles of racial equality.

**Mr. E. L. Price:** I have never intervened in a debate in this Assembly with more reluctance than I do now. I have been a regular attendant at the meetings of this Assembly, and I am afraid I have spoken pretty frequently, but if you turn up my record you will find that I have never spoken before on a racial question, and I should be very thankful if I never have so to speak again. I dislike these sort of questions intensely; but I do want very keenly to ask the House to accept the amendment proposed by the Honourable Sir William Vincent, and I beg of the House to do that on the lines, I think, of following its own precedent. There was nothing, I venture to say, when we first met that was more in the public eye, and a keener cause of dissatisfaction, perhaps, than the Press Laws. The original proposition ran as follows:

'This Assembly recommends to the Governor General in Council that a Committee of officials and non-officials be appointed to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and report what modifications are required in the existing law.'

And after a very interesting debate the amended Resolution ran:

'This Assembly recommends to the Governor General in Council that a Committee, of whom not less than two-thirds shall be non-officials, to examine the Press and Registration of Books Act, 1867, and so on.'

The point about it is that there was no opinion expressed to that Committee other than the opinions contained in the debate. Let me put it this way; if, as a matter of fact, the House had first given its verdict on the principle at stake and then merely referred the whole question to the Committee which was appointed, practically for drafting purposes, the House could not have obtained the services of such men on that Committee as it did obtain, nor could it have secured such a thorough investigation of the whole question, from a judicial as well as an administrative point of view, as it did secure. The results are known.

Now, Sir, there is a precedent from the Assembly, and I must admit with a certain amount of patriotism for this Assembly, that I am very anxious that we should, when we have a good precedent, keep to it. But I would like to give the House another example from the Council of State, if that is in order, and that was in regard to the question of Repressive Laws which was one of the most burning questions in India, probably more burning than even the Press Laws were. The Resolution was moved by the Right Honourable Mr. Sastri and ran as follows:

'This Council recommends to the Governor General in Council that a Committee be appointed to examine the Repressive Laws now on the Statute Book and report whether all or any of them should be repealed, and, in cases where repeal is not desirable, whether the laws in question should be amended, and, if so, how.'

That proposal was discussed fully and passed without amendment in the Council of State, and, as the result, a very fine Committee was appointed that did splendid work examining the whole question. The deliberations of that Committee will very soon be before this House for the necessary legislation.

[Mr. E. L. Price.]

Sir, I ask the House, is it not best to follow those precedents, to accept the amendment of the Honourable the Home Member and not to tie the hands of your Committee and make it a mere drafting Committee, for, if you do, you will never get the services of the right men, and I don't see how they can very well be expected to take evidence on a point which the House has already decided in a very wholesale way.

Sir, if I thought that I carried the sympathy of the House with me in this matter, I would very willingly sit down at once in my seat, but I understand that there are a certain number of Members who came to this House to-day with a pre-conceived idea that it was absolutely necessary in the interests of the country, and of the peace of the country, that they should come with a most tremendous, inclusive and conclusive assertion and statement on this point. I would therefore venture to say a few more words.

The Members who have spoken have spoken with great moderation. May I tell these Members that there have been Indian colleagues of mine in this House who came to me and said, they thought it was a great pity that this Resolution was raised at this time. They considered it inopportune because of the racial hatred that undoubtedly had been stirred up, and they thought that the issue might well be postponed till Mr. Gandhi's folly had subsided. Well, Sir, I told them that from my point of view, though no man would be more pleased to see Mr. Gandhi betake himself and his campaign of 'envy, hatred, malice and all uncharitableness' to the Himalayas, and even allowing for all the racial hatred that has been engendered, I was certainly not prepared to see any public issue suspended or postponed for his sake or for the sake of his works. And I hope, Sir, that I understand the Indian point of view, not on historical grounds, not even on the grounds of legal history, but as a plain matter of fact, of things as they are. The fact of the matter is that these legal remains—you might call them distinctions in the law—whether now necessary or not, are looked on, I think, by Indian gentlemen, especially the intelligentsia, as something in the nature of *capitulations*. Now Members of this House will be perfectly well aware that it is only about 20 years ago that capitulations existed in Japan whereby our British subjects, rather any European subjects or American subjects, were not liable to be tried at all by the Japanese Courts. They were tried by special Consular Courts. Of course, when Japan, at the expense of great tribulation and sacrifice, such as, thank God! India has not yet had to sustain, found her place as an equal in the comity of nations, the first thing she did was to change those treaties and to abolish the capitulations—a very natural thing. But I put it to this House that during the long years that Japan was working up to that point, she had entirely remodelled her juridical and judicial principles and she had changed her administration. So she had entirely won world-confidence when she asked Europe to agree the change. And it must follow—I am sorry if some of my own community cannot agree with me, but I say it must follow—that in the progress of India there must come a point when the same thing happens too, and when all distinctions disappear. The only question is, has that moment arrived yet? Well, I think I must frankly say that I think the sense of Government expressed by the Head of the Government and expressed by its representatives here is, and I must honestly say also that on the tone of this debate, I think that it is the view of this Assembly, that the time has come. But how are you going to do it? Are you going to do it by means of a political debate

where people are divided? Are you going to leave ill-will and bitterness behind because people think that what ought to be a great judicial question has been settled politically? Or are you going to follow your own precedents and refer this matter—with your intention clear if you like—in the most general terms to the ablest Committee that Government can secure for us, that we may have put before us the full necessary steps by which we may take this move? I remind you also, that at the moment Japan was in a happy position of being able to get the capitulations denounced, she was also in a position to say to Europe that the law within her territories was one and universal and applicable to every one of His Imperial Majesty the Mikado's subjects in Japan. Now, Sir, I would ask Members to recognize the fact, that even eliminating the European question altogether, you cannot say that of India. In my own province I know a Hindu *Bawa* who is exempted from having to give evidence in any court of law. The assertion may seem extraordinary, but I am fully certain of my facts. I was the foreman of a Jury. When the evidence of that *Bawa* would have been most valuable in a most serious criminal case, it was unobtainable. There is a Muhammadan *Pir* with even greater legal privileges. Compare these distinctions with the reign of law in England! In my own memory, I remember the Heir to the Throne being summoned to court on an ordinary *subpoena* to give evidence; he duly attended in court, gave his evidence, and so did his duty. You do not happen to get such equality of law anywhere in India on those lines. Now, Sir, I have no wish—I hope I am not annoying anybody or breaking, as it were, the truce that has been called between the parties over this matter,—but may I give a few brief illustrations of what Europeans who do not entirely agree with me have said to me? I hope if I do that, it will not be taken as expressing my own view, but simply as giving the House information that perhaps it ought to have. A man says to me: 'It is all very well, Mr. Price, but you know how dreadful a place that court-house is. My poor wife is called down there and kept two whole days in all the heat to give evidence. They would not do that to an Indian lady.' Well, you could not treat a *pardahnashin* lady like that; the law forbids.

Now, as to the personal law and procedure in connection with it in criminal matters, Sir William Vincent has told us about the clauses of the Code whereby an Indian accused can claim a majority of Indians in the jury. There are also clauses in the Frontier Acts whereby people can exempt themselves entirely from the ordinary Criminal Procedure Code and elect to go before a *Jirga*. There again is another extraordinary exception to the reign of law in India. But I do think that India wants to adopt the principle of the reign of law, still it is possible that even with the reign of law, certain broad exceptions may be found necessary not only for an infinite minority like Europeans, but also in some Indian cases as at present. What I think therefore is most desirable is that the whole question should be considered by a Committee in this way. There is also, I put it to the House, the question of Americans. It seems rather curious that Americans alone should be included. It has been suggested to me by a learned Member of this House—I have not been able to verify the fact—that it is the result of a treaty. Whether it is or not, evidently it is a point that should be investigated very carefully by a strong Committee. And, after all, the great point in all this will be that the European, whatever his opinion about it, will feel that the House has followed its own precedents, and that the final verdict on the case has been a judicial and not a political one. And I know my people well enough to know that however much they may fight politically, it is not their habit to resist or

[Mr. E. L. Price.]

dispute a judicial decision. Their training is against it. It is too much like disputing the umpire.

If any Member feels that I am making demands on his generosity in this matter, well, I will agree with him. I *am* making demands on his generosity. I have often made demands on the generosity of this House.

When there are four of us present in an Assembly of this size and we are so few and therefore powerless for voting, what can we do but throw ourselves on your generosity? I do not therefore hesitate to ask it and I ask it for this reason, Sir, finally, that if Sir William Vincent's amendment is accepted, this question will be settled and will leave no bitterness behind on either side, and that is the sole object of my speech.

**Rao Bahadur T. Rangachariar:** Sir, my task in opposing the amendment of Sir William Vincent and proposing an amendment to his amendment has become somewhat difficult after the very passionate appeal made by my most esteemed friend, Mr. Price. If all Englishmen in this country were like Mr. Price, we would have had no racial questions at all. Sir, notwithstanding that strong appeal made to me, I am sorry, I cannot accede to the request made by my Honourable friend. It is a case where justice wounded by injustice is appealing to this House and the authority—namely, the Assembly—by not removing the dart by which the wound is created—is fatally wounding itself. That is the view I take of this question. It has been a wonder how the non-co-operator has found a fertile field in this land for his activities. Sir, this is one of the grounds on which he has traded and traded successfully. Sir, it is no use blinking matters. While I am a believer in moderation in language and a believer in temperately voicing our grievances, I am not a believer in hiding my thoughts. Sir, on a point like this, the real grievance is not the sentimental one which has been hitherto voiced forth, namely, that Indians are considered disqualified to try European British subjects but rather, Sir, the feeling that justice has more often failed when an Indian or an European happens to be the complainant or accused or *vice versa*. The whole difficulty arises from the system maintained for conducting the trial of European British subjects. Sir, a gentleman, who had considerable experience in these matters, I refer to Sir Henry Cotton of great fame, speaking in 1903 in London, said:

'When Englishmen were put upon their trial for these crimes, what was the general result? In the great majority of cases it could only be described as a judicial scandal. He was not particularly anxious that any one should find his way to the gallows but he was bound to say that there were innumerable cases in which men charged with most brutal murders for which no other punishment than hanging was suitable had escaped through the failure to administer justice fairly and fully. What was that? In the first place, those offenders were tried by a jury of their own countrymen. It was, of course, a very sound principle in law that a man should be tried by his peers and equals, but it was hardly necessary for him to point out that in a country like India where Englishmen were widely scattered, and where one of them, say, a tea planter was charged with causing the death of an unfortunate cooly, and was arraigned before other tea planters in the same position as himself, it was natural and even inevitable that the jury should be biased and should find the accused guilty of the smallest cognisable offence under the law, namely, simple hurt for which a fine of a few rupees was only imposed. Decisions of that kind did not commend themselves to the judgment of the natives of India and in consequence a strong and bitter feeling was aroused by such cases. Suppose that the Government interfered and took up the prosecution, the result might be the infliction of a term of imprisonment instead of the imposition of a fine, but immediately that happened, a storm of protest was raised, the greatest anger and indignation were given vent to at every European breakfast table and tea table, and no stone was left unturned to get the sentence either cancelled or modified.'

And he proceeds further on these lines. However I will not refer to particular cases. Those cases have not become rarer now. The recent instances have been severely commented upon, and therefore the real evil consists not so much in Indians not being competent to try European British subjects but under the option given or rather in the compulsory system of trial by jury. By all means let them have the option of trial by jury, but if they take the option of trial by jury let them also take the risk of the jury being composed in a way in which it could be drawn by lots. Does not the law impose that so many people shall be Europeans or Americans or Indians as the case may be? That is really the root cause of this discontent and there is no use of our trying to consider this question apart from the root cause. I therefore think that this Assembly ought to give its verdict upon the main and broad issue of the case, namely, whether it is not necessary to remove all racial distinctions in the matter of the mode of trial and also in the matter of the sentences which are to be imposed under the law. Reference has been made to the personal law of the people. Sir, if I am to be restored to my personal law under the Code of *Mansu* I, as a Brahmin, am immune from the sentence of death. Are you willing to concede that? I, as a Brahmin, can only be fined 24 *pagodas* if I defame a Kshatriya. If I defame a Vaishya I can only be fined 12 *pagodas*. If I defame a Sudra I pay a lesser penalty, whereas Sir, if a Kshatriya defamed a Brahmin he was fined 100 *pagodas*. So also, the fine became larger and larger as you go down the scale of castes. Sir, so far as criminal law is concerned since the English system of jurisprudence came into this country personal law found no favour with the Englishman. Why should it find favour only so far as Englishmen are concerned? Sir, I was surprised to hear from Mr. Price that the judicial system in this country has not approached the tone of Japan. It is news to me. It is startling news to me.

We approximate day by day to the British system of jurisprudence, and dare anybody say that there is any other higher system of jurisprudence which civilised nations can adopt? Sir, we have adopted the British system and let us adopt it in its entirety. We are not averse to it; we Brahmins have not complained that we have been deprived of our personal laws so far as crimes are concerned. Therefore, let not Englishmen complain that they are deprived of their personal law under their own system of jurisprudence.

Then, the Honourable Sir William Vincent quoted certain figures as regards convictions and acquittals of Europeans. Do those statistics include offences of not carrying lights behind their motor cars? They are also grouped under the class of crimes. How many cases has he investigated really of disputes between Europeans and Indians?

**The Honourable Sir William Vincent :** May I rise to make a personal explanation. The figures were of a time before motor cars were used extensively in this country. They were in fact also figures of serious crime.

**Rao Bahadur T. Rangachariar :** I therefore think these figures do not tell the real tale. Let us face facts of the situation. I look upon this day as a red letter day in the annals of the British Government. The Honourable Sir William Vincent referred this morning to a very bold action which he has taken in repealing the Press Laws. I warmly and heartily congratulate the Honourable the Home Member and his Government on the step they have taken, and I can assure him that they run no risk thereby. On the other hand, no amount of aggressive propaganda to combat the non-co-operation movement will be more effective than these steps which you take in this



[Rao Bahadur T. Rangachariar.]

Assembly; and this will be another signal step which you will take. I am glad the Honourable the Home Member has spoken in the strain he did in connection with this very important subject. Sir, I am reminded of the words of Mr. Gladstone when he said :

'No nobler spectacle than that which we think is now dawning upon us'.

I echo that sentiment. We also think that is now dawning upon us, namely that this Assembly is set on the removal of injustice, is deliberately determined to break, not through terror, not in haste, but in the performance of its duty whatever still remains of an evil tradition, and to consult by a bold, wise and good act its own interests and its own honour.

Sir, I therefore confidently appeal to this House to accept this amendment which I have. It is a very modest amendment; it does not commit us to details; it commits us to an incontrovertible principle. I do not think that there is anybody here in this Hall who now maintains that there should be racial distinctions maintained now. If that is the verdict of this Assembly, and, if that is the verdict, as I have heard from the Honourable Sir William Vincent, of the Government also, namely, that they are determined to put an end to all these racial distinctions, I say there is no harm in this House committing itself to that, and I therefore would add only :

'That the Committee should be appointed in order to remove all racial distinctions between Indians and Europeans in the matter of their trial and punishment for offences.'

My second amendment is instead of the words 'to consider the desirability' .....

**Mr. President :** Order, order. Do I understand that the Honourable Member is proposing to amend an amendment which he proposes to vote against?

**Rao Bahadur T. Rangachariar :** Yes, with your permission, Sir, if you have no objection. My second amendment is :

'That instead of the words to consider the desirability of what amendments should be made' the words 'to consider the desirable amendments to effect that object' be inserted.

A third thing I want is to fix a time within which this Committee should report, and at the end of the clause I say :

'Before the next Session of the Assembly.'

Sir, I do not think we had a stronger Viceroy than Lord Curzon. Lord Curzon began, I think, by attempting to remedy this defect, but the interests were too strong even for a Lord Curzon. I am sure Lord Reading is also bent upon this task but, unless he is armed with a Resolution of this Assembly emphatically repudiating the distinction which is now maintained under the existing law, he too may find it difficult to carry out his intentions. I therefore ask this House to affirm this principle about which there can be no doubt whatever. But, when we are asking for justice, I can assure my European friends here, we are equally anxious that they should get justice; we are not anxious that they should be unjustly punished, but we are also anxious that they should not unjustly escape punishment. That is our idea and, therefore, I am quite willing to leave the whole matter of details in the hands of an expert Committee, I will not fetter the hands of the executive by suggesting who should form the Committee; I leave it entirely to the Government and I am perfectly confident that they will choose the best men to compose this Committee. Therefore, I commend this amendment to the Assembly,

**Mr. President :** Amendment moved :

'That in line 2 after the word 'that' the following words be inserted, namely 'in order to remove all racial distinction between Indians and Europeans in the matter of their trial and punishment for offences.'

The amendment was put and carried.

**Rai J. N. Majumdar Bahadur :** Sir, since the passing of the Reform Act, I think Indians and Europeans in this country have made a determined effort to sail in the same boat. Neither of the parties, I believe, wants any special privilege of its own. If I know the minds of the Europeans in this country, I think they are perfectly prepared to share all our privileges as well as all our disabilities. They have assured us of their co-operation and we also, in return, assure them of our co-operation (Hear, hear) : but in order to be able to co-operate with each other, I think it is of the utmost importance that there should be no racial distinctions between the two communities, because, if there is, there can be no co-operation. It is known to all that in the past there have been miscarriages of justice in cases where Europeans and Indians were concerned. I know of a case in my own district in which a European District Magistrate was boycotted by his own community for having sentenced a European to imprisonment. I was also in the Council Chamber when the Ilbert Bill was under discussion and we all know what heat was engendered in the country in the minds of Europeans by that Bill. But all those days are gone. Since the passing of the Reform Act Europeans have begun to co-operate with us and I believe there is not a single educated European, either in this House or outside it, who does not agree that all racial inequalities should be removed from the Statute Book. If that is so, the only question is how that is to be done. It cannot be done in a big House like this, and it can only be done effectually by a Select Committee, as proposed by my Honourable friend, Sir William Vincent. Therefore, I think, when the object is to remove all distinctions and when the Government has already pledged itself to remove all distinctions, we, in this House, should not only maintain harmony in the House but also outside of it and should not object to the appointment of a Committee in order to remove all distinctions that at present obtain between Indians and Europeans in this country in respect of the Criminal Procedure Code.

I think this is the best solution and I hope we shall be able to carry out this proposal of the Honourable Sir William Vincent with unanimity, taking care of course that the thing may not be shelved ; and as has been proposed by my friend, Mr. Rangachariar, we might suggest that the Committee should report at an early date, say, before the next Assembly meets. With these few remarks I hope that we will not carry the discussion to any stage which may lead to bitterness. We should be prepared to enter into each other's feelings and sentiments and not to do anything to offend anybody. Therefore, I say that we should be calm and not unnecessarily offend the feelings of our European brethren in India who have shown the greatest consideration to us in every matter. It is their privilege now to accede to our request. So long they were the rulers, and as rulers I wonder that they had not created more anomalies than what they have already done in the past. Our own people created many anomalies in ancient times. But now the Europeans are prepared to give up their privileges, and we should be kind and considerate to them, just as they have listened to our appeal to create equal opportunities for all. We should not therefore ride rough-shod over their feelings and do whatever we like with them. At the same time I am convinced that none of the

[Rai J. N. Majumdar.]

European Members here or any respectable European wants to take his stand upon any special privileges which other communities do not enjoy. All that they want is justice, and I think this Committee that will be appointed will be able to do justice to all, and I hope that the House will be prepared to accept the recommendations of the Honourable Sir William Vincent.

**Mr. Abul Kasem :** I move that the question be now put.

**Mr. J. Chaudhuri :** I rise again to a point of order. My amendment was not put before the House at all. I understand that under the ordinary practice, after Mr. Rangachariar put his amendment, my amendment should have been put before the House, and the last amendment put to the vote of the House first, and the previous amendments afterwards. So I want a ruling on the point, if this is not so.

**Mr. President :** If the Honourable Member would be more explicit, I could follow him better and give a ruling.

**Dr. H. S. Gour :** I shall be more explicit, Sir, on my amendment which is exactly like that of Mr. Chaudhuri. I have been reading these rules with a view to enlighten myself but they afford me no enlightenment: the point is this. When there are a series of amendments to a Resolution what is the practice of this House? Is it that the last amendment is taken up first, or that the amendments are taken up in the order in which they are printed on the agenda? If the last amendment is taken up first, I stand last, No. 9, and I believe both by reason of the fact that my amendment was last and also by reason of the fact that my amendment is the most comprehensive of all the amendments placed upon this paper, my amendment is entitled to the priority of discussion and vote.

**Mr. President :** The Honourable Member's amendment is so comprehensive that it is out of order. We are discussing a Resolution which asks for the removal of distinctions between Indians and Europeans in regard to criminal jurisdiction. Therefore the limits of the Resolution, the limits of the amendments, and the limits of the debate are set by the words 'criminal jurisdiction.' The Honourable Member proposes to widen the field considerably beyond those words by his amendment.

It is therefore out of order and would have to be moved as a substantive Resolution by itself.

As regards the order in which amendments are taken up, that is settled by the order in which they come in the Resolution or the amendment of which they are amendments in their turn. I have taken the amendment of the Honourable Member from Madras because it comes in the second line and no amendment comes before it. The case put before me by the Honourable Member from Bengal I have not been able to understand; if he explains it perhaps I may.

**Mr. J. Chaudhuri :** I mean this, Sir, that I gave notice of an amendment to the amendment of the Honourable Sir William Vincent and I expected that I should be called upon to move my amendment after he had spoken and divide the House, if necessary.

**Mr. President :** The Honourable Member's expectation is not yet defeated. We have not yet reached the stage in Sir William Vincent's amendment when the Honourable Member's amendment comes in; but I would ask him to consider this, that the substantial amendment which he wished to move,

as far as I can judge, has already been met by the change which the Honourable the Home Member himself has made in his amendment.

**Mr. P. P. Ginwala :** May I know how I stand ?

**Mr. President :** The Honourable Member's amendment is not in order at this stage.

**Chaudhri Shahab-ud-Din :** Sir, though the Resolution before the House purports to seek a change in certain provisions of the criminal law regarding the trial of Europeans in India and though a lawyer by profession, yet I want to make a few remarks on the question under discussion, not from a legal or lawyer's point of view, but from a practical man's point of view. All laws apply to facts. So let us see what is it that we require in fact ; it is nothing but equality in treatment. Differential treatment, let me assure the Honourable Members of this House, is one of the root causes of unrest and dissatisfaction in India. I hope not only the Indian Members of this Honourable House, but also the European Members will agree with me when I say that it is the racial distinction and differential treatment, not only in the matter of trials for criminal offences but also, for example, in the matter of possession of arms and in the matter of higher salaries, it is such invidious distinctions, observed by the Government of India which have to a very great extent created dissatisfaction in India. Being subjects of the same King, owing allegiance to the same Crown, I fail, Sir, to see why one section of His Majesty's subjects should be tried by one procedure and other sections of the community by another procedure. I do not mean to say that Europeans should be necessarily subjected to the procedure which is at present applicable to Indians ; no ; let it be just the other way ; but give us equality. Those who live in India must be subject to Indian law ; that is, the law which governs Indians and not the law which applies to an exceptional or special community in India. Sir, if a European were to commit an offence in Japan, surely he would be tried by the law obtaining in Japan, that is, the law of the country where the offence is committed ; he would not be allowed to say that he is an Englishman and that therefore he must be tried by English law with a jury of his country men. Why, I ask, should there be differentiation in treatment ? Why do not the Government trust Indian Judges to dispense equal justice to Indian and European offenders alike ? Have we not entered upon the Reforms with the greatest wish to make them a success ? The Government should trust us, and I hope, we will do full justice to Europeans. It is in the interest not only of the Ruled, but also of the Rulers that there should be perfect equality in treatment ; and equality in treatment, Sir, does not only mean equality in certain social matters—though there is also a difference in that respect—but equality in treatment means equality in matters political. Indians are Indians not only in this House, but even outside the House. They want equality of status in the British Colonies and other countries. But as my Honourable friend, Mr. Seshagiri Ayyar, said just now, they may be told ' How can you come to us and claim equality of treatment when in your own land different courts and different Judges try Englishmen and Indians ; you have certainly no right to expect equality in treatment from us '.

Sir, for practical reasons, and not for any legal or historical reasons, would I strongly recommend to this House, and especially to the Honourable Members of Government, that they must accept at once the principle of the Resolution moved by my Honourable friend, Mr. Samarth, and, as regards the details, they should certainly go before a Select Committee and be afterwards threshed

[Chaudhri Shahab-ud-Din.]

out in this House, but the principle should be accepted now and here. You say that a Committee may be appointed, to do what? To discuss the desirability of ..... (cries of 'No! No!') If the intention of Government is to accept the principle in its entirety, let the Honourable the Home Member say so. But if the object in the appointment of a Committee is to retain the present inequality of treatment, then, I think, we should be perfectly justified in sticking to the Resolution as proposed by the Honourable Mr. Samarth.

There is only one other point, Sir, on which I should like to say a word. The Honourable Sir William Vincent in the course of his speech made an observation that the Committee which will be appointed by the Government to consider the question now before the House will not consist wholly of the Members of this House, but will also comprise some outsiders. Sir, let me warn the Government and its Members, that whoever those outsiders may be, both Englishmen and Indians, unless they are responsible to this House, their report will not carry much weight in the House. However able and competent they may be to deal with the question, it is we who are responsible to the Government and to the country. Therefore a Committee which has amongst its members, persons who are not Members of this House, can never command the confidence of this House. I hope the Honourable Sir William Vincent will bear this in mind. With these remarks, Sir, I strongly support the principle of the Resolution which has been moved by my Honourable friend, Mr. Samarth, and oppose the amendment which reserves to a Select Committee the power to discuss the principle and decide the extent to which it should be accepted and acted upon.

**Mr. P. P. Ginwala:** Sir, I regret that I feel compelled to oppose the amendment which has been moved by the Honourable Sir William Vincent, in spite of the amendment to it that has been moved by my Honourable friend opposite and has been accepted by the House. I think it must be clearly understood that what this House desires is an acknowledgment in unequivocal terms and as clear as possible this principle of the equalisation of status. On that point, so far as I understand the sense of this House, its opinion is unanimous. There are no Indians that I know of who are prepared to make any sort of compromise, however small, which would leave open for discussion this principle in the least and it would be unwise for the House, knowing that the country at large also insists upon its recognition, not to acknowledge it in so many words. Now, Sir, for the purpose of my argument, I do not wish to go into any historical questions at all, nor do I wish to go into details regarding the Code of Criminal Procedure, for the real point on which this question turns is: has the time arrived in this country when every British subject, be he an Indian or a European, should submit to the same jurisdiction and to the same court of law? If the time has arrived—and no Indian doubts that it has—then it is the duty of this House to express that opinion, and when the House has once expressed that opinion, it will be time enough for the experts of the Government or of this House to formulate proposals to give effect to that opinion. Unless that is done, neither the House nor the country will be satisfied.

Reference has been made by Mr. Price and other speakers to the distinctions that exist at present in other departments of law, but the only instances given were those of the personal law of various classes. If there is any other department of law in which such distinctions exist, let them also be abolished.

But do not let us dispute the principle which, it is high time, was definitely acknowledged and given effect to.

The amendment which I wish to move is unlike that moved by the Honourable Sir William Vincent, and I would like to draw attention to the fact that in my amendment I assume the two principles involved in the Resolution which has been moved by Mr. Samarth.

**Mr. President :** The Honourable Member's amendment is not an amendment to that moved by the Honourable the Home Member; it is an amendment to the original Resolution and therefore not in order at this stage unless the Honourable Member chooses to move it in such a form as to bring it in order.

**Mr. P. P. Ginwala :** It is immaterial to me, Sir, whether I move it now or later on, or in this or any other form, so long as I explain to the House the difference between the amendment which is now before the House and my own amendment. I assume the soundness of the principles contained in the first two clauses of Mr. Samarth's Resolution, and that is what I want the House first to emphasize, and when that is done I suggest that a Committee be appointed to give effect to the principles involved in those two propositions. This is clearly a different thing from the amendment moved by the Honourable Sir William Vincent and when the House comes to vote on the amendment, I beg it to remember this difference between his amendment and the amendment standing against my name, and to reject on that ground, the amendment moved by the Honourable the Home Member.

**Mr. Harchandrai Vishindas :** May I rise to a point of order, Sir, I find that the amendment of my Honourable friend, Mr. Rangachariar, as against the amendment of the Honourable the Home Member, places us in a peculiar situation. If the amendment of the Honourable Sir William Vincent is thrown out and the amendment of my Honourable friend, Mr. Rangachariar, stands.....

**Mr. President :** The situation in which we now are is that the amendment moved by Sir William Vincent has been amended by the amendment of Mr. Rangachariar. The amendment, as amended by Mr. Rangachariar, will be put from the Chair in the form of a question as against the original Resolution.

**Mr. Harchandrai Vishindas :** One more point, Sir. Supposing that the Resolution is carried as against the amendment, then the other amendments that are a rider to the Resolution, namely, the amendment of Mr. Ginwala that a Committee be appointed and my amendment that for the words 'members of the Indian Civil Service' the words 'Judges and Magistrates' should be substituted will have to be put to the vote.

**Mr. President :** The question I shall put from the Chair at the end of this part of the debate is that the original Resolution be amended as proposed by the Honourable the Home Member. If the House decides that the amendment be made, then the Honourable the Home Member's words are substituted for the entire Resolution of Mr. Samarth. But if the House decides that the amendment be not made, then the Resolution as moved by Mr. Samarth stands, and is subject to further amendments as on the paper.

**The Honourable Sir William Vincent :** I should like to know, Sir, whether I can speak on Mr. Ginwala's amendment.

**Mr. President :** Mr. Ginwala has not moved his amendment.

**Mr. P. P. Ginwala :** I have already asked for a ruling from the Chair as to whether I can move my amendment while speaking on the Honourable Sir William Vincent's amendment.

**Mr. President :** It is perfectly open to the Honourable Member to move his amendment in a form which would bring it as an amendment of Sir William Vincent's amendment ; but, as on the paper, it is not an amendment of Sir William Vincent's amendment. If the Honourable Member wishes to have the decision of the Assembly on his amendment, he can move it in the form of an amendment to Sir William Vincent's amendment.

**The Honourable Sir William Vincent :** I am myself in some doubt as I do not understand exactly the present position. If I am allowed to speak either on my own amendment or on Mr. Rangachariar's amendment of my amendment, I should like to do so.

**Mr. President :** The amendment moved by Mr. Rangachariar has already been carried.

**The Honourable Sir William Vincent :** I mean my amendment as amended by the amendment of Mr. Rangachariar.

**Mr. President :** Yes ; but the Mover of an amendment has no right of reply as far as I read the rules.

**The Honourable Sir William Vincent :** Then I do not see I have any right to speak at all.

**Rao Bahadur C. S. Subrahmanayam :** I request that the amendment (now before the House) may be read out in full. There is some misapprehension in the minds of Members.

**Mr. President :** The amendment, as amended originally by the substitution of words by the Honourable the Home Member himself for his original words, and by the further amendment of Mr. Rangachariar, reads as follows :

'That for sub-clauses (a) and (b) of the Resolution the following be substituted, namely ' that in order to remove all racial distinctions between Indians and Europeans in the matter of their trial and punishment for offences, a Committee be appointed to consider what amendments should be made in those provisions of the Code of Criminal Procedure, 1898, which differentiate between Indians and European British subjects, Americans and Europeans who are not British subjects, in criminal trials and proceedings and to report on the best methods of giving effect to their proposals.

**Mr. B. A. Spence :** Mr. President, I had hoped that after what had been said by my Honourable friend, Mr. Price, there would have been no necessity for me to speak at all. But there does seem to be some reason for me to speak as there seems to be a feeling that we should not accept Sir William Vincent's amendment because it does not lay down definitely a principle. I think from what has been said before in this House that there is undoubtedly very strong feeling—I might say a universal feeling that—the time has arrived when consideration should be given to this question, and I think that what my Honourable friend, Mr. Price, said is what should weigh with this Assembly. We have come to the opinion that the time has now arrived when we should consider the removal of all these disabilities. But let us go about it in a judicial manner and not as a political matter. The European has looked upon these privileges, may be privileges of the past, but he has looked upon them as judicial privileges. They come to him as from Magna Charta. Whether that view is right or wrong I do not know, but it is one which appeals to the minds of many. If the question of doing away with these old privileges is going to

be considered, let it be considered on the grounds of justice and right and not as a political question. I had hoped that after what Mr. Price had said nothing more need be said. I was surprised indeed to find my Honourable friend, Mr. Rangachariar, speaking as he did. But I was also surprised to find my Honourable friend, Mr. Rangachariar, quoting Mr. Gladstone as an argument in his favour. Well, I think the words that he quoted from Mr. Gladstone are an argument in favour of Mr. Price and of the European Members' view in this House, namely, that this amendment should be accepted and that we should consider this matter purely from a judicial point of view and not from a political one.

**Mr. Jamnadas Dwarkadas :** Sir, on rising to take part in the debate on this most important question I feel the diffidence which is consequent upon the fact that I am not a lawyer, and therefore not competent to deal with the subject from the point of view of a lawyer. But, Sir, as the discussion has concentrated on the question of the acceptance by the Honourable the Home Member of the principle of equality, I believe I shall be justified in giving some information to this House which will probably convince the House that this principle does not need to be recognised now in this year 1921, but that it was recognised so far back as the year 1834, when the Directors drafted the Despatch to the Governor General in Council. In that Despatch it was clearly laid down in these terms :

'First, we are decidedly of opinion that all British-born subjects throughout India should forthwith be subjected to the same tribunals with the Natives. It is, of course, implied in this proposition that, in the interior, they shall be subjected to the Mofussil Courts. So long as Europeans penetrating into the interior held their places purely by the tenure of sufferance, and bore in some sense the character of delegates from a foreign power, there might be some reason for exempting them from the authority of those judicatures to which the great body of the inhabitants were subservient. But now that they are become inhabitants of India, they must share in the judicial habitudes as well as in the civil rights pertaining to that capacity, and we conceive that their participation in both should commence at the same moment.'

And further :

'It is not merely on principle that we arrive at this conclusion. The 85th clause of the Act to which we have before referred, after reciting that the removal of restrictions of the intercourse of Europeans with the country will render it necessary to provide against any mischiefs or dangers that may thence arise, proceeds to direct that you shall make laws for the protection of the Natives from insult and outrage, an obligation which in our view you cannot possibly fulfil unless you render both Natives and Europeans responsible to the same judicial control. There can be no equality of protection where justice is not equally and on equal terms accessible to all.'

Sir, these terms in the Despatch were referred to by the Honourable Mr. Ilbert when he introduced his Bill in the year 1882. Unfortunately these sentiments have not yet been given effect to by the Government of India. I ask the Honourable the Home Member what objection he has in publicly recognising the principle that underlies the Resolution of Mr. Samarth, which would probably make his own amendment to that acceptable to this House. The principle, as I have already said, has been recognised in the past by the most eminent statesmen of England. The principle has been recognised by our present Viceroy, His Excellency Lord Reading, immediately after his arrival in India. I shall remind my Honourable friend, the Home Member, of the speech that His Excellency delivered at the Chelmsford Club when the Members of that Club entertained him to a dinner, the speech in which Lord Reading pointed out, and emphatically pointed out, that he had made up his mind and that his colleagues shared his opinion that so far as he could help it no race inequality would be allowed to exist in this country. At that moment when



[Mr. Jannadas Dwarkadas.]

Lord Reading gave expression to that sentiment it was welcomed throughout the length and breadth of the country. Many of us realised that it was a task too difficult to accomplish, especially because there was not only the question of legal inequalities to be considered but also social inequalities. Sir, the motion that we are discussing to-day deals with the question of legal inequalities, and while the removal of social inequalities is a matter of time and is bound to be accomplished, I feel that in consideration of what His Excellency Lord Reading has said, it is the bounden duty of the Government to accept the principle that underlies this Resolution, namely, the removal of all legal inequalities that exist in this country. Sir, I feel that it is perhaps the feeling in this House that if this principle were recognised by the Honourable the Home Member here and now, this House would have no difficulty in acceding to the terms of amendment as moved by the Honourable the Home Member. Sir, Mr. Rangachariar has pointed out that things of this character make non-co-operation possible in this country. I beg leave also, Sir, to say this—that if a principle which has been recognised by the Head of the Government is not recognised here in this Assembly by the representatives of the Government, we shall not be acting wisely and we shall be giving food to a movement which the interests of the country demand should necessarily be starved. I hope, Sir, the Honourable Home Member will find no difficulty in accepting the principle that underlies this Resolution.

**Dr. H. S. Gour:** I rise to a point of order, Sir. I understand Sir William Vincent's amendment as amended by the Honourable Mr. Rangachariar has been accepted by this House. If the amended amendment has been accepted by the House, I take it that this House has also accepted the principle of equality. That being the case, I submit all discussion of the principle of equality is now quite out of order and I ask you, Sir, to rule whether I am not right.

**Mr. President:** The discussion might be out of order if Government had put upon the words used by Mr. Rangachariar the interpretation put upon them by the Honourable Member who has just made this point of order. Those words can be so interpreted, but it is not the business of the Chair to interpret them either way. If Honourable Members choose to continue the debate, the Chair cannot rule the discussion out of order, unless an agreement is arrived at as to the political meaning of the words.

**Mr. Jannadas Dwarkadas:** So far as the terms of Mr. Rangachariar's amendment are concerned, I want to inform this House that I myself interpret the terms of that amendment in the manner in which my friend, Dr. Gour, would interpret them. But what I insist on, Sir, and what I am trying to impress upon my Honourable friend, Sir William Vincent, is this—that if he would rise and publicly recognise the principle that underlies this Resolution, there would be an end to all discussion and he would be only doing the thing that perhaps the Head of the Government wants him to do.

**Dr. H. S. Gour:** I again rise on a point of order. I wish to make it clear that the Honourable Mr. Rangachariar's amendment to Sir William Vincent's amendment was intended to enunciate the principle in favour of equality of all people. If that was his intention, it is with that object in view that this House passed his amendment. If the Honourable Mr. Rangachariar intended it in that sense and this House passed it in that sense, I submit, a further discussion on the question of principle would be out of order.

**Mr. President:** It still remains a point of interpretation as to the political meaning of the words into which, as I have already told the Honourable Member, I do not propose to go now.

**The Honourable Sir William Vincent:** Sir, I rise to offer a few words of explanation to meet the Honourable Mr. Jamnadas with particular relation to one point. The words that he used towards the end of his speech indeed make it incumbent upon me to speak, because there is a suggestion there. I do not think any unpleasantness was intended, but there is a suggestion that the Government of India are in some way departing from principles which have been accepted and expressed by the Viceroy. Now there is no foundation for that statement at all. The policy of the Government of India in regard to this Resolution was settled at a meeting of the Executive Council in which there was complete unanimity and there is no question of going back on anything that has been said. The real difference is not one of principle so much as one of practical application. The principle that it is desirable that there should be equality of status in this country in the matter of criminal trials is to my mind one that is indisputable.

No one can conceive of this country arriving at the status of Dominion Self-government and of any differentiation being allowed in such a matter. The only question between us is that raised by my Honourable friend, Mr. Rangachariar, and that is the particular motion to which I take exception, *i.e.*, when he says that Government is to give effect to this principle at once without regard to time or method or to the attendant difficulties. The Committee is according to him to report to Government by next Session. These are recommendations which, speaking on behalf of the Government, I am not authorised to accept. I have no authority to do it, nor would I do it willingly if I had the authority, because the question is one of great difficulty which will require careful consideration. I want to make my meaning quite clear. The Government of India, as I understand it, accept the principle that it is desirable that there should be racial equality. They will appoint a Committee to examine this question. How far it will be possible to give effect to that principle, in what manner, or in what time is a matter that must be left for the consideration of that Committee (Hear, hear). The Honourable Mover spoke of equalizing the rights of Europeans and Indians, actually went on to suggest that the Government should take away the privilege of trial by jury now enjoyed by European British subjects. That is the sort of proposal that I think it would be improper and positively wrong for the Government to accept and indeed I have no authority to do it. I hope now that I have made the position clear; at any rate, that I have made this point clear that the Government of India intend in no way to deviate from the principle laid down by His Excellency.

**Mr. N. M. Samarth:** As the Mover of the Resolution, I rise, Sir, to accept the amendment, as amended.

**Dr. H. S. Gour:** I again rise to a point of order. The Honourable Member, I submit, is not entitled to reply on the principal Resolution. That is not under discussion. The only thing under discussion now is the Honourable Sir William Vincent's amendment, as amended by Mr. Rangachariar.

**Mr. President:** The Assembly is well aware of that point. The Honourable Member on my left (Mr. Samarth) was exercising a perfectly legitimate parliamentary right, when a change has occurred in the character of the debate, in rising to accept or refuse the proposal made.

**Mr. N. M. Samarth :** Sir, I think the discussion that has taken place as also the statement that has been made by the Honourable the Home Member has clarified the position. There was, to my mind, even at the beginning, when I moved the Resolution, absolutely no doubt whatever that after the clear expression of opinion by His Excellency the Viceroy on this subject the Government of India surely was not going to depart from it and throw it overboard, and I was convinced that the Government of India did want to give effect to the principle of this Resolution. As to how it is to be done, what is the *modus operandi* to be observed, or resorted to, is a matter which was not covered by my Resolution. When I moved the Resolution I stated that there are various solutions which are proposed by expert opinion. As I have already said I keep an open mind upon that matter. I have my own line of thought, but I will not force it upon this Assembly. This matter is to be gone into by a Committee; all I hope is that the Committee will be a strong Committee on which there will be representation of an Indian High Court Judge or two, a European High Court Judge or two, and eminent men belonging to the Bar who have had great criminal practice and experience, men who will bring to bear upon the consideration and solution of this question all the legal talent and experience that they have.

**The Honourable Sir William Vincent :** We will put the Honourable Member on it himself.

**Mr. N. M. Samarth :** I am a humble man and, although I may not be on the Committee, all I claim is that the Committee should be of such a character as to inspire public confidence .....

**Mr. E. L. Price :** On both sides.

**Mr. N. M. Samarth :** And in that hope, and fully believing that the Honourable the Home Member will form the Committee in the manner suggested, I accept his amendment as amended by Mr. Rangachariar.

The amendment\* was put and agreed to.

**Mr. President :** The question is :

‘ That the Resolution as amended be passed ’.

**Rao Bahadur T. Rangachariar :** I move, Sir :

‘ That the following words be added at the end of the amended Resolution :

‘ before the next Session of the Assembly.’

I do not think I need say much to justify this amendment and I hope it will be carried.

**The Honourable Sir William Vincent :** Sir, I submit to this Assembly that this is an unreasonable amendment. It is quite impossible for us to gather materials on a complicated question of this kind, on which European and Indian opinion throughout the country has to be consulted, a question which affects the life and liberty of many of His Majesty's subjects before November or December as suggested by the Honourable Member. It

\* That for sub-clauses (a) and (b) of the Resolution the following be substituted, namely :

‘ That in order to remove all racial distinctions between Indians and Europeans in the matter of their trial and punishment for offences, a Committee be appointed to consider what amendments should be made in those provisions of the Code of Criminal Procedure, 1898, which differentiate between Indians and European British subjects, Americans and Europeans who are not British subjects, in criminal trials and proceedings and to report on the best methods of giving effect to their proposals.’

is quite impossible for us to formulate our views or to secure opinions from Local Governments, or to secure adequate and careful examination of the subject in that time. The last time Government appointed a Committee we were not negligent, or dilatory in giving effect to the recommendations of the Assembly. Committees in two cases have put in reports already, and I have said that the question (on the terms that I have clearly expressed already and on no other terms) will be examined at the earliest possible moment; but I hope that this Assembly will not ask us to decide a question of this kind on insufficient data in an unreasonably short time.

**Mr. President:** The meaning of the word 'Session' is not perhaps perfectly clear.

**Rao Bahadur T. Rangachariar:** I meant February; but in view of the warmth exhibited by Sir William Vincent I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

The Resolution\*, as amended, was adopted.

**Mr. President:** I have to announce that the ballot for establishing the precedence of Bills and Resolutions to be taken on the non-official days, *viz.*, 27th and 28th, will be held to-morrow at 11 A.M. in this Chamber.

The Assembly then adjourned till 10-30 A.M. on the 19th September.

\* This Assembly recommends to the Governor General in Council;

'That in order to remove all racial distinctions between Indians and Europeans in the matter of their trial and punishment for offences, a Committee be appointed to consider what amendments should be made in those provisions of the Code of Criminal Procedure, 1898, which differentiate between Indians and European British subjects, Americans and Europeans who are not British subjects, in criminal trials and proceedings and to report on the best methods of giving effect to their proposals.'