

26th January, 1922

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

SECOND SESSION

OF THE
LEGISLATIVE ASSEMBLY, 1922



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CONTENTS.

	PAGE
WEDNESDAY, 10TH JANUARY, 1922	1333-1487
New Year's Greetings.	
Oath.	
Statements laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Address of Welcome to H. B. H. the Prince of Wales.	
Statement of Government Business.	
Resolution <i>re</i> : the Abandonment of the Policy of Repression.	
Congratulation of Honours.	
Panel of Chairman.	
Committee on the Functions of the Deputy President.	
Ruling on Standing Order No. 38.	
Notice of Motion under Rule 11.	
Motion for Adjournment.	
The Indian Electricity (Amendment) Bill.	
The Indian Factories (Amendment) Bill.	
WEDNESDAY, 11TH JANUARY, 1922	1489-1512
Statements laid on the Table.	
Amendment of Standing Orders.	
Resolution <i>re</i> : Policy of Repression.	
THURSDAY, 12TH JANUARY, 1922	1513-1560
Oath.	
Resolution <i>re</i> : Indigenous Systems of Medicine.	
Resolution <i>re</i> : Indian Mercantile Marine.	
Resolution <i>re</i> : Prevention of Overcrowding in Railways.	
MONDAY, 16TH JANUARY, 1922	1561-1612
Oaths.	
Questions and Answers.	
Unstarred Questions and Answers.	
Statement laid on the Table.	
Address of Welcome to H. R. H. the Prince of Wales.	
Select Committee on Standing Orders.	
The Code of Criminal Procedure (Amendment) Bill.	
The Delhi University Bill.	
• Vol. II—Pt. II.	

TUESDAY, 17TH JANUARY, 1922 1613-1656

Unstarred Questions and Answers.
 Select Committee on Standing Orders.
 The Civil Marriage (Amendment) Bill.
 Message from the Council of State.
 The Civil Marriage (Amendment) Bill.
 The Mussalman Waqfs Registration Bill.
 The Code of Criminal Procedure (Amendment) Bill.
 The Code of Civil Procedure (Amendment) Bill.
 The Interest Act 1839 Amendment Bill.

WEDNESDAY, 18TH JANUARY, 1922 1657-1736

Oaths.
 The Civil Marriage (Amendment) Bill.
 The Indian Emigration Bill.
 The Indian Income-tax Bill.
 Resolution *re* : abandonment of the Policy of Repression.

THURSDAY, 19TH JANUARY, 1922 1737-1789

Unstarred Questions and Answers.
 Ballot for Bills.
 Statement of Government Business.
 Resolution *re* : Committee on certain sections of the I. P. C. and C. P. C.
 Resolution *re* : Elected Standing Committees with the Government of India.

FRIDAY, 20TH JANUARY, 1922 1791-1813

Governor General's Assent to Bills passed by the Legislature.
 The Civil Marriage (Amendment) Bill.

TUESDAY, 24TH JANUARY, 1922 1815-1889

Questions and Answers.
 Unstarred Questions and Answers.
 Messages from the Council of State.
 Resolution *re* : Committees on Currency and Exchange.
 Resolution *re* : the abolition of Impressed Labour, Conveyance and Provision.

WEDNESDAY, 25TH JANUARY, 1922 1891-1941

Statement laid on the Table.
 The Code of Civil Procedure (Amendment) Bill.
 The Delhi University Bill.
 The Indian Income-tax Bill.

THURSDAY, 23TH JANUARY, 1922

Situation in Guntur.
Statement laid on the Table.
Questions and Answers.
Situation in Guntur.
Statement of Government Business.
Governor General's Assent to Bills passed by the Legislature.
Resolution *re* : Votable and Non-votable items in the Budget.
Resolution *re* : Export of Manures and Oil Seeds.
Message from the Council of State.

SATURDAY, 28TH JANUARY, 1922 1991-2050

The Delhi University Bill.
The Indian Income-tax Bill.
Amendment of Standing Orders.
The Police (Incitement to Disaffection) Bill.
The Civil Procedure (Amendment) Bill.
The Indian Emigration Bill.

TUESDAY, 31ST JANUARY, 1922 2051-2073

Questions and Answers.
Unstarred Questions and Answers.
Arrangement of Government Business.
The Code of Criminal Procedure (Amendment) Bill.
The Land Acquisition (Amendment) Bill.
The Code of Criminal Procedure (Amendment) Bill.

WEDNESDAY, 1ST FEBRUARY, 1922 2075-2102

Bills passed by the Council of State.
The Indian Lunacy (Amendment) Bill.
Resolution *re* : Women's Franchise.

FRIDAY, 3RD FEBRUARY, 1922 2193-2151

Questions and Answers.
Statement of Business.
Resolution *re* : Examination of the Indian Penal Code.
Resolution *re* : Reduction of Madras Contribution to Central Government.
Resolutions withdrawn.
Resolution *re* : Separation of the Andhra Districts from the Madras Presidency.
Resolution *re* : Committee of Inquiry on Expulsion from Cantonments.
Presentation of Report of Select Committee on Standing Orders.
Resolution *re* : Committee on Retrenchment.

	PAGE
MONDAY, 6TH FEBRUARY, 1922	2153-2220
Questions and Answers.	
Unstarred Questions and Answers.	
Motion for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Benares Hindu University (Amendment) Bill.	
The Indian Emigration Bill.	
TUESDAY, 7TH FEBRUARY, 1922	2221-2243
The Indian Limitation (Amendment) Bill.	
The Code of Civil Procedure (Amendment) Bill.	
Resolution <i>re</i> : Suppression of Traffic in Women and Children.	
The Code of Civil Procedure (Amendment) Bill.	
Discussions in Select Committee.	
WEDNESDAY, 8TH FEBRUARY, 1922	2245-2282
Presentation Ceremony and Royal Durbar.	
The Indian Lunacy (Amendment) Bill.	
Resolution <i>re</i> : Committee on New Arms Rules, 1920.	
Disturbances in the United Provinces.	
Resolution <i>re</i> : Withdrawal of Martial Law in Malabar.	
Disturbances in the United Provinces.	
THURSDAY, 9TH FEBRUARY, 1922	2283-2312
Oath.	
Question and Answer.	
Unstarred Question and Answer.	
Statement of Business.	
Resolution <i>re</i> : Improvement of Medical Education in India.	
Resolution <i>re</i> : Equality of Status for Indians in Africa.	
SATURDAY, 11TH FEBRUARY, 1922	2343-2355
Questions and Answers.	
Unstarred Questions and Answers.	
Governor General's Assent to the Benares Hindu University (Amendment) Bill.	
Resolution <i>re</i> : Indianisation of the Services.	
MONDAY, 13TH FEBRUARY, 1922	2393-2428
Oath.	
Questions and Answers.	
Unstarred Questions and Answers.	
Motions for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Delhi University Bill.	
The Special Laws Repeal Bill.	
The Indian Criminal Law Amendment Repealing Bill.	
Amendment of Standing Orders.	
Time for Balloting.	

WEDNESDAY, 22ND FEBRUARY, 1922 2499-2498

Questions and Answers.
Unstarred Questions and Answers.
Message from the Secretary of State.
The Indian Limitation (Amendment) Bill.
The Civil Procedure (Amendment) Bill.
The Delhi University Bill.

THURSDAY, 23RD FEBRUARY, 1922 2499-2558

Questions and Answers.
Government Policy in regard to Non-co-operation Movement.
Governor General's Assent to Bills.
Statement of Legislative Business.
Resolution *re*: Technical Training of Indian and Anglo-Indian Youths.
Resolution *re*: F. and P. Service and Military Officers in Judicial or Administrative Posts.
Messages from the Council of State.

MONDAY, 27TH FEBRUARY, 1922 2559-2615

Statements laid on the Table.
Questions and Answers.
Unstarred Questions and Answers.
Amendment of Standing Order.
The Indian Income-tax Bill.
The Indian Ports (Amendment) Bill.
Resolution *re*: India's participation in the British Empire Exhibition.
Resolution *re*: Prohibition of Traffic in Mipor Girls.

LEGISLATIVE ASSEMBLY.

Thursday, 26th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President was in the Chair.

SITUATION IN GUNTUR.

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) :
Sir, may I be permitted to ask the Honourable the Home Member if he is in
a position, and, if so, to give the House information as to what is happening
in Guntur ?

The Honourable Sir William Vincent (Home Member) : I shall be
very pleased to give any information I have ; but perhaps it would be more
convenient if I did so at the end of the questions in the list.

STATEMENT LAID ON THE TABLE.

Mr. H. Sharp (Education Secretary) : Sir, I beg to lay on the Table
the information promised in reply* to a question by Mr. P. P. Ginwala on the
5th September, 1921, regarding the number of national schools and colleges
opened since the 1st of January, 1921, the number of students in them and
the number of students in Government or aided schools and colleges in March,
1921, as compared with the year 1920.

* *Vide* Legislative Assembly Debates, Vol. II, page 303.

Statement showing the number of national schools and colleges, the number of students in them, and the number of students in Government or aided schools and colleges.

Local Government or Administration.	Number of national schools and colleges opened between the period 1st January and 31st July, 1921 (both dates inclusive).	Numbers of students in national schools and colleges opened between the period 1st January and 31st July, 1921 (both dates inclusive).	Number of students in Government schools and colleges on the 31st March.		Number of students in schools and colleges aided from public funds, i.e., by Government, Local Funds or Municipal Boards (vide General Table III appended to the annual report on education), on the 31st March.		REMARKS.
			Number of students in Government schools and colleges on the 31st March.		Number of students in schools and colleges aided from public funds, i.e., by Government, Local Funds or Municipal Boards (vide General Table III appended to the annual report on education), on the 31st March.		
			1920.	1921.	1920.	1921.	
Madras	92	5,072	55,993	61,025	9,28,146	11,76,805	* Approximate. Correct figures not obtainable as authorities of many national schools refuse to supply the information. † The annual report is still under preparation. ‡ The figures therefore are subject to revision. § Includes one school which was opened last year in the Fyzabad Division.
Bombay	225	14,808	21,938	24,360	1,86,212	1,99,574	
Bengal	116	10,266*	36,274	38,680	13,66,006	14,60,920†	
United Provinces	137‡	8,476	28,534	29,186	1,41,369	1,38,931	§ These figures are based on the average during the first three months of the school year and exclude primary and vernacular middle schools.
Punjab	21	1,416	17,497	17,656	1,24,304	1,26,372	
Burma	70	14,558	10,630	7,268	3,56,234	3,43,319	
Bihar and Orissa	166	No information available.	21,410	19,635	5,97,777	5,94,578	The numbers vary considerably from month to month, but have not exceeded 120.
Central Provinces	86	6,338	9,064§	8,110§	11,047§	8,209§	
Assam	28	1,567	17,116	16,846	31,344	30,210	
Coorg	Nil.	Nil.	2,400	2,350	292	550	¶ Include students in aided schools in certain cases.
Delhi	Nil.	Nil.	391	402	6,857	7,465	
North-West Frontier Province.	4	120	1,250	1,364	9,927	10,374	
Administered areas	8	965	21,267¶	22,777¶	24,754	25,107	

QUESTIONS AND ANSWERS.

SALARY AND COST OF ESTABLISHMENT OF THE BRITISH MINISTER AT KABUL.

118. * **Mr. K. C. Neogy**: Will Government be pleased to state what would henceforth be the amount of salary and cost of establishment of His Britannic Majesty's Minister at Kabul, and whether any share thereof would be borne by the British Government?

Mr. Denys Bray: The total emoluments of the British Minister at Kabul have been fixed at Rs. 4,000 per mensem. The cost of his establishment is still under consideration. For the present the Government of India will contribute the whole of the expense of the Legation.

DEPUTATION OF INDIA OFFICE OFFICERS TO INDIA.

119. * **Mr. K. C. Neogy**: Will the Government be pleased to state the names of the officers of India Office, London, who have been sent out to India on deputation this cold weather, detailing the functions they are to perform and the approximate cost of their deputation?

The Honourable Sir William Vincent: A statement giving the information asked for is laid on the table.

Name of Officer.	Functions.	Approximate cost of deputation debited to Indian Revenues.
<p>Sir L. J. Kershaw, K.C.S.I., C.I.E., Secretary, Industries and Overseas Department, India Office, London.</p>	<p>To obtain a first-hand knowledge of, and to consult the Government of India and Provincial Governments concerning the many new problems now engaging the attention of the Central and Provincial Governments in India in the subjects which he deals with in the India Office, viz., League of Nations, Emigration, Indians in Self-Governing Dominions, Crown Colonies, Mandated territories and abroad, Imperial Conference, Aliens, Naturalization and law of nationalities, Foreign missionaries, including Basel Mission, Commonwealth Trust, Passports, Opium, Labour, Industrial questions and services, Geological Survey, Mines and Minerals, Mineral Oil, Stores, Exhibitions and Timber.</p>	<p>The expenditure to be incurred in India on account of his subsistence allowance, travelling allowance, a stenographer and a peon has been estimated at Rs. 12,500. That to be incurred in England on account of passage and outfit allowance is about £300.</p>
<p>Sahibzada Aftab Ahmed Khan, Member of the Council of India.</p>	<p>Came out to India with the object of serving later on the Indian Students' Committee which at one time intended to tour in this country. That tour was however eventually abandoned.</p>	<p>The only expenditure which the Government of India have so far finally agreed to defray is the railway fare for a reserved saloon placed at the disposal of the Sahibzada for his journey from Bombay to Aligarh. No correct estimate of that expenditure is as yet available.</p>

REPORT OF THE ARMY REQUIREMENTS COMMITTEE.

120. * **Mr. K. C. Neogy** : Will Government be pleased to publish the report of the Army Requirements Committee, and to state what orders, if any, have been passed thereon ?

Sir Godfrey Fell : I would refer the Honourable Member to the reply given in the Council of State on the 15th September, 1921, to the Honourable Mr. Bhurgri's Question No. 74.

The report in question is still under the consideration of a Sub-Committee of the Committee of Imperial Defence.

REVISION OF SALARY AND PENSION OF IMPERIAL SERVICES.

121. * **Mr. K. C. Neogy** : Is any scheme for the revision of salary, allowances or pension of any Imperial service under consideration at present ? If so, will Government indicate the nature of the proposals that are being considered ?

The Honourable Sir William Vincent : No such scheme is under the consideration of the Government of India.

COMMUNICATION FROM SECRETARY OF STATE RE TREATMENT OF POLITICAL PRISONERS.

122. * **Mr. K. C. Neogy** : (a) Have Government received any communication recently from the Secretary of State on the question of special treatment of persons sentenced to imprisonment on charges of a political character ?

(b) If so, will Government be pleased to state its purport and what action has been taken thereon ?

The Honourable Sir William Vincent : (a) Yes. (b) Government are not prepared to state the purport of the communication which is still under consideration.

Mr. K. Ahmed : Arising out of the answer just given, is there not special treatment given in England to political prisoners ?

The Honourable Sir William Vincent : So far as I am aware, no special treatment is accorded to political prisoners in England. Certain prisoners are classed as first division prisoners and certain prisoners are classed in the second division ; I do not think there is any special treatment prescribed for political prisoners as such. I speak subject to correction.

Mr. K. Ahmed : Have the Government of India heard from various provinces that these political prisoners are very badly treated, that no blankets are supplied to them, and that political prisoners of different castes are not provided with meals properly according to their religion ?

The Honourable Sir William Vincent : The information that I have in regard to prisoners who have recently been convicted under the Criminal Law Amendment Act or under the Seditious Meetings Act is that they receive differential treatment and are well treated.

Mr. K. Ahmed : Are the Government of India in a position to say that blankets, utensils and cooking pots are supplied according to the requirements ?

The Honourable Sir William Vincent : The administration of Jails is a provincial subject, and I am afraid the Government of India have no detailed information as to the supply of crockery and cutlery to particular prisoners.

Mr. K. Ahmed : Is it not a fact that there are a very limited number of blankets supplied to the prisoners.

Mr. President : Order, order. The Honourable Member is aware that the administration of jails and prisons is a provincial subject. He must get his colleagues in the Bengal Council to ask these questions.

SITUATION IN GUNTUR.

The Honourable Sir William Vincent (Home Member) : Sir, may I now answer the question which was asked by Sir Jamsetjee Jejeebhoy, of which he has given me private notice. The Government of Madras have issued a communiqué on this subject, and it appeared in the newspapers of the 21st January. I have a reproduction of that communiqué here, and if any Honourable Member expresses a wish to that effect, I am quite prepared to read it out to the Assembly now. (Cries of 'Read it.')

The telegram begins :

'Regarding the state of affairs in Guntur, where civil disobedience, non-payment of taxes campaign and resignation of village officers are in operation, the Madras Government propose to undertake emergency legislation in the direction of amending the Madras Revenue Recovery Act, mainly to do away with the intervening period allowed under the present Act between distraint and attachment of property and to bring at once to sale the effects of ryots who refuse to pay their dues. Other steps will also be taken by the Government on the executive side, such as the institution of extra police at the expense of the inhabitants, subject to such exemptions as may be ordered by Government in favour of persons who shall, by a date prescribed, have paid into the Government treasury or to the officer appointed for the purpose the taxes due from them. Owing to combination to prevent bidding, Government will undertake to provide land for members of the depressed classes. With regard to resignations of village officers, Government say that they cannot be accepted in the present circumstances, and if officers refuse to carry on their duties, they must be dismissed.'

On receipt of private notice of the present question I wired to the Madras Government inquiring whether any further information was available; and I have received a telegram yesterday saying that no further detailed information was available, but that the Collector regards the situation as serious and has apparently not succeeded in collecting any appreciable amount of taxes. No disturbance had as yet been reported. At the urgent request of the Local Government a section of armoured cars and a company of Indian infantry have been sent to Guntur to co-operate with the local authorities. I have no further information than that.

STATEMENT OF GOVERNMENT BUSINESS.

Mr. President : I ask the Honourable the Home Member whether he is in a position to make a statement regarding Government Business for next week.

The Honourable Sir William Vincent (Home Member): Sir, I will begin by stating, if I may, the business for Saturday. In addition to the business left over from yesterday's meeting, it is proposed to introduce the following two Bills: (1) A Bill to provide penalties for spreading disaffection among the police and for kindred offences. (2) A Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of damages in respect of false or vexatious claims or defences in civil suits or proceedings. That, Sir, is the Bill to which I referred in this Assembly yesterday.

On Wednesday, the 1st of February, 1922, the Government have allowed time for the discussion of the following Resolutions. This, I may say, has been done after consultation with a number of leading Members of this Assembly: Mr. Joshi's Resolution on female suffrage, and Sir Sivaswamy Aiyer's Resolution on the Indian Navy.

Rao Bahadur T. Bangachariar (Madras City: Non-Muhammadan Urban): May I ask, Sir, when the Resolution on Retrenchment will be taken up?

Dr. H. S. Gour (Nagpur Division: Non-Muhammadan): May I ask, Sir, whether my Resolution for the appointment of a Retrenchment Committee was understood to be set down for the 1st, and whether it is likely to be taken up?

The Honourable Sir William Vincent: I think the Honourable Member is in error in saying that I gave any undertaking that it would be put down for the 1st. I said I would give him a Government date early in February and I hope to be able to do so. I cannot state the exact date now, but, I think, it will be the 6th or 8th. This must be regarded as a provisional statement.

GOVERNOR GENERAL'S ASSENT TO BILLS PASSED BY THE LEGISLATURE.

Mr. President: I have to acquaint the House that His Excellency the Governor General has been pleased to give his assent to the following Bills passed by both Chambers of the Indian Legislature:

The Indian Electricity (Amendment) Act, 1922.

The Indian Factories (Amendment) Act, 1922.

RESOLUTION *RE*: ABOLITION OF DISTINCTION BETWEEN 'VOTABLE' AND 'NON-VOTABLE' ITEMS IN THE BUDGET.

Mr. P. P. Ginwala (Burma: Non-European): Sir, I beg to move the following Resolution:

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the Budget, and to submit the whole of the Budget to the vote of this Assembly.'

Before going on with the discussion of this Resolution, I may just remind the House that at Simla we spent the best part of two days in debating Mr. Majumdar's Resolution, which was known as the Swaraj Resolution, and that we were told, at the end of the two days, that no further progress in the direction of Self-Government was possible without fresh legislation by Parliament. We were also told that Parliament had set down a limit of 10 years, before which nothing could reasonably be done, but that, if the House was of opinion that the ten years fixed was too long, that opinion would be conveyed to His Majesty's Government, in order that the time may be shortened. Soon after that, in reply to a question in the House of Commons, the Secretary of State stated, with reference to this Resolution, that he was of opinion that a Commission could be appointed within the limit of 10 years, but that no further legislation could be undertaken, without the appointment of a Commission, even within that period. Now, Sir, that is the position with regard to what may be expected of Parliament. We must have a statutory Commission appointed before any further inquiry can be undertaken and any recommendations made. My submission to the House, however, is that long before any legislation by Parliament becomes necessary you have got to show that all other powers conferred either on the Governor General in Council or on this House are exhausted, that we have obtained everything that we could under the reasonable exercise of those powers from the Governor General, and that we have after that reached a stage when legislation is required in order to free ourselves from the control of the Secretary of State and of Parliament.

The position briefly, but differently, put is this. We have to pass through three stages before we can obtain for ourselves full responsible Government. The first is that we must get as much as we can out of the Governor General in Council, that is to say, we must free ourselves from what was described at Simla by the Honourable the Finance Member himself as the tyranny of our natural enemy the Executive Government, represented by the Governor General in Council. Next we must free ourselves from the control of the Secretary of State, and, lastly, of Parliament, and, when that is done, India has Swaraj. But, before these two later stages are reached, much, I submit, can be done by a reasonable modification of the Government of India Act by establishing conventions, by entering into mutual understandings and by mutual compromises. Now, Sir, it has been truly said that political power really rests with the person in whose custody is the national purse. The history of your country has shown that all her battles for freedom have been fought and won, round the national purse and its control has meant the control of the Executive Government. In order that this House should have real power, it should obtain real control over the national purse. That is the first and the most important step towards responsible Government. I respectfully submit that, in order to achieve this, it is not necessary to have any legislation by Parliament, because, as I shall show presently to the House, it is open to the Governor General or to the Governor General in Council to exercise his powers under the Government of India Act in such a way as to secure to this House a reasonable control over the national purse.

The Budget is placed before the House under section 67-A of the Government of India Act. That is reproduced on page 54 of the Legislative Assembly Manual. The first clause of section 67-A says that :

' The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year '.

[Mr. P. P. Ginwala.]

That is sub-section (1). Then in sub-section (3) of the same section there are what are called the exceptions. That sub-section reads as follows :

‘The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General in Council otherwise directs’.

The position may be explained thus : first of all the estimates are put before the House ; then, under this sub-section, there are certain exceptions, but these exceptions are subject to the proviso contained in the words ‘unless the Governor General otherwise directs’ and the Governor General has, therefore, got the power to direct that the whole of the Budget may be placed before the House ; in other words, these exceptions only arise if the Governor General does not otherwise give his directions ; and it follows that, if the Governor General chooses to give his directions to place the whole of the Budget, including the excepted items, for the vote of the Assembly, he can do so. Now, I submit, with great deference to all the lawyers present in this House and also to the legal advisers of the Government, if they have advised to the contrary, that this is a correct interpretation of the statute as it stands. When the words of a statute are clear, it is a fundamental maxim that the words must be interpreted in their grammatical and ordinary sense, and I doubt very much if any person reading this statute, as it stands, would come to any other conclusion than that these words ‘unless the Governor General otherwise directs’ govern both the previous sentences, and imply that the Governor General has the discretion not only to submit the estimates for discussion but also to submit them to the vote of this House. The next question then is what are these exceptions which it is in the power of the Governor General to ignore if he so chooses ? First, the interest and sinking fund charges on loans ; (2) expenditure, of which the amount is prescribed by or under any law ; (3) salaries and pensions of persons appointed by, or with the approval of, His Majesty or by the Secretary of State in Council ; (4) salaries of Chief Commissioners and Judicial Commissioners ; and (5) expenditure classified by the order of the Governor General in Council as (a) ecclesiastical ; (b) political ; and (c) defence. In this last clause, there is an exception within an exception. First of all, the Governor General in Council has got the power to classify expenditure under the heads ecclesiastical, political and defence. Now, Sir, if we were to arrive at a Convention, if we were able to give something in return to the Governor General in Council and so come to a compromise, it would be open to the Governor General in Council not to make any classification at all. He can do so if he chooses, for there is no statutory obligation on his part to make any classification. But if he does, though I say it is not necessary for him to do so, there is still another authority in the person of the Governor General who has the discretion to place those subjects before this House for discussion, and ask for a vote of this House on them.

I do not propose to deal in detail with the first four classes, because they refer to Statutory obligations, and, even if those items were included in the Budget, a vote upon them will be a mere formality. I cannot conceive of any occasion when this House may interfere with Statutory obligations imposed by this Act or any other Act, though it will have the satisfaction of having a vote even in respect of those items.

The most important, of course, is this sub-clause (5), Ecclesiastical, Political and Defence. If you examine the Budget of last year, as it was presented to the House—I have not been able to rectify the figures in the light of subsequent discussions, but I will take the Budget only as it was presented to the House—you will find that there was a total expenditure of Rs. 129 crores in round figures out of the revenues. Out of that, a sum of Rs. 24½ crores, i.e., less than one-fifth, was votable by the House, and a sum of Rs. 104½ crores was not votable. Of this sum of Rs. 104½ crores, Rs. 66 crores was set apart for the Army. It was subsequently reduced to Rs. 62 crores, I believe. Political charges were about Rs. 2 crores, and ecclesiastical charges about Rs. 31 lakhs. The balance of this non-votable item, namely, Rs. 36 crores was for what may be described as the civil administration. All this was non-votable. So that, you see, Sir, that every five rupees in six was not votable. The Army alone was responsible for half our total expenditure. This is a very old question, which has been debated both in this Council and in other places and in newspapers, but the time has arrived, when it has become necessary for the Executive Government to satisfy this House, in order that the Members of this House may afterwards satisfy the country that all this enormous expenditure is necessary in the interests of the country. We are accused, Sir, of not co-operating with the Government to the extent to which the Government expect, but the Government fails to realise our own position. When we are told that, out of this revenue of Rs. 129 crores the first bite is taken by the Military Department, we are not even allowed formally to scrutinise any item. We are not allowed to debate questions of policy, we are not allowed to see what frontier defence means, we are not allowed to see how the Army does its work, and yet we are expected to go and tell the country that what the Executive Government does is right and, therefore, they must accept it. Now, Sir, I put it to you that, in your own interests, it would be better and more expedient, especially in the present political condition of the country, to lay your cards on the table and here, on the floor of the House, satisfy every Member of this Assembly that this expenditure is required and that India cannot defend herself unless this expenditure is incurred, and I assure you that there is not a single Member of this House who will not stand by you. What you want us to do is to go out to the country and tell the people that this expenditure is necessary, that their attacks upon it are ill-advised and that the safety of India depends upon this expenditure. If you do what I have asked you to do, we shall have got something to say. But here, in this position, what can we tell? All my knowledge of the Army is gathered from a memorandum that I read last year, from an informal discussion that we had on one or two occasions and from the newspaper reports that we read now and again. Is that sufficient knowledge upon which we can conscientiously go to the country and say that what the Government is doing is right and that the defence of India requires an enormous expenditure? Do you suppose, Sir, that, if we had this power which we are asking for, we would exercise it in such a way that the defence of the country would be in jeopardy? Do you think that we shall wipe out our national debt if it was submitted to our vote? Do you think that the churches will be closed down or that anything dangerous to the interests of the country will be done by us? On the contrary, if you trust us and if you place more responsibility in our hands, we would exercise it in a far more responsible manner than we are expected to do under the present conditions, because, now, while you saddle us with responsibility, you do not allow us to scrutinise your own position

[Mr. P. P. Ginwala.]

Why should you expect us to take any responsibility if you do not take us into your confidence? Why are you so afraid? If you are able to lay the cards on the table and satisfy us that you are playing a proper game, there can be no question that the whole House and the whole country will be with you.

Now, Sir, I know that Government will come forward with certain objections. First of all, the Governor General in Council will say that, even if my legal contention is right, they cannot do anything. In fact, the answer has been given more than once that it is not the function of the Governor General in Council to advise the Governor General. When I received such an answer in a formal letter, I said to myself: 'If that is the conception that the Governor General in Council has of his duty, the sooner we get rid of him the better.' They may, of course, take their stand behind the letter of the constitution and say that the Governor General in Council cannot advise the Governor General. But, I think, Sir, that we are entitled to assume that the Governor General, isolated as he may be constitutionally, keeps himself in touch with what is going on in this House and in the country, and that, therefore, he knows what our opinion is and realises what we ask him to do. But, even if he did not take any interest in our proceedings, even if he never followed the debates and never read the papers, still there is a procedure by which we can bring matters to his notice. I will briefly refer to that. It is provided for in the Rules—Rule 138 on page 47 of the Legislative Assembly Manual of Business and Procedure. It says that communications from the Assembly to the Governor General should be made by a formal address after a motion made and carried in the Assembly, or through the President. If this House accepts this Resolution and if our Honourable friends constituting the Governor General in Council have any doubt in their mind as to whether they can convey this message to the Governor General, a second motion may be made on this subject for moving an address to the Governor General and praying that effect be given to our Resolution of to-day.

Then, we shall be told as we have been told before, that the Governor General in Council is responsible to the Secretary of State and through him to Parliament and, if he gives up any of his powers here without consulting the Secretary of State and his colleagues in His Majesty's Government, that responsibility cannot be properly discharged. Sir, what is the implication in that, what is the assumption? It means that if the Governor General in Council entrusts us with these more extensive powers, then these powers will be so exercised by this House that he will be prevented from performing his duties properly and carrying out his functions in the manner contemplated by the Government of India Act. Speaking for myself and for many Members of this House, I repudiate such a charge. We shall do nothing that will prevent the Governor General or the Governor General in Council from carrying out his or their statutory duties and fulfilling his or their responsibility both to the Secretary of State and to the House of Commons.

So much for the legal aspect of the case. I shall now just briefly point out some of the practical reasons why the Governor General should try and meet us as far as possible if this Resolution is adopted. The Governor General in Council has got to realise, as we also realise, that the Government of India Act has created a most impossible constitutional position, both for

the Governor General in Council and for ourselves. As reasonable men, we have got to get out of that impossible position by coming to such a compromise as will prevent that impossible position from wrecking the Reforms. What do we find by looking at it from the point of view of the Governor General? You find an elected majority in this House, an elected majority of Members which has not yet, if I may say so without disrespect, come into its own, a majority that has always been amenable to reason, has always listened to argument, and has always been willing to listen to anything that will conduce to the best interests of the country. I see some smiles on the Treasury Benches, because there have been occasions on which it has been said that we have not listened to reason but had made up our minds before coming to the House. I think that argument applies to both sides of the House. (Laughter.) But you have got to reckon with the possibility of this elected majority not being always with you if they find that you are unreasonable in the execution of the powers entrusted to you and in the discharge of your duties towards this House. That is a factor which has got to be taken into account, whether it becomes important immediately or hereafter. Then you have got now a deficit budget. We do not know, I am not in the secrets of the Finance Department, but it is conjectured, and it is being commented upon, that the deficit this year will probably be anything between 30 and 40 crores. That deficit has somehow to be met out of additional taxation or perhaps, I do not know, the fertility of the Finance Department's brains may devise some other method. It is an unfortunate circumstance that this House, as soon as it has come into being, has got to meet a deficit Budget. Last year the deficit was 18 crores. (*An Honourable Member*: 19 crores.) This year we may have anything between 30 and 40 crores. That deficit, the country will say,—and many reasonable men will say, is due to army expenditure. Of course, the anticipations of the Finance Member may not have been fully realised, customs duties have not flowed in as he expected, Exchange also has not behaved satisfactorily, and a number of unfortunate events have happened. But the fact still remains that there is a tremendous deficit, and this House, which was inaugurated by the Reforms, has got to be a party to additional taxation without any chance of scrutinising the most important item on the expenditure side. How does the Honourable the Finance Member think this House is going to listen to such proposals unless, as I say, on the floor of this House he satisfies us that this deficit was due to causes over which nobody had any control, that the army had to run on its present lines and that no reduction is possible.

Let us turn to the other side of the picture. Supposing that the Governor General in Council does not think it advisable, from his point of view, to take this House into his confidence, I do not wish to be misunderstood, but would it be a matter of surprise if, as reasonable men, the Members of this House consider themselves justified in exercising the powers that have been conferred upon them by statute. If the Governor General in Council will not exercise his discretion in order to ease the situation, this House will be compelled to exercise its powers, constitutionally conferred upon it. I pray that this may not be taken in the nature of any threat because we have not the slightest intention of making any such threat, but I am just trying to point out the impossible position that may be created if some sort of compromise is not arrived at before long on this point. What is it that we can do? We can hit you all round. We can run amock. At present, if you

[Mr. P. P. Ginwala.]

look at your demands, for instance, in respect of general administration, you will find that we can close down every important office and give the Governor General a holiday. If his pay is not on the estimates, practically all his staff is. We shall dismiss his stenographer, his *chaprassi*. (Laughter.) We shall refuse his hill allowance and he can do what he likes. With regard to the Army, we shall say to the Army Secretary : 'Your pay is not on the estimates. But you will not have your superintendent, your stenographer. We won't give you servants, and you can stay in Delhi and enjoy fresh air.' In the same way, we can disintegrate practically the whole administration. Then we have got last year by a fortunate chance this convention established that the Finance Bill is to be in operation for one year only at a time.

That Finance Bill includes one of the most important sources of your revenue—the Income-tax—besides other taxes. Income-tax and Customs are the two most important sources of your revenue. We will say : 'All right, you don't show us how you spend your money. We won't pass your Finance Bill.' The idea is to make the Civil and the Military Departments fight like Kilkenny cats, so that the Civil authorities may prevail upon the Military authorities to put their Budget on the table of the House and internecine warfare may go on to the advantage of the House in the long run. Then, against that, of course, the Governor General may say : 'Oh, yes, you may do what you like. I have got my extraordinary powers. I shall restore these items that you have rejected. I shall get the Finance Bill passed through my Council of State or if the Council of State does not pass it, I shall pass it under my extraordinary powers, and also Parliament has got paramount authority to legislate for the whole Empire and what you cannot do in this House, we shall get done by Parliament.' But, Sir, is not that going a much longer way than is necessary to go first to compel us to exercise powers in a way which may lead to a deadlock and then compel the Governor General to use his extraordinary powers in this extraordinary fashion? Would it not be simpler for him to place the whole of the Budget, especially the Army Budget, before the House, and, if the House rejects any item, would it not be simpler for him to restore that item, as he may under section 67-A to which I have referred? Clause 7 of that section reads as follows :

'The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.'

Clause 8 runs as follows :

'Notwithstanding anything in this section the Governor General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquility of British India or any part thereof.'

Now, as practical men, with practical commonsense, which is the safer course for the Governor General or the Governor General in Council to adopt the extraordinary course of compelling this House to use its extraordinary powers, followed by retaliation by the Governor General or the Governor General in Council by the use of their extraordinary powers, or this simple remedy by which if this House cuts down any military expenditure on insufficient

grounds to restore those grants. You may take it, Sir, that knowing that the Governor General has got the power to restore any item that is rejected by the House, this House will take good care that it does not place itself not only in the wrong with the Governor General but with the public. This House cannot with impunity reject items which the Governor General must restore, any more, Sir, than can the Governor General continue to over-rule us by the extraordinary powers that he has got. He may do it once or twice, but the time will come when he will realise that his extraordinary power must be reserved for extraordinary occasions and that in any case extraordinary occasions should not be created by any person who has not extraordinary powers in his hands. One point more and I shall finish. As I pointed out to you, an impossible position has been created, or, if it has not been created, can be created. This House will, in the ordinary course, be dissolved in another two years. It is possible, Sir, that you may find that, after all, you have not had to contend against very stubborn majorities in this House, as it is constituted. You may find that, in spite of our demands being reasonable, we may be in a minority. But take it from me, Sir, that, when this House is replaced by another House, you will not find men so reasonable as you have found us. If you are not reasonable to them, they will not fail to be unreasonable to you, and they will use their powers to the utmost and they will create a deadlock in this House because the majority will be theirs. Then what will you do? Will you come to terms with those of our critics who have kept out of the House and who have avoided your Council, who are abusing you every day and who will come here to abuse you, or will you come to terms with this House which is prepared to stand by you, provided you stand by it, which is willing to assist you in every possible way and to enable you to carry out your constitutional duties provided that you allow it also to feel that it is in a position to perform its duty towards the public to whom it owes its existence? Sir, any practical man would say: 'I will make my terms now, because I can get better terms. I will not wait until I have got to surrender.' I therefore appeal to you, Sir, to be reasonable. If you have got any doubt as to the legal position, give the benefit of the doubt to this House and do not give yourself the benefit of that doubt, for there is nothing, I submit, to prevent you from exercising your discretion in a way conducive to peace and harmony between the Governor General in Council and the Members of this House. These are not hard terms that we are asking for. They are reasonable terms. If you refuse them, you will find that you will be responsible, if hereafter a state of affairs arises which makes the business of this House difficult, if not impossible.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadian) : Sir, two vital questions are raised by the Honourable Mover's Resolution, one the construction to be placed on section 67-A of the Government of India Act, and the other one of expediency. If the Honourable Members will turn to paragraph 3 of section 67-A of the Act, they will find that the language used in that clause is somewhat ambiguous; for it says that :

'The proposals shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General otherwise directs.'

It is perfectly obvious that, placing upon this clause the narrowest construction possible, the Governor General is entitled to direct that the proposals may be open to discussion. Of this, there can be no doubt. It is an old power.

[Dr. H. S. Gour.]

But the question as to whether the Governor General has further power to direct that the proposals shall be submitted to the vote of the Legislative Assembly raises in the minds of some Members some doubt; and that is the crux of the whole case. I submit, as the Honourable Mover of this Resolution has pointed out, that, if there is any doubt in the construction of this clause, that doubt should be resolved in favour of this House. It is an exceptional clause, and exceptions must be narrowly construed. It is not intended to limit the power of this House and I, therefore, venture to think that, if there is any doubt, as I admit there is, it must be decided in favour of this House. But, whatever may be the attitude of the Honourable Members on the opposite Benches as regards the submission of the proposals to the vote of this House, there can be no doubt that it is open to the Governor General to permit discussion of the proposals enumerated in that clause. So much for the law. Now, as regards the question of expediency, I am extremely glad to find my Honourable friend, Sir Godfrey Fell, present in the House. Honourable Members will recall the Budget discussion that took place in this House last year, when the Honourable Sir Godfrey Fell, speaking for himself, if I remember aright, opined that he should be glad if the military Budget was open to the discussion of this House.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : To the vote of this House.

Dr. H. S. Gour : And to the vote of this House ; if I am wrong, the Honourable Member who is here will correct me. Now, that is as regards expediency, and expediency regarding a matter upon which the Military Department seem to entertain no doubt. As regards other matters, interest, sinking funds and the like, these are of subordinate importance. As the Honourable Mover has pointed out, the most important expending Department of the Government of India is the Military, and, if the Secretary of the Military Department, speaking here for himself, had no objection to the discussion and vote of this House on the military Budget, I think there should be no difficulty whatever for the Government to accede to the proposal now made. I do not wish, Sir, to anticipate the gloomy forebodings of the coming Budget. I hope and I devoutly hope, that the deficit adumbrated by the Honourable Mover will not be so appalling as he has fore-casted. If it is, it will create the gravest constitutional crisis in the history of this House. I do not wish to go into the details of that Budget, because it is not before this House, and I should commend the proposition which the Honourable Mover has made for the acceptance of this House without reference to what is possible in the coming year. We should confine our case to the broad issue that this question raises. Last year, when there was a discussion, judging from newspaper reports, it was said that the Right Honourable the Secretary of State for India expressed the opinion that the Government of India Act had yet not been exploited. Well, Sir, I do not know what were the *ipsissima verba* of the Secretary of State's message. I hope the Honourable the Home Member will take us into his confidence and tell us what that despatch was. But be that as it may, popular feeling in this country is that we must exploit the Government of India Act before we go any further. An attempt was made here the other day by one of the Honourable Members of this House when he asked the Government to appoint Standing Committees and associate them with the various branches of the administration. My

friend, Mr. Spence, and my friend, Mr. Darcy Lindsay, strongly advocated the appointment of Parliamentary Under Secretaries, and that is a matter upon which this House is unanimous. Now, these are matters upon which, I submit, it would be futile for the Government to refuse to act. This proposal is, moreover, in the nature of an olive branch presented to the Honourable the Finance Member who is drooping his head, no doubt thinking of what he will have to say in the ensuing months to justify his budget. But I assure him and his fellow-colleagues in this House that his task will be lightened and his way made smooth if he accedes to the extremely modest and reasonable proposal which the Honourable Mover of this Resolution raises before the Government. If the Government receive these proposals in a sympathetic spirit, they may be sure that they will receive a sympathetic response to any proposals that come from the other side of the House. There must be reciprocity in matters of this kind. I am told, Sir, that the stronghold of irresponsibility cannot be breached by any soft words that may come from this side of the House, that that stronghold can only be stormed by weapons far more powerful than the simple worded Resolutions which private Members move in this House. But I still have confidence in the Members of the Executive Council and hope that, while there is time, they will at any rate take the leaders representing public opinion in this House into their confidence and make their own and our task easy. If they receive this Resolution in that spirit, I think it will bring peace and harmony in the coming months, and I assure the Members of the Finance and the Home Departments that this is a Resolution which must not only receive the assent but the unanimous assent of the Government Benches, not in the interests of the public or of this House, but in their own interest.

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhammadan

12 Noon.

Urban) : Sir, I beg to support the Resolution which has been moved by my Honourable friend, Mr. Ginwala ; but I must say at the very outset that all this talk about peace and compromise, about deadlocks and the coming budget, are utterly irrelevant to the issue which this House has got to consider at the present moment. It is a very simple question which this House has got to consider and it is this. Having regard to the provisions of law on the subject, is it open to Government to allow us to discuss and to vote on those items that are regarded as non-votable ? If that be so, is it expedient, is it wise that that step should be taken by the Government of India ? As regards the first question, Sir, happily the Honourable the Law Member is present here ; he will be able to enlighten the House whether or not it is open to the Government of India to take this step under the statutory law on the subject. I venture to hope that his opinion will be in favour of the view just now being put forward by the non-official Members. If that be so, then, I submit, the large question, the really important question, remains, is it expedient, is it wise to grant this right to this House ? I shall beg this House and I shall beg the Honourable Members who represent the Government to dismiss from their minds all that has been said or suggested, and, might I say, insinuated, as regards the future attitude of the non-official Members towards the next budget or towards other questions that might come up for consideration. I put my case on this simple ground. If, as has been repeatedly said, there is an earnest and sincere desire that these Reforms should be made successful, is it not then in the fitness of things that this right should be given to the non-official Members ? If we can be trusted to vote with a proper sense of responsibility on certain

[Munshi Iswar Saran.]

items, why should we not, I ask, be trusted to vote as regards some items which are considered non-votable up to the present moment? Sir, I submit that, if you place confidence, confidence will beget confidence. There is the feeling in this House that the non-official Members of this House are not really trusted with votes on important items. Sir, as far as the non-official Members of this House are concerned, the Government, I do sincerely hope, will give them credit for a sense of responsibility, and for the sense of restraint with which they have acted so far. Of course, I need not repeat here the opinion that is held about this House outside in the country by a particular section of our people. So, Sir, I shall submit once more that if you look at the question from the broad statesmanlike point of view, the conclusion, I respectfully submit, becomes strong if not quite irresistible, that you should extend and expand the powers that are being used by the non-official Members of this House. When the non-official Members realise that they have got to consider the Budget as a whole, they will feel that the responsibility is theirs for the entire Budget and not for the Budget in bits. What they find to-day is this; they see in the Budget certain items which are non-votable over which they have got no manner of control; and the votable items—I do not mean to insinuate anything objectionable,—are really not so important as the items which are noted down as non-votable, and, therefore, naturally they feel that the power that has been given to them is not all that they ought to have. I, therefore, submit that, for the working of these reforms, in order that the goal of responsible Government might be brought nearer, it is necessary that Government should give this right to the non-official Members; and that it can do, I submit, without any reference either to Parliament or to any higher authority. That power, if my submission about the legal aspect of the matter be correct, can be exercised without any reference, provided the Government is satisfied that the grant of that privilege to the non-official Members will be expedient and wise. I do sincerely hope that the action of the non-official Members, so far, has been such as to induce the Government to grant them the right that they are asking for.

Rao Bahadur C. S. Subrahmanayam (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, at the last Simla Session, when Mr. Majumdar brought forward his Resolution to alter the constitution, I spoke against his motion. No doubt, I might have been disagreeable to a considerable body of my friends, but my argument then was that we ought to work what we have got under the Government of India Act for what it was worth. That was the statement I made then, and now we have to-day placed before the Assembly a proposal to work the Act as it is without going beyond the confines of India; that is, that with the power which is vested in His Excellency the Viceroy, we could make certain advances, and the request that is now made by this Resolution is to make such an advance. Apart from the detailed arguments which have been submitted by my Honourable friends who have spoken before me, I think on this one ground, that the Government ought to lead us, step by step in matters which are entirely in the hands of the Government, on that ground I think this Resolution ought to meet with the approval of Government. The great objection to asking for changes outside the Government of India Act was that it would be a difficult thing to approach Parliament, and Parliament is not always in good humour: its temper is sometimes ruffled by what the

Assembly does on this matter or that ; and therefore it would not be expedient, it would not be politic, to go to Parliament for changing the constitution itself. But such changes as are permissible under the constitution, such changes as could be made by the Government of India or His Excellency the Governor General, I think, ought not to be opposed. And, if once that attitude of opposing everything, even a modest request from us, is assumed by Government, it only strengthens the hands of those who have sincerely, or for purposes of agitation, assumed an attitude of disdain of this Assembly. A great argument which carries weight outside the Assembly, is that this Assembly, while it is earning a name for moderation, for responsibility and other characteristics, which are now and then thrown out for its gratification, that this Assembly has not done anything definite, or has not been able to achieve much in the way of liberalising the present Government.

Well, Sir, there is a good deal of truth in this. It cannot be said that we have really achieved much. No doubt we have been told, and we believe also that we are on the way to achievement. But it is one thing to be on the way to achievement and it is quite another thing to achieve the object and show tangible results. From that point of view, I would say that it would be a very proper and graceful thing to accept this Resolution. Well, I ask wherein lies the danger if this Resolution is accepted? I cannot see any, because if we go wrong—and who does not go wrong—there is the power vested in the Governor General of veto, and we are not likely to act in a matter of such vital importance to court the exercise of that authority. We know our responsibilities and, when we make a proposal or resolve upon a particular course of action, we shall no doubt, conscious as we are of our defects and shortcomings, take care not to court a veto against our action. Therefore, there will be absolutely no danger whatever if this Resolution is accepted. On the other hand, it will only strengthen the hands of the Members of this Assembly in their attitude of defending the Government outside this House, and it would, in a great measure, inspire confidence in the utility of this Assembly. Well, Honourable Members remember His Excellency the Viceroy's speech at Simla, advising us not to limit our activities to work in the Assembly alone but, when we went out of this Assembly, to explain to the people outside the attitude of Government and tell them that everything that is good and useful is being attempted to be done so as to nullify the mischievous attacks of agitators outside. We have done so, or at any rate some of us have tried to follow this advice, and tried to explain, not on large platforms, but in small rooms, the attitude of the Government of India. We have also tried to explain how sympathetic, how reasonable, how cordial and how ready the Government of India are to meet our reasonable demands. That, as I said, many of my friends and I myself have done. Now, at this Session we have had some burning questions already before the House, and to-day we have placed before this Assembly a Resolution which tests the sincerity, the confidence and the cordiality of the Government in regard to what has been said in the past. Therefore, I appeal to my Honourable friends to support this Resolution whole-heartedly, because there is no lurking danger in it, and it is not possible that this power can be misused by this Assembly.

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, it may be said that the recommendations of the Joint Committee are in conflict with the section on which my Honourable and learned friend now relies. I wish, therefore, to read the relevant passage from the Joint Committee's Report :

[Mr. J. Chaudhuri.]

'The Committee consider it necessary (as suggested to them by the Consolidated Fund Charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature which have been set out in the Bill, for example, the cost of defence, the debt charges and certain fixed salaries, from the process of being voted'.

Mr. N. M. Samarth: Read the next line.

Mr. J. Chaudhuri:

'But otherwise they would leave the Assembly free to criticise and vote estimates and expenditure of the Government of India.'

I read these last lines at the request of my Honourable friend, Mr. Samarth. But I see no conflict between the recommendations of the Joint Committee and section 67-A 1) (3) as enacted now. I need only remind the Honourable the Home Member, who will very likely speak on this subject, that, whatever the Committee might have said in their report, may not now be taken into consideration for the interpretation of this section, but I am not going to be technical at all. I say there is no conflict between the recommendations of the Joint Committee and the section as eventually enacted. The section gives a discretionary power to the Governor General. Now, the whole question is whether the Governor General is prepared to exercise that discretionary power at the present moment, and we say that, without any misgivings, His Excellency may exercise that discretion, according to the wishes of this House. I need only mention that the Committee's recommendations are based on the analogy of the Consolidated Fund Charges in the Imperial Parliament. I shall say only a few words with regard to the expression 'Consolidated Fund Charges'. As it is, the maintenance of the Army in England does not entirely depend upon the passing of the Appropriation Bill. Here I mention this for this reason, that ours is an infant institution, and, so far as practicable, we should follow the same procedure as is followed in the House of Commons. It will be impossible to maintain the Army or Navy in England if the expenditure in connection with them entirely depended upon the Appropriation Bill, or, at any rate, if it awaited the passing of the Appropriation Bill. The procedure followed in the House of Commons is this: On the 31st of March, or just before, a Consolidated Charges Bill is introduced. It does not give any detailed estimate of the Army expenditure, but it only obtains the sanction of the House, authorising the Treasury to pay out of the consolidated funds the expenditure for the Army and the Navy. If this process were not followed, many difficulties would arise. I say that, if a similar Committee was appointed here, and the Military Budget was introduced in this Assembly on analogous lines, there is no reason to apprehend that this House will not be prepared to pass a vote for sanctioning the expenditure in connection with the Army. This Consolidated Charges Bill not only brings in supplementary estimates of the expenditure which have been incurred by the Army over and above what was sanctioned in the previous year under the Appropriation Act, but also makes provision for prospective charges. If the Military Secretary and the Finance Member are prepared to explain to the House the reasons for which this money is wanted, I do not think that this House will be wanting in its sense of responsibility to give its sanction to it. All that the House desires to do is to keep an eye over the expenditure, be that in the Military Department, or be it in the Civil or any other Department. That is the function of the representatives

of the people. It is for the experts to lay their case before them and it is for the latter to criticise and suggest economy where practicable. So I say that, in such circumstances, there is absolutely no apprehension that, if this procedure is followed, the upkeep of the Army or the sanction of the Military expenditure or the safety of the Empire will in any way be jeopardised. I may also mention that in connection with the Appropriation Bill, the details of the Army may be furnished to the House, but, so far as I am aware, neither in the Consolidated Charges Bill nor in the Appropriation Bill are the prospective increases in the strength or rank of the Army given in detail. The Army Act itself provides that, in case of necessity, the military authorities or the War Office may meet the requirements and raise the Army to the necessary strength. I believe that the object of it is that it is not always advisable to disclose the details of military defence in all its detail to the House, which then becomes public property. So, I say that, with necessary safeguards, the procedure that is followed in the House of Commons may, without prejudice, be introduced into this House. It will give us training in the due discharge of our responsibility to the country and to the Government. It will have to come, and I think it is very desirable that a beginning should be made, and the sooner the better.

Khan Bahadur Zahiruddin Ahmed (Dacca Division: Muhammadan Rural): Sir, I do not know whether I am to congratulate my Honourable friend the Mover for launching this Resolution in this Assembly or to ask him to cry halt and point out to him that it is premature. My hesitation in the matter is due to the fact that, from the time this Assembly started last year up to this time, we have not met with any hindrance in the proper discharge of our duty in having some non-votable items in the Budget, and I do not find my Honourable friend has been able to make out a strong case in support of his Resolution. It is for this Honourable House to decide the point.

I may also point out that exercise of rights and privileges has with it a corresponding performance of specific duties. I have my own doubts whether we are doing our part of the contract before we ask the other side to do theirs. In my infancy I learnt a phrase which is: 'First deserve and then desire'. Whenever I give any consideration to this Resolution, the expression above comes vividly to my mind. I ask the Honourable House to give proper consideration to this point as well. My Honourable friend the Mover said that the Executive officers of the Government are the natural enemies of the Assembly or of the country. I believe my Honourable friend does not mean what he says, and I ask my Honourable friend the Mover to enlighten the House as to whom he considers his natural friends. Are they the extremists or the non-co-operators? If he considers them as his natural friends, I may point out to him, with all humility, that my Honourable friend has come to a wrong place. He ought to have been among his friends and not among his enemies. There is a party in this country outside this House who wants to straighten the Government by kicks, whereas we have got a party in this Assembly who wishes to straighten the Government by kisses. I can say, at the same time, that the Government will find the kisses more uncomfortable than the kicks, and I think the Government will like immediately to extricate itself from such friendly embraces.

With these few words, Sir, I oppose the Resolution.

Dr. Nand Lal (West Punjab: Non-Muhammadan) : Sir, as you know, we are a party to taxation, because we call upon our people to pay taxes. When we do like that, we are called upon by them to explain why we have taxed them. Our reply to them naturally, as this House will presume, is that we have examined each and every item and we have arrived at the conclusion that the demands are right. Sir, do you know what reply they give to us in replication? They say : 'No, you are wrong. You are in a fools' paradise.' Sir, I think they are right when they level this criticism against us. They say : 'You have not got the right to vote. There are certain items which you particularly skip over and which you have not got the privilege to criticise in a true sense. You cannot scrutinise them effectively, because they are 'Non-Votable' ones. Therefore, we are fully justified in telling you that you are not doing the duty of a really good representative. You are allowing these items to be passed which you do not really get a chance of scrutinising though nominally they are placed before you. Are you doing your duty properly?' Then we feel constrained to tell them : 'Certainly your criticism which has been launched against us is well placed.' Now, we ask the Government of India, Sir, to kindly come to our help and save us from this criticism. It is quite probable your demands may be perfectly right, the items which you claim for military expenditure may be perfectly justifiable. Your demands may be correct. Give us the right of voting. We shall not prove disloyal to the promise which we hold out this afternoon in this House that we shall help the Government and pass the items if the demands are legitimate and reasonable and the money is really required. Now, logically speaking, we are asked to pass a certain Budget, but that Budget practically is not before us in its entirety because we are not entitled to criticise and we do not possess the power of voting. We simply seek for that power, and this prayer, Sir, is very modest. This is what we want, and we do not wish to see the Government hampered. We quite realise the responsibility of the Government. Sometimes the Government requires to spend money and they do not like to lay all the items before us, because some of the items are confidentially spent. We pray that we may be taken into their confidence and we shall not betray that confidence, we shall never stand charged with a breach of confidence. We put forward that solemn promise. While saying like that we feel that it is our legitimate right to lay our claim to that privilege, *viz.*, power. Now, as you know, there is a general cry in the country that the military expenditure is appalling, is too high, and I think some of the official Members will sympathise with the criticism that a very exorbitant sum of money is spent. As a matter of fact, we sometimes feel constrained to say that Government is spending this money lavishly, and on certain occasions I was compelled to give expression to this humble view of mine that the Military Department is spending money lavishly, and that that Department does not give us sufficient reasons for that expenditure.

All these remarks and criticisms will be answered and the criticism levelled against us will be met when once we have got the privilege and power of effectively examining every item. This is what we want. The subject has already been discussed fully. Consequently, in the interests of the economy of time and brevity, I finish my remarks praying that this Resolution, which is very modest in its terms, may be accepted unanimously.

Rai D. C. Barua Bahadur (Assam Valley, : Non-Muhammadan) : Sir I beg to support this Resolution entirely. It is asserted in some quarters, and

perhaps in many quarters, that the Reforms given by the present Government of India Act are inadequate. Why is it so asserted? My humble reply is that the absence of the boon we are asking for in this Resolution is perhaps mostly responsible for that sort of criticism or attitude taken up by the people at large. It is not only said by the non-co-operators but by co-operators and the people at large, that the Reforms granted to us are inadequate. In my humble opinion, Sir, if this boon had been given at the outset, perhaps the non-co-operators would not have had the occasion to say or to assert that the Reforms were inadequate. It was expected in almost all quarters that the powers given to the people were substantial powers, but, as was rightly remarked by my friend, Dr. Nand Lal, it is always asked by our constituents whether we have been enjoying the powers of voting in respect of expenditure, and when we say 'No,' they are surprised and they come down with the remark that the Reforms are all sham. Sir, as kindly advised by His Excellency the Viceroy in opening the Simla Session recently, I visited some of my constituencies in order to make some consultations during the recess after the Simla Session, and even before that I did the same thing although we were not advised by His Excellency the Viceroy, and the inquiries made by our constituents were generally as to whether the military expenditure will be reduced in the next Budget. My humble reply to them was invariably that it depended upon the people, that it depended upon the people's behaviour, because if the people grew disorderly they would have to pay more taxes to meet the military requirements and the Budget might rise to 80 crores, but if they behaved more soberly, then the Military Budget might come down. When I said that the Military Budget might go up to 80 crores, my remark and advice to them was that the Government would be quite justified in enhancing the Military Budget to 80 crores, even if that amount should be required to meet the exigencies of the time; that is, if the people grew more disorderly, if there should be more internal disorder, to put down those disorders, the expenditure might be more. That was and is the mentality of my humble self and I think that mentality is also shared by many of my Honourable colleagues in this House. If that is so, what is the occasion for the Government to distrust us? So, there is no occasion whatsoever for the remark that we do not deserve such powers. We really deserve such powers and we have that amount of commonsense that we will support Government for the maintenance of peace and order, and for that purpose at least expenditure is required. Government would still be going on if that one-fifth of expenditure over which we have the power to vote had been withdrawn or had not been granted to us and the country would not have run to the Indian Ocean. My humble remark, then, Sir, is that if one-fifth could be given to us, the remaining four-fifths also might be given. There could be no danger, no harm in doing so, but, if there should be any danger apprehended at any future time, my friends in the Government Bench might come forward with proposals, or Resolutions or even Bills to curtail some of the powers that have been entrusted to us, and the things could be put in proper order. But let experiment be made in the meanwhile and let us enjoy the whole boon that has been asked for in this Resolution. With these remarks I humbly support the Resolution again.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I support this Resolution which my Honourable friend has so

[Lala Girdharilal Agarwala.]

ably moved before this Honourable House. I beg to submit one point which perhaps has not been fully dealt with by other Honourable speakers and it is this. My Honourable friend, Dr. Nand Lal, has said that we shall not betray the trust that may be placed in us. I submit that the Resolution as put in the agenda paper, even if passed, would do no harm, in view of the clear provisions of the Government of India Act and the Manual of Business which I will lay before the Honourable House presently. The Resolution reads as follows :

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the Budget, and to submit the whole of the Budget to the vote of this Assembly.'

Now, section 67-A of the Government of India Act lays down as follows :

'The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor General.

(3) The proposals of the Governor General in Council for the appropriation of revenues or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General in Council directs—

- (i) interest and sinking fund charges on loans; and
- (ii) expenditure of which the amount is prescribed by or under any law; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and
- (iv) salaries of chief commissioners and judicial commissioners; and
- (v) expenditure classified by the order of the Governor General in Council, as—
 - (a) ecclesiastical;
 - (b) political;
 - (c) defence.

(4) If any question arises whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, and decision of the Governor General on the question shall be final.

(5) The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section the Governor General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof.'

The Manual of Business further prescribes in Rule 126 :

If the Governor General in Council declares that he is satisfied that any demand which has been refused or reduced by the Assembly is essential to the discharge of his responsibilities and acts as if such demand had been assented to, or if the Governor General, in case of emergency, authorises such expenditure as in his opinion is necessary for the safety or tranquillity of British India or any part thereof, the Finance Member shall, as soon as may be thereafter, lay on the table of the Assembly a statement showing the action so taken by the Governor General in Council or the Governor General, as the case may be, but no motion shall be made in regard to that action nor shall the statement be discussed.

Therefore, I submit that even in cases where this Honourable House is required to vote on Demands, the result of the voting is merely a sort of advice and not a sort of order or command, because the Governor General in Council or the Governor General, as the case may be, has power to modify the decisions of this Honourable House. So, I submit respectfully for the consideration of this Honourable House that, even if we are allowed to add one more item to the business of this House, which some people call a debating House (I do not say it is a debating House, but some people call it so) and we are allowed to discuss and use our voices a little more, where is the harm? If the Governor General does not think we have done our duty properly and if he thinks that we ought to have granted more moneys, then he can modify. Similarly, the same powers, which the Governor General has got to modify the grants or to increase the grants of the Assembly in the case of votable items, could, in that case, be applied to those items which are at present non-votable but which we want to become votable, so that, in the end, the result would be the same. There will be no difficulty if the Governor General in Council accepts this Resolution, and I earnestly appeal to the Treasury Benches to see their way to accept this Resolution. In reality, it does not take away any right which, under the law, he possesses at present. The right is there. At present the Government have got a double armoury. Even one of them would be equally good. So I submit that, from all points of view, there is no difficulty in the least to Government. So far as our work is concerned, I submit it has been appreciated everywhere. We do not want to say anything from our own lips, but, looking to the fact that we have so far realised our responsibility and that even if the Resolution is accepted that would not take away any of the powers of the Government, there is no reason why the Government should hesitate to accept this Resolution.

Sir Godfrey Fell (Army Secretary): Sir, in rising to speak on this Resolution I wish to make it perfectly clear, at the outset, that I am not replying on behalf of the Government of India to the main Resolution. That will be dealt with, and much more ably dealt with, by the Honourable the Finance Member. My only object in speaking is to correct, if I can, one or two misapprehensions, which, I think, have been expressed by previous speakers, regarding the capacity of this House to consider the details of military expenditure. My Honourable friend, **Mr. Ginwala**, in his speech in moving the main Resolution—a speech in which, if he will allow me to say so, he stated his case with admirable lucidity and moderation—said that the Assembly was not allowed to know what the military policy is, that it was not allowed to know what our military expenditure relates to. And again, **Dr. Nand Lal** said that the Army Department does not give the Assembly any information on the subject. Now, Sir, I think that that is rather unkind. I would remind the Assembly that, at

[Sir Godfrey Fell.]

the very first Session, this time last year, the Army Department prepared a memorandum, which I have here: a memorandum running to no less than 17 pages of print, which was circulated to every Member of the Legislature, and in which we attempted, to the best of our ability, to explain, item by item, every detail of our Army expenditure, and in which we compared the figures with the corresponding figures for 1913-14. That memorandum not only dealt with figures, but it dealt also with the question of the policy which His Excellency the Commander-in-Chief and the Army authorities are pursuing in respect to the Army in India.

The next point I wish to make is that more than one speaker has complained that the Assembly has no opportunity of scrutinising our military budget. Now, Sir, I submit that the Army Budget forms a part of the Government of India Budget, which is laid before this Assembly. To the best of my belief, the details of the Army Budget are given quite as fully as those of any other civil Department of Government. I am not speaking now of the question of the Assembly being allowed to vote upon this Budget; that will be dealt with later. I am only pointing out that it is not quite correct to say that the Assembly has no power of scrutinising the military budget. Lastly, Sir, there is one other point. More than one speaker has said that the Assembly has no opportunity of criticising military expenditure. Well Sir, I disagree; for I recall two hot days in March last—hot in more than one sense of the word—I remember listening to speaker after speaker dwelling, to the best of my recollection, on very little else but military expenditure; I remember sitting cowering in this corner amid a shower of brickbats aimed at us from every corner of this House.

Mr. F. McCarthy (Burma : European) : Sir, I shall be very brief. I rise only to make a suggestion. Generally speaking, I am in sympathy with Mr. Ginwala's proposition, though I would deprecate the somewhat threatening note of some passages in his speech, a note, which, I am sure, was quite unconscious. No harm can possibly be done by an extension on the line suggested by the Resolution, for the change proposed would be made under the direction of the Governor General, and, if we go wrong in this Assembly, the Governor General has full powers to set us right. Under the circumstances, I see no possible danger in the suggested change and I hope that the Government will see their way to meet, to some extent at least, the almost unanimous wishes of the non-official Members of this House. My suggestion is, Sir, that in the third line of the Resolution moved by Mr. Ginwala, the word 'coming' be inserted before the word 'Budget'; that is, that the change should be effected for the Budget of this year. My object is obvious. This is an experiment and I think it might be tried at once. We will see how it works and, if it does not succeed, we can see if some other change can be made. I suggest that the word 'coming' be inserted in the third line of the Resolution before the word 'Budget' the first time it occurs in that line. The Resolution would then read :

'This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between 'Votable' and 'Non-Votable' items in the coming Budget, and to submit the whole of the Budget to the vote of this Assembly.'

Mr. President : Amendment moved :—

'That in line 3 of the Resolution the word 'coming' be inserted before the word 'Budget' where it occurs for the first time'

Mr. P. P. Ginwala : Sir, I am willing that the word 'coming' be added as suggested by my Honourable friend, and that the Resolution, so amended, may be debated afterwards and put to the House.

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muhammadan) : Sir, no doubt the present Legislature exercises some control over the Budget, but this control, though in certain respects important, cannot be said to be real, as its scope is very limited so far as some of the most important items are concerned. The distinction between votable and non-votable items, which at present exists, is the real measure of this control. Sir Godfrey Fell has remarked that last year the military budget was fully discussed and a memorandum giving the details of the expenditure was circulated amongst the Members. This is no doubt correct; but the real question is not whether the military budget is open to discussion or not; the real question is whether the items which are called 'non-votable items' are open to the vote of the Assembly or not. What this Assembly wants is that the distinction between 'votable' and 'non-votable' items should disappear. As regards the discussion of the military budget, it was allowed through the indulgence of the Honourable the President, because, if I remember aright, the rules did not allow a discussion of all its details and the Honourable the President was a little lenient in allowing the Members to discuss it. Sir, if it is true that the Legislature has done good work so far, if it is true that the Legislature has given ample proof that it realises its responsibilities in a proper manner, if it is true that the Legislature has shown moderation and sanity of judgment in its deliberations, if it is true that the Legislature has demonstrated its capacity for discharging the trust committed to its charge, then, to my mind, the time has come when the distinction between 'votable' and 'non-votable' items should disappear. The Legislature, as a part of the Government, is responsible to the country for its good government. That responsibility is, at present, exercised without the power to touch the matters which, in the opinion of the Legislature, make for successful administration. Moreover, if the realization of full responsible Government is to be progressive in reality, the first step in that direction should take the form of the abolition of this distinction. The Members of the Legislature are not likely to use their powers in such a manner as to jeopardize the interests of their country and they may safely be trusted to exercise them in a reasonable and conscientious manner.

With these words I support the Resolution.

The Assembly then adjourned for Lunch till Two of the Clock.

The Assembly re-assembled after Lunch at Two of the Clock. **Mr. President** was in the Chair.

Sir Frank Carter (Bengal : European) : Sir, on the assurance of the Honourable Mr. Ginwala that the increased powers he asks for will not be abused by the Members of this House, I, on behalf of the non-official European Members of Calcutta and Bombay and others, desire to associate myself with the views represented by my Honourable friend, Mr. MacCarthy, and we support this Resolution.

The Honourable Sir Malcolm Hailey (Finance Member) : Sir, before I deal at length with this important Resolution, may I first of all make a few brief remarks regarding certain statements put to the House and which

[Sir Malcolm Hailey.]

seem to me to require correction. It is not of course the case that the Governor General could avoid classifying any expenditure at all as 'defence' or 'political'. Such a course would be unthinkable; if the Act really means that defence expenditure should be reserved from the vote, he could not adopt this device to bring such expenditure under the votable head; I think indeed that Parliament itself might reasonably object if he did so. Then, Sir, as to the amount of votable and non-votable expenditure. We had that question in reference during the debate last year. Various estimates were given to the House, but on a careful calculation I gave the following figures, which I should like to repeat to the House now. The votable expenditure charged to revenue is just over Rs. 94 crores, and that charged to capital is 18 crores—or a total of 112 crores. Non-voted expenditure charged to revenue is Rs. 105 crores, and charged to capital about Rs. 6 lakhs, making a total of just Rs. 105 crores. These are the figures. I will not say that they in any way invalidate the arguments put forward by my Honourable friend, Mr. Ginwala; but it is just as well to be quite clear regarding the exact area of votable and non-votable expenditure. Sir Godfrey Fell has already dealt with another point. Honourable Members who say that we do not give them an opportunity either of knowing what our military expenditure is, or that we do not give them a chance of scrutinising it, are obviously under a misapprehension. I doubt if any Government has placed before its Legislature fuller or more carefully prepared details than those which were placed before this Assembly last year in respect of our military and our political expenditure. And now, Sir, for the Resolution.

It is framed in wide terms, and I gather that it is so framed in view of the fact that the wording of the Act appears (as speakers admit) to allow of two alternative interpretations. Either the full discretion rests with the Governor General to open all expenditure to vote, or he has no such discretion, and if so, the law would require modification in order to allow the excepted classes of expenditure to be open to the vote. If the power rests with the Governor General, then it is a personal and a final power, and it follows (and this is a point which I wish to make clear, from the first to this House) that it is not the function of the Governor General in Council to make recommendations to the Governor General, in regard to the exercise of his personal power, nor can they in any way seek to sway his decision. Let me again repeat the alternatives as I see them; either no discretion lies with the Governor General, in which case this class of expenditure could not be opened to the vote without an alteration in the Government of India Act, or full discretion does lie with the Governor General, in which case the Executive Council would not be in order in making any recommendation to him on the subject whether on their own initiative or at the suggestion of this House. They could not undertake to this House to attempt to influence the Governor General in the exercise of a personal power voted solely in him.

Now if there are these two possible interpretations

Lala Girdharilal Agarwala: That is for the Honourable the Law Member to say.

The Honourable Sir Malcolm Hailey: We shall see. For my own part I naturally disclaim any intention to put forward on behalf of Government any authoritative interpretation of the wording of the Act; I confine

myself to suggesting that there is a reasonable doubt; and if so, that doubt obviously cannot be resolved without a reference to the Law Officers of the Crown. We are dealing with a British Statute. Mr. Ginwala placed upon the section the interpretation which, as he claimed, flows directly from the wording of the Act as interpreted by the ordinary canons used in reading the law. I would suggest however (and with the necessary deference) that in this case it is difficult to follow exactly the same procedure in reading the law as one would follow in a case which comes in the ordinary course before a Court of Justice. I would suggest that the case is somewhat peculiar; the Act embodies the delegation of certain constitutional powers from one Parliament to another; it almost might be said to resemble one of those cases in which high contracting parties commit their intentions to an agreement, and when a difference arises as to the interpretation of such a document, then it has to be viewed in the light of the previous history of the case and the intention of the parties. Again let me say that I am not attempting to put forward any decisive view as to the interpretation of the Act, but I merely desire, in the light of the acknowledged difficulty found in interpreting the Act, to put to the House the history of the manner in which this particular clause came to be drafted. It was not in the Bill of May 1919 at all, for I may remind the House that at that stage there was no question of placing the Budget before the vote of the Assembly. The matter took shape in the following October, and on the 31st of the month the Secretary of State introduced in the Joint Committee a clause providing for voting and discussion of the Imperial Budget subject to the proviso that :

'Nothing in this section shall require proposals to be submitted to the Imperial Legislature in regard to expenditure which is declared by rules under the principal Act to be a permanent charge on the revenues at the disposal of the Governor General in Council'.

At this stage, therefore, something in the nature of a Consolidating Fund was clearly intended, and the nature of that fund was to be declared by rule. Events were, however, moving somewhat rapidly, and on November the 3rd, the clause was re-drafted as follows :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure specified in the second Schedule of the Act shall not be submitted to the vote of the Assembly, nor shall they be open to discussion by either Chamber'.

So that you see the exclusion was still categorical; the main change was that the subjects which were reserved were to be declared by schedule instead of by rule. There followed a third stage on the 10th November. It is interesting, because it shows exactly how the discretion of the Governor General came to be mentioned. This is how it ran :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor General otherwise directs'.

Now, it might not unreasonably be held that the manner in which the words 'unless the Governor General otherwise directs' came into the clause shows that it was intended that this discretion of the Governor General should refer entirely to discussion and not to vote, for you will see that the framers introduced simultaneously a mention of the discretion of the Governor General and of the fact that the Budget was coming under discussion. Now leaving here the point

[Sir Malcolm Hailey.]

of history and coming to the point of intention, Mr. Chaudhuri has already quoted to the House the exact wording used by the Joint Committee in dealing with this matter.

'The Committee consider it necessary (as suggested to them by the Consolidated Fund Charges in the Imperial Parliament) to exempt certain charges of a special or recurring nature, that is to say, the cost of defence, the debt charges and certain fixed salaries, from the process of being voted'.

You see it is not there suggested in any way that the Governor General should have any discretion at all in the matter of opening these heads to the vote. Then again in introducing the Bill in the House of Lords, Lord Sinha also made it clear that he was thinking of the consolidated fund procedure. He said 'certain heads of expenditure are not to require the annual vote in much the same way as the consolidated fund in this country'. So that on the point of the history of the case and the intention of the Act it is at least reasonable to hold that the intention of the framers was that the discretion of the Governor General should be limited entirely to opening these matters to discussion and should not extend to opening them to vote.

I come now to a final point, based not on the history of the the clause or the intention of the framers, but on the subsequent tenour of the Act itself. If Members of the House will turn to sub-section (5) of the Act, they will find that there is no procedure provided in the Act by which matters such as defence, political or other reserved expenditure can be put to the vote of the House. The sub-section says :

'The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.'

Thus, if we give full effect to this sub-section, we should have no method by which these reserved cases could be brought before the Assembly. Let me be clear again ; I only adduce these considerations by way of showing that there is a real difficulty of interpretation, and Government is in consequence placing the matter before the Law Officers of the Crown.

Sir, as I have said, this Resolution has been drafted widely, and I quite realise that the real demand of Mr. Ginwala and his friends is that we should at once give some indication of the manner in which we would deal with this question. In effect he asks us this : 'Supposing that this requires an amendment of the Government of India Act, is Government prepared to support that amendment or not ?' I fully recognise the anxiety expressed by every speaker in this House on the subject. I fully recognise that the House, proud of its former achievements, anxious to establish those conventions which will give it an increasing position of power as against the Executive, would be deeply gratified if its members could add this fresh achievement to their credit,—if they could in fact go back to their constituencies and say : 'We have won from the Executive full power to vote every item in the Budget'. That laudable aspiration I recognise fully. It was not necessary, therefore, to support the case by some of the arguments used by my Honourable friend Mr. Ginwala. He told us that if we do not yield now to the feelings expressed in the House, the House could, and probably would, force a dead-lock ; that it would resort to every expedient, and if, for instance, it found itself owing to the section of the Act unable to touch the salary of a Secretary, it would deprive him of his establishment and would not allow him to travel to Simla. That, Sir, is a threat of a kind which I do not think he need have

made to us. We know full well what the powers of the House are, and we recognise quite well what are its aspirations. We have had to trust to its good sense in the best and must do so in the future. Again, he need not, Sir, have threatened us with what would happen when another and less reasonable House had to be faced by us. For that in itself is an illogical argument. If, as he says, this House is prepared to use reasonably and moderately the full powers which it claims, then obviously that forms an argument for giving it those powers. But what of the successor with which he threatened us? If we are now to concede those powers, if we are to abandon every guarantee, how are we to face that highly obstructive Assembly with which he threatens us in the future? Sir, I do not believe that this Assembly will, to use his own words, ever run amuck, and I do not think that it adds any force to his argument to prophesy that this House is likely to do so. Nor, Sir, was it necessary for Mr. Agarwala to point out that the concession, if granted, will be really a matter of minor importance on the ground that the power of the Governor General will still remain, and if necessary expenditure is refused by the Home it can always be restored by him. I need only confront Mr. Agarwala with the argument used by Mr. Ginwala himself. For while Mr. Ginwala suggested on the one hand that we can quite safely concede this power in respect of the military expenditure because the Governor General can always restore any particular item that may be necessary, he hastened to add on the other, 'He may restore it once; he may restore it twice; but heaven defend him if he restores it a third time.' Finally, Sir, it was not necessary for Dr. Gour to suggest that if we accept this Resolution, it would be a very easy way of getting over the difficulties that must occur when I present the next Budget. He pointed to my bowed head, Sir. Well, I like to think myself with the poet that "My head if bloody, is unbowed". The Government are prepared to face as best they may the difficulties that may be forced upon us by an adverse financial situation; and I would ask Dr. Gour to remember that you can do a great number of things with your Finance Member, but you need not attempt to bribe him. Sir, recognising as we do the very strong feelings entertained in this House on the subject, I say that these additional arguments need not have been used, and I should have been content, if they had not been put forward so forcibly, to have left them entirely on one side and gone on to deal with the substantive reasons which exist for retaining the present restrictions of the Act. For, Sir, there are substantive reasons. The decisive consideration in a matter of this importance is not merely the desire of the House, legitimate as that desire may be, to gain greater powers, or to place itself in a better position to meet its constituencies. I maintain that there is an actual reason why this reservation was placed in the Bill and why it should be maintained. Here again, let me go back a little into history. I will not go back in the past as far as my Honourable friend Mr. Majumdar did last September in talking on a parallel case, and hark back to the reign of Chandragupta. I shall confine myself to recalling to you the year 1919 when a number of political bodies in India, represented by deputations specially chosen for that purpose, put their case before the Secretary of State and the Joint Committee. What did the National Congress ask for then in regard to this particular question? I admit that the National Congress was, in those days, somewhat different from what it is to-day, for in those days it did not arrogate to itself the power of appointing a Dictator of India nor of substituting for the unpopular but still not entirely inefficient administration of the present

[Sir Malcolm Hailey.]

its own chaotic mess of the future. I will quote to you what it asked for. Its demands were put forward by Mr. V. J. Patel, not, as experience has since shown, a very reactionary thinker. Paragraph 5 of the demands was as follows :

'The Legislative Assembly should have full control over the budget except in respect of the reserved subjects, the allotment of which should be fixed and be a first charge on the revenues.'

So that they contemplated reserved subjects the financing of which should not be voted on at all by the Legislative Assembly. Then, again, we had the deputation from the All-India Conference of the Moderate Party. They attacked the Government of India keenly on the ground that it was not prepared to extend the dyarchical system to the Central Government, but their memorandum did not attack this particular provision in the Bill, and the reason will be clear when we turn to the examination of Mr. Samarth who represented the case on their behalf. It is obvious that at this stage they did not even contemplate the control of the Assembly over the Budget. "We want," said Mr. Samarth, "some degree of Budget control in the Government of India"; just that; some degree of control; and again he said, "If the budget is going to be put to the Legislative Assembly", mark the hypothetical case, "if the budget is going to be put to the Legislative Assembly of India no doubt that will be a welcome advance (Laughter), but if that is not going to be done, then, at any rate, we ask for an advisory finance committee to be set up in the Government of India which will be consulted and taken into confidence by the Finance Member before the budget is framed and placed before the Legislative Assembly of India." So you see that at that stage we were very far indeed from the suggestion that it was essential that the whole budget should be placed on the vote of the Legislative Assembly. Then take Mr. Sastri's evidence. "It is intended," he said, "to enact something like a consolidated list. I have no objection to such a fund being provided for and certain items being taken out of the annual vote of the Legislative Council, but I do trust that the Legislative Council will take care to examine items connected with the salaries of smaller officials." That was the limit up to which Mr. Sastri was prepared to ask for powers over the budget to be conferred on the Assembly. Now, of course, it is clear that we have gone far beyond what the Congress asked for, or the Moderate Deputation asked for, or what Mr. Sastri asked for. We have placed the whole of the budget before the Assembly, and we have given the Assembly the power of voting in regard to a very considerable portion of it. We have gone further than that and we have given, or perhaps I ought more correctly to say that the Assembly has obtained for itself, the convention for which Mr. Samarth pleaded so strongly before the Joint Committee, namely, that our main items of taxation should be voted annually. Mr. Ginwala may of course say, that merely because our advocates did not ask previously for this full measure of authority, we are not estopped from asking for it now. That is a fair and legitimate argument, and therefore I have to address myself to answer the question whether, admitting all the advance that has been made by this Assembly, admitting the desirability of allowing its conventions to grow, nevertheless anything substantive can be said for retaining these reservations in the statute book.

Now, Sir, I shall take them in my own order. Probably the House cares very little about the head, Ecclesiastical. After all, it is not a very considerable item. A greater part of the expenditure is concerned in maintaining chaplains for our troops, and I assume that the House, so long as we retain British troops in India, would not care that those troops should be without that useful adjunct to their moral discipline. I now come to a somewhat more important head, that is, Political. Now, Sir, that head is concerned with our relations with allied states and with foreign powers, and it seems to me only reasonable that the Executive Government should retain somewhat of a free hand in regard to expenditure incurred in maintaining those relations. But, of course, neither of these two items are of commensurate importance with military expenditure, and indeed it is in regard to military expenditure that the greatest feeling has been expressed by previous speakers on this Resolution. Is there any argument at all for the maintenance of military expenditure as a reserved item? To me there is some such argument. At present India has not yet developed her own means of defence. She is still dependent on the services of the British Army; she is still dependent on the services of the British Navy. Her aspiration and it is an aspiration with which I think everybody must sympathise, is that she should develop fully her own means of defence, that she should, as far as may be possible, be absolutely self-dependent in this matter. But I deal with facts as they are. She is not at present fully self-dependent, and the result is that the British Parliament has a responsibility for the defence of India. We pay for the British Navy a small sum of £100,000. If we were seriously jeopardized by attacks on the land frontier, we should have to ask for the assistance of troops from Great Britain. While the British Parliament therefore retains that responsibility, is it unreasonable that the British Parliament should retain also some measure of financial control in this matter? (*Dr. Gour*: They have not got it in Australia). Australia, Sir, is different from India. Australia has no immense land frontier such as we have, and Australia has made a very substantial beginning with her own navy. I come now to the remaining item, which relates to the reservation of certain salaries. Here again, is there any substantial case for retaining the reservation in this respect? The reason is sufficiently obvious. As long as you have all-India services, of which a considerable part is European, their recruiting agent is the Secretary of State and the Secretary of State must be able, when he recruits those services, to guarantee them certain rates of payment. Those services are becoming rapidly Indianised, partly by our own administrative action, even more strongly so by the force of circumstances in regard to recruitment. That process will obviously grow. Indeed many of us foresee that what at present are all-India services may become provincialised, in which case, of course, the Act will not apply to officers so employed, as they will not be appointed by the Secretary of State. But it is not unreasonable that, while you retain the Secretary of State as a recruiting agent, you should place in his hands power to guarantee to the officers he recruits certain definite rates of salary and general conditions of service. That is the reason in my opinion why this particular item must be reserved, and I do not think that the reason is entirely without justification.

Now, Sir, I have, first of all, explained to the House how the position stands from one point of view. I have explained to the House that difficulty about the correct interpretation of the Act is no fanciful one. I have pointed

[Sir Malcolm Hailey.]

out that if the Governor General has full discretion, then the Governor General in Council can have no authority to make a recommendation because the discretion is personal to him and does not flow from his position as a member of Government. On the other hand, if the Governor General has no such discretion, then an alteration in the Statute will be necessary before the House can achieve its object. In the second alternative therefore our discussion here to-day becomes somewhat similar in character to that which took place in September last when the House debated the question of an advance in the general constitutional position. I do not think that it was unanimous by any means in feeling that a radical change should take place in the constitution before the ten years period was over. I am aware that this particular question is of a somewhat restricted nature; I appreciate also from what we have heard that probably the House is far more unanimous in feeling that a radical change should take place in regard to the Budget than it was in regard to the general constitutional position. But, Sir, arguing on the second of the two alternatives, you will realize that the case has still to be made good to Parliament. It has to be made clear to Parliament that the guarantees which the House told us to-day could safely be dispensed with in their own case, could also be dispensed with in the future. Let me say this that I do not think, considering what the British Parliament is, and how slowly it has attained its own position, how it has, through a course not of a few years but of centuries, compacted that position in face of the executive, it is likely to be swayed by any exhibition of undue precipitance of this House. As far as I am concerned therefore the matter rests there. We are seeking to obtain a definite ruling from the law officers of the Crown as to the interpretation of the Act. If that decision shows that the Act requires amendment, the Government of India will have to consider the case in view not only of the desire of this House and the strongly expressed feelings of this House, but in view of its own responsibilities. If, on the other hand, that decision shows that the full discretion rests with the Governor General, then the Governor General in Council can take no action, since the authority which rests with him is personal; it must be his sole decision and his sole judgment.

Mr. N. M. Samarth : Sir, I am fully aware that when I gave evidence before the Joint Parliamentary Committee, I pleaded for some real control over the Budget in regard to many, though not all, of the items. The situation was this. In the Bill there was no provision whatever made to submit the Budget either to the discussion or the vote of the Legislative Assembly and at that time I, as an advocate, was trying to get as much as possible from the Joint Committee, but that is now an absolutely irrelevant matter, so far as the decision on this Resolution is concerned. The decision on this Resolution, I am speaking not only on behalf of the non-official portion of this body but, I take it, even the Governor General in Council, should be on two matters. Firstly, is it legally permissible under the Act, as it is worded, for the Governor General to direct the items which are specifically excluded in this section to be made votable? Secondly, is the demand just and reasonable? I say the answer to both these must be in the affirmative. To my mind, there is absolutely no doubt as to the interpretation of the section which has been enacted. I hold in my hands the authorised copy issued by the King's Printer of the Acts of Parliament, and, in section 67-A, clause 3, it will be noticed that there is a comma after the words 'Legislative Assembly,'

there is a comma after the words 'under consideration', and then follow the words 'unless the Governor General otherwise directs.' Now, if the Legislature had really intended that the words 'unless the Governor General otherwise directs' should be made referable only to the discussion and not to the vote, there would not have been that comma after the word 'consideration.' Remove that comma and you will get what is contended as the real interpretation by the Honourable the Finance Member. That comma makes absolutely clear and unambiguous the legal position taken up by the Mover of the Resolution that both the submitting to the vote as well as the discussion of the excepted items is in the entire discretion of the Governor General. Now, that is the Act, and whatever may have been the debates before and whatever may have been the original intention even of the Legislature, as every body knows who is well acquainted with the interpretation of statutes, we have to interpret statutes as they are passed. As the question has been raised, I will just read a small passage from Maxwell on the interpretation of statutes.

That writer says:

'The Legislature must be intended to mean what it has plainly expressed, and consequently there is no room for construction. It matters not, in such a case, what the consequences may be. Where, by the use of clear and unequivocal language capable of only one meaning, any thing is enacted by the Legislature, it must be enforced, even though it may be absurd or mischievous.'

I take my stand upon the well-known rule of interpretation which I have read. There is the Act, and I appeal to the Government Bench and to His Excellency the Viceroy, to whom I need not appeal for the proper interpretation of the statutes in accordance with the rules of interpretation, to give effect to this clause in spite of what may have happened in the debates, which are absolutely irrelevant. Therefore, it is legally permissible to the Governor General to give effect to this Resolution. Is the demand just and reasonable? Who will not say 'Yes'?

I will now go back to the debates. What did the Joint Committee say? They said, by analogy of the Consolidated Fund Charges in England, that certain special and recurring items of expenditure may be exempted from the vote of the House. I put it now to the House, when the Military Budget was discussed last time, what did you find in it. Did you find only recurring charges? You found non-recurring charges included in that non-votable Budget. For example, the expense of 10 crores on Central Waziristan is not surely a recurring charge. The expense on the Afghan war is surely not a recurring charge. I can understand your laying aside certain recurring charges for the Services and the Army which should be exempted from the vote, in accordance with the analogy of the Consolidated Fund Charges in England, but that was not done, and it is surely right for this House to ask the Governor General in Council to influence the decision of the Governor General, which they do as a matter of practice, in order that he may give effect to the Resolution in spirit and carry it out in the next Budget.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, the spirit of sweet reasonableness, almost persuasive, which was the prevailing note in the Honourable Sir Malcolm Hailey's speech, made us hope that his own dictum was going to be given effect to and that the question of interpretation should not be rigidly dealt with, as in a court of law, but would be in accordance with the intention of what he was pleased

[Sir Deva Prasad Sarvadhikary.]

to call the 'high contracting parties'. Therefore his somewhat abrupt and ineffective ending came as a surprise upon the House which had been looking forward to a compromise. It is significant, Sir, that the Honourable the Law Member, to whom Munshi Iswar Saran made almost a passionate appeal, has found it convenient to disappear from the House at a somewhat critical moment; and when, in a speech like that to which we have been treated—upon which I compliment the Honourable the Finance Member—we are told a little hesitatingly about the need of going to law officers on questions like this, possibly because the point of view of Government or the non-official Members does not find support from his Honourable colleague the Law Member, lawyers of other ways of thinking are left to draw their own conclusions. This would not be exactly the place where difficult questions of interpretation should be or can be gone into at any length. But I think we can advantageously press for the exercise of that high ethical notion that the Honourable Sir Malcolm Hailey has laid down in doubts and difficulties. When this House and the Government accepted a short time ago a Resolution that would forward another stage of the Reforms measures, there was a certain amount of feeling in England. I happened to be there at the time, and one of the most suggestive and statesmanlike remarks that came from a Member of the Ministerial Bench was to this effect:

'Supposing the House has not got definitely certain powers; supposing the constitution has not yet given all that the country demands; what would real statesmanship do in placating the people and helping the Reforms? Go on as if the powers are there: give the people a training in citizenship responsible citizenship—that will enable them to become capable of carrying out responsible powers, and pull them up if there be real necessity. This should have been done much earlier than even the Reforms.'

We have the necessary safeguards here and I need not reiterate the position in regard to them. Even if there be legal disabilities, as an object lesson in responsible training and citizenship, let the concession be allowed, at least for a year. That is a plea in which our European colleagues have joined, and I congratulate the Assembly that this state of affairs has so soon come about. I have said on previous occasions, and I say so now, that one of the outstanding features of the proceedings of Legislative Assemblies and its predecessors, as well as the Provincial Councils, has been that they have been fairly free of the spirit of cliqueism and cabals. We have to the best of our light been able to discharge what we conceive to be our duty and we have not yet erred. I shall lay on one side all questions of threats, innuendoes and insinuations. They are a matter of individual taste and not pertinent to the purposes that we now have in view. What has the Supreme Legislative Council, whose place we have taken, and the Assembly been doing so long? Nothing that can be complained of and much that has extorted approval. When an error was committed in the Provinces, it was put right and put right on the double quick. We here have not yet erred. What reason is there to apprehend that, if this innocent measure of training, as we might call it, is conceded for a year, we shall imperil the interests of the Empire? Our plea is—and it is a strong plea—that, even if there are doubts and difficulties, even if there be any the remotest suspicion in the minds of the authorities that the privilege is likely at some distant day will be abused, give us the chance, give us a trial. That will strengthen the position of the Indian Government by letting in light and more light. If, subsequently, anything

is done by the Assembly which ought not to be done, then, when Parliament comes to deal with the matter, as it must soon, the Government will be able to plead that the measure of training has failed. There is a distinction undoubtedly between 'discussion' and 'voting'. I am not prepared to go as far as Mr. Samarth. Undoubtedly, there are doubts, but they are doubts which the present Viceroy, a trained, sympathetic and experienced lawyer, will find no difficulty in setting at rest: and the concession which the House asks for may well be made. For these reasons, Sir, and having regard to the practically unanimous opinion in this part of the House, both European and Indian, I do hope that Sir Malcolm Hailey may yet find it possible to reconsider his opinion.

Bhai Man Singh (East Punjab : Sikh) : Sir, in this matter of votable and non-votable items, the Members of the Assembly are put in an anomalous position. On one side they are expected to vote for certain items and for the others they have no power to vote, but all the same they have to pass the Budget and supply money for many items of expenditure over which they have no control. They cannot curtail many of the items by their vote. It is really very difficult for those who are responsible to vote for taxation, to do so unless they know that the money which is going to be raised will be properly spent. This is one of the difficulties which forces every non-official Member in the House to press upon the Government to accept this Resolution and so allow us to go through all the heads of expenditure when the Budget is presented.

The Honourable the Finance Member has drawn the attention of the House to certain definite heads which are non-votable. One of them is the expenditure on the Indian Army. It is said that India is not fully dependent upon its own resources for its defence; it has no navy and not enough army for its own defence. I daresay that India is not just at present fully dependent upon herself for her defence; but, with all due deference, and I hope I will be excused, I put it straight to the Government Members: whose fault is that? Has the Government really and sincerely tried to besit and equip us for our own defence? What steps has the Government taken throughout its régime of 70 or 80 years—that is of course with reference to the Punjab—with regard to the rest of the country it is 170 years—what steps has it taken during these 170 years to develop our military resources? It is for this very reason that we are forced to ask that the military budget should now be placed under our vote, and that we should be given a voice in framing that policy, so that we may be able to train ourselves for our own defence. If the existing state of affairs is to go on for years to come, I doubt if India will be fit for *Swaraj* for another 50 years, so the same argument can be advanced against us after that period just as to-day it is brought forward after 170 years of

3 P.M.

British rule in India. Well, Sir, you will see the reasonableness of the demand. To enable ourselves for our own defence, we want to develop our own resources; we want to enable ourselves to make arms and ammunition in our own country; we want our own men to be trained as officers and for military services of all kinds. That is a request, rather than a demand, that we made last year as well, when we were discussing the Esher Committee Report. I, for one, cannot see why it should be said that the Military Budget is such a subject that it should necessarily be a forbidden fruit to us. Sir, we are as anxious as anybody to have a strong army to stand any invasion from outside or to quell any serious rebellion inside the country.

[Bhai Man Singh.]

But, Sir, is it any reason that we should have no voice in these matters. It is all the more necessary that we should have that power given to us.

The second question was about the Services. Of course, one could say with a plausible reason that the Secretary of State engages certain people for all-India services in England. Surely, Sir, we cannot be expected to be so very unreasonable as to break all the contracts made on our behalf by the Secretary of State. But at the same time there is a very great complaint that just at present our expenses are going too high and that our higher officials are given too high salaries; and there was a Resolution (that, of course, unfortunately did not come on the other day) which required that all future recruitments to all-Indian services carrying salaries above a certain amount should not be made except at a certain percentage below their present rate or something of the sort. All that shows, Sir, that there is a great demand for curtailment of expenditure in this matter. This shows that these demands should be brought under the vote of the Assembly. There is one more reason, Sir. With more responsibility placed upon us, we shall discharge it more carefully and we shall be more cautious in creating any sort of dead-lock in the administration. This power of voting on the whole Budget is enjoyed by the popular Houses of most countries that have got responsible Government. I should like to know—and this is my last argument—what is the special reason why we in India should not be given that power, and what are our special drawbacks, what are the special drawbacks of Honourable Members of this Assembly, that debar us from that claim?

Mr. R. A. Spence (Bombay : European) : I propose, Sir, that the question be now put.

Khan Bahadur Sarfaraz Hussain Khan (Tirhut Division : Muhammadan) : Am I to speak on the original Resolution or on the amendment?

Mr. President : The Honourable Member being the only member in the House with an amendment on the paper, I thought I was justified in giving him an opportunity of speaking. The amendment moved by the Honourable Member for Burma precludes his now, because it substantially covers it, and, therefore, when the House has taken a decision on the amendment to insert the word 'coming' before the word 'Budget', he will not have an opportunity of putting his case before the House.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Will the Honourable President allow somebody else to speak?

Khan Bahadur Sarfaraz Hussain Khan : Sir, I have no objection whatever in having non-votable items treated as votable; but my one great objection in this matter is this : Section 67 A(2) of the Government of India Act says :

'No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor General.'

If all the items become votable, then I do not understand how this sub-section (2) will read. It is chiefly on account of this that I raise my objection. I have already said, the matter should be left to the Governor General in Council so that he may consider and decide when it is necessary to place all the items as votable. Then there is one thing more, Sir, and that is the question of defence. Of course, the Members of this Assembly can vote and

discuss the matter, but, then, it will mean shifting the responsibility from the military experts to this Assembly. I am afraid I must tell this plain truth that there is not a single non-official Member who has had any experience in military matters or who has been in the field. For these reasons I do not support this.

Mr. N. M. Joshi (Nominated : Labour Interests) : I move, Sir, that the question be now put.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, the Resolution and the amendment have been discussed thoroughly, and I need not go over the same ground again. But what I want to say at present is as regards the remarks that fell from the Honourable the Finance Member. I can assure him that there is not a single non-official Member in this House who will not support the Government in the items which have been mentioned by him. We all know that to keep up an ecclesiastical establishment for the religious training of the British soldiers is a very essential thing. We all know that India is not at the present stage fit to defend her own shores, and that we have to depend upon the British Army and Navy. It will, therefore, be ridiculous for any Member of this Assembly not to vote for that item if they consider that it is necessary for the defence of India. With regard to the other head, namely, fixed salaries of the officials, we also know that India is making a great deal of improvement by having Indian Members in the all-India Services, and as long as British officers remain in the all-India Services, we are not going to curtail any expenditure under that head. So it is useless for the Government to entertain any kind of fear on this score, and I think it will ease the situation a great deal if the non-official Members are taken into their confidence, because, as has been said by several Honourable Members of this House, we have to show our faces to the public, and when we are questioned we must justify our position. It is, therefore, very necessary that the non-official Members should be taken into confidence by Government, and if this is done it will benefit both the parties, because they will vote easily for the items which Government require, and there will be a party like the Government. Instead of being critics, we will join the Government party. At present if certain items are not voted, we simply criticise, because we are absolutely in the dark as to whether those items are really justifiable or not. But, when we know that there is a real and just demand for a certain thing, we certainly vote for it if we feel that it is really for the good of the country.

Now, reference has been made to the appalling military expenditure, but I think it is not a matter which can properly be discussed at present. There will be some other occasion to discuss the military question when a Resolution on the subject is brought forward, and to mix up the question of military expenditure with the Resolution now before the House is not quite correct. This is a very simple question, and we need not go into the details of it as much has already been said. With these few observations, I support the amendment.

Mr. R. A. Spence : Sir, I move that the question be now put.

The motion was adopted.

Mr. President: The original question was that :

' This Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between ' Votable ' and ' Non-Votable ' items in the Budget, and to submit the whole of the Budget to the vote of this Assembly. '

Since which an amendment has been moved :

' To insert the word ' coming ' before the word ' Budget ' in line 3 where that word occurs for the first time. '

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—51.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Agarwala, Lala G. L.
Ahmed, Mr. K.
Aiyer, Sir P. S. Sivaswamy.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Carter, Sir Frank.
Chaudhuri, Mr. J.
Cotelingam, Mr. J. P.
Gajjan Singh, Sardar Bahadur.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Ibrahim Ali Khan, Lieutenant Nawab M.
Ikramullah Khan, Raja M. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Keith, Mr. W. J.
Lindsay, Mr. Darcy.
Mahadeo Prasad, Munshi.
Manmohandas Ramji, Mr.

Man Singh, Bhai.
Maung Maung Sin.
McCarthy, Mr. F.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Samarth, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Babu L. P.
Sinha, Beohar Raghurir.
Spence, Mr. R. A.
Srinivasa Rao, Mr. P. V.
Subrahmanyam, Mr. C. S.
Thackersey, Sir Vithaldas D.
Wajihuddin, Haji.
Yamin Khan, Mr. M.

NOES—27.

Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bryant, Mr. J. F.
Chatterjee, Mr. A. C.
Crookshank, Sir Sydney.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Gidney, Lieutenant-Colonel H. A. J.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.

Kabraji, Mr. J. K. N.
Mitter, Mr. K. N.
Muhammad Hussain, Mr. T.
Percival, Mr. P. E.
Rao, Mr. C. Krishnaswami
Renouf, Mr. W. C.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Sharp, Mr. H.
Sim, Mr. G. G.
Vincent, the Honourable Sir William.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

The Honourable Sir William Vincent (Home Member): Sir, before we continue the business any further, I should like to have a ruling as to the proper procedure during a division. During the last division, I saw a Member of this House, Mr. Muhammad Yamin Khan, attempting to secure the support of an Honourable Member and force him into the Division Lobby after the division had

been called. After a division has once been called, I should like to know if Members should be left to vote as they wish or if it is open to any Member of the House either by force or by persuasion to induce another Member to proceed into the Lobby when that Member does not wish to do so.

Mr. Muhammad Yamin Khan : May I rise to a personal explanation, Sir ? The Honourable Sir William Vincent is not correct in one way when he says that I was dragging him or that I was forcing him to go. I was simply asking a Member certainly.

The Honourable Sir William Vincent : And catching hold of his arm.

Mr. President : Interference of that kind is a serious offence. The question is one of important principle. The working of this Assembly is based upon the right of free speech and any invasion of that right calls for the severest rebuke from the Chair. I do not propose to take notice of the fact that the Honourable the Home Member has mentioned a particular Member by name, and, therefore, my remarks are addressed to the House and not to any individual Member.

The right of free decision in the Division Lobby is a very important element in the right of free speech, and the Chair may always be relied upon to uphold it.

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : May I ask whether officials should be given freedom to vote as they like by the Government ?

Mr. President : The Honourable Member is a Member of a Party, I understand, and he knows what Party discipline is.

Dr. H. S. Gour : May I suggest, Sir, that in future you may be pleased to appoint Tellers to be present at the Lobby following the Parliamentary practice ?

Mr. President : That is a different though an important point, and the suggestion made by the Honourable Member will be taken into consideration. I may draw his attention to the fact, however, that Tellers could not prevent the improper exercise of force or persuasion within this Chamber, for their duties would lie outside the Chamber.

Mr. P. P. Ginwala : Sir, I wish to reply to some of the arguments put forward by the Honourable the Finance Member. We all know that the Governor General in Council, as a body, has, among its Members, one of the greatest lawyers that the law of England has produced. There is also a substantial element in that body which is well acquainted with the law, and yet the layest of the lay in that body is put forward to make a speech in which he is asked on their behalf to propound the law as to the interpretation of Statutes. Personally, he runs no great risk, but, if he were a lawyer, and if he had to make such speeches on frequent occasions, I doubt very much whether sometimes his practice would not suffer. He lays down maxims of interpretation which even the smallest book on the interpretation of Statutes will tell him are inapplicable. He goes into the history of a question in order to interpret a Statute and by which that question is governed, in that history itself, he gives illustrations which are obsolete. First of all he began by saying : ' What did the Congress ask for ? ' I ask him : ' What does the Congress ask for now ? ' Why does he refer to the Congress of those days

[Mr. P. P. Ginwala.]

when anything that was given by the Government would have been gladly accepted? Why does he not cite the Resolution that was passed by the Congress a few days ago? Further, he cites, as evidence, what Mr. Samarth said two or three years ago. Ask Mr. Samarth now what he wants. He has already told you what he wants. Why not give that instead of what Mr. Samarth asked for 3 or 4 years ago? Then he talks of some deputation and says that they said that they only wanted a trifling control over the Budget. Ask the members of any deputation now. Ask the members of the Burma deputation that saw the Honourable the Home Member not long ago on certain points. Ask them and ascertain what they have got to say about their wants now.

Then he takes up a most peculiar legal position. First of all he says that the Governor General has got no discretion and if he has got no discretion, he cannot be asked to exercise it. On the other hand, if he has got the discretion upon a proper interpretation of the Statute, he says that it is not his function as a Member of the Governor General in Council to advise him to exercise that discretion. Now, Sir, it may be an argument by which he may convince himself and his colleagues, but this House is not going to listen to an argument of this sort. If the Governor General in Council does not consider that it is his function to advise the Governor General, then I say that this House does not agree with that opinion at all. I do not use any stronger language than that. But if the Governor General in Council is not willing to advise the Governor General, then, as I have said in my opening remarks, there is a procedure by which the Governor General can be informed of the opinion of this House, that is, by an Address. If the Governor General wants it, this House can have a motion for an Address, praying that this was what the House wanted. I dare say, that if the House carries this Resolution, it will have no objection at all to adopting a motion for an Address.

Then the Honourable the Finance Member was on weaker ground still when he said that we were allowed to scrutinise the military Budget. If there was any scrutiny, it was like a scrutiny of some sacred document which we have no right to interpret or to comment on at all. I fully admit, as Sir Godfrey Fell has said, that last year we were supplied with memorandum on Army expenditure. We had also informal interviews. I did not refer to them because I thought they were confidential and informal. That was the reason why I did not refer to them. But what practical good did that memorandum serve? We read it, it is true. We were enlightened by it, it is true. But what action were we able to suggest to the Government on that memorandum? It was never brought for discussion on the floor of this House, and it was never subjected to the vote of the Legislative Assembly. All the information of any authentic description that I have got as to the military policy of the Government and its expenditure, is confined to my knowledge of the contents of that document, and nothing more. What we want is a periodical explanation of military policy and expenditure which is only possible during the Budget discussion.

Then he talked about the British Parliament having certain responsibilities, the responsibility for defending India. How will that responsibility be interfered with? It can only be interfered with on the assumption that the further powers that we are asking for will be abused, an assumption which, I say, the Finance Member has no right to make.

In conclusion, I submit that the Government has not made out even a plausible case for the rejection of this motion. It was merely a half-hearted opposition that was put forward through the Honourable the Finance Member, because it is part of his ordinary duty as a Member of the Council to oppose Resolutions which Government instructs him to oppose and which may be inconvenient for the Government if they are accepted by the House. I ask the House to adopt the Resolution moved by me with the amendment which has just been carried by the House.

The Honourable Sir Malcolm Hailey: I must assure the House that it is not part of my duty to answer inconvenient Resolutions, merely because they are inconvenient nor do I address the House at some length and with an apparent tone of conviction when I am not myself convinced of the truth of what I am saying. The rest of my reply will be short. When I know that I am right in substance, when I am convinced that I have truth on my side, I do not care for making small dialectical points. Mr. Ginwala referred to me as the 'layest of the lay' in the Governor General's Council. It no doubt causes some amusement to a lawyer to see a layman attempting to deal with his own subjects: he derives no doubt a good deal of humour from the situation. But it is at times just as amusing to the layman to hear a lawyer attempting to beguile the uninstructed. We were told by Mr. Ginwala that this statute must (like all statutes) be construed strictly and grammatically and we were referred by one of Mr. Ginwala's supporters, who, I think, is also not without some knowledge of law, to the interpretation which would follow if we rightly appreciated the position of the comma in the section. He quoted to us Maxwell on the Interpretation of Statutes. I am not sorry to be able to quote to him from the same high authority. You will find at page 68 of the 5th edition, that :

'Both marginal notes and punctuations, since 1850, appear on the statutes as printed by Parliament. Nevertheless, it has been said that they are not to be taken as part of the statute.'

And you will further find that it was laid down by Lord Esher in 1890, that :

'It is perfectly clear that in an Act of Parliament there are no such things as brackets and there are no such things as stops.'

So, Sir, the situation is not entirely without humour for the mere layman. Then Mr. Ginwala repudiated my allusions to what the Congress had asked for and the Moderates had asked for in 1919. He asked me to refer rather to what the Congress asked for now and what his friends from Burma were asking for now. It is, of course, something in both cases of a perfectly intransigent nature. If he means to associate himself with those very intransigent bodies, his association with them does not, to my mind, strengthen his case in the slightest. I did, of course, point out that this Assembly has already obtained more than its fondest friends were asking for in 1919; but I pointed to this merely as a proof that the British Government has not been blind to the nature of its aspirations, that Government is perfectly well prepared to recognise the strength of the claim for advance, and that consequently it is not necessary to bolster up the case either with threats or with innuendos or, if I may say so, with bribes. Lastly, Sir, I must still maintain this position, that it is not my intention nor that

[Sir Malcolm Hailey.]

of any of my Honourable colleagues to advise the Governor General in a matter in which his decision is by law personal and individual. That is a constitutional position which we have good authority for adopting; and whether it pleases Mr. Ginwala or whether it displeases him, we cannot assume to ourselves a power of control over the Governor General that we do not constitutionally possess.

Mr. President: The question is :

‘That this Assembly recommends to the Governor General in Council that such steps as may be necessary may be immediately taken to abolish the distinction between ‘Votable’ and ‘Non-Votable’ items in the coming Budget, and to submit the whole of the Budget to the vote of this Assembly.’

The motion was adopted.

RESOLUTION *RE*: EXPORT OF MANURES AND OIL SEEDS.

M. K. Reddi Garu (South Arcot *cum* Chingleput: Non-Muhammadan Rural): I beg to lay the following Resolution before this Assembly for its consideration :

‘That this Assembly recommends to the Governor General in Council :

- (a) that the export of all kinds of manures from India be prohibited as soon as possible, and
- (b) and that a duty of 10 per cent. *ad valorem* be levied on all kinds of oil seeds exported from India.’

I think, Sir, I ought to state at the outset why it is that I am moving this Resolution here to-day, when it was one of the subjects on which the Board of Agriculture came to an almost unanimous decision in their sitting of 1919 and when their recommendations are under the consideration of the Government of India. My chief reason in adopting this course is to place before the Government the views of this popular Assembly and thus to strengthen its hands. This House, as a responsible body, responsible to the electorate that sent them here, is better fitted to discuss questions on Agriculture and how to improve it; because I am sure most of us are landholders and represent the Agricultural community, either directly or indirectly. I am sure, Sir, there is no body here who can loudly boast of ‘not having an inch of land nor paying a half-penny tax.’

If this House will allow me the indulgence to refer to the community to which I am proud to belong, a community which has, centuries back, changed its sword to its plough, I can tell you with a certain amount of authority that there is not a family, not an individual Reddi, who has not an inch of land to plough, to sow his seed and to bring his harvest home. We do not belong to that class of absentee landlords, nor do we come under that pedigree of rack-renting landholders. We do our own ploughing and sowing.

Sir, in placing these facts before you, I am only asking you to believe me when I say that our lands have depreciated in their fertility and that they do not yield a fourth of what the lands in other countries like Spain or Japan yield.

If the average out-turn of paddy per acre in Japan is $1\frac{1}{2}$ tons, in Spain $2\frac{1}{2}$ tons, the yield of our lands is only half a ton ; What is this low yield due to, if it is not due to the impoverishment of our soils, which has been taking place as the result of the policy of '*Laissez faire*' strictly practised on this country. As the result of '*illegitimate exports*' (by which I mean the export of commodities which lowers the productive capacity of the country, such as fish, oil seeds, oil cakes, bones and food grains). there has been a continuous exhaustion of the soil of our country. It is known to you, Sir, that we have long been the exporters of raw materials—the produce of our soils. We have been exporting more than we have been importing ; and what we owe to Great Britain by way of Home charges, and what is sent out of India by the European planters, merchants and barristers and doctors and others, and also the interest earned by European capital in India—all this large amount is adjusted *not* by sending gold from India, but by the excess of our exports, equivalent to that amount. This has been termed by a school of economists as the 'drain' from India. In other words, I call this not a 'drain,' but in a quite different way '*a forced exhaustion of the soils of India*'

Scientists have proved that, unless what we take from the soil is replaced in the shape of manures, it will result in impoverishment of the resources of the soil ; and we see this to-day exhibited in India. Unless an urgent remedy is sought, the result cannot but be ruinous. To what extent soil exhaustion in India has already proceeded can be realized from the Reports of the Soil Surveys of the various Presidencies :

'Godavari Delta, which is generally considered to contain some of the most fertile lands in the Madras Presidency, shows a great deficiency in available phosphates and nearly half the Delta a deficiency in its Nitrogen content.'

So is the Krishna Delta. Mr. Clouston, in a paper read in one of the Science Congresses, stated :

'That the four chief soils of the Central Provinces had in most districts reached a maximum of impoverishment.'

In a similar manner Mr. Davis has emphasized that the Behar soils are deficient in Phosphoric Acid contents. In this connection, Mr. R. V. Novis of Madras said, in one of the Agricultural Conferences, that :

'If we remember that an increase of 5 per cent. only in the average yield would provide an extra 1,000,000 tons of rice a year in Madras alone, we can realise, to some extent, what the annual loss in the whole country in this crop and other crops ought to be.'

Sir, it has been conclusively proved in this country that, by using manures like fish guano, oil-cakes, bones, an increased yield of crops could be obtained, and, from the point of economy, it has also been proved to be profitable to the cultivator. If *this* is the fact, it only remains in the hands of the Government to place the manures within the reach of the poor cultivators, who, in the present state of their poverty and indebted condition, are not in a position to purchase them at the high prices ruling in the market. When we find that nearly £6,29,000 worth of bones, fish and other manures, £9,20,000 worth of oil cakes, and £17,116,000 worth of oil seeds, were exported in 1913-1914, we cannot but feel that the poor Indian cultivator is left helpless before the foreign competitor. When nearly £17 000,000 worth of oil seeds are taken away from the country, it only means that the country is so much the poorer for it, since the oil seed crop is a very exhausting one to the soil, so that, if the by-products are not returned to the latter, the result is a continual drain on its

[M. K. Reddi Garu.]

fertility. Again, Sir, the importance of our oil-seeds to the foreign countries is seen when we find that the European countries have imposed an import duty on oil, while allowing *free* entry to the whole seeds and cake. At present, the conditions in Europe are such, that it is really doubtful whether these duties would be maintained if the supply of whole seed were restricted by a heavy export duty; and I think we have at present a favourable opportunity to stop the export of manures and control oil seeds.

If a duty on oil seeds is not levied when we prohibit the export of oil-cakes, the result would be, that the foreign countries would try to purchase more of oil seeds even at a high price. Oils will no more be extracted in the country because of the low price which the oil-cakes will fetch when the export is prohibited. The available oil-cakes will be comparatively very small and the prices will rise enormously owing to local demands. So, unless a reasonable export duty is levied on the oil seeds which go out of our country, to prohibit the export of oil-cakes alone will place us in no better position, if not make our position worse. I am of opinion, Sir, that most of the foreign countries cannot do without our oil seeds. The duty levied on the seeds will not only give us an additional revenue, it will tend to stimulate our oil-pressing industry and will also check the large export of oil seeds and thus place enough manures at the hands of the poor cultivators. This is the only way to stop the exhaustion of the Indian soil any further. From the economic point of view, the loss of the soil fertility, which is a decrease in the capital of the country is really more important than the loss to a grower, due to a reduction in profits.

I repeat again that the soil fertility which I call the national wealth, is more important than the individual wealth of a consumer or a producer. We should remember that the loss to the producer is compensated for by the increase in the fertility and the productive capacity of the soil, as the result of an intensive system of cultivation due to the conserving of available manures within the country. What, after all, Sir, is the loss sustained by the producers of the oil seeds, by the levy of an export tax, when we remember that we produce much more of rice, wheat and cotton than oil seeds? A small increase in the output of these crops would make good the small loss sustained by the producers and exporters of these seeds. Sir, a certain amount of sacrifice is indispensable, when the large interests of the country are at heart.

Sir, the whole world is in need of more and more of food and more of raw produce. The cry has been universal from China to Peru: enhanced production and cheap food is the chorus everywhere. Enhanced production can only be brought about by increased fertility of the soil, by the reasonable-manurial treatment. Therefore, all the available manures must be conserved in the country by *total prohibition*, if not by a very heavy export duty.

In short, since a large proportion of the soils of the country are already suffering from starvation, or are approaching that state, and since the large supply of indigenous manurial products is being sent out of our country at an increasing rate, resulting in a prohibitive price to the poor cultivator - then such a deficiency must only be met by the Government coming forward by lending a helping hand, accepting and giving effect to the Resolution now before this House.

In this connection let me read to you what the authors of the Indian Industrial Commission have said :

'We take this opportunity of stating, in the most emphatic manner, our opinion of the paramount importance of Agriculture to this country and of the necessity of *doing everything* possible to improve its methods and *increase* its out-put.'

Here is a promise given '*to do everything*' to '*increase its out-put*' and it now remains to you, Sir, to fulfil this promise.

Dr. Nand Lal (West Punjab: Non-Muhammadan): Sir, this Resolution, which has been moved so ably and has been supported by authorities and citations, speaks for itself. As you know, India is considered to be, and it is a fact, an agricultural country, and consequently, for this country manures are indispensably necessary. If manures are exported, it means that the exhaustion of the lands in this country will be accelerated. Therefore, it is necessary for all of us, because we feel that this Resolution is a very modest one, to support it. So far as the question of export duty is concerned, it has been very well discussed and the suggestion which is offered is very appropriate and reasonable. On both these grounds, I very strongly and sincerely support this Resolution and I hope it will have the unanimous sympathy of the whole House.

Mr. J. Hullah (Revenue Secretary): Sir, the proposal in the Resolution is an attractive one. The soils of India need more manuring. Some say they are being exhausted. Manures are being exported. Stop them from being taken away and you have the remedy. But I think we need a little more consideration before we accept a proposition which will interfere very seriously with one of the greatest trades of India, a trade which, before the war, was valued at 26 crores of rupees and is now, owing to the general rise in prices, far more valuable. In the first place, let me assure the Assembly that we are at any rate in no greater danger of losing our manurial resources than we were before. We have not got statistics of production for all our seeds, but we have for most—linseed, rapeseed, mustard, sesamum, cotton seed and ground-nut—and—whereas before the war we used to export from one-third to one-fourth of our oil seeds, and I include in that, the equivalent of oil-cakes and oils, we have exported since the war only one-fifth.

Again, I have looked up the statistics for the last 20 years and I find that the cultivation of oil seeds is not in any way extending at the expense of foodgrains or food-crops. But it may be said, why not conserve the whole of your oil seeds? The fact is that, if we did, the oil-cakes made from them would not be used by the cultivator for manure. It is said that the cultivator cannot afford to buy the cake. Certain evidence that we have shows that, even at the present enhanced prices of oil seeds and cakes, it does pay to use cake as manure. To take a single instance that has been given to me 20 maunds of castor-cake applied to a crop of sugarcane, the production of gur being 80 maunds an acre. The price of the castor-cake has risen from Rs. 50 to Rs. 75; the value of the produce has risen from Rs. 420 to Rs. 720. The prices of all agricultural produce have risen very greatly and the increased cost of manures is more than set-off by the rise in the value of the produce. In the instance I have just given, I am well aware that the other costs of cultivation have also increased, wages, the cost of cattle and so forth but still there is a very substantial margin that does make it worth while for the

[Mr. J. Hullah.]

cultivator to buy and use manures. Still I have not answered the argument that, if you restrict or prohibit exports and thus reduce the prices of cake-manure, you will at any rate diminish—if you do not altogether overcome—the reluctance of the cultivator to use the manures that India produces. Let us consider the results of an export tax. A light tax is of no use except for revenue purposes, because foreign countries would simply continue to outbid India. Then take a heavy tax; if the foreign purchaser bought as much as he did before, notwithstanding a heavy tax, how are you any better off than you were before, in the matter of your manurial resources? If, on the other hand, the tax falls upon the cultivator, then you may take it as absolutely certain that he will restrict his cultivation of oil seeds and the production of the very manurial resources that you wish to increase will be discouraged and decreased by your export duty. Total prohibition is even worse. You simply throw away an enormous income that India at present receives; you make the exchange move against you; you decrease your purchasing power: and, what is worst of all, you paralyse, if you do not completely ruin, your very important oil-pressing industry. Similarly in the case of fish manures, if you prohibit their export, you will stop at once the working of some three or four hundred factories which, I am told, have recently been established on the west coast of India for the manufacture of fish guano. As regards fish-manures, we are told that since the manure consists of only the residual part of the fish, which would come to the nets in any case, there is no risk of a decrease of production. This argument leaves out of consideration the fact that fish are mainly caught for human food, and if you do not allow the residual parts of the fish to be exported, your supplies of human food will be diminished, and the price of fish be increased. Still it is important that the cultivator should, if possible, use the resources that he is at present sending away, and to do that you must teach him to use them; you must increase his banking facilities and you must introduce some sort of easy agricultural credit. The present defective position in these respects can be remedied, but it does not seem wise to attempt a remedy by penalising a valuable export trade. If you throw back on the country a large amount of manure which you know for the present will not be used, you simply impoverish your cultivator by depriving him of a market; you decrease his purchasing power and you handicap your industries, which depend for their prosperity on the purchasing power of the masses: and the cultivator represents something like 70 per cent. of the population.

This, then, is the attitude that the Government adopts at present towards this Resolution; we feel that it would be dangerous to accept it. At the same time, it is not meant to be our final attitude. We know that the subject is one of great importance and it may be that we shall have to take some steps in the direction suggested; but the matter is being referred to the Board of Agriculture next month. It was considered by the Board two years ago, but not very thoroughly, and the Agricultural Adviser has again referred it to the Board. We prefer to wait until we see what the Board has to say. Still more important is the fact that there is at present a Tariff Commission sitting. It is part of their duty to look into the whole export and import policy of the Government, and they will doubtless consider carefully and report their suggestions regarding the policy which should be pursued in respect of the export of oil seeds and manures. The Government of India will consider

their recommendations and the Assembly, of course, will have an opportunity of doing so. I submit that it would be better to wait until we get the results of these further deliberations than to accept at once the policy advocated in this Resolution; for we think it would be safer not to rush into a policy which might seriously imperil, not only a great export trade, but also the industrial progress of India.

M. K. Reddi Garu: In view of the assurance given by the Honourable Member, I beg leave to withdraw my Resolution.

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

MESSAGE FROM THE COUNCIL OF STATE.

Mr. President: I have received the following Message from the Council of State:

'That the Resolution to the effect that the Bill to establish and incorporate a unitary teaching and residential University at Delhi be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 14 Members, was considered by the Council of State at its meeting of the 26th January, 1922 and that the Resolution was concurred in by the Council of State. The following Members of that body were nominated to serve on the Joint Committee, namely:

The Honourable Raja Sir Harnam Singh.

The Honourable Mr. Mayhew.

The Honourable Dr. Ganganath Jha.

The Honourable Sir Zulfiqar Ali Khan.

The Honourable Mr. Kale.

The Honourable Mr. Lalubhai Samaldas, and

The Honourable Mian Sir Muhammad Shafi.'

The Assembly then adjourned till Eleven of the Clock on Saturday, the 28th January, 1922.