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THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1922



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LEGISLATIVE ASSEMBLY.

Thursday, 9th March, 1922.

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

COMMUNICATION FROM MR. SPEAKER.

Mr. President : I have to acquaint the Assembly that I have received a communication from the Right Honourable the Speaker of the House of Commons to the effect that any Member of this Chamber, or any official connected with the work of the Indian Legislature, or of the Provincial Legislative Councils, will be welcomed on going to England, and that special arrangements will be made for his reception in the House of Commons. Opportunities will be offered to him to study the procedure of the House.

I should be obliged if any Member intending to go to England will give me ample notice of his intention, in order that I may send his name with a personal recommendation to the Speaker.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : May I ask you to convey to the Speaker of the House of Commons our warm acknowledgments and thanks on behalf of the Members of this Assembly, for his great courtesy ?

Sir Jamsetjee Jejeebhoy (Bombay City : Non-Muhammadan Urban) : I wish to associate myself with what has fallen from Dr. Gour.

Mr. President : I may take it that the Assembly desires me to make suitable acknowledgment to Mr. Speaker.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Do I understand that the Government will defray the cost of the journey and the return passages ? (Laughter.)

Mr. J. Chaudhuri (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : In the present state of our finances I strongly object.

BUSINESS FOR THE WEEK ENDING MARCH 13TH.

Mr. President : I need not call upon the Honourable Home Member to make a statement of business for next week, because as Members are aware, the working days of next week are entirely devoted to voting on Demands.

RESOLUTION *RE* RELEASE OF ALI BROTHERS.

Mr. Mahmood Schamnad Sahib Bahadur (West Coast and Nilgiris : Muhammadan) : Sir, the Resolution standing in my name runs as follows :

' This Assembly recommends to the Governor General in Council that he may be pleased to move His Excellency the Viceroy of India to set Ali Brothers and others at liberty in exercise of the Royal prerogative at an early date.'

[Mr. Mahmood Schamnad Sahib Bahadur.]

I think, Sir, this is a very important Resolution, and request the Honourable Members of this House to give it their calm, earnest and careful consideration. Upon it depends to a great extent the future contentment and pacification of the great masses of India. Great and far-reaching results are achieved by far-sighted statesmanship and tactful manœuvring. I hope this House will fully appreciate the underlying principle and rise to the importance of the occasion.

I will request the Honourable Members to kindly consider whether the great masses of the people do not consider the Ali Brothers, Pandit Nehru, C. R. Das, C. Rajagopalachari and others as their trusted leaders and love and respect them as such, and what a relief it will be for them to know that their Government is after all a humane Government and it is not the Government's intention to suppress the lawful aspirations of the people by incarcerating their leaders. (Hear, hear.)

Now, Sir, a calmer atmosphere has been created by the recent Delhi decision of the All-India Congress Committee to suspend Civil Disobedience and all other activities which may tend to violence or may even result in hardship or inconvenience to the public. I beg to submit, therefore, that the conditions foreshadowed by His Excellency the Viceroy in his Calcutta speech, have been fulfilled. It is therefore only meet and in the fitness of things that the Government should appreciate their action and meet them half way. I know, Sir, it may be argued that the Congress has not abandoned their programme, but only suspended it in order to prepare the ground and come out on a future occasion, with renewed vigour.

Well, Sir, is it statesmanlike to expect such an august body with hoary features as the great Indian National Congress to come down on their knees and proclaim to the world that they are humiliated and have abandoned their programme. As practical politicians we are to take things as they are. I think it will be quite impolitic on the part of the Government to wait further, in the hope, perhaps, of seeing the Congress abandoning its principles altogether. Now is the time for the Government to show its large-heartedness, and that it is above all petty considerations. I appeal to the Government not to miss this golden opportunity of pacifying the people and thereby restoring permanent peace. I say golden opportunity, because, His Royal Highness the Prince of Wales has not yet left the Indian shores and we are on the eve of the settlement of the Turkish question, in a way satisfactory both to Turkey and the Indian Mussalmans as was suggested in His Excellency the Viceroy's speech. It is fondly hoped that the heir-apparent to the throne of the British Empire, the Shah Zada of India, will be enabled by His Royal father, His Imperial Majesty the Emperor of India, to mark his first visit to his future Indian Empire by an act of clemency fitting such an auspicious occasion. Nearly twenty thousand of the best sons of Mother India are now suffering in Jail—for what—only for a technical offence. Can our Shah Zada confer a greater boon on India? Is there another greater, more magnanimous, and more statesmanlike act to be done than the setting at liberty of all the political prisoners of India, and making His Royal Highness's visit always remembered and blessed by all the Indian men, women and children? Do you think, Sir, that India is in a position to appreciate any other boon, however tempting it may be, when the best of her sons are rotting in jail? Now, Sir, I shall go into some details of the case in

which the Ali Brothers, Dr. Kitchlew and others were convicted. I shall state at the outset that they were acquitted on the main charges and were convicted only on the minor charges of a technical nature (under sections 505 and 117, Indian Penal Code).

The chief thing considered in this case was whether the various Royal Proclamations by Queen Victoria and her successors have the power of securing to each man the free exercise of his religion. Mr. Kennedy, the Judicial Commissioner, of Sind thought :

‘ Any proclamation, therefore, which secures to the subject the free exercise of his religion, cannot repeal or make invalid any of the laws of the land, which render certain Acts punishable, but if it should appear at any time that there was a variation between any such proclamation and any such law, then we should have to confess that our humble intelligence was not sufficiently powerful to understand the meaning of both and we should have to apply the law of the land, which we are bound to administer.’

Mr. Mohamed Ali's contention was that no Law could compel him to do a thing against his conscience or the injunction of his religion, his religion teaches him to hold the life of a fellow Muslim as sacred, and he cannot be compelled by any Law to kill him without reasonable grounds that satisfy his conscience, just as a Hindu can under no circumstance be compelled by any Law to kill a cow whose life he holds as sacred.

The Honourable Sir William Vincent (Home Member) : Sir, I wish to know whether the speaker is in order in discussing legal questions contained in a judicial pronouncement or in criticising the legal knowledge or conduct of a judge in this Assembly.

Mr. President : It is not in order to bring the action of the judge into discussion in this Assembly.

The Honourable Sir William Vincent : That is what, I contend, the Honourable Member is doing.

Mr. Mahmood Schamnad Sahib Bahadur : I am not discussing the action of the judge. I am simply stating the defence of the accused in the case. I am not criticising the action of the judge or any other point. . . .

(A Voice : ‘The defence taken up would be a criticism of the judgment.’)

Mr. Mahmood Schamnad Sahib Bahadur : This does not mean of course that a Muslim can kill a non-Muslim or a Hindu can kill any other animal including men without reasonable grounds. What is assured here, is not, that one should be permitted to do anything punishable under the Law of the land, on the pretext of religious sanction, but that no Law should compel a man to do anything which his religion prohibits. This is no quibbling. I, however, don't want to go further discussing the legal niceties ; I will leave it to my lawyer friends if they like.

I think, however, the Government did not act wisely in imprisoning the Ali Brothers. Even some of the Moderate papers criticised at the time the action of the Government as impolitic and unjustifiable. The ‘Sind Observer’ remarked that :

‘The Khilafatists have won as great a moral as political victory and the ill-advised prosecution for the stopping of which, we pleaded in vain, in a series of articles, has failed . . . Unwittingly the Government has assisted their opponents in the gigantic advertisement of their activities.’

[Mr. Mahmood Schamnad Sahib Bahadur.]

What I ask now is, even leaving out of consideration the legal aspect of the question, does not statesmanship require the releasing of our political prisoners now? Does not political expediency require it? Does not the peace of the country require it? Does not the continuance of friendly relations between the ruler and the ruled require it? Therefore, Sir, I earnestly appeal to the Honourable Members of this Assembly to fully consider the necessity of creating a more peaceful atmosphere and thereby preparing the way for the Government and the leaders of the different political parties to meet together and devise means of redressing the grievances of the country and also of assuring the future progress and peace of the motherland. With this object in view, I request this House to pass this Resolution unanimously.

As there are other Honourable Members better acquainted with the details of the specific cases of the other patriots that are in jail, and as some of the Members have also given notice of amendments, I leave them in the hands of more qualified persons.

Sir, before resuming my seat, I wish to assure you that in moving this Resolution I am not actuated by any other consideration than that of serving the Government and the country in their best interests. Is it not our duty to inform the Government and try to convince them what we consider as best calculated for the peaceful administration of the country? We have no sympathy for the non-co-operators nor have they any for us. Indeed, they boycotted us. But we are not to be led away by such and personal considerations.

With these words, Sir, I move my Resolution.

Sardar B. A. Dalal (Bombay Northern Division: Non-Muhammadan Rural): Sir, I do not wish to record my silent vote against this Resolution. What does my Honourable friend ask us to do? He wants us to recommend to His Excellency the Governor General in Council that two men who have openly declared themselves to be prominent members, nay leaders of a revolutionary party, to whom the terrible happenings in Malabar could be traced, who have been tried in His Majesty's Courts of justice and convicted by the voice of their own countrymen of a most serious crime, namely, tampering with our army, be set at liberty and that too when? When the country is in a most disturbed state, when reports of violence reach us almost every day. Is this a faithful discharge of our duty? I trust this Honourable House will make it absolutely plain to the Mover of this Resolution that they are in no mood to listen to such silly proposals, on the contrary they are prepared to support Government every time they take action against those who are out to overthrow the Government established by law in this country, however great the person challenging the law may be.

In my humble opinion, the Resolution did not deserve any serious notice from us and my only object in speaking is to give an assurance to Government, and here I am expressing the views not only of my co-religionists but of the entire constituency I represent, that in their endeavours to restore peace to this country Government will receive all necessary support, however harsh their measures may be.

Sir, one more word and I have done. I commend to the Mover of this Resolution and his supporters the following words of the Pretender as published

in his issue of 'Young India' of 2nd instant:

'The session of the All-India Congress Committee was a forcible demonstration of the fact that we (that is to say the non-co-operators) are retarding the country's progress towards Swaraj and not the Government'.

With these few words, I strongly oppose the Resolution.

Khan Bahadur Zahiruddin Ahmed (Dacca Division : Muhammadan Rural) : Sir, I will be very brief. My Honourable friend, the Mover, has brought forward this Resolution at a very inopportune time. However, to discuss the Resolution, we are to take up the question of Khilafat wrongs and along with it Moslem loyalty for the last forty years. Agitation against the Government started forty years ago. The De Valera of Bengal of the time was at the head of it. Great inducements and allurements were put before the Mussalmans to seduce them from their loyalty, but the Mussalmans remained firm under the leadership of Sir Syed Ahmed of Aligarh fame 40 years ago and latterly under Nawab Bahadur Sir Salimullah of Dacca. Instead of rewarding the Moslems for their past loyalty, in the year 1911, Lord Hardinge rubbed out their province of East Bengal to satisfy the De Valera of West Bengal. It was a great shock to Nawab Bahadur Sir Salimullah, who never recovered from it, as well as to the rest of the Mussalmans. Soon after this, the last terrible war came. The Mussalmans were wanted to fight their own Pope or the Khalif. We forgot the injury done to us in Bengal and fought for Great Britain. I too sent my son, after the fall of Kut, when everybody thought the British Empire had received a mortal wound, to Mesopotamia. Through the grace of God the war was won. It must be admitted we Mussalmans had a hand in winning the war for Great Britain. We were expecting great rewards. Instead of rewarding us, instead of fulfilling the promises given to us by the British Cabinet, the first thing the British Cabinet did was to rub out our cherished religious institution 'the Khilafat'. Opportunism or Lloyd Georgeism came into play. The loyalty of the Mussalmans was put at a discount and seditious agitation was given a premium. The Mussalmans in India went on their knees, wept bitterly before the Cabinet, pointed out over and over again that they had been all along loyal to the Government and that their religion or Khilafat should not be broken up and wiped out. Lloyd Georgeism remained adamant. The British Cabinet said : 'We have got now the great opportunity to smash your Khilafat, why should we not do it?' At this time a party which were always hostile to Government betokened us to go to their camp and told us there to stand by them, and they will redress our Khilafat wrongs. The result was the present upheaval in India, which was pure and simple Lloyd Georgeism. It was Lloyd Georgeism which forced us into the wrong camp, and made us traitors to the Government.

Now, I will be brutally frank, perhaps I am always so. The first thing for the British Cabinet to do is to restore confidence in Moslem India and the Moslem world. The best way to do so is for Lloyd Georgeism to go. It is honesty and justice that can keep and govern an Empire and not the opportunism, shuffling and tortuous policy of Mr. Lloyd George. Western policy is most unsuitable to govern an eastern land. We understand only right or wrong. Expediency, hypocrisy and opportunism are hateful to us. It is a misfortune in India to have Gandhism and it is a great misfortune to Great Britain to have a great Lloyd Georgeism. It is opportunist Demagogism in both places. (Cries of 'Order, order.')

Mr. President: The Honourable Member's object of attack must be a Government responsible to this House and not to another House.

Khan Bahadur Zahiruddin Ahmed: Sir, I will leave that out, but I wish to say that one is keeping alive the other. Gandhism keeping alive troubles here and Lloyd Georgeism in the other place. When one will disappear, the other will surely follow.

With these words, I ask my Honourable friend to withdraw this Resolution now and bring it forward after the Khilafat wrongs are righted. I say, put me in jail, transport me, shoot me, hang me, kill me, flay me alive, kill all the Mussalman Members of this Honourable House, make my land of Eastern Bengal a Moplah-Malabar land, or take away these angels of reforms altogether, but give us back our Khilafat. We must have our Khilafat or Moslem India will have to be made a Malabar. You will have to build pyramids bigger than those of Egypt with Moslem dead bodies. You will have to reign sitting on dead bodies, a mountain heap of dead bodies in India. What will be the designation of that Government? Good or—I do not like to name it—the other Government, of the proverbial gentleman.

With these few words, I ask my Honourable friend to withdraw his Resolution and bring it afterwards, after our religious wrongs are righted, when I shall be the first man to support it or I will move it myself.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor: Non-Muhammadan Rural): Sir, the terms of the Resolution seem to me quite unexceptionable. That is, the Resolution asks His Excellency the Viceroy to exercise his prerogative of mercy which is vested in him as the representative of the Sovereign here. So far, it seems to me quite unobjectionable. It further asks the intercession of the Governor General in Council to make that prayer to His Excellency the Viceroy. That, probably, is a superfluity. Any subject is entitled to ask His Excellency the Viceroy to exercise his prerogative. Now this prayer asking for the exercise by the Viceroy of his prerogative has got its own implications. It means that the supplicant recognises the authority of His Excellency the Viceroy and concedes to him the power which he has got. That is the cardinal element underlying this Resolution. If that is conceded, either by the persons on whose behalf this Resolution is moved, or if the Mover has got the authority of those persons to recognise the authority of the Government and of the Viceroy, then, I think, it will be a very easy matter. That is one point on which we require an assurance.

Then, there is the point of religion which has been touched upon, namely, the question whether the religious law of an individual can override the laws of the State. As to that, speaking as a lawyer, I consider the civil law is supreme over religion, over military, over every other consideration. That is a point about which it is no good mincing matters.

Then, Sir, this Resolution is, I am afraid, a bit belated. We had early in the month of January a Resolution moved by my Honourable friend, Mr. Iswar Saran, which was comprehensive; and Resolutions like these regarding particular individuals might be taken to have been comprised in it. But unfortunately Members of the Assembly were not quite wide awake then. They missed an opportunity where all these points could have been well thrashed, and now one after another of such Resolutions are coming up before the Assembly. It is unfortunate that these Resolutions are not likely

to receive that enthusiastic support which might have been obtained for them if they had come in time.

There is another matter about which I have felt some misgivings. The Resolution which has now been moved seems not to have that full and strong support of our Muhammadan colleagues in this Assembly. I do not know why that is so, and that also is a matter which might be cleared up; and we who recognise the law are put in this difficult position. If we get an assurance that these persons who are now undergoing imprisonment would be thankful for any intercession we make on their behalf, or would even tolerate any intercession which we now undertake, it would be some guarantee and it would be some assurance for us to decide our attitude in this matter.

These are the points which have exercised my mind ever since these Resolutions were tabled, and I have placed them before the House for such consideration as it may think fit.

Maulvi Miyan Asjad-ul-lah (Bhagalpore Division: Muhammadan): (The Honourable Member spoke in the Vernacular*.)

The Honourable Sir William Vincent: Sir, I confess to having been somewhat misled by the terms of the Resolution. From the language used I thought that the intention was to ask for a recommendation from this House for clemency to Mahomed Ali and others convicted in the Karachi trial. But the speech of the Honourable Mover has gone very much further than that, and he has now asked for a general amnesty for all prisoners convicted in connection with recent political movements basing his recommendation largely on the ground that such an amnesty would be a gracious act to celebrate the visit of His Royal Highness the Prince of Wales whom the non-co-operation people have of course so warmly greeted and welcomed. It would have been better if the Honourable Member had based his recommendation on something more solid. I want however to confine myself to the Resolution of which we have specific notice, namely, the question of the release of these two brothers. Now, there are two aspects from which this recommendation may be considered, one dealing with the legality or propriety of the sentence, and the second dealing with any special reasons for clemency or for remission of the sentence. Sir, I strongly deprecate discussion of the legality or propriety of any sentence of a Court of law in this Assembly. I maintain that this is not the proper forum in which such a matter can be debated. We have not the knowledge, we have not the information, to deal with it; Sir, I am accustomed to hear any interference or alleged interference by the executive with the judiciary condemned in the strongest terms, but I believe that interference by the Legislature with the judiciary would be a still more fatal error. I can conceive of nothing which is more likely to destroy the prestige of the judiciary, to bring it into contempt and to endanger its impartiality. The law provides remedies for cases of injustice and irregularity. If a man thinks that he has been unjustly convicted, if he thinks that there has been any impropriety or irregularity in the proceedings, then there is a right of appeal or revision. There is also a right of memorialising the Governor General or the Governor General in Council or the Local Government for clemency or a remission of sentence. We have received no such application in the Government of India, and indeed I should

*The original speech, together with a translation, will be printed in a later issue of these Debates.

[Sir William Vincent.]

like to know myself whether the Honourable the Mover in this case has any authority from those on whose behalf he is appealing to this Council to make this motion; if not, is it not a little improper for him to do so?

Sir, holding these views it is impossible for me, it would be improper for me, to attempt to discuss the legal aspect of this case, and I am not going to do so. I will only touch on one point, and that is this suggestion regarding the force of a religious law.

It seems to me a dangerous principle, the suggestion that religious law must override the law of the land. (Hear, hear.) What would be the position of Muhammadans if the Hindu law relating to cow-killing were held to prevail and if Hindus sought to enforce it by violence or any other measures they might think fit? Would that be accepted as reasonable by Muhammadans in this House. (*A Voice*: 'No, No'.) Certainly not, and very rightly not. Sir, all the questions of law in this case, however, are discussed at length in the Judge's charge, printed copies of which I will have placed in the library. I have not got the printed copies yet, but I will have the document printed and I believe that many Honourable Members will read it with great interest, for it is really a very lucid and illuminating document.

The facts, so far as procedure goes, in this case, are as follows. On the 3rd of August we wired to the Government of Bombay drawing their attention to the proceedings of the Karachi conference and suggesting criminal proceedings against those responsible for certain acts. On the same day we received a wire from the Bombay Government, which evidently crossed ours, saying that they were considering the prosecution on the recommendation of the Commissioner in Sind. On the 5th August we received further information that the matter was still under consideration and had been referred to their law advisers. Subsequently, the Honourable the Law Member and other eminent lawyers considered this question of prosecution at Poona, and finally it was decided by the Government of Bombay with the full approval of the Government of India to proceed under the ordinary criminal law of the land, under the Penal Code of 1860, against 7 persons. They were ultimately prosecuted before Mr. Kennedy, the Judicial Commissioner, Karachi, on charges under sections 505 and 131 read with section 120-B, which is a section dealing with conspiracy, and sections 109 and 117 which, I think, relate to abetment. The accused were all acquitted on two charges. The trial was partly by a jury and partly with assessors, the same gentlemen sitting as jurors and assessors. The gentlemen sitting as jurors acquitted all the accused on these two charges. 4 out of the 5 gentlemen sitting as assessors convicted all the accused, except one, on the remaining charges, and when Honourable Members see the copy of the charge in the library when it is placed there, I think they will see that it is incorrect to say that those were minor charges. The convicted persons were then sentenced to two years' rigorous imprisonment and one, a Hindu, who called himself Shankaracharya, though I have been told he has no right to be called by that title, was acquitted and discharged.

I now turn to the other aspect of the case. As I have said, I can well conceive of cases in which a man may deserve clemency or lenient treatment for various reasons, by reason of the character of his offence, by reason of a change in circumstances or political conditions which may make it unnecessary to retain him under detention or by reason of previous good conduct or

subsequent penitence. Now I should like the House to bear with me when I examine this case from these aspects. What is the character of the offence of which these men have been convicted? The offence is, to my mind, a most dangerous one. The essence of it is tampering with the loyalty of the troops, seducing Indian soldiers from their allegiance, from their duty to the King Emperor and I know of no graver form of treason. (Hear, hear.) What would be the result if men were allowed to commit such an offence unchecked, if no steps were taken against them? Sir, we have seen what has been the effect of inflaming the ignorant masses to whom similar appeals have been made by Mahomed Ali and his brother and others of the same class. We have seen the results of this recently in many outbreaks including the Moplah rising which is still smouldering. We know what our difficulties were in dealing with that rising. Would not these difficulties and the loss of life and property have been multiplied a hundred fold if our troops had been infected with the poison of disloyalty? Would not many more lives have been lost? Many have been lost, but thank God, many have been saved. Many Hindus have been saved from death and dishonour and by whom? By these very soldiers (Hear, hear), the corruption of whom it is now sought to condone. Sir, I submit in my judgment there is nothing in the character of the offence committed by these men which entitles them to any consideration from any loyal subject of His Majesty. (Hear, hear.)

Now I turn to the present political conditions. Can it be said that there has been any change in the political situation which justifies leniency in a case of this kind? Have Honourable Members read recent speeches of Mr. Hasrat Mohani? Is there in them any indication that the sullen resentment of a certain class of Muhammadan extremists is less dangerous? Has the Assembly not before it now warnings as to the condition of affairs given time after time in the outbreaks of disorder to which such language has often led in the past? Sir, those who have studied the political conditions, those who have read the accounts of the outbreaks that occurred in the last few months, those who know the spirit of lawlessness which prevails in many parts of this country, let them ponder and then answer this question conscientiously. Can they affirm that the proposed release of these men would be safe and would not seriously endanger the public tranquility? What was the effect of releasing these men before—on a former occasion? I myself recommended their release when they were detained under an executive order. I have often doubted if my recommendation was wise or right, but I had an instinctive dislike as many others have to the imprisonment for an indefinite term under executive order. The position is very different now. These men have now been convicted by a court of law to offences under the ordinary law of the land, and I maintain that there is no reason on earth why, at a period like the present, we should release persons who, we know, will seize the opportunity to renew their dangerous activities, not only amongst the troops, but amongst the ignorant masses of this country whom they will inflame to further violence and disorder, men who have lost no opportunity of exhibiting their seditious propensities whether from jail, during the trial, on the platform and in the press. Sir, this country is at present seething with a spirit of lawlessness. There are many indeed who take a very pessimistic view of the situation, who think that a storm is about to break over this land, which must end in grievous bloodshed. There are some indeed who say that already they can see clouds gathering and hear

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the wind rising. I have been referred to an apt citation from one of our great English poets as shewing the attitude of those who take this view. Indeed it may well be said that they think that now :

'The vanward clouds of evil days
Have spent their malice and the sullen rear
Is with its stored thunder labouring up.'

Sir, there are others who are more optimistic and think that we shall tide through this time without any serious outbreaks or loss of life. I am bound to say that there is little in the reports that I have received from those in close touch with conditions in the various parts of the country that gives us support or encouragement to that optimism. At the same time I do not want to take too gloomy a view. I have frequently been accused of doing so. But whatever view you take, it cannot be denied that the present is an amazingly critical time for India, and it is certainly not the moment when we can afford to let loose men who have been guilty of a peculiarly grave form of crime and whose release will add to the dangers of the situation. That, Sir, at any rate is the view of Government and in that view I am confident they will receive the support of this Assembly.

Now, Sir, I want to turn, if I may, to the third reason that might be given for the release of these men—their previous conduct or subsequent penitence, and again I ask the forbearance of the House while I deal at some length with the previous conduct of these men, with which I am peculiarly acquainted for some years. I ask this, because it is essential that the House should know the facts and the public should know the reasons for the attitude of Government towards these men. Sir, I maintain that since 1911, these two brothers have been persistently hostile to the British Government and have consistently promoted pan-Islamic as opposed to nationalist ideals. Before the Great war, this hostility was marked both in regard to Great Britain and to other powers from time to time engaged in hostilities with Turkey. I do not blame them for their hostility in regard to foreign powers, because many Muhammadans took the same view. I think it was during the period before the war that they founded the society known as the 'Anjuman-i-Khuddam-i-Kaaba'. That society was nominally a society for religious purposes, but really, however, was, or became, a purely political society. The findings of Messrs. Lindsay and Raof who subsequently inquired into this matter, will bear me out in this statement. Messrs. Lindsay and Raof say :

'It appears to us therefore, that these events, which we have described, support the conclusion that the Anjuman in the hands of its principal officers was intended to be used as a means for the strengthening of Turkey as the leading Islamic power and that it was realised that this purpose could best be attained by an appeal to the religious sentiments of the Muhammadan population of India, ignorant people for the most part, who would respond to the call of the 'faith in danger' without being in any way conscious that they were being invited to join or support a political movement.'

They go on to say :

'We have no reason to doubt that this declaration (referring to a previous paragraph) was in fact made by Abdul Bari and as it stands it is a frank statement that one of the chief objects of the Anjuman was to promote the pan-Islamic programme of Turkey.

'There is convincing evidence that persons who were known to be members of the Anjuman, both in India and Egypt, were engaged in treasonable practices after the entry

of Turkey into the war, and we are unable to entertain the argument that these acts of individual members are not to be admitted as evidence for the purpose of showing what the true character of the Anjuman was.'

Sir, I have no time to deal more fully with the society, but I may say that we also have a letter seized on the body of an officer killed in Egypt, which give us further information as to the character of that society, and I shall be glad to show it to any one here who wants to see it. It is too long for me to read here.

Sir, when the great war first broke out, the conduct of the brothers—to be quite fair to them—was not open to criticism. Before Turkey came into the war indeed they wired to the authorities in Turkey, advising that country to remain neutral, and later, when Turkey actually declared war, I have been shown a printed document which I am informed appeared over the signatures of the two brothers, and also those of Dr. Ansari and Hakim Ajmal Khan. This document, after alluding to the difficulties caused to Indian Mussalmans by the outbreak of war between Turkey and the Allies, went on to say :

'Our relation with India and the British Government is as much religious and moral as material. This idea has always been dominant in our minds and must persist. Disobedience of the orders of the Government which gives us full religious liberty which protects us, is a sin of ungratefulness which Islam can never tolerate. Owing to the declaration of war between Great Britain and Turkey we are in a very awkward position and our path has become thorny and dangerous and we must be cautious in treading it. Let the citizens of Delhi know that the Government is well aware of the feelings and sentiments of Muslims. Before declaring war it has announced in plain language that the holy places of Islam will in no way be desiled or attacked. * * * We Indians performed our duty towards Turkey faithfully at that time. Our duty now is not to get excited but to try our very best to maintain peace and order in this country.'

This was a very proper attitude to take up, but almost immediately after hostilities with Turkey began there was a complete change in their attitude and a different tone was clearly noticeable in the pronouncements of Mahomed Ali and Shaukat Ali. In all they wrote and said, there was a strong anti-British and pro-German bias. Everything was done to encourage and support the King's enemies. Everything possible was done to depreciate British efforts and calumniate British troops. Sir, about this time we have clear evidence, as it has been admitted, that Mahomed Ali and his brother were in close touch with persons known to be engaged in treasonable practices. I name one of them—Obeidullah, who was the head of the Provisional Government which was proposed for India. Further, on the 31st December of that year, Mahomed Ali and Shaukat Ali went to Rawalpindi, nominally to attend an Educational Conference, but really as I suggest for political purposes. They met there a number of people of more than doubtful character including Syed Ali Abbas

12 Noon. Bokhari, Abdul Wali, Abul Kalam Azad and Obeidulla. Of these, two of the men, Abdul Wali and Syed Ali Abbas Bokhari fled to Afghanistan during the war after various seditious activities in India. Abdul Wali was interned at one time and fled in 1919. He was also closely associated with another man Abdul Aziz Shawaz who was a well-known anti-British sedition-monger. Obeidulla went later to the Black Mountains, and there founded what is called 'The Provisional Government of India, it has always been 'provisional'. (Laughter.) He and Abul Kalam Azad were also mixed up in the Silk Letter case which was at one time a serious conspiracy against Government. I mention these things to show the class of men with whom Mahomed Ali and his brother were associated. In 1915, Mahomed Ali and

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his brother were interned, I think in Delhi first at the instance of my Honourable colleague, the then Chief Commissioner, by reason of their dangerous anti-British activities. The question of the justice of their internment was later examined by Messrs. Lindsay and Raoof and they found that the Government were justified in their action and that both the brothers exercised their influence to further the interests of Turkey and in doing so, attempted to promote ill-feeling against the British Government and its policy. Subsequently they were interned under Regulation III of 18:8 in Chhindwara jail and I forget whether it was at that time or later, but in an interview with the Deputy Commissioner of that district Mahomed Ali asserted that so long as England and Turkey were enemies he claimed as a matter of religious principle to side with Turkey. Now, that was a very serious position from our point of view when we were at war with Turkey. In 1919, they addressed an open letter to the Viceroy. I will read out some portions of it, one extract at any rate. Here it is :

'In the matter of unquestioning loyalty to the Emperor a stage has been reached when every Indian subject of His Majesty should seriously reconsider the position and as India no longer ensures perfect freedom for the practice and preaching of Islam the only alternative left for a Mussalman is to join a *jehad* or to migrate to some other freer land.'

Later we had the outbreak of war with Afghanistan. Then also these gentlemen sought to use the whole of their influence against the British Government and against the Government of India. I have got two letters here which I intend to read. I cannot give names of the addressees because they are unwilling to have their names published. Here is one letter :

'This is not our quarrel. The Amir is not going to attack India for the rich lands of Punjab. That is a lie. He is coming as an avenger of the insults offered to Islam. He is a *mujahid*. He is attacking in India the attackers of Jeddah, Palestine and Jazirat-ul-arab. It is *haram* for us to fight against him. In fact unless Government realises the situation and accepts our demands and at once acts according to them, we according to our Koran have to help in the *jehad*.'

There are other letters which I have here. One is to the Ruler of an Indian State. I do not know if I am wearying the House with all this. (*An Honourable Member* : 'It is interesting. Please go on.') Here is an extract :

'We are prepared to spare our dear Motherland all risk of war by approaching His Majesty the Amir and asking him to sheathe the sword he has unsheathed obviously in the cause of Islam and Justice to India, provided all our demands, Indian and Moslem, are forthwith conceded but otherwise let those who have provoked this holy war fight it out.'

Mr. Muhammad Yamin Khan : May I ask the Honourable Member if they are the original letters, or merely copies ?

The Honourable Sir William Vincent : I am reading from a copy. I have seen the originals of some of these letters myself. I have got one original here and I know the handwriting myself. Sir, what I seek to make out from all this is that throughout our war with Afghanistan these two gentlemen sedulously did their best to assist the King's enemies as they had done on a previous occasion. There are numerous speeches that they made about the same time giving the same view. There was one at Chhindwara on the 30th April to which I draw special attention. Later, when peace was declared, the Afghan Mission came to India. Honourable Members will remember that. I think the Conference was held at Mussoorie. At that time also there was

a renewal of intrigue and persistent attempts made to get at the envoys of the Amir of Afghanistan and induce him to assist malcontents in this country. We were more or less successful in preventing that. About the same time, there was a question of sending a non-official mission to Kabul nominally in order to assist stranded muhajarin. We had however good information that the object of that mission was not that; it was not so simple as it appeared. It was really a political mission to foment intrigue against Government. Later we received confirmation of this in a cipher letter which was addressed by one R. A. Zackariah Herat to Maulana Shaukat Ali. Zackariah was one of those students who fled from Lahore and later joined the Muhajarin colony in the Black Mountain. I will read that letter. I have not got the original, but I have got a copy which was sent to me. It is in cipher. We could not decipher it at first, but the military authorities were able to do this for us. It runs as follows :

'I wrote you a letter from Kabul. It should have reached you. I am sorry I could not wait for the answer at Kabul. I am proceeding to Russia in the company of Abdul Hadi, Minister, plenipotentiary Bokhara. On my way Herat I saw Jemal Pasha. He has been sent to arrange an offensive alliance between the Soviets and Kabul. He referred in his interview to the promises made by us.'

I should like to know what the promises were. 'I gave him every kind satisfaction'—again I should like to know what that satisfaction was ;

'May God we prove equal to the great responsibility we took up voluntarily. Please send Kabul Khilafat delegation soon. Salaams to all our friends and colleagues.'

What was the reason of sending that in cipher? What is the meaning of this reference to Khilafat delegation? I leave it to this Assembly to judge.

Again in 1920, there was a Conference in which Shaukat Ali was present when it was decided solemnly to advise the Amir not to make any peace with Great Britain. Now I want to deal with some of the speeches which these men have made from time to time and I wish to show that they included definite incitements to violence. I forgot to say, however, that on the 16th April, 1920, Shaukat Ali repeated that the Amir of Afghanistan was fighting on behalf of Turkey and had taken a vow that he would sacrifice his kingdom to save the Khilafat and the holy places, and that the object of the Afghan Mission was to warn the British Government not to interfere with the holy places. In the same month at Bareilly Shaukat Ali said that if the Afghans or Turks invaded India with the object of avenging the disgraces of Islam, they would side with the invaders. On the 11th October, at Moradabad, Mahomed Ali made the following statement in a speech :

'We were taught to be slaves, but the slavery of the English nation is the worst. Gandhiji will pardon me if I say that my religion lays down that we should draw the sword as our Prophet did in the battlefield of Ohad.'

On the 16th October, 1920, speaking at Shahjahanpur, he said :

'There is one course more for Mussalmans and it is this—that you should use the same force against your opponent which he used against you. It is called *jehad*, that is, that *jekad* which Mahatma Gandhiji has preached to you.'

I believe that Mr. Gandhi never preached or intended that kind of *jehad*.

Again, on the 17th October, 1920, at Bareilly, he said amongst other things :

'When we have to kill all Englishmen, we will not come stealthily ; we will that very day declare openly that there is war with the sword between you and us now and it will be sheathed only when either your neck disappears or ours.'

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Then, again, on the 27th of March, 1921, at Shahjahanpur :

' God will check the oppressor. But if the hands of the oppressor would not stop and the sword is unsheathed, what is the harm? But when the time comes to fight against those who use force, we do declare that we will draw our swords. Nobody can stop my mouth by filling it with stones.'

Shaukat Ali used similar language. Here is an extract from his speech on the 20th November, 1920, at Jhansi :

' If, God forbid, owing to our weakness or for any other cause we do not succeed in non-co-operation, then we Muslims will either leave the country and go somewhere else or will cause bloodshed in the country and ruin it.'

Again, on 29th November, he said :

' If unfortunately this non-co-operation programme fails, then I say to the Mussalmans of India that your last resource would be to draw your swords.'

I could go on multiplying extracts like these indefinitely, but I think I have said enough to convince this Assembly that it was the deliberate intention of these two brothers to provoke violence among the ignorant masses of Muhammadans ; that is, at any rate, the point that I seek to make out. Last year the Government of the United Provinces with our full concurrence were about to prosecute these two men for these statements. And then came the meetings between His Excellency and Mr. Gandhi, of which every one knows the details and the promise made by the brothers to the public, as they said and not to Government :

' Friends have drawn our attention to certain speeches of ours, which in their opinion have a tendency to incite to violence. We desire to state that we never intended to incite to violence.'

I have read the speeches and the House can judge for itself whether or not they are incitements to violence :

' We desire to state that we never intended to incite to violence and we never imagined that any passages in our speeches were capable of bearing the interpretation put upon them, but we recognise the force of our friends' argument and interpretation. We sincerely feel sorry and express our regret for the unnecessary heat of some of the passages in these speeches and we give our public assurance and promise to all who may require it that so long as we are associated with the movement of non-co-operation we shall not directly or indirectly advocate violence at present or in the future, nor create an atmosphere of preparedness for violence. Indeed we hold it contrary to the spirit of non-violent non-co-operation to which we have pledged our word.'

Sir, on the basis of that undertaking the Government of India rightly or wrongly refrained from prosecuting these two brothers. The prosecution proposed was about to be instituted, not at the instance of the Government of India, but, as I have said, at the instance of the Local Government and when we were consulted we asked the Local Government to refrain from this prosecution. What happened afterwards? Sir, the ink was hardly dry on this declaration before the brothers began the old game again. I fancy, indeed I have always thought, that the brothers were twitted for making this apology and in their anxiety to prove that the document was no apology but something quite different, they found it necessary to say something new to rehabilitate themselves with their fellow extremists and they started very shortly after

the declaration was signed. Then at the Gujerat Khilafat Conference at Broach on the 1st and 2nd June, Mahomed Ali said :

'The Qoran says that the Mussalman has to sacrifice, in the name of God, his life, his property, his luxuries. If you and your children are not ready to make such a sacrifice, can you feel that you are *imandar*? When the Government asked the Mussalmans to use, their sword against and kill their co-religionists, the Government never once thought of '*ahimsa*' If there is an order to fight, I will go to war. Then a little child will not stay my hand from death. That is what is called religious *jehad*. We will die for religion. We shall become martyrs. I have not contracted with Lord Reading that I shall not undertake *jehad* when God directs me. I openly say that I have a clear duty set before me. I do not say that we have to kill anybody with our hands, but I have to help Islam. I have to obey the order of Islam. If the sword is to be used, according to the order of Islam, I shall use it at once.'

Now, is that not creating an atmosphere of preparedness for violence? A simple person like myself might at least argue 'well, it looks very like it.' Again he said :

'When there is *jehad* I will not support the non-co-operation oath. In the case of *jehad* I shall consider it *haram* to refuse to raise the sword.'

Speaking again at Moradabad, on the 6th August, he said :

'Bloodshed is never illegal at all times. It sometimes becomes the religious duty, but it is not so now.'

Now, I have cited these extracts because, although the words are very carefully chosen, I want the House to realize what the effect of such language would be on ignorant Muhammadans. Later again, we had these deliberate attempts on the soldiers of the Crown, attempts to seduce them from their duty and their allegiance to the King. Sir, I have now explained the whole facts and I put it to this Assembly that the Government have acted with the greatest forbearance to these men. When Government did release them or forbore from their prosecution, what has been the result? This is what I have given examples of, what I have attempted to place before this Assembly. I have given the information I have for what it is worth. I have concealed nothing and I have placed the facts fully before you and I maintain that on these facts these two gentlemen are unworthy of any consideration from this House at all. Sir, when I think of the treasonable practices of these two men during the Great War, when the fate of the whole Empire was in the balance, when I think of the secret support and encouragement which they gave to the King's enemies when hundreds of thousands of British and Indian soldiers were daily risking their lives, many alas making the great sacrifice, when I think of those unfortunate Mahajarin, whose white bones are strewn up the Khyber and on the way to Kabul, who were induced to migrate by these two gentlemen and their followers, men who themselves never did a Hijrat further than Paris and London, when I think of the money extracted from poor Muhammadans in this country much of which has been squandered in various ways in Europe and elsewhere, money of which no audited account has ever yet been published, when I think lastly of the many Hindus dishonoured and killed in Malabar and of the thousands of Moplahs misled and driven to death and ruin by the incitements of Mahomed Ali, Shaukat Ali and those who think like them, then, Sir, in truth, I marvel at the simplicity and the crass folly of the Muslim population that submits to such treatment and accepts such men as leaders, but I marvel more at the temerity of the Honourable Member who proposes

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to an Assembly such as the present, an Assembly of intelligent men who understand facts, that men of this class, traitors to their country and traitors to their King, should be treated with any consideration.

Mr. K. Ahmed: Sir, I did not know that I would have to speak at this late hour, but the Honourable the Home Member has painted as black as he could the character of the Ali Brothers whose lives, Sir, have been immortalized in the books, in the annals of the history of India; and if my Honourable friend, the Home Member, himself had been in the position of a Muhammadan, he would have congratulated the Ali Brothers with the fulness of his joyous heart. (Laughter.) Sir, from the attitude of the present Government, both here and at Home, it appears that the Government were willing to make up the differences between His Majesty the Amir of Afghanistan and themselves with regard to the Khilafat question in India. My friend has totally left us in the dark with regard to certain conditions under which only the other day I see—I think it was the 21st of November when the treaty was signed, though, as a matter of fact, it was on the 19th November last—that the treaty should have been concluded. Being disappointed very much at the demand of His Majesty the Amir, within 24 hours the Government of India had to instruct Sir Arthur (Laughter) Sir Henry Dobson (Laughter) Dobbs—the name does not matter much, Sir, the facts remain. Sir, probably the House is quite aware that the Government of India had to accept their terms; those terms of this treaty, Sir, came out in the newspapers, and with the help of the Government of India I had a copy. I desire, Sir, to read a few lines—and I shall make this observation before I do so, that the Home Member is not at all justified, because his opinion with regard to the Resolution to-day should not have been a different one. As it has been mentioned here, the Government of India is ready and willing both at Home and here to clear these points and to settle the question of Khilafat, but from the reply he has given it does not seem to me that the Government of India is at all well-disposed to-day, Sir, to give the subject due consideration at all. Sir, there is a newspaper in Afghanistan, called the '*Hamadan*' and according to that Kabul paper, Sir, His Majesty the Amir of Afghanistan addressed to the British Mission on its departure from Kabul some remarks; this was published, Sir, on the 6th of January last, in the Calcutta newspaper called the '*Servant*'.

Mr. President: Order, order. The Honourable Member is not entitled to embark upon a discussion of the relations of the Government of India with foreign Powers.

Mr. K. Ahmed: I am not discussing, Sir, at all the relationship between a foreign Government and the Government of India, but the attitude of the present Government is, Sir, to-day, I find, a little contradictory from the attitude that we had seen previously. Probably there is a mistake somewhere, and what I desire to bring forward in this Assembly for the consideration of the Honourable Members present is that it is not only the Amir, Sir, who said

Mr. Denys Bray (Foreign Secretary): I rise to a point of order, Sir. Is the Honourable Member in order in referring to speeches by, as I understand,

the Amir of Afghanistan and others in connection with the relations of Afghanistan with this country?

Mr. K. Ahmed : If it is published in a newspaper?

Mr. President : There are many things published in newspapers which are not in order here.

Mr. K. Ahmed : Sir, it is a Reuter's report from Home, published in the newspapers in India also, that the Prime Minister, I think the Secretary of State also, said in the House of Commons, and in answer to a question, I think put by Colonel Wedgewood, that the Government of India must settle this question, and I suppose there was an undertaking given that there will be a sitting in Paris, in France, Sir, between the representatives of His Majesty the Amir of Afghanistan and the representatives of Italy and France, as well as England. If that is so, Sir,

Mr. Denys Bray : I rise to a point of order. Is all this talk at all relevant to the motion? (Hear, hear.)

Mr. President : I have already warned the Honourable Member that he is out of order.

Mr. K. Ahmed : Now, Sir, if the question of Khilafat has been brought in or rather introduced by the Honourable the Home Member, I think that if we are to answer that Sir, these points are necessary and they should be brought in. But if I am not allowed, Sir, to bring in these points, I shall have to read certain lines from the Koran; that would not be foreign to the subject. Sir (Laughter); because every Muhammadan in India is required to read this holy book every day, and I do not think those sections used by Mr. Talati and Mr. Kennedy of the Karachi trial have been properly used, and the Honourable the Home Member should have nothing to say against the loyalty of the Muslim in India. Sir, we read this Koran in the morning and at night, and we are not disloyal; we are as much loyal as anybody else; and if those lines were simply read, and there were those 500 lemas (Laughter), who had interpreted the Koran, and those very words, Sir, were the subject-matter of that Resolution, I think it was the 6th Resolution which was moved in the month of July last in that Karachi meeting and thereafter these people were prosecuted under sections 505 and 117 of the Indian Penal Code. I submit, there was no case against the accused at all.

Now, Sir, I shall read, with your permission, chapter 4, section 13, of the Koran. (*A Voice*: 'There is no section in the Koran'; *Another Voice*: 'What sub-clause?')

Khan Bahadur Saiyid Muhammad Ismail (Patna and Chota Nagpur *cum* Orissa: Muhammadan): I hope the Honourable Member will read the passage from the Koran, not the translation.

Mr. K. Ahmed : The Honourable Member has already got a copy which he reads in the morning.

'Whoever kills a believer, his punishment is in hell. If he shall not abide by it, Allah will send his wrath on him and curse him and for him there will be a painful chastisement.'

Khan Bahadur Saiyid Muhammad Ismail : May I know the name of the Sura that the Honourable Member is reciting?

Mr. K. Ahmed: Sura-i-Nisa. This is not a school for giving lessons. (Laughter.)

Khan Bahadur Saiyid Muhammad Ismail: May I know the name of the Sura that the Honourable Member is reciting?

Mr. K. Ahmed: Sura-i-Nisa—Ruku 13 in Separa IV, *i.e.*, section 13, chapter IV of the holy Koran.

The Honourable Sir William Vincent: I rise to a point of order, Sir. I suggest to the Honourable Member that it is very inadvisable for him to introduce into the Assembly a discussion of a religious question of this nature, a discussion which cannot but be misinterpreted outside this House. I put it to him that as a pious Muhammadan it would be very wise for him to avoid a debate which might cause great offence to many Muhammadans outside the Chamber.

Mr. K. Ahmed: With all due respect to the Honourable the Home Member, he himself having introduced the question of the Khilafat and of Islam he has very little ground for querying my very modest presentation of this Resolution. And you, Sir, Mr. President, having refused twice, were kind enough to allow this Resolution in this form. What right had the Honourable the Home Member to paint the character of the Ali Brothers in the manner he has done, and to introduce the question of the Khilafat and other Islamic questions which have been agitating throughout the Muslim world since 1906 and even previous to that in Turkey? I cannot deal with the charges made under section 505 read with section 117 of the Indian Penal Code without making a reference to the questions that have been raised by the Honourable the Home Member. I will only observe that the questions which have been raised cannot be considered in a case like this.

Sir, the facts are that a Judge has convicted persons under certain sections of the Indian Penal Code and it is necessary first of all to see under what circumstances these people were prosecuted. They were first of all arrested on the train and taken to the Court of Mr. Talati in Karachi. Before Mr. Talati framed charges and recorded the evidence of the witnesses, Mr. Kennedy came down

Mr. President: I would ask the Honourable Member if he is referring to the action of the Judge?

Mr. K. Ahmed: I am not referring to the action of the Judge, but the circumstance under which the trial took place.

Mr. President: I want to know to whom he is referring?

Mr. K. Ahmed: I am referring to the circumstances, the place where the trial took place and how it was tried. I am simply trying to depict that picture if the Home Member

Mr. President: I warn the Honourable Member, if he persists further in his attempt to bring a Judge into contempt, I shall ask him to desist and to resume his seat.

Mr. K. Ahmed : I am not doing anything of that kind. The Honourable the Home Member said that there was a printed copy of the Judge's charge which he had left in our Library here. I think I have got a copy of that charge which has been printed and sent to me on the advice of those who are interested in the persons in jail. I suppose I can safely read extracts from that document, as it is sold in the open market and has also been published in the newspapers. The Honourable Members of the Assembly know that, and I do not find any reason why I should not

Mr. President : The Honourable Member does not seem to realize that this is not the place in which to call into question the action of a Judge.

Mr. K. Ahmed : Well, Sir, the Public Prosecutor on behalf of the prosecution charged these men under four sections. The Procedure Code says that you cannot—I will read the sections, sections 233 and 234. Section 203 says :

'For every distinct offence of which any person is accused there shall be a separate charge, and every separate charge shall be tried separately, except in the cases mentioned in section 234.'

Section 234 says :

'When a person is accused of more offences than one of the same kind committed within the space of 12 months from the first to the last of the offences, he may be charged with and tried in any one trial for any number of them not exceeding three.'

That being so, there was no justification whatsoever

The Honourable Dr. T. B. Sapru (Law Member) : I rise to a point of order. My Honourable friend is disputing the validity of the charges as they were framed and is also disputing a judicial pronouncement.

Mr. K. Ahmed : I am not criticising the action of the Judge at all. Now, Sir, if there has been found to be some irregularity in the procedure adopted by the Public Prosecutor, Mr Elphinstone, and there was some—the judgment even was signed four days after—there is a section in the Procedure Code to set aside the judgment. Section 401, Criminal Procedure Code, which the Home Member has referred which bears on the case, that there should be a memorial to a Local Government or to the Government of India asking for the release of an accused person, and if the Governor General in Council finds sufficient cause, mercy may be shown to an accused person and the prisoner may be let off. In this case, though there is no memorial of the kind mentioned, public feeling has to be considered. When it is a case of public feeling, it is we, Sir, who, as the representatives of the people of this country, come here and question the justification for and the legality or illegality of the action of Government. Sir, the Government of India sanctioned the prosecution of these people.

The Honourable Sir William Vincent : The Government of India did not. The Government of India entirely approved of it.

Mr. K. Ahmed : If the Government of India approved of it, the Government of India must have entered into it and digested the facts of the whole matter, and therefore they are responsible for it. That being so, Sir, when a case has been made out of the illegality of arresting these people, when there is ample justification for setting them at liberty, because they are illegally detained in jail, I venture to submit that, for the end of justice

Sir Jamsetjee Jejeebhoy (Bombay City: Non-Muhammadan Urban): Sir, does the Honourable Member suggest that the two brothers have not had a fair trial?

The Honourable Sir William Vincent: 'Illegally detained in jail', were the words he used.

Mr. K. Ahmed: If they are detained in jail

The Honourable Sir William Vincent: 'If'. They are detained in jail and the Honourable Member may assume that.

Mr. K. Ahmed: If that is the case, Sir, I say that the responsibility lies on the Government of India, and we are entitled to ask for an explanation. No explanation has been given, except that illegal use has been made of certain documents by the Home Member who has read out to us certain extracts from his private papers. That certainly we will not take for gospel truth. We are here to-day, Sir, to question the prosecution of these people and we are here to say that if the two Muhammadans have not acted in any way beyond their religion, Sir, there is ample justification for demanding mercy from the Crown in the most polite language, and we ask whether the Government of India will not take the hint. If so Sir, I am very sorry that a question of this kind has been raised and improper language has been used without having considered the question in the light suggested by us.

Mr. President: Under Standing Order No. 62 I must ask the Honourable Member to bring his remarks, to a close.

Mr. K. Ahmed: I close my remarks, Sir.

Mr. Muhammad Yamin Khan (Meerut Division: Muhammadan Rural): Sir, there was no more embarrassing a Resolution ever moved in this House than the present one. (Hear, hear.) I know, Sir, that this Resolution stood in the name of our Honourable friend, Mr. Kabeer-ud-din Ahmed, for a few days in the beginning and it was left out by him.

Mr. K. Ahmed: How can the Honourable Member bring in a private conversation which has taken place outside the walls of the House?

Mr. Muhammad Yamin Khan: I am not referring to a private conversation.

Mr. K. Muppil Nayar (West Coast and Nilgiris: Non-Muhammadan Rural): I do not know if the Ali Brothers can be released from gaol against their wishes. If they are not for coming out of the gaol, will it not be interfering with their liberty to set them at liberty?

Mr. President: Do I understand from the Honourable Member that he is charged with any message from the Ali Brothers?

Mr. Muhammad Yamin Khan: When that Resolution was struck off, I thanked God. But now somehow or other the same Resolution has found its place in to-day's agenda. It is very difficult undoubtedly for any Muhammadan Member to whatever political ideas he might belong, not to support a Resolution of this nature at this time. But at the same time I wish to invite the attention of this House to one point, which has been pointed out by my friend, Rao Bahadur Subrahmanayam, viz., what authority has the Honourable Member got to say that even if they are released, the Ali Brothers will accept the release on these terms or whether

they will accept any mercy suggested by this Resolution. For clemency there are two essential ingredients. First of all, either the offence must have been committed by a man who had a very good previous conduct, as has been pointed out by the Honourable the Home Member, or he must show that he repents his act for which he is convicted. I do not think the Ali Brothers will be willing to accept any of these two. They had been defending themselves in the Court on the basis that they were not guilty. They will be far from expressing any grief for the action for which they have been convicted. They have justified it and they expressly said that if they are held guilty they might be sent to gaol, but if they are not guilty they should be released. In this case, if their release is asked for, that will be accepting that they have committed the crime, to which I think my Honourable friend the Mover has not got license from the Ali Brothers. If he has got, then whatever terms there may be, whatever their past history has been, whatever political denomination they might belong to, of course this Assembly would find it an easy matter to recommend for clemency to the Viceroy. But, in the absence of any such thing, I fail to see on what basis this Assembly can proceed to recommend to the Viceroy to release the people who are not holding themselves guilty and who are not repenting for the action which they have done. This is, Sir, a very embarrassing Resolution, as I said, because whatever political ideas we might belong to, we might differ from the Ali Brothers altogether. We might differ from the Ali Brothers in the execution of their purpose, or their method of achieving their object, however laudable that object may be. As we stand as representatives of the Muhammadan masses of the population, of course it is, just as I said, very very difficult for the Muhammadan Members not to recommend to the Viceroy for the release of those people who are held dear, rightly or wrongly, by the masses of the country. But, as I have pointed out, Sir, there is a difficulty. On what basis can we make any recommendation? There is an Indian saying '*Muddaie Sust, gava chust.*' The Ali Brothers are not a king for their release. If we had any such communication from them, of course we would be the first person to ask the Viceroy for clemency, but there is no surety from the Honourable the Mover and he has not entered into those questions which have been so forcibly contested by the Honourable the Home Member on the one side and Mr. Kabeer-ud-din Ahmed on the other. Of course, Sir, here there is one thing to which one feels constrained to refer. Though my friend, Mr. Kabeer-ud-din Ahmed, may not take as gospel truth all that has been said by the Honourable the Home Member, I for myself have belief. I put a question to the Honourable the Home Member whether he had got the original copies or not, and after receiving his reply in the affirmative, I am convinced that the Honourable the Home Member possesses the documents which he had been referring to.

The Honourable Sir William Vincent: Sir, I have got one of the letters in original here.

Mr. Muhammad Yamin Khan: But, Sir, there is one point which has been for a long time contested. The Ali Brothers had thrown a challenge some time ago that if there is any incriminating evidence in the possession of the Government, it might be published, and I really cannot understand why that evidence has not been published at all. The facts referred to by the Honourable the Home Member are quite sufficient for convicting those two brothers for treason and nobody who is convinced that such acts as have been

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referred to by the Honourable the Home Member have been committed by the Ali Brothers would ever ask for pardon until he is sure that those two brothers repent for what they have done in the past.

But, Sir, just as I have said, here is another difficulty for a Muhammadan Member, in which he has been launched by this misconceived Resolution. (Hear, hear.) This Resolution is mostly meant to appeal to the galleries and to the masses, and this Resolution could never do good for the benefit of those for whom it is moved. I had known beforehand, Sir, what would be the reply from the Government, and if our old Indian proverb had been considered, I think it would have been much better not to have moved this Resolution at all :

'Dana Dushman beh ze Na-lan Dost.' (A wise enemy is much better than a foolish friend.) (Laughter.)

I never expected at least the debate that has taken place on this Resolution. I had been expecting that the debate would have been in the terms which the language of the Resolution indicated, namely, that this House would not ask in any controversial matter for clemency, but that simply in order to appease the popular feeling, the Government of India in this House might do well to recommend to His Excellency the Viceroy to consider their cases and release the brothers. If the debate had been limited to this extent, it would not have caused so much controversy. But when we find that justification is made for seducing the soldiers, or for not abiding by the law of the country, I do not think that these controversial matters can be let slip so easily by this House, which is making law, and must respect the law which it makes. (Hear, hear.) I am, Sir, more accustomed to appeal to the higher authorities when I find anything wrong in the judgment of a Court ; but to discuss the judgments of a Court and to criticise the actions of the judges by insinuating that they were in any way tempered or influenced, or to criticise the action of the Executive in this connection, I am not accustomed to. If there was anything wrong in the judgment, that could have been easily appealed against, but to say that the brothers had not been given facility by the Court which tried them, and that they did not receive a fair trial, is wrong. If the Viceroy, simply to appease the popular feeling of the masses, were to consider the case only, I know the Viceroy is himself the highest judicial authority who has occupied the highest judicial office in England, he would very well understand how far that conviction was wrong or right, and how far that sentence was justifiable or not, and whether he should curtail the sentence or not. That may be left to the Viceroy and this House by sticking to the words of the Resolution and not by simply appealing to the masses. Whether rightly or wrongly, the Ali Brothers have endeared themselves to the masses, and for their sake a curtailment of the sentence may be made. There have been in many cases sentences which have been curtailed by the prerogative of the Crown. In this case, too, if the release of the Ali Brothers is supposed to be dangerous to the State—of course the sentence could easily have been converted from rigorous imprisonment to simple imprisonment, or in some other way. This would have been justifiable for the House to recommend. I daresay, Sir, that I am not a competent authority here to discuss whether they had been rightly or wrongly convicted under the sections under which they have been convicted. But one factor this House must remember,

whether right or wrong, people have been guided by certain sentiment, which sentiment they cannot easily leave out, and for this reason only leniency might be expected from this House in the case of the Ali Brothers, and that was quite sufficient. But as the matter stands, that is very bad, and I think that there is popular feeling among the masses, that whatever wrong the Ali Brothers have done, they have done in the name of religion, and they must be justified.

I am fully aware of the great justice done to the Muhammadan community by Lord Chelmsford and his Government, and by Lord Reading and his Government. To-day's 'Pioneer' brings ample proof of it, that they have never been silent in representing the views of the Indian Muhammadans to the Home Government, and trying to bring about a favourable solution of the question, which has caused all this trouble in India. (Hear, hear.) Of course, Sir, I am not going to discuss the telegram which appears to-day in the papers, sent on the 28th February by the Government of India, but at any rate it, to a great extent, represents the views of the Muhammadan community, though it is leaving out two great factors which cannot be ignored. I hope the Government of India will, in their future telegrams, also refer to the popular feeling of the Muhammadans in regard to Mesopotamia, Palestine, and Syria, because whatever importance lies about the Arabian Peninsula, does not lie so much about Thrace, Constantinople, Smyrna or Asia Minor, which the Muhammadan community considers of some importance, and whatever the Ali Brothers and the different Maulvis had been saying, the last words of the Prophet were: 'Don't let this Peninsula pass into the hands of the unbelievers'; and, I think, Sir, that the Government of India will remember the old history, the old battles fought several centuries ago between Richard Coeur de Lion and Salahuddin.

Every inch of land in that place bears ample proof of the blood which has been shed there and to revert to that policy which had been lying under ashes for so many centuries and to stir it up again will be a constant menace to the tranquillity of the Muhammadan countries. Sir, the British Government is the biggest empire of the Muhammadan population; in fact, the majority of its subjects are Muhammadans. I say it is not safe to let this heart-burning remain in the minds of the Muhammadans and to let that fire remain under the ashes which might burst up later on. I hope and I request on behalf of the Muhammadans that the Government of India will not ignore this point as well in their future telegrams to the Home Government and will make it a point that the Muhammadan population feels equally well for Constantinople, Smyrna and Thrace, and for the question of Mesopotamia and other places. But, I will not refer, Sir, any further on these points. As regards the Resolution under discussion, I simply say this, that His Excellency the Viceroy will, after knowing these debates here and after knowing what I have said about the Muhammadan feelings which are existing to-day in the masses, consider their cases favourably without any recommendation from this House, and I hope my Honourable friend will withdraw his Resolution and I hope that the House will give him permission to withdraw it and not let this controversy be sent into the lobby.

The Honourable Sir William Vincent: A very pertinent question has been put to me by the last speaker and I really ought to have given this information before. I am asked why the Government did not publish the evidence and why they did not prosecute the two brothers on it. I think the

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reference was to the letters which I read out which were sent during the time of the Afghan War. I was in the Home Department at that time. I did want to prosecute on those letters. I was very anxious to do so. But the addressees of the letters stated that they had only made over these letters to Government on the solemn condition that they were not asked to go into the witness box to give evidence; I ascertained that this undertaking had been given and for that reason I did not think it right to prosecute on those letters. I have now explained the position. On one point more, namely, the feeling of Indian Moslems over the Turkish peace terms, I may assure the Honourable Member that there is no effort that the Government of India could make on behalf of Indian Mussalmans for the modification of the Turkish peace terms which they have not made and will continue unceasingly to make. (Hear, hear.)

Mr. President (on the Resolution being put the second time from the Chair) : Those who desire to vote aye will rise in their places.

(No Member having stood)

Mr. President : It will be recorded that the Resolution has been defeated by the unanimous vote of the Assembly.

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

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

RESOLUTION *RE* COMMITTEE OF INQUIRY ON THE CAUSES OF THE MOPLAH OUTBREAK.

Raja Mirza Muhammad Ikramulla Khan (West Central Punjab : Muhammadan) : Sir, I beg to move the Resolution standing in my name :

'This Assembly recommends to the Governor General in Council that he may be pleased to constitute a Committee with a non-official majority to inquire into the causes of the Moplah outbreak and submit the report before the next Session of the Assembly.'

The Moplah outbreak has been the subject of discussion in this august Assembly in September last. Martial Law was proclaimed in Malabar. Troops, British, Gurkha and Sikhs were sent to quell what was called the rebellion in Malabar. Ordinances were passed by the Governor General from time to time. As a result of all these, some thousands of Moplabs are now in jail and undergoing long terms of imprisonment. The outbreak was sudden. There have been many questions asked in and outside the Assembly as to the causes of the outbreak. The answer that was given amounted to referring the outbreak to the non-co-operation movement and Khilafat agitation. But there is no definite statement or pronouncement by competent authority as to the cause of the outbreak which has cost the lives of some thousands of Moplabs, known or unknown, in the course of the military operation. Now in a small area like the disturbed area the loss of so many lives and the imprisonment of some thousands of human beings, is a matter of concern to humanity in general and to all of

us here, for Moplahs are after all our fellow subjects living in the same land under the same Government. I therefore ask all the Honourable Members of the Assembly to forget minor differences and realise that loss of lives and liberty of so many of God's creatures justifies an inquiry as to the cause of this disturbance. I do not want to prejudice any one. I do not say in this Resolution that Government or any of its officers are responsible for this outbreak, nor do I attach any blame to any one connected with the administration of Malabar. I do not for a moment say that our Hindu fellow subjects in Malabar or elsewhere are responsible for this outbreak. All I ask by this Resolution is to find out by a fair and impartial inquiry the causes that led to this outbreak. For making such an impartial inquiry, it is necessary that those who are charged with the duty of the inquiry must be of a judicial and impartial frame of mind. The Government of India is responsible for bringing into force Martial Law in Malabar. They are also responsible for the continuance of a Special Law under Ordinance not very different from Martial Law. They are responsible for the creation of the Special Tribunals and the Military Courts whose activities have resulted in the imprisonment of thousands of men. It is therefore the duty of the Government of India and the prerogative of the Governor General to appoint a Committee of Inquiry into the causes of the disorder in Malabar. Any inquiry undertaken under the authority of the Government of Madras will not be satisfactory. We have already the instance of the Moplah Train Tragedy.

I move that this Resolution be adopted unanimously.

Rai D. Ç. Barna Bahadur (Assam Valley: Non-Muhammadan): Sir, it is a happy coincidence that the same Resolution stands in my name also as the fourth item on the Agenda to-day. I say happy, because this is a very important matter and it is associated with not only the Moslem section of this House but also the Hindu section.

I am aware, Sir, that there is an inquiry going on appointed by the Madras Government, and, in addition to that, it is desired by the people, both from the press and the platform, and by many Honourable Members of this House also that there should be another inquiry by a Committee appointed by the Government of India. Of course, the subject is very important and it is not out of place to suggest that it may be and should be inquired into by two Committees. Sometimes people are not satisfied with the inquiry of this Committee or that Committee. But I am confident that when such an important subject is decided by two independent Committees, then there will be no room for complaint by the people at large; and at the same time if the decision of both the Committees come to be the same, then there will not be an iota of doubt left in the minds of the peoples. So, under these circumstances, I beg to support the Resolution.

The Honourable Sir William Vincent (Home Member): Sir, I think this Assembly must really have got a little tired of Malabar this Session; and I hope they will excuse me to-day if I address them very shortly indeed on the motion before the House, because I myself am a little weary after dealing with a more important Resolution this morning. This question of an inquiry into the Malabar rising is now before the House for the third time. If I remember aright, it came up on an amendment to a previous Resolution by Dr. Gour and he withdrew the amendment for very good reasons, or

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what appeared to me at any rate and must have appeared to him then to be very good reasons. The same question was down for examination on the last date that Malabar came up for discussion in this Assembly and no one then pressed the question before the House and this, as in the case of banns, is the third time of asking. Now, my feeling—I may have been wrong about it,—but my feeling is that the reason why this question was not pressed on the occasions mentioned was that the sense of the House was rather against the proposal than in favour of it; and the reasons for this feeling are various. In the first place, there has never been any indication of any local demand for such an inquiry. Of the gentlemen who have asked for this inquiry to-day, one comes from the Punjab and one comes from Assam. Now, it is a singular fact that no Member coming from Madras, except Mr. Schamnad, has ever suggested the necessity for an inquiry into this matter. I have before me here an account of a meeting at Calicut which is the biggest town in Malabar. So far as I am aware, no one, either Hindu or Muhammadan, asked for such an inquiry at that meeting. In fact the causes of the rising were taken for granted, because to those who live on the spot there is no room for any inquiry; they know the facts and are perfectly clear about them. Similarly, I believe that there has been no motion in the Madras Legislative Council on this point. I am speaking open to correction. I am sure one of the gentlemen from Madras will correct me if I am wrong. But so far as I know there has been no motion in the Madras Legislative Council at all for any inquiry into the causes of this disorder. Now, those are, I submit, significant facts which might well be considered by this Council. But in truth the causes of this thing are well known. I do not want perpetually to drag into prominence the Khilafat agitation; I do not see any use in perpetually forcing the subject before the Assembly; but that the Khilafat movement was the cause of this rising is well known and there is no getting out of it. I said before that any one has only to read the speech which Mr. Hazrat Mohani made the other day, at Ahmedabad, to see that he admits the whole fact; the man is a fanatic, but is at any rate perfectly honest on this point; he does not attempt any concealment of what the idea underlying this rising was. What then would be the result of an inquiry into the causes? Sir, may I follow this a little further? You would have exactly what we had the other day here; you would have Muhammadans saying: 'No; Hindus have caused this trouble; it was the doing of the Nairs and Brahmans'; that was the line which Mr. Schamnad took, when he said: 'We have been accused unjustly; it was really the work of non-co-operating Hindus.' You will then have Hindus getting up, as they did here, and saying: 'No; this is in no sense the work of Hindus; this is the work of Moplah leaders, these Thangals and so on', and the only result will be constant recrimination and accentuation of bitter feeling; in fact, an increase in the feeling of resentment amongst the people resident in the part. You have only got to read—I wish somebody would perhaps study a little more carefully—I have got them here—the Resolutions passed in Calicut the other day to see how tense the feeling is down there. Here is one of the Resolutions: 'giving full compensation to the loyal population for their material losses while levying fines under the Moplah Outrages Act on the whole rebel area.' 'The Conference views with indignation and sorrow the attempts made in various quarters to minimise crimes committed by the rebels.' Then, again, the suggestion is made 'to remit taxes for the current year from all who suffered at the hands of the

rebels.' And there is another recommendation yet for the prosecution and deporting of various culprits. I cite these facts to show that the feeling down there is amazingly bitter at the present moment. Those of the Assembly who have read the papers will have seen reported in the last few days a very recent account of a terrible murder down in Malabar. I have not verified them myself. But this is an incident which it makes one almost sick to read, namely, the flaying alive of some unfortunate man. Sir, while this sort of thing is going on, is it the moment when any one would propose an inquiry into the causes of the rising? Will not those Honourable Members who come from parts of India very distant from Malabar who have no real information—I suppose they get their views from the press or in private letters—will they not desist from demanding an inquiry at this juncture into the causes of this rising? My conviction is—I have said it before here and I say it again—that the efforts of Government, the efforts of this Assembly, the efforts of every one should be directed towards reconstruction; they should be towards helping the people to forget the sufferings that they have undergone, to restore something like normal feeling, to aid them in all possible ways, by giving them seed for their land and advances, by inculcating education, by preaching good-will in any manner you can. But to start at this juncture an inquiry into the causes, an inquiry which no one on the spot has demanded, would really be a fatal mistake. Now the relief of distress and the restoration of normal conditions are being carried out, I believe very effectively, by the Local Government. I was told the other day—I have not verified this and so Honourable Members will take it merely as hearsay information from me—that the Local Government has devoted Rs. 35 lakhs for the reconstruction of this area.

Now if that is so, it indicates that they are fully alive to the necessity of doing what is possible. They are in constant touch with all the leading residents, Hindus and Muhammadans. As I told the Assembly the other day, they have sent round through the Moplah area a non-official Committee on which Moplah opinion was adequately represented. All possible steps are being taken, therefore, to investigate the cases of distress and to do what can be done to relieve sufferers and to restore normal conditions. Sir, I feel any inquiry such as is now proposed would merely revive bitter memories and stir up resentment and I believe that was the reason why my Honourable friend, Dr. Gour, withdrew his motion to the same effect the other day.

Lastly, may I say that this subject is really one for the Madras Province, that Madras Province has a Legislature which has a large non-official majority, and this subject is one of a purely provincial nature. Judging from the men that we see here, the non-official Members of the local Council must be men of great intelligence, acumen and independence of character, and if any proposals is to be made that there should be an inquiry of the kind now suggested, I think it might well come from the Madras Legislature and not from this Council.

I have only one word to add, Sir, and that is with regard to the question of the agricultural conditions in Malabar. I will confess that that is a matter on which I myself have never felt very well satisfied as regards the landlords and agriculturists, but, I believe, that it is a matter which has constantly engaged and will continue to engage in future the attention of the Local Government.

Mr. Mahmood Schamnad Sahib Bahadur (West Coast and Nilgiris : Muhammadan) : Sir, in replying to the debate this morning the Honourable the Home Member was pleased to refer to the statements made by Mr. Hasrat Mohani. But I may point out to the Honourable the Home Member that Mr. Hasrat Mohani is living far away from Malabar, in fact much farther than the Honourable the Mover of this Resolution himself is living, and whatever Mr. Hasrat Mohani might have said and whatever his opinion, right or wrong, may have been about the Moplahs in Malabar, his opinions cannot be held to be binding on the

The Honourable Sir William Vincent : May I mention to the Honourable Member the decision of the Conference which met at Calicut itself ?

Mr. Mahmood Schamnad Sahib Bahadur : That was one-sided. The causes of the outbreak cannot, however, be ascertained by men living in Agra or Allahabad, much less in the Punjab or Bengal, and they can be ascertained only by the appointment of a proper Committee by the Government of India. There is no doubt that an inquiry is very necessary to inquire into the causes of these outbreaks, because there are so many useful things which will be elicited by the Committee and which may prevent a recurrence of such disturbances in future. However, if the Honourable the Home Member thinks that this is not the time to institute such an inquiry, that the country has not yet settled down to its normal condition, and that such a step may only lead to revive bitter feelings and unpleasant recollections, and if he gives us an assurance that such a Committee will be appointed to inquire into the condition of the people and the causes of the outbreak when the country settles down to its normal condition, I think the Resolution may be withdrawn. As the Honourable the Home Member himself points out, the principal thing at present to be done is reconstruction and reconciliation. Sir, I fully agree with him here, but I do not agree with him when he says that no inquiry is necessary at all. What I submit is that such an inquiry as is now proposed may be postponed for the present, because what we want just now is a policy of reconstruction and reconciliation and perhaps this may be postponed by the proposed inquiry, and bitter feelings may be aroused by the various parties putting forward different views. Therefore, I think if the Honourable the Home Member will be good enough to give us the assurance that an inquiry will be instituted to go into the whole question when normal conditions have been restored, I think this Resolution may be withdrawn.

Mr. Sambanda Mudaliar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, however much I may be in sympathy with this Resolution, I beg to state that no useful purpose will be served by the appointment of a Committee to inquire merely into the causes of the outbreak. After listening carefully to the speech of the Honourable the Home Member, it appears to me that the appointment of a Committee to inquire into the causes of the disturbances in Malabar is quite unnecessary, but if any Committee is going to be appointed, the scope of the Inquiry Committee should be widened. It is with that object that I move the amendment which stands in my name. It reads thus :

'That after the word 'report' in the third line of the Resolution, insert the following words :

'with definite proposals to prevent similar recurrence of outbreak in future'

Many of the Honourable Members here are aware that a certain section of the people thinks, and in my opinion very rightly thinks, that the outbreak was mainly due to the mischievous propaganda of the extreme section of the Khilafat and non-co-operation movements. At the same time, there is another section of the people who think that the outbreak was due to agrarian trouble, while there is yet another section of the people, though very small indeed, who think that the outbreak was due to the maladministration of some district officers. So far as I am concerned, Sir, I may at once dissociate myself from the theories put forward that the outbreak was due either to agrarian disputes or to any maladministration on the part of any official. In this view of mine, I am corroborated by the Resolution which has recently been passed at Calicut some days ago. At this meeting it is reported that about 15,000 people of all classes and communities were present. The meeting was presided over by no less a person than His Highness the Zamorin of Calicut.

Mr. Mahmood Schamnad Sahib Bahadur : They were all zemindars.

Mr. Sambanda Mudaliar : Yes, there were zemindars and all classes of people were present so far as I could gather from the newspapers. That was a representative gathering, and all sections of the people were present, and the meeting was presided over by His Highness the Zamorin of Calicut. The meeting was clearly of opinion that the outbreak was due to the mischievous propaganda of the extreme section of the Khilafat and non-co-operation movements. However, it was very rightly pointed out by the Honourable Sir William Vincent, I once more beg to emphasise that no useful purpose would be served by the appointment of any Committee at present. If, however, the Government of India and this House are inclined to accept the view that a Committee is necessary, then I respectfully submit that the scope of the inquiry should be widened in the manner I have suggested, because if the Committee that is to be appointed makes an authoritative declaration that the outbreak was due to a particular cause, then I think it will set at rest any doubt there may be in the minds of our Muhammadan brethren and also of others who are under the impression that the outbreak was due to causes other than the cause I have mentioned, namely, the mischievous propaganda of the extreme section of the Khilafat and non-co-operation movements. In this way the whole thing can be set at rest in a manner satisfactory both to the Hindus as well as to the Moplahs.

Sir, some time ago, my Honourable friend, Rao Bahadur Rangachariar, put a supplementary question here as to whether Government proposed to appoint a Committee to inquire into the causes that led to the recent Moplah outbreak. The Honourable Sir William Vincent replied that the Government was in no mood to appoint an Inquiry Committee, but that the question would be considered and discussed if a Resolution was brought before this House. I think such a Resolution is opportunely brought forward here, and we have here the authoritative pronouncement of the Honourable Sir William Vincent so far as the appointment of the Committee is concerned.

Sir, I may add that I fully realise that there is an appreciable volume of public opinion here that there is need for the appointment of a Committee with a non-official majority. In this connection I cannot omit to advert to the fact that we could not ignore the fact that the safety of the lives and properties of the Hindu population should be safeguarded in Malabar. I understand

[Mr. Sambanda Mudaliar.]

that the rebels are still busy in their nefarious deeds, and indulge in atrocious deeds. I have seen in the Madras papers that a Nambudri Brahman was shot dead while walking in the street. I also saw in the papers that the rebels are still busy in annoying Hindus wherever they are met with. I also see from the papers that the houses of the refugees have been occupied by Moplahs who refuse to quit them and they actually threaten violence. There is also a certain section of the rebels who are still at large, and people are afraid of them. I have also seen in the '*Madras Mail*' recently about 4 or 5 days back—this, I think, is the incident which was referred to by the Honourable Sir William Vincent—that one Krishnan Nair with a few of his servants was going to harvest a crop in a hill. They were followed by a gang of Moplahs, and in a scuffle that ensued, two or three Hindus were killed and Krishnan Nair was flayed alive. I think the Honourable Sir William Vincent probably adverts to this. It appeared in the '*Madras Mail*' only a few days back.

Sir, the recent outbreak has left a legacy of suffering and misery in the land. The excessive havoc caused by the rebels in the taluks of Ernad and Walavanad cannot be adequately described. Many public buildings were burnt, telegraph wires cut, bridges damaged and other kinds of damage done in the country. Government is faced with a difficult problem. They must undertake the work of reconstruction in a statesman like and liberal spirit, and I am glad to see that the Honourable Sir William Vincent has assured us that the Madras Government is carefully looking into this matter and have sanctioned a grant of Rs. 35 lakhs.

Sir, the Reconstruction Committee which was recently appointed in Malabar has suggested some remedies. They said that the first thing which the Government will have to do for encouraging the return of the refugees to their deserted villages will be to ensure adequate safety to the lives of the forcibly converted Hindus who have since been taken back to their original faith. In this connection, I may add that assurances should be taken from Thangals—those people who exercise sacerdotal influence over the Moplahs—that no injury will be done to the converts who have been taken back to their religion. Apostasy is a thing which the Moplahs will never tolerate and therefore it is all the more essential that sufficient protection should be given and that assurance should be taken from Thangals that they would not molest or do any kind of injury to those who have been forcibly converted and who have been taken back. There is also another suggestion which has been made by the Reconstruction Committee, and I would also suggest it, that Government should spare no efforts in adequately policing the country and they should see that military troops are garrisoned in all important centres in the Taluks of Ernad and Walavanad.

In this connection, Sir, I may state that the Moplahs are the most illiterate people and they are a set of fanatics. They are very ferocious. They are not at all educated. They believe in the doctrine that they would get Heaven if they die in battle. There have been about 31 Moplah outbreaks in Malabar since Malabar was taken by the British Government, and including the recent outbreak, the number is 32. Somewhere in the year 1852, a company of troops was stationed at Malapuram. There was military permanently stationed there. But for some reason, which I am not aware of, and I heard in spite of the protest of the Government of Madras, the Central

Government, recalled that army which was permanently stationed at Malapuram. It was disbanded recently, about one or two years back. That is what I understand.

The Honourable Sir William Vincent : When ?

Mr. Sambanda Mudaliar : About one or two years back. That is my information. The military that was permanently stationed at Malabar was disbanded one or two years back. I also interpolated about this matter, but I did not get a satisfactory reply. So far as I am aware, there was a permanent garrison stationed there, and it is only very recently, I believe one or two years back, that the military was recalled. I do not know, Sir, who was responsible for it. But I also heard that the Madras Government stoutly resisted that, and that in spite of it, it was disbanded, and I say that if that army was in existence there during the recent outbreak, though of course, the outbreak would not have been obviated, yet, I beg to submit that the existence of the army would have considerably minimised the horrors that were the resultant of this outbreak.

Then, Sir, the Reconstruction Committee has also suggested another thing, namely, that the construction of railways and roads should be undertaken immediately in the disturbed area with a view to open up the country and bring the Moplahs to civilising influences. I would also suggest in this connection that a wireless telegraphy may be installed somewhere in that area, because we have seen at the recent outbreak that all the telegraph wires were cut, and that caused some difficulty in getting the necessary information earlier and sending troops to meet the situation.

These are some of the practical suggestions made by the Reconstruction Committee. Of course the Mover of the Resolution desires a Committee to be appointed. As I already promised, if the Members of this House are of opinion that a Committee may be appointed to inquire into the causes, then of course that Committee should be appointed with a view to set at rest the various misapprehensions or misconceptions that have pervaded men's minds. Some think that the rebellion was due to the mischievous propaganda of the Khilafat workers while others think that it was due to agrarian troubles. If my amendment is accepted, the suggestions which I have thrown out may usefully be considered by the Committee which may be appointed.

Sir, recently,—I think in the month of January last—a Resolution was brought by Dewan Bahadur Krishnan Nair, one of the Members of the Madras Legislative Council, in regard to the suggestion which I have made, namely, the stationing of troops and military police in the rebel area. The Resolution runs as follows :

'This Council recommends to the Governor in Council that with a view to prevent or minimise possible Moplah outbreaks in the district of Malabar, particularly in the Taluqs of Ernad and Walavanad, three military units each comprising 100 men with the requisite officers and equipment, be permanently stationed, one at Mallapuram, another at Tirurangady and the third at Munnarghat.'

This Resolution was moved, and the Honourable Sir Lionel Davidson, in replying on behalf of Government, said that the distribution of military forces was not a matter within the purview of any Local Government, and he distinctly said that this was a matter which the Central Government should consider. In the light of that reply the Resolution was withdrawn.

The Honourable Sir William Vincent: What was the date of that Resolution please?

Mr. Sambanda Mudaliar: 19th January, 1922. It appears in the proceedings of the local Council of the Governor of Madras, second Session, Volume 4, No. 6. So you will see that in order to carry out or give practical effect to the various suggestions that have been made by the Malabar Reconstruction Committee and also by the general meeting which was held recently at Calicut it would be obvious that if some of these suggestions should be immediately taken in hand, such as the quartering of police with a view to prevent similar outbreaks in future, to open up roads, and to instal wireless telegraphy and such like, they require a considerable sum of money and this is a thing which the Central Government may take note of and see that practical effect is given to it as early as possible. I say that effect can be given to these suggestions by a Committee, because the Committee, if appointed, can inquire into these suggestions and submit a report. The Committee will also take steps to see that the Hindus and Moplahs fraternise with each other and can also suggest ways and means to bring the Moplahs under civilising influences and how to educate them. All these things can be done by the Committee. So, I request that the amendment which I have moved, namely, that a Committee may be appointed which may inquire and report definite proposals to prevent similar recurrences of outbreak in future may be accepted.

Mr. President: Amendment moved :

'That after the word 'report' in the third line of the Resolution, insert the following words :

'With definite proposals to prevent similar recurrence of outbreak in future.'

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural) : Sir, when we had a debate about the distress in the Malabar district a few days back, I thought that we had heard the last of these unfortunate incidents at least in this House. But I find, Sir, that we are confronted with a debate on the same subject again. You, Sir, ruled out of order the Resolution of my distinguished friend, Mr. Seshagiri Ayyar, because on the memorable debate on the 18th January you said that, that could have been moved as an amendment to Mr. Iswar Saran's Resolution and I thought that any Resolution on the Malabar question could not come up for discussion in this House again. But, Sir, it has come up and I think it has unfortunately come up because whenever these discussions arise I find that there is a charge of mutual recrimination about the wrongs done to the Hindus by the Mussalmans or the wrongs done to the Mussalmans by the Hindus. Such discussions are absolutely fruitless and serve no useful purpose. I am very surprised at the suggestion made by my Honourable friend opposite that Malabar should be subjected to military control by the location of some garrisons in that locality. We in this House were unanimous in our opinion that the military expenditure of the Government of India should be reduced and we cannot with any reason ask for additional military expenditure to station any military garrison in Malabar or in Sasaram. These are unfortunate incidents which happen in every country like India. They are really regrettable, but we should trust to the good sense of the leaders of both the communities, Hindus and Muhammadans, to suppress them and not invoke the aid of the military to punish the one or the other. The Moplahs may be fanatics, they may be illiterate, but they

are reported to be a brave and daring race and it will serve no useful purpose, it will be wrong to the country itself, to exterminate them or to kill them. However interesting a report this proposed Committee may submit, I think the matter has been sufficiently discussed and that it ought to be now left alone and should not be raked up again. Whoever may be responsible for these outbreaks, these outbreaks have come and gone and have done immense injury to the country and the administration of law and justice as well. Now, to try and find out who is responsible for the outbreaks, whether it be the non-co-operators who agitated them or the fanaticism of a particular community which led to them, or whether it was something done by the Hindus to the Muhammadans which led to them or whether it was an indiscretion on the part of the police or the Government officials which brought them about, it will serve no useful purposes at this stage to inquire into them and report. It will only rake up old animosities which should be now forgotten and forgiven, and I respectfully appeal to my learned friend, the Mover of this Resolution, to withdraw the Resolution, especially as a discussion will lead to no useful purpose, and I think the less we talk about these matters the better for ourselves. (Hear, hear.) There were certain unfortunate riots in Shahabad, but we have, I am glad to say, forgotten all about them and I wish that our countrymen will also forget about the Moplah outrages, and I hope and trust with the good sense of all sections of the community such events will not recur again. I trust that occurrences of this nature will be prevented by mutual good understanding, by diplomacy and conciliation and not by the use of military or brute force.

Mr. N. M. Joshi : I move that the question be now put.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : While at Simla I had sent in a Resolution of a similar nature, and that was at the request of several people. But at that time I knew that certain actions were proceeding against the Moplahs and those riots were subsiding and I did not think it right to ballot for that Resolution. It had been standing in my name all these days throughout this Session and I did not ballot for it, hoping that when the riots had subsided and the country got settled, I would get an opportunity of moving this Resolution. Fortunately, this Resolution has come up to-day.

After the eloquence of the Honourable the Home Member and my Honourable friend, Maulvi Abul Kasem, it is very difficult to make
 3 P.M. up a good case against them, but imperative necessity obliges me to disagree with them. I do not think in any way that this matter should be left alone where it stands. My Honourable friend from Madras has specifically in this House to-day laid the whole of the blame on a certain section of the community only. When such a kind of feeling exists, I do not think that this matter should be left, as it is, one-sided. There should be a thorough inquiry and the responsibility should be fixed. If this House is not going to vote for an inquiry into such a tremendous outbreak as this, I do not know in what case it is going to ask for one. There have been thousands of lives lost. Thousands of people are living without homes. Thousands of children are without mothers and fathers and they are living in a miserable condition. And still this House wants to sit quiet and does not want to know the true facts. I will be surprised if the House treats this Resolution as though it were a negligible one. I think it is the duty of this House to solve this problem. We are not coming here simply

[Mr. Muhammad Yamin Khan.]

to satisfy the Madras people or people from a certain locality. We want to satisfy the whole of India and the whole of India, I can assure you, will never be satisfied unless an independent inquiry is made by people who possess independent character, who side neither with one party nor with the other, who show no sympathy either with the Hindus or with the Muhammadans, who look upon all communities as equals, who will not be inspired to favour one community or the other. Only an inquiry by such people will satisfy the country and without that there will be no satisfaction. I think Government will be doing an injustice to itself if they refuse this inquiry. If the accounts that have been appearing have been true and sincere, they should appoint a Committee and that Committee should be composed of men of independent character who will not be swayed by any racial feeling, who have no particular sympathy with any community and who do not even belong to that locality. Then and then alone will the country be really satisfied. If what the Government have been telling the public is really trustworthy, then it is in their own interests that this Committee should be appointed and an independent inquiry should be made. Nobody can then say that the accounts which have been appearing were only Government accounts. I quite agree with the Honourable the Home Member that we should not bring in the question of non-co-operators every time in this House and waste our time. But I think it is not only non-co-operators but co-operators who are interested in this case. There is nobody who can ignore such a great calamity in one district and sit quiet and call himself a responsible person who does not want to know the real facts. Government will be doing a great injustice to itself if it leaves this matter here. I do not agree with my friend, Mr. Muhammad Schamnad, when he says that at present this Resolution should be withdrawn after the assurance given by the Honourable the Home Member that an inquiry will be instituted later on. I say 'No'. As feelings exist now, it is better to have an inquiry to-day. Otherwise when the feeling has subsided, when people are living friendly to each other, you will stir them up. That will be more injurious to the country than it would be to-day. When the dead bodies have been buried, you will dig them up. That is not a sound thing. If you want to institute an inquiry, that should be done to-day. You should not stir up feelings when they have subsided. You, as a responsible body, have to show to the country: 'Here are the true facts. These are the persons who have been responsible for these outbreaks'. Then the Committee can put up certain recommendations before the Government so that these incidents may not occur again. Without a full inquiry you cannot put up recommendations. We have been hearing from my friend, Mr. Mudaliar, who puts the whole blame on the Khilafat propaganda.

Mr. Sambanda Mudaliar: I never put the whole blame on the Khilafat people. I said that a certain section of the people were labouring under that impression and another section was labouring under a different impression.

Mr. Muhammad Yamin Khan: He suggested three causes and disagreed with two, leaving the third, that was Khilafat. So there can be only one inference from that. Now he says that it is not so. I do not know how I should construe his speech. We have been hearing a different story and my friend, Mr. Schamnad, will bear testimony to it and that is that the zemindars

of the place have been thoroughly responsible for this occurrence. They have been sucking the juice of the poor tenants. They have been playing the part of Shylocks and demanding their pound of flesh and nothing less. That is another side of the question. There might be other causes. We are quite ignorant. We do not know anything about that place. How are we to believe which account is true and I think that in order to satisfy the whole country an independent inquiry should be made by persons who do not belong to that locality and their report will satisfy the whole country.

Then, Sir, we have been hearing that a lot of Moplahs have been causing great injury to the Hindus. There is not a single Muhammadan, not excepting even Hazrat Mohani, who will not shed tears after hearing the tales of woe of the poor Hindu people who have been so miserably treated by these fanatical people. At the same time, Sir, we have got one fact which has been rightly pointed out, that Moplahs are ignorant, are fanatical and are brutes and they are poor and they have no voice to demand an inquiry. That is the reason why Sir William Vincent says that no demand has come from that quarter. If the Moplahs had any voice, if they had organised bodies and if they had sufficient education to ask for an inquiry, then there would have been one from that quarter. My Honourable friend, Sir William Vincent, says that he will be quite willing to appoint a Committee if there is such a demand and I will say to him that two amendments which are standing to this Resolution come from the Madras people, Mr. Pantulu and Mr. Mudaliar. They both belong to the Madras Presidency and this shows that they are interested in this Resolution. Of course, whatever the people in Madras may believe, the country outside Madras does not know and will not believe anything until it hears from its own people. I think this Resolution as it stands should be supported. One word more about the amendment which has been moved by my friend, Mr. Mudaliar. I do not think there is any harm in this. The report which he suggests might be constructive, but we must know the causes at the same time. Unless we know the causes, we cannot suggest any remedy. The remedy comes after the disease has been properly diagnosed, and we must know these causes. They should not be neglected, and this is the best time to know the causes, when the country is shaping itself. The Moplahs are very head-strong people, they are very fanatic, and their fanaticism should not be stirred again after they have properly subsided, and, therefore, Sir, I submit that the House should support the Resolution which is very sound in the interest of the country, in the interest of the Government as well, and in the interest of all the people who come here to represent their own constituencies.

Haji Wajih-ud-din (Cities of the United Provinces : Muhammadan Urban) : I move, Sir, 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 he may be pleased to constitute a Committee with a non-official majority to inquire into the causes of the Moplah outbreak and submit their report before the next Session of the Assembly’.

Since which an amendment has been moved to add after the word ‘report’ the words ‘with definite proposals to prevent similar recurrence of outbreak in future’.

[Mr. President.]

The question I have to put is that that amendment be made.

The motion was negatived.

Mr. President: The question is :

'That this Assembly recommends to the Governor General in Council that he may be pleased to constitute a Committee with a non official majority to inquire into the causes of the Moplah outbreak and submit the report before the next Session of the Assembly'.

The motion was negatived.

RESOLUTION *RE* COMMITTEE ON RAILWAY RISK NOTES.

Rao Bahadur C. S. Subrahmanayam (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, the Resolution which I move is No. 3 on the list, namely :—

'That this Assembly recommends to the Governor General in Council to appoint a Committee of officials and non-officials with a majority of Indian non-officials to consider the revision of Railway Risk Notes'.

Haji Wajih-ud-din (Cities of the United Provinces : Muhammadan Urban) : May I rise to a point of order ? This Resolution stands in the name of Mr. Manmahondas Ramji.

An Honourable Member : Is he authorised ?

Rao Bahadur C. S. Subrahmanayam : Yes.

Mr. President : Mr. Subrahmanayam.

Rao Bahadur C. S. Subrahmanayam : This question of the revision of the Railway Risk Notes is a very old one and representations have been made by commercial bodies time after time to the Government to have these risk-notes amended in such a manner as not to inflict unnecessary hardship and injustice upon merchants and traders and the public. Railway Risk Note Forms B and H exempt the Railway Companies 'from all responsibility for any loss, destruction or deterioration of or damage to the said consignments from any cause whatever except for the loss of a complete consignment or one or more complete packages forming part of a consignment due either to the wilful neglect of its servants, transport agents, carriers, employed by them before, during and after transit over the said railway or at other railway lines working in connection therewith or by any other transport agency or agencies employed by them respectively for the carriage of the whole or any part of the said consignment: provided that the term 'wilful neglect' be not held to include fire, robbery from a running train or any other unforeseen event or accident.' Those last words I read, the whole clause is taken from the Railway Risk Notes. Now the wording of these notes in this wise has enabled Railway Companies on not a few occasions to evade their responsibility to the consignors or consignees. The onus in all such cases is laid on the plaintiff claimant to prove the negligence of the Railway Company,—and that is not according to the ordinary law. Well, these Risk Note forms make an exception in the case of one or more complete packages forming part of a consignment, but so far as I have been able to gather, the Railway Companies in practice do not give compensation even in the case of the loss of one or more complete packages forming part of a consignment. There are a number of cases which have been put before me which show this.

The expression 'robbery on a running train' is also much abused. How is a man to prove that there was a robbery in a running train? And can we conceive that there can be robbery without violence, without a large organization, on a running train? Well, there is a good deal which one does not know but is common behind these robberies on running trains. There are places, at any rate on the railways in my province, through which people slip down, especially on goods trains, and without the co-operation of some one on the train, either in the behind carriages or front carriages, it is not possible for robbers to commit robbery of any goods. Now Railway Companies are exempted in all such cases, because the consignor has to prove theft by a railway servant. Now the absurdity will be patent to you when you imagine a man sending packages from Madras to Delhi and the goods are lost, packages are lost, in transit; how is the consignor to prove that there was a theft, a criminal act, by a railway servant in transit? Now the ordinary law is that the man who ought to be able to prove would be in the best position to prove, a certain fact must prove that fact, not an outsider. Similarly with regard to the Risk Note Form A, under which the Railway Administration is exempted from all responsibility for the condition in which the goods may be delivered to the consignee at destination and for any loss arising from the same. The railways get these signed by consignors even though the packing may be entirely sound. It often happens that merchants pay railway risk rates and yet railway employees get the consignors to sign the Railway Risk Note A. If the consignors afterwards complain they are offered merely a refund of overcharges but not any compensation which may be due to them for any damage which may have been caused to their consignments. This Risk Note is demanded even though there may be a very slight tear in the packages and sometimes even when the packing is sound. I have got instances with me to prove that even this Risk Note Form A is being much abused. I do not wish to go into details with regard to all such instances and weary the House. These Risk Notes are framed and settled with the sanction of Government. Practically, a Risk Note may be said to be made under the authority of Government and, therefore, the responsibility of Government in this matter is very high. It ought to so word the risk note as to make the Railway Company responsible to a certain extent. I do not advocate Railway Companies being made insurers of goods; that will be carrying their responsibility very very far. On the other hand, nor can the public agree to let the Railway Administrations go practically scot free in such matters. As I have said, many representations have been made, not only by individuals but by associations and firms regarding this matter. Now that the question has been brought up in this House I hope the Members will see the difficulties with which consignors, and through them the public are faced. What has happened in cases which have come personally to my knowledge is that a half or three-quarters of the contents of small packages have been robbed in transit from one place to another, vegetables, fruit, fish, etc. I have known a case when a man sent some cakes for Christmas to his children packed up nicely in a box. No doubt the parcel was eagerly awaited, but when the box was opened it was actually found full of bricks. I have myself received baskets, which originally contained fruit, with all the fruit extracted. This state of things is due entirely to the fact that the Railway Risk Note says that the railway is not responsible. Many people, who send goods and find them short at the other end do not care to take further trouble or to correspond with the railway or expose the conduct of railway servants through the

[Rao Bahadur C. S. Subrahmanayam.]

press or by other means. They simply submit to their fate. But some times when a man is able and literate enough to correspond with the railway authorities and threatens them with legal action (which eventually would not succeed) or exposure, he is compensated for his loss. So far as I am concerned, when I have suffered loss on parcels of fruit and vegetables, I have always represented and received compensation. It is not however every one who has the facilities or cares to take legal action and to undergo all the formalities connected therewith. I know in my own case, I should have lost the suit if it had been fought out, because legally I was not entitled to my claim. But I risked the loss of a suite in order that I may have a chance of exposing the action of the railway. I should like to say however that when I refer to the 'railways' I hope the House will understand that I mean the servants of the railways.

Now, Sir, there is one very evil consequence of this irresponsibility, I mean of the railway administrations not being liable and the consignors not being able to reach those administrations and to make them pay, and that is that they do not trouble themselves about putting a stop to these malpractices. The railway servants know that that is the attitude of their authorities and so they go on robbing. Now we had a full discussion in Simla about the corruption in various public departments, and on all sides, European and Indian, official and non-official and mercantile and non-mercantile, there was a unanimous expression of opinion that the railways were the worst offenders in this respect. There was absolute unanimity and when there is absolute unanimity in this House, it may be taken, Sir, that the cause is something out of the ordinary and is based on Gospel truth. Well, I am asking in this Resolution for the appointment of a Committee to go through these Risk Notes, to examine them to omit something here and to add something there and generally to make them reasonable document which will impose some kind of a reasonable liability on the railways. I have already said that I do not want to make them insurers of public goods; but, at the same time, we will not be satisfied simply in leaving matters in the condition in which they are. Cases have gone up to the Courts, in which the complainants, being dissatisfied with the result of their representations to the railway authorities, have made efforts to recover their losses by legal action. A case recently went before two Judges of the Madras High Court, one of whom I am glad to see is present here to-day listening to this speech. He said in the mildest language—which after being emancipated from this trammels of judicial office he has since abandoned—that 'the note is not very carefully drafted'. What more do you want for a document which emanates from the Government of India and which concerns all the people in the country to be characterised by a learned Judge as being 'not carefully drafted'. But if you go into all the cases which have arisen out of these Risk Notes, you will find a diversity of opinion among Judges of various High Courts. That itself is evidence that this Risk Note is not carefully worded and is not intelligible even to the minds of learned Judges in the various High Courts. That is the greatest defect in these Risk Notes: these were drafted years ago and no change has been made in them since; and probably at the time of drafting it was presumed that the railway servants would be honest and would not take to pilfering in the manner in which they now do. I have received representations from various firms, European and Indian, about this matter. It was really proposed to bring this matter before the Assembly 7 or 8 months ago. I submitted a Resolution in another form.

My friend, Mr. Manmohandas Ramji, at the same time from another corner of India has sent in this Resolution which is wider in its terms. After reading each other's Resolutions we corresponded and got material together. Now, Sir, those are the points on which I submit this Assembly should support the Resolution.

Now, I might be told that we have already the Railway Committee's report, which is a big matter, and that a subsidiary Committee which was appointed by the Government of India in December last will take up this question. I demur to that suggestion for the simple reason that that is a big affair and the subsidiary Committee, by whatever name it may be called, is not well qualified to deal with it. There are one or two things from the Railway Committee's report which are worth bringing to the notice of this Assembly. In paragraph 162, this is what the Committee say :

'A good deal of evidence has been given to us by Indian traders alleging grievances in respect of Owner's Risk Notes. We think that a full investigation of the whole subject by the Tribunal which is going to be appointed would be welcomed both by the railways and the trading public. The Tribunal should decide . . . and so on . . .'

That is a Tribunal very likely on the lines of the Railway Board or Railway Commissioners in England, to settle all legal and other matters. It is not, however, possible at present to say how far this will be feasible in India in its present financial straits. In another paragraph, they say in regard to this Tribunal :

'We suggest in the first instance that the lay members of the Tribunal should be appointed but only paid a retaining fee until it can be seen what the work is. We think, however, that a legal man may be put on this Tribunal as a whole time officer.'

It will be long before we can decide upon appointing a Tribunal with paid officers seeing the financial condition of the country as placed before us and as we understand it now. Therefore the anticipated constitution of that Tribunal will not be a satisfactory answer to the demand. It is a far-reaching thing which should come in the usual course. But this is an urgent and an immediate want which has to be met without delay. There is another matter about this Advisory Committee, which also the House should know. From this Committee are to flow all the benefits which this Railway Committee has promised us. In paragraph 141 they say :

'We are led, however, to think that in India it would be well at least in the beginning to constitute a Council on a smaller scale with membership of not more than 25 in all. The Member for Communications would of course be the Chairman of the Council and his duties in that capacity would be amongst the most important functions he would have to discharge. The whole of the Commissioners should if possible attend the meeting bringing with them any other officials whose presence is required for the business in hand. The Commissioner should, in our opinion, be free to speak but should have no vote. The Council should have representatives of the Departments of Commerce and Industries ; Agriculture and possibly some others ; one-half should be nominated by the leading commercial and industrial associations, both European and Indian. The other half should be representative of Railway interests and the travelling public in different parts of the country. In the absence of any prominent association definitely identifying in these matters, we think this object would best be done if one representative were appointed by the Legislative Council of each of the provinces, not necessarily from among themselves.'

Now, this is the constitution of the Committee foreshadowed by the Railway Committee. The Advisory Council, or whatever it is, appointed recently, does not conform to what is laid down in this paragraph. Therefore, that Advisory Council is not even according to this or according to the opinion of some of us, competent or quite eligible to constitute other bodies which will eventually take up this matter. Therefore, my request now is that this

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Committee which I now ask may be appointed and let them settle this matter. When the bigger Council and the Tribunal come into existence, of course they will have their work cut out for them, and if they like they may do many other things. But, for the present, mine is a simple request and the grievance is a well known grievance to all who have anything to do with Railways.

Haji Wajih-ud-din : Sir, I do not wish to move my amendment.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : Sir, I wish to say a few words upon this important question. Before doing so I must say a word of personal explanation in regard to the remarks of my friend, Mr. Subrahmanayam. Mr. Subrahmanayam said that from mildness to violence have been the characteristics of my speeches in this Assembly. (*Mr. C. S. Subrahmanayam* : 'No, no.') If I was mild some time back, that was attributable to the atmosphere in which I then worked, to the gentlemen with whom I associated. If I am not so to-day, I think my friend must bear a part of the blame which falls on me. It is due to the atmosphere in which I am making my speeches.

Now, Sir, there are three important points in this matter which ought to be considered by this House. The first is the question of the burden of proof. As was pointed out by Mr. Subrahmanayam, it is violating the general principle of law to call upon the person who has lost his goods after having consigned them to prove that the Railway Company has been guilty, or that the servants of the Company have been guilty of theft or negligence. It is almost impossible for anybody to prove that. There can be no doubt that once you entrust the goods to the Railway Company, it is their duty to see that it is safely carried to the destination. If it is not delivered in its proper form at the destination, it is the Railway Company that ought to prove that they were careful, that there has been no negligence and that no servant of their Company had committed theft. But to call upon the person who entrusted the goods and paid the charges to prove that the Railway Company has been negligent or that some servant of the Railway Company committed theft is reversing the first principle of law. Upon that matter, the Risk Note should be revised. Sir, Mr. Subrahmanayam has referred to an incident which puts him in a better light than mine. Unfortunately I was placed in a different position. Once I happened to come from Ootacamund and I went to Trichinopoly; I had to pass (Mr. Innes knows all these places) the Erode station; there was an interval of 6 hours before I could get from Erode, from the Madras and Southern Mahratta Railway to the South Indian Railway. I had booked my packages and I got into the train and I expected the goods to follow me. After six hours the Railway servants found there was something which they could take away from my packages; therefore they did not put them along with me in the train. When I went home, I found that my packages had not come. Unfortunately I had given a decision in favour of the Railway Company some time ago and I knew something of the law; and I, therefore simply drew the attention of the Railway Company to the way in which the Railway Company's servants had behaved and the only reply I got was that the servants had been found fault with and one of them was fined. I did not get any portion of the fine as compensation, whereas Mr. Subrahmanayam was able to get compensation.

I am only pointing out this for the purpose of showing that very often these thefts are very deliberately committed by the Company's servants; and if in the case I mentioned I was called upon to prove how the theft occurred and that some of the servants of the Railway Company had stolen the goods, it would have been impossible for me to prove it. Therefore it is absolutely necessary that there should be a change in the Risk Note.

Another matter of some importance is this. The Risk Note, if I remember aright (I am speaking from memory, because I had to deal with a case of this nature), contains three important words, 'loss, deterioration and destruction.' One very important case came up before the Madras High Court, and that was a case where a package was taken to a particular railway station and some servant of the Railway Company put over it some acid, which partly burnt it. It was, I believe, a package containing rice. Then the person who consigned the rice came before the Madras High Court. The question was whether there had been loss, deterioration or destruction. It was argued by the Government that unless it is unidentifiable as rice, there can be no loss, deterioration or destruction. It may be useless for consumption, but if you can trace it as rice, there can be no case of loss, deterioration or destruction.

Unfortunately the Madras High Court was obliged to accept this argument, because that has been the interpretation put upon it in some other High Courts. In a country like this, where people are not conversant with technicalities, it is absurd to ask them to agree, when they consign goods, that even if it becomes useless, owing to the acts of the Railway Company, it is their misfortune. It is absolutely necessary that the Risk Note should be so worded as to make it intelligible to the common people, and to bring it into conformity with common sense.

There is only one other matter, and that is in regard to insurance. It is said that the Railway Companies always shelter themselves behind the plea that if you want compensation from them, you must insure, and if you do not, you are not entitled to compensation. But when you send fruits and other things by rail you do not always think of insuring the goods, and the result is that you are not able to get compensation from the Railway Company. To that extent also the Risk Note should be revised.

For all these reasons, I heartily support the Resolution which has been moved by my Honourable friend, Mr. Subrahmanayam.

Mr. A. B. Latthe (Bombay Southern Division: Non-Muhammadan Rural): Sir, I wish to add one reason more to the reasons which are put forward by Mr. Subrahmanayam as to why the Risk Note requires to be revised. One object of these Risk Notes is to free the Company from all liability for loss or deterioration, and in one of the cases which came before the Bombay High Court, the High Court held that some of the stipulations contained in these Risk Notes are inconsistent with the Railway Act itself; and in the case which I think is reported in 17 Bombay Law Reports, Mr. Justice Shah went so far as to say that one of these stipulations is illegal and not binding, because it is inconsistent with the Railway Act. I think this a very good reason why these Risk Notes require to be revised and made consistent with the Railway Act.

Mr. J. N. Mukherjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I would just like to add a word or two to what has already been said on

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the subject of why it has now become extremely necessary that this matter should be gone into very carefully.

Now, so far as the responsibility for goods delivered to Railway Companies is concerned, the substantive part of the statutory obligation is laid down in section 72 of the Indian Railways Act, where the Railway Administration is made responsible for the loss, destruction or deterioration of animals or goods delivered to it to be carried by rail, etc. But, in the same section, there is a provision to the effect that an agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it is, otherwise, in a form approved by the Governor General in Council.

Now, Sir, here is the case of a bailee when he takes complete possession of the goods, and the bailor, after the consignment is made over to the bailor ceases to have anything whatever to do with the goods consigned. But here the ordinary contractual rights of the parties concerned have been so modified by departmental forms sanctioned by the Governor General in Council that most mischievous results have followed, as has been indicated by the various facts that have been placed before the House by previous speakers.

My present point is that after the present Railway Act was passed in 1890, rules were framed under Government authority, but they were framed departmentally. The result was that the forms of the Risk Notes which were then prescribed were so one-sided that even cases of deliberate theft, misappropriation, destruction and wilful negligence were not covered by them. The Railway administration were practically left irresponsible even in such cases. Then there was an amendment which was made in 1898, but this also left the matter in the same state. The Government Solicitor, to whom the papers were made over for preparation of the necessary forms, perhaps thought only of one thing and one thing only, namely, how to keep the Railway Companies safe and harmless against any possible claim. It was not until 1907 that these patent omissions attracted the notice of the Railway authorities or their draftsmen, so that until then, even cases of theft, deliberate robbery and wilful negligence on the part of Railway servants or agents, had been left unprovided for by the Railway Risk Note Forms. But even now there are lot of things, as has been pointed out by previous speakers, in these Risk Notes which require careful revision. It has been said why should it be necessary to revise them when other statutory bodies contemplated by the report of Railway Committee of 1921, might inquire into this matter and remove the defects. My submission is that these bodies which may come to act under the proposals contained in the Railway Committee's report will not be able to fully realise the difficulties of the class of men who actually suffer under the present forms of these Risk Notes. I know it from my personal knowledge that tins of ghee have often been deliberately tapped, and the contents taken out during transit and only empty tins minus their contents reach their destination. According to existing forms of Risk Notes unless a whole package is lost, the railway people are not responsible for the loss or disappearance. I, myself, happened once to send a keg or drum of linseed oil. During transit the original keg was changed, and another, an empty keg or drum, was offered to me for delivery. I could make out the change, by a distinctive mark that my original keg had, but which the changed one did not show. The Railway Company, however, said that the keg was there, though empty, and I was bound to take it. It

did not matter whether it was empty or not, and, therefore, I was not entitled to any compensation. Sir, that is the way in which the law has been interpreted, and even the High Courts, as has been said by some of the previous speakers, have been compelled from time to time to give perhaps unjust verdict in favour of the Railway Companies on the basis of these Risk Notes. My submission, Sir, is that attention should now be directed entirely to this aspect of the question, apart from the broader questions that may come up before the Committee that may be appointed later on, on the recommendations of the Acworth Report. Cases have also occurred, for instance, where I remember some tins out of a consignment of ghee were left intact, and others emptied. The consignee refused to take delivery of those which had been tampered with. They were left on the platform, the consignee taking away only those tins which were in good condition. In the end, the result of the interpretation of the law was that, because the tins had been left on the platform, they were left at owner's risk and that the railway administration was not bound to pay any compensation for them. Instances like these might be multiplied, but it is useless to do so, as it is no use kicking a dead horse, as the saying goes. The House is already fully cognisant of the mischief resulting from the present forms of these Railway Risk Notes, and there should certainly be a Committee, a very strong Committee, a Committee which should have a large number of people who have actually suffered loss or inconvenience, people who can bring up cases before the Committee and can pronounce an opinion on the subject which is worth having. I submit, Sir, that apart from the other things that will have to be considered by a Committee, appointed under the Acworth Report, the present forms of the Railway Risk Notes afford a point which requires immediate attention and therefore I support this Resolution.

Colonel W. D. Waghorn (President, Railway Board) : Sir, I should like to point out to the Members of this Assembly that the Railway Board and Railway Administrations are themselves fully alive to the desirability of endeavouring to meet the public demand which is at the bottom of this Resolution, and it may be mentioned in this connection that the question of the revision of Risk Note Forms B and H was considered by the Indian Railway Conference Association at the request of the Railway Board in 1918 and 1919; and that, as a result of that reference, the Railway Board agreed to the recommendations of the Conference Association that the existing forms of Risk Notes B and H should be allowed to remain unchanged.

The original proposal was to definitely throw the onus of proving responsibility for misconduct on the owner, but this, it was recognised, would give rise to a protest from the traders who would doubtless press on their side for a greater measure of liability being thrown on railways than is provided for in the existing Risk Notes.

Railways, on the other hand, are not prepared to accept any greater responsibility unless they can enhance their owner's risk rates to such an extent as to cover the extra liability. I may remark that these railways are to a large extent a revenue-earning property of Government, and any increase in their working expenses comes back on Government, or on the public in other words. It was on these grounds that the Conference Association arrived at their decision with which the Railway Board agreed.

Now, I should like to quote an extract from a paper entitled 'Transport Law', which was read by Sir R. Francis Dunnell, K.C.B., Secretary and

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Solicitor, North Eastern Railway of England, in the third ordinary meeting of the 1921-22 Session of the Institute of Transport held on 9th January, 1921.

Sir Francis Dunnell points out that under the provisions of the Railway and Canal Traffic Act of 1854 the most important and far-reaching Act which has been passed in relation to railway companies as carriers of traffic, the duties of the railway companies were :

'*First*.—To afford reasonable facilities for receiving, forwarding and delivering traffic. At Common Law a carrier was only obliged to carry according to his profession and could limit at his own free will the nature of the goods he was willing to carry and the places between which he would carry them. But by the Act of 1854, a positive duty to give reasonable facilities for carrying all goods—other than specially dangerous goods—is imposed upon railway companies. The Act does not make a railway company a common carrier and whilst, therefore, companies become obliged to carry, they might still refuse to carry as common carrier. In view of section 7 of the Act, however, this limitation is not of much practical importance.'

In regard to the form of consignment note, Sir Francis Dunnell states that :

'The practice of railway companies in adopting common forms of consignment note has led to a number of cases involving the question of liability in cases in which an owner's risk contract has been entered into under which liability is only accepted on proof of wilful misconduct. In these cases, wilful misconduct has been defined as the doing of something or the omission to do something which it is wrong to do or omit and which the person answerable does or omits intentionally, knowing that this act or omission is likely to endanger the goods, and regardless of the consequences. It will be noted that this definition goes far beyond any negligence, even gross or culpable negligence.'

To quote further, Sir Francis Dunnell states in regard to 'Owner's Risk', that :

'A new departure in connection with the railway companies' owner's risk contract was made some years ago when a conference was held under the auspices of the Board of Trade, with the result that the railway companies agreed to revise the form of contract so that it should provide for the acceptance of liability by the railway company in specific cases of loss, damage or pilferage. Having regard to this precedent, it is not surprising that the Railway Act, 1921, should contain provisions which may effect a fundamental alteration in the future relations of railway companies and their customers in connection with the contract of carriage. Sections 42 to 45 of the Act of 1921 provide for the submission by the railway companies of standard terms and conditions of carriage of merchandise at company's risk and owner's risk and for damageable goods not properly packed respectively which are to be settled by the Rates Tribunal and to come into force on a date to be fixed by the Tribunal. Provision is, however, made that a railway company and a trader may agree in writing to any terms and conditions they think fit subject to the provisions of the Railway and Canal Traffic Act of 1854 and also that of 1888.'

It must be borne in mind that any such amendment as may be made in the form of Risk Note must be considered in connection with sections 72 and 76 of the Indian Railway Act. The proposal to modify the forms of Risk Note is not, therefore, by any means so simple as would appear.

Further, it must not be overlooked that any enhancement in the responsibility of railways, which may be brought about by a revision of these notes, must result in a corresponding enhancement of the rates charged for traffic carried at owner's risk as a set-off against such liability, as, if railways are to cover such risks out of their earnings, their revenues must fall.

I would, however, call the attention of Members to the Railway Committee's report, which has been published, and especially to the recommendation of that Committee that a Rates Tribunal should be appointed. Chapter V,

paragraphs 156 to 162, and that amongst other matters this Tribunal should investigate the conditions attached to Railway Risk Notes and frame standard forms. If such a Tribunal is appointed, it is proposed that it shall consist of a lawyer, a commercial representative and a railway official.

Now the question of the appointment of such a Tribunal will come before the Committee of the Legislature which has been appointed to
 4 P.M. consider the Railway Committee's report, and I should like to point out that such a Tribunal will be better fitted, and, being a wholetime Committee, will have the time and means to go thoroughly and carefully into this very difficult and complex question. It is very doubtful whether any Committee of this Assembly, such as that proposed by the Honourable the Mover, would be prepared to devote the time which will be necessary in arriving at a satisfactory solution of this matter.

I would, therefore, suggest to the Honourable Member that he should withdraw his Resolution in view of what I trust this Assembly will agree is likely to prove a much more satisfactory and practical solution, and which, it is hoped, we may be able to put into practice as a result of further consideration of the Railway Committee's report by a Committee of the Legislature.

Rao Bahadur C. S. Subrahmanayam : Sir, I indicated my objection to defer consideration of this matter to the Rates Tribunal which may or may not come into existence, probably not after the deliberation of the Committee. My chief reason for demurring to that proposal is that this report of the Railway Committee has not been accepted and acted upon in full by Government. They have not started the appointment of an Advisory Council in consonance with the formula laid down in this report. Therefore, I feel that we have no guarantee that we will go on straight in the terms of this report ; and the matter which I have now placed before this Assembly is quite simple. I do not want the rates to be reduced. I do not want to saddle the railway with any additional responsibility. All that I say by this Resolution is that the Risk Note is badly worded. I have pointed out that Judges in various High Courts have held that the wording of this Note was not satisfactory. We do not expect Judges to use much stronger language than that. That is an admitted fact and different High Courts have pointed it out. One solitary High Court has put in one such case the burden upon the railway. Other High Courts have felt that the burden should be upon the consignor as to which my Honourable friend, Mr. Seshagiri Ayyar, has said enough to convince this Assembly that the Note needs improvement. I do not want to put the railways on a footing of equality in regard to their liability with common carriers. I do say that railways want a certain amount of protection. But I say that the wording of this Note has led to confusion and what is intended to be the standard of liability of railways is not now correctly represented by this Note. Therefore the matter which I place before the Assembly is simple, just to examine these Notes and take out a few words. For that purpose we have lawyers in this Assembly and lawyers who by all accounts are quite competent to deal not only with this particular matter of drafting a contract between carrier and consignor, but well versed in other branches of law. We have also at present a Committee considering the shipping law ; the liability of a shipper is also being dealt with by statute, and there would be absolutely no difficulty in re-drafting these Notes with the knowledge that is now available in the possession of some of the Members of the Assembly and also with the knowledge of the considerations

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 which I have urged to-day. Therefore there should be no difficulty absolutely in a Committee of this Assembly considering this matter and putting forward a revised form. As for railway men being on it, they ought to be on it. Officers connected with the railways, that is, heads of the Railway Board and others will be there; and as for the argument that the railways are practically State railways and therefore if you impose a burden upon the railways, they might lose heavily, well, that is an argument which I cannot and which the Assembly cannot accept for a moment.

Is it meant that robbery, directly or indirectly, by Government is justifiable when it is not justifiable by a private individual? On the contrary there is all the more reason why Government ought to put down this sort of high-handed robbery by their own railway servants. Government ought to set an example through their servants to other people in the matter of thorough, honest and fair dealing between their servants and the consignees. (Hear, hear.)

Mr. President: The question is that the following Resolution be accepted:

'This Assembly recommends to the Governor General in Council to appoint a Committee of officials and non-officials with a majority of Indian non-officials to consider the revision of Railway Risk Notes.

The motion was adopted.

RESOLUTION *RE* REINSTITUTION OF THE PORTS OF CHITTAGONG AND CALCUTTA FOR THE HEDJAZ PILGRIM TRAFFIC.

Haji Wajih-ud-din (Cities of the United Provinces: Muhammadan Urban): Sir, the Resolution which I have the privilege to move runs thus:

'This Assembly recommends to the Governor-General in Council to reinstitute the Ports of Calcutta and Chittagong for the Hedjaz Pilgrim Traffic and to let the intending pilgrims embark and disembark at these ports during pilgrim seasons.'

Sir, notices of similar Resolutions have been given by almost all the Moslem Members of Bengal, Eastern Bengal and Assam, but I take it as my good fortune that Almighty God has given to my fate the privilege of moving it to-day. Apparently it would, of course, have been better if it was moved by some of our Honourable colleagues in those provinces as they have a direct concern with this. But, Sir, apart from the religious fraternity which binds a Moslem of the west to look after the welfare of a brother Moslem of the east, I claim some direct concern also to move this Resolution so far as the Eastern districts of the United Provinces which I represent is concerned. The reason for this motion is economical and further to give the intending pilgrims of Bengal, Assam, Bihar and Orissa, and the United Provinces more facilities and reduction of expenses, and also to reduce the congestion of Bombay in pilgrim months which leads to miserable consequences. For a long time past Bombay enjoyed the sole monopoly of pilgrim traffic, and though the Bombay authorities, as far as I am aware, are not well disposed towards such traffic and wish that their burden might be diverted to some other parts

Mr. A. B. Latthe (Bombay Southern Division: Non-Muhammadan Rural): I rise to a point of order, Sir. There is no quorum.

Mr. President: A count is demanded. The Secretary will ring the bell for two minutes.

(A count was taken, and it was ascertained that there was a quorum, and the Mover of the Resolution proceeded with his speech.)

Haji Wajih-ud-din: and wish that their burden might be diverted to some other parts which have a direct concern with this, and though to some extent they are relieved by having another port of Karachi opened since the year before last, yet this port is also within their jurisdiction, and none except the pilgrims from Sind, the Punjab and the Frontier Province and few from the Gulf side can be benefited by this port. From the statistics I have got in reply to my question the other day, I find that Bombay heads the list, Karachi stands second, while Bengal comes on third. This might have been the case last year, but from the vast experience and interest that I possess on Haj traffic, I can safely say that among the Indians none are so fond of Haj as the Bengalees. It can be imagined what amount of hardships and extra expenses these Bengalees are put to by coming from a long distance and travelling to Bombay to embark. During normal days, when the general expenses were not at such a height as they are now, they did not feel much of this extra cost, but now, when there has been an increase in railway and steamer freights, and in the cost of all other necessities of the trip, they are bound to feel seriously such extra expenses that can very easily be removed. Government is well aware that there are only a few months for this traffic, and it is during these months only that the intending pilgrims flock from all parts of India and outside and collect at the port of embarkation. It is no secret that during normal years the congestion at the Port of Bombay had been so heavy that it was highly difficult for the authorities to cope with it. The living accommodation proved quite insufficient, proper sanitary arrangements became difficult and good food was not obtainable at reasonable prices, and so the pilgrims had to face great hardship as a result of which certain diseases broke out among them in the form of epidemic on several occasions, and had been the cause of great loss of life. Thus apart from the general facility and reduction of expenses for a large number of pilgrims, the opening of different ports will be highly advisable on sanitary grounds. Pilgrims will be divided in many places, and they will not collect in large number at a time in a place. Calcutta and Chittagong were for some time the pilgrims' port, and still I believe, a few steamers sail from Calcutta for Jeddah with cargo every year. As far as Calcutta is concerned, I do not think it will be less suitable than Bombay, as it already holds two big *musafir khanas*, and all the pilgrims' requirements are as abundant there as in Bombay, and at the same time are cheaper than they are at Bombay.

With these few words, Sir, I beg to move this Resolution, and trust that this House will gladly adopt it.

Mr. H. Sharp (Education Secretary): Sir, I think it will be convenient if I at once made clear the position about these ports and the attitude of Government in this matter. It is quite true, as Haji Wajih-ud-din has said, that the Ports of Calcutta and Chittagong were once open to pilgrim traffic. That, so far as both together are concerned, was before 1897. It is rather difficult to find out how many sailed from the ports at that time. In fact, I find it quite impossible to find out how many went from Chittagong. But the number from Calcutta, so far as I am able to ascertain—I do not pretend

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that the figures are very reliable—seems to have been very small, and I find that in one year it actually fell down to *nil*. In 1897 plague appeared in Western India, and the centres for pilgrims sailing to the Hedjaz gravitated to the East. In fact, in that year, the pilgrims had to cease going from India altogether. In 1898 we find that Karachi and Chittagong were the only ports that were open. Then Karachi got infected with plague; and from 1899 to 1901 Chittagong was actually the only pilgrim port, with this small exception that in 1901 Karachi was opened for a short time and then closed again and Porbandar was opened instead. There was, of course, a certain amount of traffic from Chittagong when it was the only port from which pilgrims could sail, but even so, I cannot find that the number of pilgrims was ever very large; it did not rise even up to 4,000. In 1902, when Bombay and Karachi were opened, subject to certain restrictions, the number sailing from Chittagong immediately fell to almost half; and then in 1903, when restrictions were removed and there was a free choice between these three ports, the pilgrims deserted Chittagong and they did not go there again. That is very briefly the old history of these ports. I may add that Karachi was closed again shortly after that for quite other reasons.

The question of reopening Calcutta and Chittagong has been raised from time to time. It was raised by the Government of India in 1912; but the Government of Bengal then said that pilgrims would not use Calcutta and Chittagong and that the expenditure would be unjustifiable. In 1913 there was some further correspondence with the Government of Bengal on this matter; I think it arose out of a Resolution in the Bombay Legislative Council. In 1919, when the War was over, there was a crisis in the shipping for the Haj. Shipping was scarce, cargo freights were very high and we were really afraid that we should not be able to get enough shipping for the pilgrims. Early in the hot weather I ran down to Bombay and saw the representatives of the firms and we managed to arrange for shipping, and things went on all right. But in July of that year there was a large and sudden influx of pilgrims into Bombay and an unfortunate accident happened, as some will remember, to the *Koweit*, a pilgrim ship, and she could not sail. Thus there was danger of congestion in Bombay. So we telegraphed to the Government of Bengal and asked if they could help and send a ship or two from Calcutta. The Government of Bengal thought that they might possibly arrange but that it would take some time to make arrangements. Fortunately, in the meantime, shipping again proved sufficient in Bombay and the crisis passed. But again, in 1920, as the result of a Resolution in the Legislative Council in Bihar and Orissa, we wrote to the Government of Bengal about this matter with results which I shall presently briefly state.

I fully admit that there are certain advantages in opening these ports to pilgrim traffic. One obvious advantage is that they are in close proximity to the great Mussalman population of Bengal; a second advantage, which was mentioned by my Honourable friend, is the relief of congestion in Bombay, although I must point out that that argument now carries very much less weight than it did, because admirable arrangements have been made in Karachi for pilgrims and a substantial number of pilgrims now sail from that port. I think my Honourable friend also said that the journey would be cheaper. I have not been able to find out any accurate information on that. So I leave that point.

On the other hand there are some great disadvantages about these Eastern ports. The voyage is very long. I do not know what facilities exist at Calcutta and whether they have got any *musafir-khanas*. I rather think they have not. (*Voices*: 'There are.') I am very glad to hear it. However, I have no official intimation about it. From what I have heard, I thought that possibly they do not exist of a kind suitable for pilgrims. I do not know if there is any Protector of Pilgrims. Then, of course, the Local Government would have to arrange for shipping. As regards shipping, I am glad to say that the Local Government have been able to arrange for a ship in case the port is actually opened. But there is one little warning I must give here and that is that the difficulties of shipping with reference to the Haj sometimes occur in an aggravated form on the return voyage. We always have trouble about the Hajis returning, and in some years it is very acute. Last year, as some Honourable Members present here know, we had a good deal of trouble. We had 500 destitute Hajis stranded at Jeddah and it is very likely that we shall have to spend a good deal of money, because they were without tickets, without money and without food and we had to provide tickets back. I am very glad to be able to inform the Assembly that I have just recently had intimation that there was a good deal of private charity on that occasion and some of the pilgrims were brought back at reduced rates and some, I believe, wholly at private cost, so that we shall probably have to spend less than I had feared. I need not go into details about that, as I issued a communiqué about it only the other day. I may say that my Honourable friend, Haji Wajih-ud-din, is deeply interested in a Committee which is attempting to arrange for a Central Haji Fund at present to help these returning Hajis. The point, however, is that their return would be made more difficult if there were not sufficient shipping available to restore them punctually to the port from which they embarked. Then another difficulty, which is a very serious one indeed in Calcutta, is the fear of cholera infection. Calcutta is rather a bad port for that. If Calcutta is opened, we shall have to take very great care to have these pilgrims isolated. Otherwise there are certain to be a few cases of cholera infection getting on board, and one knows how terrible that is on board a crowded pilgrim ship. Yet one other difficulty is this. We do not yet know whether pilgrims will readily come to Calcutta. Inquiries are being made, but obviously unless we are going to get a substantial number of pilgrims to sail from that port, it would not be justifiable to incur the considerable non-recurring expenditure which is necessary for it to be done at all.

I should like to say parenthetically that the Government of India are most anxious to do everything they can for the comfort of the pilgrims to the Hedjaz, just as Government shows care for the Hindu pilgrims in going to Benares, to the Sinhast at Nasik, to Kedarnath and to Badrinath and other places. (Applause.) A very great deal is done and I am not quite sure whether people know how much is done and how much labour, thought and anxiety is spent upon these things. In the last three years on the Haj alone we spent very large sums of money. In fact I think in some quarters it is thought we spent rather too much. And we have had a very great deal of work to do with reference to this pilgrimage the conditions of which, just like the conditions of everything else, have been rendered difficult since the War, owing, first, to lack of shipping for one thing, and to the need of quarantine arrangements and so on, and I can assure Honourable Members and that there is no part of my duties which causes me—I won't say more work because that

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would not be true—but more anxiety annually than this Haj. One has to think of all these pilgrims, many of them very poor, some of them having never done a journey before, at least having never seen the sea, going off to Arabia and running the risk of cholera and other epidemics, and so on.

If, therefore, I am unable to support this Resolution, I am sure that my Honourable friends here will understand that it is not out of any lack of sympathy for the Hajis or intending Hajis. The fact is that we are in a slightly difficult position, the Government of India are in a slightly difficult position, as regards this matter. We have to pay great respect to the views of the Government of Bengal for two reasons. In the first place, the Government of Bengal have certain statutory powers in the matter. Section 7 of the Pilgrim Ships Act says: 'No pilgrim ships shall depart or proceed from, or discharge pilgrims at, any port or place within British India other than a port or place appointed in this behalf by the Local Government'. So that they really have the say as to the opening of a port, although this subject of foreign pilgrimages is a central subject. And, again, should the port be opened, although, as I have said, this subject of foreign pilgrimages is a central subject, there would necessarily be some expenditure involved upon the Local Government for sanitary measures necessary for great collections of pilgrims and possibly for a Protector of Pilgrims, and so forth; and they might have to build a depôt or a *musafirkhana*, although my friends say that there are already such in Calcutta.

Well, we have been communicating, as I pointed out just now, for some time with the Government of Bengal about this question of opening an eastern port. One thing is perfectly clear, and that is that the Government of Bengal are opposed to the opening of Chittagong as a pilgrim port. Their reasons, which were given at a previous date but to which (they have just told me) they still adhere, are as follows. They say:

'By notification' (that was in 1897) 'Chittagong was declared as the only port open to pilgrim traffic from this province, and it continued to be the port of embarkation till the year 1903' (and for some of those years it was the only one in India). 'In that year a few pilgrims who had entered the pilgrim camp at Chittagong left it to proceed by the Bombay route which they found to be shorter and cheaper as well as more convenient, and when no other pilgrims arrived at the camp at Chittagong, this port was closed, with the approval of the Government of India, in the year 1904' (*vide* such and such circular). 'Since that time no representation against the closure of the camp or for the reopening of either the Port of Calcutta or the Port of Chittagong has been made.'

And a little further on they go on to say:

'When the camp was first opened at Chittagong considerable difficulty was experienced in securing steamers to convey the pilgrims, and as soon as the internal restrictions were removed the pilgrims abandoned Chittagong and proceeded by Bombay. Even were this port re-opened, pilgrims could never be certain of a ship at Chittagong and the ships could never be certain of securing a full cargo of pilgrims'.

That was in 1913, but, as I said, they adhere to those reasons. And, a little later in that year, when the Government of India again referred the matter to them, the Secretary to the Government of Bengal replied:

'I am to say that the Governor in Council has consulted several leading Muhammadan gentlemen of this province on the question and they have expressed themselves as entirely in agreement with the views set forth in my letter No. 92-San., dated the 9th January 1913.'

That is the letter from which I have just been reading. Well, those are the reasons, and I think it must be admitted that they are very sound reasons, why the Local Government opposed Chittagong as a port.

But as regards Calcutta, the Local Government reported in June last that, though it was too late in the pilgrim season to do anything that year, they hoped it might be possible to make arrangements for starting pilgrim traffic from Calcutta next year, that is, this year. Inquiries are being made about a depôt and arrangements made for a ship; but the port cannot be opened until sanitary and other arrangements have been made, which in any case would take time and involve considerable expenditure. That is the upshot of the communications which I have had from the Government of Bengal recently on the matter. Obviously then, the Government of Bengal are anxious to do what they can as regards this question of Calcutta becoming a pilgrim port. But there still remains a crux, and that is the question whether sufficient pilgrims will come into Calcutta or whether they will prefer still to go to Bombay. There is a great deal of fashion in these things. A port is fixed; it becomes the popular port to go from, and it is quite possible that the pilgrims will persist in going from that port. The Government of Bengal are making further inquiries and they are themselves doubtful whether there will be enough pilgrims to justify the expenditure and the sailing of ships. They are not prepared to support the Calcutta proposal unless a stronger case can be made out than has yet been shown to exist.

Well, there the case stands. Obviously the Government of Bengal are trying to do what they can in the matter; but they are uncertain whether the expenditure is justifiable. If the pilgrims are available in sufficient numbers and arrangements are possible, then the Government of India would raise no objection. I do not know whether objections would be raised from other quarters. There has recently been a memorial from an Anjuman in Bombay pointing out some of the difficulties and dangers which may encompass the pilgrims sailing from Calcutta, and urging that that port should not be opened for pilgrims. No doubt the Bengal Government understand that if the port is opened there will be certain expenditure thrown upon provincial revenues. I cannot say how far that will influence their judgment. At present, as they put the matter, it is a question of the number of pilgrims who would be ready to go by that route.

I think it will be clear from what I have said that the Government of India oppose the proposal that the Port of Chittagong should be opened to pilgrim traffic. As regards the opening of Calcutta, the Government of India remain neutral, because the Government of Bengal have not yet made up their minds in the matter. If, therefore, my Honourable friend puts forward the Resolution in its present form, the Government would have to oppose it. But if he would amend it so as to cut out Chittagong, in which case it would run :

‘ This Assembly recommends to the Governor General in Council to reinstitute the Port of Calcutta for the Hedjaz Pilgrim Traffic and to let the intending pilgrims embark and disembark at that port during pilgrim seasons ’,

then the Government would not oppose. It will be free to official Members to vote as they please with the usual convention about Members of the Executive Council not voting. Possibly that would not altogether satisfy my Honourable friend, but I hope that he will accept that amended form and then the Government will not oppose this amended Resolution, but

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would remain neutral. When I say this I can assure him and my other friends here that Government are animated by the greatest care for the interests, comfort and safety of the pilgrims: but Government cannot support the proposal, because they are not yet fully assured that the number of pilgrims at Calcutta would be sufficient and because the Government of Bengal, who are probably the best judges in the matter, are not assured that the number of pilgrims will justify the expenditure.

Mr. President: Amendments moved:

'That in line 1 of the Resolution substitute the word 'port' for 'ports', in line 2 of the Resolution to omit the words 'and Chittagong' and in line 3 of the Resolution substitute the words 'that port' for 'these ports.'

The question is that these amendments be made.

Haji Wajih-ud-din: Sir, I accept the amendments.

The motions were adopted.

Mr. President: The question is:

'That this Assembly recommends to the Governor General in Council to reinstitute the Port of Calcutta for the Hedjaz Pilgrim Traffic and to let the intending pilgrims embark and disembark at that port during pilgrim seasons.'

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 11th March, 1922.