

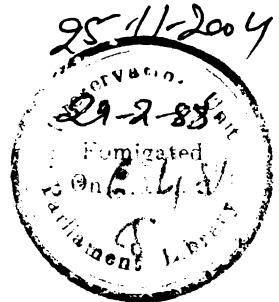
Thursday, 5th March, 1925

THE
COUNCIL OF STATE DEBATES

Volume V

(20th January to 26th March 1925)

FIFTH SESSION
OF THE
COUNCIL OF STATE, 1925



DELHI
GOVERNMENT OF INDIA PRESS
1925

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COUNCIL OF STATE.

Wednesday, 4th March, 1925.

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

QUESTIONS AND ANSWERS.

LEVY OF FEES FROM EMIGRANTS.

125. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government please state

- (a) if they collect a fee per head for every adult emigrant and if so, what is the amount of such fee;
- (b) if any such fee is charged for children accompanying adult emigrants;
- (c) what is the total annual amount realised since such fees have begun to be levied;
- (d) what are the objects on which this income is spent and what portion of it is utilised for ameliorating the condition of Indians overseas and how;
- (e) if they have considered the desirability of devoting a portion of this income to the creation of a bureau of information relating to Indians overseas and to the establishment overseas of Indian agencies?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: (a) and (b). A fee of Rs. 2 is charged for each emigrant as defined in section 2 (1) (b) of the Indian Emigration Act (VII of 1922).

(c) The amount realised up to 30th September 1924 was Rs. 3,88,211-6-7.

(d) The income derived from these fees is spent on establishments maintained in and outside British India to look after the interests of emigrants.

(e) Yes.

ENCOURAGEMENT OF INDIAN ART.

126. THE HONOURABLE MR. PHIROZE C. SETHNA: With reference to the statement by the Honourable Mr. A. H. Ley in the Council of State on the 28th January, 1925, in regard to the scheme of encouraging Indian art that "it has been formulated by the architects of New Delhi in consultation with the Chief Engineer" will Government be pleased to say—

- (a) if the scheme emanated from Government or was suggested by the architects and/or the Chief Engineer;

- (b) if the scheme has been or will be forwarded for opinion to different Provincial Governments, institutions and individuals interested in art;
- (c) what measure of support Government have promised to the scheme in money, etc.;
- (d) the probable date when the scheme will be placed before this Council?

THE HONOURABLE MR. A. H. LEY: (a) The scheme was prepared by the Architects and the Chief Engineer at the instance of the New Capital Committee.

(b) and (c). The scheme has not yet been considered by Government nor has any financial support been promised. I cannot make any pronouncement on the action that will be taken after the Standing Advisory Committee attached to the Department of Industries and Labour have been consulted.

(d) I regret I am unable to make any forecast in the matter.

REFUND OF CUSTOMS DUTY TO THE GREAT INDIAN PENINSULA RAILWAY.

127. THE HONOURABLE MR. PHIROZE C. SETHNA: Will Government be pleased to say

- (a) what is the total amount of customs duty which will have to be refunded to the Great Indian Peninsula Railway in view of the Privy Council decision and (b) if that amount will be included in the Budget figures of 1925-26 and under what heading?

THE HONOURABLE MR. D. T. CHADWICK: (a) The amount to be refunded to the Great Indian Peninsula Railway is estimated at 67 lakhs.

(b) The refund is expected to be adjusted in the accounts of the current year and provision has been made for the necessary adjustment in the revised estimate for 1924-25 by minus credit to I.—Customs and credit to Capital and Revenue accounts of the Great Indian Peninsula Railway.

POSITION OF INDIANS IN SOUTH AFRICA.

128. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Would the Government please state when the results of the negotiations of the Government regarding the question of Indians in South Africa are likely to be made known?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: The matter is still the subject of correspondence and the Government of India are not in a position to furnish the information asked for by the Honourable Member.

THE HONOURABLE MR. G. A. NATESAN: Are the Government aware that recently the South African Union Government have passed further legislation under the name of the Mines Bill, and General Smutts has spoken strongly against it? If the answer is in the affirmative, will the Government of India take further steps in regard to that matter also?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: The Government of India are aware that that piece of legislation has been introduced and it is still, they believe, under discussion. They have already taken steps in the matter.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Is not one of the provisions of that draft Bill that trade licences hitherto permitted to Indian tradesmen are proposed to be withdrawn or cancelled?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: I believe that is so.

POSITION OF INDIANS IN SOUTH AFRICA.

129. THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Would the Government please state what action has been taken on the suggestion of the deputation that waited on His Excellency the Viceroy regarding the question of Indians in South Africa?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: The Honourable Member's attention is invited to the following extract from the reply given by His Excellency the Viceroy to the deputation which waited on him, on the 28th January last:

"I may tell you at once my Government has been, and is, in consultation with His Majesty's Government upon this very subject and has been, and is, doing its utmost to seek a solution of the problems before us by the means suggested by you or any other which may be presented that is likely to yield fruitful results."

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: If I may be permitted to draw the Honourable Member's attention to the fact, I am asking for information regarding what happened after the reply to that deputation, in the way of taking action on the lines suggested by the deputation itself?

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: We have received no answer yet to the representations which we had already made, and we cannot therefore consider what further action should be taken until receipt of that reply.

SALE OF COUNTRY LIQUOR IN BOMBAY, ETC.

130. THE HONOURABLE MR. LALUBHAI SAMALDAS: (a) Will Government be pleased to say if they have noticed the following passage in Professor Rushbrook Williams' "India in 1923-24"

"The total quantity (of country liquor) sold in the Bombay Presidency was less by half a million gallons than even the reduced total permissible. This was however accompanied by quite unprecedented increases in the use of illicit liquor in areas where it could be obtained without much difficulty." (Page 222).

(b) Have they noticed that the Government of Bombay's Resolution on the annual report on the Administration of the Excise Department for 1923-24 says

"As stated in the preceding paragraph, the effect of rationing in reducing consumption is indirect rather than direct. The increase of crime can therefore no more be attributed to it than to the raising of the still-head duty and the introduction of the auction system. Nor can it, in the opinion of Government, be ascribed wholly to reduced consumption since not only did Bombay and Ahmedabad, where the consumption was lower than last year, also register a decrease in crime, but in the Surat district, where the consumption of both liquor and toddy increased considerably, there was a marked diminution in the number of offences detected, while in West Khandesh the increase in crime occurred in spite of a large increase in consumption."

(c) Will Government be pleased to say how the suggestion referred to in (a) above, came to be made in view of the Government of Bombay's Resolution?

THE HONOURABLE MR. A. C. MCWATTERS: (a) and (b). The Government have seen the passages quoted. Mr. Rushbrook Williams' remarks relate to the year 1922-23 while the Resolution of the Government of Bombay relates to the year 1923-24, and was published subsequently to the date when Mr. Rushbrook Williams' remarks were in print.

(c) therefore does not arise.

OPIUM CONSUMPTION.

131. THE HONOURABLE MR. LALUBHAI SAMALDAS: Will Government be pleased to lay on the table a statement showing the consumption of opium in each Province for the last ten years, *i.e.*, from 1st January, 1915 to 31st December, 1924?

THE HONOURABLE MR. A. C. MCWATTERS: A statement showing the consumption of opium in the various provinces of India during the financial years 1914-15 to 1923-24 is laid on the table. Figures for the calendar years are not available.

Statement showing the consumption (issues) of opium in the various provinces of India from 1914-15 to 1923-24.

Provinces.	1914-15.	1915-16.	1916-17.	1917-18.	1918-19.	1919-20.	1920-21.	1921-22.	1922-23.	1923-24.
Madras	970	927	912	935	924	871	906	869	899	878
Bombay	1,335	1,430	1,467	1,647	1,473	1,330	1,234	934	864	319
Bengal	1,554	1,288	1,125	1,074	1,027	1,040	1,066	1,011	1,006	109
Burma	1,085	1,084	1,213	1,192	1,184	1,121	1,014	367	823	772
Bihar and Orissa	879	741	840	850	818	736	744	727	716	654
United Provinces	1,542	1,443	1,504	1,377	1,177	1,021	982	862	735	608
Punjab	1,494	1,437	1,629	1,444	1,334	1,284	1,221	945	870	834
North-West Frontier Province.	123	116	122	146	175	161	123	100	95	72
Delhi	63	58	47	43	42	27	28	25	25	25
Central Provinces	1,316	1,257	1,179	1,174	1,098	925	938	725	771	761
Assam	1,631	1,561	1,556	1,516	1,575	1,748	1,615	1,048	993	911
Ajmer-Merwara	30	60	61	71	68	68	60	65	68	71
Coorg	1	1	1	1	1	1	1	1	1	1
Baluchistan	16	20	17	20	24	22	21	18	10	7
Total	12,068	11,423	11,576	11,400	10,929	10,384	9,862	8,167	7,876	7,406

CONVERSION OF THE 7 PER CENT. STERLING LOAN.

132. THE HONOURABLE MR. LALUBHAI SAMALDAS: Will Government be pleased to lay on the table a statement showing (a) the amount of 7 per cent. Sterling Loan, (b) the amount converted into 3 per cent. Stock, and (c) the amount of 3 per cent. Stock after conversion?

THE HONOURABLE MR. A. C. MCWATTERS: The amount of the loan was £7½ millions. The amount converted is £6,229,462 of which the equivalent in 3 per cent. stock is £12,503,393.

THE HONOURABLE MR. LALUBHAI SAMALDAS: Does this mean that the capital debt of the country is increased by £6 million?

THE HONOURABLE MR. A. C. MCWATTERS: The face value of the capital debt is certainly increased.

RESOLUTION RE RESTRICTION OF THE USE OF OPIUM TO MEDICINAL PURPOSES ONLY.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadian): Sir, I beg to move:

“That this Council recommends to the Governor General in Council that early steps should be taken to see that only the medicinal use of opium should be countenanced in India and for conferring with representatives of all sections of the people as to how restriction to medical use can be carried out in practice.”

Sir, before speaking to the Resolution I would ask for your permission and the permission of the House to amend my Resolution with the addition of the words “as far as possible” between the words “that” and “only” in the second line.

The Resolution will then read as follows:

“This Council recommends to the Governor General in Council that early steps should be taken to see that *as far as possible* only the medicinal use of opium should be countenanced in India”, and so on.

The reason for my asking for this amendment which has been kindly permitted by you, Sir, is to make the proposition more practical and to do away with the difficulties of those who feel that the handicap in the case of those who are accustomed to the use of opium ought to be diminished as far as possible. This will enable the discussion of the question to proceed on a far more satisfactory footing. It recognises no doubt the difficulties of practical life, difficulties that have unfortunately arisen in consequence of the deplorable state of things that has preceded. When I speak of the medical use of opium, I am free to confess that I refer to the larger medical use in the sense of its being prophylactic, curative, as only preventive, and in fact every kind of medical use in the larger sense. And, Sir, I should be worse than ungrateful if I were not to recognise that in many cases—in some cases those nearest and dearest to me whom I held in the highest esteem and reverence have in their later years been benefited by use of opium; and when I lay this proposition before the House I recognise the possibilities of this drug as a curative, a preventive or prophylactic agent. I am not however prepared to endorse the opinion of those who say that this cannot be limited to the purposes that I aim at. Other dangerous drugs have been adequately dealt with. I recognise that medical practitioners are few in number and that the people are poor. That in itself may be a reason for trying to add to the number of medical people and also to extend the scope of medical treatment by not limiting it only to those who have what we call registerable qualifications. There are other systems of medicine in the country which for these

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purposes may be recognised. Those, however, are questions of detail which I do not propose to go into at this stage in view of the second part of my Resolution. I recognise also that in consulting public opinion we have to consult also the representatives of Indian States who will have to play a very large part in any reform that we may finally decide to undertake. I refuse to believe, in fact I consider it a slander on our Indian States, to have it said, that they are not likely to come into line with any enlightened measures of reform that the Government may, as a result of the inquiries that I suggest, ultimately decide upon. I am sure they will help in purging not only British India but India as a whole of this terrible social, economic and moral evil.

This I think disposes of two of the prominent stock arguments against reforms that have long been urged—reforms, however, which in spite of tremendous financial loss the Government had the courage of undertaking in the near past, an admission that all must make and gratefully make, and that was done, one must also admit, before Government in this country had begun to be troubled by the pressure of public opinion in the country to the extent that is now possible. Government policy to-day is however capable of improvement and we want to see it changed because of objection to the remnant of the system that we are discussing. That it is no longer a serious financial question with which the Government is faced was clearly shown by the Honourable Mr. McWatters in the Budget speech that he made the other day. Already in consequence of the Geneva talks their sales have gone down. I do not know what my Honourable friend's information is about the sales of yesterday. Whether the failure of Geneva talks being wholly translated into action has helped his sales in Calcutta or not I do not know; but he knows as a fact that the sales in Calcutta were recently very poor, as speculators are not sure what will ultimately follow if not this year at least next year. In passing, Sir, I should like to refer to one phase of those sales by Government. With regard to the majority of the quantity its relation with outside purchasers is direct. It is only with regard to a small quantity, about Rs. 250 a month, that the very objectionable practice of sale by public auction still goes on—objectionable possibly not from the direct Government point of view, but objectionable because it gives rise to tremendous gambling and speculation which affects not only the Calcutta market but the whole of Northern India, thanks to the use or abuse of telegraphic codes, in which these speculators are experts. I think it is time, apart from other considerations, that the Government began to consider whether this small residuum that is allowed on sale by public auction, should not also be directly handled. It is desirable to stop these sales and prevent speculation and gambling of the kind I am speaking of.

All these, however, are matters which will not detain me to-day. I do not wish, as I have said already, to challenge the whole of the Government of India's policy about opium, which I am free again to admit in certain respects has not been only unchallengeable, but has been altogether beneficial. I would restrict myself to-day to the question of consumption as far as possible for the medical needs of the Indian population. Sir, this is a big and acute question because of what the representative of the Government of India at the recent Geneva Conference, Mr. Campbell, last November said with regard to the reservation of the Government of India. He objected that the Government of India could not consent to

restrict it only to medical and scientific requirements because in India the drug could not thus be restricted without great hardship to the people. That is the phase of the question that I should like the House to consider to-day. Sir, the argument which he used was concisely given long ago in the despatch of Lord Hardinge's Government in 1911, which has become a sort of *locus classicus* of the Government of India on the subject. It reads as follows:

"The prohibition of opium eating in India we regard as impossible and any attempt at it as fraught with the most serious consequences to the people and Government. We take our stand unhesitatingly on the conclusions of the Royal Commission which reported in 1895 that the opium habit as a vice scarcely exists in India, that opium is used in India extensively for non-medical and quasi-medical purposes; that the non-medical uses are so interwoven with the medical uses that it would not be practicable to draw a distinction between them; that it is not necessary that the growth of the poppy and the manufacture and sale of opium in British India should be prohibited except for medical purposes. Whatever may be the case in other countries, centuries of inherited experience have taught the people of India discretion in the use of the drug and its misuse is a negligible feature in Indian life."

It is very complimentary no doubt, Sir, to be told of our inherited experience with regard to what the ancient philosophers called *Ahiphen*—the forth and foam of the serpent from which opium takes its name in Sanskrit. But I was not aware that in India inherited experience was of such great value that the Government of India considered it to be infallible. Lord Hardinge was a real friend of temperance in many matters, and I remember his very helpful and encouraging lead in his answer to a deputation which I had the honour of heading at the Calcutta Government House some years ago, following on our deputation to Lord Crewe in England. That reply, in fact, has been the charter of temperance workers in some directions; and though Lord Hardinge's Government spoke like that in the despatch from which I have quoted, it must have been because of insufficient information and ill-appreciated phases of the question, upon which this pronouncement stands. However, I feel it my duty seriously to dissent from what was then laid down; and, apart from everything else that can be said against it, one must recognise that it is entirely out of date and requires revision.

This was followed by a Government publication in 1921, I believe, called "The Truth about Indian Opium". This pamphlet has been used as an authoritative statement of the Government of India's position in answer to the attacks that have been made against it. It is clear, therefore, that the Government still adhere to what the Royal Commission said in 1895 and that they are unwilling to advance beyond the position which they then took up. That is why it has become necessary to invite the Government to examine the whole situation in the light of the facts that have come into existence since.

Now, the reason why I urge for this revision of ideas is, firstly, that India itself is rapidly passing through an industrial revolution in large areas, and the report of the Commission of 1895 hardly deals at all with the new evils which have arisen during recent times, through inordinate consumption of opium in the great industrial centres. In the next place the evidence given before the Royal Commission appears to have been incomplete concerning certain parts of India; we find for instance that no serious effort was made to deal drastically with the evils of opium smoking and excessive opium eating, in Assam. Thirdly, a great deal of scientific evidence has been collected since the Royal Commission met. A much

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more serious medical view is taken to-day, I believe, concerning the harmful effects of indiscriminate opium eating than was taken in 1895, and the contrast between opium smoking and opium eating can hardly be maintained to-day. Fourthly, the whole of the opium question has become in recent years an international concern. Men of the standing of Lord Robert Cecil were sent to Geneva about it; there were three cabinet meetings about it, probably because American and China from different points of view dissented from the position that was taken up by the British and Indian representatives at the Conference. All this is quite new since 1895. I submit, therefore, that the Indian Government cannot stand 1895. I submit, therefore that the Indian Government cannot stand where they did and they cannot treat the question purely as a domestic concern now, and they cannot keep on harping upon the dicta now thirty years old.

For all these reasons, Sir, I would ask whether the time has not come for the revision of the whole subject. We are not yet able to deal with the question by means of something like the Dangerous Drugs Act in the same way as it has been done already in the west and even in Japan. Nevertheless it may be possible to attain such a close approximation that the actual average of consumption per head of the population is not greatly in excess of the medical index laid down by the League of Nations.

Now, let me come to actual facts. There appear to be certain very dark and black spots in the opium map of India which must make even the Government—I know it is making the Government—uneasy. If this were cleared away the consumption will not be very much in excess of the medical index number, which is 6 seers for 10,000 people. The most important of these black spots is unfortunately Assam. It is still occupied by pure Assamese people—like Nowgong, Lakhimpur and Darong. The excess of opium consumption here is still so great that their index number is an average of 150 seers for about 10,000 people, compared with 6, that is supposed to be permissible according to Geneva notions. Sir, I am giving this to the House on the authority of the Rev. Mr. Andrews who has been good enough to furnish some of us with a great many important facts and has carefully considered the matter and studied it on the spot. If these figures are not correct, of course the House will be told; but if they are nearly correct, it would by itself strengthen the case for examination. In some tracts I am told that the index number in 1922-23 was as much as 237 seers. I would, in passing, also refer to the non-official inquiry that was recently held, the results of which have been admirably summarised in a pamphlet prepared and circulated by the Rev. Mr. Paton which gives facts in a manner which has not been controverted yet as far as I know. I believe some of the Local Governments have already instituted executive inquiries regarding which the people at large and the leaders of the temperance movement have not yet been taken into confidence. This shows that the Government are anxious about the matter and are taking steps in their own way, to have further investigation made.

Sir, we come next to Calcutta, an area that I know fairly well. Here instead of the index figure, the figure is more than 143 seers for 10,000 people or nearly 300 lbs., and I know as a matter of fact that these shops are mostly located in congested and unhealthy tracts of the Indian parts of the town, which are inhabited by industrial people and people connected

with trade and commerce. Whatever may be said with regard to the countryside, where medical opinion and medical treatment is difficult to obtain, it cannot possibly apply to Calcutta; and therefore to allow a tremendous sale of this kind without any check would be bound to spell disaster. We have been making some progress in this direction; and though last year there was a shop added I am glad to say that that shop has not yet been taken up. It shows that public opinion is behind the temperance movement and everything that can be done under the existing system in that direction is being done. I am free also to admit that Government have been helpful with regard to our excise troubles. A thing which one would have thought would not ordinarily be done by a Government has been done by the Government of Bengal—the President of the Temperance Federation there has been appointed the President of the Licensing Board of the Government itself. But it is not the action of the Government that we complain of; it is the system which has to be looked into and changed, and that is my plea here to-day. Sir, I am informed that on a count that was taken 2,300 people were found entering one of these shops in a slum quarter in the course of a single day.

The third point of abuse that one will notice is Burma, where the index figure is 110 seers so far as Rangoon is concerned and 147 in Mergui. The very strange anomaly exists there, that while the Burmese people are forbidden to have any opium smoking, the Chinese who for the moment at all events are British Indian subjects are given a very free hand in the matter. I desire to draw the attention of Government to that point and request them to see if as a measure of interim relief something could not be done in that direction. Sir, there is one redeeming feature with regard to a province about the good points of which I am never tired of speaking, and that is Madras. I think the large material and intellectual advance of Madras may not wholly be unconnected with that element. The index figure there is only 13 as against 143 of Calcutta, and I can quite see why Calcutta is going down so fast while Madras is forging ahead.

From these things two things appear to result. It is quite possible to bring the internal consumption of opium much lower than it is to-day, and indeed it may even be possible to bring it down to somewhere near the Geneva figure, because the average of India is 11, and there ought not to be any very great difficulty in bringing it further lower down if some of the measures that I have in mind and with which I do not want to trouble the House in detail now, are adopted. If these measures are to be adopted, Sir, I submit that a consulting body will have to come in and it will have to work very hard, and I hope it will have nothing to do with either politics or revenue or official routine or red-tape or any such thing. It should consider only the good of the people of India and the welfare of humanity at large which is and which has certainly been the objective of the Government, because the Government gave up a very large part of the revenue they used to derive from opium in the old days.

Then, Sir, when such a Committee came and worked at the thing, it might in time be entrusted with the revision and reconsideration of the question of export traffic which, I am glad to say, has also shown a steady diminution in the past. I congratulate the Government of India that the export of opium is still showing a further decline; and my objective is to get the Government to agree to a still further reduction. It must be said to our shame that every ounce of opium that goes out of India is immediately converted by the importing Government for smoking. We must not forget

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what we agreed to in 1912. The Articles of the Hague Convention lay down that this will have to be diminished as soon as possible. If 13 years is not time enough for the achievement of the standard contemplated by the safeguard about "as soon as possible" it is difficult to know what length of time will be required for the achievement of what we deliberately and seriously undertook at the Hague in 1912. I hope, Sir, that the quibble that Indian opium is sent out from India in an unprepared state will not be introduced when grave humanitarian issues are at stake. Such a quibble would be unworthy of being trotted out in a matter like this. It cannot be gainsaid that all the opium that goes out of this country is turned into smoking preparations that yield colonies and foreign parts handsome profits under Government monopolies. Having regard, therefore, to all these points, my submission is that the Government should accept this Resolution. For the moment I am not asking for any detailed action, but I am only asking for a pronouncement and indication of the Government's policy in the matter. I am also asking Government that effective steps should be taken in time to consult representatives of public opinion of all sections including medical people and people representing the Indian States, in fact every possible interest, in order that the difficulties in the way of my proposition may be overcome in time.

THE HONOURABLE NAWAB SIR MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-official): Including those who use opium for non-medicinal purposes.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Of course. From that point of view, Sir, I submit this Resolution to the House and commend it, and I hope Government will see their way to adopt this Resolution which will show that they mean to take effective steps in the near future.

THE HONOURABLE MR. A. C. MCWATTERS (Finance Secretary): Sir, I should like to say at the outset that I am extremely glad that a Resolution on this subject has been moved by my Honourable and learned friend, because it gives me an opportunity, I hope, for throwing some light on what is an extremely difficult subject and one that is frequently obscured by misunderstandings. Although I cannot see eye to eye with my Honourable friend on all points and cannot advise the House to accept his Resolution, even as amended, I desire to pay tribute to the earnestness and sincerity with which he has presented his case and also to acknowledge the extreme moderation of the terms which he has used. The Honourable Member travelled somewhat wide, since the Resolution as worded deals with our domestic policy only. He referred to international opinion, to the Hague Convention and to our exports of opium to Eastern markets which, as he says, are mainly used for opium smoking. I am glad that he has raised these wider issues and I propose to follow him, because it is quite impossible, I think, to disentangle the external and the internal aspects of this question. It is not only that a certain amount of prejudice against India possibly survives even now from the old days of the China trade, but there have been later misunderstandings which suggest that in some way or other there is a connection between our domestic policy in India and the extended use of the drugs derived from opium which has become such a serious problem in America. With your permission, Sir, before turning to the domestic question which is the main subject of the Resolution, I shall touch briefly on our external policy.

I do not propose to take the House far back into ancient history and shall begin with the year 1911. In that year the Government of India entered into an agreement with China, the substance of which was that the export of Indian opium to China should be gradually reduced and totally prohibited by the year 1917 *pari passu* with the cessation of opium cultivation in China itself. That agreement had not a very long life, because in the year 1913 the Republican Government came into power in China and with an earnestness which, I think, no one disputes, took up the question of prohibiting the use and cultivation of opium. The Government of India immediately agreed to discontinue all exports of Indian opium to China without waiting for the year 1917. Unfortunately, owing to political difficulties and the lack of control by the Central Government over the outlying provinces, there has been such a recrudescence of opium cultivation in China that the production of opium in that country is believed to be now many times greater than that of the rest of the world put together. However that may be, the Government of India, who did not stand on their rights in 1913, have ever since resolutely maintained the prohibition of export of opium to China. This action on the part of the Indian Government was at any rate generous and has even been called quixotic, but for my part, Sir, I think that it was the only possible action which could be taken, the only one worthy of a great nation. The Government of India, however, did not confine themselves to this. When they prohibited the export of opium to China, they also restricted the export of Indian opium to the non-China markets in the Far East. At first, they restricted exports to the average of the five years preceding 1910 and subsequently reduced the quantity year after year until at present it is not more than half the amount which was exported in 1910. This was a voluntary action on the part of the Indian Government with the object of helping China by reducing the possibility of the smuggling of Indian opium into China from other Far Eastern ports. The effect of these measures on the Government of India's revenues is well known. In the three years preceding 1913 the average amount of opium annually exported from India was 42,600 chests and the net revenue was something over 8 crores of rupees. Last year the amount exported was 7,500 chests, and the total revenue, expected during the current year, as I told the House the other day, will not exceed 1½ crores.

But the Government of India's policy did not end with the stoppage of the China trade, or the restriction of export to the non-China markets. They became parties to the Hague Convention which was the result of earlier discussions and finally was ratified in 1920. The objects of that Convention were three-fold, first of all the control of dangerous drugs derived from opium, such as morphia and heroin, which are of course controlled in India and confined to medical use, as they are elsewhere. Secondly, the control by the signatory countries of the production and distribution of raw opium within their territories. As every one knows, the production of opium in India has been a Government monopoly for years past, and every stage of the process from cultivation to the time it reaches the consumer is very strictly controlled. Thirdly, the Convention requires the control of exports and it requires the signatory countries to prohibit export or restrict export to any countries which desire that the entry of opium to their countries should be prohibited or restricted. Now the system which was adopted to effect this control, to which the Honourable the Mover has referred, is the import license system. That system lays down that no opium shall be exported from India except on a license received from the Government of the importing country. This system was, I believe, first suggested by Sir

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Malcolm Delavigne who was one of the representatives of Great Britain recently at Geneva. But the Government of India have endeavoured to develop this policy further. They have endeavoured to enter into direct contracts with the Governments themselves so that the opium reaching those Governments shall be completely in each Government's control. We have made such contracts with the majority of the countries to which we send opium, and we are, I can assure the Honourable Member, endeavouring to carry that policy to its final conclusion by negotiating contracts with the remaining countries. These contracts lay down the maximum amount of opium which India will agree to send, but they lay down no minima. In other words any Government can at any moment say that it requires no more Indian opium, and the Government of India have repeatedly announced, and I do so again, that they will not be influenced in the least by any financial considerations, and if any country wishes to discontinue taking Indian opium, India will send no opium to that country (Hear, hear). There is this further point, however, that so long as other avenues of obtaining opium are open, so long as China and Persia and Turkey can flood the Far East with their opium, the fact of India stopping the export of opium would not in any way solve the problem of opium smoking in the Far East. It would lose us more than a crore of revenue but it would not help to solve the problem of opium smoking.

I now come to Geneva. The problem of controlling the international traffic in drugs and of preventing abuses in the opium trade has been carried a stage further at Geneva, where there have been three main results. The first comprises an agreement for a much more drastic control of the drugs which are derived from opium. The second provides for increasing the control required from signatory countries over the production and distribution of raw opium within their territories, with the object of making it absolutely certain that no opium can be smuggled outside; and all the signatory countries, which include India, have agreed that within a space of five years they will perfect their arrangements and will then allow an independent committee appointed by the League of Nations to examine their system to see that it is watertight. Third, and most important of all, is the agreement which has been come to with the object of reducing and eventually putting an end to opium smoking in the Far East. That agreement provides that from a date which will be fixed by the League of Nations itself, when the League is satisfied that conditions in the opium producing countries are such that the danger of smuggling has been effectively prevented, within 15 years from that date, the signatory countries agree to terminate opium smoking altogether in their territories. I think, Sir, that this is a really practical method of trying to solve the problem. Until you can exercise control over the producing countries it is useless to make mere gestures. And this step which has been taken at Geneva is, I am glad to say, due to the initiative of Great Britain, which in making this really practical contribution to the solution of this question, is, I make bold to say, leading the world.

And Geneva has done one thing more. The discussions there have cleared away, I hope finally, one misconception which was certainly in the minds of the American representatives when they first came there, and that is that Indian opium in some way or other contributes to the drug habit, which is, it is said, at the present time ravaging "dry" America. As a matter of fact it is now well known that Indian opium, owing to its

low morphine content, is not suited for the preparation of powerful drugs such as morphia and heroin. The drugs which are entering America and which are doing so much damage in that country are drugs manufactured in Japan from China opium, and in Western countries from opium derived from Persia and Turkey. India is absolutely innocent of any participation in America's difficulties. I must say that we cannot fail to sympathise with the American desire to put an end to this very dangerous evil, but India is innocent of any participation in it.

This brings me to the second part of my subject, which after all is the main object of this Resolution, the domestic consumption of opium in India, and I wish Honourable Members to observe the connection between the two parts of my subject. It is because these international discussions about opium have attracted so much notice, that attention in India has recently been focussed upon this opium question. Hitherto, as is well known there has been very little public opinion in India. It is a fact which is lamented by the Rev. Mr. Paton, to whom the Honourable the Mover referred, and by other social workers in the field; we can find very few references to opium in the proceedings of the old Legislative Council or of our modern legislatures. The Indian National Congress, who have always been extremely vigilant in matters of temperance, have only discovered the opium question this year; and the reason is, as I have said, the attention which has been focussed upon this question owing to its international aspect. But, as I have just shown, India is entirely innocent of any participation in the drug traffic and I have explained her position in regard to opium smoked in the Far East. Therefore, we are entitled to consider our domestic question entirely on its own merits.

Now I wish the House clearly to distinguish the three uses to which opium is put. First of all there is the use of opium in the form of powerful derivatives like morphia and heroin. These should always be administered under medical prescription and supervision, and any other use of them is entirely vicious. They lead to a craving and a habit which is comparable to the use of cocaine. We are not concerned with this problem in India. The second use of opium is for smoking. Opium smoking is a very common habit among the Chinese and semi-Chinese populations in the Far East. In India, speaking generally, opium smoking is not practised. It is a habit which is discountenanced by Indian public opinion. All Local Governments have the strictest regulations regarding the amount of opium for smoking which may be possessed by any individual, these limits being as low as a quarter to half a tola, and opium prepared for smoking may not be sold at all. But there are, as the Honourable the Mover mentioned, certain areas where opium smoking has been, and in some cases still is, a problem. The first of these is Burma. Well, so far as the Burman population is concerned, the action which has been taken by the Burma Government ever since the date of the report of the Opium Commission of 1895, and more particularly in recent years, has resulted in the total abolition of opium smoking by Burmans in Burma, except for a limited number of registered smokers. These are people who had become addicted to the habit, and who were certified to be unable to leave it off without serious danger to their health. This limited number of people, who now do not, I believe, exceed 5,000, will in course of time disappear, and opium smoking by Burmans will then have been entirely eradicated.

The second place where opium smoking is a live problem is Assam. In Assam, mainly in the Brahmaputra Valley, opium is both smoked and

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eaten. The Assam Government have during recent years taken most active steps to try to control this practice. I need not mention the history of their efforts prior to 1912. They included such measures as the raising of the issue price and the reduction of the number of licensed shops. In 1912 the Assam Government appointed a small committee to suggest methods for reducing opium consumption and more particularly opium smoking; and on their recommendations reduced the limits of possession, increased the duty and forbade sales to persons under 20 years of age. In 1921 they embarked on a more drastic policy of restriction and limited each licensed shop to a definite ration, such ration to be reduced every year to a limit which would not drive the traffic underground. All retail vendors had to register their sales together with the names of purchasers and in some parts consumers themselves were rationed and could get their supplies only on producing their tickets. This experiment of rationing producers direct is being pushed still further by the Government of Assam, and the result is that the consumption in Assam which was 1,748 maunds in 1919-20 fell to 993 maunds in 1922-23; and figures which I have just received show that it has dropped to 910 maunds in 1923-24. Again there are big industrial centres especially those with large non-Indian populations such as Calcutta, where opium smoking is sometimes also a problem. With regard to Calcutta I would draw the attention of the House to the announcement made by the Honourable Mr. Donald on the 19th February, in his budget speech that the Bengal Government had under consideration a Bill of the most drastic character to check opium smoking.

I now come to the third form in which opium is used, namely, for eating, which is our main problem in India. As everyone knows the eating of opium has been an immemorial practice in India and in certain other countries such as Persia and Turkey, where it is used as a stimulant, a febrifuge, a narcotic; it is the most universal and best understood of all household remedies. It may be compared I think most closely to the use of tobacco by Europeans. Tobacco is susceptible of abuse when taken in excess and so is the use of opium. What we are being asked to do to-day is to take away from many millions of the population the opportunity of using opium which is to them a solace, a remedy and preventive of disease and an anodyne for pain. And at this point, Sir, I should like to say that I think it is doing a grave injustice to the Indian people to suggest that they are to any extent victims of a vicious and degrading habit. The Indian people are renowned all over the world for temperance; they are a pattern in this respect to Western countries.

I shall now refer to expert opinion on the subject to show how far the eating of opium in India is an evil. The Honourable Member referred, though not very fully, to the Royal Commission of 1895. That Commission was an independent and authoritative body. It went into the subject very thoroughly. It examined over 700 witnesses from all sections of the population including 161 medical men, of whom 15 were medical missionaries; and these were its conclusions:

“Opium is used as a stimulant and it is also largely consumed in India for the mitigation of suffering and the prevention of disease. It is the universal household remedy. . . . We have made exhaustive inquiry into the consumption of opium in India and its effects. We find no evidence of extensive moral or physical degradation from its use. . . . Opium is extensively used for non-medical or quasi-medical purposes,

in some cases with benefit and for the most part without injurious consequences. The non-medical uses are so interwoven with the medical uses that it would not be practicable to draw a distinction between them in the distribution and sale of the drug. . . . Opium smoking is little practised in India; it is considered a disreputable habit."

That was in 1895. In 1911 the Government of India examined the question again, and the Honourable the Mover has drawn attention to certain portions of Lord Hardinge's despatch. I should like with your permission, Sir, to read another portion which is even more striking:

"The great majority of Indian opium-eaters are not slaves to the habit. They take small doses as required and can and do give up the allowance when the need of it is past. Opium is in virtually universal use throughout India as the commonest and most treasured of the household remedies accessible to the people. It is taken to avert or lessen fatigue, as a specific in bowel complaints, as a prophylactic against malaria (for which its relatively high ana-cotine content makes it specially valuable), to lessen the quantity of sugar in diabetes, and generally to allay pain in sufferers of all ages. The vast bulk of the Indian population, it must be remembered, are strangers to the ministrations of qualified doctors or druggists. They are dependent almost entirely on the herbal simples of the country, distance and the patient acceptance of hardships standing in the way of prompt access to skilled medical relief. In these circumstances the use of opium in small quantities is one of the most important aids in the treatment of children's sufferings. It is also a frequent help to the aged and infirm and an alleviation in diseases and accidents which are accepted as incurable. To prevent the sale of opium except under regular medical prescription would be a mockery; to many millions it would be sheer inhumanity."

I may be told that this is ancient history—the Commission of 1895 and even the Government of India's view in 1911; and that things have changed since then. Things have changed in some important respects. They have changed first of all in the direction of a much greater and more close control by Local Governments over this traffic. That control has taken three forms. First of all it has taken the form of increasing the issue price which is now two to three times as high everywhere in India as it was in 1911, and the number of shops has been reduced to not more than two-thirds of what they were then. In the second place, it has taken the form of reducing the limits of private possession. Those limits for non-smoking opium are from 1 to 3 tolas in different localities; for smoking opium they are very much smaller, as I have already said. And thirdly, it has taken the form of increasing the control over the traffic at every stage. I feel tempted, Sir, to go into some detail and explain how close that control is, as I do not think it is generally known; but I will content myself with quoting the opinion of one who is certainly not prejudiced in favour of Indian policy, I mean Miss Eileen de la Motte. She says this about the system of Indian control:

"Every step relating to the control and output is carefully and systematically regulated and has been brought to the highest pitch of efficiency, a model and example to the rest of the world."

(*The Honourable Mr. Lalubhai Samaldas*: "Who is she?") Miss Eileen de la Motte, I think I may say, is one of the most outspoken critics of Indian opium policy.

The net result of these efforts by Local Governments has been, as might have been expected, a great decrease in consumption. In 1911 the total consumption of opium was 12,500 maunds. In 1923 it had been reduced to 7,400 maunds. When the Opium Commission of 1895 reported, the average *per capita* consumption was 27 grains per annum; it is now less than 18 grains. I can give the House a further comparison to which the Honourable Mover himself referred though not in any great detail. The

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League of Nations Advisory Committee laid down as a standard for medicinal and scientific use .6 gramme per head per annum, and the Special Health Committee of the League of Nations who further examined that recommendation said that where there was a well developed and well organised medical service that amount might be reduced to .45 gramme. The consumption in India at present is 1.16 gramme; and it must be remembered that the League of Nations recommendation was based upon opium of a much higher morphine content than Indian opium. If allowance is made for the fact that the morphine content here is lower

and for the fact, that opium is commonly administered to cattle. 12 NOON. then it would appear that the average *per capita* consumption in India is not very much in excess of the standard laid down by the League for medicinal and scientific purposes only. It compares quite favourably with the figures of many western countries; for instance in Switzerland the average consumption is 1.2 grammes; in Denmark it is .89 grammes and even in the United States it is .56. In these circumstances, Sir, I think the House will agree that although in a matter of this kind abuses are always possible, the margin of abuse is not as great as is sometimes contended.

This brings me to what is my principal objection to the Honourable Mover's Resolution and that is that, as the House knows, opium consumption in India—excise opium—is a provincial subject and not only that but in every province except one it is a transferred subject; therefore the right procedure for those who aim at checking abuses is to move public opinion to approach the responsible Ministers and the Legislatures of the provinces. We have recently on several occasions found ourselves dealing with subjects in which this same question arose, the question of the relation between the Central Legislature and the provincial Legislatures; and it was only last week that some very sage remarks were made in this House by my Honourable friend, Sir Maneckji Dadabhoj which, with your permission, Sir, I will quote. The Honourable Sir Maneckji Dadabhoj said:

“The country steadily has been fighting for provincial autonomy, to make Provincial Governments independent of the dictation of the Central Government, and I think that, so far as all matters falling strictly within the purview of Provincial Governments are concerned, it is the duty of this Council to watch and supervise and see that the power and authority of those Governments are in no way affected.”

I think, Sir, that the Honourable Sir Maneckji Dadabhoj was perfectly right and that we should be careful to do nothing to weaken the responsibility of Local Governments or to impair their initiative.

Finally, Sir, I would ask the House in a matter of this kind to beware of exaggeration. I think there is much truth in the ancient Greek view which found virtue in the avoidance of extremes; and prohibition is one extreme. Prohibition can be justified if there are *no* uses of an article which are defensible; it can be justified if there exists a social evil of such dimensions and of such a character that it cannot be remedied in any other way. But I submit to the House that that is not the case with the use of opium in India. I suggest that our policy should be not prohibition but temperance, and the measure of our success in dealing with the problem is the reduction of consumption and the suppression of any proved abuses which come to our notice. I should like to say that Government heartily welcomes the activities of social workers such as the Rev. Mr. Paton and

Mr. Andrews and others who have devoted much of their time and energies to this question. But if they ask us to go so far as to introduce prohibition except for medicinal purposes, even with the qualification "as far as possible", I should ask them to consider a number of practical difficulties. As the Honourable Mover has introduced the words "as far as possible", I shall not deal with this aspect by the question as fully as I had intended—I shall merely refer to it in passing. First, there is the difficulty of differentiating between medical and quasi-medical uses. I do not think that many in this House will accept the view that, in order to solve this difficulty unqualified practitioners should be allowed to prescribe. I consider that to be a desperate remedy. Further there is the difficulty of smuggling, the difficulty of putting down illicit cultivation, the difficulty to which the Honourable Mover himself referred of the Indian States, and the greatest difficulty of all, the danger that people may be driven from the use of opium to the use of other types of drugs or intoxicants the abuse of which is very much worse.

Now, Sir, I have said that this is primarily a matter for the Local Governments. But the Government of India are fully alive to the importance of this question and have in fact been taking action. As recently as November last when we received a copy of the pamphlet by the Rev. Mr. Paton, to which the Honourable Mover has referred, we at once referred that pamphlet to all Local Governments and we asked them specially to consider and report upon three aspects of the question and to make their recommendations for any action that they consider necessary. The first of these was the administering of opium to children. Here I agree with the Honourable Mover that circumstances have changed since the days of the Royal Commission. We have now much larger populations collected in big industrial centres and the problem of administering opium to children is, I admit, a very much more serious one than it was in those days. The second subject which we have asked them to examine is the consumption of opium in particular areas where it appears to be unduly high. This meets, I think, two of the main points which the Honourable Mover made—the administering of opium to children and the excessive consumption of opium in particular areas. Thirdly, we have asked them to take up the question of co-ordinating their arrangements with neighbouring Provincial Governments, with the object of eliminating the danger of smuggling.

When we get the replies to our enquiry from the Local Governments we shall consider the matter extremely carefully and I should like to give the House and the Honourable Mover an assurance that any practical action which the Local Governments desire to take will receive the fullest support of the Government of India.

THE HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): Sir, the Honourable Finance Secretary has so clearly explained the position of the Government regarding the question raised by the Honourable Sir Deva Prasad that very little remains to be said. Speaking for myself I would not like opium to be prohibited entirely, unless the Government and the people were both prepared to take up the question of the prohibition of all narcotic drugs. Unless this is done, what will happen is that if we stop opium, we might drive people accustomed to take opium to alcohol. The Honourable Mr. McWatters did not exactly mention alcohol in his speech. He used the word "drugs", but possibly he also

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had in mind alcohol; and I would rather that people took a small dose of opium than that they should be forced to go to alcohol. For this reason, if for no other, I would have opposed the Resolution as it originally stood in the name of my Honourable friend, Sir Deva Prasad Sarvadhikary. But he has added the words "as far as possible" which makes the position much easier. There are two uses of opium, to stop which the whole House will take active measures unanimously. One abuse, which the whole House will condemn, is the use of opium for smoking and the other is the use of opium for doping children by mill labourers when they go to the mills for work. I dare say my Honourable friend, Mr. McWatters remembers that this latter point was recently raised in the House of Commons when a question was asked with reference to infant mortality in Bombay; the figures given were 667 per thousand in 1920-21, and 403, 411 and 419 in subsequent years. I do not mean to suggest that this mortality was entirely due to the doping of children in Bombay, but a great portion of it must have been due to that cause and it is essential that an inquiry should be made into the cause and the possible remedies that should be taken to see that this evil is entirely removed. I realize that this is a provincial subject and it seems from what the Honourable Finance Secretary said, that the attention of Provincial Governments has been drawn to this. I am quite sure that my Government will take up this subject and will see that in Bombay agitation is carried on both by social reformers and by Members of the Legislative Council to see that this evil is tackled in the only way in which it ought to be tackled.

The other use to which strong objection should be taken, is opium smoking. If I understood my Honourable friend Mr. McWatters correctly, he said that the practice was non-existent except in Burma and Assam. In Assam the consumption was very great. I have been supplied just now with figures by the Honourable the Finance Secretary, which show that in Assam up to 1920-21 the consumption was varying from 1,600 to 1,700 maunds for the whole province. In 1921-22, owing to various reasons, possibly owing to better control by Government and also as I have been told, owing to the presence of Mahatma Gandhi in that province and his anti-opium policy there, the consumption in Assam has dropped down to 1,048 maunds, and it is still going down. As regards the other provinces, the total consumption has gone down by practically 60 per cent. It seems therefore that, taken as a whole, the Government are entirely in agreement with social reformers who want that the consumption of opium should be reduced and it should be restricted as far as possible to only medicinal use. I use the words "as far as possible" because I know, in my part of the province—I speak of the Indian States in Kathiawar,—opium is taken by Rajputs, Kathes and others on social occasions. It is also taken by elderly people as a stimulant. There is also a belief—I do not know how far it is true, but my Honourable friend Dr. MacWatt might tell us if it is so,—there is a common belief that it prolongs longevity.

THE HONOURABLE SIR DINSHAW WACHA: It gives wisdom too.

THE HONOURABLE MR. LALUBHAI SAMALDAS: My friend Sir Dinshaw says that it gives wisdom too. In Kathiawar and Rajputana States some people take opium in small doses daily and many more on all social and religious occasions offer it to people who come as guests, and some of us who do not touch opium have to merely touch the Kasumba and

throw it away. I dare say my Honourable friend Sir Deva Prasad does not want the whole of that custom to be done away with on social and religious occasions. Moreover, the problem is really a complicated one so far as Indian States are concerned. I have been officially connected with an Indian State, and as an officer thereof. I remember to have given evidence in 1894 before the Opium Commission. As representing the interests and wishes of that State, I had stood out against any attempt at even restriction of the sale of opium in Indian States. The whole problem is difficult to be solved offhand and I hope that after what the Honourable Mr. McWatters has said, the Honourable Mover will see his way to withdraw his Resolution.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North West Frontier Province: Nominated Non-Official): Sir, I quite sympathise with the Mover of the Resolution, and the Resolution as it stands is very commendable. No doubt, the Resolution concerns largely the welfare of the people of India, where opium is taken in large quantities. Every one in this House will surely admit that of all the intoxicating drugs opium is the most harmful and cruellest enemy of mankind. It not only deprives man of his energy and wisdom, but it makes him idle and luxurious, and degrades him in several respects. Knowing as we all do the most injurious effects of taking opium, I trust very strong measures will be adopted to restrict the sale of opium. But the question is as to what sort of measures should be adopted to stop the taking of this injurious drug. My Honourable friend the Mover of the Resolution says that legal restrictions should be placed on the sale and use of opium. I am afraid, Sir, that legal restrictions will not prove of any advantage, because legal restrictions have not produced any good in regard to the use of a similar drug, I mean cocaine. The taking of cocaine is strictly prohibited by law except for purely medicinal purposes. It will be admitted readily, I think, by all that cocaine is the most expensive of these injurious drugs. Legal restrictions have been imposed on its use by Government, but the Honourable Members, I hope, are fully aware of the fact that in spite of these restrictions, cocaine is taken in very large quantities in this country. No doubt, there is no open traffic in this drug, but a large quantity is being smuggled into this country. People who are addicted to cocaine get this drug, no matter how very expensive it is, and take it in large quantities. A similar result will, I think, follow the imposition of restrictions on the use of opium. Those who are addicted to it, will surely get it under any circumstances. Moreover, the restrictions on the sale of opium will also affect the revenues to a large extent and the money that comes into the Government Treasuries by its free trade will go into the hands of smugglers. To my mind, the right method of restricting the sale and use of opium will be educating public opinion and by bringing home to the minds of the people its injurious effects. Unless we do this, and unless the public really realises the evil effects of the use of opium, I am afraid you will not be able to restrict the sale and use of opium by any legislative measures. I think, therefore, that instead of imposing any restrictions on the taking of this drug, we should start an anti-opium campaign just as Pussyfoot Johnson had started the anti-drink campaign in America. This method, I hope, will prove of greater advantage than imposing any restrictions on the use of this drug. In view of what I have said, I trust, the Honourable the Mover of this Resolution will see his way to withdraw the Resolution and do something in the way of starting an anti-opium campaign by speeches and writings or by something of that sort.

THE HONOURABLE RAJA SIR HARNAM SINGH (Nominated: Indian Christians): Sir, the opium question is not a new problem: it has stood before the world, demanding our attention for more than 30 years. Royal Commissions and International Conventions have been engaged in dealing with it; agreements have been arrived at and accepted; but the evil has persisted, and the problem has reappeared in all its seriousness. Those who have followed the deliberations of the Geneva Conference must have been struck by the magnitude and the difficulty of the problem.

If an individual who makes money by poisoning his neighbour cannot justify himself by saying that the neighbour is free to refuse it, I am thoroughly convinced that no nation has any moral right to produce opium beyond what is needed for medicinal and scientific purposes, and thrust it on other people. Most of us are ashamed to realise that India in its export trade is the greatest sinner in this respect. We cannot pretend to be ignorant of what happens to the extra production which we send abroad; it is certainly not buried and destroyed—we cannot wash our own hands and ease our conscience by saying that we are not responsible for the abuses of opium, when we put it on the open market and pocket the profits.

I am not in a position to give an opinion as to which is the worst form of abuse—to eat the drug or to smoke it. I will go back to the decisions of the Royal Commission of 1895 and of the Hague Convention. It was agreed at least by these bodies that opium *smoking* is an evil and must be stopped. India bound herself not to export the drug for smoking purposes and without a certificate of legitimate use from the importing Government. It is true that India does not export opium actually *prepared* for smoking it is true also that in each case of export of opium a certificate of legitimate use is obtained. She has certainly respected the letter of the agreement; but it is *Indian* opium that is smoked in the Far East and we all know that the quantities exported are far beyond what is necessary for really legitimate use. India sends raw opium to the British and foreign colonies round China and we know that it is immediately prepared there for smoking. It is not a difficult process; and it makes little difference where the boiling is done to make it fit for the pipe. What the certificate of legitimate use is worth, will be seen by a single instance. The import of raw opium in Macao rose one year above 500 chests for a population of 70,000 souls; the certificate had been obtained in this case, as usual; but facts are more convincing than the paper on which the certificate was signed. The Government of India naturally found it difficult to believe, in spite of the certificate, that there could be a legitimate use for 500 chests of opium in Macao. I believe that a warning was given to the importing authorities. The Government of India must know these uses of Indian opium in the Far East, and must realise that, although we have kept the letter of the Hague Convention, we have broken it in spirit.

Before concluding I will turn to a point which touches me more intimately than most of my colleagues here. The Chinese Christian Church has been so fully convinced of the harmful moral effects of opium smoking that it has exercised its authority in publicly condemning the evil. A Christian who is proved to be an opium smoker is ex-communicated from the church. Let us consider what it signifies. Opium smoking is not condemned as a mere wicked practice or a sin. It is not every wickedness or sin that meets with this severest punishment of the Church which is reserved only for the deadliest of sins. Opium smoking is believed to sap

the morals so completely, to destroy the human character so hopelessly that Christian life and Membership of the Church become impossible. As an Indian Christian I do not want to see Indian opium put in the way of my fellow Christians in China. Arguments are not necessary to prove that the abuse of opium has been a curse in some of the Eastern countries and we have failed to combat the evil. It is true that China has now been growing opium herself. But we have always to remember in India that we were ourselves the great offenders by forcing opium upon China by two opium wars and by obliging China to take it from us. I think the time has come when India to save her self-respect must be prepared to go into the question again and revise her whole opium policy more in agreement with the spirit of the Hague Convention which was signed on behalf of India by His Britannic Majesty King George V. We cannot afford to brush aside public opinion and go on contentedly as if our hands were clean. Modern civilization will condemn us if we do so, and we must in this humanitarian matter keep fully abreast of the times.

THE HONOURABLE MAJOR-GENERAL SIR CHARLES MACWATT (Director-General, Indian Medical Service): Sir, after the able and full exposition of the Honourable Mr. McWatters I had not intended to take part in this debate; but as I have been specifically referred to by the Honourable Mr. Lalubhai Samaldas I should like to make a few brief remarks.

I look upon opium as one of the greatest blessings to India, far more than can be realised by residents in western countries. I mean the use of it, although its abuse may be one of the greatest curses. The Honourable Mr. McWatters pointed out that it is of universal use throughout the villages and districts of India, many of the inhabitants of which suffer from chronic coughs and bronchitis, and bowel complaints, acute and chronic, and I consider that without access to opium such sufferers would be in a very bad way.

I myself, when I travel, as well as at home, always keep for personal use, as necessary, a certain amount of some preparation of opium; and I should feel very much indeed if I were not a medical man and could not obtain it.

The danger of over-legislation against opium is that difficulties may be placed in the way of people obtaining it when required medicinally without the prescription or orders of a recognised medical practitioner.

I went into a druggist's shop in Nairobi and asked for an ounce of chlorodyne. I was told I could not get it, as the vendor would be liable to punishment for selling this preparation containing opium to me without a doctor's prescription. So I was obliged to sit down and write out a prescription for myself.

I am quite satisfied that the moderate use of opium does not affect longevity any more than does the moderate use of alcohol. As regards the degradation and degeneration, moral as well as physical, so graphically described by the Honourable Nawab Major Mohamed Akbar Khan, I must confess that I have failed to observe such effects in those who use opium in moderation and I believe that, unless it is consumed in excess, such deplorable results are not found. I should here like to touch on the question of food. Overeating or eating certain harmful articles of diet do very much harm: and in future we may expect legislation to prohibit or control the vice of overeating or the ingestion of undesirable foodstuffs.

THE HONOURABLE THE PRESIDENT: The question is that the following Resolution be adopted:

“ This Council recommends to the Governor General in Council that early steps should be taken to see that as far as possible only the medicinal use of opium should be countenanced in India and for conferring with representatives of all sections of the people as to how restriction to medical use can be carried out in practice.”

The motion was negatived.

SUCCESSION CERTIFICATE (AMENDMENT) BILL.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay: Non-Muhammadan): Sir, I ask for leave to introduce a Bill to amend the Succession Certificate Act, 1889. I do so because this Act, No. VII of 1889, which was passed to facilitate the collection of debts, as also to afford protection to parties who pay the amount of such debts to representatives of deceased persons evidently does not carry out its intention in regard to amounts payable to claimants under life policies and Life Insurance Offices which make payments without Succession Certificates run the risk of paying twice over. It is therefore in the interests of the public and also of Life Insurance Offices that I have brought forward this Bill.

The motion was adopted.

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, I beg to introduce the Bill.

THE HONOURABLE MR. PHIROZE C. SETHNA: Sir, I beg to move:

“ That this Council do recommend to the Legislative Assembly that the Bill to amend the Succession Certificate Act, 1889, be referred to a Joint Committee of this Council and of the Legislative Assembly, and that the Joint Committee do consist of 12 Members.”

This Bill is brought forward, at the instance of Life Assurance Companies doing business in this country for the benefit of that portion of the public who take out life insurance policies and also for the security of the Life Offices themselves. That section of the public which takes to life insurance in India is happily a gradually increasing one and I am sure all who have the interest of India at heart would like to see this increase go on at a much quicker rate than it is to-day. There is at present in the country an association consisting of Life Offices which have their head offices outside India. It is reasonable to expect that Indian Life Offices in their own interests will before long start a similar association for themselves and that both associations will work conjointly whenever they have common points to place either before Government or before the public. All Life Offices, however, whether Indian or non-Indian, whether they have their head offices in this country or outside India, are unanimously in favour of this Bill because of the protection it affords to them all alike.

A life insurance policy may be made out in favour of a wife or child or some other relative or it may be that it is assigned to someone. If that be the case then this Bill does not affect such policies. But the majority of life insurance policies are made out in favour of executors, administrators and assigns, and where that is the case claimants who ask companies for monies under these life insurance policies have to produce a probate

or letters of administration as the case may be according as the deceased policy holder has left a will or has died intestate. The great majority however of these policy holders leave very small estates and it often happens that all they have left is nothing else but a life insurance policy. In such cases it is a positive hardship to ask claimants to produce probate or letters of administration on account of the prohibitive cost of the same. Life Offices therefore in such cases are prepared to accept a modified form of grant as constituted by the Succession Certificate Act. If a succession certificate is granted in respect of a claim then under Act VII of 1889 a claim under a policy should be regarded as a debt due to the deceased policy holder, and the claimant could ask the company to pay the amount and the company in its turn under the same Act would be perfectly secure in doing so. In practice, however, we find that some subordinate courts refuse the granting of succession certificates in regard to claims due under life policies; and they do so on two grounds. They refuse in the first place because they say it is unnecessary for the enforcement of claims to policies, and secondly because they hold that monies due under a policy are not a debt until the policy holder is dead. The only alternative therefore left to Life Offices in such cases is to insist upon probate or letters of administration; but as I have pointed out that is a costly process.

Life Offices are anxious that life insurance should be popularised in the country and they consequently are prepared to extend every help possible to claimants in order that the monies due may be paid to them without loss of time and with as little trouble and cost as may be possible. Affording such facilities is the best means of furthering life insurance in the land, of encouraging thrift amongst its people and more than all being the means indirectly of saving very often one's dependants from abject misery and want. It is therefore that Life Assurance Companies go out of their way when a succession certificate is not produced to accept some other title and the only other title a claimant can produce is perhaps an affidavit or a declaration. But it is found in practice that sometimes such affidavits and declarations are incorrect and Life Offices have to pay the claim twice over. This, the House will admit, is a state of affairs which requires to be remedied and the best way to do so is to make clearer the meaning of section 4 of the Succession Certificate Act in the manner explained in the Bill. If the amendments proposed are accepted by the Legislature, they will specifically bring claims under life policies within the scope of the Act and all such uncertainty as exists at present will be eliminated. And if this is done Life Offices will run no risk in paying claims if they get succession certificates.

The House will see that the object of this Bill is to incorporate a simple measure whereby any claimant of policy monies who does not take out probate or letters of administration but does take out a succession certificate can compel a life office to accept the same in proof of his title and on the production of such a succession certificate the company will be bound to pay and at the same time run no risk in doing so, which the House will recognise will prove of immense benefit to the public and certainly to the Life Offices themselves.

In sub-section (1) of section 4 there are certain "exceptions" in the original Act which have not been redrafted in the Bill as laid before the House for the simple reason that it is proposed that these "exceptions" will of course continue in the amended Act.

[Mr. Phiroze C. Sethna.]

Another small alteration however is proposed and that is wherever the word "debt" appears in the existing Act the words "or claim" be added thereto, and wherever the word "debt" appears in the plural the words "or claims" be added after it. Some explanation with regard to the same may be necessary. As I have already said, some subordinate courts have held that only debts which have become payable to the deceased at the time of his death fall within the category of debts to which the Act is applicable and not those which become payable after his death. In the case which is reported in 13 Calcutta Weekly Notes, the Calcutta High Court has discussed at great length the definition of a debt but the rulings given in that case are not accepted by the subordinate courts that I have referred to. It is therefore to obviate any further trouble that the words "or claim" and "or claims" are proposed to be added after the words "debt" or "debts" as the case may be.

Lawyers like doctors are apt to differ one from another and in regard to this Bill as well I have heard the opinion expressed by some lawyers that another way of meeting the difficulty which I have pointed out and perhaps in their opinion a simpler way would be to drop sub-section (2) of section 4 of the original Act which deals with 'debts' and to substitute instead under section 3 of the Act under the head of Definitions a definition of the word "debt" itself amplifying that definition by including thereunder money payable upon the death of a person under a life policy. Whether the procedure that I have suggested in the Bill is accepted, as drafted by some lawyers, or the one which as I say has been suggested by some other lawyers, is a matter of indifference to the public and to Life Offices, provided the Act is so remedied that what doubt there exists is removed. I leave this to the Joint Committee to which I propose that this Bill be referred. Whether it emerges from the Joint Committee in the manner that I have indicated to the House or whether it emerges with any change whatsoever, our object will be served if the original intention of the Act is carried out and monies under life policies are included and succession certificates are allowed in such cases.

In this country I am afraid life assurance has not received from Government the amount of attention that we know has been extended to it elsewhere. Under the Commerce Department there is an Actuary whose business it is to issue blue-books once a year giving details of the business done by life insurance companies purely Indian. Mr. Meikle, the Actuary, presents his reports once a year, and I understand his report for the year ending 31st December 1923 has just been published. I have not seen it but I have seen some figures reproduced from it in the *Times of India* of last Saturday. According to Mr. Meikle there were, on the 31st December 1923, 52 Indian life assurance companies, big and small—but the great majority of them, I am sorry to say, are very small. The point to which I wish to draw the attention of the House is that according to the Actuary as at 31st December 1923, the total amount of assurance in force on lives in India between these 52 companies aggregated only 40 crores of rupees. Again the Report goes on to say that in addition to the Indian Life Offices there are 23 Life Offices working in this country which have their head offices outside India. As the Life Insurance Act stands at present we have no means of knowing the actual figures of these non-Indian companies. The Honourable Mr. Chadwick has assured us that his proposed new Bill regarding Insurance generally will be introduced

in the Simla session and we hope that in that Bill provision will be made to make such non-Indian companies give their returns in the same manner as do Indian companies. However, it will be a very liberal estimate if we take it that the non-Indian companies also have at the most only 40 crores of assurance in force on lives in India

THE HONOURABLE THE PRESIDENT: I think the Honourable Member is wandering rather far from his Bill.

THE HONOURABLE MR. PHIROZE C. SETHNA: I have deviated a little and I shall tell you, Sir, in a moment the reason why I have done so. I shall not be more than a minute on this point. What I want to make out is that this total of 80 crores works out at the absurdly low average of Rs. 2-8-0 per head of the population in this country, while it is Rs. 925 per head in the United States of America, Rs. 725 in Canada, Rs. 400 in Great Britain, Rs. 115 in Germany, Rs. 65 in France and Rs 20 in Japan. This was in 1916; the figures must have increased since then and certainly in Japan where in recent years they have made rapid strides and the figure there to-day must have risen to Rs. 50 or over. I say therefore that the Government must help in matters of life assurance in this country to such an extent that we may be able to increase the business of life assurance to a very considerable extent and which will all be to the benefit of the Indian public as it has proved to be in other countries.

Now, Sir, it may be questioned why I have not asked for this Bill to be circulated: I will explain my reasons. They are two. In the first place the points that are brought forward are very simple and for the benefit of the public as also of the Life Assurance Companies. I have said clearly that this Bill does not affect those policies which are assigned or are made out in favour of relatives. If the public consider there is any grievance whatsoever about taking out a succession certificate—and I say there is none—then the easiest way for them is to assign the policy to their relatives or anybody else they like. If they choose to leave it to the executors, administrators or assigns then only the provisions of this Bill come into operation and a certificate can be demanded by the companies. The point is therefore very simple. It will help the public and it will give a protection to the insurance companies. The second reason is this that if we circulate this Bill, it is likely to be postponed indefinitely. There are similar Bills, one of which has been moved by the Honourable Sir Arthur Froom and the other the consolidating Bill which has been already referred to a Joint Committee of both Houses, and I am only anxious that the House should agree with me that it is very advisable that this Bill be likewise referred at the same time to a Joint Committee and preferably to the same Joint Committee, so that the amendments proposed in my Bill can be disposed of by the committee in quick time and relief afforded to those who stand in need of it.

THE HONOURABLE THE PRESIDENT: The question is:

“ That this Council do recommend to the Legislative Assembly that the Bill to amend the Succession Certificate Act, 1889, be referred to a Joint Committee of this Council and of the Legislative Assembly, and that the Joint Committee do consist of 12 Members.”

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-official): Sir, the Honourable Mr. Phiroze Sethna has frankly said that the purpose of this Bill is to assist towards the speedy settlement of claims under policies for life assurance and to afford adequate security to companies making payments, and he added that the matter was simple. I do not

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think the subject on which he seeks the aid of the Legislature is as simple as he has made it out to be. In the first place I would like to point out to him the case of several people who will be put to very serious difficulties if legislation on the lines he now seeks is really introduced and put into force. I informed my Honourable friend Mr. Sethna that this problem was not so easy and he was good enough to tell me that those that had experience of life insurance business would think otherwise. If the House will permit me to strike a personal note, I added at one time at the beginning of my career to my other activities, that of a life insurance agent also, and if it would interest my honourable friend, in the very company,—the New York Life Insurance Company, which has recently come under his direction. Those that are conversant with the methods of life insurance agents and the generally clever manner in which they get people to insure with them have to think not once but twenty times before agreeing to accept a piece of legislation of this character. I can say from my own experience and from friends and others who have experience of these insurance companies that there are already difficulties and this Bill will make them more complicated. In the first place I should like to point out, if my information is correct—and I have put myself to the pains of consulting not only lawyers but others who have had considerable judicial experience—that if you have to produce a succession certificate you have to pay nearly 2 per cent. up to Rs. 5,000, and I understand 3 per cent. for amounts exceeding that sum; in addition I understand you have to pay for publication charges and, I need hardly add, the Vakil's fees which the poor man, who is anxious to get the amount insured on the policy fully maturing, will have to pay. Now, my Honourable friend, Mr. Sethna, said . . .

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I rise to a point of order. I do not think at this stage it is admissible to go into the merits of the Bill which my Honourable friend Mr. Sethna has introduced. The question now before the Council is whether the Bill should be referred to a Select Committee or not.

THE HONOURABLE MR. PRESIDENT: On that motion the Honourable Member is perfectly in order in discussing the principles of the Bill.

THE HONOURABLE MR. G. A. NATESAN: Perhaps my Honourable friend, Sir Maneckji Dadabhoj, will be pleased if I give him the additional bit of information that I am supporting his view that the Bill should not be referred to a Joint Committee and that it should be circulated for public opinion; and when a House of this character and dignity wants to circulate a document for public opinion, one would presume that all aspects of the question had been discussed here and the points put forward in this Council itself and the whole question with its *pros* and *cons* placed before the public. My Honourable friend Mr. Phiroze Sethna said that in regard to policies generally, they are assigned in favour of executors and assignees, but I wish to tell him that most people generally assign their policies to their heirs, and therefore a considerable amount of difficulty will be felt by all people when receiving the amount if an alteration in procedure is effected as suggested by the Honourable the Mover. The suggested alteration in procedure will also compel most people to go through the processes of the court to obtain a succession certificate. I would also ask my Honourable friend to consider the enormous difficulties to which people who have already taken out policies will be put. Unless, therefore, the

Honourable Mr. Sethna on behalf of the Company which he represents, and unless every other insurance company in this country takes upon itself to notify to every one of its constituents who have insured in the various companies how exactly they should assign their policy or policies, great difficulties will be experienced by people who have already insured. I was myself told only the other day with regard to a few policies which I have taken out how they should all be assigned and registered and a certificate obtained from the heads of the offices which are represented in India, and I personally felt a considerable amount of difficulty, and if I, with my resources, which are certainly not of a poor order so far as legal advice is concerned, have felt some amount of difficulty in making assignments, in getting the policies registered and in asking the heads of offices of each company as to how these things should be done, you can imagine to what amount of difficulty other people who will be compelled to produce succession certificates, will be put if this legislation is passed. What happens now is this. At present I am not sure if it is so in the case of the Company which my Honourable friend represents in this country, but agents of insurance companies generally assure their clients that payment of the policy will be made immediately on the death of the insured person, but nowhere is a clause to be found that succession certificates will have to be produced before payment is made. If my Honourable friend is certain that there is such a clause in the policies, I will not contradict him, but unless he gives me an assurance to the contrary that all companies have made it a rule that every one of their policy-holders should produce a succession certificate before payment is made, I cannot support his proposition. What happens is this. The insurance companies generally ask for proof that the person who had insured and taken out the policy was dead. The next thing they want to know is as to who is the heir or who is the claimant. Then they ask for an affidavit by a person holding the position of a magistrate or other respectable person. I know of a recent case in which an insurance company was quite willing to make payment to the heir, when there was little doubt as to who was the real heir, on a guarantee being given by a near relation of the heir who was a wealthy person. That is the way in which things are arranged now. Knowing, Sir, all the difficulties to which, even as the law stands at present, many people are put in getting the amount speedily and quickly from the insurance companies, I think it would be unwise for us to accord our support to the proposition before the House. My Honourable friend Mr. Phiroze Sethna will perhaps pardon me if I point out to him that in the advertisement of the various insurance companies the first thing that is shown on the top and printed in very clear types is "Policies paid without much difficulty". This is our actual experience. I think, therefore, that if the aid of the Legislature is sought in this matter, a very strong case must be made out that while undoubtedly it will facilitate the companies from taking risks, it will not add to the difficulties to which the public at large are put, and those who have to reap the advantages of insurance have a right to expect it at the hands of the Legislature.

I would ask my Honourable friend Mr. Sethna to answer another difficulty which I have. Even under the Succession Certificate Act, the payment of a debt to a person will not absolve the insurance company from making payment to the real heir as it will be quite possible for a person to obtain *ex parte* a succession certificate behind the back of the real heir. What is the remedy which he has at present? Even if this House were

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to pass this legislation, I doubt if it can give the company the immunity which is aimed at. I do not wish to speak more on this aspect of the question, but I felt it my duty, with the experience which I have had in this matter and with the knowledge of the difficulties to which many poor people who have only perhaps small insurance sums as their means of livelihood and who perhaps may have immediate necessity for recovering the amount, would be put, if this legislation were passed, to call attention to it. I think, Sir, this is not a matter in which the interests of the insurance companies alone should be considered, because thousands of people are involved in this matter. I quite lament the fact that life insurance in India is not as popular as in western countries, and the number of insurance companies in this country when compared to the number in other countries is infinitesimal. From the point of view of the people, therefore, it will be very desirable that this Bill should be circulated broadcast throughout the country and the whole question should be investigated very carefully.

There is also another reason, with which I trust my Honourable friend Mr. Sethna will agree, as to why this Bill should be circulated for public opinion. I understand that among the numerous questions which the Taxation Committee has put to the public, one of them concerns this, it is query No. 137. That refers to duties on inheritance and succession. That Committee is now in Delhi. I find the Chairman of that Committee is now sitting in the gallery in this House, and I am sure when the Taxation Committee moves about from place to place, it will have an opportunity of ascertaining public opinion on this matter, more particularly if we send out this Bill also for public opinion. I am not hostile to any legitimate attempt being made to see that the insurance companies do not pay the amount twice, but I think even for the first payment a considerable amount of difficulty is felt even as the law stands at present. I feel, therefore, a case has been made out for referring this Bill to public opinion.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General): My Honourable friend Mr. Natesan has come to my rescue and relieved me of the responsibility of making a speech on this occasion. I do not propose to go into the merits of the principle involved in the Honourable Mr. Sethna's Bill. My motion is a simple one. I merely want that the Bill should be circulated for the purpose of eliciting public opinion. I assure my Honourable friend that this is not a dilatory motion. The subject, though it is comprised in a small Bill, is of very great importance both to the policy-holders and to a large number of insurance companies. The law which my Honourable friend seeks to modify is also a very important modification, and I think it is only right that the Local Governments should be first consulted and a public opportunity should be given to various companies to express their opinion on this subject. My friend Mr. Natesan has also pointed out that the matter is under the consideration of the Taxation Committee. I do not think, therefore, any great advantage will accrue by rushing this Bill through the Council. I am fully aware that two other Bills of a somewhat kindred nature, one consolidating the Indian Succession Act, and the other my friend Sir Arthur Froom's Bill, will be shortly before the Committee for their consideration. But I believe that that Committee will not meet immediately. That is my information. If my Honourable friend Sir Arthur Froom says that it is not so, I will accept his assurance, but I understand that it is not going to meet immediately.

THE HONOURABLE SIR ARTHUR FROM (Bombay Chamber of Commerce): I have no idea when the Committee will meet.

THE HONOURABLE SIR MANECKJI DADABHOY: May I take it that it will meet immediately?

THE HONOURABLE THE PRESIDENT: The date on which the Joint Committee, when constituted, will meet is fixed by the Chair.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, it is all the more reason I think that we should have explicit public opinion
1 P.M. on the subject in view of the several difficulties that have been pointed out by Mr. Natesan, and I think it would be a proper action on the part of this Council to accept my amendment, and after mature consideration discuss this Bill at a later date when we are in possession of public opinion on this subject.

THE HONOURABLE THE PRESIDENT: The Standing Orders require the Honourable Member to include in his motion a date by which opinions are to be received. Will the Honourable Member kindly complete his motion?

THE HONOURABLE SIR MANECKJI DADABHOY: I would say, Sir, "on or before the 1st of September next".

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st September 1925."

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I do not propose to go into the merits of the Bill at this stage, but in view of what has fallen from my Honourable and learned friend from Nagpur, and the Honourable Mr. Natesan, I think it would be for the convenience of the House if I explained very briefly the attitude of Government towards this Bill. We are prepared to accept the Honourable Mr. Phiroze Sethna's motion for reference to a joint committee. Nevertheless the Government of India fully appreciate the importance of the considerations urged by the Honourable Sir Maneckji Dadabhoy and his predecessor in the debate. They recognise that it is desirable that the fullest opportunity should be given to Local Governments to express their own opinions and to obtain public opinion upon the merits of this Bill. They therefore decided on leave being granted by this House to introduce the Bill, to take immediate steps by executive order to obtain the opinions of Local Governments and High Courts. I trust that that assurance will go far to meet the points raised by the Honourable Sir Maneckji Dadabhoy and the Honourable Mr. Natesan.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): Sir, in view of what the Honourable the Home Secretary has told us just now, I think the whole point raised by the Honourable Sir Maneckji Dadabhoy and the Honourable Mr. Natesan disappears. I am not aware that, because a reference to a Joint Committee is made, public opinion will be wholly shut out. It will be quite the other way, certainly judging from what the Honourable Mr. Crerar has told us. A Bill of this importance, though seemingly somewhat diminutive in size and though it is not making any important change either in law

[Sir Deva Prasad Sarvadhikary.]

or procedure, cannot be passed without full reference to Local Governments and without opportunity being given to the public to express their opinions. That is no reason, however, why the Bill should be hung up till the 1st of September, which is the date indicated in the motion of the Honourable Sir Maneckji Dadabhoy, by which time this House probably comes to an end. I am very much afraid the Honourable Mr. Natesan has been under a serious misapprehension. The case of assignees of policies is expressly excluded from the scope of the Bill. . . .

THE HONOURABLE MR. G. A. NATESAN: I referred to heirs, unnamed heirs.

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY: Well, the case of heirs, named or unnamed, will have to be dealt with by the testamentary court in the ordinary course. The Honourable Mr. Natesan must not think that, because the process is not to be legalised and regularised under the Succession Certificate Act as now proposed or because the process is to be the more costly one of obtaining letters of administration or probate, in which the poor man will not be let off either by the Government or by the lawyer, he must not think that because one process will be added to (and not substituted for the other) there will be any difference

THE HONOURABLE MR. G. A. NATESAN: These people do get on without lawyers.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: Madras must be a very happy place then. The point is that no Insurance office can be expected to pay claims without adequate discharge and no court will issue letters of administration or probate without citation in suitable cases. There is no reason why, in regard to any complicated facts which may arise in the case before issuing a succession certificate, the court would not cite the parties appearing to be concerned. The heirs, named or unnamed, would therefore be safe in all these cases. It would be intolerable if the rights of heirs were overlooked in any way. That is not the object of the Bill. The whole object is some speedy, some less costly process than probate and administration proceedings, and it is common knowledge that probate and letters of administration cost a great deal more than a succession certificate. A succession certificate is a less costly process and generally takes less time. In fact I am surprised that the Government (the Honourable Mr. McWatters is not here) agree to the facilitation of this process by which the revenue will be prejudiced; because the duty which will come in if the other process is resorted to would be considerably more than the succession certificate process, which is known to be less costly. Sir, the development of insurance companies and the safety of insurance companies themselves are matters of importance, and from that point of view, and having regard to what Mr. Crerar has told us that the Local Governments and the public will be consulted by executive order, I do not see why this Bill should not straightway be committed to a Joint Committee as proposed.

THE HONOURABLE MR. A. C. WILD (Bombay: Nominated Official): Sir, I should not have ventured to intervene in this debate except for the fact that I have had considerable experience of the working of the Succession Certificate Act. One point also has not been, I think, properly

brought to the notice of this Honourable House, and that is that this Bill which we have before us does not actually alter the law at all. When I say this, I should perhaps rather say that it does not alter the practice of the law. The object of the Mover is to make it clear that in the case of the money of insurance policies a succession certificate may be granted in respect of the sums payable and it appears some courts, we do not know where (in Bengal I am told), have held that this is not the case, But as far as I know in no court in the Bombay Presidency has it ever been so held, and in the case of these insurance moneys succession certificates can be granted and have been freely granted. In fact it is in this class of cases particularly that a succession certificate is asked for. I think then that, as there is no change of practice involved, and practically no change in the law, there is absolutely no necessity for the Bill to be circulated at this stage.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces : Nominated Official): Sir, in my opinion, in the interests of policy-holders as well as of the Insurance companies themselves, it is absolutely necessary that the provisions of the Bill introduced by the Honourable Mr. Sethna be carefully considered by the whole country before this Bill is actually referred to a Select Committee, or comes for consideration in its final stage. As the Honourable Mr. Natesan has pointed out, the interests of the policy-holders must be supreme in these matters. The agents of insurance companies certainly put the whole thing in very attractive colours when they approach people with proposals to get their lives insured. I have had the good fortune or misfortune of having been approached by various agents on various occasions. Well, the circumstances of my own family affairs did not render it desirable for me to get my life insured, but I always thought that life insurance companies were not benevolent institutions. They are, after all, business concerns and they exist in their own interests rather than in the interests of the policy-holders. They make money and declare dividends at the cost of policy-holders (*Sir Maneckji Dadabhoy*: "No, no.") The insurance of one's life may or may not be necessary as the circumstances in which a man happens to be placed may dictate. As it is, Sir, I have learnt from many persons who have had dealings with life insurance companies that they found considerable difficulties—I mean the heirs of those who had insured, of course not those who had insured themselves, they were gone; but the heirs found considerable difficulties (*The Honourable Sir Maneckji Dadabhoy*: "Why do you go to bad companies?") in receiving the money from insurance companies. I think if this Bill is passed it would become an invariable practice with the life insurance companies to refuse any payment without the production of succession certificates, and the worst thing that can befall an ordinary person is civil litigation. I know something of the law. I have myself been the presiding officer of criminal and revenue courts, if not of civil courts, and I know that woe befall the persons who have to resort to litigation very often. It may be a very easy thing to get a succession certificate, but I should be the last person to put myself to that ordeal. I would not like to go to a civil court, or to any court, if I could possibly help it, not of course as a non-co-operator; I will certainly go if I find it necessary, but I would avoid it so far as I can. I am certain that the agents of these insurance companies would never tell those whom they approach that their heirs would have to obtain succession certificates after their death. So I think.

[Pandit Shyam Bihari Misra.]

Sir, people who know something of the world would certainly know that such an enactment has been passed; but many people would not, and these would certainly be putting serious difficulties in the way of their heirs if this Bill is passed without a thorough consideration. I am therefore emphatically of the opinion, Sir, that this Bill should be circulated for public opinion, as has been proposed by my Honourable friend Sir Maneckji Dadabhoy, and it should not be referred to a Select Committee at present.

THE HONOURABLE THE PRESIDENT (to Sir Maneckji Dadabhoy):
The Honourable Member has no right of reply.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I propose to withdraw my amendment. In view of the assurance given by the Honourable the Home Secretary that by an executive order the opinions of Provincial Governments will be obtained, I do not see any reason to press this amendment. I therefore ask leave to withdraw it.

THE HONOURABLE THE PRESIDENT: Is it your pleasure that the Honourable Member be given leave to withdraw his amendment.

(Leave was not given.)

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay: Non-Muhammadan): Sir, I hope my Honourable friend Mr. Natesan has discovered by now that his criticisms were absolutely misconceived and the best answer to him was in what fell from my Honourable friend Mr. Wild who has spoken from personal experience as a Judge in the Bombay Presidency as he said there is absolutely no intention of introducing fresh legislation. All that is intended by this Bill is to correct a defect by a proper interpretation of the Act. The original Act clearly intended that succession certificates should be given in respect of claims under policy monies. Certain subordinate courts—I am sorry I did not say in my first speech that these subordinate courts are in the Bengal Presidency—do not agree with that view. It is therefore to remove their doubts that this Bill is proposed and for nothing else. The Honourable Mr. Natesan has asked me two pointed questions. First he inquired if all Life Offices are agreeable to this change. Let me assure him they are. Let me further assure him that quite unsolicited they have sent me letters saying they agree with the object of the Bill and only regret it was not brought up before. The next question he asked was if Life Companies considered that if they gave money on the strength of succession certificates they would not be called upon to pay a second time. My answer to that is in the affirmative. He then brought out his own grievance, that he held certain policies and he considered it a very great hardship to be asked to assign them to certain individuals rather than allow them to remain in the name of his heirs. If anything the Honourable Mr. Natesan has every reason to be grateful to those companies, because after his death if his estate is a large one (and I feel sure it will be) if he has left a will probate will be necessary, while if he dies intestate letters of administration will be required. What have they done? Instead of having the policies in favour of unnamed heirs they have asked him to assign them to persons by name, so that neither probate nor letters of administration will be necessary. Government will be deprived of a certain amount of money thereby, and Mr. Natesan must thank the insurance companies for advising him not only

how to save probate duty, but also how to get the claim monies in quick time without legal formalities. If anything he has reason to be grateful to the insurance companies instead of condemning them as he has done.

Sir, I certainly have no objection to the Honourable the Home Secretary's suggestion to refer this Bill to Local Governments in the manner he has proposed because I have every confidence that Local Governments will support the object for which I have brought forward this Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the Succession Certificate Act, 1889, be circulated for the purpose of eliciting opinion thereon by the 1st September, 1925."

(After the motion had been put.) The Ayes have it.

THE HONOURABLE MR. PHIROZE C. SETHNA: I ask for a division, Sir.

THE HONOURABLE THE PRESIDENT: The Honourable Member was aware of the question that has just been put. The amendment of the Honourable Sir Maneckji Dadabhoy obviously comes before his original motion.

THE HONOURABLE MR. PHIROZE C. SETHNA: He spoke of withdrawing it, Sir.

THE HONOURABLE THE PRESIDENT: The House did not give permission to withdraw it.

THE HONOURABLE MR. PHIROZE C. SETHNA: I am sure if a division is asked Honourable Members will understand the position and vote according to their views.

THE HONOURABLE THE PRESIDENT: The Honourable Member's vote against the amendment is recorded somewhat late, but in view of the circumstances—perhaps I should from the Chair have explained that when one Honourable Member objected to leave being given for the withdrawal of a motion that the debate proceeded; there was no question of taking a vote on that—I will put the question again.

The question is:

"That the Bill to amend the Succession Certificate Act, 1889, be circulated for the purpose of eliciting opinion thereon by the 1st September, 1925."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That this Council do recommend to the Legislative Assembly that the Bill to amend the Succession Certificate Act, 1889, be referred to a Joint Committee of this Council and of the Legislative Assembly, and that the Joint Committee do consist of 12 Members."

The motion was adopted.

PRISONS (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I beg to move:

"That the Bill to amend the Prisons Act, 1894, as passed by the Legislative Assembly and amended by the Council of State, be passed."

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the Prisons Act, 1894, as passed by the Legislative Assembly and amended by the Council of State, be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR NARASIMHA SARMA (Law Member): Sir, on Monday last I undertook to inform Honourable Members during the course of the week whether Government would have any business to place before the Council on Friday, the 13th instant, which has been allotted by His Excellency for non-official business but for which no such business is forthcoming. I am now in a position to announce that, unless the business for Thursday the 12th instant is left unfinished when the House rises on that day, there will be no Government business on the 13th. The business for Thursday the 12th will be the consideration and passing of any Bills which may be passed by the Legislative Assembly to-morrow, and in this connection I venture to request a relaxation of the ordinary rule which requires Bills passed by the other House to be laid on the table at the next following meeting of this Council. We have no business after to-morrow until the 12th, on which day, as I have said, we desire to proceed with the Bills in question. In these circumstances you would perhaps, Sir, be prepared to allow the Bills passed by the Assembly to-morrow to be laid on the table at the conclusion of our own meeting to-morrow which is likely to be prolonged for some time after the business of the Assembly is concluded. I may perhaps venture to mention in this connection that a similar indulgence was granted by your predecessor, the Honourable Sir Alexander Muddiman, on the 12th February, 1923, when in closely analogous circumstances he allowed the Malabar Completion of Trials Supplementing Bill, passed by the Assembly on that day, to be laid forthwith on the table of this House.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY: (West Bengal: Non-Muhammadan): Sir, I have sent a fresh notice of a motion regarding the Colonial question for the 18th. Yesterday I understood from the Secretary of the Council that there was a technical difficulty about the 18th because the ballot had already been drawn and it was possible, if other things were favourable, to allow my motion to come on the 13th, on which date there is no business. I informed the Secretary that, if the Honourable Member in charge had no objection, I would bring it up on the 13th. My reason for selecting the 18th March was that I should be allowed to bring it up on the latest possible day that a non-official Resolution could be brought up this Session so that Government might have enough time. I should be glad to be informed as to whether it will be allowed on the 13th or the 18th of March, or whether unfavourable circumstances will prevent its being brought up at all.

THE HONOURABLE THE PRESIDENT: Has the Honourable Member made any request that the fifteen days' notice should be waived in the case of his Resolution? Because in the first place the sanction of the Member of Government concerned—that is, I understand, the Honourable Sir Muhammad Habibullah—is necessary before a Resolution could be put on the agenda at short notice. Thereafter my consent arises, but I should always like to ascertain first what the view of the Member of the Government concerned is in the matter.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: I am sorry, Sir, that under the circumstances I am not prepared to waive the usual notice.

THE HONOURABLE THE PRESIDENT: It appears therefore that there will be no business for the meeting of the 13th. With regard to the

suggestion made by the Honourable the Leader of the House, the course he proposes is not strictly within the letter of rule 25; but that rule has at times been found inconvenient in working; and, in view of the precedent cited by the Honourable Sir Narasimha Sarma, I shall be prepared to-morrow to allow any Bills passed in the other House which are received here before we adjourn, to be laid on the table.

The Council then adjourned till Eleven of the Clock on Thursday, the 5th March, 1925.