

Wednesday, 20th September, 1922

THE
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(Official Report)

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THIRD SESSION

OF THE

COUNCIL OF STATE, 1922 °



SIMLA
SUPERINTENDENT, GOVERNMENT CENTRAL PRESS
1922

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COUNCIL OF STATE.

Wednesday, 20th September, 1922.

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

QUESTIONS AND ANSWERS.

SUKKUR BARRAGE PROJECT.

138. The HONOURABLE SARDAR JOGENDRA SINGH : Will the Government be pleased to state what action it has taken over the Sukkur Barrage project, and to lay the papers regarding it on the table of the Council ?

The HONOURABLE MR. B. N. SARMA : The Sukkur Barrage and Canals Project was forwarded for sanction in December 1920 to the Secretary of State who gave it both administrative and technical sanction but withheld his final sanction pending receipt of the detailed proposals of the Government of Bombay as to how the scheme will be financed. Further action in the matter of obtaining the Secretary of State's final sanction to the project and the financing of the scheme are matters which rest entirely with the Government of Bombay.

The papers relating to the project are too voluminous to lay on the table, but should the Honourable Member so desire he will be given an opportunity of studying the sixteen volumes of the project which are kept in the Public Works Department Secretariat Office if he could make it convenient to call at that office.

PROVISION OF SHEDS AT SHORKOT STATION.

139. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
(a) Is it not a fact that Shorkot station on the North Western Railway is a big junction, and that trains from different quarters have to stop there at one and the same time, very often, at inconvenient hours ?

(b) Does Government intend to provide sheds at the station platforms for the protection of passengers against rains or the burning sun ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) and (b). The Railway administration has provided for the cost of the construction of a waiting shed at Shorkot station in the current year's budget.

GRAIN MANDIS ON NORTH WESTERN RAILWAY.

140. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
(a) Will the Government kindly inform this Council what are the different *mandis* on the North Western Railway on the Punjab Canal

colonies from each of which food-grains amounting to more than 10,000 maunds per year are usually exported to foreign countries ?

(b) Will they also state what amounts of wheat and gram have been exported by rail from the *mandis* referred to in clause (a) of the question to Karachi, Frontier Province, or Baluchistan in the current year and in the year 1921-22 ?

The HONOURABLE MR. B. N. SARMA : I regret that I am unable to give the information required by the Honourable Member in view of the labour involved in its collection.

OUTRAGES IN FRONTIER PROVINCE.

141. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what has been the number of murders, dacoities, cases of kidnapping, and the value of the property looted in the Frontier Province in the year 1921-22 ?

The HONOURABLE MR. J. P. THOMPSON : The figures are 80, 194, 148, and Rs. 1,45,670 respectively. Serious though these statistics are, they are in each case approximately half the statistics for the previous financial year ; and of the 148 persons kidnapped during the year, five only had not been recovered at its close.

ARMS AND AMMUNITION ON THE FRONTIER.

142. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government inform this Council from what sources the trans-border people in the Frontier at present obtain their arms and ammunition ?

The HONOURABLE MR. J. P. THOMPSON : Partly from foreign countries, partly from local factories, partly from thefts and seizures.

SUPPRESSION OF TRAFFIC IN ARMS ON THE FRONTIER.

143. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Do trans-border people in the Frontier still obtain their arms and ammunition to some extent from Afghanistan, Persia, or Persian Gulf ? If so, what methods have been adopted to check this traffic ? Have the measures, adopted so far by Government, proved effective ; if so, to what extent ?

The HONOURABLE MR. J. P. THOMPSON : (1) The answer to the first part of the question is in the affirmative.

(2) Effective measures have been taken to suppress the regular arms traffic in the Persian Gulf.

(3) But in independent foreign countries, to which the tribesmen have access by land, no effective action has been possible.

IRRIGATION IN DERA ISMAIL KHAN.

144. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Has the construction of any irrigation schemes in the Dera Ismail Khan district from either the right bank of Indus, or from hill torrents from the Suleman mountains been considered or investigated by Government ?

The HONOURABLE MR. B. N. SARMA : A scheme for the construction of a dam across the Gumal river was investigated but the project was

abandoned. The Government of India have no information regarding any irrigation schemes from the right bank of the Indus for the Dera Ismail Khan district.

DANGER TO DERA ISMAIL KHAN.

145. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it a fact that the river Indus has from some time begun to cut away the right bank near the town of Dera Ismail Khan, and that the town is now in great danger ?

The HONOURABLE MR. B. N. SARMA : In March 1920, the Local Administration reported that, owing to the continued erosion of the river Indus, the rifle ranges and the Lockhart lines in the cantonment of Dera Ismail Khan were in danger of demolition, but that there appeared to be no immediate danger at that time of any embayment further up stream endangering either the cantonment or the city. In March last, the Local Administration further reported that the encroachment by the river immediately opposite the cantonment had not been serious, but that erosion had been comparatively heavy about 3 miles up stream. At this point the maximum width of high bank eroded during the last two years has been 660 yards while, during the previous six years the maximum width eroded was 990 yards, giving an average of 165 yards per annum. At the up stream end of the cantonment a width of 220 yards has been eroded during the last two years, involving about 100 yards of cantonment land. The Government of India have no information that the town is now in great danger, but they have received a telegram from the citizens of Dera Ismail Khan, intimating that they view with great alarm the recent heavy erosion of the right bank. Inquiry as to the position is being made.

DANGER TO DERA ISMAIL KHAN.

146. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware that, if immediate steps are not taken now, and that if defensive works are not started this cold weather, the town of Dera Ismail Khan is in great danger of being washed away ?

(b) Will Government kindly state what measures they are adopting for the protection of the town, and how is the cost of making the defence works going to be distributed among the military department, civil administration, the town committee, and the general towns-people ?

(c) When are the defence works likely to be commenced ?

The HONOURABLE MR. B. N. SARMA : (a) The Government of India are not aware of any imminent danger of the town of Dera Ismail Khan being washed away, nor of the necessity for undertaking protective works this cold weather to arrest further encroachment by the river on the right bank.

(b) The North-West Frontier Province Administration is alive to the situation and is taking necessary action in the matter.

The question of incidence of cost of protective measures, if required, depends on the extent of the works that may be necessary and cannot be determined at this stage.

(c) This is not known at present.

FRONTIER POLICE.

147. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state what proportion of the ordinary police and military police in the Frontier Province is recruited from among (a) the Pathans of the settled districts, (b) Pathans of the trans-border, (c) other Musalmans of the settled districts, (d) Hindus of the settled districts, and (e) Punjabees ?

The HONOURABLE MR. S. P. O'DONNELL : The proportions are as follows :

(1) <i>Frontier Constabulary (Military Police) :</i>			
(a) Pathans of Settled Districts	..	..	2148
(b) Pathans of transborder	..	..	2295
(c) Other Musalmans of Settled Districts	..	..	15
(d) Hindus of Settled Districts	..	..	Nil.
(e) Punjabees	..	..	6
Total	..	..	4464

In addition to the above there are 12 Sikhs of the transborder.

(2) <i>Civil Police :</i>			
(a) Pathans of Settled Districts	..	..	1499
(b) Pathans of transborder	..	..	204
(c) Other Mussalmans of Settled Districts	..	..	1745
(d) Hindus of Settled Districts	..	..	164
(e) Punjabees	..	..	1785
Total	..	..	5397

COMMUNICATIONS IN FRONTIER PROVINCE.

148. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly state what measures they are adopting to improve communications in the settled districts as well as in the trans-border areas of the Frontier Province ?

(b) Will the Government kindly state the names of the military and civil roads and railways built during the last seven years ?

The HONOURABLE MR. J. P. THOMPSON : The information is being collected and will be laid on the table.

REDUCTIONS IN PRESSES.

149. The HONOURABLE MR. G. S. KHAPARDE : (a) Will the Government be pleased to state the number of piece-workers and salaried hands whose services were dispensed with as the result of reductions carried out in the Simla and Delhi Government Presses in 1921 and 1922 ?

(b) Will the Government be pleased to state the number of years of services put in by the piece-workers whose services have been dispensed with in the said reductions ?

(c) In carrying out the said reductions was a distinction made between permanent and temporary hands and was the practicability of providing for them by reducing the amount of work given out to contractors as in the case of *Fauji Akhbar*, etc., considered ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The following statement shows the number of piece-workers and salaried hands brought under

reduction in the Government of India Presses in Simla and Delhi during the years 1921-22 and 1922-23 :—

	G. C. PRESS, SIMLA.		G. M. PRESS, SIMLA.		G. C. PRESS, DELHI.	
	Piece.	Salaried.	Piece.	Salaried.	Piece.	Salaried.
1921-22	55	25	...	24	...	...
1922-23	4	11	...	...	79	...

In the Delhi Press one more piece-worker and 53 salaried employees are under notice of discharge and will leave when the period of notice expires.

(b) The number of years of service put in by the piece-workers who have been discharged is given in the table below :—

	Simla Press.	Delhi Press.
	No.	No.
Less than one year	25	7
Over one year but less than five years ..	19	54
Over 5 years but less than 10 years ..	11	18
Over 10 years	4	..

(c) The answer to the first part of the Honourable Member's question is in the affirmative. As regards the second part, the Honourable Member is reminded that the Government of India Presses are not equipped for the printing of vernacular publications, such as the *Fauji Akhbar*. Further, as regards stock forms, for the printing of which the Government of India have entered into a contract with a private contractor, it would not be possible to have the printing work done at the Government presses without committing a breach of the contract.

TRANSFER OF PRESS EMPLOYEES TO DELHI.

150. THE HONOURABLE MR. G. S. KHAPARDE : Is it a fact that a piece-worker of Simla Press, who gave evidence before the Press Works Committee, has been transferred to Delhi notwithstanding the fact that he produced a medical certificate from the Civil Surgeon of Simla stating that his eye-sight is in danger of being injured if he be transferred to the plains ?

The HONOURABLE MR. H. A. F. LINDSAY : The piece-worker referred to is one of the two Simla piece-workers who gave evidence before the Piece-Workers Committee. Owing to the reduction of work in the Simla Central Press twenty of the most junior of the permanent employees in the Press had to be transferred to the Delhi Press, where they replaced temporary hands. The piece-worker, to whom the Honourable Member's question refers, was among these 20 junior men. At the time of his transfer he informed the Civil Surgeon that he was suffering from sore eyes said to have been contracted in the plains, and was given a medical certificate to the effect that he had signs of former granular lids, which it was possible that residence in the plains would aggravate. Not very long ago, however, the same piece-worker when applying for a permanent post in the Simla Press produced a medical certificate to show that he had no " disease,

constitutional affection or bodily infirmity," which would indicate that he contracted the granular lids *after* his appointment in Simla. In consideration of this and of the fact that if this piece-worker's transfer was cancelled the other 19 men under orders of transfer would undoubtedly feel aggrieved, the original orders were allowed to stand.

PRESS STAFF.

151. The HONOURABLE MR. G. S. KHAPARDE : Is it a fact that the following supervising establishments are maintained at the Government Central Branch Press, including Mono Simla and the Government Central Branch Delhi :—

SIMLA.

- 1 Superintendent,
- 1 Deputy Superintendent,
- 1 Assistant Superintendent,
- 1 Foreman,
- 2 Overseers,

when the number of men employed is about 500.

DELHI.

- 1 Deputy Superintendent,
 - 1 Overseer,
- when the number of men employed is about 1,000.

The HONOURABLE MR. H. A. F. LINDSAY : The supervising establishment and the subordinate staff employed in the Simla and Delhi Presses are as shown below :—

	Supervising staff.	Number of men actually employed.
G. C. B. Press, Simla ...	1 Superintendent. 1 Assistant Superintendent. 1 Overseer.	383
G. M. Press, Simla ...	1 Deputy Superintendent. 1 Overseer.	174
G. C. Press, Delhi ...	1 Deputy Superintendent. 1 Overseer (in the winter season only) 1 Foreman.	484

PRESS ESTABLISHMENTS.

152. The HONOURABLE MR. G. S. KHAPARDE : If the reply to the last preceding question be in the affirmative, will the Government be pleased to indicate the reason for the disparity in the establishments at Simla and Delhi ?

The HONOURABLE MR. H. A. F. LINDSAY : As regards the apparent disparity between the establishments in Simla and Delhi the Honourable Member is reminded that at present the Central Press and the Monotype Press at Simla are two entirely separate institutions, and each has a self-contained staff. The present supervising staff of the Simla Presses is based on a sanctioned strength of 769 men in the Government Central Branch Press and 187 men in the Government Monotype Press. As these presses are now being reduced in size, it is proposed to amalgamate them and to reduce the existing supervising staff by one Deputy Superintendent and one overseer.

Further, although the Delhi supervising establishment is stated to consist only of one Deputy Superintendent, one overseer, and one foreman, it may be pointed out that Delhi Press is really a branch of the Calcutta Press, and under the administrative control of the Superintendent of Government Printing India. In comparing the supervising staffs of the Delhi and Simla presses, therefore, it is incorrect to omit the Superintendent, Government Printing India, from the list of the Delhi supervising establishment.

STATEMENT LAID ON THE TABLE.

The HONOURABLE MR. H. A. F. LINDSAY (Commerce Secretary) : I beg to lay on the table the papers promised in the debate of the 22nd March 1922, on the Honourable Sir Maneckji Dadabhoy's Resolution regarding Treaty arrangements involving fiscal obligations.

COMMERCIAL TREATIES AFFECTING INDIA.

In the Council of State on the 22nd March 1922, the Honourable Sir Maneckji Dadabhoy moved a Resolution to the following effect :

“ This Council recommends to the Governor General in Council that he may be pleased to intimate to the Secretary of State that in future India shall not be made a party to any treaty arrangements involving fiscal obligations and international trade relations until the Indian Legislature has had an opportunity of pronouncing on the same.”

The Resolution was eventually withdrawn on the explanation of the Government Member, that the Government of India could not accept it as it would contravene the fundamental constitutional principle that treaty negotiations with foreign countries must be conducted by the Executive. At the same time, he stated that the Government of India were prepared to make a brief summary of any of the existing treaties which could be regarded as of public interest and place that summary on the table.

2. The following summary has accordingly been prepared with an appendix in which the more important Treaties and Conventions affecting India have been given. For the remainder it is sufficient to refer to the “ Collection of Treaties and Conventions and reciprocal Regulations at present subsisting between Great Britain and Foreign Powers so far as they relate to Commerce and Navigation,” edited by Sir Edward Hertslet, K.C.B., in twenty-one volumes, an unofficial publication which is available to the public. Copies of Treaties will also be found in the Treaty Series of Parliamentary Papers, and the “ Handbook of Commercial Treaties, etc., between Great Britain and Foreign Powers ” published by His Majesty's Stationery Office.

3. It has also not been considered necessary for the purposes of this summary to furnish an explanation of the different forms which contractual obligations with other countries may assume. They have been generally classified as “ Commercial Treaties ” whether they are formally so designated or styled “ Conventions,” “ Agreements,” “ Arrangements,” “ Declarations ” or “ Exchange of Notes ”. Whatever the form, they are equally binding while in force. The only practical difference is that the less formal the obligation, the less notice in general is required for its abrogation.

4. Commercial treaties cover many matters, and with the modern growth in the variety of interests in foreign countries they have become increasingly complex. The more important subjects dealt with are the following : freedom of residence and traffic, trading and navigation rights and payment of customs and other duties, administration of justice, acquisition and disposal of property, treatment of wrecked ships and their cargoes and administration of intestate estates. The summary which follows will deal in turn with the more important nations with which India has contractual obligations, and in each case the general tenor of the Treaty, and its

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duration will first be discussed. Provisions affecting the personal rights and privileges of the subjects of the contracting States, the treatment of goods imported or exported, shipping and navigation, joint-stock companies, the appointment of Consular officials and other miscellaneous matters will then be dealt with where India appears to be specially interested. It does not seem necessary to overload the summary with references to matters which are now largely obsolete, such as treaties regarding the suppression of piracy and the slave trade.

5. Two expressions which will occur frequently in the summary are "most favoured nation treatment" and "national treatment." The meaning of the latter is simple enough. National rights are rights equal to those enjoyed by the nationals of the other contracting party. The term "most favoured nation" is, however, susceptible of several interpretations. It may be limited or absolute and unconditional. The latter means that without denouncing the Treaty the contracting country cannot grant more favourable terms to any other country in respect of the matters dealt with. The limitations may assume three forms; the first, that each party to the instrument shall accord to the other any privileges granted to certain named third countries; the second, that each party shall accord to the other all the privileges which they accord to third countries with certain exceptions; and the third, where the concessions must be purchased, that is to say, if a bargain is made with some third country to admit its goods on specially favourable terms in return for certain concessions, the contracting country is entitled to obtain the same privileges on the same conditions. The object of the Government of India has been to secure the unconditional form where possible as they themselves do not discriminate. It may be added that "most favoured nation" clauses do not preclude the grant of special concessions as between the various parts and dominions of each contracting party.

PART II.—COMMERCIAL TREATIES AFFECTING INDIA BY COUNTRIES.

It has been held that a state of war between two nations puts an end to any treaty engagements that may have been undertaken unless those treaty engagements are specifically renewed at the termination of the hostilities. No remarks are therefore called for in respect of the former Enemy States, Germany, Austria, Bulgaria and Turkey or the States which have arisen in their former territories. The com-

* Page 5 of Mr. Stanley's Report to the Board of Trade on the Treaty Arrangements of the United Kingdom.

mercial treaties with Russia have also been denounced* by the Soviet Govern-

ment, and expired on the 24th October 1918.

France.

The two Conventions of 1826 and 1882 between the United Kingdom and France are not applicable to India. Our treaty obligations are confined to the Convention of 1903, which is printed in the appendix and is terminable after notice of one year (*cf.* Article V). By Article 2, it restricts our rights to impose duties on vinegar in casks and coppers produced in France, Algeria, French Colonies and Possessions and the Protectorates of Indo-China and Tunis imported into India to a duty of $2\frac{1}{2}$ per cent. *ad valorem*. In return we get unconditional most favoured nation treatment in respect of certain colonial products, the most important of which are coffee, pepper, cardamoms, cinnamon, *cassia lignea*, nutmegs, cloves, vanilla and tea.

Italy.

The Commerce and Navigation Treaty of 1883 between the United Kingdom and the Kingdom of Italy was extended to India in 1914, subject to certain reservations which will be detailed below. The Treaty with the Convention extending it to India, is given in the Appendix. It is terminable after 12 months' notice given by either side. It will be seen that the Treaty gives complete most favoured nation treatment in respect of import and export duties, commerce and navigation privileges, favours and immunities, the appointment of Consular officers, and national treatment regarding rights, privileges, liberties, favours, immunities and exemptions in matters of commerce and navigation (with the exception of the coasting trade which remains subject to the regulations of each party), bounties and drawbacks, dues on vessels, loading and unloading of vessels, privileges of subjects in matters of residence, possession of houses, factories, etc., carrying on of trade either in person or by agents, the enjoyment of full civil rights and in the matter of patents, trade marks and designs.

Spain.

There is at present no formal or regular treaty of commerce and navigation with Spain, but the present situation is regulated by an exchange of notes confirmed in 1894, by which the products of the British Empire receive full most favoured nation treatment in Spain except for the special advantages which that country concedes to Portugal. The arrangement is reciprocal and can be abrogated on six months' notice.

Portugal.

The Treaty between the United Kingdom and Portugal was signed in August 1914 and ratified in May 1916, and is to remain in force until 1926, and thereafter from year to year subject to 12 months' notice on either side. India has not formally adhered to the Treaty, as by Article 21 which is given in the Appendix, the products of India enjoy unconditional most favoured nation treatment in Portugal so long as India accords similar treatment to the produce and manufacture of Portugal. It will be seen from that Article that the rest of the Treaty does not apply to India.

Netherlands.

Our commercial relations are regulated by an instrument of 1824, between the United Kingdom and the Netherlands which has reference to the mutual relations between the East Indian Possessions of the two countries. Most of its provisions are now obsolete, but it contains a provision for the reciprocal application of most favoured nation treatment as regards trade with India, Ceylon and the Eastern Archipelago. The subsequent treaties are only applicable to the United Kingdom with the exception of the Treaty of 1856 which deals with the appointment of Consular officers, their privileges and exemptions. The instrument will be found in Hertslet's Commercial Treaties, Volume III, pages 284-289. The Treaty of 1856 is in Volume X, pages 476-480.

Belgium.

Since 1898 there has been no commercial treaty, properly so called, with Belgium, but the present relations are based on a *modus vivendi* arrived at in that year under which the subjects and goods of both countries are treated in every respect on the same footing as those of the most favoured nation. This arrangement is subject to denunciation at three months' notice.

Switzerland.

Relations are at present regulated by a Treaty concluded in 1855 which may be terminated after 12 months' notice given by either side. Both parties to it engage to accord to each other any favours in the matter of commerce which they may grant to any third country. The Treaty will be found in Hertslet's Commercial Treaties, Volume X, pages 593-597.

Norway.

There is at present no commercial treaty, but by an exchange of notes in 1905 it has been agreed that the treaties concluded in common by Norway and Sweden should be considered valid by the Norwegian Government until further notice. The state of affairs is therefore identical with that of Sweden.

Sweden.

The Treaty of 1826 is still in force though it is terminable at 12 months' notice on either side. It provides for the reciprocal accordance of most favoured nation treatment in respect of duties on imports into the territories of one of the two countries of articles produced in those of the other. No prohibition or restriction of import or export is to be imposed by either country against the other which is not equally imposed against all other nations. Swedish vessels and Swedish subjects are also entitled to most favoured nation treatment in British India. The Treaty will be found in Hertslet's Commercial Treaties, Volume III, pages 433-438.

China.

There are a number of Treaties and Declarations of which two affect India : (1) the Treaty of Commerce and Navigation of 1858, which is subject to revision every ten years. This Treaty secures most favoured nation treatment in respect of

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subjects, import and export duties, privileges, immunities, and advantages and in respect of Consular Officers. This Treaty is published in Hertslet's Commercial Treaties, Volume XI, pages 86-97.

2. The Conventions of the 1st of March 1894 and the 4th February 1897 secure most favoured nation treatment respecting the appointments of Consular Officers, subjects, Commerce, etc., in Burma and national treatment regarding the navigation of the Irrawaddy. A copy of the Commercial sections of the Conventions are reproduced in the Appendix. The full text will be found in Hertslet's Commercial Treaties, Volume XIX, pages 163-171 and in Volume XX, pages 233-237. It will be seen that they are applicable to Burma only. The Treaty of 1902, relevant extracts of which will also be found in the Appendix, secures national treatment in respect of investments in enterprises and companies and most favoured nation treatment regarding tariff concessions. No time limit is fixed to these Treaties, but the tariff may be revised every 10 years.

Japan.

India is not a party to the Treaty of Commerce and Navigation of 1911, between the United Kingdom and Japan. Our relations with that country are governed by the Convention of 1904, which is printed in the Appendix. It will be seen from Article IV that it is terminable at six months' notice on either side. It secures most favoured nation treatment in respect of trade.

United States.

There is at present no treaty regulating the commercial relations between India and the United States. The Commerce and Navigation Treaty of 1815 between the United Kingdom and the United States securing most favoured nation treatment regarding ships and cargo, houses, warehouses, importation and exportation of goods and import and export duties only refers to British territories in Europe. It is subject to 12 months' notice of abrogation on either side by a Convention of 1827. It contains provisions allowing the citizens of the United States to carry on trade with India, such trade as regards both vessels and goods imported or exported being accorded the same treatment as is accorded to vessels and goods of the most favoured European nations. These provisions are obsolete as there are now no restrictions on the admission of foreign vessels to Indian ports or to the carrying on of trade in India. The Treaties will be found in Hertslet's Commercial Treaties, Volume II, pages 386-392 and 395, and in Volume IV, pages 499 and 500.

2. India has also acceded to the Convention of 1899 securing most favoured nation treatment concerning the disposal of real and personal property in both countries. The Convention can be abrogated on 12 months' notice. It will be found in Hertslet's Commercial Treaties, Volume XXI, pages 1088-1090.

APPENDIX

COMMERCIAL CONVENTION BETWEEN THE UNITED KINGDOM AND FRANCE, SIGNED AT LONDON ON THE 19TH FEBRUARY 1903.

France.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, desiring to facilitate the commercial relations between France and India, have resolved to conclude a convention to that effect, and have named as their respective Plenipotentiaries :

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honourable Henry Charles Keith Petty Fitzmaurice, Marquess of Lansdowne, Principal Secretary of State for Foreign Affairs ; and

The President of the French Republic, Monsieur Paul Cambou, Ambassador of the French Republic at London :

Who having reciprocally communicated their full powers, found in good and due form, have agreed as follows :—

ARTICLE I.

The following colonial products : coffee, cocoa, pepper, pimento, amomums and cardamoms, cinnamon, *cassia lignea*, nutmegs, mace, cloves, vanilla, and tea, produce of India, shall enjoy, on importation into France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE II.

Reciprocally, the natural and manufactured products of France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis shall enjoy, without restriction or reserve on importation into India, the lowest customs duties applicable to similar products of other foreign origin.

Further, the duties on vinegar in casks and copperas produced in France, Algeria, French Colonies and Possessions, and the Protectorates of Indo-China and Tunis, and imported into India, shall not exceed 2½ per cent. *ad valorem*.

ARTICLE III.

The certificates of origin which may be required for the admission of goods to the preferential conditions stipulated in the present Treaty shall be *visé* by French Consuls and by British Consuls without levying Consular fees.

ARTICLE IV.

The privileges and engagements comprised in this Convention shall extend to Native States of India which, by Treaty with His Britannic Majesty or otherwise, may be entitled to be placed with regard to the stipulations of the Convention on the same footing as British India.

His Majesty's Government will communicate from time to time to the Government of the Republic a list of these States.

ARTICLE V.

The present Convention shall be ratified by the two Governments as soon as possible, and the ratifications shall be exchanged at London. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of a year from the day on which one of the High Contracting Parties shall have announced the intention of terminating it.

In witness whereof the under-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in London, in duplicate, the 19th day of February 1903.

TREATY OF COMMERCE AND NAVIGATION BETWEEN HER MAJESTY AND THE KING OF ITALY, SIGNED AT ROME, JUNE 15TH, 1883.

Ratifications exchanged at Rome, June 30th, 1883.

Italy.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the King of Italy, being desirous to extend and facilitate the relations of commerce between their respective subjects and dominions, have determined to conclude a new Treaty with this object, and they have appointed their respective Plenipotentiaries, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, His Excellency the Right Honourable Sir Augustus Berkeley Paget, Knight, Commander of the Most Honourable Order of the Bath, a Member of Her

[Mr. H. A. F. Lindsay.]

Majesty's Most Honourable Privy Council, and Her Ambassador Extraordinary and Plenipotentiary to His Majesty the King of Italy ;

And His Majesty the King of Italy, His Excellency Signor Pasquale Stanislaio Mancini, Grand Cross and Grand Cordon of the Order of SS. Maurice and Lazarus and of the Crown of Italy, Knight of the Order of Civil Merit of Savoy, etc., etc., Minister of State, Deputy of the National Parliament, and His Minister Secretary of State for Foreign Affairs ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles :—

ARTICLE I.

There shall be between the dominions and possessions of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects of each of the two Parties shall have liberty freely to come, with their ships and cargoes, to all places, ports, and rivers in the dominions and possessions of the other to which native subjects generally are or may be permitted to come, and shall enjoy, respectively, the same rights, privileges, liberties, favours, immunities, and exemptions in matters of commerce and navigation which are or may be enjoyed by native subjects, without having to pay any tax or impost greater than those paid by the same, and they shall be subject to the laws and regulations in force.

ARTICLE II.

No other or higher duties shall be imposed on the importation into the dominions and possessions of Her Britannic Majesty of any article the produce or manufacture of the dominions and possessions of His Majesty the King of Italy, from whatever place arriving, and no other or higher duties shall be imposed on the importation into the dominions and possessions of His Majesty the King of Italy of any article the produce or manufacture of Her Britannic Majesty's dominions and possessions, from whatever place arriving, than on articles produced or manufactured in any other foreign country ; nor shall any prohibition be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of either of the Contracting Parties into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other country. This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of protecting the safety of persons or of cattle, or of plants useful to agriculture.

ARTICLE III.

No other or higher duties or charges shall be imposed in the dominions and possessions of either of the Contracting Parties on the exportation of any article to the dominions and possessions of the other, than such as are or may be payable on the exportation of the like article to any other foreign country ; nor shall any prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two Contracting Parties to the dominions and possessions of the other which shall not equally extend to the exportation of the like article to any other country.

ARTICLE IV.

The subjects of each of the Contracting Parties shall enjoy, in the dominions and possessions of the other, exemption from all transit duties, and a perfect equality of treatment with native subjects in all that relates to warehousing, bounties, facilities, and drawbacks.

ARTICLE V.

All articles which are or may be legally imported into the ports of the dominions and possessions of Her Britannic Majesty in British vessels may likewise be imported into those ports in Italian vessels, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in British vessels ; and reciprocally all articles which are or may be legally imported into the ports of the dominions and possessions of His Majesty the King of Italy in Italian vessels may likewise be imported into those ports in British vessels, without being

liable to any other or higher duties or charges of whatever denomination than if such articles were imported in Italian vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the dominions and possessions of either of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Italian or in British vessels, and whatever may be the place of destination, whether a port of either of the Contracting Parties, or of any third Power.

ARTICLE VI.

No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever nature, or under whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations, or establishments of any kind, shall be imposed in the ports of the dominions and possessions of either country upon the vessels of the other country which shall not equally and under the same conditions be imposed in the like cases on national vessels in general. Such equality of treatment shall apply reciprocally to the respective vessels, from whatever port or place they may arrive, and whatever may be their place of destination.

ARTICLE VII.

In all that regards the stationing, loading, and unloading of vessels in the ports, basins, docks, roadsteads, harbours, or rivers of the dominions and possessions of the two countries, no privilege shall be granted to national vessels which shall not be equally granted to vessels of the other country; the intention of the Contracting Parties being that in this respect also the respective vessels shall be treated on the footing of perfect equality.

ARTICLE VIII.

The coasting trade is excepted from the provisions of the present Treaty; its regulation remains subject to the laws which are or shall be in force in the dominions and possessions of the Contracting Parties.

ARTICLE IX.

Any ship of war or merchant vessel of either of the Contracting Parties which may be compelled by stress of weather, or by accident, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary stores and to put to sea again, without paying any dues other than such as would be payable in a similar case by a national vessel. In case, however, the master of a merchant-vessel should be under the necessity of disposing of a part of his merchandize in order to defray his expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant vessel of one of the Contracting Parties should run aground or be wrecked upon the coasts of the other, such ship or vessel, and all parts thereof and all furniture and appurtenances belonging thereunto, and all goods and merchandize saved therefrom, including any which may have been cast into the sea, or the proceeds thereof if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents when claimed by them. If there are no such owners or agents on the spot, then the same shall be delivered to the British or Italian Consul-General, Consul, Vice-Consul, or Consular Agent in whose district the wreck or stranding may have taken place, upon being claimed by him within the period fixed by the laws of the country; and such Consuls, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the like case of a wreck of a national vessel.

The goods and merchandize saved from the wreck shall be exempt from all duties of customs, unless cleared for consumption, in which case they shall pay the same rate of duty as if they had been imported in a national vessel.

In the case either of a vessel being driven in by stress of weather, run aground, or wrecked, the respective Consuls-General, Consuls, Vice-Consuls, and Consular Agents

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shall, if the owner or master or other agent of the owner is not present, or is present, and requires it, be authorized to interpose in order to afford the necessary assistance to their fellow-countrymen.

ARTICLE X.

All vessels which, according to British law, are to be deemed British vessels, and all vessels which, according to Italian law, are to be deemed Italian vessels, shall, for the purposes of this Treaty, be deemed British and Italian vessels, respectively.

ARTICLE XI.

The Contracting Parties agree that, in all matters relating to commerce and navigation, any privilege, favour, or immunity whatever which either Contracting Party has actually granted or may hereafter grant to the subjects or citizens of any other State shall be extended immediately and unconditionally to the subjects or citizens of the other Contracting Party; it being their intention that the trade and navigation of each country shall be placed in all respects, by the other on the footing of the most favoured nation.

ARTICLE XII.

It shall be free to each of the Contracting Parties to appoint Consuls-General, Consuls, Vice-Consuls, and Consular Agents to reside in the towns and ports of the dominions and possessions of the other. Such Consuls-General, Consuls, Vice-Consuls, and Consular Agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the Government to which they are sent. They shall enjoy all the facilities, privileged exemptions, and immunities of every kind which are or shall be granted to Consuls of the most favoured nation.

ARTICLE XIII.

The subjects of each of the Contracting Parties who shall conform themselves to the laws of the country—

1. Shall have full liberty, with their families to enter, travel, or reside in any part of the dominions and possessions of the other Contracting Party.
2. They shall be permitted to hire or possess the houses, manufactories, warehouses, shops, and premises which may be necessary for them.
3. They may carry on their commerce either in person or by any agents whom they may think fit to employ.
4. They shall not be subject in respect of their persons or property, or in respect of passports, nor in respect of their commerce or industry, to any taxes, whether general or local or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon native subjects.

ARTICLE XIV.

The subjects of each of the Contracting Parties in the dominions and possessions of the other shall be exempted from all compulsory military service whatever, whether in the army, navy, or national guard, or militia. They shall be equally exempted from all judicial and municipal functions whatever, other than those imposed by the laws relating to juries, as well as from all contributions, whether pecuniary or in kind, imposed as a compensation for personal service, and finally from every species of exaction or military requisition. The duties and charges connected with the ownership or leasing of lands and other real property are, however, excepted, as well as all exactions or military requisitions to which all subjects of the country may be liable as owners or lessees of real property.

ARTICLE XV.

The subjects of each of the Contracting Parties in the dominions and possessions of the other shall be at full liberty to exercise civil rights, and therefore to acquire, possess, and dispose of every description of property, movable and immovable. They may acquire and transmit the same to others, whether by purchase, sale, donation, exchange, marriage, testament, succession, *ab intestato*, and in any other manner, under the same conditions as national subjects. Their heirs may succeed to and take possession of it, either in person or by procurators, in the same manner and in the same legal forms as subjects of the country.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge than is payable by subjects of the country. In every case the subjects of the Contracting Parties shall be permitted to export their property, or the proceeds thereof if sold, freely and without being subjected on such exportation to pay any duty different from that to which subjects of the country are liable under similar circumstances.

ARTICLE XVI.

The dwellings, manufactories, warehouses and shops of the subjects of each of the Contracting Parties in the dominions and possessions of the other, and all premises appertaining thereto destined for purposes of residence or commerce, shall be respected.

It shall not be allowable to proceed to make a search of, or a domiciliary visit to such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws for subjects of the country.

The subjects of each of the two Contracting Parties in the dominions and possessions of the other shall have free access to the Courts of Justice for the prosecution and defence of the rights, without other conditions, restrictions, or taxes beyond those imposed on native subjects and shall, like them, be at liberty to employ, in all causes, their advocates, attorneys, or agents from among the persons admitted to the exercise of those professions according to the laws of the country.

ARTICLE XVII.

The subjects of each of the Contracting Parties shall have, in the dominions and possessions of the other, the same rights as native subjects in regard to patents for inventions, trade-marks and designs, upon fulfilment of the formalities prescribed by law.

ARTICLE XVIII.

The Consuls-General, Consuls, Vice-Consuls and Consular Agents of each of the Contracting Parties, residing in the dominions and possessions of the other, shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective countries.

ARTICLE XIX.

The stipulations of the present Treaty shall be applicable to all the Colonies and Foreign Possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India,
The Dominion of Canada,
Newfoundland,
The Cape,
Natal,
New South Wales,
Victoria,
Queensland,
Tasmania,
South Australia,
Western Australia,
New Zealand :

Provided always that the stipulations of the present Treaty shall be made applicable to any of the above named Colonies or Foreign Possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative at the Court of Italy to the Italian Minister for Foreign Affairs, within one year from the date of the exchange of the ratifications of the present Treaty.

ARTICLE XX.

The present Treaty shall come into force on the 1st July, 1883, and shall remain in force until the 1st February, 1892, and thereafter until the expiration of a year from the day in which one or other of the Contracting Parties shall have repudiated it.

Each of the Contracting Parties reserves, however, the right of causing it to terminate on the 1st January, 1888, upon six months' notice being given previously.

[Mr. H. A. F. Lindsay.]

ARTICLE XXI.

The present Treaty shall be ratified by the two Contracting Parties, and the ratifications thereof shall be exchanged at Rome as soon as possible.

In faith whereof the Plenipotentiaries of the Contracting Parties have signed the present Treaty in duplicate, in the English and Italian languages, and thereto affixed their respective seals.

Done at Rome, this fifteenth day of June, in the year one thousand eight hundred and eighty-three.

(L. S.) A. B. PAGET.

(L. S.) P. S. MANCINI.

CONVENTION FOR THE EXTENSION TO BRITISH INDIA OF THE ANGLO-ITALIAN TREATY OF COMMERCE AND NAVIGATION OF JUNE 15TH, 1883.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Italy, with a view to the conclusion of the present Convention, have appointed as their Plenipotentiaries :

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India : His Excellency the Right Honourable Sir James Rennel Rodd, Knight Grand Cross of the Royal Victorian Order, Knight Commander of the Order of St. Michael and St. George, Companion of the Order of the Bath, His Majesty's Ambassador Extraordinary and Plenipotentiary at Rome ; and

His Majesty the King of Italy : His Excellency the Marquis Antonino di San Giuliano, Minister for Foreign Affairs, Knight of the Supreme Order of the Annunziata, Knight Grand Cross of the Orders of St. Maurice and St. Lazarus and of the Crown of Italy :

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles :—

ARTICLE 1.

The Treaty of Commerce and Navigation of the 15th June, 1883, in force between Great Britain and Italy, together with its final protocol, is understood to apply to British India, including the territories of any native Prince or Chief under the suzerainty of Great Britain, subject to the modifications and reservations hereinafter specified.

ARTICLE 2.

The Government of India reserves the discretionary power to prevent foreigners, whose presence it may consider undesirable from residing or travelling in India, as above defined, without its consent.

ARTICLE 3.

In regard to native States of India, the rights of subjects of the Kingdom of Italy under Articles 1, 13, and 15 and the last paragraph of Article 16 of the said Treaty, are subject to the same limitations as those which are, or may be, in force as regards European British subjects.

ARTICLE 4.

The provisions of Articles 4 and 11, respectively, shall not be held to apply—

- (a) to any privilege, favour, or immunity which has been or may be granted by the Government of India in respect of trade to or from countries of States on the land borders of India ;
- (b) to merchandise passing in transit through India to countries or States on the land borders of India.

ARTICLE 5.

The right to appoint Consuls under Article 12 of the said Treaty shall in India be restricted to the seaport towns of the provinces under the direct administration of

the Government of India ; and such Consuls and their Consulates shall enjoy immunities and exemptions in the matter of customs duties similar to those granted to British Consuls and Consulates in Italy.

ARTICLE 6.

The Italian Government and the British Government, the latter on behalf of India, shall be able to denounce the present Convention in the manner laid down in Article 20 of the Treaty of the 15th June, 1883, independently of the maintenance of the same Treaty in regard to Italy and the United Kingdom.

ARTICLE 7.

The present Convention shall be ratified, and the ratifications exchanged at Rome as soon as possible. It shall come into force two months after the exchange of ratifications.

In witness whereof the respective Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Rome, the 15th day of June, 1914.

(L. S.) RENNELL RODD.

(L. S.) A. DI SAN GIULIANO.

TREATY OF COMMERCE AND NAVIGATION BETWEEN GREAT BRITAIN AND PORTUGAL, SIGNED AT LISBON, ON THE 12TH AUGUST, 1914.

Portugal.

* * * * *

ARTICLE 21.

The present Treaty shall extend, as regards Portugal, to the mother-country and adjacent islands (Madeira, Porto Santo and Azores), but shall not extend to any of the dominions, colonies, possessions, or protectorates of either Contracting Party unless notice of the desire of such Contracting Party that the Treaty shall apply to any such dominion, colony, possession, or protectorate, shall have been given to the other Contracting Party, before the expiration of one year from the date of the exchange of the ratifications of the present treaty.

Nevertheless, the goods produced or manufactured in any of His Britannic Majesty's dominions, colonies, possessions, and protectorates shall enjoy in Portugal complete and unconditional most-favoured-nation treatment so long as such dominion, colony, possession or protectorate shall accord to goods the produce or manufacture of Portugal treatment as favourable as it gives to the produce or manufacture of any other foreign country : and reciprocally the goods produced or manufactured in any Portuguese colony or possession shall enjoy like most-favoured-nation treatment in the United Kingdom of Great Britain and Ireland so long as such colony or possession shall accord to goods the produce or manufacture of the United Kingdom treatment as favourable as it gives to the produce or manufacture of any other foreign country.

Colonial goods re-exported from the mother-country of one of the Contracting Parties shall be treated in the territory of the other as proceeding from that mother-country, and shall therefore be exempt from supertaxes on indirect trade which may eventually be established.

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CONVENTION BETWEEN GREAT BRITAIN AND CHINA RELATIVE TO BURMA AND TIBET, SIGNED AT LONDON, MARCH 1ST, 1894.

China.

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VIII. Subject to the conditions mentioned hereafter in Articles X and XI, the British Government, wishing to encourage and develop the land trade of China with Burma as much as possible, consent for a period of six years from the ratification of the present Convention, to allow Chinese produce and manufactures, with the exception

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of salt, to enter Burma by land duty free, and to allow British manufactures and Burmese produce, with the exception of rice, to be exported to China by land free of duty.

The duties on salt and rice so imported and exported shall not be higher than those imposed on their import or export by sea.

IX. Pending the negotiation of a more complete arrangement, and until the development of the trade shall justify the establishment of other frontier Customs stations, goods imported from Burma into China or exported from China into Burma shall be permitted to cross the frontier by Manwyne and by Sansi.

With a view to the development of trade between China and Burma the Chinese Government consent that for six years from the ratifications of the present Convention the duties levied on goods imported into China by these routes shall be those specified in the General Tariff of the Maritime Customs diminished by three-tenths, and that the duties on goods exported from China by the same route shall be those specified in the same tariff diminished by four-tenths.

Transit passes for imports and exports shall be granted in accordance with the rules in force at the Treaty ports.

Smuggling or the carrying of merchandize through Chinese territory by other routes than those sanctioned by the present Convention shall, if the Chinese authorities think fit, be punished by the confiscation of the merchandize concerned.

X. The following articles, being munitions of war, shall neither be exported from Burma into China, nor imported from China to Burma, save at the requisition of the Government desiring their importation; neither shall they be sold to parties other than those who have been duly authorized by their respective Governments to purchase them:—

Cannon, shot and shell, cartridges and ammunition of all kinds, fire-arms and weapons of war of every description, salt-petre, sulphur, brimstone, gunpowder, dynamite, gun-cotton, or other explosives.

XI. The exportation from Burma into China of salt is prohibited.

The exportation from China into Burma of cash, rice, pulse and grains of every kind is prohibited.

The importation and exportation across the frontier of opium and spirituous liquors is prohibited, excepting in small quantities for the personal use of travellers. The amount to be permitted will be settled under Customs Regulations.

Infractions of the conditions set forth in this and the preceding Article will be punishable by confiscation of all the goods concerned.

XII. The British Government, wishing to promote frontier trade between the two countries by encouraging mining enterprise in Yunnan and in the new territorial acquisitions of China referred to in the present Convention, consent to allow Chinese vessels carrying merchandize, ores, and minerals of all kinds, and coming from or destined for China, freely to navigate the Irrawaddy on the same conditions as to dues and other matters as British vessels.

XIII. It is agreed that His Majesty the Emperor of China may appoint a Consul in Burma, to reside at Rangoon; and that Her Britannic Majesty may appoint a Consul to reside at Manwyne; and that the Consuls of the two Governments shall each within the territories of the other enjoy the same privileges and immunities as the Consuls of the most favoured nation.

Further, that in proportion as the commerce between Burma and China increases, additional Consuls may be appointed by mutual agreement, to reside at such places in Burma and Yunnan as the requirements of the trade may seem to demand.

The correspondence between the British and Chinese Consuls respectively, and the chief authority at the place where they reside, shall be conducted on terms of perfect equality.

XIV. Passports, written in Chinese and English, and identical in items to those issued to foreigners at the Treaty ports in China, shall, on the application of the proper British authorities, be issued to British merchants and others wishing to proceed to China from Burma, by the Chinese Consul at Rangoon or by the Chinese

authorities on the frontier and Chinese subjects wishing to proceed to Burma from China shall on the application of any recognized Chinese official, be entitled to receive similar passports from Her Britannic Majesty's Consul at Manwyne or other convenient places in China where there may be a British Consular Officer.

XV. Should criminals, subjects of either country, take refuge in the territory of the other, they shall, on due requisition being made, be searched for, and on reasonable presumption of their guilt being established, they shall be surrendered to the authorities demanding their extradition.

"Due requisition" shall be held to mean the demand of any functionary of either Government possessing a seal of office, and the demand may be addressed to the nearest frontier officer of the country in which the fugitive has taken refuge.

XVI. With a view to improving the intercourse between the two countries, and placing the Chinese Consul at Rangoon in communication with the High Provincial Authorities in Yunnan, the High Contracting Parties undertake to connect the telegraphic systems of the two countries with each other as soon as the necessary arrangements can be made; the line will, however, at first only be used for the transmission of official telegrams and of general messages for and from Burma and the Province of Yunnan.

XVII. It is agreed that subjects of the two Powers shall each within the territories of the other enjoy all the privileges, immunities and advantages that may have been or may hereafter be accorded to the subjects of any other nation.

XVIII. It is agreed that the commercial stipulations contained in the present Convention being of a special nature and the result of mutual concessions, consented to with a view to adapting them to local conditions and the peculiar necessities of the Burma-China overland trade, the advantages accruing from them shall not be invoked by the subjects of either Power residing at other places where the two Empires are continuous, excepting where the same conditions prevail, and then only in return for similar concessions.

XIX. The arrangements with regard to trade and commerce contained in the present Convention being of a provisional and experimental character, it is agreed that should subsequent experience of their working, or a more intimate knowledge than is now possessed of the requirements of the trade, seem to require it, they may be revised at the demand of either party after a lapse of six years after the exchange of ratifications of the present Convention, or sooner should the two Governments desire it.

XX. The ratification of the present Convention under the hand of Her Britannic Majesty and of His Majesty the Emperor of China shall be exchanged in London in six months from this day of signature, or sooner if possible.

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AGREEMENT BETWEEN GREAT BRITAIN AND CHINA MODIFYING THE CONVENTION OF MARCH 1ST, 1894, RELATIVE TO BURMA AND TIBET, SIGNED AT PEKING ON THE 4TH FEBRUARY 1897. *

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XII. Add as follows:—

The Chinese Government agrees hereafter to consider whether the conditions of trade justify the construction of railways in Yunnan, and, in the event of their construction, agrees to connect them with the Burmese lines.

XIII. Whereas by the original Convention it was agreed that China might appoint a Consul in Burma, to reside at Rangoon; and that Great Britain might appoint a Consul to reside at Manwyne; and that the Consuls of the two Governments should each within the territories of the other enjoy the same privileges and immunities as the Consuls of the most favoured nation, and, further, that, in proportion as the commerce between Burma and China increased, additional Consuls might be appointed by mutual consent to reside at such places in Burma and Yunnan as the requirements of trade might seem to demand.

It has now been agreed that the Government of Great Britain may station a Consul at Momein or Shunning-fu, as the Government of Great Britain may prefer, instead of at Manwyne, as stipulated in the original Convention, and also to station a Consul at Ssumao.

[Mr. H. A. F. Lindsay.]

British subjects and persons under British protection may establish themselves, and trade at these places, under the same conditions as the Treaty ports in China.

The Consuls appointed as above shall be on the same footing as regards correspondence and intercourse with Chinese officials as the British Consuls at the Treaty ports.

XIV. Instead of " Her Britannic Majesty's Consul at Manwyne " in the original Convention read " Her Britannic Majesty's Consul at Shunning or Momein," in accordance with the change made in Article XIII.

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TREATY BETWEEN GREAT BRITAIN AND CHINA, SIGNED AT SHANGHAI, SEPTEMBER 5TH, 1902.

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ARTICLE IV.

Whereas questions have arisen in the past concerning the right of Chinese-subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognise the legality of all such investments, past, present, and future.

It being, moreover, of the utmost importance that all shareholders in a Joint Stock Company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British Joint Stock Company shall be held to have accepted, by the very act of becoming shareholders, the Charter of Incorporation or Memorandum and Articles of Association of such Company, and regulations framed thereunder as interpreted by British Courts, and that Chinese Courts shall enforce compliance therewith by such Chinese shareholders, if a suit to that effect be entered, provided always that their liability shall not be other or greater than that of British shareholders in the same Company.

Similarly, the British Government agree that British subjects investing in Chinese companies shall be under the same obligations as the Chinese shareholders in such companies.

The foregoing shall not apply to cases which have already been before the Courts and been dismissed.

ARTICLE XV.

It is agreed that either of the High Contracting Parties to this Treaty may demand a revision of the Tariff at the end of ten years ; but if no demand be made on either side within six months after the end of the first ten years, then the Tariff shall remain in force for ten years more, reckoned from the end of the preceding ten years, and so it shall be at the end of each successive ten years.

Any Tariff concession which China may hereafter accord to articles of the produce or manufacture of any other State shall immediately be extended to similar articles of the produce or manufacture of His Britannic Majesty's Dominions, by whomsoever imported.

Treaties already existing between the United Kingdom and China shall continue in force in so far as they are not abrogated or modified by stipulations of the present Treaty.

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COMMERCIAL CONVENTION BETWEEN JAPAN AND INDIA, RATIFIED ON THE 15TH MARCH 1905.

Japan.

ARTICLE I.

Any article the produce or manufacture of the dominions and possessions of His Majesty the Emperor of Japan shall enjoy, upon importation into India, the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE II.

Reciprocally any article the produce or manufacture of India shall enjoy upon importation into the dominions and possessions of His Majesty the Emperor of Japan, the lowest customs duties applicable to similar products of any other foreign origin.

ARTICLE III.

The privileges and engagements of the present Convention shall extend to Native States of India, which by treaty with His Britannic Majesty or otherwise may be entitled to be placed, with regard to the stipulations of the Convention, on the same footing as British India.

His Britannic Majesty's Government shall communicate from time to time to the Imperial Government of Japan a list of these States.

ARTICLE IV.

The present Convention shall be ratified and the ratifications shall be exchanged at Tokio as soon as possible. It shall come into effect immediately after the exchange of ratifications, and shall remain in force until the expiration of six months from the day on which one of the High Contracting Parties shall have announced the intention of terminating it.

ELECTION OF MEMBERS OF DELHI UNIVERSITY COURT.

The HONOURABLE THE PRESIDENT : I would remind Honourable Members that on the termination of this morning's meeting they are requested to assemble in the Committee Room downstairs in order to elect two members to the Court of the Delhi University.

SESSION IN NOVEMBER.

The HONOURABLE THE PRESIDENT : I may also take this opportunity of informing members that I have now been able to come to a decision on the question of a meeting in November. I have received information from Government that there is no legislation which will justify, from their point of view, the holding of a Session in November. I have also ascertained informally from members generally that they are not in favour of a November Session and therefore the Council of State will, as usual adjourn, when it comes to be adjourned to a date in January to be hereafter notified.

RESOLUTION RE POLITICAL PRISONERS.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I beg to move the following Resolution :

“ This Council recommends to the Governor General in Council to lay down that political prisoners, who are not convicted of violence to person or of destruction of property or of incitement thereto, should be treated as first class misdemeanants in England.”

Sir, the question of the treatment of political prisoners has been agitating the public mind for some time past. Honourable Members who have studied the papers of all shades of opinion must have noticed that there is a strong feeling in the country that political prisoners are not treated as they ought to be and as they are treated in other countries. There has also been a difference in their treatment in the various provinces where political prisoners are sent to jail. Questions have been

[Mr. Lalubhai Samaldas.]

asked both in the Provincial Councils and in the Legislative Assembly as to the treatment meted out to these political prisoners. The replies that have been given in the Legislative Assembly do not give any further information except that orders have been issued by the Government of India to the various Provincial Governments to modify the present treatment and to make it more human. We would like, Sir, to know definitely what those orders are and if these orders give the same treatment that we want political prisoners to be given. Sir, Resolutions have been moved in the various Provincial Councils also. In my Presidency, this Resolution was carried against the Government because there is a strong feeling there against the treatment meted out to political prisoners. I am speaking at present of my province only. The treatment meted out in Bombay is not the same as that in the United Provinces and Bihar and Orissa. I know of an instance in the United Provinces where a young man of culture and spiritual attainments equal to any one of us merely because he made up his mind to disobey certain orders was sentenced to rigorous imprisonment. For the first few days he was treated like an ordinary criminal. Later on perhaps under instructions from the Government of India or because the Local Government thought better of it he and his colleagues were transferred to Agra where they were treated in a manner which he himself wrote to me was equal to that extended to gentlemen. They were treated as well as they expected. I believe they were some time back sent to another place where they do not receive the same treatment. It will thus be seen that even in the same province uniformity is not observed. The same complaint has been heard from Bihar and Orissa. At first the treatment was said to be very good. Thereafter the Local Government thought that it was too generous and they reversed their policy. In my province the treatment has not been so good as that and it was on that account that this Resolution was carried in that House against Government. I must here refer to the personality of the greatest and saintliest man this country has produced for generations, and we must acknowledge that fact in spite of our difference of opinion with him regarding his political views. That man was not treated even as his lieutenants were treated in the United Provinces or in Bihar and Orissa. That is why the feeling in Bombay was so strong and was clearly expressed in that Council. Soon after that Council meeting His Excellency made a statement that orders had been issued under which the treatment was to be more human and that there will be no reason for complaint. This question I know is a provincial one, as prisons is a provincial subject, but the Home Member in the Bombay Council said that he had made a reference to the Government of India. Moreover we know from replies given by the Home Member that instructions are being issued from the Government of India to the Local Governments. Therefore I believe I am justified in bringing this proposal here, although the subject is a provincial one. It has been said, Sir, by the Home Member in the Bombay Council that it will be very difficult to define the words 'political prisoners'. Perhaps it is so. But I am prepared to rush in where lawyers—not angels—have feared to tread, and it is because I believe that the definition that I have

suggested will meet with universal acceptance that I move this Resolution. It is said that the political prisoners may be persons who have been convicted of the actual crime of injury to person or destruction of property. I do not want them to be classed as political prisoners. You may treat them as ordinary criminals. What I want, Sir, is that persons who are convicted under section 108, read with section 114 or section 124-A or section 153-A, should be treated as first-class misdemeanants where they are not convicted of any injury to person or destruction of property. As regards the definition, I believe, the legal Pandits of the Government of India should be able to find out a definition which will cover all the cases that I recommend in this Resolution and which, I may say, the country wants. In one jail in Bombay the treatment meted out to some of the prisoners—two of them were prisoners from Sukkur, one of them a Principal of a national High School at Sukkur, another a member of a Congress Committee—was such that I am quite sure that if all the details were known to the Honourable Members of this House, they would think that it was not at all justifiable. Over and above that, I see in a recent number of *Young India* that a lawyer of 18 years' standing has given his own experience. He says that when he was carried from one jail to another he was fettered down with another prisoner all the way for 6 or 8 hours in the train. I am prepared to pass on that number to the Honourable the Home Secretary if he so desires. It may be that there is some exaggeration, but a lawyer of 18 years' standing, a graduate of the Madras University in law, will not I am sure—there may be a slight exaggeration—tell a lie. These prisoners, Sir, require to be treated as human beings and not as outcasts from the community. Lord Gladstone's Committee in England, referring to ordinary criminals, said that the treatment even in England at that time was that the prisoners were treated as if they were outcasts of the community and hopeless of reform. Young men, some of them very young men who have been misled, I admit, into showing their strength against established law and order have perhaps to be kept out from doing mischief, but is it right, is it fair that they should be treated as ordinary criminals? And, after all, what is the object of punishment? The object of punishment is either (1) retribution, (2) deterrence or reform. Unfortunately, if the treatment of political prisoners as ordinary criminals means retribution, then it means vindictiveness. Deterrence there cannot be; these men may be accused of moral turpitude, may be accused of upsetting law and order; but they do it merely because they think it is their duty to their country that leads them on, and they will not be prevented by imprisonment from carrying on their work after release. Are they to be treated as ordinary criminals? Whenever an individual, even the highest, challenges law and order, he being the weaker goes to the wall. So far we have nothing more to say. If Government in the Executive Department say, or in the Judicial Department say, that if an individual is allowed to carry on his propaganda, he will encourage the others, then Government may be quite justified in keeping him out in such a way that he will not at all be able to carry out his propagandist work. But, Sir, after getting these persons away, why should we not give them all the facilities that ordinary first-class

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misdemeanants in England are allowed? Is there any reason why a man like Gandhiji should not be allowed ordinary newspapers—as was acknowledged in the debate in the Provincial Council,—where is the harm? I know in the case which I have quoted in the United Provinces the prisoners were allowed to have magazines and books. I sent to one of them referred just now some books and these books passed the jailor. Why should not the same facilities be allowed to a man, decidedly a much greater man, and who, at any rate, will not do any mischief? Whatever can be said against him, he has laid all his cards on the table. He is the last man who will use any facilities given to him against established law and order. We want, Sir, uniformity of treatment. We want the Government of India to lay down that the treatment meted out to political prisoners who are convicted under the sections that are named, and who are not in any way convicted of injury to property or injury to person, should be treated as first-class misdemeanants. My plea, Sir, is based on two grounds. First is the ground of humanity; and the second that of statesmanship. These people, when they come out, will take their part in the civic life of the country and I hope in the political life also. Is it right, is it statesmanlike to act in such a way as would make them enemies of Government? Would it not be much better to treat them in such a way, that when they come out, they may be good citizens of the country, that they would co-operate with Government, and not non-co-operate? This is not the way to do so, it will merely drive them out of the fold. Now, Sir, I shall refer to one case in Bengal where political prisoners were whipped. Flogging is a punishment which I would like to see abolished, even if it be said on sentimental grounds. I may give an instance in Bombay where under the Police Act the question of whipping persons who were keeping houses of ill-fame and were guilty of maltreating young girls was brought in. In the Select Committee by a majority this clause was rejected, and the Council accepted the decision of the Select Committee. If, on humanitarian grounds we do not want even such persons to be whipped, much more is it necessary to rule that whipping should not be inflicted in jails on political prisoners. It is a surprising thing, Sir, that in an enlightened province like Bengal under the Governorship of one of the best administrators that England has sent out, this punishment should have been inflicted on political prisoners. The Honourable Member in charge gave an explanation of this incident in that Council; I do not think that that explanation was satisfactory. With reference to corporal punishment the Jail Committee have recommended, Sir, that such a punishment should only be inflicted in certain cases. They say: “Accordingly we recommend, first, that the punishment of flogging shall only be inflicted for mutiny or incitement to mutiny and for serious assaults on any public servant or visitor; and secondly, that a special report based on the record under section 51 of the Prisons Act to be made in the punishment book in every case in which flogging has been inflicted shall be properly submitted to the Inspector General of Prisons.” The English Act goes still further. The English Act says “that flogging is now strictly limited as a penalty for gross personal violence to prison officers and for mutiny

or incitement to mutiny and then only in the case of persons convicted of felony or sentenced to hard labour." But I would like Honourable Members of the Council to note what follows : " The sentence can only be imposed by a tribunal consisting of not less than 3 persons, two of whom must be Justices of the Peace and the order for such treatment by such tribunals cannot be carried into effect until confirmation by the Secretary of State." I ask the Honourable the Home Secretary to adopt similar measures for this country. Personally I would prefer corporal punishment to go. But if that cannot be done in the name of law and order, let us adopt the English principle. That political prisoners do not stand on the same level as ordinary criminals, has been declared by an authority in philosophy and social reform : I mean Frederick Harrison, who says that " a political offender should never be regarded and punished in the same way as an ordinary criminal. For the former commits offences not for private gain but from a sense of public duty ; instead of feeling himself humiliated, he regards his act as a public service ; he is looked upon as a martyr by his own party, etc." I ask the Government not to make martyrs of all these people. It is in their own interest that I appeal to them not to do so. It is all very well for Government to say that they must do it in the interests of law and order and that they have the strength to do it. May I remind them that it is good to have a giant's strength but it is never good to use it as a giant.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I must congratulate the Honourable Mover on the lucid and moderate speech which he has made. I am glad that he has moved this Resolution, because it has afforded an opportunity for a discussion, which will, I hope, do something to remove the misapprehensions that are current with regard to the treatment of these prisoners. These misapprehensions have been sedulously fostered by the non-co-operation party. That party has carried on an assiduous campaign of calumny and misrepresentation on this subject. I cannot take the Council through all the false statements, false rumours and false reports which it has put into circulation ; but I have here a partial collection of Communiqués issued by the various Local Governments. I shall be very glad to place this collection at the disposal of any Honourable Member, and I am confident that, when he has gone through it, he will be satisfied how little credence should be attached to the various statements that appear in the Press. The Honourable Mr. Lalubhai Samaldas referred to the treatment of political prisoners in Bombay. I have no detailed information on that subject ; but there was, as he reminded us, recently a debate in the Bombay Legislative Council. I have been through the proceedings of that debate very carefully, and I find that the Honourable Home Member for Bombay gave a specific denial as regards the allegations of ill-treatment in the Visapur Jail.....

The HONOURABLE MR. LALUBHAI SAMALDAS : The Honourable the Home Member in reply to Mr. Harchandrai Vishindas in the other House placed a Bombay Press Communiqué on the table, and there it is said that they were treated, for reasons given, as ordinary criminals.

The HONOURABLE MR. S. P. O'DONNELL : That may be so ; but what I had in mind was this statement by Mr. Hayward :

" Wherever specific misstatements have been made not of a vague general character, an inquiry has promptly been instituted, and, as a result, in every instance

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it was proved that the statements were malicious and stupid inventions devoid of all foundation. It will be enough to mention one or two as examples such as the deliberately false statements as to the ill-treatment at the Visapur Deccan Jail; the mischievous lies as to the ill-treatment of political prisoners in the Hyderabad Central Prison, and the rumours as to the ill-treatment of the Ali Brothers in the Karachi Prison, which were definitely disproved in the Law Courts in Karachi; and finally, that ridiculous story which was being circulated in Bombay not long ago of the flogging of Mr. Gandhi in the Yervada Prison."

But Sir, although the non-co-operators are assiduous in their attacks on the Government in regard to the treatment of these prisoners, they are generally silent or evasive as regards the conduct of many of these prisoners themselves. (Hear, hear). I am not referring to all these prisoners. There have been many who accepted without demur the inevitable conditions of jail life and to whose conduct no exception whatever can be taken. But there have also been many who have been guilty of the grossest indiscipline, who have set themselves deliberately to flout authority and to make the administration of the jails impossible. I may mention that there have been several serious jail outbreaks for which these prisoners have been directly or indirectly, wholly or partially, responsible. The Honourable Mr. Lalubhai Samaldas referred to the incident of the whipping of certain prisoners at Barisal. I think that case is a good illustration of the conduct of these prisoners. The case was fully discussed in the Bengal Legislative Council, and I will cite to the Council what the Honourable Mr. Stephenson said in regard thereto :

" 'I have here,' said Mr. Stephenson, a report from the Inspector General of Prisons dated the 11th May referring to the Alipore Central Jail and other jails to the effect that all of them were in an extremely bad state, namely, the determination of the political prisoners to smash the jail discipline and render it impossible to carry on the administration of the jail. On the 27th June they received a report from the District Magistrate of Backergunge who was himself in charge of the jail but was responsible for the peace of the jail. The District Magistrate said that the behaviour of the non-co-operation prisoners was most objectionable and insubordinate and it was difficult to keep them under control, and unless some steps were taken to restore discipline in the Barisal jail he would not be responsible for the peace of the jail. The Commissioner in forwarding this endorsed the District Magistrate's remarks and said it was absolutely necessary for the peace of his division that some steps should be taken to restore discipline not only in that jail but in the other jails. The House would agree that was a report which the Government could not ignore. It disclosed so serious a state of affairs that the Superintendent of the Barisal Jail was summoned to Calcutta to report on the actual condition of the jail and give his views as to the reasons for the state of things there. The Superintendent reported that several of the political prisoners had persistently refused to work or stand up in his presence and had committed various offences against prison discipline. Every punishment available had been resorted to. In some cases these punishments had been effective, in others not. The example of these prisoners was having a very bad effect on the other prisoners. In the Barisal Jail were a considerable number of prisoners who were there for different crimes, some of them of a desperate character, and it was impossible to allow these men to be influenced by the non-co-operation prisoners. The Superintendent of the Jail was convinced that the only remedy to restore to him the power—which had been taken away—was of inflicting whipping as the last resort. The Government had issued orders that no non-co-operation prisoner was to be whipped without special sanction."

I may mention that in March last the Government of India issued orders to all Local Governments that prisoners convicted of offences in connection with political movements were not to be whipped save in ex-

treme cases, in the last resort and by the order of the Local Government itself, not by the order of the Superintendent :

“ On the 21st July the Government authorised the Superintendent to inform these prisoners that whipping would be resorted to if they refused to work and carry out orders.”

Well, he did so, but in spite of several warnings they continued to behave as before, and in consequence five prisoners were whipped. Of these five prisoners, three had been convicted of the offence of theft and two of the offence of rioting. They were not prisoners, therefore, to whom the special treatment asked for in this Council would have been accorded. The only ground indeed on which they could be called political prisoners is that the offences had been committed in connection with the non-co-operation movement.....

The HONOURABLE SAIYID RAZA ALI : If they were guilty of theft how were they political prisoners ?

The HONOURABLE MR. S. P. O'DONNELL : I quite agree. But the offences had been committed in connection with the non-co-operation movement, and it was on that ground I presume that they have been described as political prisoners.

The Honourable Mover has referred to the treatment of prisoners in England and I gathered that he was under the impression—an impression very widely held in this country—that in England all political prisoners are treated as first-class misdemeanants. As a matter of fact that is a serious mistake. It is perfectly true that under an Act passed in 1877 persons convicted of sedition or seditious libel are so treated. But there are two points to be noted in regard to that. In the first place, of course, sedition in England is not only a comparatively rare offence, but also an offence which usually has no serious consequences. There is not in England, as there is in this country, a party whose avowed and express object is to spread disaffection, to tamper with the loyalty of the people, to paralyse the machinery of Government and subvert the existing constitution. It is usually possible therefore, in England to treat sedition and seditious libel with contempt. But, secondly, when prosecutions are launched in England and they some times are launched—it is not usual to prosecute for sedition. The accused is usually prosecuted under some other section of that comprehensive system, the common law. For example, Mrs. Pankhurst, whose name Honourable Members will perhaps remember, might I understand have been prosecuted for sedition. She was, however, not prosecuted for sedition but for conspiracy, and she did not get the benefit of the first division.

Then, Sir, sedition of course is not the only offence of a political character. There is also the offence of tampering with the loyalty of troops. Now, if anybody in England supposes that he can commit that offence at the risk only, if convicted, of imprisonment as a first class misdemeanant, he is reckoning without his host. Perhaps some Honourable Members will remember the case of Tom Mann, the well-known labour leader. He was prosecuted for that offence and he was not sentenced to imprisonment in the first division.

The HONOURABLE SAIYID RAZA ALI : What about the Irish political prisoners ?

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The HONOURABLE MR. S. P. O'DONNELL : I am coming to that. I have seen it, Sir, stated repeatedly that in every country in the world except India all persons convicted of offences of a political character are treated as first-class misdemeanants. I have never, however, seen any evidence adduced in support of that allegation. Certainly I should be astonished to learn that on the continent of Europe any such practice obtains. There are, I believe, at the present moment in one part of Europe quite a number of prisoners who have been sentenced for offences of this character, and I should be astonished to learn that any of these prisoners are receiving treatment corresponding to treatment in the first division. I have no special information regarding the United States, but if the accounts in the newspapers are correct—I cannot of course vouch for their accuracy—there have been some pretty severe sentences passed on Communist agitators in that country.

Now, Sir, as regards Ireland to which the Honourable Saiyid Raza Ali referred, I hope to show later on that the instructions issued by the Government of India do not differ considerably from the special rules which were issued in the case of the Sinn Fein prisoners. But of course, it must not be understood that those rules represent the normal practice in Ireland. I happen to be an Irishman and I know something about the history of that land. There have been a considerable number of prosecutions in Ireland for offences of a political character, but I think Honourable Members may take it from me that not all the persons convicted have been given imprisonment in the first division. Those rules were passed in the course of an extraordinary emergency, at a time when three-fourths of the population were in active or passive rebellion, and they do not therefore represent the ordinary practice in Ireland. At the same time, as I have said I hope to show that the instructions issued by the Government of India do not compare unfavourably with the Irish rules.

And now, Sir, I shall explain what the instructions are which the Government of India have issued. But I wish to make it quite clear at the outset that it must not be assumed that because these instructions have been issued that therefore nothing had been done before. Numerous concessions had in fact been extended by the various Local Governments in the exercise of their rule-making power. But there was some diversity in the rules obtaining in the various provinces; the Government of India thought it very desirable that, as far as possible, there should be uniformity in this matter, and accordingly, after a conference with representatives of Local Governments at which all the questions involved were discussed, they issued general instructions to all Local Governments with the object of ensuring that the treatment of these prisoners should be regulated on more uniform lines. But in the main—and that is the point I wish to make clear—the instructions which I am going to explain to the House reproduce the existing practice.

The first point in these instructions relates to the criteria of exclusion and inclusion. The Honourable Mover recognises that it is not possible to accord special treatment to all prisoners convicted of offences in connection with political movements. He would exclude from that category persons who have committed crimes of violence and crimes against property. I think that, on reflection he will recognise that the limitation proposed

by him is unduly narrow. There are, for example, prisoners guilty of tampering with the loyalty of troops and the Police. There is not a—*(The Honourable Mr. Lalubhai Samaldas :—Are these classed as political prisoners ?)* I do not like the term “ political offence ” but tampering with the loyalty of troops and police is usually, as the Honourable Member will see if he looks up the references in the Press, described in this country, as a political offence. At any rate he will agree that persons who have committed this offence should be excluded. There is not a single country in the world in which that offence is not visited with severe treatment, and as I know of no reason why a different course should be adopted in this country. Then Sir, there have been amongst those who have been convicted during the last year, particularly under the Criminal Law Amendment Act, a large number of persons who have been hired to commit offences—Coolies, mill hands, hooligans have been hired in Calcutta and in Delhi to take part in volunteer demonstrations. I think the Council will agree that people of that sort should not be given special treatment. Accordingly, the instructions lay down that the following prisoners should be excluded from the class to which special treatment is to be extended; firstly, all persons convicted of any offence which directly involved violence, or an offence against property; secondly, persons who have incited others to crimes of this character; thirdly, persons hired to commit offences in connection with political movements or who have committed such offences in the hope that in the resulting disorder opportunities of looting might occur; fourthly; persons who have been guilty of attempts to seduce soldiers or police from their allegiance; and fifthly, persons convicted of offences directly involving criminal intimidation, at any rate, when violence has been used for the purpose of intimidation. I think the Council will agree that these classes of prisoners are not entitled to any special treatment. It does not, of course, follow that every one who is not excluded because he falls under any of these categories should necessarily and invariably receive differential treatment. Every case has to be considered on its merits, and therefore criteria of inclusion are required as well as criteria of exclusion. This instructions lay down accordingly that the selection of prisoners for differential treatment is to be based on the status, character and education of the prisoner and the character of his offence. I wish to invite the particular attention of Honourable Members to the inclusion of the element of character. It has been said that Government has indeed extended a certain amount of leniency to prisoners of high standing, but that prisoners of more lowly standing have been treated harshly and severely. That is not true. It may be that the majority of the prisoners who have been given special treatment have been persons of good standing, but that is because the other prisoners for the most part belong to the class to which I have referred, the class of prisoners who are hired to commit offences; but in any case the inclusion in the criteria of the element of character makes it perfectly clear that prisoners of more lowly standing, if they satisfy the other conditions, will be eligible for special treatment.

The next point Sir, is as regards the agency by which the selection of these prisoners is to be made. In this respect there has been great diversity in the practice of Local Governments. In some cases, the selection has been made by District Magistrates, in others by the Courts and in others, by the Local Government. I think it is obvious that if the selection is left entirely to the discretion of

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Magistrates or the Courts uniformity will not easily be attained. The Government of India considered that it was most desirable that as far as possible the classification should be made on uniform lines, and therefore the instructions lay down that the selection is to be made by the Local Government, or that if made by the Courts or District Magistrates, the orders passed in each case shall be subject to confirmation by the Local Government. Uniformity will thus be effectively secured.

And now, Sir, I come to the concessions to be given to these selected prisoners. (1) They are to be kept separate from the ordinary prisoners and there is to be nothing in the nature of solitary confinement. (2) They will be allowed to import their own food. Government will provide the food prescribed for ordinary prisoners of the same social class, but if they so desire they will be allowed to import additional food at their own expense. Articles of luxury are excluded but any food of a simple character may be imported. (3) They will be permitted to wear their own clothes. (4) They will be allowed to use their own bedding and, if practicable, they will be allowed to provide their own beds. I may explain that there are difficulties as regards the provision of beds. The jails were not built for the accommodation of people of this class, and obviously if there is a large number of these prisoners in one jail it would be difficult to let all of them bring in their own beds. There is also a further difficulty which applies particularly to the Punjab. The population of that province is, as we all know, warlike and virile, and it appears that, at any rate the non-co-operation prisoners in that province are apt to quarrel amongst themselves; and the Punjab authorities believe that if beds were generally provided they would be broken up and used as weapons. However, so far as is practicable, these prisoners will be supplied at their own expense with beds. (5) They will further be allowed books and magazines. Newspapers will not ordinarily be permitted. I want to explain quite clearly the reason for the decision on this point. That decision was not inspired or influenced in any way by the desire to shut these people out from any news of the outside world. It would, in any case, be hardly practicable to do that since fresh prisoners are constantly coming into the jails. The decision is based simply on practical experience. Newspapers were permitted in a number of jails and the consequences were unfortunate. They were used for propaganda purposes, and there is every reason to believe that the serious outbreak in the Lahore Jail was directly due to their use for this purpose. Therefore the instructions lay down that normally newspapers will not be supplied but that in exceptional cases they may be. Local Governments can in exceptional cases allow newspapers. But as the prisoners are provided with books and magazines, it cannot be said that their intellectual needs are not adequately catered for. (6) These prisoners will be allowed to write and receive a letter once a month, but on urgent occasions the rule may be relaxed at the discretion of the Superintendent. (7) Visits will also be permitted once a month. These concessions are of course greatly in excess of anything allowed to any other class of prisoners. (8) They are not only to be relieved from the obligation to labour but they are also to be relieved of all menial duties. (9) As regards the supply of furniture, the rule is practically the same as regards the supply

of beds ; that is to say, where possible, furniture of a reasonable character and amount will be allowed and, if the prisoners so desire, they may use their own feeding utensils. (10) Finally, Sir, it is laid down that hand-cuffs and fetters should not be imposed on these prisoners except by way of punishment or when if this were not done there would be danger of the prisoner's escape or of an attack being made on the jail staff. That means of course that if the prisoners are ordinarily well behaved fetters and hand-cuffs will not be imposed. The rule applies also to these prisoners when under trial. Of course all these privileges are subject to good conduct. They can be withdrawn for misconduct. But while the Superintendent can withdraw any individual privilege he cannot remove a prisoner from the special class. That can be done only by the Local Government.

I think the Council will agree that these instructions carry leniency as far as is practicable or desirable. Indeed the only question that arises is whether they do not carry it too far. After all imprisonment is intended to have a preventive and deterrent effect. That is the only justification for passing a sentence of imprisonment, and it is essential that its deterrent character should not be destroyed. Subject to that fundamental condition however the Government have done what is possible to mitigate the conditions of jail life for those prisoners to whom treatment more lenient than that accorded to the ordinary criminal may reasonably be extended.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN (West Punjab : Muhammadan) : Sir, this Resolution defeats itself. It says :

“Prisoners who are not convicted of violence to person or of destruction of property or of incitement thereto.”

I do not think it will be very easy to find out a man who is not guilty of these things, and who is considered a political prisoner. I think the greater the members of these political prisoners the more they have been accused of such things. In fact they were not dealt with and the dupes in their place have been suffering.

The HONOURABLE MR. LALUBHAI SAMALDAS : You are talking of the Punjab.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : I am talking of India. I will come to Punjab later on. It has been suggested that political prisoners should get a lot of concessions. If they are so well treated, I think the jails will be charitable institutes or poor houses because if the poor people once come to know that there is a way in which they could be treated as first class prisoners, they will rush to the jails. Most of these volunteers I think get pay from their organisations and I think they are budmashes of the worst character and instead of doing mischief by themselves, they combine to make an organisation so as to terrorise the people. These are the people who directly they have done the mischief go to jails as Government guests. These are weaknesses. If a man has done mischief he should be treated as he deserves. If he is treated well, that is considered a weakness. There was a strong man who put a stop to such a thing. But his policy was not considered good enough but after two years the same policy had to be adopted with about 20 times more rigour, but what happened in the meanwhile. There have been disorders everywhere, in nearly every presidency and hundreds of lives have

[Colonel Sir Umar Hayat Khan.]

been lost. I do not know how others think about this, *i.e.*, the man who starts such a propaganda, the outcome of which is all these murders, I call him a murderer and worse than a murderer, because a murderer for some motive kills perhaps one or two men and is finished consequently but a man who brings about a sort of chaos in the country must be responsible for all the mischief and troubles that go on in it and the mischief ought to be attributed to him and him alone.

Now, Sir, the only danger is that if such things go on, what will happen? It is absolutely clear, things are working towards it,—it would be either a sort of civil war or revolution, and I think those who see the papers can see what has happened to Ireland. Are we going to be in such a condition ourselves? We ought to learn a lesson. In the Punjab, Sir, and I come to the Punjab now, (pointing to Honourable Mr. Lalubhai) like the Moplahs, who are a fighting race, you have seen how much money Government had to spend on them, and how many men were killed there. Now take, for instance, Multan. Exactly as it has been in the Moplah country, the same has happened in Multan, and that is, that these men of various factions have gone there and incited the people, and when the people were incited, they fought and broke each other's heads. But who are the murderers, and who are the people who ought to be blamed? Those who have put them on to it. Now, Sir, for instance take the Punjab; from there so many people have been going into the army as soldiers. If such things go on, there is every danger that these soldiers may get imbued by such ideas,—because a soldier is not always in the army, he must go to his village, he must go backwards and forwards, and if such things go on in their villages, they must partake of them; so it is a very very dangerous thing, particularly in my part of the country,—and it is more so I think in my friend's—the Honourable Major Mahomed Akbar Khan's—country, where there is danger of invasion, a foreign invasion, either from a foreign country or from the borderland. We have seen, Sir,—I was in the midst of it myself—that whatever was going on in the middle of the Punjab, there was no such difficulty, but directly they reached Peshawar, in came the invasion; and we always see in the budget that a big sum was spent on the 'experiment' for allowing these things to go on; and if such goes on as happened before, naturally there will be again expense. So I think, Sir, that those who want economy, should try and put a stop to this. Now, Sir, something has been said about India and its political prisoners, and also about England and other countries: but in the latter they are a nation, and whatever the parties want, their idea is to go to their country in one way or another. If one proves not a good way, they say, we will do it in any other, but they are really for the good of the country; but here, it is quite different. To begin with, we are various nations and various communities and religions, if there is any trouble, amongst us it is attributed to the Government, which is considered to be foreign. But we have to see, Sir, that if we unite and, as we call it, if Swaraj is going to come, well I think we have seen a little portion of it in Multan,—what will be is that there will be a civil war, we will fight amongst each other, and that is why we want a Government which is of a different faith to come in and do justice between

the contending parties. It has been seen, Sir, from the time of Alexander and even before, that India has always been a country which has been invaded, and every time that invasion came, the outsiders won.

The HONOURABLE MR. LALUBHAI SAMALDAS : That is rather our misfortune.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : So, if the things be such, then why not have the nation who has organized us during the last century or more and who has been giving us protection from such trouble ? We have come to such a stage that we have got these reforms, and we come and stand here and speak (Laughter). But if some of our other friends from outside came, well, I do not think we would be here in this Chamber (Laughter). Then, Sir, we have seen that all these undesirable people, change from time to time,—at times they brought in the Rowlatt Act, and they found, too much of the Rowlatt Act, people did not like it, they turned to something else, and then perhaps to the Prime Minister's speech, and then perhaps to something else (Laughter).

The HONOURABLE THE PRESIDENT : The Honourable Member is straying a bit.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : I mean this, that their being in jail is a useful thing, there is not too great a trouble to them there. (Laughter). But if we are going to have jails, such jails that they will invite them, well what else do they want ? First, they will become martyrs, and then they will have a very nice time. A jail must really be such that they should not like to go to that jail again. (Laughter). But as regards the jail about which my friend, the Honourable the Home Secretary has to-day said, well, there I do not even agree with the Government. They have created an agreeable atmosphere for these men who are the plague of the country, to go more to it and even invite those who do not want to do these things. Well they say, these have gained a name, a notoriety, and are doing very well in the jail, why not follow them ? So, I hope, Sir, that when we are here, invited to be a part and parcel of the Government, we really should see that we govern ourselves, and should look after the country and see that such things do not occur. But if we are here to defeat the Government or do something which will give them trouble, that is not doing our duty, and I hope, Sir, that the House will reject this Resolution which is now before it, because this is a House, that is the highest in a way in the Legislature and should see that the members act up to their duty.

The HONOURABLE SAYYID RAZA ALI (United Provinces, East : Muhammadan) : Sir, I think the Council must have welcomed the lucid statement that was made on the subject by the Honourable Mr. O'Donnell. If I rise early, Sir, my justification for that is to examine the soundness of the principle that was enunciated by the Home Secretary and to find out how far that principle can satisfactorily work if applied to the conditions obtaining in this country. Towards the close of his speech the Honourable Mr. O'Donnell made a very important pronouncement when he claimed for the draft rules the merit of being as desirable and

[Saiyid Raza Ali.]

satisfactory as leniency could under the circumstances go. It is, Sir, with a view to finding out whether, really, this claim that has been put forward on behalf of the Government is a right claim that I wish to devote a few minutes of my speech to it. I need hardly go into the details of the entire question ; the Honourable Mr. O'Donnell has carefully gone into the facts of the case.

Very briefly stated, the position of Government as disclosed by the Home Secretary's speech is that the presence of these non-co-operators in jails has led to a serious breakdown of discipline, and therefore the Government, while desiring to remove what appear to them legitimate grievances, are not prepared to satisfy public feeling in its entirety. Sir, my short reply to that question would be that it unfortunately appears that the struggle between the Government and the non-co-operators is going to be a long one. This is not the time to go into the merits of the question ; but if I am right in that estimate, then I submit that it is the duty of Government to separate non-co-operator prisoners from the others. If, as is admitted by the Honourable Mr. O'Donnell, there are among these prisoners men who are of very high character and against whom, except their political opinions, not their bitterest enemy, not even my friend Malik Sir Umar Hayat Khan, can urge anything, then surely it is time that some adequate provision be made for separating these two classes of prisoners. To a certain extent I must agree with the Honourable Mr. O'Donnell that the appearance of some non-co-operators in certain jails has tended at times to have a prejudicial effect on the discipline of the jails. But the remedy is to have separate jails, as has been done, for instance, in my province, for political prisoners. I do not think it is necessary for me to go into details, but I would respectfully and strongly protest against unnecessarily harsh measures being taken against these prisoners, whether in the form of whipping or in any other form, in the blessed name of discipline. No doubt, Sir, we have to maintain discipline ; but then there is a limit to it, and if the Government cannot maintain discipline in these jails without having recourse to strong measures, for which I submit there is no justification, then surely the only way to accomplish the object which is so close to the heart of this Council—minus one member I believe—is to separate the two classes of prisoners. Time does not permit me to go into the conditions of political prisoners, either in England or in Ireland. But surely we were entitled to hear something from the mouth of that distinguished Irishman who sits on the Government Bench about the treatment of Irish prisoners, say, in the year 1914 or 1915, when Sinn Feinism had not come to the forefront in Irish politics. The list of concessions that has been announced, I believe, would go to allay the excitement in the public mind to a certain extent. But all the same, the conditions that have been laid down are so severe and so rigorous that practically the Government are taking away with one hand what they are giving with the other. The list has been read out by the Honourable Mr. O'Donnell, and I do not think, Sir, that so far as those conditions are concerned, the Government can claim to be in a position on which they can be congratulated by this Council.

Then, Sir, I would propose in this connection the amendment that stands in my name. My amendment is :

“ That towards the close of the Resolution that has been moved the following words be added:

“ and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province.”

The reason, Sir, why I propose this amendment is that in all other provinces where considerable sections of non-co-operators have been sent to jail, we have local Legislative Councils in which the grievances of those prisoners can be agitated. Whereas, in the case of the Frontier province, there is no Council, and it is this Council which serves as the local Council for that province. Now, without going into details, I would submit that only two days ago I put a certain number of questions on the treatment of political prisoners in the Frontier Province. My object was to elicit certain information from the Government. I gave notice of my questions on the 5th, and on the 18th the reply by the Government was that inquiries were being made and the information would be communicated to me as soon as it was available. Now, Sir, I thought that Peshawar was one of those places under British rule that were telegraphically connected with Simla. All the same it appears that 12 clear days were not sufficient to enable the Government to get the necessary information from Peshawar. Whether this attitude was right or not, I leave to the Honourable Members on the Government Benches to decide. In the absence of that information, all the statements that I may make, will unfortunately be open to the objection of being *ex-parte*. The trouble in the Frontier Province so far as non-co-operating prisoners are concerned, is three-fold. I will state the broad points alone. The first difficulty is that food is not allowed to be supplied, except perhaps in one or two cases, to political prisoners from their homes ; they are not allowed to get this and have to be contented with jail diet. The second trouble is that in almost every case they are not allowed to wear their private clothes and have to wear jail clothing. That is a matter which not only the non-co-operators, who are supposed to be at war with the Government, but also those who are watching this contest between the two contending parties, cannot look upon with unconcern and remain passive spectators. They feel that if the attitude of Government is unreasonable, then it is time they should intervene. The third grievance is that, though a large number of political prisoners have been sentenced to simple imprisonment in the Frontier Province, yet they were put into solitary confinement within a few days of their admission to jails. In fact, cases have been brought to my notice of people who were put into solitary confinement on the 7th of April and who were still in solitary confinement towards the end of August.

I do not mean that all this time they were under solitary confinement, but with very brief intervals, most of their time was spent in solitary confinement. Now, there is no province in India in which a thing like that can happen. Though my Honourable friend, Mr. Lalubhai Samaldas has mentioned the province to which I belong as one where there have been cases of improper treatment, I can assure the Council that if the treatment that has been extended to the political prisoners of my province were to be followed in the other provinces the lot of these unfortunate

[Saiyid Raza Ali.]

political prisoners would be much better than it is to-day. (*The Honourable Sir Maneckji Dadabhoy* :—Will you tell us about the social position of these prisoners ?) So far as the social position is concerned, I must agree that a uniform treatment cannot be insisted upon and that a prisoner's status ought to be taken into consideration. I am taking the case of prisoners occupying a certain social position in my province in order to compare their case with that of political prisoners of similar social position in the North-West Frontier Province. As regards the gallant speech made in the course of this debate, the highest compliment that I can pay to the author of that speech is to ignore that speech totally.

The HONOURABLE THE PRESIDENT : To the Resolution under discussion, amendment moved :

“ That at the end of the Resolution after the word ‘ England ’ the following be added :

‘ and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province ’.”

That amendment is now under the consideration of the Council and discussion must be confined to that amendment.

The HONOURABLE MR. S. P. O'DONNELL : Sir, I have no detailed information regarding the treatment of these prisoners in the North-West Frontier Province. The Honourable Mr. Raza Ali asked certain questions the other day on that subject and he has complained that the information has not yet been supplied. I do not think, Sir, that there was any excessive delay on the part of the Government of India in asking for this information: It may have been that the letter to the Chief Commissioner did not issue for two or three days. It must be remembered however that there are a very large number of questions not only in this Council but also in the other Chamber to be dealt with, and the pressure of work sometimes renders it impossible to treat every question as absolutely of immediate urgency. However the information has been asked for from the Chief Commissioner and will be supplied to the Honourable Member when received. But I understand that the general position as regards political prisoners in the North-West Frontier Province is this. The conditions of that Province are exceptional. It is inhabited by a very virile, vigorous people ; it contains much inflammable material ; it is full of modern weapons ; it has on its borders the trans-frontier tribes ; and any weakening of authority inevitably re-acts on these tribes. I understand that for these reasons the Chief Commissioner did not in the past see his way to extending any preferential treatment to any of these prisoners. There are I may mention as a matter of fact, only 41 of them and of this small number 23 are imprisoned, I understand, under the Frontier Regulation for failure to furnish security and can obtain their liberty at any time by furnishing security. However, Sir, the instructions which I have already explained to the Council apply just as much to the North-West Frontier Province as to any other Province, are just as binding on the Administration there as on the administration

of any other Province, and since Monday last when I replied to the question, it has been reported that draft rules to give effect to these instructions have been prepared by the jail authorities in that Province and are under the consideration of the Chief Commissioner. That means that the treatment of prisoners convicted of offences in connection with political movements in that Province will be brought into line with other Provinces. I hope that will satisfy my Honourable friend in regard to his amendment. I hope to have an opportunity of replying later to the general observations he made. At present I am only dealing with the particular amendment under discussion. As regards that amendment, the position is as I have said, namely, that draft rules have been prepared to give effect to these general instructions which I have explained to the Council.

The HONOURABLE THE PRESIDENT : The question is that the following amendment be made :

“ That at the end of the Resolution after the word ‘ England ’ the following be added :

‘ and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province ’.”

The HONOURABLE SAIYID RAZA ALI : In view of the statement of the Honourable Mr. O'Donnell, if the Council permits me, I won't press it.....

The HONOURABLE THE PRESIDENT : I am afraid I have to put the amendment to the vote of the Council. The Honourable Member should have risen before I began to put the question. I gave him ample opportunity to do so. The question is that the following amendment be made :

“ That at the end of the Resolution after the word ‘ England ’ the following be added :

‘ and that inquiries should at once be made into the condition of political prisoners in the North-West Frontier Province ’.”

The Amendment was rejected.

The HONOURABLE SAIYID RAZA ALI : I ask for a division

The HONOURABLE THE PRESIDENT : The request for a division is, I fear, frivolous, and I disallow it.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhamadan) : I think this Council and the country at large have reason to be thankful to the Government for the lucid statement made on their behalf this morning by the Honourable the Home Secretary on the very vexed question which has excited so much attention in the public press, particularly the non-co-operation press on the question, as I say, of the treatment extended to political prisoners in this country. Sir, the Honourable Mr. O'Donnell has not only explained the position of Government so far as political prisoners are concerned, but he has made a very important pronouncement in regard to the concessions which are to be extended to them hereafter. These concessions are what were necessary, but there are one or two points in regard to them to which I will refer later, and if when the Honourable Member rises to address the Council again his explanation is equally satisfactory I for one will request the Honourable Member to withdraw the Resolution.

[Mr. Phiroze Sethna.]

The Honourable Mr. O'Donnell commenced his remarks by a reference to the speech of the Home Member of the Bombay Government when a similar Resolution was discussed in July of this year at Poona. The Honourable Mr. O'Donnell referred in particular to what was stated by Mr. Hayward, the Home Member of the Bombay Government as to the false rumours circulated in the non-co-operation press in regard to the treatment extended to political prisoners. I will admit that the non-co-operation press is, unfortunately for themselves, given very much to exaggerate as also not always to make sure of their facts by which in difference their statements are often discredited, but whilst Mr. Hayward was right in contradicting those false rumours perhaps Mr. Hayward did not answer satisfactorily some of the points that were raised in the discussion at Poona. He was asked why men who were convicted for seditious offences in England were treated comparatively more lightly than they are in this country. To this matter the Honourable Mr. O'Donnell has also referred and has tried to explain to us the difference between seditious offences in England and in this country. The Honourable Mr. Hayward of the Bombay Government said that seditious offences were rare in England whereas they were so frequent in India. The Honourable Saiyid Raza Ali to-day interrogated Mr. O'Donnell by inquiring in regard to the seditious offences in Ireland. Mr. O'Donnell in answering I believe referred to the rules which have been recently passed in Ireland for the treatment of political prisoners. I refer to the Prison Act in Ireland of 1877 passed half a century ago. If it is admitted that there exists sedition in India to-day, I think Honourable Members will admit that sedition in Ireland fifty years ago was no less rampant and yet in that year the Prison Act of 1877 laid down that "every prisoner under sentence inflicted on conviction for sedition or seditious libel and any person who shall be imprisoned under any rule, order or attachment for contempt of Court shall be treated as a misdemeanant of the first division."

Much has been said in regard to the definition of a political prisoner. Mr. Hayward in Bombay expressed his inability to define the term. I do hope that the legal talent associated with the Government of India could frame a very workable definition, but whether they do so or not Mr. O'Donnell has told us that political offenders will now receive special or preferential treatment. In regard to that, Sir, I would like to point out that if any definition is proposed, the opinion expressed by the present Under Secretary of State for India on March 27th in the House of Commons would help in arriving at such definition. He observed :

"There is a large class of cases in which a man who presumably from honest motives expresses political views, the public expression of which is an offence under the law, should not be subjected to humiliating treatment or classed with criminals whose offences show moral obliquity."

The Honourable Mover in carefully drafting his Resolution has certainly excluded men who are convicted of violence to person or destruction of property or incitement thereto. The Honourable Mr. O'Donnell referred to others, particularly those tampering with soldiers and also to those hirelings engaged in Calcutta and elsewhere for creating disorder

and inquired how they could be excluded. I may say that the Honourable Mr. Lalubhai Samaldas would be the first to exclude such persons as well and whilst the Honourable Mr. O'Donnell refers to the tampering with soldiers, I myself would also include tampering with the police. I am sure, Sir, that the Council are at one in thinking that no mercy should be shown to them whatever.

My Honourable friend, Mr. Raza Ali, in the course of his speech observed that non-co-operators might be put in separate jails. I hold that this is almost an impossible proposition. Does my friend mean that hooligans taken from jute mills and paid daily wages, for creating disorder and whose activities have involved great loss of life and property, should be located separately and treated as other than ordinary criminals, simply because they happen to be non-co-operators? Surely, Sir, the Council cannot possibly endorse his proposal.

My friend, Mr. Lalubhai, referred at some length to the difference in the treatment extended in the different provinces in India to political prisoners. I am glad to learn from the Honourable Mr. O'Donnell that the Government of India will endeavour to secure uniformity of practice in all provinces in the matter of the treatment of political offenders and that they are issuing recommendations to the different provinces to preserve that uniformity and try to level up the treatment to the extent that prevails in some provinces, and not level it down to the methods adopted in provinces where hitherto they have not been inclined to be lenient.

The Home Secretary has given us a list of offenders who will be given special treatment. He however has made an exception in the case of five classes of political offenders. He says that preferential treatment will not be extended to those who are committed for using violence, who are committed for inciting to crimes of violence or offences against property and who tamper with soldiers. So far as that goes, I am in perfect accord with him, but in regard to the other two I would ask for more explanation from Mr. O'Donnell as regards items 3 and 5. In regard to No. 3, if I understood him rightly, he said that persons who in what they say or write do anything as a result of which ultimate disorder and looting might follow are not to be given special treatment and in the last category similarly comes any one who does anything which may even remotely involve criminal intimidation. Now, Sir, the explanation I seek in regard to Nos. 3 and 5 is this. Very wide discretion is given to those who will decide in regard to these two points. I venture to say that even a man like Mr. Gandhi could not be given special treatment under 3 and 5. It might be argued that he has written something in "Young India" or that he has made a speech which if it did not lead directly to disorder, would have a tendency to do so later. I would like the Home Secretary to explain to what extent he proposes these two conditions, Nos. 3 and 5 to go. If they are as satisfactory as the rest, I repeat, Sir, that I will request my Honourable friend on my right (Mr. Lalubhai Samaldas) to be satisfied with the explanation of Government, because I do believe that they have tried to meet the popular demand as best they could under existing conditions.

[Mr. E. L. L. Hammond.]

The HONOURABLE MR. E. L. L. HAMMOND (Bihar and Orissa : Nominated Official) : There is one remark which fell from the Mover of the Resolution which I think calls for some explanation. He referred to the province of Bihar and Orissa and said that at first preferential treatment was accorded to the people who go by the name of political prisoners.

The HONOURABLE MR. PHIROZE SETHNA : As compared to other provinces :

The HONOURABLE MR. E. L. L. HAMMOND : Quite so : and that subsequently this treatment was withdrawn. That statement was quite right. It was withdrawn because although these gentlemen were treated as first class misdemeanants their behaviour in jail became on a par with that of the common felon. They ceased in fact to be entitled to the words ' first class misdemeanant '. I do not want to trouble the Council with a large number of instances but I can give one or two, and I would ask Honourable Members to consider whether a man of the description which I am going to give is entitled to the least consideration. The person, I would rather not mention names, was convicted under the Criminal Law Amendment Act. That happened to be the offence regarding which there was clear proof, but there was every reason to believe, in fact it was known that he was one of the parties, who in the alleged interests of temperance had exhumed the body of a liquor vendor and had thrown it on the roadside. This man was convicted under the Criminal Law Amendment Act. So I think I am right in saying that he was treated as a first class misdemeanant. He went to the Hazaribagh jail. There he managed to stir up a good deal of trouble. He and his friends amongst other things circulated a lie to the effect that the Koran had been insulted. One of the privileges allowed these men was that they might read the Koran. Of course it was intended that they should read the Koran at proper intervals and with due reverence and not to use it as a means for furthering indiscipline. The jailor happened to pass along and he found the man reading the Koran out of the prescribed hours and he told him not to read it. It was alleged that the Koran was kicked out of the man's hand and that abusive language had been used. Inquiries were at once made and it was found that the story was absolutely false and without any foundation. That did not satisfy these political prisoners. They set themselves to work to make the administration of the jail absolutely impossible, and eventually the Deputy Commissioner had to hold an inquiry and the leader was sentenced to be flogged. The order was duly carried out. Shortly afterwards there were articles in the Bombay newspapers in which reference was made to the flogging in jail, of a gentleman described as the " Reverend Maulvi ".

This was a man who, as I say, had been a party to the exhumation of a corpse, who had been given this preferential treatment, and who had so far declined to accommodate himself to the conditions of a jail as to work up what was in fact a revolution within the jail. That is one case. Another trouble is this. When you get in jail these educated gentlemen, to whom the Honourable Mover has referred, it is of course, sometimes difficult to treat them properly and to give them this preferential treatment. There was one man, Mr. Muhammad Shafi in Muzaffarpur,

a leading pleader who abandoned his practice and a man who is generally held in very high esteem. He was sentenced to a year's imprisonment under section 107 of the Criminal Procedure Code and was sent to the Muzaffarpur jail, where his personal influence was such that the two assistant jailors sent in their resignations. I may add that before he went there, proceedings had been drawn up against both these jailors which might in any event have terminated their employment ; but they took advantage of Mr. Muhammad Shafi's presence there to make a demonstration, and resigned. He was transferred then to the Buxar jail, where again he began tampering with the jail staff. Obviously, that could not be allowed. Equally so, it was decided that he ought to be given treatment that would have been given to a European prisoner ; so he was put into a separate cell, arranged for that purpose, a large spacious cell, with its own court-yard, and this was represented as inhuman treatment,—because he was sentenced to solitary confinement ! So, Sir, it is really very hard to please these people.

Obviously, it appears that the statement made by the Home Secretary fully meets the requirements of the Honourable the Mover of the Resolution. I would like, however, speaking on behalf of a provincial Government, to say that there is a necessary condition, a condition precedent to the granting of these privileges, and that is that there must be reciprocity on the side of these prisoners. If they are given special treatment, surely they ought to show their gratitude, at least by refraining from trying to make jail discipline impossible. They are people, many of them, who can undoubtedly affect the other persons in the jail and make matters very difficult. One instance of that which I can give occurred only a few weeks ago. I refer to Mr. Mazarhul Haq, a name well-known, a gentleman, I believe, who before now has spoken in this very Council Chamber. He has just been sentenced for defaming the Inspector General of Prisons. He said that the Inspector General of Prisons went out of his way to insult the Muhammadan religion and a Muhammadan prisoner : and Sir Banatvala Hormusji, the Inspector General of Prisons, was allowed by Government to prosecute Mr. Mazarhul Haq for defamation. Mr. Mazarhul Haq, being a non-co-operator, could not or would not plead, and he is now in jail, where I am told he has just begun a modified form of hungerstrike ; and I see it announced in a paper that he " has done away with two-thirds of the grievances in the jail." Well, now a man like that comes into a prison ; he can make jail discipline and jail administration impossible ; and I do hope, Sir, that nothing will be done to fetter or tie the hands of the Local Government or the jail authorities in maintaining the discipline of the jail. (Applause).

THE HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I do not propose to take much time ; I wish to make only two observations and to correct what is I think a mistake of fact, and that mistake of fact arises this way. The Honourable gentleman who spoke a little time before me mentioned that there was a strong man, and he introduced a certain policy, and that policy has been abandoned, and that that policy is now being re-introduced. I humbly submit that no such thing has happened. There was a strong man, I know,—I need not mention his name ; but we all

[Mr. G. S. Khaparde.]

know that the Government of India condemned him, and the Secretary of State also condemned him, and that policy certainly is not being revived—for the simple reason that the speech which the Honourable Mr. O'Donnell made this morning hardly shows that that policy is now in vogue. On the contrary, the Government of India are endeavouring to meet the popular opinion on this point and trying to soften the rigours of jail life and discriminate between good men and bad men,—a man who has been duped and a man who has been the principal offender, and so on. So, that is a mistake of fact which I thought it proper to condemn. Another thing which I wish to mention is that there appears to be an idea that if a man has committed a very bad offence, he should be treated with exceptional rigour, that he should be given exceptional trouble,—and the justification of that doctrine was that if you make jails very attractive, then people will give up their houses and will go back and stay in jail. That was put forward here seriously ! It has amused me that such a thing should be put forward. Nobody likes to be in confinement : take a bird, and you give it good fruit and so on,—but open the door, and the parrot flies out. So it is ; no human being, nobody, likes to be in jail ; nobody believes or can possibly believe that the jail is so comfortable that he had better not live with his wife and children but go back to jail. That kind of assumption is entirely wrong. As I myself believe, violence is never cured by violence. Hate is never cured by hate. It is only by contraries : if there is a fire, you pour water on it, and not add fuel to the fire. If you indulge in violence,—well if a man pricks me with a pencil, then I prick him with a sword, and then he shoots me with a revolver,—how would it end ? If you prick me with a pin, I say, ' all right, don't do it again, it hurts me,' and I treat you better, then the chances are that you will repent, and such things would not happen. A man by the roadside hurt me at the toes, I got to the roadside, and only stayed there, said nothing at all. He looked back, and said, ' Have you been hurt ? ' I replied, ' Yes.' Then he said, ' Well, I am sorry.' The poor man came round and attended to me, and then we went back home, and afterwards he turned out to be a very very good man indeed. (Laughter). So it comes to this that small injuries have got to be forgotten. It is not that a small injury has to be retaliated with a higher injury. Similarly, in taking measures, it is well-known—I suppose I am not guilty of saying anything improper—that the people who have always to deal with public enemies generally get a certain amount of severity instilled into them. A gentleman, a captain leading an army in a foreign country, an enemy country, would adopt very different measures from an officer, a military officer, putting down a rebellion here,—for this reason, that, after all, when we are dealing with our own countrymen and in our own country and in our own Empire, we recognize that it may be that one section has hit another section ; it may be, when I am speaking, that the tongue gets between my teeth ; but I do not pull out the tongue nor the teeth. You have only got to take care that the tongue does not get between the teeth. Similarly—I am not in love with the non-co-operators, I dislike them—I remember that, after all, they are our countrymen ; we cannot put them down in the same way as I should put down a rebellion in Russia, or somewhere else. You have got to treat

them and if you treat them kindly, the chances are that these people will repent and will come back and will become good members of society, whereas if you treat them with great severity and give them any amount of trouble, people may get hardened and ultimately they come out worse than they were when they went to jail. So I beg humbly to submit that I thought, when I heard my Honourable friend, Mr. O'Donnell, that this Resolution was really half accepted practically, but this subsequent discussion has shown that there is an element in this Honourable House who believe in severity, who believe that the punishment should be severer than the offence that has been committed and who urge that life must be made a burden to the prisoner who is sent to jail. I humbly submit these are wrong views. I think the original Resolution should be supported, and even the amendment that was moved; the amendment is very innocent, it only says, 'you kindly make inquiries in certain provinces.' The amendment is a very innocent one. It only asks that inquiries may kindly be made in a certain province. That is a small matter. But the main proposition is really a move in the same direction in which Government is already moving gradually. As far as possible, all the rigours of prison life should be softened; so softened that people will really get the idea that Government is after all kind to them, and then when they get out they will be duly grateful and will, I hope, behave better. With these words, Sir, I support both the Resolution and the amendment.

THE HONOURABLE THE PRESIDENT : The amendment has already been rejected by the Council.

THE HONOURABLE MR. LAJUBHAI SAMALDAS : Sir, I must begin by saying that I am very thankful to the Honourable the Home Secretary for his sympathetic reply. He spoke of two matters not referred to by me in my speech. One was that I did not say anything about tampering with the army, and the other point was about using hirelings as Volunteers. I am prepared to admit, Sir, that it never occurred to me that tampering with the army was classed as a political crime. If it had, I would surely have included that offence under one of the exceptions. (Hear, Hear).

With reference to the Bijapur jail—although it is a small matter—I would like to draw the Home Secretary's attention to the fact that the two members who were fettered are not the members who are referred to in the Honourable Mr. Hayward's reply. If he would please look up the Assembly debates he will find that the Honourable the Home Member has referred to the press communiqué regarding these two people who are said to have been fettered. They belonged to socially a high class and were classed as political prisoners.

With reference to whipping, I see that there has been lately a marked improvement in this matter. The final authority is now the Local Government and not the Superintendent of a jail or the Inspector General of Prisons. That is an improvement, but I may be permitted to say that it is not quite in keeping with the English practice. In England whipping is inflicted by the orders of the Home Secretary on being recommended by three persons, of whom two must be Justices of the

[Mr. Lalubhai Samaldas.]

Peace. I would ask the Home Secretary to consider this matter and see if the present rules cannot be modified, so that some non-official visitors may have to be consulted before orders of whipping are passed.

Sir, I won't refer for more than a minute to what fell from my Honourable friend Sir Umar Hayat Khan. Although he said he was speaking for the whole of India, I am quite sure his knowledge of the conditions in other provinces did not justify him to do so. He naturally generalized from what he has seen first-hand in the Punjab, and perhaps his military training teaches him that severity is the only way in which you can reform individuals. We who have not been brought up under military discipline realize that it is, as my Honourable friend Mr. Khaparde said, good and kind treatment that reforms individuals and not harsh measures.

My Honourable friend the Home Secretary referred to the various concessions that he said will be granted to political prisoners who do not come under five categories. As regards Nos. 1, 2 and 4 of those categories, I have no complaint. As regards the third, I think the meaning of that clause can be extended to include men who are really not criminals but only offending for principles and high ideals. The same might be said about No. 5. Criminal intimidation is a word that has been used with reference to volunteers who have gone round to piece-goods shopkeepers trying to prevent them from selling foreign piece-goods. If my memory is correct, Pundit Jawaharlal Nehru was convicted of criminal intimidation under that clause, and if exception No. 5 stands, he will not be treated as a political prisoner or a first-class misdemeanant. He will not be allowed the benefit of these concessions simply because he asked certain persons not to sell foreign piece-goods and that if they did so they would be socially boycotted. Similarly the boycott of liquor shops has been classed as criminal intimidation. If my Honourable friend is prepared to modify clauses 3 and 5, so that their scope cannot be extended to the class of persons whom I have mentioned, and whom I believe the Government also has in view, namely, men of good educational and social status, then I will be prepared to consider whether it would not be advisable to withdraw this Resolution. The Home Secretary said that papers will not be supplied. Perhaps in the Punjab, in Lahore, that restriction might have been necessary because papers were scuffled from one man to another. I have only in mind a man like Gandhi; you ought not to keep him in ignorance of what is going on outside the jails. It is criminal on the part of Government to keep a man like Gandhi ignorant of what is going on outside. I hope Government will see its way to utilize the good-will of all these men whom they have thought it necessary to send to jail; so that when they come out of jail they will be supporters of Government and will not oppose it.

I am sorry to have to refer to the Honourable Sir Umar Hayat Khan's statement that if Britishers were not here we would not be sitting here and would not be allowed to speak out our minds as we are allowed to do to-day. I entirely agree. We want Britishers to stay, and we want Britishers to help us to keep off our enemies and other Frontier tribes whom we do not want to come and terrorize us.

The HONOURABLE MR. S. P. O'DONNELL: Sir, the Honourable Mr. Sethna referred to the conditions in Ireland in the year 1877, and I think he said that sedition was as rampant there in 1877 as it has been in India in the last two years. Well, I was in Ireland in 1877; I admit that I was not very old at the time, but I have a clear recollection of the conditions in Ireland in the eighties. I was during part of that time in the south-west of Ireland, not far from the neighbourhood of Counties like Clare, where if there is trouble in Ireland, there is sure to be trouble. At that time there was a good deal of agrarian agitation going on in Ireland, but I do not think there was anything comparable to the campaign of sedition which has been going on for a few years past in this country.

The Honourable Mr. Sethna and the Honourable Mr. Lalubhai Samaldas—at any rate the Honourable Mr. Sethna—referred to the definition of political offences. I wish to make it clear that Government do not admit that all persons convicted of offences inspired by a political motive are *ipso facto* and as such entitled to preferential treatment. On that point they agree with the view expressed in the Report of the Jails Committee where Honourable Members will find strong reasons adduced against recognising the element of motive as a reason for differentiation. I do not think, however, that we need quarrel about the question of definition. I have indicated the criteria which the Government have laid down and if these criteria are satisfactory it is unnecessary to dispute about definitions. I am sorry I did not make as clear as perhaps I ought to have, the categories of prisoners who are to be excluded. I will therefore give them again. The first category is—persons who were convicted of any offences which directly involved violence or an offence against property. The second is—persons who have incited others to crimes of this character :—(*The Honourable Mr. Lalubhai Samaldas* :—I agree) ; the third is—persons hired to commit offences—(*The Honourable Mr. Lalubhai Samaldas* :—Hirelings we do not want) or who have committed offences in the hope that in the resulting disorder opportunities of looting might occur—that is the hooligan class—I think there can be no objection to the exclusion of these gentlemen. The fourth is—persons who have been guilty of attempting to seduce soldiers or the police—I ought to have made it quite clear (I thought I had done so) that attempts on the police were included—from their allegiance, and the fifth is—persons convicted of offences directly involving criminal intimidation, at any rate when violence has been used for the purpose of intimidation. Where there has been no violence there is not necessarily any exclusion, and therefore the persons to whom the Honourable Mr. Samaldas referred would not necessarily be excluded. (*The Honourable Mr. Lalubhai Samaldas* :—Mr. Jawaharlal Nehru ?) As far as I know the facts of that case he would not be excluded under this provision. I hope that will make it clear that categories 3 and 5 are categories to which no exception need be taken.

Then the Honourable Mr. Lalubhai Samaldas referred to the question of newspapers. I thought I had made it quite clear, that while normally newspapers will not be supplied they can be supplied in exceptional cases by the Local Government. I think that is practically all that I have to say—(*The Honourable Mr. Lalubhai Samaldas* :—Whipping). As regards whipping, the orders are that whipping is only to be inflicted in

[Mr. S. P. O'Donnell.]

extreme cases in the last resort and by the order of the Local Government. It has been suggested that non-officials should be given an opportunity of looking into such cases first. I do not think that any one who is familiar with the jail administration in this country would consider that to be a practicable proposition. It must be remembered that every case goes to the Governor in Council, that is to a body which includes at least three high officials and it may be more than three officials—(*The Honourable Mr. Lalubhai Samaldas* :—Not the Ministers ?)..... The Governor in Council includes in the Presidencies four Members apart from the Governor—five officials altogether. Half the Council too is, in each case, Indian.

The Honourable Mr. Raza Ali referred to the question of separation. The Honourable Mr. Sethna has quite correctly pointed out that separation in the sense of putting these prisoners in separate jails is not always practicable. I pointed out however that one of the concessions given to the selected class of prisoners is that they are to be kept apart.....(*The Honourable Mr. Raza Ali* :—The thing has been given a successful trial and is done in the United Provinces.).....I know it has been done in the United Provinces, but it does not follow that it is practicable in all provinces. A particular method may be adapted to the conditions of a certain province, but it does not follow that that method will be suited to conditions in other places. That is all I have to say. I hope Honourable Members will be satisfied that the rules which the Government have framed are reasonable.

The HONOURABLE MR. LALUBHAI SAMALDAS : I want to say—

The HONOURABLE THE PRESIDENT : The Honourable Member has had two opportunities of speaking and he will not be given an opportunity of making a third speech. It must be perfectly clear that if the Honourable Member wishes to ask the leave of the Council to withdraw the Resolution he must do so without further debate.

The HONOURABLE MR. LALUBHAI SAMALDAS : I do so.
The Resolution was, by leave of the Council, withdrawn.

AMENDMENT OF STANDING ORDERS.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) :
Sir, I beg to move that the Report of the Select Committee appointed to consider and report on certain proposed amendments in the Standing Orders, be taken into consideration.

I will not take very long in explaining to the House what changes have been proposed by the Committee appointed last Session. Altogether about 11 changes have been introduced and only a few of them are of some importance. The Report clearly explains the nature and scope of the changes. When the question was first raised I explained to the Council why the changes were called for. The Committee has not seen its way to adopt all the changes I recommended, but, on the whole, I am satisfied with such changes as have been accepted by the Select Committee, and I have every confidence that this House will accede to those changes. There are only one or two amendments to which a reference seems here to be neces-

sary. For example, in standing order No. 18, in asking questions, under the standing orders as they are to be found at the present moment, only that member who has given notice of a certain question can ask that question, but it is now proposed that any member of the House might request that the answer may be given to the question put by an absent member. It has also been proposed that the words "on the ground of public interest" should be omitted because it may be assumed that all questions that are asked in this House are asked on the ground of public interest, and therefore it was thought that these words were superfluous and they are proposed to be dropped. Then some of the other changes, namely, those in standing orders 22 and 23, are only verbal. They do not involve any important principle at all. The next question refers to the quorum and the taking of a count. The Select Committee gave its best consideration to the question as to how a count should be taken, and it was generally agreed that it should be left to the discretion of the President to allow a count to be taken or himself to take a count when he found it necessary to do so. The next important question relates to the motion for a closure. When I made my last speech on the proposed changes in the Standing Orders I expressed the view that when a closure is moved, it would be desirable that the mover of a motion or a Resolution should be given a chance of reply. There was a good deal of discussion on this point and ultimately it was decided that the President's discretion should be relied on for this purpose. No other solution calculated to prove satisfactory to the majority could be arrived at and therefore no radical change was made in the existing Standing Order. The other changes which the Honourable Members will find in this Report are not changes of very great importance, and therefore I shall not be justified in taking up the time of this House in explaining them except for one observation regarding standing order No. 60.

The change proposed in that Standing Order is the addition :

" Provided that the Member may with the permission of the President authorise any other Member in whose name the same Resolution stands lower in the list of business to move it on his behalf and the Member so authorised may move accordingly."

It is proposed that if on the agenda there are Resolutions in the same words given notice of by two or three members, any member who has his own Resolution lower down on the list of business, may, with the permission of the President, be allowed to be authorised by a Member who stands first in or next in the order, to move the Resolution in his place. That is the only change which has been made in the Standing Order, and I think the House will agree that it is a very sound and reasonable change. With these words, Sir, I move that the Report of the Select Committee be taken into consideration.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : Sir, I have much pleasure in supporting the motion of my Honourable friend Mr. Kale. Mr. Kale has explained briefly the purport of the more important amendments which the Select Committee has recommended to the Council and I think I may say that if those amendments are passed, considerable improvement will have been effected in the procedure of this Council. I think the Council owes a debt of gratitude to Mr. Kale for the energy he has displayed in this matter and the interest he has taken in taking steps to effect these improvements.

The HONOURABLE THE PRESIDENT : The question is :

“ That the Report of the Select Committee appointed to consider and report on certain proposed amendments in the Standing Orders ”.

be taken into consideration.

The motion was adopted.

The HONOURABLE MR. V. G. KALE : Sir, I move that the amendments proposed by the Select Committee be passed and in doing so I need not make any further remarks except to say that myself, the Select Committee as well as this House owe a deep debt of gratitude to you, Sir, for the assistance that the Committee has derived from your ripe experience and judgment in disposing of many of the amendments which were originally proposed. I have also to thank the Honourable Mr. Moncrieff Smith for the ready assistance he gave to the Committee and to myself.

The HONOURABLE THE PRESIDENT : I am very much obliged to the Honourable Mr. Kale for the kind remarks he has made in regard to the assistance that I have been able to give to the Committee. It is true that I have been connected with the legislative business of the Government of India for many years and have perhaps acquired some experience. I may assure the Council that my services and experience will always be available to the House, if they are needed.

The HONOURABLE THE PRESIDENT : The question is :

“ That the amendments proposed by the Select Committee ” be passed.

The motion was adopted.

ELECTION TO PANELS OF STANDING COMMITTEES.

The HONOURABLE THE PRESIDENT : I understand that to-day is a particularly suitable day for holding the election to the panels of these Standing Committees, as there are a large number of members present who may not be present later on. I have discussed with the Honourable Member in charge of the legislative business of Government and I understand he is perfectly prepared to take that up on Saturday morning. In these circumstances I think it would be well if we proceed to the election of members of Standing Committees now, if it is convenient to Honourable Members. I imagine Honourable Members have the ballot papers in their hands (*Voices* : No). Honourable Members will see that these ballot papers contain the names of the candidates to be nominated and there are notes at the bottom of the ballot paper which are headed ‘ Instructions to Members.’ They are very full. The first instruction runs ‘ Each member has one vote and one vote only.’ Honourable Members should place figure 1 opposite the name of his first choice. That is to say, in the list of names, if he prefers, say, John Brown, to all others, he should place figure 1 against the name of John Brown. He is also invited, he is not bound, to place figure 2 opposite the name of his second choice. Supposing for example he thinks that Mr. Smith, next to Mr. John Brown, is the best candidate, he should place the figure 2 against Mr. Smith’s name. In this way he can exercise his choice in the case of as many

candidates as he likes, in the order of his preference. The number of preferences is not necessarily restricted to the number of vacancies. If he chooses, he can arrange all candidates in the order of merit. I must add that a vote will be entirely useless if more than one No. 1 is placed on the paper. I think the Council will not now have the slightest difficulty in proceeding to election.

The HONOURABLE SIR MANECKJI DADABHOY : May I inquire if these ballot papers are to be signed by the Members ?

The HONOURABLE MR. H. MONCRIEFF SMITH : I think the instructions are that Members should after making their entries fold the paper in such a way that the Secretary's initials can be seen before the paper is deposited in the ballot box. The papers will not be signed ; otherwise they are invalidated.

(The Elections then commenced.)

The HONOURABLE THE PRESIDENT : I understand that the ballot papers will be placed in the boxes and the result will be announced by Saturday if possible. It takes some time to work out the result on the single transferable vote system,

MESSAGE FROM LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL : The following message has been received from the Legislative Assembly :

“ Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly in the meeting on the 20th September 1922, and to request the concurrence of the Council of State in the recommendation contained therein, namely,—

‘ That this Assembly do recommend to the Council of State that the Bill to amend and consolidate the law relating to regulation and inspection of mines be referred to a Joint Committee of this Assembly and of the Council of State, and that the Joint Committee do consist of 18 members ’.”

GOVERNMENT BUSINESS.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I understand that two Bills which have recently been passed by the Legislative Assembly will be brought forward for the consideration of this Council on Saturday the 23rd, and it is hoped that they may be passed. The Bills I refer to are the Police (Incitement to Disaffection) Bill and the Negotiable Instruments (Amendment) Bill.

In connection with the message which has just been received from the Legislative Assembly recommending that the Indian Mines Bill be referred to a Joint Committee, a motion recommending the acceptance of that recommendation and nominating members of this Chamber to serve on the Joint Committee will be taken up on the same day.

[Saiyid Raza Ali.]

The HONOURABLE SAIYID RAZA ALI : May I know, Sir, whether the Police (Incitement to Disaffection) Bill has been passed by the Legislative Assembly ?

The HONOURABLE THE PRESIDENT : If the Honourable Member had been following the course of business in this Council he would have known that that Bill was placed on the table a day or two ago.

Honourable Members who are non-officials have now to elect two Members for the Court of the Delhi University ; but of course that has nothing to do with the proceedings of the Council, and therefore the election will take place after the House has adjourned. As the law lays down no method of procedure, it will not be wrong for members to elect their own Chairman.

The Council then adjourned till Eleven of the Clock on Saturday, the 23rd September, 1922.
