

Wednesday, 12th September, 1928

THE

The Council of State Debates

(Official Report)

Volume II, 1928

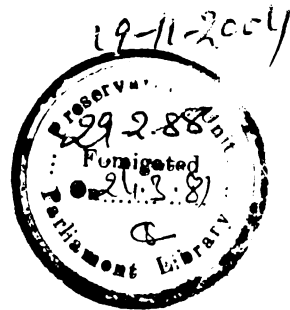
(11th September to 26th September 1928)

FIFTH SESSION

of the

SECOND COUNCIL OF STATE

1928



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1928

Contents.

	PAGES.
TUESDAY, 11TH SEPTEMBER, 1928—	
Members Sworn	1
Message from His Excellency the Governor General	1
Committee on Petitions	2
Questions and Answers .. .	2—26
Condolence Speeches on the death of Sir Alexander Muddiman ..	26—31
Message from the Legislative Assembly	31
Governor General's assent to Bills	31
Bills passed by the Legislative Assembly laid on the Table	31—32
Congratulations to the Honourable Sardar Bahadur Shivdev Singh Uberoi .. .	32—33
WEDNESDAY, 12TH SEPTEMBER, 1928—	
Questions and Answers	35—40
Resolution <i>re</i> levy of revenue tax, cess or fee on land held in private ownership—Withdrawn by leave of the Council	40—54
Resolution <i>re</i> alterations in the powers and procedure of the High Courts in India—Negatived .. .	54—57
Statement of Business	57—58
MONDAY, 17TH SEPTEMBER, 1928—	
Questions and Answers	59—89
Resolution <i>re</i> the Report of the Agricultural Commission—Adopted, as amended	89—105
Resolution <i>re</i> revision of the time tests in the post office—Adopted, as amended	105—109
Hindu Inheritance (Removal of Disabilities) Bill—Passed ✓ ..	109—116
Hindu Law of Inheritance (Amendment) Bill—Referred to Select Committee .. ✓ .. .	116—33
TUESDAY, 18TH SEPTEMBER, 1928—	
Bills passed by the Legislative Assembly laid on the Table	135
Motion <i>re</i> election of Members of the Council of State to sit with the Indian Statutory Commission—Adopted	135—82
Indian Mines (Amendment) Bill—Passed	182—83
Motion <i>re</i> election of a Panel for the Standing Committee for the Department of Commerce—Adopted	184
Statement of Business	184
WEDNESDAY, 19TH SEPTEMBER, 1928—	
Questions and Answers	185—87
Indian Succession (Amendment) Bill—Passed ✓ .. .	187—88

	PAGES.
FRIDAY, 21ST SEPTEMBER, 1928—	
Questions and Answers	189—96
Hindu Law of Inheritance (Amendment) Bill—Report of Select Committee presented ✓	196—97
Elections to the Panel for the Standing Committee for the Department of Commerce	198
Election of Members of the Council of State on the Central Committee to sit with the Indian Statutory Commission	198—99
Indian Trade Unions (Amendment) Bill—Passed *	199—200
Indian Income-tax (Amendment) Bill—Passed	200—01
Indian Succession (Second Amendment) Bill—Passed ✓	201—02
Indian Insurance Companies Bill—Passed	202—09
Repealing and Amending Bill—Passed	209—12
Madras Salt (Amendment) Bill—Passed	212
Match Industry (Protection) Bill—Passed	212—14
Procedure for the election of Members of the Central Committee to sit with the Indian Statutory Commission	214—15
WEDNESDAY, 26TH SEPTEMBER, 1928—	
Questions and Answers	217—20
Message from the Legislative Assembly	220
Hindu Law of Inheritance (Amendment) Bill—Passed, as amended ✓	220—33

COUNCIL OF STATE.

Wednesday, 12th September, 1928.

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

QUESTIONS AND ANSWERS.

SCALES OF PAY OF CLERKS IN CERTAIN SPECIFIED OFFICES IN CALCUTTA.

47. **THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :** Will Government be pleased to state the different scales of pay of the clerks in the following offices situated in Calcutta in 1922, 1925 and 1928, the Department of the Government of India to which each office appertains, and the educational qualifications required for the clerks in each office :—

- (1) Accountant General of Bengal,
- (2) Accountant General of Central Revenues,
- (3) Examiner of Government Accounts,
- (4) Director of Statistics.
- (5) Controller of Currency,
- (6) Posts and Telegraphs,
- (7) General Post Office,
- (8) Collector of Customs, and
- (9) Controller of Printing and Stationery ?

THE HONOURABLE MR. A. G. CLOW : The Office of the Accountant General, Central Revenues, is no longer in Calcutta. Information regarding the other offices is being collected and will be supplied to the Honourable Member.

MEMORIAL OF THE STAFF OF THE OFFICE OF THE CONTROLLER OF PRINTING AND STATIONERY.

48. **THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :**

(a) Is it a fact that the Controller of Printing and Stationery circulated under his unofficial I. No. 63-Camp, dated the 3rd January 1928, among the staff of the offices under him in Calcutta that he would submit the memorial from his staff referred to in part (d) of Legislative Assembly question 72 of the 1st February 1928 to Government in the last week of January 1928 ?

(b) Is it a fact that the Controller of Printing and Stationery again under his unofficial I. No. H. Q. 4/1041, dated the 16th May 1928, assured the staff under him in Calcutta that he would forward the memorial to Government very shortly ?

(c) Will Government be pleased to lay these two circulars on the table and say whether the memorial has since been submitted to Government ?

(d) If the answer to the last portion of (c) be in the negative, will Government be pleased to state whether he submitted any statement to Government stating his reasons for withholding the memorial ?

(e) If the reply to (d) be in the negative, have Government called for an explanation from the Controller ?

THE HONOURABLE MR. A. G. CLOW : (a), (b) & (c) Government have no information regarding the circulars to which the Honourable Member refers. The memorial has not yet been submitted to Government.

(d) Government understand that the memorial has not been withheld, and in consequence no occasion has arisen for indicating the grounds for withholding it.

(e) No.

(Questions Nos. 49 to 56 were put by the Honourable Kumar Sankar Ray Chaudhury on behalf of the Honourable Srijut Lokenath Mukherjee.

APPOINTMENTS OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA MADE DURING THE LAST TWO YEARS.

49. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state—

- (a) How many appointments as Assistant Superintendents of the Geological Survey of India were made during the last two years ?
- (b) How many vacancies in the above grade there are at present, or are expected to be in course of the next two years ?
- (c) What is the present cadre of Superintendents and of Assistant Superintendents and the proportion of Indians among them ?

THE HONOURABLE MR. A. G. CLOW : (a) Four.

(b) There are no vacancies at present. Two vacancies are expected during the next two years.

(c) Twenty-eight, of whom ten are Indians.

APPOINTMENT OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA MADE IN 1926.

50. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state the names of all the persons with their respective academic qualifications who applied for and of those who were appointed as Assistant Superintendents of the Geological Survey of India since 1926 ?

THE HONOURABLE MR. A. G. CLOW : The selection in 1926 was made partially in India and partially in England, and in 1927 it was made directly on the recommendations of the Public Service Commission. In consequence " Government are not in possession of full particulars of the candidates and their qualifications or even of a complete list of their names. They consider that it

would be undesirable to publish a list of the unsuccessful candidates. The candidates who were appointed were:—

In 1926	..	{	Mr. J. B. Auden, B.A.
			Mr. Ved Pall Sondhi, M.Sc.
In 1927	..	{	Mr. B. B. Gupta.
			Dr. H. L. Chhibber, D.Sc.

EXPENDITURE INCURRED ON OBTAINING OPINIONS FROM PALÆONTOLOGICAL EXPERTS IN EUROPE.

51. **THE HONOURABLE SRIJUT LOKENATH MUKHERJEE :** Will the Government be pleased to state the amounts, if any, spent during each of the last five years in obtaining opinions from Palæontological experts in Europe ?

The HONOURABLE MR. A. G. CLOW :	Rs.
In 1923-24	4,586
In 1924-25	4,444
In 1925-26	1,191
In 1926-27	6,411
In 1927-28	2,336

These figures include honoraria and the costs of printing plates.

EUROPEAN ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA POSSESSING THE DEGREE OF A DOCTOR.

52. **THE HONOURABLE SRIJUT LOKENATH MUKHERJEE :** Will the Government be pleased to state :

- (a) how many of the existing European Assistant Superintendents of the Geological Survey of India joined the service with a Doctor's Degree ;
- (b) how many, if any, have acquired the Doctorate subsequent to their appointments ;
- (c) the period in each instance which elapsed between the date of joining service and that of the award of the Doctor's Degree ;
- (d) how many European Assistant Superintendents are without a Doctor's Degree ?

THE HONOURABLE MR. A. G. CLOW : (a), (b) & (c) The information is being collected and will be supplied to the Honourable Member.

(d) Ten.

EDUCATION OF INDIANS IN ENGLAND.

53. **THE HONOURABLE SRIJUT LOKENATH MUKHERJEE :** Has there been any move, by the authorities concerned in India, to dissuade the educational institutions in England from entertaining Indian students for the higher degrees ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH :
No, Sir.

PROMOTIONS FROM THE SUBORDINATE SERVICE TO APPOINTMENTS OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA.

54. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : 1. (a) Will the Government be pleased to state whether there is a proposal to fill up henceforward the vacancies in the ranks of the Assistant Superintendents of the Geological Survey of India by promotions from the subordinate service ?

(b) Is it a fact that the two of the most senior Sub-Assistant Superintendents are non-matriculates ?

2. Will the Government kindly state how many of the Assistant Superintendents in the Geological Survey of India were promoted from the subordinate service ; their respective ages at the time of such promotion, and what proportion does their number bear to the total strength of the Indian section of the cadre and the cadre as a whole ?

THE HONOURABLE MR. A. G. CLOW : 1. (a) The answer is in the affirmative.

(b) Government have no information, but are inquiring.

2. Four Assistant Superintendents in the Geological Survey of India previously held non-gazetted appointments. Their ages at the time when they were appointed Assistant Superintendents were 44, 41, 40 and 49, respectively. The proportions are 4 : 10 and 4 : 22, respectively.

PROFESSOR OF GEOLOGY IN THE INDIAN SCHOOL OF MINES, DHANBAD.

55. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : 1. Will the Government be pleased to state :

(a) when was the last appointment to the post of Professor of Geology of the Indian School of Mines, Dhanbad, made ;

(b) whether the post was advertised and if so, how ; and if not, why not ;

(c) what were the qualifications demanded for the post ;

(d) the names of the candidates who applied for the above post and their respective qualifications ;

(e) by whom was the appointment made ?

2. Is it a fact that all the applicants with higher degrees of the Universities of London and of Cambridge were considered unfit for interview by the Selection Board and, if so, why ?

3. Is it a fact that Mr. Suhrid Kumar Roy has been appointed Professor of Geology in the Indian School of Mines, Dhanbad ?

4. (a) Will the Government be pleased to state whether it is a fact that in the matter of selection for the post the political activities of the candidates, if any, were taken into consideration ?

If so, will the Government kindly inform the Council whether all the candidates except the one who got the appointment were found to be connected with disloyal political activities ?

(b) Will the Government kindly state whether the applicants referred to in part 2 were found to be connected with any kind of disloyal activities ?

If not, will the Government be pleased to inform the Council the reasons for rejecting their claims ?

THE HONOURABLE MR. A. G. CLOW : 1. (a) January 1928.

(b) Yes, the post was advertised in the principal newspapers in India.

(c) The qualifications demanded for the post were given in the memorandum inviting applications as follows :—

“Candidates must be graduates in science with honours in Geology. They should have a sound knowledge of Mineralogy, Petrology, Palæontology and Geological field work. A knowledge of Indian Geology and the Geology of oil deposits will be considered special qualifications. They should be well versed in the economic side of the subject and should also know something of mining. Preference will be given to a candidate who has a working knowledge of French or German or of both these languages.”

(d) It is not usual to publish lists of unsuccessful candidates and there would appear to be no sufficient justification for doing so in this case.

(e) The Government of India.

2. The Selection Committee selected for personal interview those whom they considered to be the best among the applicants.

3. Yes.

4. (a) No. Government in making the appointment had no information before them regarding the political activities of the candidates.

(b) No. Other candidates were not chosen as the Selection Committee and the Governing Body of the Indian School of Mines were unanimously of opinion that Dr. S. K. Ray was the best candidate.

EXTRACTS IN THE “MEMORIAL TO THE MEMBERS OF THE INDIAN LEGISLATIVE ASSEMBLY IN SESSION,” WHICH APPEARED IN THE *Forward*, DATED THE 17TH FEBRUARY, 1925.

56. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (a) Has the attention of the Government been drawn to the following extracts in the “Memorial to the Members of the Indian Legislative Assembly in Session” which appeared in the *Forward*, dated the 17th February, 1925 :

“We know that two Bengali *ex-internees* who served the police during the period of their detention were sent to Europe at the expense of the secret service” * * * * *
“Also please ask some questions about *ex-internees* Ram Bhattayacharjee and Suhrud Roy who were supplied the money for their journey to Europe ? How do they maintain themselves in Europe ? What is the nature of their activities there and of Kshitish Biswas in America ? Is it a fact that all the four men acted as informers during internment ?”

(b) If so, will the Government kindly state whether the suggestions or allegations contained in the above quotation are based on facts ?

THE HONOURABLE MR. A. G. CLOW : (a) No.

(b) This does not arise.

REPORT OF MR. JONES, REGARDING EDUCATIONAL FACILITIES AFFORDED TO THE CHILDREN OF EMPLOYEES OF THE STATE RAILWAYS.

57. **THE HONOURABLE BABU RAMA PRASAD MOOKERJEE :** (a) Will Government be pleased to state whether any action has been taken on the Report of Mr. Jones with regard to the educational activities of State-managed Railways ?

(b) If so, when and what action has been taken ?

(c) With reference to statements made by the Honourable Sir George Rainy in the Legislative Assembly on the 25th February 1928, has any step been taken to place the matter before the Central Advisory Council ?

(d) If so, when was the matter placed before the Central Advisory Council and with what result ?

(e) If the matter has not yet been so placed, when does Government intend to place it ?

THE HONOURABLE SIR GEOFFREY CORBETT : It is proposed to place the whole matter before the Central Advisory Council for Railways at a meeting which will be held during the course of, or shortly after the close of, the present Session.

RESOLUTION RE LEVY OF REVENUE TAX, CESS OR FEE ON LAND HELD IN PRIVATE OWNERSHIP.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras : Non-Muhammadian) : Sir, with your permission, I should like to make a slight alteration in my Resolution. In part (a) instead of the year 1929 I should like to substitute 1930. I hope you will give me permission to do so.

THE HONOURABLE THE PRESIDENT : I assume that there is no objection on the part of Government to the slight alteration.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member) : No, Sir.

THE HONOURABLE THE PRESIDENT : But I would invite the Honourable Member's attention to part (b) of the Resolution which recommends the Government to ensure that the legislation is completed in all its stages before the year 1929-30.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : There I should like to insert the words "end of the " before the words "year 1929-30".

THE HONOURABLE THE PRESIDENT : The Honourable Member may move.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : Sir, I beg to move the following Resolution which stands in my name —

"This Council recommends to the Governor General in Council to issue instructions under section 45 of the Government of India Act to Local Governments—

(a) that no revenue tax, cess or fee shall, after the 31st March 1930, be levied or continued to be levied on land held in private ownership, except under and in accordance with laws duly enacted by the local Legislatures ; and

- (b) that Local Governments take immediate steps to introduce Bills to this end in the local Legislatures and ensure that the legislation is completed in all its stages before the end of the year 1929-30."

If there is one item of revenue in British India which has excited during the past century and more and is still exciting more interest, criticism and resentment than all the others put together, it is the land revenue. In dealing with this Resolution it is unnecessary for me to trace the history and evolution of the land revenue system from the dawn of British rule in India up to the present times. Suffice it to mention that the system has been built up on the wreckage of the systems prevalent in the old Hindu and Moslem Empires and based on doubt, confusion, misconception and misunderstanding, without due regard to the well-being of the agricultural population in India. What with the frequent settlements and re-settlements of land and the idiosyncracies of the Settlement Officers, whose one aim has always been to fleece from the ryot as much rent as possible, "by applying", in the words of Sir Mount Stuart Elphinstone, "to all parts of the country, facts which are only true of particular tracts; and by including in conclusions drawn from one sort of tenure, other tenures totally dissimilar in nature" and what with freaks of nature, bringing on famines almost every year through over-abundant rains and floods in some parts of the country and scanty rainfall and drought in others, and what with the lack of sufficient facilities for carrying on agricultural operations, such as irrigation, seedlings, manure, etc., which are deeply deplored even by the Agricultural Commission, a whole nation has been impoverished and reduced to the verge of misery and starvation. I am not alone in this condemnation of the British administration of India. Abler critics than myself, more experienced and better informed ones, among whom can be counted distinguished members of the I. C. S. of European descent, have spoken in scathing terms of the land revenue policy of the Government of India during the past 100 years. The dumb millions of India, who have been the victims of this excessive and oppressive taxation, have all along suffered in silence, true to the dictum "what cannot be cured must be endured." The worst sufferer from this pernicious system of settlement and re-settlement is my own province of Madras, the United Provinces and in a lesser degree the Punjab and Bombay coming next in order. It was the Madras land revenue that constituted the largest divided head of central receipts in the pre-reform days, and it was on this basis that, when, after the Reforms, the land revenue was wholly provincialized, the provincial contribution from Madras was fixed by Lord Meston at the huge figure of 348 lakhs. The reality of the burden of land-tax and the necessity for relief against its hardships were perceived by the Joint Parliamentary Committee at the very inception of the reforms, and they therefore made it a *sine qua non* of the reform scheme that the imposition of new burdens should be gradually brought more within the purview of the Legislatures. The Committee expressed its opinion that the time had come to embody in the law the main principles by which the land revenue is determined, the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements and the other chief processes which touch the well-being of revenue-payers, and they added that the system should be established on a clear statutory basis before the next change in the constitution took place. Eight years have elapsed since this memorable pronouncement was made and even the Commission on further

[Dr. U. Rama Rau.]

constitutional reforms have been ushered in, and yet no attempt was made to alleviate the lot of the poor ryots in India. On the other hand, in the Madras Presidency alone, of which I can speak with some knowledge, the land revenue which stood at 687 lakhs in 1920-21 had increased to about 758·31 lakhs in 1927-28. The burden of the ryot has thus been screwed up by nearly three quarters of a crore during this period. Certainly, the economic condition of the Madras ryots does not justify this horrible increase. The increase in the expenditure of this Presidency during the period between 1920-21 and 1925-26 was 242·73 lakhs, while the increase of revenue resources in the same period was 129 lakhs all told. This added to the total remission of the provincial contribution of 348 lakhs in 1927-28 will bring the total increase in the resources of the Madras Government to, say, 4½ crores roughly, while the increase in the amount of expenditure charged to revenue during the period will come up to roughly 2½ crores, thus leaving about 2 crores on the Government's own estimates as a recurring increase of resources in the hands of the Provincial Government from this year onwards. This by itself constitutes a strong justification to cry a halt in the policy of further enhancement of taxation through re-settlements. It is contended, for and on behalf of the Government, that the fertility of the land increases and the produce fetches better prices for the cultivator between one period of settlement and another, and the Government is therefore justified in getting a fair share of the profits in the shape of increased land revenue. But the lie direct to the theory of fertility of the soil is given by no less a body than the Royal Commission on Agriculture itself which concurs with the views expressed by the Agricultural Adviser of the Government of India that most of the area under cultivation in India has been under cultivation for hundreds of years and has reached its maximum impoverishment many years ago. And yet, at every re-settlement there is an enhancement of revenue on the ground of increased production. The cultivator's expenses and wants have also increased *pari passu* with better prices and the chronic indebtedness of the agricultural population of India, which the Royal Commission on Agriculture also deplores deeply, must convince the Government of India of the untenability of their position and the unreasonableness of their claim.

It need hardly be pointed out that the normal position of any sound Government so far as finance is concerned ought to be that it should raise as much taxation and not a pie more than is required to meet the needs of the Government and to satisfy the requirements of the people. Schemes of amelioration and of beneficial measures involving expenditure should always emanate from the representatives of the people who have to count the cost and provide the ways and means therefor by the imposition of additional cesses and taxation, if necessary. Only by that means can the tax-payer be protected and the expenditure of the State be made to secure the maximum of benefit to the people concerned. To provide a surplus and put it as a sop for making suggestions for rodd schemes of fresh expenditure is unsound and unjust.

The policy of automatic increase in the burdens of the ryots through re-settlements without regard to the needs and requirements of the Government as determined by the Legislature must be given the go-bye at once. This is

a reform that arose directly as a result of the Joint Committee's recommendations under the new constitution, and it ought not to be allowed to be delayed any further. The charge is laid at the door of the Central Government that they have persistently refused to accord sanction for a Land Revenue Bill which the Madras Government had contemplated to introduce in their Legislative Council. I do not know how far it is true. But whoever is responsible for this civil disobedience or passive resistance to the legally constituted Parliamentary authority, the stern fact cannot be ignored that the ryots have already begun to feel the pinch of the land-tax and have themselves launched on a vigorous no-tax campaign. My own benighted Presidency has led the way, and Tanjore was the first to protest against the increased assessment resulting from re-settlement and refused to pay the tax some five or six years ago. Through the timely intervention of the Legislature and wise statesmanship on the part of the Madras Government, a serious situation such as the one we had at Bardoli has been averted and a compromise effected. The rack-renting policy of the Government of India has been put to a vigorous test at Bardoli recently and has not succeeded. Let not the lesson of Bardoli be lost on the Government. It behoves the Government of India, therefore, to realize the gravity of the situation and forthwith direct the Provincial Governments to submit the question of land-tax to the vote of the Legislatures in obedience to the mandate of the Joint Parliamentary Committee, and thus absolve themselves from all blame in the matter. Here is a fair opportunity that has presented itself to the Government, and on their acceptance of this Resolution depends their sincerity to advance India politically and economically. I earnestly appeal to the Honourable non-official Members of this House to heartily support this Resolution as it is a question of vital importance affecting the well-being of every son of the soil, to whatever race, caste, community, religion or political predilection he may belong.

With these few words, I move the Resolution that stands in my name.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD BABIBULLAH : Sir, I do not imagine that the Honourable Dr. Rama Rau asks the House to accept the Resolution which he has moved at its face value. It seems to me that it is more or less an expression on his part of the feelings of resentment at the alleged apathy on the part of the Provincial Governments and perhaps an assumed indifference on the part of the Government of India to have the necessary legislation framed in accordance with the recommendations of the Joint Parliamentary Committee on the Government of India Bill.

I shall show presently that neither the Provincial Governments nor the Government of India can justifiably be charged either with apathy or indifference respectively. For the moment I should like, if I may, to draw the attention of Honourable Members to the implications which arise from this Resolution, and for that purpose I hope they will bear with me for a few minutes if I should indulge in a criticism of such implications. Honourable Members will notice that this Resolution asks them to commit themselves to make a recommendation to the Governor General in Council that no revenue, tax, cess or fee shall, after the 31st March, 1930, be levied. In the second place, it asks this House again to commit itself to make a recommendation to the Governor General in Council that no revenue, tax, cess or fee shall, after the 31st March 1930, be continued to be levied, and it further asks that this revenue be neither

[Sir Muhammad Habibullah.]

levied nor collected after the 31st March, 1930, except under and in accordance with laws to be enacted by the local Legislatures. For the purpose of arming the Governor General in Council to exercise the power which this Resolution asks him to exercise, resort is had to section 45 of the Government of India Act. I am now trying to show that this section has no application whatsoever to the question that we are now discussing. Let me make it plain that I am not posing to claim for myself the right of a lawyer to interpret legislation. I will merely appeal to the common sense of this House. What does section 45 say in effect? Section 45 says:—

“ Subject to the provisions of this Act and rules made thereunder, every Local Government shall obey the orders of the Governor General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.”

Perhaps my Honourable friend—I know he is not a lawyer—tries to lay emphasis on the words :

“ Every Local Government shall obey the orders of the Governor General in Council”,

but I have yet to know whether the Governor General in Council can issue any orders to a Local Government if, such orders are *ultra vires* of the Act under which he professes to issue such orders. I think I must make myself a bit more clear. Honourable Members are aware that land revenue is a provincial reserved subject. What are its powers under the Act in regard to land revenue? Its powers under the Act in regard to land revenue are that it has the absolute power to assess and collect land revenue. There is nothing in those words to indicate that either the assessment or the collection must be under a legislation framed by the local Legislative Council. That power is unconditional. When, therefore, under the Act the Local Government possesses the power to assess and collect land revenue, is it conceivable, I ask, that the Governor General in Council could issue peremptory orders to a Local Government that although such Local Government is in exercise of the power vested in it in law assessing and collecting land revenue, yet it shall refrain from exercising the power which the law entrusts it with? I have tried to labour this point somewhat to convince this House that the Governor General in Council can, as the law stands at the present moment, issue no peremptory orders to any Provincial Government prohibiting it from either levying or collecting land revenue, which entirely is a provincial subject, and as such wholly under its cognizance and jurisdiction. Then, Sir, we are also asked to issue instructions to the Provincial Governments not to continue to levy the assessment on land. Let us assume for the sake of argument that each Provincial Government enacts to-morrow a piece of legislation regulating the levy and collection of land revenue. May I ask Honourable Members whether such legislation will have retrospective effect? Will such legislation affect the settlements and re-settlements which have already come into operation? Will such legislation in any way affect the collection of land revenue which is being levied and collected prior to the coming into operation of any new legislation? How therefore could any legislation affect the collection and levy of taxation which had been in operation under previous settlements before the coming into operation of any statutory provision?

Therefore it is rather hitting the point too high if you ask the Government of India not to continue the collection of all assessments, etc.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : Until you enact the law.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH : I understand what the Honourable Member has in mind. Perhaps, he is contemplating that after the new legislation comes into operation, all the previous settlements which have been in vogue will all simultaneously be brought to a termination and that fresh re-settlements will start in all parts of India at one and the same time. Unless that is his intention, it is unthinkable how any legislation which may be framed to-morrow will affect the settlements and re-settlements which have been in operation for years, which may have been conducted 10, 20 or 30 years ago, and in which under the stipulation which is entered into between the respective Governments and the land revenue payers there is an agreement not to interfere with these assessments for the period of settlement, which may be 20 or 30 years, according to the practice in the province concerned. So that, at any rate, as I maintain, is somewhat unthinkable. I assume, Sir, for the sake of argument again that the Government of India in issuing the orders suggested ignores the provisions of the Government of India Act, ignores also the fact that the Provincial Governments have so far levied and collected land revenue under the system in vogue until now ; what will be its consequences ? The Honourable Mover who hails from my own province has just now told us that the demand in respect of land revenue in the Madras Province is over Rs. 7½ crores. Well, it may fairly be said in regard to the other provinces as well that the demand in respect of land revenue stands at a high figure. The lowest demand, I think, is in Assam, parts of which are yet undeveloped, but even there I think the land revenue demand is something like Rs. 1 crore. I am not exaggerating facts when I say that land revenue on the whole forms the main source of revenue in every province. Scrap it and you see the consequences. Scrap it and you tear the whole machinery to pieces. Scrap it and you bring the whole administration to a standstill. That would be the inevitable consequence of the acceptance of this Resolution. Is this the time, Sir, when we should indulge in the pastime of stopping the collection of land revenue for any period ? To my mind it is not easy to answer what that period may really be. The Honourable Dr. Rama Rau, in view of the amendment which he has now proposed, and which has been accepted by the Chair, gives us a grace time of one year within which to hasten the various stages through which any legislation has necessarily to pass before it becomes law. He has bemoaned the fact that eight long years have already passed without this legislation coming into operation, and yet he hopes that twelve months ought to be more than sufficient for the purpose of bringing that legislation into operation. Well, if that legislation is not ready by the time stipulated, what happens ? The inevitable result would be that the collection of all land revenue will be suspended at once, every province will have to meet its demand from the slender resources which will be left at its disposal. Each province will have a very big slice cut off from its revenues. Each province will have again to go back, shall I say, to a state of financial insolvency. My Honourable friend must realise what a blow had been aimed at the financial prosperity of his own province as a result of the Meston Award. He still remembers, I

[Sir Muhammad Habibullah.]

I think, the depression that that event had produced on the activities of every branch of administration in his own province. He knows, I think, that many an important scheme of reform, many a scheme of public utility, had to be simply pigeon-holed for want of necessary financial resources. Thanks, indeed, to the abolition of the provincial contributions, the province I hope is now able to stand on its own legs once more and may well indulge in the idea of giving effect to some of those important schemes which for lack of funds had necessarily to be shelved. Now, if instead of the Meston Award which was responsible for taking away a large slice from out of the resources of each province we introduce in its stead another scheme by which a bigger slice will be cut off from its revenues, and the provinces are asked to manage their show on their remaining resources, the result must inevitably be calamitous. Let us remember that this is a time when I am expecting each province to put its hand deep into its pocket for the purpose of giving effect to those wholesome recommendations of the Royal Commission on Agriculture which will soon have to be translated into action. In the very near future there is going to be an All-India Conference for the purpose of determining a programme of work in respect of those recommendations.

It is hoped to arrange the programme in the order of urgency subject of course to financial possibilities. I am hoping, and ardently hoping, that each province will take that interest which the recommendations of the Royal Commission demand and earmark a good portion of its own revenues for the purpose of giving effect to those recommendations. Now, at a juncture like this, is it prudent, I ask, to make a present of a suggestion to the Provincial Governments of the character mentioned by the Honourable Mover? It seems to me, Sir, that it would be the reverse of wisdom to do so. I said in the beginning that neither the Provincial Governments nor the Government of India should be charged either with apathy or indifference in the matter of this legislation. Let me make it plain that nobody desires this legislation to come into operation at once more than myself. My Honourable friend who hails from Madras is somewhat conversant, I suppose, with my life in that province, and if that is so, he must be aware of the efforts which I in my position as Revenue Member of that province had put forth in connection with this important matter. It is, therefore, needless to tell this House that my sympathies are entirely in favour of this legislation. But let us at the same time realise that this legislation is not central; it is entirely provincial. The utmost that the Government of India can do is to draw the attention of the Local Governments from time to time to the urgency and the need for framing legislation in accordance with the recommendations of the Joint Parliamentary Committee. And let me assure my Honourable friends that this question which has been raised by the Honourable Member opposite has not escaped the attention of the Governor General in Council.

I think I might just tell the House what we have been doing from time to time in connection with this important piece of legislation. The House is aware that the Joint Committee of Parliament recommended that the process of revising land revenue assessment should be brought under closer regulation by legislation. Land revenue being a reserved provincial subject this recommendation was brought to the notice of the Provincial Governments who alone

could undertake the necessary legislation, and the need for early action was impressed on them so long ago as March 1920. In June 1924 again the Government of India forwarded to Local Governments a copy of a question and answer in Parliament on this subject and requested them to report on the steps taken by them to give effect to the recommendations of the Joint Committee. The replies received to this reference disclose that, with the exception of Bengal and Bihar and Orissa, which are largely under permanent settlement, and where the question is mainly one of academic interest, the Local Governments either already have taken steps or are contemplating taking action to introduce the necessary Bills in their provincial Councils. Bills were actually introduced in Madras, Bombay, the United Provinces, the Punjab, Assam and the Central Provinces, but in no case have they become law as yet.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammedan): Why?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: I will tell you. The main reason for this has been the inability of the parties concerned, namely, the Government and the unofficial majorities in the Legislative Councils, to reach an agreement. In August 1927 the Government of India again drew the attention of the Local Governments to the matter. As Honourable Members will realise, the initiative rests with the Local Governments, and the decision with their Legislatures. The Government cannot dictate to Local Governments. The question is not, I must honestly confess, as simple as it looks. The Provincial Governments naturally have to think of their revenue. The provincial Councils, perhaps equally naturally, are more concerned with the reduction or limitation of the incidence of land revenue. The only possible solution is a compromise to which both the Local Governments and the majority of their Legislative Councils should agree. Such a compromise, I must confess, cannot be promoted or imposed from Delhi or Simla. I may also add for the information of the House that the Government of India have again decided to address Local Governments on the subject of land revenue administration, and they earnestly hope that their initiative on this occasion may be useful in contributing towards a solution of the outstanding questions of principle relating to this subject which have come into prominence since the Joint Committee made their recommendations, and I think I am not indulging in any unnecessary optimism if I say that, as a result of the efforts now proceeding, I hope a satisfactory solution of this problem will soon be arrived at. In view of what I have stated, Sir, I hope and trust the Honourable Member will not press his Resolution.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): Sir, at the outset, on behalf of the zamindars, I must heartily thank our gallant Dr. Saheb for the Resolution he has just moved. It is no doubt true that the zamindars are the only class which is so hard hit, and the House knows that whenever I have spoken on this subject I have not been half-hearted. Though, we labour under many difficulties, on one side on account of the money-lender and on the other on account of the Government revenue which breaks the earthen pot, between the two iron vessels and though the Resolution goes a long way to help the zamindars, I for one think it impracticable, because it suggests a complete suspension of the revenue for a time which will dislocate the present administration. All that

[Sir Umar Hayat Khan.]

we desire is reform in the land revenue administration, about which the Honourable the Leader of the House has so lucidly spoken just now. I would therefore tell my Honourable and gallant friend that, though the proposed Resolution will help the zamindars, he should not press it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend Dr. Rama Rau. I have been following with interest the observations made by the Honourable the Leader of the House, but I am sorry that his arguments have not been very convincing to me.

The Honourable the Revenue Member says that land revenue is a transferred reserved provincial subject. That is true, Sir. But I want to ask the Honourable the Revenue Member whether the Royal Agricultural Commission was formed as a result of the recommendations made by the Executive or the provincial Legislatures of the various provinces. When the Government of India realises the great importance of a certain matter it moves. That is the very reason why there is an Agricultural portfolio in the Government of India. The Honourable the Revenue Member has also explained that Land Revenue is the chief source of Indian revenues. As far as my information goes, Sir, and with due deference to the Honourable the Leader of the House, I must say that his statement is not quite correct. The customs duties and the Income-tax added together much exceed the land revenue of the whole of India.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : Added together.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : So it is not right to say, Sir, that land revenue is the chief source of revenue in India. As far as the Meston Award is concerned, Sir, the Punjab has also suffered as much as Madras and Bombay have done. But, Sir, as far as the Punjab is concerned, I might say that no regular rigid policy of assessment of land revenue or of water rate is observed. In certain districts there are 20 years settlement, in others there are 30 years settlement, and now of late 5 years settlement has been introduced. In Lahore and other districts now every 5 years in certain parts of the district assessments are subjected to revision. My friend, Sir Umar Hayat Khan, from whom I expected that he would safeguard the interests of the zamindars has not done so to-day. When he rose I thought that he would strongly support the Resolution, but when he sat down I thought that he had only taken a lukewarm interest in the matter. The Honourable the Leader of the House has said that the Parliamentary Commission on Agriculture has laid great stress upon laying down a policy for the assessment of revenue and taxes, and he has also been pleased to say that the Government of India has conveyed that recommendation of the Parliamentary Commission to the local Provincial Governments. I find, Sir, that in the Punjab and in other provinces which the Honourable the Revenue Member has named, Land Revenue Bills have been moved. In the Punjab I know there was a great debate over it and the measure is still perhaps under the consideration of the Punjab Council.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH : It is not under the consideration of the Punjab Council. It has been passed by the Punjab Council.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am sorry Sir. I thought otherwise. But I must say, Sir, that the Honourable the Mover has not in his speech made any reference to the water rates. In the Punjab I find, Sir, that, even in a case where one watering is given to the crops and although the canal fails for the rest of the year, the canal assessment becomes due and fully due. Such like things, Sir, are not just and equitable, and I think that along with the land revenue, as the Honourable Mover of the Resolution says, other taxes, including I believe the water rate, are to be considered. I consider it is the duty of the Government of India to strongly urge upon the Provincial Governments to lay down once for all their revenue policy. With these words, Sir, I support the Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I rise to support the feeling that is behind my Honourable friend, Dr. Rama Rau's Resolution. I must congratulate the Honourable the Leader of the House on the very successful way in which he grappled with words and demolished the spectres of financial chaos raised by him. I was only wondering why he did not say that the financial implications of Dr. Rama Rau's Resolution would lead to the disbandment of His Majesty's military, naval and air forces and so pave the way to invasion of India. He has very successfully evaded the real issue arising from the Resolution. Nobody ever thought that the financial dislocation of the Government of India was contemplated by the Honourable Mover. The Honourable the Leader of the House has tried to tell the House the implications of Dr. Rama Rau's Resolution. The real implications are not as stated by the Honourable Leader. The real implications are these : the acceptance of the Resolution would mean three things. *Firstly*, the giving up of the theory that land revenue in this country is rent but not a tax. If it is a tax, Sir, it is a known fact that no tax in any country is levied except with the sanction of the Legislature. In India there is not a single item of taxation which is levied except under the direct control of the Legislature. Land revenue is the only tax which is so levied. Apparently it is based on the theory that the State is the owner of the land and the cultivator is a tenant, therefore the landlord can levy from the tenant such rent as he pleased. That theory has been exploded long ago, and if the Government of India wants to give up the theory and recognise that land revenue is not rent but a tax, it is bound to place it under the control of the Legislatures. That is the first implication. I should like to know whether the Government of India is prepared to accept this implication. The *second* implication is that, if they accept the position that land revenue should be imposed under the control of the Legislatures, then the Government of India must be prepared to vest in the Legislatures the right to fix the *rate* of taxation. That is the second implication. My Honourable friend Sir Muhammad Habibullah has appealed to Dr. Rama Rau to judge him by his career in the Madras Council. It is a matter of public knowledge now that the Madras Government, when he was a member thereof, sent up for sanction a Land Revenue Bill and that it was turned down by the Government of India on the main question that the Government of India were not in favour of investing the Legislature with the power to fix the rate of taxation. The Government of India were quite agreeable to the passing of an innocuous measure vesting the power in the Legislature to levy land

[Mr. V. Ramadas Pantulu.]

taxation, but the Government of India were not prepared to allow Legislatures the right to fix the rate of taxation. Are the Government of India now prepared to do so? That is really the crux of the whole matter. Then the *third* implication which underlies the Resolution of Dr. Rama Rau is this: that, even if the Legislature is invested with the power of fixing the rate of taxation, will there be any authority provided to test the justice of executive action? In the case of income-tax we can have some recourse to the Courts. Are the Government of India prepared to set up a machinery, of an *ad hoc* character or one which will go into individual cases of hardship, to judge of the soundness and equity of the amount of revenue levied? The fact that the Bardoli ryots wanted a judicial officer to be associated with the Settlement Officer is a proof positive that the people have no faith in the justice of the executive officials. Therefore the people of Bardoli insisted upon a judicial

12 NOON. officer being associated in the inquiry. What the people want is, though land revenue is to be levied under legislative sanction, they want that the justice of the incidence of the taxation should be tested by an impartial tribunal. Are the Government of India prepared to accede to that?

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Is there any country in the world which has done that?

THE HONOURABLE MR. V. RAMADAS PANTULU: There is. I will ask my friend to refer to the Taxation Enquiry Committee's Report. It gives a survey of the way in which land tax is levied in various countries.

THE HONOURABLE SIR MANECKJI DADABHOY: I have read that. You have not answered my question.

THE HONOURABLE MR. V. RAMADAS PANTULU: There is a judicial machinery under the Income-tax Act. These are the implications which underlie Dr. Rama Rau's Resolution. The Government of India cannot have a blank mind or an open mind. What is its attitude then towards this question? The Honourable the Leader of the House said that the delay in framing suitable Bills was due to the difficulty in an agreement being reached between the Legislative Councils and the Provincial Governments. What the Members of the Legislatures want is clear. What the Provincial Governments want and what the Government of India want, we do not know, because they have never issued any comprehensive Resolution on their land revenue policy. Since Lord Curzon's time the Government of India have stood on the fence and have always given evasive answers and never made up their mind as to their land revenue policy. What did they think of the Joint Parliamentary Committee's recommendations? What had they to say about the demands made by various Provincial Legislatures on questions pertaining to land revenue? The Government of India have not made themselves clear on these points, and an agreement has not been reached chiefly owing to the obstructive tactics of Provincial Governments and the Government of India. Therefore, it is no good telling us that the delay is due to the difficulty of reaching an agreement. All the difficulty is created either by the Provincial Governments or by the Government of India.

Then the technical plea under which Sir Muhammad Habibullah has been of late freely sailing is the demarcation of functions between Provincial and Central Legislatures. This is coming very handy to him in these debates. I think it is not a substantial objection. I may quote Sir Muhammad Habibullah himself in reply to his present attitude. He made a very sensible and very lucid pronouncement in 1927 on this question in answer to my friend Sir Ibrahim Haroon Jaffer's Resolution about the Co-operative Movement; and there he has clearly stated the powers of the Government of India with regard to the control of land revenue. I will only ask him to read that passage once more. I do not want to repeat it now. If he reads that passage once more, he will find that every one of his statements to-day is fully answered by himself on that occasion. Therefore, I should content myself with answering him with his own words on that occasion.

In this present anomalous position, land revenue settlements are going on in various parts of the country and people are protesting. Tanjore first, and there, the enhancement of 25 per cent., which was first sought to be levied, was reduced to 18½ per cent. on protest. Now the settlement of the Kistna and Godaveri districts is going on. I have had the privilege of reading the Settlement Officer's preliminary report with regard to the proposed enhancement in these districts. The report gives a rosy picture of the economic prosperity of the ryots and their ability to bear additional taxation, of the wonderful achievements of the co-operative movements, and the great improvement which has been brought about in the staying power and the tax-paying power of the ryots. If one reads these reports one will wonder whether the land tax cannot be easily doubled. These reports are not to be relied upon and they will not bear scrutiny by any economist. The plaintiff who is also the judge is having his own case to go by, and the person who claims the additional land revenue will put forth his case in the settlement reports, and there is no way of judging the accuracy or the soundness of the statements contained therein. People protest against them but there is no way for them of getting redress except perhaps by resorting to Satyagraha as in the case of Bardoli. It will not be possible for the people in all parts of India to resort to such a movement, nor would the Government wish it. Therefore the Government of India must realise its responsibility in the matter.

There is just one word more which I would like to say before I sit down. The Leader of the House has referred to the improvements the Agricultural Commission has recommended and to the Provincial Governments' responsibility in devoting a large portion of the revenue to these improvements. But may I remind him, Sir, that unless this question of land revenue policy is settled satisfactorily, no agricultural improvement is possible? We have been protesting against the exclusion of this question of land revenue policy from the terms of reference to the Agricultural Commission. It was stated at the time that though it was not directly referred to the Commission, it would indirectly be dealt with by them, that some evidence would be taken and the Agricultural Commission would in some way throw some light upon the question. I myself have spoken in this House on the point and I read the speech which the Honourable the Leader of the House delivered on that occasion again this morning. He raised the distinct hope

[Mr. V. Ramadas Pantulu.]

that the Agricultural Commission would say something about the land revenue policy. But I find that they have very strictly adhered—and very rightly—to their terms of reference, and the Government of India misled us by saying that the matter would somehow or other come under the purview of the Agricultural Commission. The Government wanted to retain this matter exclusively in their hands and they were not prepared to entrust it to the hands of the Commission for investigation. The whole question, it is stated, is going to be settled by correspondence between Provincial Governments and the Government of India. The people are not to be taken into confidence. The public are not allowed to say anything in the matter. All that Sir Muhammad Habibullah assured us is that the Government of India are in correspondence with Provincial Governments and that a very satisfactory solution may be hoped for and he was optimistic on the point. But may I ask him whether the solution of a question like this can be satisfactory where the people themselves have no voice in determining the important issues involved in it? Therefore, I am sorry to say that on this occasion, though Sir Muhammad Habibullah has shown great dialectic skill, he really tried to evade the whole question. He has not dealt with the implications of the Resolution. I agree with my friend Sir Umar Hayat Khan that nobody should try to dislocate the administration of the country. But the principle is there, and all that we are praying for is that the principle underlying the Resolution should be acceded to by the Government of India at a very early date, and they must make up their mind as to what their position is on this question. Are they going to entrust this power to determine the land tax to the Provincial Legislatures? Are they going to agree to a judicial machinery being set up to test the equitability of the taxation? Will the Government of India give a free hand to the local Legislatures to enact measures suitable to their own provinces, or will they turn down such proposals in order to suit their own convictions? These are the main questions to be considered. Let us get unevasive replies, we have not got them to-day from the Leader of the House.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI (Punjab : Sikh) : Sir, I express my full sympathy with the principle of the Resolution moved by my Honourable friend Dr. Rama Rau. I have not had the advantage of hearing the reasons which he advanced in support of his Resolution on account of my reaching the Chamber a little late. But I have heard with great attention the reply of the Honourable the Leader of the House and the reasons which he had advanced. What I gather from the language of the Resolution is simply this, that the policy of assessing revenue, tax, cess or fee on any land possessed by private owners should not be made by the executive part of the Government, but should be enacted by the Provincial Legislatures. I think the time has come when the Indian administration must be more in the hands of the representatives of the people than in the hands of the executive machinery of Government. I do not think the fact can be denied that India's masses are composed of the agricultural community, that the happiness of India lies more in the happiness of the masses of the country, and that the strength and power of Government also lie in the happiness of the people

of the country. My community pays the highest proportionate revenue in my province and I cannot do justice to my position here if I do not express my hearty support to the principle underlying this Resolution. I do not see what objection there is to the land revenue, cess or tax which is levied on the land, being levied according to the wishes of the representatives of the people through the Legislative Councils, when customs duties, income-tax and other taxes are subject to the vote of the Legislative Assembly and the Council of State. As regards the argument of the Leader of the House that he fears a cessation of the machinery of administration, I do not think that there is any room for fear at all. First of all, we should not doubt, and we have no reasons or data to doubt, the *bona fides* or the patriotic sense of those representatives of the people who constitute the local Councils or that they would treat land revenue in such a way as to deprive the Government of its resources, because they will fully understand their duty, that while representing the people they should see that the machinery of Government is carried on. It cannot be granted for a minute that they would be so unmindful of their responsibility that they would chuck off land revenue or deliberately delay the passing of the necessary legislation relating to land revenue. That fear cannot be entertained for a minute. What this Resolution aims at is this, just as the other taxes are made subject to the vote of the representatives of the people, so land revenue also should be made subject to the wishes of the people. The majority of Members in the local Councils come from the agricultural community, and they are in the best position to judge for themselves the situation and suggest to Government the necessary measures.

Sir, one word more and I have done. The land revenue policy in the Punjab, and also I think in those provinces where the land revenue assessment is not permanent, leads to a tendency in the direction of increasing the land revenue at every settlement. It used to be every 10 years till some time ago, but now the period has been extended. However, during the last assessment I remember the land revenue has been very excessively increased in some places. For instance, agricultural lands around the cities, which have been brought within municipal limits, have not been exempted from land revenue assessment; on the other hand, the assessment has been increased perhaps 200 per cent. Even those lands which had come under houses are still liable to the payment of land revenue though at a much higher rate. This is one instance out of the many which happen under the present system. With these few words I heartily support the Resolution of my Honourable friend, Dr. Rama Rau.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Sir, nowhere in the Resolution have I said that you must stop the collection of land revenue. I was only anxious that no revenue should be collected beyond 1930 unless it is done according to the wishes of the people, and nowhere have I said that the collection should not be made. Nor have I said anywhere that it ought to have retrospective effect. If the period up to 1929-1930 is not sufficient, Government can extend the time, and they have power to do so if they accept this Resolution. All that I wanted was this. Government have been sleeping over this matter for the last eight years, and my object in moving this Resolution is to wake them up from their sleep. It is said that this is a provincial reserved subject and that the Central Legislature has nothing to do with it,

[Dr. U. Rama Rau.]

But when a Provincial Government sent up a Bill for sanction it was turned down by the Government of India. If the Government of India had been very anxious to promote legislation, why should they turn down that Bill? I did not ask the Government to stop the collection of land revenue; I only wanted the revenue to be collected after sanction by the Legislatures concerned. I know that a Resolution of this kind cannot be passed in this Council where the majority is with the Government. My object in moving this Resolution was to draw the attention of Government to this subject. I am very glad that the Leader of the House has given an assurance that he will hurry up the Local Governments. In these circumstances I do not propose to press my Resolution to the vote of the House, but to withdraw it with its permission.

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

RESOLUTION *RE* ALTERATIONS IN THE POWERS AND PROCEDURE OF THE HIGH COURTS IN INDIA.

*THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, the Resolution that stands in my name runs as follows:

“This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to prevent the powers and procedure of the High Courts in India from being changed by executive orders of His Majesty in Council.”

There are two factors to be considered about the establishment of law Courts in any country; the one relates to its establishment and vesting it with a certain territorial jurisdiction, and the other deals with its powers and procedure. The first matter comes within the purview of executive orders and the second ought to be, and is, in almost every civilised country, the exclusive function of the Legislature. This was acknowledged even when the High Courts were first established in India, and the then Secretary of State in his despatch, dated the 14th May 1862, paragraphs 6 and 7, observed as follows:

“6. Moreover, the words giving authority to confer on the Court such jurisdiction and such powers and authorities for the administration of justice as the Crown may direct appear very large, and as such, in point of fact invest the Crown with extensive legislative powers so far as administration of justice within the meaning of the sections may require. It has been, however, thought best to use this power very sparingly and simply as ancillary to the real purpose of the Act, namely, the establishment of new Courts.”

Another reason for the form which the present Letters Patent assume is to be found in the provisions of section 17 of the Act of last Session. By that section power is given to the Crown to recall the Letters Patent establishing the Court at any time within three years after its establishment and to grant other Letters Patent in their stead. This provision was inserted in the Act mainly with the view of “enabling His Majesty’s Government to avail themselves of the advice and assistance of the Judges of the Court in framing the more perfect Charter by which the jurisdiction and authority of the Court is to be permanently fixed.” Accordingly, when the Government of India Act was passed in 1915, the power to alter the functions and procedure of existing High Courts was taken away from His Majesty and by its Fifth Schedule

* Speech not corrected by the Honourable Member.

they were made alterable by the Indian Legislature. But there was no provision in this Act whereby the executive Government of His Majesty could alter the territorial jurisdiction of any existing High Court, and consequently the Act was amended in 1916 by the addition of clause (1) (a) to section 106 in the following words :

“ The Letters Patent establishing or vesting jurisdiction, powers or authority in a High Court may be amended from time to time by His Majesty by further Letters Patent.”

Though the language of this amendment is somewhat wide, it was never meant, I submit, to extend the powers of His Majesty beyond simply what was “ ancillary to the real purpose, namely, the establishment of Courts ” over any area. In altering the procedure of appeal from the decision of a single Judge to a Divisional Bench of the High Court at Calcutta by changing its Letters Patent in 1921 instead of going through the process of legislation laid down in the Fifth Schedule of the Government of India Act, the Executive Government have not only shown scant courtesy to the Indian Legislature, but they have violated the elementary principle of the independence of the judiciary from the executive reiterated even as early as when the first High Courts were established in India. The Civil Justice Committee made many recommendations of which this was one, and many of them have been given effect to by being embodied in legislative enactments, but I fail to see why the same procedure was not adopted in this case, unless it be this, that the Government were doubtful of their being able to carry through such a piece of legislation, for when in 1916 similar proposals were advanced by Government they met with opposition from almost every quarter except the Patna and Allahabad High Courts, and the result of the amendment even within this short period has been to shut out almost all appeals to the Divisional Bench from the judgment of a single Judge of the Calcutta High Court. Similar results have also been brought about in Burma where a similar law prevails as will be borne out by the following observations of the Civil Justice Committee at page 351 :

“ We understand that in Burma where the Letters Patent appeal only lies upon certificate, such appeals are seldom permitted by reason that it is considered that the proper time to insist upon the exceptional importance or difficulty of a case is before the single Judge proceeds to deal with it.”

The result thus has been a curious one. An appeal lies under the law “ only when the Judge who passed the judgment declares that the case is a fit one for appeal,” and he refuses to give the declaration because he has himself dealt with the case. The principle of vesting the executive with powers to establish Courts and to invest them with whatever powers the executive might choose had led to the establishment of the Star Chamber Court in English history and had been condemned in no uncertain voice in England, and it is high time that it should find no place in the Statute-book of any civilized country. Similar restrictions have been embodied in the fundamental laws in many modern constitutions, and I submit that similar provisions ought to be embodied in our country. With these words, I commend my Resolution to the acceptance of this House.

THE HONOURABLE MR. H. G. HAIG (HOME SECRETARY): Sir, the Honourable Member has described the system under which powers are at present vested in High Courts, but I may perhaps restate the

[Mr. H. G. Haig.]

position in my own words. By section 106 of the Government of India Act jurisdiction and powers in relation to the administration of justice, the appointment of ministerial officers and power to make rules regulating the practice of the Court are vested in High Courts by Letters Patent issued by His Majesty. That is the first process. Then His Majesty has power, as I submit, is only natural, to amend the procedure or powers which he has prescribed by the issue of further Letters Patent. At the same time the Letters Patent are also by a provision included in them subject to the legislative powers of the Governor General in Council. So that, in effect, there is concurrent authority for amending Letters Patent either by the issue of further Letters Patent or by legislation under the powers of the Governor General in Council.

Now, Sir, as far as I understand the Honourable Mover, he merely proposes that the power of amendment at present vested in His Majesty should be taken away and that this power should be confined to the Indian Legislature. He may in making this demand possibly congratulate himself on his moderation, if moderation is regarded by him as a virtue. But, I think, that logically he ought to go further. If it is reasonable for the original powers to be laid down by Letters Patent, then, Sir, I submit, it is not unreasonable that modifications should also be made under the same procedure. If my Honourable friend really desires to attack the whole system of Letters Patent as laid down in section 106 of the Government of India Act, he is of course raising a large question of principle on which different views may be held. I was particularly interested to see that different views were actually held by a body which, I am sure, he will regard as very authoritative. I am sure that as a good member of the Congress Party in this House he would subscribe, and probably subscribe to every word of the Report of the All Parties Conference, and I do not suppose that he has given his support to those proposals without reading and studying them. I am therefore interested to see that in the final recommendations of the All Parties Conference Report the provisions of the Government of India Act in respect of the establishment of High Courts are practically reproduced word for word. It is contemplated that the several High Courts should exercise such powers as are vested in them by Letters Patent, and further, not only is the original principle thus affirmed, but in regard to amendments it is provided that the Letters Patent establishing or vesting jurisdiction, powers or authority in a High Court may be amended from time to time by a further Letters Patent. It seems, therefore, that in this matter great authorities differ.

In any case this appears to me to be neither the time nor the method for making such an important change. We are invited to take steps, presumably to take steps now, to amend the Government of India Act, so as to produce the change which the Honourable Member suggests. But I think that the Honourable Member cannot, however much he may desire it, ignore the fact that there is in existence a body known as the Indian Statutory Commission which has included in the subjects on which it has invited opinions the Courts and the judiciary. It would not be proper, Sir, for the Government at this stage to express any definite opinion on this matter. As a means of ventilating the subject, with a view to drawing the attention of the Indian Statutory Commission

to the Honourable Member's views, I welcome the Resolution, and I only regret that the Honourable Member's convictions will not allow him to press his views on the Commission in a more direct manner. But this is a matter which clearly will come under the consideration of the Commission and it is clear that the Government cannot commit itself on this proposal. I must therefore ask the Council to oppose the motion.

*THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I just want to make a few observations with regard to some of the remarks made by the Honourable Mr. Haig. One is about the Report of the All-Parties Conference. With regard to that, my submission is that the framers of that Report have made it clear that that Report has to be taken as a whole. When we get Dominion status it will not matter whether the Letters Patent are changed by executive order or by legislation because in that case the executive will be entirely responsible to the Legislature. As regards the time being inopportune, I may say that on all important occasions, it has been the custom of the Government to say that the time is inopportune because there is some Commission or other in the country. We have been asked to postpone many beneficial measures on account of the existence of the Agricultural Commission, and we do not know how long we will have to wait for this measure also because of the Simon Commission. With these words, I commend my Resolution.

THE HONOURABLE THE PRESIDENT : The question is :—

“ That the following Resolution be adopted :

‘ This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to prevent the powers and procedure of the High Courts in India from being changed by executive orders of His Majesty in Council.’ ”

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The Honourable Mr. Khaparde and the Honourable Mr. Chari have both informed me that they do not intend to move the Resolutions† standing in their names.

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, owing to the course which events have taken in another place, the only official legislative business which it would be possible to place before the Council this week is the consideration of the Bill further to amend the Indian Mines Act, which was laid on the table yesterday. I should be reluctant to put Honourable Members to the trouble of attending a meeting of the Council for the sole purpose of proceeding with this small

* Speech not corrected by the Honourable Member.

THE HONOURABLE MR. G. S. KHAPARDE to move the following Resolution :

† “ This Council recommends to the Governor General in Council that the pay and allowances of the clerical cadre of the Postal and R. M. S. employees of Berar, Wardha, and Khanda Districts, be raised to the level of the scale granted to Ahmedabad, viz., Rs. 50—5—150.”

THE HONOURABLE MR. P. C. D. CHARI to move the following Resolution :

“ This Council recommends to the Governor General in Council to take steps to relieve the agricultural indebtedness in India and to establish land mortgage Banks in India.’ ”

[Sir Muhammad Habibullah.]

Bill, and I would suggest for your consideration that in the circumstances no further meeting should be held during the course of the present week. There is another item of pending official business, namely, the discussion of the motion standing in my name on the subject of the election of Members of this Council to the Central Committee to sit with the Statutory Commission. I understand that you have been pleased to accord your consent under rule 24A to the moving of this motion and that copies of the motion have been distributed to Honourable Members in their places. It is for you, Sir, to decide the length of time which must elapse before this motion is placed on the list of business. On the assumption that you will be prepared to allow the motion to be tabled for Tuesday next, the 18th September, which would ordinarily be the date of the first official meeting next week, the Bill to which I have referred would also be placed on the list of business for that day.

THE HONOURABLE THE PRESIDENT : In view of what the Honourable the Leader of the House has said, I am practically compelled to cancel the meeting which has been fixed for to-morrow. With regard to the motion of which he has given notice, and of which copies have been distributed to Honourable Members in their places, it can hardly have taken the House by surprise in view of the Resolution which was adopted last Session ; and therefore I think that, if, as he suggests, I allow the motion to be put on the list of business for next Tuesday, Honourable Members will have plenty of time to prepare themselves to deal with it.

The Council then adjourned till Eleven of the Clock on Monday, the 17th September, 1928.