

Thursday, 14th February, 1924

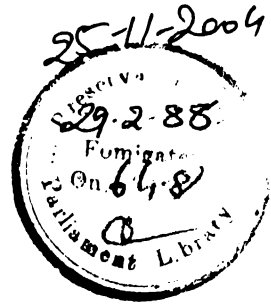
THE
COUNCIL OF STATE DEBATES

(Official Report)

Volume IV, Part I

(From the 30th January to the 25th March 1924)

FOURTH SESSION
OF THE
COUNCIL OF STATE, 1924



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COUNCIL OF STATE.

Thursday, the 14th February, 1924.

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

MEMBER SWORN.

The Honourable Mr. Ernest Burdon, C.I.E. (Army Secretary).

CANTONMENTS BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill to consolidate and amend the law relating to the administration of cantonments, as passed by the Legislative Assembly, be taken into consideration."

The measure of reform which this Bill embodies has been before the country and the Legislature in one shape or another for a considerable time, and I imagine that Honourable Members of this House are generally familiar with the subject. I do not propose therefore to occupy the time of the House with any lengthy observations in support of my motion. At the same time it may be convenient to Honourable Members if I recapitulate as briefly as possible the history of the measure now before us, and outline the general purpose and scope of the Bill.

The question of reforming the system of cantonment administration was first brought into prominence in recent years by the efforts of an association, composed chiefly of persons connected with cantonments, and well acquainted with the problems in which the civilian residents of cantonments have a special interest. In the work of this Association my Honourable friend, Khan Bahadur Ibrahim Haroon Jaffer, a Member of this Council, has always taken an important part. The Association succeeded in gaining the sympathetic attention of my predecessor, General Sir Charles Munro; and in March 1921, the Government of India appointed a Committee, which included representatives of the All-India Cantonments Association, to investigate what steps should be taken to liberalise the existing methods of cantonment administration. The Committee reported in October 1921, and thereafter the Government of India consulted Local Governments in regard to some of the more important changes which the Committee had proposed. In March 1922, His Excellency the Viceroy received a deputation of the All-India Cantonments Association, and on that occasion gave an assurance that Government would carry out such measures of reform as could be adopted without prejudicing the arrangements necessary to safeguard the health, welfare and the discipline of the troops. Later, after replies had been received from Local Governments, a Bill was drafted and introduced in the Legislative Assembly in March 1923. In July 1923, after receiving further opinions on the Bill, as introduced, it was referred to

[His Excellency the Commander-in-Chief.]

a Select Committee of the Legislative Assembly. The report of the Select Committee was unanimous, and the Bill was passed by the Legislative Assembly in July 1923, without the recommendations of the Select Committee being modified in any material respect. This is the Bill which I now ask this House to take into consideration.

The circumstances out of which the demand for reform arose are clearly marked and can be explained in a very simple manner. Cantonments in their origin were military camps; they were created primarily for the accommodation and for the service generally of troops in peace time; and, when they were first established, the needs of the troops constituted the sole consideration by which the system of governing cantonments had to be, and was, determined. Indeed the service of the troops is still the primary requirement; and for this reason cantonments must still remain different in certain respects from municipalities. But in the course of time changes have occurred in cantonments which it is necessary to recognise and to some extent to provide for. The population of cantonments has increased and diversified; and there are now many large cantonment areas in India containing a considerable number of civilian inhabitants, whose presence in cantonments has no specific connection with the troops or with the military administration. It is only natural, and in accordance with the spirit of the times, that in cantonments such as I have described, the civilian population should have come to desire, and desire very keenly, that the government of cantonments should acquire a more progressive and popular character. Institutions which are suited to the purely military government of purely military areas naturally do not commend themselves to men who have seen representative institutions introduced in the general government of the country. It is true that the civilian residents of cantonments voluntarily took up their residence in cantonments and voluntarily exposed themselves to the disabilities of cantonment law. It is also true to a large extent that civilians came to reside in cantonments for their own advantage, and because they appreciated the security and indeed the high standard of efficiency in matters of public health, for example, which were to be found under cantonment administration. These would be logical arguments for refusing to contemplate any measure of change; but Government recognised that they were not practical arguments and accordingly agreed, subject to certain vital reservations, to adapt the administration of cantonments to the more progressive ideas of the present day. The reservations to which I refer are also of a simple character. The fundamental purpose for which cantonments exist must not be lost sight of: they cannot be merely converted into municipalities. Certain special powers must be reserved to Government to safeguard the health, the welfare, and the discipline of the troops; and the means of exercising these powers must also be secured. Fundamentally, therefore, the conception of the Bill now before the House is that it shall serve two well defined purposes, that the provisions of law which it seeks to introduce shall deal justly and fairly with two important interests—the interests of the civil community and the interests of bodies of troops, the two living together in close association. But the interests of troops have to come first. It is impossible to emphasise too strongly the importance of this aspect of the matter, and I ask Honourable Members to bear this basic principle continuously in mind when they come to consider the Bill. There is hardly a part of the Bill on which a proper conclusion can be reached without applying this test.

The main features of reform which have been embodied in the Bill are as follows. Speaking generally, the government of cantonments will be municipalised so far as this is compatible with the special military requirements to which I have previously alluded. In every cantonment of importance there will be a Cantonment Board or Committee. The cantonment magistrate, who is at present the most important and, I am told, the most autocratic functionary in the system of administration, is to disappear. At present he combines in his own person judicial and executive powers. The judicial work which he performs will be transferred to the civil judicial staff of the Provincial Governments, and executive powers will in future be vested in an Executive Officer, who will also be the Secretary to the Cantonment Board. Again, the substantive law relating to cantonment administration will be embodied in a modern Statute, which only the Legislature can alter, instead of, as at present, being contained largely in a Code, which is subject to alteration by the Executive Government. The supervision of cantonment affairs of a strictly municipal character will pass into the hands of the civil Government of the provinces in which the cantonment is situated; and the Cantonment Board in all important cantonments will contain a considerable proportion of elected representatives to safeguard the interests of the civil population. There will be an official majority; but it will be a majority of one.

The special powers which it is proposed to retain for the military authorities need not, for my present purpose, be described in detail. I have already indicated generally what they are. They are powers in respect of matters affecting the health, the welfare, and the discipline of troops. I must explain that we do not propose to take any new powers: we propose only to retain, out of the provisions of the existing Cantonment Act and Code, those powers which are held to be essential for the special purposes which I have mentioned. In order to ensure that Government will have the means of exercising these powers, it is proposed that the Executive Officer, who will also be the Secretary of the Cantonment Board, should be an officer appointed and dismissed by Government. It is proposed further that the same arrangement should obtain in respect of the Health Officer. But Government, as they desire to keep in their hands the power of controlling these officers, will also undertake to meet the cost of their salaries. Again, as I have previously mentioned, there will be an official majority in those cantonments where there is to be an elected Board. Finally, I must not omit to mention the power to exclude from cantonments undesirable persons, especially persons who are likely to contaminate the loyalty and discipline of the troops. This is a power which in recent years has attracted considerable attention amongst those who are interested in cantonment matters: but here, again, for the purpose which my present observations are designed to serve, it will be sufficient to explain that in this case also the power which is sought to be taken is nothing new. Government have had this power for many years under the Cantonment Code. The manner in which the power had been used was carefully investigated before the present Bill was brought before the Legislature, and the provision in the Cantonment Code itself was substantially modified, in the summer of 1922, in the direction of prescribing additional safeguards which would ensure that the extraordinary power of expelling an undesirable person from Cantonments would not be exercised except in cases where it was really necessary to do so. The modified rule in the Cantonment Code to which I refer has therefore actually been in operation for over 18 months, without having given rise to any

[His Excellency the Commander-in-Chief.]

complaint of oppressive use. It is this modified rule which was incorporated in the present Bill, and, in the course of the passage of the Bill through the Legislative Assembly, the safeguards to which I have alluded have been further strengthened. Now, Sir, before I conclude my description of the more important provisions of the Bill itself, there is one central point on which I wish to lay the utmost emphasis. If the reservations which Government have made in framing the Bill were to be waived, then cantonments would not remain cantonments at all; they would merely become municipalities, and I do not think there is any Honourable Member of this House who would take the view that we are in a position to do without cantonments. That, Sir, is the crux of the whole matter.

I now wish, Sir, with the permission of the House, to deal with one or two administrative questions which are not precisely within the scope of the Bill, but which have a very definite bearing upon the working of the system of government which the Bill seeks to introduce. Honourable Members who have studied the Report of the Select Committee of the Legislative Assembly will have seen that that Committee made two recommendations as regards administrative matters, of which the first was that the ultimate control of cantonment administration under the reformed system should be exercised by the Government of India in the Army Department, and not by any executive military authority. They also recommended that the Executive Officer of the cantonment, though he may be a military officer subordinate to the Army Department, should, like the Cantonment Magistrate of the present, be an officer in civil employ. The significance of these two recommendations will be clear to the House, and I am sure that it will interest the House to know that, as part of the administrative arrangements, which we have been recently concerting in the hope that the Bill will be passed, we propose to carry out both these recommendations of the Select Committee. We also propose to adopt another piece of administrative machinery which has been advocated by some of those who have been concerned in the promotion of cantonment reform, namely, we propose to employ, in the initial stages, at any rate, a number of inspecting and advisory officers to assist the Army and District Commanders, and the Executive Officers, in the discharge of the new duties which would be imposed upon them by the provisions of the Bill. We should require these officers to devote their special attention to developing the new institutions in practice so as to extract from them the greatest degree of usefulness. Finally, we propose, if this Bill is passed in its present form, to reserve a number of appointments of Executive officer for Indian military officers; and, if we succeed in obtaining suitable candidates in the first stages, this particular departure would be extended as circumstances permit. Sir, I am myself convinced, and I hope I shall succeed in convincing the Honourable Members of this Council, that the Bill which they are asked to consider is as liberal in its conception as anyone can reasonably expect who desires good government for the country as a whole, and recognises that the military administration of the country has certain special needs which require special consideration; and I think the House will realise from the observations which I have just made, that the purpose of Government is equally liberal in regard to the framing of the administrative machinery which would be required to give effect to the system embodied in the Bill. The changes which it is proposed to introduce will be great; but I myself have little apprehension as regards their result. In the state of development which

economic causes and advancing political conditions have brought about in many of our large cantonments, the work of cantonment administration imposes a severe tax upon the military officers principally concerned, particularly as under our present system they have a very large personal responsibility. Complicated questions of municipal administration, the management of lands, and the legal and financial issues which constantly arise are outside the professional experience of a purely military officer and interfere with his legitimate duties of training troops and administering purely army services. Government have set out to meet this situation in two ways. As, no doubt many Honourable Members of this House are aware, we are, in cases, where it is physically and geographically possible to do so, separating off the purely military area from the area in which the civil population, unconnected with the troops, resides, and reconstituting the latter as a local self-governing body under the civil administration. Where this is done, the cantonment will once more become to a large extent what it was originally, namely, a military camp in which military interests can reign supreme without affecting the ordinary civic life of other sections of the community. There are many cases, however, in which separation is not now feasible, and may never be feasible. For such cases the new system of cantonment administration embodied in the Bill before the House will, we hope, provide an adequate remedy: it is at any rate in our opinion the most suitable remedy which we can devise to meet the interests of all who are concerned. With these remarks, I commend the Bill to the consideration of the House.

THE HONOURABLE MR. HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, I have been looking forward to the day when the new Cantonments Bill would be laid before this *House*, and it is therefore a matter of great pleasure to me that after all the Bill has been presented to-day for consideration by this House. The Bill is a belated measure. The cantonment people expected it to become law in the last year's winter Session of the Central Legislature. The people are therefore very anxious to see that this Bill is passed and given effect to with as little delay as possible.

Sir, the Bill is supposed to embody the principles of the Montagu-Chelmsford scheme of reform with a view to liberalise the cantonment administration and to introduce therein an element of popular control with due regard to military interests. It is my good fortune to have been associated with the scheme of reform of cantonment administration from its very start. I headed a deputation of the representatives of the cantonments civil population that waited upon Sir Charles Munro on 20th April 1920, with a demand for the reform of cantonment administration. That large-hearted statesman sympathised with the demand and appointed a Departmental Committee presided over by Mr. H. D. Craik, to go through the memorandum of the cantonment people's demand presented by that deputation and to report how far the reform indicated in the memorandum was within the range of practical politics. The report of the Craik Committee was sent to the All-India Cantonments Association for an expression of its views and suggestions thereon and the Government of India appointed, in 1921, a representative Cantonment Reform Committee to consider the memorandum of the suggestions of the Association and the report of the Craik Committee and to report to the Government in what form and manner the cantonment law should be revised with a view to introduce in the cantonment administration the spirit of reform. The Committee held its sittings in Delhi for several months and eventually its report was submitted in October 1921. I had to record a *note of dissent*

[Mr. Haroon Jaffer.]

as I felt that in some important matters the recommendations of my Colleagues fell considerably short of what was implied by the introduction of the spirit of reform in the cantonment administration. I advocated an elected majority in the Cantonment Boards to be constituted under the reformed law and the deletion therefrom of the obnoxious clause dealing with the expulsion of cantonment residents.

Such is the brief history of the new Bill that has been laid to-day before the House. Connected as I have been with it, since its very inception, great is my surprise and disappointment when I find on going through the Bill that not only does it not take full cognisance of the note of dissent written by me, but it overrides some of the most important unanimous recommendations of the Government of India Representative Cantonment Reform Committee. The ground work for this enactment prepared by that Committee after an expert examination of the subject, has not been fully availed of, in some very vital points. The future Cantonment Board will be a smaller body than that suggested by the Reform Committee and would not consequently ensure adequate representation of all the interests in cantonments. Then the Reform Committee never contemplated an invidious distinction between the cantonments in the North-West Frontier Province and the rest of India. Under the Bill, the former could have the right of "election" only at the discretion of the Local Government.

Then the Reform Committee has strongly recommended the abolition of the existing excessive control over the Cantonment Boards and has urged that the power to suspend or revise the decisions of Cantonment Boards should rest either in the Command or the Local Government concerned. But the Bill keeps the present objectionable control intact. The District Magistrate, the Officer Commanding the cantonment, the Command and the Local Government—all these four authorities will continue to keep their sword of Damocles hanging over the heads of the Cantonment Boards. The Reform Committee deprecated this unnecessary and crushing control in the following words :

"We recognise and accept the principle that there should be control in certain cases by superior authority, but it is our considered opinion that the number of these authorities is excessive. With this view Mr. Craik's Committee entirely agree. Their number should be restricted to two and some of their powers might without detriment be curtailed."

Again, Sir, we find that the clause dealing with the construction of buildings has been so drafted as to withdraw even the present facilities from the cantonment people. At present an application for the construction of a building not considered by the Cantonment Committee within six weeks stands automatically sanctioned, but the new Bill requires the applicant to give a registered notice to the Cantonment Committee after the expiry of one month and the *automatic sanction* after six weeks is only to follow if such registered notice has been given. Thus while the Cantonment Board is protected from the consequences of its dilatory or indifferent methods of treating such applications, a new *obstacle* has been placed in the way of the people in a matter which concerns their every day life.

Then, again, there is in the Bill the general enhancement of penalties for breaches of municipal rules to an extent unknown in modern municipal administration. Thus under the cover of reform, the chains of law have been tightened.

Let us look at the clause dealing with "expulsion", as it now stands in the Bill. In one respect it is worse than the existing one which is sought

to be improved. Under this clause, a person can be expelled from a cantonment if, in the opinion of the Officer Commanding the cantonment, "he is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's Forces". How is this officer to know whether a certain person is likely to commit such an offence? One can understand punishment for an offence done or attempted, but I have not come across a legal enactment making the supposed inclination of a person to commit a certain offence punishable. And then, who is the official that is to judge of such "likelihood"—a military officer seldom coming in contact with the civil population, not unoften a tool in the hands of the cantonment subordinates and with no legal knowledge and training to find out the truth from the chaff laid before him by interested subordinates and with no extraordinary intellect to discover the propensities of human nature towards the commission of a certain offence. To my mind, this is the most objectionable part of the new clause.

Then the Cantonment Reform Committee has recommended that the person expelled should have the right to demand a judicial trial by the District Magistrate immediately after the inquiry. The present clause provides such subsequent inquiry but it does not state or prescribe its nature. It may be judicial or departmental, and in the latter case, it will, I have every reason to fear, generally be a mere white-wash, a further support lent to the discretion of the Officer Commanding a cantonment. I recommended the entire deletion of such an unjust clause, as the ordinary law of the country was quite sufficient to prevent effectively any sinister attempts made to tamper with the loyalty of the troops. But the clause has been retained in a form far less satisfactory than that recommended by the Reform Committee and has in it ingredients of abuse and, consequently, of real and considerable hardship to the cantonment people.

Again, the Cantonment Reform Committee has recommended that the Cantonment Board may have the power to appoint its own Secretary where the funds may permit it. But the Bill vests this power in the Government of India. There is nothing in the Act to provide that the Cantonment Board can exercise any kind of control over the Secretary, who will be its Executive Officer to carry out its decisions. To my mind the whole arrangement is anomalous. A Cantonment Board, destitute of all control and power over the officer who is to give effect to its "orders" and with no hand in his appointment, is surely not in a position to carry on its affairs in a dignified spirit of responsibility.

I need not specify further instances where the Bill is at variance with the recommendations of the Reform Committee. In its existing form, it has many defects which will perhaps make the cantonment administration stiffer in some respects. But, as I have said above, Sir, the cantonment people are tired of waiting for the new Cantonment Reform Scheme and they want something, *however defective*, to start with. I shall not therefore oppose the consideration of the Bill by the House, though under ordinary circumstances I should have made an earnest appeal to the House to have the Bill recast on the lines indicated by the Reform Committee. I would not, for similar reasons, move any amendments to the Bill; for, in case the House accepts an amendment, the Bill will have to go back to the Assembly and thus be delayed.

I admit that the Bill even with its defects is an improvement on the existing cantonment law, and that even in its present form it will remedy some of the evils of the existing Cantonment administration. I realise that

[Mr. Haroon Jaffer.]

no enactment is perfect when it is first made. Any shortcomings it has and that may come to light, in its actual working, are remedied by a future amending Bill. It is in this hope that I request the House, Sir, to consider and pass the Bill without any amendment. Sir, I know the feelings of my fellow residents of the cantonments who have kindly reposed confidence in me in this matter. They conferred upon me the great honor of electing me as the President of their Conference, in the Meerut session when the Cantonment Reform was discussed and deliberated upon, in all its essential details. With the trust they so generously place in me, I am in a position to say that they desire the Bill to become law immediately and not to subject it to any further delay by trying to get its defects remedied by moving amendments. I yield to this popular desire and I hope, Sir, that this House will extend a similar regard to the wishes of the cantonment people in this connection and pass the Bill in its existing form.

THE HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, I rise to support the Bill. His Excellency the Commander-in-Chief in the course of his speech has given weighty reasons in support of the measure which he has introduced into this Council. He has traced the history of this Bill from the very beginning and Honourable Members will realise that the history which he has outlined gives a full account of the vicissitudes through which this Bill has passed. He has expressed in eloquent terms the important change which has been made in the administration of the cantonments. He has said that a very substantial step forward has been made by separating the judicial functions from the Executive. From this, Sir, it is clear that, if the civil judicial functions are exercised by a civil judicial officer who is to be appointed by the civil authorities, there can be no fear of any miscarriage of justice. There may be flaws in this Bill, but is there any law in the world which is free from flaws? It is said that the laws of the Medes and Persians change not, but the present laws have constantly been changed and amended. And, if in the light of future experience, there are any defects left, it is open to the Legislature to suggest remedies and amend the law.

My Honourable friend, the Honourable Mr. Haroon Jaffer, said that this Bill overrides some of the most important suggestions made during the course of the deliberations of the Committee. Well, Sir, it may override certain opinions, but the question is whether the head of the Military Department, that is, the Commander-in-Chief, who is responsible for the administration and discipline and good spirit of the Army, is to have any voice in the administration of the Cantonment. If he is divested of all authority or authority which may invest him with discretion, I do not think that he can take responsibility for the good discipline and good behaviour of the troops.

THE HONOURABLE MR. HAROON JAFFER: The representatives of the military were there in the Committee.

THE HONOURABLE SIR ZULFIQAR ALI KHAN: I again assert that, whatever opinions the members may have had, the Commander-in-Chief must finally be held responsible for the functions which he discharges in India and, if he is dissatisfied with any suggestion or does not accept it, I for one would support him in his opinion. There is no administration which can afford to interfere in the administration of the military. It is the one power in every country which gives hope of stability of administration and which maintains peace and order. If that power is weakened,

I do not know what may happen. It is not so in India alone. Take any country in the world—take the countries of Europe even—there is not one that can afford to dispense with this kind of authority. Sir, in China we see the conditions which prevail at present. It is broken up into bits because there is no central authority left and the military power, which in a well-organised administration exercises full functions, is weakened there; and, if the same conditions prevail in India, Honourable Members can understand that the peace of the country is jeopardised.

My Honourable friend, in the course of his speech, said that any man whom the military authorities may suspect may be expelled. Well, it stands to reason that any man who tampers with the loyalty of the troops or their discipline cannot be left to play the fool or play with fire, and the Commander-in-Chief, who is ultimately responsible, must see that his troops remain in a condition in which they can well discharge their duties.

With these views, Sir, I strongly support the Bill which has been put forward by His Excellency the Commander-in-Chief.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General): Sir, though I am prepared to admit that the present Bill marks a distinct and substantial advance on the old Act, I will not go so far as to admit that this Bill is a perfect one and redresses effectively the long catalogue of grievances of the civil populations residing in military cantonments. As a measure which makes very many salutary improvements on the working of the old Act and which effectively supplies the civil population with a larger measure of safety, peace, and protection and ensures adequate provisions for their health and sanitation, I welcome this Bill, but I still think that this Bill does not come up to that high standard of efficiency and convenience which one would ordinarily expect to prevail in all places where a large body of the civil population resides. His Excellency the Commander-in-Chief has stated and brought forcibly to the notice of the Council that it is the primary object of the Cantonment law and authority to look after the interests of the military population. No body can possibly challenge that statement. It is true that adequate provisions should be made for the health and safety of the military population and all measures should be adopted to look after their comfort and prevent their population or contamination and also breaches of discipline. Though agreeing with that proposition, it must also be borne in mind that the cantonments of our present age are not solely the isolated military cantonments of the past. In most of the present cantonments a large civil population resides, and that population is progressively increasing year after year. New trades and new occupations are brought into these cantonments daily and the cantonment revenue is very largely supplemented by the industry and the trade of the civil population. It is therefore necessary that the civil population should be well protected, not only in their trades and occupations but from the many inconveniences and hardships which they are ordinarily subjected to in some cantonments. I acknowledge, therefore, with gratitude the changes made in this new Bill, and we are grateful for this great improvement to His Excellency the Commander-in-Chief who in his sympathy for the civil population has accorded a fair measure of relief by this Bill. Though the Bill is not a perfect one, though the Bill does not meet adequately the existing needs, conveniences and requirements of the civil population, yet it ought in my opinion to be accepted as it stands at present as a piece of progressive and improved legislation, leaving it to later times to make such further improvements as may be found necessary. I agree with my friend the

[Sir Maneckji Dadabhoy.]

Honourable Mr. Haroon Jaffer that it will serve no useful purpose if any amendments are proposed at this stage and the passage of the Bill is unduly delayed. The grievances in military cantonments are still very numerous. Of late, the civil population in cantonments have got tired of the administration under the old Act. This Bill specially marks a great improvement in the matter of the constitution of Cantonment Boards, as it permits the civil population to elect their representatives. The old autocratic and arbitrary authority of the Cantonment Magistrate is destroyed and a Cantonment Board is created to whose notice the grievances of the civil population may be brought and redressed. It is true that the representation given is not adequate. But at present the Bill marks a distinct step towards a fuller and more adequate representation and as such I support it. Formerly, too, Sir, there were many difficulties under the old Act in the way of people going to reside in cantonments and carrying on their ordinary avocations. This Bill fortunately effects a great improvement in that direction and many of those harassing and irritating disabilities have been removed, thanks to the generous foresight of His Excellency the Commander-in-Chief and to the sympathy with which he has looked into the matter. Another great improvement which this Bill makes is that the executive orders will not remain unassailed and undisputed as hitherto. Under the old Act, erroneous executive orders passed by an arbitrary magistrate remained unredressed. A right of appeal is now given under the present Bill for the correction and modification of those orders. Another great advantage which is secured is that formerly residents in cantonments were not in a position to lay their case in person and more effectively before the Cantonment Magistrate and the military authorities, but the people, under the present Bill, are allowed to represent their cases to local authorities through legal practitioners. I remember that in olden times when I went to the cantonment of Kamptee to lay the grievances of certain of my clients I was sometimes definitely told that I was not required there. Fortunately, this Bill in a statutory manner dispenses with that unfortunate prohibition. Sir, on the whole this Act is a great improvement on the past. We are thankful that this has been brought about with as much despatch as possible, and we hope that this Bill will be passed to-day, in order that it may be put into working operation immediately to the satisfaction not only of the military but also of the civil population. I therefore support this Bill as it stands though realising its many imperfections.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab: Muhammadan): Sir, my burden has been greatly lightened by my friend the Honourable Sir Zulfiqar Ali Khan who has said most of what I wanted to say. Personally I think that there was not much use in bringing this Bill at all, because, as we have heard from His Excellency, the cantonments were primarily intended for soldiers. If any civilians went there, it was for their own benefit. They went as secondary persons and they ought to have been liable to all the discipline which was meant for the soldiers. It is not right to behave like the camel that went to hide its head in an old woman's hut, then put its neck in and then all its body, and she had to go out. If the civilian population were to go into cantonments like that, then the army would have to go somewhere else. Once I said, in order to help my friend the Honourable Mr. Ibrahim Haroon Jaffer when he brought a Bill, that when a man did not want to pay anything for his sheep, when he was told to separate his one sheep,

he said, 'you separate the flock from my sheep'. In this way, when one man does get at the fidelity of the troops, our friends will say, " Instead of that man being removed, let all the thousands of troops be taken away from the cantonments ". The army is meant to quell disturbances when there is trouble somewhere else. If there is trouble created in their own home in the cantonments, are they going to put down the disturbances in the cantonments or are they going out to do duty somewhere else? Some of the parties which have created trouble in our country were first confined only to their own homes, that is big cities. Now, they have gone into the country from where the army is recruited, and if they are further allowed to pursue the soldiers into the cantonments, I think it is time that such a thing was stopped. This Bill has gone further than even the civil areas. In the civil areas, the judicial and the executive are not separated yet. But here, in the cantonments, they have gone one step further and separated the judicial from the executive. It is said that when you put gold on steel it melts. These cantonments people have got lots of money earned from cantonments and from the troops in one way or the other. They have united together and they have been able to do whatever they liked. But as you have heard from His Excellency the Commander-in-Chief, there is still something left in the powers of the army officers by which they can expel undesirables. So I think I should not raise further objections and let the Bill go and be passed as it is.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I rise to support the motion before the House. In doing so, however, I wish to allude to what took place in connection with the opinions that were called for from the Local Governments. Coming as I do from Bombay, I notice that among the papers supplied to the Honourable Members there is a print containing the opinion of the Bombay Government—I refer to Opinion No. 15, Paper No. 8. Referring to the Select Committee's report, however, I do not find at the top any reference to this Paper No. 8 as one having been placed before the Select Committee. Possibly, the Select Committee may have some idea about the opinion of the Bombay Government. But I welcome this Bill inasmuch as it introduces the principle of election in the Boards that are to be constituted under the Bill when it becomes an Act. I gather from the opinion of the Bombay Government that they were not in favour of the introduction of the elective franchise in the Boards to be constituted under the Bill. If the opinion had stood there, I would have had very little to say, but the Bombay Government in advocating, in sticking to, the older procedure which did not admit of elective franchise

THE HONOURABLE THE PRESIDENT: Do I understand the Honourable Member to say that the opinion of the Bombay Government is embodied in the Bill or that it is not so embodied?

THE HONOURABLE MR. R. P. KARANDIKAR: I shall just come to it in a minute. I was just on this point that the Government of Bombay advocated that the old policy should be followed. Sir, I am not here to support the reasons given by the Government of Bombay for sticking to the old practice. I am happy to find that the present Bill is a departure from the recommendation of the Bombay Government and it is in that sense that I welcome this Bill. The reasons given by the Bombay Government may not interest Honourable Members here inasmuch as the whole Bill has been threshed out in the Assembly. There were fifty amendments—I am not quite sure of the number that were put forward—some of them

[Mr. R. P. Karandikar.]

were accepted, though they were few, and the Bill has emerged from the Lower House and deserves to be accepted in principle. I welcome this Bill in spite of its various defects which perhaps I may have an occasion to allude to as it goes on in its further progress, but it is for the very reason that it introduces the principle of election in a body which belongs to a cantonment, which has not been hitherto looked upon as either India or British India in consequence of the anomalous provisions of the Cantonment Code, that I support the Bill.

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): It is very naturally a source of considerable satisfaction to us on this side of the House that Honourable Members who are known to keep a vigilant watch over the rights of the civil population as well as the proprietors of house property in cantonments have given their blessing to the Bill which is now before the House. Only two main criticisms have been addressed in so far as this measure is concerned. One was, if I may venture so to characterise it, of a general description and the other was more particular. The general criticism regarding this measure, which was made by my Honourable friend, Sir Maneckji Dadabhoi, was that the Bill is by no means a perfect one. Well, Sir, perfection is unfortunately not a human attribute, and more particularly in a country where social and political conditions are undergoing changes with lightning rapidity, no legislative enactment can to my mind be devised which critics like my Honourable friend would admit to be perfect. The second criticism fell from the lips of my Honourable friend, Mr. Haroon Jaffer, and it is mainly directed towards that provision in the Bill which provides for exclusion of seditious persons from cantonments. In connection with that clause in the Bill my Honourable friend evinced considerable concern. I propose in the few observations which I am about to offer, to show to the House that there is in reality no cause whatever for such concern. Now, if Honourable Members will turn to clause 239 of the Bill, they will find that what that clause lays down is this:

"If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's forces . . ."

So you will see that the acts which are brought within the purview of this clause are acts the results of which will happen not among the civil population of the cantonment concerned, but among the military forces in the cantonment.

"or is person who, the Commanding Officer of the cantonment has reason to believe, is likely to do any such act . . ."

Again being confined in its results to the military forces present in the cantonment.

"the Commanding Officer of the cantonment may make an order in writing setting forth the reasons for the making of the same and requiring such persons to remove from the cantonment within such time as may be specified in the order."

THE HONOURABLE MR. R. P. KARANDIKAR: Remove to where?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: He will have the fullest liberty of movement throughout India except the limits of the particular cantonment.

"and prohibiting him from re-entering it without the permission in writing of the Commanding Officer of the cantonment :"

You will see, therefore, that the Commanding Officer must in his order set forth his reasons for making the order. That is the first safeguard provided for excluding the possibility of any arbitrary orders of this description being made. Then there is a proviso to this effect:

"Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made."

It will thus be seen that even in so far as the Commanding Officer's action is concerned, it is essential that the Commanding Officer should issue a notice to the person concerned stating his reasons and giving him reasonable opportunity to show cause why such an order should not be made. Well, Sir, assuming that a Commanding Officer is thinking of taking action against any individual resident of the cantonment area under this clause it is clear that he must first give him due notice of that action stating his reasons for that action. He must, further, give him a reasonable opportunity to show cause why such action should not be taken against him.

If, in spite of this, the Commanding Officer thinks fit to make his order absolute, the matter does not stop there. The Commanding Officer must under sub-clause (3) of this clause after the making of any order under sub-section (1) forthwith send a copy of the same to the Local Government. As soon as he has made that order, he is bound to report to the Local Government that he has made an order of exclusion against the person concerned. After receipt of this report from the Commanding Officer according to sub-clause (4).

"the Local Government may, of its own motion and shall, (notice the obligatory character of this sub-clause)' on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call upon the District Magistrate to make, after such inquiry as the Local Government may prescribe, a report regarding the justice of the order and the necessity therefor."

Not only the justice but also the necessity therefor.

"At every such inquiry the person against whom the order has been made shall be given an opportunity of being heard in his own defence."

So, this person is first given an opportunity of being heard in his own defence under the first sub-clause of this clause before the Commanding Officer, and if the Commanding Officer, in spite of the cause shown by the person concerned, has made his preliminary order of exclusion absolute against him, he has again a second opportunity of being heard before the District Magistrate and the Local Government. The Local Government shall direct an inquiry to be made by the District Magistrate regarding the justice as well as the necessity of the order that has been made by the Commanding Officer and during that inquiry the person concerned will, as you notice from the language of the clause, have the fullest opportunity of showing cause again. But the matter does not rest there. The Local Government is required under sub-clause (5):

"at any time after the receipt of a copy of an order sent under sub-section (3), or where a report has been called for under sub-section (4), on receipt of that report, if it is of opinion that the order should be varied or rescinded, refer the case to the Governor General in Council, who shall pass such orders thereon as he thinks fit."

THE HONOURABLE MR. HAROON JAFFER: Where will that person be when this inquiry goes on?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Which inquiry? There are two inquiries. Please refer to the particular inquiry in order to enable me to give an answer.

THE HONOURABLE MR. HAROON JAFFER: Will he be excluded from the cantonment?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: It will be obvious to my Honourable friend, if he will cast even a casual glance at the various provisions embodied in this clause, that the person concerned will be within the cantonment boundaries during the first inquiry when notice has been issued to him by the Commanding Officer and he comes forward to show cause. Before the order is made absolute the man will still be within the cantonment. After the order has been passed by the Cantonment Officer he may have to clear out, but within one month from the date of that order he again will have an opportunity of making his representations to the Local Government and the District Magistrate of the district will make inquiries. This man will appear before him and show cause to him why the order should not have been made. It is absolutely immaterial whether during the second inquiry the person concerned is still actually residing within the cantonment area or not so long as he is given this opportunity by the law of appearing before the District Magistrate during the course of the inquiry ordered by the Local Government to show cause against the order and to have the fullest opportunity of showing such cause in his own defence.

(The Honourable Mr. Haroon Jaffer again rose to interrupt.)

THE HONOURABLE THE PRESIDENT: The Honourable Member has already made his speech.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal: Non-Muhammadan): As a member of the Select Committee that had to deal with this important measure in the Legislative Assembly, I desire to have an opportunity of clearing up some of the misapprehensions underlying the speech of the Honourable Mr. Haroon Jaffer. He has made several points, one of which has been dealt with by the Honourable the Law Member and which I could hardly have dealt with. But there are three other matters, Sir, to which I may well call attention. The first is his complaint regarding the differentiation between cantonments and cantonments and his complaint is that cantonments in the North-West Frontier Province have been denied the privileges of election for the Cantonment Board. The Select Committee carefully went into the matter and, if my Honourable friend had done the Select Committee the honour of reading its Report, he would have found against clause 14 this statement that the Select Committee brought out, namely, that the elective principle has not yet been generally applied in the case of municipalities themselves in that province. If he has any complaints, and I believe the complaints are well-grounded, they ought to be addressed in the first instance to the civil authorities of the North-West Frontier Province to have their municipalities based on elective principles. Therefore, I do not think there is anything in that ground of objection.

The next point that he brought out was with regard to the appointment of executive officers by the Government of India. This was certainly a sore point and the Select Committee did the very best it could. And here again, if my Honourable friend had looked at the Report of the Select

Committee, he would have found that the Government of India may empower any particular Board to appoint its own executive officer, subject to any condition that the Government of India may think fit. The object of this latter provision is to enable the powers of the Board to be extended to a later date if circumstances render it necessary or desirable to do so. This is frankly a tentative measure, a large experiment, and Government naturally on the advice of the military authorities decided that, where a clear case for delegation of this power to the Board could not be made out, Government for the present would reserve that power. And, so far as the payment of the salary of this officer is concerned, it has been taken over by the Government themselves and is not a charge on the revenues of the Board.

Sir, then there was complaint with regard to the withdrawal of facilities for proceeding with a building, if the military authorities—shall I say with their usual negligence—overlook the application and do not answer for six weeks. Well, we have a clause like that in the municipal law also and the military authorities thought that it ought not to stand because they are, I suppose, a proverbially negligent people. What the Select Committee did was that a month's notice after the application was made and before the expiry of the six months should be insisted upon and, even then if they continue to be negligent, why then there was a clear field. Sir, we have heard of the extension of representative principles regarding the elections on this Board. May I draw my friend's attention to clause 28 where the Select Committee succeeded in getting a very important concession, namely, that those who are subject to military law cannot be qualified for election as a member of the Cantonment Board. That is carrying the principle much further than the Select Committee had hoped to be able to do. Well, they have the right of voting—powers of voting such as the Honourable the Law Member claimed the other day with regard to the votes of free and independent Members on the Governments Benches, when an appeal was made to him to tell them not to vote. The tax-payer has the right of voting and the tax-payer votes here. (*The Honourable Dr. Mian Sir Muhammad Shafi*: "I said as tax-payers.") Quite so, and that is what I am saying. As tax-payers the military people have a right to vote but they cannot stand. That, I think, is an important concession, the counterpart of which does not find place in any other municipal law that I am aware of.

Well, Sir, therefore, from the few matters that I have brought to the notice of this House, the House will see that there is nothing really in the complaints of the Honourable Mr. Haroon Jaffer. And I am at liberty to tell him and this House that the matter was very fully considered by the Select Committee—I am not going to say what happened in the Select Committee because that is not considered good form—but I am at liberty to say that the members of the Select Committee had long and anxious conferences with the representatives of the Cantonment Association, of which my friend is the worthy President, and what they decided upon was to concentrate their attention on the things that mattered and upon those points, I think, those who represented them and the non-official members on the Select Committee had generally their way. I am grateful, Sir, that His Excellency the Commander-in-Chief has informed us that the two very important matters which the Select Committee could not embody in its Report proper, but regarding which they made representations, have been accepted by the Government. Well, the result of it all is that, although we are not going to have a perfect measure, we have a measure which certainly

[Dr. Sir Deva Prasad Sarvadhikary.]

will add to the value of cantonment properties. I quoted an advertisement before, and I shall do it again, free of cost. The advertisement says :

“New Cantonment Bill will put up cantonment property 25 to 50 per cent. Many railway retired men wishing to buy property to stay on as it is cheaper, healthier, and more select than civil lines. All worries removed by this Bill. Safer investment than banking. A few houses can be had if applied for.”

I would recommend my friend to apply for a few more houses if he has not already done so. This Bill represents a marked advance upon what we had. I think, Sir, we cannot do better than to express our obligations to His Excellency the Commander-in-Chief, the Honourable Mr. Burdon, and Colonel Palin, who assisted the passage of this Bill in the Indian Legislative Assembly, where, under the agreement which we had arrived at with representatives of the Cantonment Association, amendments on lines that have been suggested to-day were moved in the Assembly, the proceedings covering no less than 49 pages. Every one of those amendments and many more were considered and given the go-by by the good sense of the Assembly, and, therefore, Sir, if I may urge it again, I would ask this House to pass this Bill unamended.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I am gratified at the reception that this Bill has received and I do not know that I can do more than to thank Honourable Members for having expressed their appreciation of the trouble that Mr. Burdon, Colonel Palin and myself have taken for the past year or more in order to get this Bill into harmony with the various requirements of the bodies concerned.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to consolidate and amend the law relating to the administration of cantonments, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The Council will proceed to the detailed consideration of the Bill.

Chapter I (clauses 1 and 2) was added to the Bill.

Chapter II (clauses 3 to 9) was added to the Bill.

Chapter III (clauses 10 to 55) was added to the Bill.

Chapter IV (clauses 56 to 59) was added to the Bill.

Chapter V (clauses 60 to 105) was added to the Bill.

THE HONOURABLE THE PRESIDENT: As I observe that there is no desire on the part of Honourable Members to make comments on these clauses, I propose to put the Bill Chapter by Chapter till I come to the clause which I understand is of some interest.

Chapters VI, VII, VIII, IX, X, XI, XII and XIII were added to the Bill.

Clauses 235, 236, 237 and 238 were added to the Bill.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhammadan): Sir, I have considered this clause 239 and from one point of view that has been urged upon the attention of this House it is desirable not to allow our army to be affected by anything that is undesirable. I have tried to discover in this Bill where this individual who is asked to remove has to

go. We have no such measure as repatriation or to ask the man to go back to any particular locality which may or may not be known to the authority directing the withdrawal of the individual. On the analogy of the evacuation of olden days where there was a difficulty in the way of administration,—people considered it most desirable that citizens and others that had to remove themselves from an infected locality should be provided with some residences outside the infected locality where they might go and stay.

THE HONOURABLE SIR MANECKJI DADABHOY: The man ought to go to jail.

THE HONOURABLE MR. R. P. KARANDIKAR: I could not hear my Honourable friend. My point in this case is that the law would be defective, clause 239 would be defective in operation. If it were a matter for the civil population outside the cantonment limits, I would go and advise the civil population outside the cantonment limits not to admit that man within their sphere. Why should a man so rejected and ejected by the cantonment authorities be acceptable to people who live outside the cantonment limits? If he is detestable to the cantonment authorities, he must be looked upon in the same spirit and in the same light by the other people who occupy regions outside the cantonment. Nor is it stated that this is to be limited only to a sojourner who perhaps may come up for the time being and try to interfere with the loyalty of the troops. There may be an occasion to find out where the man comes from. It would be very easy for the Magistrate to direct his steps backwards to the place from where he came. But I do not know that the cantonment authorities have got any influence outside the cantonment limits to regulate the residence or the movements of the man who is so ejected. I accept the situation created by clause 239 apart from the merits or demerits of the proposition whether the cantonment authority should possess a power like that. In actual practice, unless I am satisfied that it is a workable proposition, it would be very difficult for me to vote in favour of it. I have nothing to say with reference to the merits of clause 239. I know that it had been debated upon in the Assembly. The amendments proposed were considered and the clause has emerged in a certain form in which it now appears before us. I yet doubt whether the provisions of Regulation III of 1818 should be reproduced in the form of a small clause like clause 239 without creating a hubbub about it as the application of Regulation III of 1818 might create all through India. It is not a simple measure that is brought forward in this small clause 239. I am not in favour of such a clause like this, which will interfere largely with the liberty of the people. If there is the Indian Penal Code which arms the judiciary of the civil population to deal with offences, I do not know why the cantonment authorities should find themselves unable to put the sections of that Code into operation against any person who commits an infringement thereof. As my Honourable friend has put it, if it is for the intention that a man is to be punished we transgress the fundamental principles of law. Attempts we know are punishable when there is some overt act which I gather from the remarks of the Leader of the House is covered by clause 239. By all means those acts do amount to an attempt under section 511 of the Indian Penal Code. Directly there is an overt act, reach the man under the Penal Code. Exclusion of him from a certain locality is an infliction upon other people. Is it thought that the Penal Code cannot reach this man, or, that the Criminal Procedure Code—those debatable sections 108 and others I forget which—cannot be put into

[Mr. R. P. Karandikar.]

operation against this man? (*A Voice*: "124A"). Section 124A might stir up the Government of Bombay or the Government of the Province concerned and the cantonment authorities may not care to ruffle up the quiet of the Provincial and other Governments. I do not know whether section 124A can be put into operation without the sanction of higher authorities, but this section empowers the cantonment authorities without any reference

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Without any reference to higher authorities?

THE HONOURABLE MR. R. P. KARANDIKAR: The higher authorities contemplated by section 124A. I should be glad to be corrected, but it seems to me that this clause 239 places an extraordinary power in the hands of cantonment authorities, and unless they are controlled by safeguards I should think that it will not be advisable to allow this clause to stand as it is. I am as solicitous as any one else about the regard we must have for the safety of our troops on which the security of India is said to depend. I do not want to trespass upon your time, but Sir, unless I am satisfied that there are safeguards in this clause 239 which will enable a man to find his residence somewhere else—I should have preferred to find his residence in jail—it will be very difficult for me to vote for this clause.

THE HONOURABLE MR. E. BURDON (Army Secretary): Sir, if I have understood my Honourable friend aright, he is really asking for some more drastic provision than that which is included in this particular clause.

THE HONOURABLE MR. R. P. KARANDIKAR: You will find it offensive enough.

THE HONOURABLE MR. E. BURDON: But in any case I shall limit my remarks to explaining what the practical effect of this clause is and what it amounts to in practice. As His Excellency the Commander-in-Chief explained in his observations made earlier to-day, a very much more drastic section than this was in force for many years under section 216 of the Cantonment Code. The severe nature of that section, as it was regarded in certain quarters, attracted a considerable amount of attention two or three years ago, and, as a result of representations received by Government, section 216 of the Cantonment Code was amended in July 1922 after the usual process of publication and inviting opinions from the public. Clause 239 of the Bill is, in fact, section 216 of the Cantonment Code as then amended but with certain further safeguards introduced by the Select Committee which dealt with this Bill in the Legislative Assembly, those safeguards being for the purpose of protecting the liberty of the subject against any undue inroads. Well, Sir, not very long ago, the Government were asked to undertake an investigation to ascertain how section 216 of the Cantonment Code had worked in practice, and the inquiries which we then made had very remarkable results. The total population of cantonments in India is something like three-quarters of a million. Our inquiries extended over a period of seven years, and we found that in those seven years only 27 cases of exclusion on the ground of undesirable political activities had occurred in all the cantonments in India—27 cases in seven years amongst a population of three-quarters of a million. There was a further rather remarkable circumstance which was revealed, namely, that out of those seven years there were four years in which no case at all took

place. All the 27 cases took place in the years 1919-1922, the period which witnessed the rise of the non-co-operation movement and the development of a propaganda which aimed at the subversion of Government. In other words, the section was not used at all except during a period, when, as I think every Honourable Member of this House will agree, the existence of this section was specially necessary. Now, Sir, I have already mentioned that the older and more drastic provision of the Cantonment Code was amended in 1922, and since then the revised section has been in force with considerably more safeguards to the subject than had existed under the old section. I have heard of no case of expulsion or exclusion having taken place since then. My Honourable friend, Dr. Mian Sir Muhammad Shafi has explained to the House in great detail what these safeguards amount to. There is, however, a practical aspect of the matter which I should like to bring to the notice of the House, and it is this. My Honourable friend, the Leader of the House, explained what would happen to the subject, who came within the purview of this clause, from the beginning to the end. But my own belief is that these safeguards are so strong and the complications of procedure are so great, that it is most improbable that any military officer commanding a cantonment will ever put the clause in force at all unless he has an absolutely clear case—a case which is certain to stand the subsequent inquiry by the District Magistrate, the reference to the Local Government and the final reference to the Governor General in Council.

Now, Sir, my Honourable friend took another point. He said, what are we going to do with this very troublesome person who is removed from the cantonment? Is the result not rather unfortunate for the outside world on which he is cast? Well, Sir, it is by this observation, I think, that the Honourable Member asked us to impose a severer penalty than we ourselves contemplate or indeed than we ourselves think to be necessary.

THE HONOURABLE MR. R. P. KARANDIKAR: Why not use the ordinary law?

THE HONOURABLE MR. E. BURDON: The ordinary law has not been sufficient for purely preventive purposes. It is not only in the case of offences described in clause 239 that preventive powers are considered to be necessary. They also exist in the ordinary criminal law of the country. In any event, Sir, to turn again to the practical aspect of the question, in the 27 cases which did occur in the period of four years which I have mentioned there has been no practical difficulty so far as we are aware in the way of the excluded person finding an asylum outside. And, Sir, I should like to draw the Honourable Members' attention to the sixth sub-clause of clause 239 which provides that cases of exclusion and expulsion can be reviewed by the local military authority; and, if the excluded person will only take the trouble to behave himself and not interfere with the troops, he can come back and live in the cantonment. Now, Sir, to reinforce the point of the observation which I have just made, the 27 cases were reviewed by Government at the request of the public. They have been I think reviewed twice, and in the end the majority of the persons who were excluded or at any rate a very large proportion of them have given guarantees for good behaviour. They returned to the cantonments and the order of expulsion against them has been cancelled. I have endeavoured to explain what the practical working of this clause will be. I

[Mr. E. Burdon.]

hope that I have been able to satisfy my Honourable friends that it is not open to serious objection.

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: After what my Honourable friend Mr. Burdon has said in reply to the Honourable Mr. Karandikar's criticism relating to this clause, there is one observation I would like to add. What the Honourable Mr. Karandikar wants in effect to do is that action under this section should be supplemented by action under the old Regulation III of 1818 by interning the man somewhere else.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces : Nominated Official): Sir, I thought the Honourable the Law Member had explained all the points connected with this clause 239 in full, detail and I did not think that any such necessity of explaining the safeguards further would arise, but as it has arisen I might just as well explain in a few words that the safeguards which have actually been provided in this clause itself appear to me to be perfectly all right and absolutely in conformity with all reasonable expectations. I hope, Sir, that I am not giving out any official secrets if I explain to this House that I am one of those persons against whom I believe—I do not know it for a fact—a warrant for deportation under Regulation III of 1818 was once issued. I happened to be, Sir, a Deputy Superintendent of Police in the Etawah district. One of the Inspectors of Police under myself took it into his head to fabricate a case against me because I had taken certain steps in my official capacity which did not reflect much credit upon that Inspector and he created a regular case. The Superintendent of Police was taken in and he was deceived. The District Magistrate was also taken in and was deceived. A report was sent to Government and I understand, Sir,—I cannot guarantee it—that a regular warrant was issued against me and orders were issued for my arrest and also for that of two or three other individuals in the Etawah district. I even heard that a special train was waiting for me at Tundla. I do not know what would have been my destiny if I had been deported in 1907. Well, what happened was, I understand, that the warrants were made over to Mr. Tretheny, who was then the Inspector General of Police in the United Provinces. He looked at them and he suspected that everything was not all right. He took the papers to Sir John Hewett, the then Lieutenant-Governor

THE HONOURABLE THE PRESIDENT: I am unwilling to interrupt the Honourable Member in his maiden speech but he must come nearer to the clause.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA: I come to the point that I want to bring out before the House. What I mean to say is that there was in my case only one safeguard; Mr. Tretheny happened to see the papers and he suspected that they were not genuine. He took the papers to the Lieutenant-Governor who also suspected that there was something wrong. He told Mr. Tretheny—this is of course all hearsay and I cannot vouch for it—he told Mr. Tretheny to satisfy himself before arresting these people, and this gave me a chance. I convinced him that it was absolutely a false thing from beginning to end. The papers were forgeries and the tables were turned immediately. Not only this, but a warrant of arrest was issued against the forger who had happened to be mentioned by me by a mere chance. I would not relate the whole

incident, interesting as it is. Of course it is irrelevant to the point at issue before this House. A warrant of arrest was issued against the man and he was criminally prosecuted before a Court of justice and he got 14 years' rigorous imprisonment or transportation. There was one little safeguard in this case. Mr. Tretheny happened to see the papers and he suspected there was a forgery. Instead of one little safeguard, you have here three safeguards. The man will be called upon to explain why he should not be expelled. He will be given an opportunity of explaining his good conduct to the military authorities. If they do not hear him he will be given an opportunity of explaining his good conduct to the District Magistrate and to the Government. Then again under sub-clause (6)

"any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the Officer Commanding-in-Chief, the Command, for the rescission of the same,"

and he will have yet another opportunity. I think that the safeguards provided in this clause are quite ample and if the man is really honest and if he has not committed anything which is wrong, he has nothing to fear. As to the other point which my Honourable friend, Mr. Karandikar, has raised, I suppose, Sir, as the Honourable the Law Member has pointed out, he has the whole of India to go to and if he cannot find any place at all where he can be tolerated, then he may be certain that the only place fit for him to live in is the jail. I hope, Sir, that no such real human being will be found who will not be actually tolerated in any place throughout India; so this concern is probably unjustified. I think, Sir, that, in view of all these safeguards, it is quite reasonable for us to pass this clause as it stands.

THE HONOURABLE SIR NARASIMHA SARMA (Education, Health and Lands Member): I think, Sir, after this interesting debate there might be no necessity for further dilating upon the matter, but the first point which Mr. Karandikar seems to have made was as to why the person who is excluded from the cantonment and therefore prevented from earning his livelihood there should not be maintained by the State during the period of exclusion just as a man who is interned under Regulation III of 1818 is supported during the period of internment; and the second point was as to why, if the man is really objectionable, proceedings should not be taken under the Code of Criminal Procedure or the Indian Penal Code, and why the provisions of this section should be enforced against him.

Now, with regard to the second point, there is nothing to preclude the authorities from proceeding against the person, against whom the provisions of this section might be enforced, under the provisions of the Criminal Procedure Code or the Indian Penal Code, if the case is of sufficient importance as to justify the enforcement of the penal law of the land against the person and if the case warrants such action. Certainly the public outside the cantonments would not be contaminated by the presence of this individual. Therefore, I do not think the Honourable Member need be very anxious on the score that he would be let off if the authorities think that other punishments are more suitable than mere expulsion.

With regard to the first point, namely, as to why, if he is excluded from the cantonment, the State should not maintain him. I take it that the person would not thank the Honourable Member for suggesting the process contemplated by Regulation III because Regulation III of 1818 contemplates

[Sir Narasimha Sarma.]

the internment of the person, at any rate preventing him from roaming about at his own sweet will and pleasure, and having his liberty outside certain limits, whereas here, except within the particular cantonment area, the man has the liberty of earning his living anywhere else, and I think, therefore, the State should not and cannot be expected to pay for his living when the whole world is open to him, and he himself would not thank any Members of this Council for enforcing virtually the provisions of Regulation III of 1818 against him. I think, therefore, Sir, the Honourable Mr. Karandikar will on further consideration see that this is intended only as a preventive measure and is not intended to be utilised as a weapon of oppression, and I do not think he would be well advised in asking the Government to be more severe than the necessities of the case may require.

Clauses 239 and 240 were added to the Bill.

Chapter XV (clauses 241 to 279) was added to the Bill.

Chapter XVI (clauses 280 to 285) was added to the Bill.

Chapter XVII (clauses 286 to 292) was added to the Bill.

Schedules I to VI were added to the Bill.

The Preamble was added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move:

"That the Bill, as passed by the Legislative Assembly, be now passed."

THE HONOURABLE MR. HAROON JAFFER: Sir, at the introduction of the Bill, I requested the House to pass the Bill in the form in which it was presented for the reason that the people of the cantonments were anxious to have something more responsive to the newly-awakened ideas and aspirations. I am grateful to the House for responding to the wishes of the cantonment people in this matter, and from the floor of this House, I would now make the same earnest appeal to the Government, not to lose any time in bringing the Bill on the Statute-book and in its actual introduction.

Sir, there are still several stages to be gone through, in the actual working of the Act. There are the rules to be framed by the Government of India under clause 280 of the Bill, the drafting of rules of election by Local Governments, circulating the same and giving them a final form, preparing electoral rolls and the holding of actual elections. The cantonment people are anxious to have the elections in April. I can therefore safely count upon the sympathy of His Excellency the Commander-in-Chief and the earnestness of Mr. Burdon for the accomplishment of the little that is left, for I believe nothing would give them greater pleasure than to see the Bill launched forth on its test of being a workable and beneficent measure as quickly as possible.

Sir, having made this request and expressed this hope with all the earnestness I can command, all that is now left for me is to recognise with gratitude on behalf of the people of the cantonments the care and attention which has been bestowed upon the Bill by Mr. Burdon, his capable colleague Colonel Palin and by His Excellency the Commander-in-Chief, whose interest in the welfare of the people of the cantonments is one of the solemn obligations of the exalted office he holds.

For the first time in the history of the administration of this country, the cantonment people have risen in the eyes of the Government to a civic

body of some status, entitled to certain rights and prerogatives of British citizenship. I congratulate Mr. Burdon on the successful passage of the Bill through both the Houses of the Indian Legislature. If we are indebted to Sir Charles Munro for the start given to this Reform, to Mr. Craik for giving it the preliminary shape, to Mr. Renouf for moulding that shape in consonance with popular wishes to a great extent, our thanks are also due in equal measure to Mr. Burdon and Colonel Palin who have put in a large amount of silent and really good intentioned labour in this enactment.

The Bill constitutes a landmark in the history of the cantonments, and it is a matter of sincere gratification that it is associated with the *régime* of His Excellency Lord Rawlinson, whose name will always be remembered by the people of the cantonments with gratitude.

THE HONOURABLE MR. E. BURDON: Sir, I merely wish to acknowledge the very kind remarks which my Honourable friend, Mr. Haroon Jaffer, has made regarding the part which has been played by the Army Department in regard to this Bill. I can say that we are sincerely glad ourselves to see an immediate prospect of the first stage of our labours being brought to a successful conclusion. I thank him once more.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate and amend the law relating to the administration of cantonments, as passed by the Legislative Assembly, be passed."

The motion was adopted.

ELECTION OF THE PANEL FOR THE STANDING COMMITTEE. DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

THE HONOURABLE SIR NARASIMHA SARMA: (Education, Health and
12 Noon. Lands Member): Sir, I move:

"That this Council do proceed to elect in the manner described in the Department of Education, Health and Lands Notification No. 114, dated the 7th February 1924, a panel of 8 members from which the members of the Standing Committee to advise on questions relating to Emigration in the Department of Education, Health and Lands will be nominated."

In May, 1922, a Committee was appointed by the Government of India in the Department of Revenue and Agriculture to deal with questions relating to emigration. The members of the Committee were all nominated by Government. The life of the Committee was fixed at one year. That was before the Notification in the Home Department was issued in August 1922. We could not then, therefore, introduce the elective element, and inasmuch as there was not much work to be done after May 1923 and the life of the Assembly was coming to a close, we did not feel that it was useful to ask for an election in July 1923. The Government of India have resolved that the procedure of the new Emigration Committee should be assimilated as far as possible to that observed in the Government of India. Home Department, Notification referred to above, but it was felt that the number 5 which was fixed for Committees in the Home Department Notification was too small and that a more representative body would be useful. We have therefore resolved that the number should be the same as heretofore obtaining, namely, 14, 12 nominated out of a panel and 2 including myself and the Secretary in the Department. I ask, Sir, that this Motion may be adopted by the House.

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

"That this Council do proceed to elect in the manner described in the Department of Education, Health and Lands Notification No. 114, dated the 7th February 1924, a panel of 8 members from which the members of the Standing Committee to advise on questions relating to Emigration in the Department of Education, Health and Lands will be nominated."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: I understand I am to fix a date for the receiving of nominations for the election. Would Monday meet the Honourable Member's views?

THE HONOURABLE SIR NARASIMHA SARMA: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Then nominations will be received up till Eleven of the Clock on Monday, the 18th February.

ADVISORY PUBLICITY COMMITTEE.

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

"That this Council do proceed to elect, in such method as may be approved by the Honourable the President, one member of the Advisory Publicity Committee in place of Sir Purshotamdas Thakurdas who has ceased to be a Member of this Council."

For the information of Honourable Members who have taken their seat in the Council for the first time during the present Session I might perhaps very briefly explain the nature and functions of this Committee. The Committee was first constituted in the year 1921 in order to advise the Government of India on general questions of policy relating to publicity,—on such questions as matters to which publicity could most advantageously and most properly be given, and of the methods by which such publicity should be undertaken. The Committee was also appointed to advise with regard to the expenditure incurred in connection with publicity measures and to assist in the framing of the Budget. Towards the beginning of last year, a Sub-Committee of the Advisory Committee made certain recommendations to the Government of India with regard to the future constitution of the Committee, and, in consideration of those recommendations, the Government of India decided that, in future, the Committee should consist of 15 members, of whom 9 should be elected by the Central Legislature and 6 of whom 3 should be representatives of the press, should be nominated by Government. The Council of State elected 2 members in July of last year, one of whom is fortunately still with us and the second, Sir Purshotamdas Thakurdas, has unfortunately left our precincts for another place. It is to fill the vacancy caused by Sir Purshotamdas Thakurdas's departure from this Council that I ask the House to pass this motion.

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

"That this Council do proceed to elect, in such method as may be approved by me, one member of the Advisory Publicity Committee in place of Sir Purshotamdas Thakurdas who has ceased to be a Member of this Council."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: As there is only one Member to be elected, the method of election will be the ordinary direct election. There is no difficulty about that. As in the other case, nominations will be received up till 11 o'clock on Monday, the 18th February, and the elections will be held thereafter, if necessary.

ELECTION OF MEMBERS TO STANDING ADVISORY COMMITTEES.

THE HONOURABLE THE PRESIDENT: There is one matter remaining, and that is the election of Members to Standing Advisory Committees. I understand that Secretary has at the table the necessary papers which will be distributed to Members. Members will find perfectly clear instructions as to the manner in which they are to vote as a footnote to each voting paper. Honourable Members will therefore kindly fill up these papers in accordance with the instructions therein contained and deposit them at the table. It will be impossible for the results of the election to be announced to-day because this system requires a certain amount of calculation which has to be worked out. I propose to leave the Chair during the election and Honourable Members will take the ballot papers and fill them and place them at the Secretary's table. The results will be duly announced at the next meeting of the Council, which will be on Monday, the 18th February, at 11 A.M.

(The Honourable the President then vacated the Chair and ballot papers were distributed to Members who proceeded to record their votes.)

The Council then adjourned till Eleven of the Clock on Monday, the 18th February, 1924.