

23rd March, 1921

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

FIRST SESSION
OF THE
LEGISLATIVE ASSEMBLY, 1921



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LEGISLATIVE ASSEMBLY.

Wednesday, 23rd March, 1921.

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

MEMBER SWORN :

Maulvi Abul Kasem, M.L.A.

STATEMENT LAID ON THE TABLE.

Mr. S. P. O'Donnell laid on the table the information promised in reply to a question by Mr. Mahmood Schamnad Sahib Bahadur on the 22nd February 1921, regarding the Ali Rajahs of Cannanore.

Statement laid on the table on the 23rd March 1921 with reference to a question asked by Mr. Mahmood Schamnad Sahib Bahadur on the 22nd February 1921, regarding the Ali Rajahs of Cannanore.

(a)(i) The answer is in the negative. Complete Sovereign rights were not inherent in the Cannanore Chiefs.

The Southern Lacadive islands were ceded with the rest of the territories of the Bibi of Cannanore to the Company in 1792 by Tipu to whom the Bibi was feudatory.

In 1890, the Madras High Court, in a case in which British jurisdiction was questioned, held that the islands, having been included in the cessions of Tipu's entire dependencies in Malabar, made at the peace of Seringapatam in 1792, thus became an integral part of the territories vested in Her Majesty by Statutes 21 and 22, Victoria, and that though a large share of administrative independence in their internal management was till the year 1875 left in the hands of the Bibi and her successors, the islands were nevertheless subject to the laws of British India.

(ii) The answer is in the negative.

(iii) The answer is in the negative.

In 1847, an officer visiting the islands found that there had been gross mismanagement and oppression; as a result of investigation, the Madras Government ordered the direct administration of the islands to be taken over. In 1861, the Secretary of State, as the result of a representation from the Madras Government, agreed to restore the islands to the revenue management of the Bibi on payment of *peshkash* and administrative charges only; but added a condition that if the Bibi refused to introduce the necessary reforms into the administration or in the event of any act of oppression or extortion being proved against her, Government should again place the islands under sequestration in order to compel the introduction of good government.

In 1873, owing to complaints it was found necessary to depute an officer to visit the islands who found that the condition of the islands was anarchical

and that the authority of Ali Raja, successor to the Bibi, was completely in abeyance. The management of the islands was thereupon again taken over by the Madras Government.

(iv) The reply is in the negative. The question of the restoration of the Raja as an administrator was considered on several occasions and deemed inexpedient principally on account of the antipathy of the islanders to his misrule. In 1900, the Government of India offered the Raja favourable terms for the cession of all rights which he inherited in the islands. The Raja of his own free will accepted these terms in 1906. Certain members of his family, however, raised objections to the power of the Raja to cede his rights. These objections were examined and found baseless. During this examination in 1907 the Raja died. He was succeeded by his uterine sister, Imbichi Bibi, who voluntarily signed an agreement in 1908 ceding all rights in the islands to the British Government. The head of the family received the title of Sultan as a hereditary distinction in 1908.

(v) The reply is in the negative.

(b) The answer is in the negative.

QUESTIONS AND ANSWERS.

RAILWAY ENGINEERS.

580. **Mr. B. S. Kamat:** (a) What is the total strength of Railway Engineers from the lowest grade to the highest at present employed on the Great Indian Peninsula Railway and the Bombay, Baroda and Central India Railway Administrations?

(b) Of these, how many Engineers are Indians, how many Anglo-Indians and how many Europeans, and will Government be pleased to quote their present salaries in each case? Will Government also please ascertain and state by what method the above Railway Companies have been recruiting their Engineers, *vis.*, whether by competitive examinations or selection by open advertisement?

(c) Will Government be pleased to give the number of posts above the salary of Rs. 300 per mensem in the Traffic Department, the Locomotive Department and the Stores Department in the Great Indian Peninsula Railway, respectively, held by Indians, Europeans and Anglo-Indians?

(d) Will Government be pleased to give similar figures as requested in (a) and (b) above, regarding Railway Engineers employed by the Madras and Southern Mahratta Railway, the East Indian Railway and the North Western Railway?

Colonel W. D. Waghorn: (a), (b) and (d). I place on the table a copy of the latest issue of the Classified List and Distribution Return of Railway Establishment. The Honourable Member will find the information he requires regarding the Engineers of the Bombay, Baroda and Central India, Great Indian Peninsula, Madras and Southern Mahratta, East Indian, and North-Western Railways, on pages 57-58, 82-84, 90-91, 77-78 and 99-102, respectively. The Companies recruit their engineers by selection from duly qualified candidates called for by public advertisement in England or India as the case may be.

(c) I would refer the Honourable Member to the reply I gave to Mr. Jamnadas Dwarkadas on the 21st March 1921. I shall be glad to send him a copy of the statement I then laid on the table showing the number of employees—Indians and Europeans—on a monthly salary of Rs. 400 and above employed in all departments of the larger railways. I trust that this will sufficiently meet the Honourable Member's requirements.

VASAD-KATHANA RAILWAY.

581. **Mr. Jamnadas Dwarkadas:** (a) Will Government be pleased to state why the work of constructing Vasad-Kathana Railway in the Kaira District has not been commenced though the Railway Board decided as early as December 1919, to undertake the construction in the year 1920-21?

(b) Do the Government propose either to provide funds for its early construction, or if unable to do so, to hand over the project to a private firm?

Colonel W. D. Waghorn: (a) The construction of the Vasad-Kathana Railway has been deferred for want of funds.

(b) Government are not in a position to say when they will be able to provide funds for its construction. But they have no objection to the line being financed by a private firm, provided suitable terms can be arranged.

COMPLAINTS AGAINST THE EAST INDIAN RAILWAY.

582. **Haji Wajihuddin:** (a) Has the attention of the Government been drawn to two different complaints regarding the East Indian Railway published in the *Independent* of 1st March 1921?

(b) If so, has Government taken any action against the employees complained against, and if so, what?

(c) If not, do the Government propose to take notice of the complaints at once?

Colonel W. D. Waghorn: The attention of Government had not previously been drawn to these complaints. Inquiry is being made.

SCAVENGING TAX IN FEROZEPURE CANTONMENT.

583. **Haji Wajihuddin:** (a) Will Government please state whether it is true that Mr. Jamal-ud-Din, a respectable citizen of Ferozepore Cantonment, has been expelled from the Cantonment simply because he protested against the realization of scavenging tax in the form in which it was demanded by the Cantonment authority of Ferozepore?

(b) If the answer is in the affirmative, do Government propose to consider the question of removing the said order?

Sir Godfrey Fell: Mr. Jamal-ud-Din who had twice been employed in a subordinate capacity by the cantonment authorities at Ferozepore was excluded from that cantonment in 1909, on the ground that his presence in the cantonment was considered to be prejudicial to good order and military discipline. He not only refused to pay a legal tax, but he incited others in the cantonment not to pay, and obstructed in every possible way the administration of the Cantonment Law. He was, however, allowed, at the instance of the then Commander-in-Chief, to return to the Ferozepore Cantonment in

1913 on certain conditions. The Government of India have no information regarding his further exclusion, but they are making inquiries on the subject.

EXPULSIONS FROM UMBALA AND JULLUNDUR CANTONMENTS.

584. **Haji Wajihuddin:** (a) Is it a fact that a well-known physician, Hakim Sami-ul-lah of Umbala Cantonment and a respectable Banker Sardar Sunder Singh of Jullundur Cantonment have recently been ordered to leave their respective cantonments within 24 hours?

(b) If the answer is in the affirmative, will the Government be pleased to state whether they have committed any offence? And if so, why they have not been prosecuted or tried in a proper Court of Justice?

(c) Do the Government propose to cancel the order?

Sir Godfrey Fell: (a) The answer is in the affirmative, so far as Hakim Sami-ul-lah is concerned. The Government of India have no information regarding the alleged expulsion of Sardar Sunder Singh from the Jullundur Cantonment.

(b) The conduct of Hakim Sami-ul-lah was considered by the local military authorities to be prejudicial to good order and discipline. Section 216 of the Cantonment Code gives the Commanding Officer of a Cantonment the power to remove from the cantonment, within the time to be specified by notice, persons whose presence in the cantonment is considered dangerous to good order and military discipline. It is not necessary in such cases to bring the person to trial in a Court of Justice. The law provides for an appeal by persons who have been directed to be removed from cantonments under this section of the Cantonment Code.

(c) Government see no reason to interfere with the discretion of the local military authorities in this matter.

ASSESSMENT OF INCOME-TAX IN THE UNITED PROVINCES.

585. **Haji Wajihuddin:** (a) Is it a fact that for the purpose of assessment of Income-tax 'Schedules' showing different rates of percentage on different articles were prepared in the principal cities of the United Provinces during the years 1919-20 and 1920-21?

(b) If so, will the Government be pleased to lay on the table copies of such schedules?

The Honourable Mr. W. M. Hailey: The Government of India have no information on the matter, but they are making inquiries.

COMPLAINT AGAINST SANGLA RAILWAY STATION AUTHORITIES.

586. **Haji Wajihuddin:** (a) Is it a fact that 5 first class tickets, numbering 219—223, were issued, during the last month, to Lala Jewan Mull and Company at Sangla, North Western Railway, and after they had occupied seats in the train they were ordered by the railway officials, followed by police threats, to vacate the seats and come out without being furnished with any reason for orders which prevented them from travelling by that train?

(b) If it is true, will Government be pleased to state as to who gave such orders, under what rules, and for what reasons, if any? Also, whether Government have taken or intend to take any action in the matter?

Colonel W. D. Waghorn: (a) The facts are not as stated. On the 27th February some passengers holding 1st class tickets wished to travel by a goods train from Sangla Hill to Lyallpur, but this was not permitted as there was a convenient passenger train by which they could travel, and they were informed accordingly.

(b) Does not arise.

EXPORT OF RICE TO JEDDAH.

587. **Haji Wajihuddin:** (a) Is the export of rice and other foodstuffs to the Port of Jeddah free or subject to any restrictions?

(b) Is it a fact that during the year 1920 permission to export rice to Jeddah was auctioned per bag and export licences were granted to the highest bidder?

(c) Will Government please state under what rules was such an auction permissible?

(d) Are Government aware of the sufferings and hardships, on account of the high prices the pilgrims and the Indians temporarily residing in Hedjaz underwent on account of such restrictions?

(e) Do Government propose to remove such restrictions and allow free export of foodstuffs under the same conditions as obtained before the war?

Mr. J. Hullah: (a) The export of rice from India proper to Jeddah is prohibited, but there are no restrictions on the export of rice from Burma to Jeddah.

(b) Licences were granted for export under a system of competitive tenders.

(c) Under the Import and Export of Goods Act, export may be allowed under definite conditions. It was considered by the Committee on High Prices, which consisted of Members of the late Legislative Council, that the system of competitive tenders could and should be introduced as a condition under which licences should be given. One of the chief objects of this measure was to prevent a rise of prices in India generally and particularly in Sind.

(d) Complaints were received but they were in respect of the limitation of quantities rather than in respect of the prices at which the rice was sold at Jeddah.

(e) The tender system has been abolished and Jeddah is now obtaining its rice requirements from Burma. As already announced, the Government of India propose to remove all restrictions on export of foodstuffs as soon as circumstances permit.

PILGRIM TRAFFIC TO JEDDAH.

588. **Haji Wajihuddin:** (a) Are the Government aware that the Persian Gulf Steam Navigation Company was prepared during the years 1919 and 1920 and is still prepared to undertake pilgrim traffic to Jeddah on the single ticket system, but the Government of Bombay refuses sanction to allow it to take pilgrims except under the return ticket system?

(b) Do Government propose to see how far such action on the part of Bombay Government is justified, and do they propose to advise the Bombay Government not to discourage journey on the single ticket system, if any steamer company is willing to adopt it ?

Mr. H. Sharp: I think, Sir, it will be convenient if I lay on the table a detailed reply to this question. The general upshot of the reply is, that there is no general rule framed insisting upon compulsory return tickets; that at times, when there has been a partial insistence on compulsory return tickets, it has been part of an arrangement for assisting pilgrims to obtain return tickets at reduced rates; and that the whole question of the condition of tickets is now under consideration, but, unless the Government had the bulk of the Muhammadan community behind them, they would not be likely to make any rule insisting on compulsory return tickets.

(a) Government are aware that the Persian Gulf Steam Navigation Company is prepared to undertake pilgrimage traffic to Jeddah on a small scale and they understand that they actually undertook such traffic in 1919 and 1920. There is no rule framed under the Pilgrim Ships Act which insists upon the issue of compulsory return tickets. But in 1919, owing to the difficulty in inducing the Shipping Companies to take pilgrims to Jeddah at anything but very high rates, the Government of India made an arrangement whereby the price of a return ticket, which was Rs. 175, where cargoes were not available, and Rs. 150 where cargoes were available should be reduced for each pilgrim to Rs. 125. Under this arrangement the Persian Gulf Steam Navigation Company was assisted to carry pilgrims on the return ticket system and therefore did not carry ordinary pilgrims at single rates, save to a limit of 15 per cent. of the pilgrims travelling. Financial assistance was likewise given for the pilgrims in 1920, but the limit of 15 per cent. on single tickets was not imposed.

(b) Insistence upon the condition of compulsory return tickets was justified in the two years during which Government spent large sums of money in helping pilgrims to undertake the journey to the Hedjaz at a reasonable rate. The Government of India do not consider that this method of assistance can be continued in the present year. The Government of India have imposed no legal obligation. They are not aware that the Government of Bombay have in years other than those specified attempted to discourage the journey on the single ticket system. The whole question of the conditions suitable for the issue of tickets to the Hedjaz is at present under the consideration of the Government of India and the Government of Bombay. A considerable body of Muhammadan opinion is in favour of the compulsory return ticket and during the years when that system has been insisted upon either by a Company or as an administrative measure no complaint regarding it has, so far as I am aware, reached the Government of India. Unless, however, the majority of opinions received are in favour of the compulsory return ticket system, the Government of India will probably continue to refrain from framing any rule to this effect under the Act.

PILGRIM TRAFFIC AND STEAMER COMPANIES.

589. **Haji Wajihuddin:** (a) Are the Government aware that the Steamer Companies, who carry pilgrim traffic, charge full passage rate for children of and above the age of one year ?

(b) Is it not a fact that in all other passenger traffic throughout the world, children under 3 years are carried free, and those above 3 and under 12 years at half rates ?

(c) Do Government propose to enforce similar rates on these companies also ?

Mr. H. Sharp: Sir, I should again prefer to lay on the table a detailed answer. The upshot is that there is no rule preventing companies from carrying children at reduced rates, but there would be serious difficulties in making a rule compelling them to do so.

(a) So far as the Government of India are aware, Shipping Companies carrying pilgrims to the Hedjaz charge full fares for children of and above the age of one year.

(b) The Government of India have no definite information regarding the universality of the practice of charging reduced fares for children, though they understand that it is the general rule. They understand also that in other countries rules have been framed for insisting upon compulsory return tickets or compulsory deposits.

(c) There is no rule or order of Government preventing Shipping Companies from charging reduced fares for children. The provisions, however, of Article 26 of the International Sanitary Convention of 1903 and Article 94 of the International Sanitary Convention of 1912 require that over and above the space required for the crew a pilgrim ship must provide a certain minimum space for each person, irrespective of age. The provisions of the International Sanitary Conventions, subject to certain reservations, are binding on India. Any attempt to compel Shipping Companies to charge concession rates for children would probably lead to a demand on the part of the Companies that the regulation space should be reduced and to an increase in the fares charged for adults. The question whether any change in the provisions of the International Sanitary Conventions in this matter should be recommended is under consideration. The Government of India, however, understand that the number of small children proceeding to the Hedjaz is relatively small and are advised that from the sanitary point of view the presence on pilgrim ships of large number of nursing mothers with infants in arms and young children is undesirable as being likely to lead to an increase in epidemic disease.

HEDJAZ PILGRIMS AND QUARANTINE.

590. **Haji Wajihuddin:** (a) Are Government aware that the Hedjaz pilgrims underwent quarantine during the years 1919 and 1920 at Kamaran as well as at Jeddah while, in accordance with the existing regulations, they should have undergone quarantine at one place only ?

(b) Do Government propose to so arrange that during the ensuing season and after the pilgrims should undergo quarantine at one camp only, either at Kamaran or Jeddah ?

Mr. H. Sharp: The Government of India are aware that quarantine was imposed on pilgrims to the Hedjaz during 1919 and 1920 at Kamaran as well as at Jeddah. Under the International Sanitary Convention quarantine is obligatory only at Kamaran. The Convention does not insist on quarantine at Jeddah. But quarantine at Jeddah was imposed during those years by the

Hedjaz Government. The hardship involved by this arrangement has attracted attention and the Government of India understand that the matter has been represented to the King of Hedjaz, with whom rests the imposition and abolition of quarantine arrangements at Jeddah.

INDIAN POLICE OFFICER AT JEDDAH.

591. **Haji Wajihuddin** : (a) Are Government aware that the Indian Police officer stationed at Jeddah to safeguard the interest of pilgrims has neither any office of his own nor any staff to help him during the pilgrim seasons ?

(b) Have Government ever considered the advisability of providing him with assistants so that he may fairly cope with the situation specially when there is a rush of pilgrims ?

Mr. H. Sharp (on behalf of the Honourable Mr. Denys Bray) : It is proposed to bring under reduction the appointment held by the Indian Police Officer, as arrangements are being made to attach an Indian Vice-Consul to the Jeddah Agency and Consulate.

RESOLUTION RE REPRESSIVE LAWS.

592. **Mr. Harchandrai Vishindas** : Sir, the Committee has been appointed and I think there is no necessity for the question any longer.

LOCAL GOVERNMENT PUBLICATIONS AND MEMBERS OF THE INDIAN LEGISLATURES.

593. **Beohar Raghubir Sinha** : Do the Government propose to direct all Local Governments to supply to the Members of the Council of State and the Legislative Assembly residing in their respective provinces, all Government publications which are usually supplied to the Members of the local Legislative Councils, with a view to keep the aforesaid Members in touch with the affairs of their respective provinces ?

The Honourable Dr. T. B. Sapru : The Government of India are not in a position to issue any directions on the subject but the request of the Honourable Member will be brought to the notice of the Local Governments.

ARMS AND AMMUNITIONS WITHOUT LICENCE.

594. **Mr. Muhammad Faiyaz Khan** : Will the Government be pleased to state the number of (a) Europeans, (b) Anglo-Indians, (c) Indians, tried in the Courts for possessing arms and ammunitions without a licence in India since January 1920, and the amount of punishment meted out in each case ?

Mr. S. P. O'Donnell : The Government of India are not in possession of the information asked for by the Honourable Member, and they doubt whether Local Governments would be able to supply it at present, as the

annual reports of the administration of the Arms Act have probably not yet been received. The information is, however, being collected from Local Governments and Administrations and will be given to the Honourable Member when available.

MESSAGE FROM THE COUNCIL OF STATE.

The Honourable the President: I have received a Message from the Secretary to the Council of State in the following terms:

'I am directed to inform you that the Council of State have, at their meeting on the 21st of March, agreed without any amendment to the Bill further to amend the Import and Export of Goods Act, 1918, and the Bill to amend to Indigo Cess Act, 1918, which were passed by the Legislative Assembly, on the 22nd of February 1921.'

THE INDIAN ELECTRICITY (AMENDMENT) BILL.

The Honourable Sir Thomas Holland: I beg to move, Sir:

'That this Assembly do recommend to the Council of State that the Bill further to amend the Indian Electricity Act, 1910, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 12 Members.'

I had the privilege of introducing this Bill on the 17th instant and, as Members will see from a study of the Bill, the points in revision are largely matters of detail, many of them purely technical in nature; and it thus seems advisable that these should be discussed by a Joint Select Committee before whom we can place the enormous amount of detail that we have received from Local Governments and local bodies.

The motion was adopted.

THE INDIAN LIMITATION (AMENDMENT) BILL.

Mr. S. P. O'Donnell: Sir, I beg to move:

'That the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908, be taken into consideration.'

The Honourable the President: The question is:

'That the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908, be taken into consideration.'

Rao Bahadur T. Rangachariar: Sir, I beg to move:

'That the Bill be re-circulated for the purpose of obtaining further opinion thereon.'

With very great respect to the Members of the Select Committee, I venture to propose this amendment. The question is one of great importance and I feel that the matter, especially with reference to the applicability of section 5 of the Limitation Act, requires further consideration from the various judicial authorities in the country and also from the various Bar Associations.

[Rao Bahadur T. Rangachariar.]

I may point out, Sir, that in introducing this Bill, as Honourable Members will find from the Statement of Objects and Reasons, section 5 was proposed to be amended, not with a view to make any substantial change in the law, but merely to remove certain defects in the drafting of section 5. But Honourable Members will observe that the change proposed is of a very substantial character, and perhaps for the benefit of the lay Members of the Council, I may mention what that section is.

As you all know, periods of limitation are prescribed by law for bringing suits, for preferring appeals and for making applications. Section 5 of the Act enables parties to prefer appeals or make applications after the prescribed time in case they are able to satisfy the authority that they had sufficient excuse for not preferring the applications or appeals in time. It only applied to appeals and applications for leave to appeal to the Privy Council and in certain other cases where either by a rule made by a High Court or by a rule contained in a special law section 5 was made expressly applicable. So that its operation was limited in scope and in extent. It was expressly stated in the Statement of Objects and Reasons that they were going to retain the existing provision so far as appeals and applications under special and local laws were concerned; for in the last sentence of that statement, Honourable Members will find, that it is proposed in the Bill to make it clear that where a special period of limitation is prescribed by a special or local law, section 5 will not apply. That was in the Bill as originally proposed, and as clause (3) of the proposed Bill stood no doubt that was intended to carry out that object. But now clause (3) has emerged from the Select Committee in a different form altogether as Honourable Members will notice. Section 5 is made to apply to all cases of special and local laws also, unless the special and local laws contain terms to the contrary; so that whereas the promoters of the Bill came to this Assembly saying that they would not apply section 5 to special and local laws, now they come forward—or rather the Select Committee has proposed—that section 5 should apply also to periods of limitation contained in special and local laws. I quite fail to see, therefore, how they can say at the end of their Report in paragraph 5: 'We think that the Bill has not been so altered as to require republication.' With all respect, I venture to doubt whether it is a sufficient statement as regards the change proposed. The change is of a very vital nature as Honourable Members will observe. According to this proposed change, this discretionary power to extend the period of limitation is conferred on courts in all cases unless there is a provision to the contrary. This will work a great deal of hardship, I am afraid, in many cases. Take, for instance, the case of Government itself. Take the revenue recovery laws; take the forest laws; take the abkari laws; take the laws governing customs; periods of limitation are prescribed in those regulations, and if this power to extend the period of limitation, this discretionary power which is sought to be given to courts, is to be extended to all these laws, considerable difficulty in practice will arise. Take, for instance, the Sale of Waste Lands Acts, where very many periods of limitation are prescribed for making the various applications referred to in those Acts; then again take what is commonly known as the Curator's Act, that is, 'the Protection of Succession to Property Acts,' where that Act expressly says: 'No application shall be made more than six months after the death of the party concerned.' Now, by giving this extended application to section 5, all such periods of limitation may be said to be affected. There are cases and cases, periods and periods of limitation prescribed. I will

instance the case of an application for execution. As Honourable Members who are acquainted with the administration and practice of law know, there are several starting points for making those applications; the law is very liberal. It gives you, in the first instance, three years from the date of the decree; if there is an appeal or application for review, you get a fresh starting point from the date of the appeal or the decree in review; or if you take a step in aid of execution you get a fresh starting point; and in fact, there are six several starting points for the period of limitation in the cases of applications for execution of decrees. In such cases it is certainly unnecessary to vest courts with this discretionary power of extending the period of limitation. That is why the legislature in 1908 when they revised the Code of Civil Procedure and also the Limitation Act carefully added only this provision, because it is not possible to foresee all cases where such discretionary powers may be safely entrusted to courts. Therefore in amending the Limitation Act, in 1908,—I believe the late Dr. Rash Behari Ghose was a Member of that Select Committee as well as of the Select Committee on the Civil Procedure Code Bill—they enacted a provision good enough for the purpose of the case, leaving it to the several High Courts to frame rules wherever they thought that section 5 should be made applicable by rule; and I know of one case where such a thing was required, the Madras High Court did frame a rule with regard to applications to set aside *ex parte* decrees. Section 5 of itself could not apply; therefore the Madras High Court framed a rule; and I am not sure whether other High Courts did not frame a similar rule making section 5 applicable to such applications to set aside *ex parte* decrees. Honourable Members will also remember that in the Code which was revised in 1908 along with the Limitation Act, Order 22, rule 9. that is, that order which applies to death of parties, where the suit or appeal abates if no application is made within the time limited by law, the Civil Procedure Code, which was passed along with the Limitation Act in 1908, expressly made section 5 applicable to such cases. I mean it is very dangerous to entrust courts with discretionary powers of this sort. In the first place, it encourages extravagant applications which may have no claim. In the second place, discretionary powers depend upon the discretion of the individual officer just like the Chancellor's fool of old, whose discretionary powers are liable to be abused. It will encourage a large number of applications, useless applications: delay proceedings in consequence and various other troubles are likely to arise; and in my own view, Sir, the existing provision enabling the High Courts to frame rules in required cases to make section 5 apply, is ample protection against any cases of possible injustice. But, on the other hand, without regard to the nature of the local laws, without regard to the nature of the special laws, without regard to other inconveniences which are likely to arise, making this section 5 apply right through unless there is a provision to the contrary, seems to be a dangerous step. I, therefore, think, Sir, that this matter requires further consideration, and I am fortified in this view—I think I am right, but the Honourable the Law Member will correct me if I am wrong—by the fact, that I do not think opinion was invited in the first instance as regards the proposed change with reference to section 5; and that being so, opinion not having been taken already, I think it is highly essential that opinion should be taken. I do not want to commit the Assembly to my view of the case; I only want by this amendment which I now propose that it should be circulated. I want the Assembly to be favoured with the opinions of the various High Courts and also district courts; and I am sure, my Honourable friend, Mr. Krishnaswami

[Rao Bahadur T. Rangachariar.]

Rao, who has considerable experience as a judicial officer in the various grades of the judicial service will bear me out with reference to these discretionary powers that are sought to be conferred. These courts are already flooded with applications of this sort. I can mention an instance of how these discretionary powers are exercised.

I remember a case in which the late Sir V. Bashyan Aiyangar appeared assisted by a local junior in Vizagapatam, but the District Judge dismissed the suit with costs because Sir Bashyan Aiyangar happened to be late by 5 minutes. He applied to the District Judge to set aside the dismissal for default and the District Judge refused to do it. The matter came upon appeal to the High Court, and the High Court set aside the dismissal and it made the local pleader pay the costs because Sir Bashyan happened to be late. I submit the Legislature should be careful in arming the courts with discretionary powers, and unless it is absolutely necessary they should not be entrusted with such powers. That is my view of the case, and having regard to the fact that opinions have not already been taken from the various High Courts and Bar Associations, and having regard to the vital change which the Legislature now seeks to effect in the existing law of limitation which has stood the test of years, say from nearly 1871 if not from 1859. I do not think such a change can be effected without taking opinions beforehand. The change introduced is one which is different even from the Statement of Objects and Reasons. The Statement of Objects and Reasons says one thing, and what the Select Committee effects is another thing. The Statement of Objects and Reasons says, 'this shall not apply to special and local law', whereas the Select Committee says it shall apply to special and local law unless there is a provision to the contrary. So it is a radical change which the Bill, as amended by the Select Committee seeks to introduce. I, therefore, move, Sir, that the Bill be re-circulated for the purpose of obtaining further opinion thereon.

The Honourable the President: Does the Honourable Member wish to insert any date?

Rao Bahadur T. Rangachariar: By the 31st of July.

The Honourable the President: The question is:

'That the Bill be re-circulated for the purpose of obtaining further opinion thereon, such opinions to be obtained before the 31st July.'

The Honourable Dr. T. B. Sapru: Sir, I may, at the outset, say that I am not standing here to oppose the motion made by my Honourable friend on the other side, but at the same time I cannot let some of the statements made by him pass unchallenged. For instance, when my Honourable friend says that the Government of India did not consult the Local Governments or the various High Courts or that they did not take any steps to elicit public opinion on this matter, I think he is not strictly right. The Government of India did circulate the Bill as originally drafted, or rather the substance of it, to the various High Courts, and they drew attention to the conflict which had arisen with regard to the interpretation of section 29 between the various High Courts, and so far as I have been able to study the papers, I find that the bulk of opinion was in favour of the proposed amendment. Now take for instance, the case of the Bengal High Court. The Bengal High Court took a radically

different view from that which was taken by the Allahabad High Court. The Bengal High Court, however, agree with the principle embodied in this Bill. I do not wish to multiply instances of this character. I may further assure my Honourable friend that in some provinces legal associations have also been consulted. So that, so far as this matter is concerned, I am prepared to say that this Bill has been introduced in the Government of India after consultation with the Local Governments and the various High Courts, but if my Honourable friend wishes to elicit still further opinions from other associations and bodies, we for our part have no objection.

Now, there are just one or two questions of principle which my Honourable friend has raised and to which I should like to refer briefly. I do not wish for my part and on behalf of the Government of India to associate ourselves with the legal exposition that has been put before the House by my Honourable friend on the other side. The point which has arisen is with reference to section 5 and section 29 of the Limitation Act. To put it very briefly, it is this: Under the Limitation Act, you may put in an application or take a proceeding such as is described in that section after the expiry of the period of limitation prescribed by the Statute, provided you can satisfy the court that there is some just and sufficient cause for you to come after that period of limitation. The effect of section 5, as I understand it, is not that the moment you put in an application the court is bound, as a matter of course, to grant that application. It is a discretion vested in the court, and the discretion, as every lawyer knows, is to be exercised on judicial grounds. Every lawyer knows from his practical experience that hundreds of such applications are rejected on their very presentation, because the courts say that a *prima facie* case has not been made out for the exercise of the discretion vested in them by section 5 of the Limitation Act. Now the point arose a few years ago in the Allahabad High Court as to whether the general provisions of section 5 of the Limitation Act would apply to special Acts, such as the Provincial Insolvency Act. The same point arose in other High Courts, not only with reference to the Provincial Insolvency Act, but also with reference to the Registration Act. The Allahabad High Court held that the general provisions of section 5 of the Limitation Act would apply to special Acts unless the special Acts excluded those provisions, but the other High Courts held that the general provisions of section 5 would not apply to special Acts. Well, I can say from practical experience and practical knowledge that by far the largest number of lawyers that I have met favour the view which has been taken by the Allahabad High Court as being one which is more in consonance with justice. That being the position, the question which the Government had to consider was as to whether the time had not arrived when such a conflict should be removed, and if it was to be removed which of the two views was to be accepted. For that reason, this Bill was drafted and it was referred to the Select Committee. I am prepared to maintain, that so far as the Select Committee is concerned, they did not at all alter the substance of the Bill as originally drafted. Such changes as have been made by the Select Committee are changes mostly of a drafting character, though in one respect the scope of the Bill as originally framed has been somewhat extended, that is, if you will compare the language of the original Bill with the language of the Bill now before you, you will find that certain sections in the Limitation Act of 1920 which were not included in the Bill as originally drafted, have now been included. This matter was carefully considered by the Select Committee and they came to the conclusion that there was no reason why we

[Dr. T. B. Sapru.]

should include in the Bill certain sections of the Limitation Act and exclude the rest. In other words, the position is, that excepting where a special statute bars the application of the Limitation Act, the whole of the Limitation Act, excepting the Schedules which describe the period of limitation, will be made applicable to cases arising under special Acts. That being so, I do not think it can be said in fairness that the scope of this Bill has been so much enlarged or changed that it cannot be identified with the Bill which was originally introduced. I have only attempted to put this view before you in order to safeguard against misapprehension on the part of this Assembly or outsiders that the Government of India accept the exposition of this Bill as put forward by my Honourable friend, Mr. Rangachariar, but inasmuch as the matter is one of a highly technical character and inasmuch as I am prepared to admit that there may be two possible views which may be taken on this question, as a matter of precaution we are prepared to accept the suggestion made by my Honourable friend, Mr. Rangachariar, and to re-circulate the Bill so as to elicit further opinions on this matter.

Mr. T. V. Seshagiri Ayyar: Sir, having regard to the statement by the Honourable the Law Member that he is prepared to accept the motion made by my Honourable friend, Mr. Rangachariar, that the Bill be resubmitted for eliciting opinions, I have no right to criticise that attitude, but as the Honourable the Law Member is aware, the present state of the law has led to considerable conflict of opinion and the litigants are in a very unfortunate position. The matter has been discussed by the various high courts. On this particular matter, opinion had been asked from the High Courts and from various local bodies, and I am not sure that the Madras Vakils were not consulted: very likely they offered no opinion; therefore it has not been the fault of the Government, it has not been the fault of the various High Courts that the opinion of the profession has not been fully expressed. If this House comes to the conclusion that this matter should again be left in the very unfortunate position in which it is at present, I can only express my deep regret, but I must point out that we will be putting litigants in a very difficult position as they have to choose not between two High Courts only, but between two contrary decisions of the Privy Council upon this matter; I therefore submit for the consideration of the House whether it is desirable that this matter should be allowed to lie over any further. Moreover, when this matter was before this House at the second reading, if I may say so, that was the proper time, before the matter went before the Select Committee, for my Honourable friend to rise and say that this matter should go before the country again. Now we have got a body of lawyers as capable as any you can find in the country who will be able to throw light upon the various contentions suggested by the draft sections. Why now send the whole matter back to the country and allow five or six months to lapse; all this time the litigants and judges would feel themselves very much hampered by the present state of the law.

Now, Sir, there are one or two matters that were specifically raised and I should like to refer very briefly to them. There was a reference made by Mr. Rangachariar to the fact that judicial discretion is likely to be abused. Now, Sir, I take exception to this. I have had something to do with the administration of justice and my impression is that the subordinate judiciary in this country, perhaps more perfect than the subordinate judiciary

in any other country, is not in the habit of abusing the powers of discretion vested in them. Take the instance which Mr. Rangachariar has given of the Honourable Mr. Bashyan Aiyangar. What happened, as he himself has told us, was that the district judge felt bound to refuse to restore a case in which the contest was about 20 or 30 lakhs of rupees because the Honourable Mr. Bashyan Aiyangar was not able to attend the court within a few minutes of the case being taken up. He refused to exercise any discretion in the matter and the High Court set him right and exercised their discretion. How does that help my learned friend in saying that the discretion should not be given to the judges lest they too freely exercise it. On the other hand, what he said about this particular district judge shows, that there will be no undue exercise of discretion in favour of a party. But, as I said before, the High Court felt, having regard to the immensity of the subject matter, that they should exercise their inherent power and restore the case. If the district judge had had section 5 before him he would undoubtedly have exercised discretion and thereby saved the High Court and the party much trouble.

Rao Bahadur T. Rangachariar: I wish to correct my Honourable friend. Under the Civil Procedure, there was a discretion then to set aside dismissals for default—section 5 has nothing to do with such cases.

Mr. T. V. Seshagiri Ayyar: There was no discretion under section 5. Now, Sir, my Honourable friend has referred to the difficulties that will arise if execution applications are brought under the purview of section 5. Now, I shall mention a few cases: I shall be as commonplace as possible and avoid technicalities. Now, take a case under Order 21, rule 99. That is a provision which enables a litigant to get the sale set aside by paying within 30 days a certain sum of money if he believes that his property has been undersold. It gives him power to pay the money into the court within 90 or 30 days and get the sale set aside—I am not sure which.

Mr. Amjad Ali: 30 days.

Mr. T. V. Seshagiri Ayyar: Now, in this country the people, as we have very often been told in this Assembly, are very poor, and when property is sold for Rs. 10,000 which is worth a lakh of rupees, and the defendant has to find Rs. 10,000 within 30 days, he tries to get it from a number of people and probably within about 28 days scrapes about Rs. 10,000. Meanwhile, there is a flood and there are breaches in the road between his place and where the court is situated and for five days he is not able to go to the court and pay the money. Now, where is there any power in the court which will enable the court to excuse him for not having paid the money in time and allow him to pay the money on the 33rd day but for section 5 as amended now? If section 5 as amended now did not exist, the court would be absolutely powerless to excuse the delay. Take another case of the same nature. Supposing there was a strike which disabled the party from coming to court within a week.

The Honourable the President: Order, order. I think this case should be argued on the clause when we come to it, not on the present motion. The questions before the House are (1) that the Bill be taken into consideration now, and (2) that it be referred back for the purpose of eliciting further opinion.

Mr. T. V. Seshagiri Ayyar : I am in your hands, Sir. I only wished to refer to the points raised by Mr. Rangachariar. I do not want to detain the House any further. I only wish to point out that there are very many difficulties which will prevent justice being done properly if you allow the law to stand as it is at present. And any delay which you allow to lapse before setting this matter right would lead to grave inconvenience to the parties and to waste of time in the courts, and, having regard to the fact that the matter has been considered by the various High Courts, has been circulated for the opinion of the bar associations it is not desirable that you should leave the law in this indefinite state. Of course, if the Honourable the Law Member is prepared to accept the motion, I cannot say that he would not be justified in having it re-circulated.

Babu J. N. Mukherjee : Sir, the next amendment stands in my name and is substantially the same as that of my Honourable friend, Mr. Rangachariar. I submit that in rising to support my friend, Mr. Rangachariar, I really support the amendment which stands in my name.

I have listened very carefully to what has fallen from the Honourable the Law Member, and from my Honourable friend, Mr. Seshagiri Ayyar. But I fail to see that the Bill, as it has been shaped by the Select Committee, should be the law that should finally go to the country for its acceptance. I will not deny that there may be cases to which section 5 of the Limitation Act ought to be extended—I mean really hard cases which lie beyond its present scope. But that is not the point. The point is whether with our eyes closed we should extend it to all cases of applications under any law whatsoever. Now, the wording of section 5 is this :

‘Any appeal or application for review of judgment or for leave to appeal or any other application to which this section may be made applicable by any enactment or rule for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.’

Now, Sir, this section, as it stands, contemplates three classes of applications. It includes, as it stands now, appeals of all sorts, and with reference to appeals we have nothing to say. But with reference to applications there is a very important limitation and it is, that only

‘Applications for review of judgment or for leave to appeal or any other application to which this section may be made applicable by any enactment or rule for the time being in force.’

come under its operation, and not all applications. That is to say, there are only three classes of applications which are in contemplation in section 5. What we are now going to do is, that with our eyes closed we intend to extend it to all sorts of applications without taking care to ascertain beforehand where such a law will lead us to. Sir, it is an admitted principle, that legislation by reference is not a very satisfactory mode of procedure. As an instance in point, I may refer to the Hindu Wills Act. It says that such and such provisions of the Indian Succession Act shall apply to the case of Hindus ; and so on. This legislation came up before the Judicial Committee for interpretation more than once, and not in one, but in several, judgments their Lordships have pointed out that the method of legislation adopted in that Act is not satisfactory. It has led to many conflicts of conclusions, in fact it has led to a conflict of laws, conflict in the interpretation of one statute on one point, with

a provision in another Act or law bearing on the same point. So that, apart from the general caution that one should observe in extending the scope of a certain Act by reference as it were to another Act—apart from that fact—we know that the eminent men who drafted the present section as legislators before us thought it best to confine the operation of section 5 to only certain classes of applications. No doubt, my Honourable friends in this House may be able to point to certain specified cases to which the operation of section 5 may be reasonably extended, but what about those cases which we cannot call up before us now, but to which it cannot be reasonably extended? I looked, but in vain, for any statement in the report of the Select Committee clearing up this point. They have not said a word as to what special laws they have considered and with what result; and how the Committee thought that in the case of any particular period of limitation provided in any special or local law, the application of the principle of section 5 would improve matters. The public ought to know, and this House ought to know, how, if we wish to include all cases of applications without exception, the proposed legislation will improve the present state of things. We have got to consider the fact that unless and until a clear case is made out for a change in the present statute, section 5, the House must stop to find out whether it should take the proposed step or not. We should look forward to a clear statement of the benefits that are derivable from such a sweeping legislation as the one before the House. It is a short legislation no doubt, but its effects are very far-reaching, and, therefore, the motion that has been made, I think, meets the situation, namely, that this House as well as the public at large should have further time to consider the effect of this Bill, and that opinion should be elicited from different public bodies and institutions. Conflict existed, no doubt, with reference to the interpretation of section 29 as to whether certain sections of the Limitation Act enunciating general principles of computation, if applied to the determination or calculation of the period of limitation as provided in any special or local law, would affect or vary the periods mentioned in such Acts. That is a different matter altogether, and in my humble judgment, a conflict of that kind may be very easily obviated by legislation of the proposed character. But when we come to section 5, the matter assumes a different aspect. Therefore my submission is, that unless the point be further considered and general opinion be taken, a short statement that 'we have considered so and so', without mentioning what has been considered and in what way and with what result, satisfies the requirements of the situation. That will not do and the House should stop and ask for further information on the point.

Dr. H. S. Gour: I rise to support the amendment of the Honourable Mr. Rangachariar and I do so on the following grounds. The statute of limitation is a statute of repose. Its primary object is to set at rest all conflicting rights and claims without reference to the merits and by mere efflux of time. The Limitation Act has that object in view, to create a certainty in rights and titles after a certain lapse of time. Now, the amendment that the Select Committee propose is to break in upon this certainty by introducing a judicial discretion as controlling the period of limitation in the cases contemplated by section 5 of the Limitation Act. I deprecate the subordination of the statute law to judicial discretion. The Honourable Mr. Seshagiri Ayyar said that the district judges and the High Courts as a rule do not abuse judicial discretion. But these are not the only courts lawfully constituted in this country. We have honorary munsifs, we have courts of a very low grade, persons who are clothed with certain judicial functions, and they are also

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given certain powers which will come within the purview of sections 5 and 29. I therefore submit that I should be extremely cautious in enlarging the terms of the Limitation Act which would let in this uncertainty upon titles and property.

As regards section 5 of the Limitation Act, I submit, that the existing statute law lays down that it is only in certain cases contemplated in section 5 that the court has judicial discretion. If you turn to any annotated book on section 5 of the Act, you will find I think about 30 to 40 pages of conflicting decisions of the various High Courts as to what constitutes 'sufficient cause' within the meaning of the law, and that is the best vindication of my objection to the further enlargement of the provisions of section 5.

Turning to section 29 of the Act, you will observe that as it was originally enacted, and as it is existing now, it lays down that this Act, of itself, will not enlarge the period of limitation unless it is made applicable by any special or local law. The object of the Select Committee who have made the amendment to the Limitation Act is that *ipso facto* this Limitation Act, that is, the enlarging provisions of the Limitation Act, will apply to all special and local laws unless there is something in these laws to the contrary. That, I submit, is a dangerous innovation. We know, as a matter of fact, that special and local laws number thousands. We know, as a matter of fact, that they have various objects in view in prescribing a short period of limitation, and to extend their provisions by a general reference to the Limitation Act is to ignore the very foundation of law which has enacted these special and local laws and subjected them to a special period of limitation. I therefore submit, that the Select Committee who have enlarged the provisions of sections 5 and 29 have not conformed to the first intention of the Indian Limitation Act as it was introduced into this House, and that the changes introduced by the Select Committee are of such a vital character as call for a reference to the public at large. I therefore support the amendment moved by Mr. Rangachariar.

Mr. R. A. Spence: I move that the question be now put.

The motion was adopted.

The Honourable the President: The original question was:

'That the report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908, be taken into consideration.'

Since which an amendment has been moved:

'That the Bill be re-circulated for the purpose of obtaining further opinion thereon such opinion to be obtained before July 31st of this year.'

The question I have to put is:

'That the Bill be re-circulated for the purpose of obtaining further opinion thereon, such opinion to be obtained before July 31st of this year.'

The amendment was adopted.

THE ENEMY MISSIONS BILL.

Mr. S. P. O'Donnell: Sir, I beg to move:

'That the Bill to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees and for the incorporation of such Trustees and for other purposes, as passed by the Council of State, be taken into consideration.'

The properties to which this Bill relates formerly belonged to certain Missions which were either German or tainted with German influence. Accordingly, during the war, Government took action under the Enemy Trading Act and these properties were vested in the Custodian of Enemy Property. Later on, the Custodian was directed to transfer these properties to certain Boards of Trustees, and these transfers were carried out by means of indentures. The Trustees were empowered to administer the properties subject to certain trusts and these trusts were so framed that the Trustees have to carry on the educational, religious and charitable work of the displaced Missions. That, of course, is in accordance with article 488 of the Peace Treaty to which India is a party. Under that article the allied associated powers agreed that the property of the German Missions should be handed over to certain Boards of Trustees to be used for the same purposes for which they had been formerly employed. The object of this Bill is to provide, firstly, for the incorporation of the Boards of Trustees, secondly, for the method of appointment of Trustees in future, and thirdly, for the validation of certain changes that have occurred in the original appointments.

The Honourable the President : The question is :

'That the Bill to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees and for the incorporation of such Trustees and for other purposes, as passed by the Council of State, be taken into consideration.'

The motion was adopted.

Sir P. S. Sivaswamy Aiyer : Sir, may I move a slight verbal amendment? My amendment is one of a purely verbal character to improve the grammar of clause (3), on page 2, in line 5. The language of clause (3) is this :

'Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the schedule are hereby declared to be validly made.'

I suggest the substitution of the words 'have been' for the word 'be' because the indentures have already been made. I think it will improve the grammar of the clause to substitute the words 'have been' for the word 'be'.

The Honourable the President : The question is :

'That in clause 3, line 5, the word 'be' be omitted and the words 'have been' be inserted.'

The Honourable Dr. T. B. Sapru : I have no objection to the amendment.

The amendment was adopted.

Mr. S. P. O'Donnell : Sir, I rise to move :

'That the Bill with this amendment be passed.'

The motion was adopted.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. J. Hullah : I move, Sir :

'That the Bill further to amend the Land Acquisition Act, 1894, as passed by the Council of State, be taken into consideration.'

The object of the legislation is two-fold, firstly, to provide that in all cases from the award of a court an appeal shall lie only to the High Court, and,

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secondly, that subject to certain limitations an appeal shall lie from the award of a High Court to the Privy Council.

The Honourable the President: The question is :—

'That the Bill further to amend the Land Acquisition Act, 1894, as passed by the Council of State, be taken into consideration.'

Chaudhuri Shahab-ud-Din: Sir, section 54 of the Land Acquisition Act, as interpreted by the Judicial Committee of the Privy Council, is not supposed to give a right of further appeal, that is to say, it gives only the right of special or limited appeal and of no further appeal. If a claim under the Land Acquisition Act is disposed of by a subordinate court, in accordance with the special provisions of the Civil Courts Act, then an appeal may lie either to another subordinate court, that is, a court of higher jurisdiction but subordinate to the High Court, or it may lie to the High Court itself. If the claim is disposed of by the High Court itself on appeal, then the appeal shall lie to the Privy Council but only *one* appeal is given at present. The object of the present Bill is to give the right of further appeal, that is, if the appellate court is subordinate to the High Court, then the appeal shall lie to the High Court, but if the appellate decree is that of the High Court itself, then the appeal shall lie to the Privy Council. That, I understand, is the object of the Bill which has been moved by the Government and passed by the Council of State.

Sir, I find, that as regards the right of appeal to the High Court, when the appellate decree is that of a court subordinate to the High Court, the right is governed by the provisions of the Civil Procedure Code, and the rules are laid down in that Code; but, when the right of appeal is given to the Privy Council, there the provisions of the Civil Procedure Code (sections 109 to 112) are ignored and specific special provisions are proposed in the Bill under discussion. I refer, Sir, to the provisions of clause (3). In the case of an appeal to the Privy Council it lays down :

'No appeal shall lie to His Majesty in Council unless :

- (i) the amount in dispute in the appeal is ten thousand rupees or upwards, and
- (ii) the appeal involves some substantial question of law.'

That is to say, two conditions must co-exist to entitle an aggrieved party to go to the Privy Council. The first is, that the value of the subject matter must be more than ten thousand rupees and, secondly, there must be a question of law involved in the case. These strict and rigorous conditions do not exist in the case of ordinary appeals to the Privy Council which are governed by the provisions of the Civil Procedure Code. I beg to point out to the Honourable Members of this Assembly that in Land Acquisition cases, in 999 cases out of every 1,000, there is only a question of fact and no question of law.

Therefore, to make the law so stringent as to require the co-existence of these two conditions, that is, the value of the claim should be above Rs. 10,000 and there should also be a question of law, amounts to practically giving no right of appeal. I beg to propose, therefore, that this Bill may be referred to a Select Committee, and its provisions considered in the light of the remarks which I have made or some of the other Honourable Members may like to make, and also in the light of the provisions of the Civil Procedure

Code. This is a very important measure. If the right of appeal is to be given at all, it should be given in fact and not only in name. In Land Acquisition cases, to which Government is always a party, it is very desirable that in all cases where the value is only above Rs. 10,000, the aggrieved party must as a matter of course be permitted to seek relief by way of appeal to His Majesty in Council.

Sir, with these remarks I propose that the Bill be referred to a Select Committee. With your permission, Sir, I would like to make a slight verbal alteration in my amendment. By an oversight I included the name of the Honourable Mr. Sarma as one of the Members of the Select Committee. I understand he is not a Member of this House. Therefore I trust I may be permitted to suggest in his place the name of Mr. Hullah. I also find that by an oversight I omitted to include any Member from Bengal, a very important province, indeed. If I may be permitted, Sir, I would include the name of Mr. Neogy, whose consent I have obtained. It was pointed out to me this morning, that no layman's name had been proposed by me on the Select Committee, that all the names suggested by me were those of lawyers; therefore, I would suggest Sir Jamsetjee Jeejeebhoy's name as well.

With these remarks, Sir, I leave this matter in the hands of this Honourable Assembly. The names of the gentlemen who will form the Select Committee, as now formally proposed, are :

The Honourable Dr. T. B. Sapru, Mr. N. M. Samarth, Mr. T. V. Seshagiri Ayyar, Dr. H. S. Gour, Munshi Iswar Saran, Mr. K. C. Neogy, Mr. Hullah, Sir Jamsetjee Jeejeebhoy, and the Mover.

The Honourable the President : The amendment moved is :

'That the Bill further to amend the Land Acquisition Act, 1894, as passed by the Council of State, be referred to a Select Committee consisting of the following Members :

The Honourable Dr. T. B. Sapru, Mr. N. M. Samarth, Mr. T. V. Seshagiri Ayyar, Dr. H. S. Gour, Sir Jamsetjee Jeejeebhoy, Mr. K. C. Neogy, Mr. Hullah, Munshi Iswar Saran and Chaudhuri Shahab-ud-Din.'

The Honourable Mr. B. N. Sarma : Sir, if I intervene in this debate and on this motion at this stage, it is for the purpose of explaining the position of the Government with regard to this Bill and the motion before the House. The amendment of the Land Acquisition Act has been under the consideration of the Government for some years past, and we asked the Local Governments to report as to what they considered ought to be done, especially in view of the recommendations of the Industrial Commission Report. The Government hoped to be able to bring in a general amending Bill dealing with all the points which have been brought to their notice hitherto; but the replies of Local Governments not being complete with reference to several of the important points, and it being considered advisable that we should wait until the reformed Governments have a chance of explaining their position and their views with reference to these important questions, no general legislation has been undertaken in this session and particularly with regard to the acquisition of land for industrial purposes. In 1917, I think the Honourable Mr. Patel introduced a Bill to deal with a position which has been changed by the decision of the Privy Council in the Rangoon case to the effect that the law did not provide for the entertainment of appeals which hitherto lay in practice to the Privy Council. The Government examined the position and asked the Local Governments as to their views on Mr. Patel's Bill. Local Governments have not all approved

[Mr. B. N. Sarma.]

of any legislation with regard to giving a right of appeal to the Privy Council. I may say that a large number of Local Governments were opposed to the further delay that would be interposed before the acquisition is completed if appeals were to be allowed to lie to the Privy Council. They urged, and with some force, that the proceedings were in the nature of arbitration proceedings, that there ought to be some finality, and that it would be unjust to the general tax-payer and to the progress of works in general, if there should be interminable delay, which would be the result if litigation could be carried on for years and years up to the highest court of appeal. They were fortified in their view by what the Judicial Committee observed in the Rangoon case :

‘ It is impossible to conceive anything more unfortunate than that a court in this country should be called upon to review the determination of arbitrators as to the value of a piece of land in India, a mere question of fact, without the advantage of any local knowledge.’

Several of the High Courts were also in agreement with the Local Governments' views which I have read out just now. But there has been a diversity of opinion, chiefly amongst lawyers and judges. Several High Court judges urged that there should be an appeal on fact as well as on law, subject to the same conditions as in all other cases under the Civil Procedure Code. The Government of India carefully considered the question, especially with regard to another point which was raised, as to whether it was competent to us to interfere in the way suggested with the discretion of the Privy Council. Ultimately, they arrived at the conclusion they would be meeting the justice of the case and the expectations of the people, without unduly prolonging litigation, if an appeal was allowed on a substantial question of law and was confined to cases of real importance. Hence the Bill which was introduced in the Council of State. The Council of State passed the Bill in the form in which it was presented to them by the Government, and it now appears in the same form before this House. I am not going to contend for one moment that much cannot be said for the view that there should be an appeal on fact as well as on law. It may perhaps be urged on the other hand that there should be no appeal to the Privy Council at all, and that we should be content, especially in these arbitration proceedings, with appeals only to the High Court. The position is perfectly arguable; but I would only interpose with this remark. I would ask Honourable Members not to draw the distinction which is commonly drawn— and which perhaps had some weight in the past not to draw a distinction as between the Government and the public and the Legislature which they represent. Here it is said, ‘ Oh! Government is a party, and therefore they would have the advantage. It is unjust to deprive the public of a certain advantage which they would otherwise have as against the mighty Government,’ and so on. Well, the question at issue is not between the Government as a body apart from the public and the tax-payer; it is between the public in general and the individual tax-payer whose property may be expropriated under this Act. It is just that the individual whose property is sought to be taken under the Act should be protected and that all due safeguards should be provided for; and we hope that under the Act as it is sought to be amended such safeguards are being provided. But Honourable Members will also be aware of the fact that it is a double-edged weapon; that if an appeal lies on a question of fact in favour of the individual whose property has been acquired, it also lies at the instance of the Government; and it is not always that the Government will be the loser if there should be

an appeal to the Privy Council. The view that the Government had taken hitherto was, that there should be some finality.

I think in these days of industrial development when we hope to be able to push on with our schemes with as much rapidity as possible, it is a factor that has to be taken into consideration as to whether your budgets have to be revised and re-revised subject to the contingency of one court holding one way, another court holding another way and a third court in London holding in a different way. But as I have said, it is a matter entirely for the Council, and if the Council thinks that this matter ought to be thrashed out by a Select Committee specially appointed for the purpose, I do not think it is the business of the Government to place any obstacle whatever in the way, but we cannot recommend ourselves the adoption of such a course. We are entirely in the hands of the Assembly. I have placed before you what can be said on either side, and I would ask that, if possible, the course that has been adopted in the Council of State may be adopted here also, and any amendment relating to an effort being provided on a question of fact may be discussed now and adopted if necessary.

But if the Assembly thinks that a Select Committee would be the proper body to thrash out this question, we have no objection in the matter.

Dr. H. S. Gour: In ordinary cases, Sir, an appeal lies to the Privy Council when the finding of the first court on a question of fact differs from the finding of the High Court, in other words, when on a question of fact the two courts differ, an appeal lies to the Privy Council. Therefore in all cases of a civil nature, the Privy Council have the right to hear an appeal in such cases provided of course that the value of the claim is Rs. 10,000 or upwards. Now, if the land is acquired by a treaty and not compulsorily under the statute, the Privy Council will have the right to hear an appeal. Supposing I was to sell my land and afterwards complained that it has gone for an undervalue, which is evidence of fraud, and a question about valuation comes in, and the District Judge gives one finding and the High Court another, then in that case I have a right to go to the Privy Council and ask them to hear my appeal. Well, then, it seems to me that the observations read out by the Honourable Mr. Sarma that it is impossible for the Privy Council to review a mere question of fact cannot be correct. If that be so, then their Lordships of the Privy Council have deprived a vast body of cases of their opinion which, in the exercise of their normal functions, they are every day called upon to decide. In all cases of Transfer of Property where there is a question of valuation of land and on which two courts differ, the Privy Council are, as a matter of course, called upon to decide it, and if the observations which the Honourable Mr. Sarma has read out that without coming to the spot and inspecting the spot it is impossible for the Privy Council to review the decision of the local courts, if that general observation was to apply to all cases going to England from this country, then, I submit, with the utmost respect, their Lordships would not be discharging their duties.

Now, Sir, what difference is there between a voluntary sale and a compulsory sale? None, so far as I can see, except that in the one case the acquisition is made for a certain party and as a matter of necessity; in other words, the purchaser has no option to purchase. In the other case, it is made under a contract. But in either case, so far as the question at issue is concerned, the matter is indistinguishable. I am not at all surprised at the

[Dr. H. S. Gour.]

arguments put forward by the Honourable Mr. Sarma that there must be finality for litigation. We all admit it, but I submit that if you once give a right of appeal to the Privy Council, you cannot restrict or limit that right by narrowing down the provisions of the Civil Procedure Code which lays down the conditions under which every person has a right of appeal to the Privy Council. I therefore submit, that unless any very clear reasons are given, this must not be made an exception to the rule and must follow the normal law.

Mr. J. K. N. Kabraji: Sir, I think this amendment raises a question of procedure in regard to Bills in the two Chambers which it is necessary to settle. Here we have a Bill passed by the Council of State and sent to this House, and it is proposed that instead of considering it in detail before passing it, a Select Committee should be appointed at this stage. I personally fail to see the necessity for a Select Committee. The Bill is a simple one and it seems to me that, now that the Bill has been considered by the Council of State and passed and sent down here, we should proceed to consider it in detail, and already I see a number of amendments have been put down on the paper, so that this House is in a position to consider the details of the Bill. It does not seem to me necessary, nor does it seem to me respectful to the other House that, at this stage a Select Committee should be appointed to go over the whole Bill once again. At this rate it may be said that we shall take up a Bill in this House, pass the Bill and send it up to the other House, and they will then sit in a Select Committee over our Bill once again. I think this establishes a procedure which had better be avoided out of a feeling of mutual respect which should subsist between the two Houses. I therefore oppose the amendment.

Mr. Amjad Ali: Sir, I think the course suggested by the Honourable Mover of the amendment to refer the Bill to a Select Committee of this House should be avoided. This Bill has been very carefully considered by the other House, and after due and deliberate consideration it has been sent to us here for consideration. Now the motion put forward by my Honourable friend, the Chaudhuri Sahab, that the Bill should be referred to a Select Committee consisting of certain gentlemen including himself means that the Members of this House are deprived of giving their opinions and discussing the matter fully here. The Members named in the motion will no doubt consider the Bill and place their views before us, the matter will come up again, and then we shall be called upon to put forward our views; thus there will not be any finality; the matter will go on till Doomsday for no reason whatsoever. I do not think, Sir, that this proposal to refer the Bill to a Select Committee of this House will serve any useful purpose inasmuch as very due and deliberate consideration has been bestowed on the matter by the Honourable Members of the other House. If such a course is adopted, that is to say, if this Bill is referred to a Select Committee composed of certain Members of this House, I submit it will be a waste of time and waste of breath, and we shall not be able to go home; we shall have to remain here for a life time.

Chaudhuri Wajid Hussain: I am sorry to see again in the House a spirit similar to that which I had the misfortune to witness a few days ago. I am sorry to find that some of us do not fully appreciate the value of the good relations which ought to exist between the Council of State and this

Assembly. We seem to forget that we are after all only occupying two different thwarts in the same vessel of Indian Legislature of which you are pulling one oar and Mr. Muddiman is pulling the other. And in proposals like this of the Joint Committee we have got a sort of common meeting ground, a sort of confluence

The Honourable the President : Order, order. There is no Joint Committee proposed here.

Chaudhuri Wajid Hussain : What I mean to say is, that if on any subject we feel that we can agree with the Council of State, there is no reason why we should oppose it on the mere ground that we should not accept anything they say. (Cries of 'nobody is doing that'.) I beg your pardon. I just caught what my friend on the right was saying—I was not here when the discussion took place—but I gathered from what he said that he was opposing it on that ground. I am extremely sorry. Well, I would once more remind the House of our responsibility for treating whatever the Council of State do with a certain amount of respect.

The Honourable the President : Order, order. The Honourable Member must really come to the point.

The original question was :

'That the Bill further to amend the Land Acquisition Act, 1894, as passed by the Council of State, be taken into consideration.'

Since which an amendment has been moved :

'That the Bill further to amend the Land Acquisition Act, 1894, as passed by the Council of State, be referred to a Select Committee consisting of the following Members :

'The Honourable Mr. B. N. Sarma, the Honourable Dr. T. B. Sapru, Mr. N. M. Samarth, Mr. T. V. Seshagiri Ayyar, Dr. H. S. Gour, Munshi Iswar Saran and the Mover (i.e., Chaudhuri Shahab-ud-Din).'

The question I have to put is :

'That the Bill be referred to that Select Committee.'

AYES—34.

Abdulla, Mr. S. M.
Abdul Quadir, Maulvi.
Afsar-ul-Mulk Akram Hussain,
Prince.
Agarwala, Lala G. L.
Aiyer, Sir Sivaswamy.
Ayyar, Mr. T. V. Seshagiri.
Barua, Srijut Debi Charan.
Cotelingam, Mr. J. P.
Currimbhoy, Mr. R.
Das, Babu B. S.
Dwarkanadas, Mr. J.
Faiyaz Khan, Mr. Muhammad.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Hussanally, Mr. W. M.
Ibrahim Ali Khan, Nawab
Muhammad

Iswar Saran, Mr.
Jeejeebhoy, Sir Jamestjee.
Joshi, Mr. N. M.
Majid, Sheikh Abdul.
Majumdar, Mr. J. N.
Man Singh, Bhai.
Misra, Mr. Piyari Lal.
Neogy, Babu Khitish Chandra.
Norton, Mr. Eardley.
Pyari Lal, Mr.
Rangachariar, Mr. Tiruvenkata.
Reddiyar, Mr. M. K.
Samarth, Mr. N. M.
Shahab-ud-Din, Chaudhuri.
Singh, Babu B. P.
Venkatapatiraju, Mr. B.
Vishindas, Mr. H.
Wajihuddin, Haji.

NOES—53.

Abdul Rahman, Mr.
 Ahmed, Mr. Zahi-ud-Din.
 Amjad Ali, Mr.
 Aiyar, Mr. A. V. V.
 Asjad-ul-lah, Maulvi Miyan.
 Bagde, Mr. K. G.
 Bhargava, Mr. J.
 Bryant, Mr. J. F.
 Carter, Sir Frank.
 Crookshank, Sir Sydney.
 Dalal, Sardar B. A.
 Dass, Pandit R. K.
 Dentith, Mr. A. W.
 Fell, Sir Godfrey.
 Gajjan Singh, Mr.
 Ghulamjilani Bijlikhan, Sardar.
 Gidney, Lieutenant-Colonel H. A. J.
 Gulab Singh, Sardar.
 Habibullah, Mr. Muhammad.
 Holland, The Honourable Sir Thomas.
 Hullah, Mr. J.
 Hutchinson, Mr. H. N.
 Ikramullah Khan, Mr. Mirza Md.
 Kabraji, Mr. J. K. N.
 Keith, Mr. W. J.
 Latthe, Mr. A. B.
 Mahadeo Prasad, Mr.

Maw, Mr. W. N.
 McCarthy, Mr. Frank.
 Mitter, Mr. D. K.
 Muhammad Hussain, Mr. T.
 Mukherjea, Babu J. N.
 Mukherjee, Mr. T.
 O'Donnell, Mr. S. P.
 Percival, Mr. P. E.
 Pickford, Mr. A. D.
 Raja S. P. Singh.
 Rajan Baksh Shah, Mukhdum Syed.
 Rao, Mr. C. Krishnaswamy.
 Renouf, Mr. W. C.
 Sapru, The Honourable Dr. T. B.
 Sarfaraz Hussain Khan, Mr.
 Sen, Mr. Sarat Chandra.
 Singh, Raja S. P.
 Sinha, Babu Adit Prasad.
 Sircar, Mr. N. C.
 Spence, Mr. R. A.
 Spry, Mr. H. E.
 Ujagar Singh, Baba Bedi.
 Waghorn, Colonel W. D.
 Wajid Hussain, Mr.
 Watson, Sir L. P.
 Wild, Mr. C. E.

The motion was negatived.

The motion, that the Bill be taken into consideration, was adopted.

Rao Bahadur T. Rangachariar : Sir, doubt has risen in my mind on a question of procedure, and I wish the Chair's ruling on the point.

As we know, the proposal of Government is to amend a certain section of the Act, but my amendment is to amend another section of the Act. As this question may arise frequently in the course of our proceedings, I desire to know whether I am entirely in order in moving this. In May's Parliamentary Practice some doubt is cast on this point, and our Standing Orders and Rules do not sufficiently enlighten us. My amendment has nothing to do with the amendment proposed, but it is an amendment to the original Act itself.

The Honourable Dr. T. B. Sapru : Sir, I will put one or two considerations before the House with reference to the remarks that have fallen from my Honourable friend opposite.

The amendment which stands in his name is really outside the scope of the Bill as drafted. The Government have had no opportunity of giving any consideration to this question, nor do I think that the Members of the other House have had any opportunity of giving such attention as the scope of this amendment would seem to require. I would, therefore, beg you, Sir, to give a ruling as to whether it will be open to a Member of this House to move an amendment which is outside the scope of the Bill as originally drafted. I may be permitted to say that in past years it has never been the practice to allow a new amendment to be moved which is entirely outside the scope of the Bill. On that ground, I would certainly oppose my Honourable friend's motion. It may be that we may have a Bill for the amendment of a certain section of the Indian Penal Code. For instance, we had a Bill with regard to the abolition of the penalty of forfeiture. I shall ask the House to imagine how difficult it would be for this House to deal with an amendment which touched,

say, the offence of murder or manslaughter. Or, as my Honourable friend, Sir William Vincent, reminds me, we had a Bill with regard to section 55 of the Civil Procedure Code. Suppose my learned friend at that time had intended to move an amendment the effect of which was to enlarge the scope of section 115 of the Code which deals with the question of revisions. That would be extremely inconvenient to the House, and certainly would place the Government in a very false position because they never had any opportunity of considering that matter.

The Honourable the President: A somewhat curious situation has arisen. The amendment moved by the Honourable Member on my left is undoubtedly within the title of the Bill as drawn, and yet it is equally undoubtedly outside the scope of the substance of the Bill, which provides for an appeal to the Privy Council. Therefore, on the ground of practice, I think I am bound to rule it out of order. At the same time, I suggest to the Government, that it will be wise to protect themselves by seeing that the title of a Bill is not wider than its substance. If I were to go by this title, I should have to allow any and every amendment to the Land Acquisition Act, 1894. (*An Honourable Member:* 'Amend the Title.') That can, no doubt, be amended hereafter, but the title of the Bill as presented to the Assembly must be held to give the substantial purport of the measure in the minds of the Government.

Rao Bahadur T. Rangachariar: In obedience to the ruling of the Chair, and in view of the fact that the Honourable Member for Agriculture has told us that in revising the Act he will bear this in mind, I do not think I need press my motion.

The amendment* was, by leave of the Assembly, withdrawn.

Chaudhuri Shahab-ud-Din: Sir, the amendment which I propose to move is only a verbal one. Clause (2) of the Bill says:

'Every such award shall be deemed to be a decree and the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.'

I think, that in conformity with the phraseology of the Civil Procedure Code as well as on common sense grounds the words suggested by me, that is, 'and the statement of the grounds' should be substituted in place of the words 'and the grounds.' Under the Civil Procedure Code, 'judgment' means:

'A statement given by the judge of the ground of a decree or order.'

Grounds may exist but, unless they are stated in the award, surely they cannot be said to be a judgment. Though, technically, the judgment of a

* That after clause (1) the following be inserted as clause (2) of the Bill:—

'2. In the proviso to Section 6(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) after the words 'Provided that' the following shall be inserted namely:

(a) In all cases where the person interested in the land so requires, no such declaration shall be made without previous consultation with the local authority of the town, district or division, within whose local limits the land is situated and (b),

That clause (2) be re-numbered '3' and in the said clause as re-numbered the words 'Section 26 of the said Act' be substituted for the words 'Section 26 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act)'; and that clause (3) be re-numbered '4'.

[Chaudhuri Shahab-ud-Din.]

Collector is called an award, yet it is an order or a decree. Therefore, the grounds stated by the Collector *in the award* should be considered to form the decree. There may be grounds which are not stated, yet they may be grounds for the award, but, of course, they will not form part of the judgment or award, and, therefore, they cannot constitute a decree. I think my amendment is a verbal one, and, as it is in consonance with the provisions of the Civil Procedure Code, I hope it will be accepted without much hesitation.

The Honourable the President : Amendment moved :

'That in clause 2, for the words 'and the grounds,' the words 'and the statement of the grounds' be substituted.'

The Honourable Mr. B. N. Sarma : I have no objection to accepting it.

The amendment was adopted.

Chaudhuri Shahab-ud-Din : The next amendment which I beg to move, Sir, is—

'That the word 'and' at the end of sub-clause (2) (i) of clause 3 be converted into the word 'or'.

That will meet my object. As stated in moving my first amendment for reference of this Bill to a Select Committee, it is to my mind very unfair that when litigation is between two private individuals, the right of appeal should be governed by one set of rules, but when the litigation is between the Government and a private individual, there should be another set of rules for regulating the right of appeal to the Privy Council. Therefore, I propose, that as in ordinary cases there is a right of appeal to the Privy Council when the subject matter exceeds Rs. 10,000, let that right be allowed to a private individual or even to the Government when they want to appeal in a case relating to the acquisition of land. In a large number of cases under the Land Acquisition Act the question for decision by the Collector or by the District Judge as well as by the High Court is a question of fact, that is, the market value of the land to be acquired. Therefore, to lay down that there shall be a right of appeal when the amount in dispute in appeal is Rs. 10,000 and upwards *and* the appeal involves some substantial question of law amounts almost to giving no right of appeal. Therefore, I propose that if the word 'and' is substituted by the word 'or' at the end of sub-clause (2) (i), my object will be achieved.

With these words, I propose the amendment.

The Honourable the President : Amendment moved :

'That in clause 3 for the word 'and' at the end of sub-clause (2) (i) the word 'or' be substituted.'

The Honourable Mr. B. N. Sarma : Sir, the object of the Honourable Member in proposing this amendment is evidently to confer a right of appeal in all cases where the subject matter of the appeal is Rs. 10,000 or upwards whether it be on a question of fact or on a question of law, and in all cases below Rs. 10,000 if there be a substantial question of law. I take it, that is his object. Well, Sir, the Government regret that they cannot accept that position. It goes further than the Civil Procedure Code at present enacts. The object, as I have said, of the Government has been to give a right of appeal whenever any important question of principle, on the determination of which the quantum of compensation would largely depend, is involved, and in cases

of some importance, and, consequently, they have put in these two provisos, first of all that the subject matter of the appeal to the Privy Council must be Rs. 10,000 or upwards which follows the analogy of section 110, Civil Procedure Code, and the rules providing for the subject matter of appeals to the Privy Council, and, secondly, that there must be a substantial question of law involved. Therefore, in minor cases there would not be any right of appeal to the Privy Council. Of course, the Privy Council in their extraordinary jurisdiction may or may not admit an appeal if they should think fit to do so, but that is a question with which we are not concerned. We are now concerned only with the question as to whether by Statute we should confer upon an expropriated party the power of appealing against a decision of the highest court in this land, namely, the High Court. The first safeguard is, that it should be in respect of some matter of value that this appeal should go to the Privy Council and the first proviso therefore says that it must be Rs. 10,000 or upwards.

Then, the question is, is an appeal to be allowed on a question of fact or on a question of law or both where the appeal satisfies the first requirement, namely, that the value is Rs. 10,000 or upwards? The Government's position, as I have already explained, is to adopt an intermediate course between the course suggested by various Local Governments and High Courts of having no appeal at all and the other course which has been advocated by others of providing an appeal in all cases to the Privy Council. They said :

Here the subject has been exercising, rightly or wrongly, the right of carrying his appeal to the Privy Council ; therefore he would feel aggrieved if that right be cut down.'

1 P.M.

So, let there be a right of appeal only where there is a real necessity for it. The Honourable Chaudhuri Shahab-ud-Din's contention was, that by allowing a right of appeal only where a question of law was involved, we are practically rendering nugatory the power which we profess to give by this Bill. I submit, not. When we have to deal with sections 23 and 24 of the Land Acquisition Act, there are various principles which should guide the Land Acquisition Act Officer as well as the Judge who has to try the case. The question as to what amount of compensation should be given would be largely dependent upon a correct determination of the principles upon which the valuation is to proceed. Therefore, to say that we are rendering it illusory or provide for cases where there is no necessity, I submit, is arguing wrongly. There are cases in which it is but right that the highest court, namely, the Privy Council, should have an opportunity of laying down authoritatively the interpretation of the principles laid down in the Land Acquisition Act ; and therefore we say, that where there is a substantial question of law, there should be an appeal to the Privy Council. But I would respectfully submit, no case has been made out to this House for a provision for appeal on a pure question of fact as to whether the principle being conceded, the ground on which the money is to be paid, the land, the buildings, improvements or trees have to be valued ; having been settled, how much is to be awarded is a question, I submit, which ought primarily and wholly be left to the determination of the courts here.

I submit once again to this House, that these are really in the nature of arbitration proceedings. For a period of more than fifty years, from the year 1870 onwards, we have looked upon them, subject to certain exceptions, as arbitration proceedings : we always talk of the decision as being an award of the

[Mr. B. N. Sarma.]

Collector, or an appeal lying from an award to the district judge; the principal court of civil jurisdiction sat with assessors, and not independently, for many years, and consequently substantial provisions have been enacted in the Land Acquisition Act to treat these cases as being on a footing somewhat different from the ordinary cases where the question of prices between the vendor and the vendee may arise for adjudication. I have already also enlarged to some extent upon an essential aspect of the Land Acquisition Act proceedings that speed is of the essence of the transaction. We should not be holding up these proceedings indefinitely, as we may be doing by having these protracted proceedings continued up to the court in England if we can help it, that is, where we can prevent it without doing injustice to the subject.

I think exception has been taken to the expression of the opinion of Lord Macnaughten as to whether the Privy Council were right in renouncing the jurisdiction which they had been exercising for many years past by entertaining appeals both on questions of fact as well as of law. I think, Sir, we ought to have some regard to the expression of the views of His Majesty's Judges of the Privy Council who, after all, are the persons who have to deal with these matters; it is a question of prerogative, and exception was taken by the Chief Justice of one High Court as to whether it would be competent to this Legislature to interfere with the discretion of the Privy Council when they express their disapproval of a particular course. The question was elaborately discussed by the law officers and the view has been taken that it was a matter in which the Legislature may, if they choose, confer jurisdiction. Therefore, I submit, that we have gone further than what the Privy Council have recommended and what several of the Local Governments have recommended in providing for an appeal to the Privy Council in particular cases. Honourable Members must, however, remember that there is a limit beyond which we ought not to proceed or rather go counter to the wishes of His Majesty's Judges. I may submit here, that the Judges of the Calcutta High Court have expressed themselves pretty clearly :

'As regards the second point, namely, whether there should be an appeal to the Privy Council, I am to say that no question appears to have ever been raised as to the right of appeal to the Privy Council before the Rangoon case.' 'Having regard to this expression of opinion by the Judicial Committee the Chief Justice and the Judges think that there should be no appeal to the Privy Council on a pure question of fact; but that when a substantial question of law or of valuation arises, there should be an appeal subject to the usual provision as to value and subject to any rule which the Privy Council may make.'

That was the considered opinion of the Judges of the Calcutta High Court. The Patna High Court and the Madras High Court were divided, and so, I believe, was the Allahabad High Court. The Governments of Madras, Bengal and Bombay were against it. I believe, so also was the Central Provinces. I submit, therefore, in view of the convenience of the parties, in view of the fact that this limitation would work both against Government as well as in favour of Government, in the interests of finality of litigation, in the interests of the special character of these proceedings, I submit, that Members would take the same view as Members of the Council of State did, namely, restrict the right of appeal only to cases where questions of law are involved.

Mr. J. Chaudhuri: May I, Sir, ask the Honourable Member to state what the opinion of the majority of the Judges of the Patna and other High Courts is, and how they are divided? That will throw some light on the question.

Mr. T. V. Seshagiri Ayyar : Sir, it is mainly because in the amending Bill Government have restricted the power which under the Civil Procedure Code a party possesses in respect of a subject-matter of the value of less than Rs. 10,000, that this amendment has been moved. If the Honourable Member who spoke on behalf of the Government will turn to two sections which throw a considerable light upon this question, namely, sections 109 and 110 of the Civil Procedure Code, he will find that by this Bill he is restricting considerably the power which a party will have to prefer an appeal to the High Court if it was a case governed by the Civil Procedure Code. Now, the position to put it shortly, is this. In cases where the subject-matter is of less value than Rs. 10,000 power is given to the High Court to certify that it is a fit case for going to the Privy Council. If you turn to section 109, there are three clauses of cases mentioned there. Subject to such rules as may from time to time be made by His Majesty in Council regarding appeals from the courts of British India and to the provisions hereinafter contained an appeal shall lie to His Majesty in Council :

- (a) from any decree or final order passed on appeal by a High Court or by any other court of final appellate jurisdiction;
- (b) from any decree or final order passed by a High Court in the exercise of original civil jurisdiction; and
- (c) from any decree or order, when the case, as hereinafter provided, is certified to be a fit one for appeal to His Majesty in Council.

Section 110 says :

'In each of the cases mentioned in clauses (a) and (b)—[not the certificate clause (c)]—of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards,

So far as clause (c) is concerned, that is altogether unaffected by the value of the subject-matter. All that you have to do is to go before the High Court and ask the High Court to certify that the case is a fit one for appeal to His Majesty in Council. I shall mention a case in point and I would ask the Honourable Mr. Sarma to consider it. There may be a test case as regards land acquisition, and it may be as regards the subject-matter in value less than Rs. 10,000.

But it may involve an important and substantial question of law, and although this particular case may be of the value of less than Rs. 10,000, still there may be a principle involved in it, which may render it desirable to have the decision of the highest tribunal in the country; and the High Court would then certify that it is a fit case for an appeal to the Privy Council. Now in the amending Bill the Government have omitted this clause, and I want to know why they have taken away this ordinary right which a suiter possesses to ask the High Court to certify that his case is a fit one for being heard by the Privy Council? If they had inserted that, I would not have thought of supporting the amendment moved. But inasmuch as they have omitted that important provision which would enable a party to go to the Privy Council on a certificate from the High Court, this motion seems necessary. I think this is a very important matter, and the Bill should not be rushed through in this manner. I therefore move, Sir :

'That as this is a very important matter and involves the consideration of a large number of questions, the further consideration of this Bill be adjourned till the next session of this House.'

Dr. H. S. Gour : Sir, I wish to move a very short amendment which I think will be acceptable to the House :

' Subject to the Code of Civil Procedure, 1908, applicable to appeals from original decrees and notwithstanding anything to the contrary in any Act of a local Legislature, an appeal shall lie in any proceeding to the High Court from the award or from any part of the award of the Court and subject also to the provisions of the same Court, to His Majesty in Council from that of the High Court.'

This is the first clause proposed to be substituted, and I propose that the whole of clause (2) should be cut out, and I think the Honourable Mover.....

The Honourable the President : I think I will put the discussion in order by putting the question that this debate be adjourned.

Dr. H. S. Gour : Sir, so far as the amendment of the Honourable Mover is concerned, it is unacceptable, and I wish to explain to the Honourable Mover himself why it is unacceptable. By changing 'and' into 'or' he makes all cases over Rs. 10,000 in value necessarily appealable to the Privy Council, but such cases are not appealable to the Privy Council unless the judgments of the courts are non-concurrent. The result then would be that he would greatly enlarge the provisions of the Code of Civil Procedure and much to the misfortune of the appellants, because the Privy Council have in a series of cases, I think for the last 75 years, laid down that where the judgments of the two courts are concurrent on a question of fact they will decline to interfere. The result would be that this amendment would countenance an appeal to the Privy Council in cases with a certainty that the Privy Council will reject it as a matter of long established practice. Now, can such an amendment ever be permitted? I submit, not. Now, if we pass on to the next clause (b) or rather clause (2), we are landed in

The Honourable the President : The Honourable Member must address himself to the motion.

Dr. H. S. Gour : That is exactly what I am doing.

The Honourable the President : I cannot allow him to go into such voluminous detail.

Dr. H. S. Gour : Then coming to clause (2)—I am just trying to show why adjournment should take place, if the claim is only for Rs. 5 triable in the court of a munsiff and there is a substantial question of law, then it will be appealable to the Privy Council, which is absurd, the word 'or' disjoins the previous clause as to valuation and make every case appealable if it 'involves some substantial question of law.' Therefore, apart from valuation, if there is a substantial question of law in a case valued at, say Rs. 5, it is appealable to the Privy Council, does the Honourable Mover suggest that this is the intention? I submit, therefore, he has not conveyed his intention in changing the word 'or' for the word 'and', and I therefore think that Mr. Seshagiri Ayyar was perfectly right in saying that this amendment as it stands makes confusion worse confounded, and I think the Honourable Mover will be advised to withdraw that and substitute my amendment for his own.

Dr. Nand Lal: Sir, I rise to oppose the amendment moved by my Honourable friend, Chaudhuri Shahab-ud-Din.

The Honourable the President: Order, order. The Honourable Member must address himself to the motion before the House, which is, that this debate be now adjourned. He must bring forward reasons to show why it should either be adjourned or not be adjourned.

Dr. Nand Lal: I am not in favour of an adjournment of this motion. The point is quite simple, and does not require a great deal of explanation. If the word 'and' be substituted for the word 'or', namely, if the word 'or' is put in the place of word 'and', then it amounts to this, that irrespective of the value every appeal could go to the Privy Council. There should be some argument in support of the contention that there is no necessity for an adjournment, namely, I should give reasons why I am not in favour of an adjournment. The Honourable Mover of the motion has simply said that the point involved in his amendment is a very important one and that sufficient time should be allowed to think about it. That is the crux of the whole thing upon which the motion in regard to the adjournment is based. As I have said, I am against it, and my reasons are as follows. The amendment, which was placed before the House originally, can be discussed without any further loss of time. The word 'and' which stands in sub-clause (2) should remain as it is. If it is replaced by the word 'or', it amounts to this, that the Privy Council will be flooded with any number of appeals. This will go in the direction of increasing litigation. It means that if the value of a suit is Rs. 100, even then an aggrieved party has the right of going to the Privy Council. It stands self-condemned. Therefore, I am sure, no Member of this House will be in favour of it, since the substitution of the word 'or' for 'and' is not desirable. I therefore think that there is no necessity for the adjournment.

Mr. J. Chaudhuri: Sir, I beg to support Mr. Seshagiri Ayyar's proposal, that the consideration of this Bill should be postponed, and that for this reason. The Honourable Mr. Sarma should place before us the opinions of the High Courts; we have not had an opportunity of seeing them yet. Besides, I entirely agree that the second clause need only state that there should be an appeal to the Privy Council as a matter of course when the value of the suit is Rs. 10,000 and upwards, and in other cases, provided that leave is given by the High Court; that is all that is necessary. We need not embody anything else in the clause. So far as Dr. Gour's amendment is concerned, I think it is much too complicated and we should ask for more time if we have to consider that amendment. It is a long amendment and as lawyers we are not in the habit of giving any opinion on the spur of the moment. So I oppose that amendment, but I support my Honourable friend, Mr. Seshagiri Ayyar's amendment that the consideration of this Bill be adjourned for the present.

Sir P. S. Sivaswamy Aiyer: Sir, it seems to me that it is really unnecessary to adjourn the debate upon this question. The point at issue is a very simple one. Shall there or shall there not be an appeal to the Privy Council from decrees of the High Court on the same grounds on which appeals are admissible in ordinary cases? That is a point which it is open to the House to decide now, and it is unnecessary to postpone this debate for a month for the purpose of having this issue decided. If Mr. Chaudhuri Shahab-ud-Din accepts the amendment which has been proposed by Dr. Gour,

[Sir P. S. Sivaswamy Aiyer.]

I think we can easily dispose of this question in a satisfactory manner. I therefore oppose the motion for postponement.

Mr. N. M. Samarth : Only one word, Sir. I support the motion of my Honourable friend, Mr. Seshagiri Ayyar. I do so more especially as I have in view the development schemes which are going on in Bombay. They have given rise and are likely to lead to a crop of cases under the Land Acquisition Act. Under the law as it stood before the Privy Council decision, and the recent decision of the Bombay High Court in accordance therewith, the Bombay High Court could certify in a fit case, although the subject-matter was less than Rs. 10,000, that it was a fit case to go to the Privy Council for final adjudication and decision on the point involved. In Bombay, there are various land tenures of different kinds and they have all come into a state of flux at present on account of, and in the area affected by, the development scheme. If my Honourable friend, Sir Sivaswamy Aiyer, had only some idea of the confusion that has arisen there, he would not have opposed the motion for adjournment.

The motion, that this debate be now adjourned, was adopted.

The House then adjourned for Lunch till Twenty-Five Minutes past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes past Two of the Clock. The Honourable the President was in the Chair.

RESOLUTION *RE* INCOME-TAX ASSESSMENTS.

The Honourable the President : It has been put to me that it would meet the convenience of the Honourable Finance Member, as his presence is urgently required in another place, if we were to take the Resolution standing in the name of Rao Bahadur T. Rangachariar at once, and I propose to do so with the leave of this Assembly.

Rao Bahadur T. Rangachariar : Sir, the Resolution which I have the honour to move runs as follows :

This Assembly recommends to the Governor General in Council to amend section 51 of the Income-tax Act, 1918, so as to bring it into conformity with the provisions of the English Income-tax Act in order that references to the High Court at the instance of assesses may be made obligatory on the authorities.'

Sir, section 51 of the Income-tax Act runs as follows :

'If in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VII a question has arisen with reference to the interpretation of any of the provisions of this Act or of any rule thereunder, the Chief Revenue Authority may, either on its own motion or on reference from any revenue officer subordinate to it, draw up a statement of the case and refer it, with its own opinion thereon, to the High Court and shall so refer any such question on the application of the assesses, unless it is satisfied that the application is frivolous or that a reference is unnecessary.'

The provisions in relation to the assessment, imposition and collection of income-tax in England are very dissimilar to the provisions in this country. There you have got an elaborate system of general commissioners and special commissioners and assessors, and in fact, before an assessment is made, there is a careful investigation by competent people acquainted with the locality,

acquainted with the trade and acquainted also with the circumstances and position of the parties. But in this country the provisions have the merit of being simple, but I cannot say that they have the merit of being effective or beneficial to the assesses. Nor can I say that they are fair, having regard to the way in which the provisions of the Income-tax Act are worked, at least in my part of the country.

I may mention, Sir, that in the last two years there have been lots of complaints by very respectable communities in my province against the way in which the Income-tax Act has been worked, and in several cases applications were made to the Chief Revenue Authority, before whom such matters came, to refer the matter to the High Court, and several complicated questions arising on the construction of the statute or the rules framed under the Act have arisen where the Chief Revenue Authority refused to refer the matter to the High Court, holding that they had no doubt about the way in which the sections or rules should be construed. In one case very recently, where the Chief Revenue Authority refused to refer the matter to the High Court on a plain question of construction, the assessee went up to the High Court and took out a notice for *mandamus* against the Authority in order to refer the matter to the High Court. One learned Judge of the High Court actually gave a *mandamus* and directed the Revenue Authority to make a reference to the High Court on that matter. But, Sir, the defects of the law are such that the matter was taken up to a Full Bench of the High Court where their Lordships held, that although the High Court were satisfied that the Revenue Authority had failed to do his duty, and also that the construction put by the authority on the sections of the Act and the rules thereunder could not be sustained, they felt that they were without jurisdiction and therefore they said, that they could not compel the Revenue Authority to make a reference to the High Court. In England, where you have got competent people to deal with assessments, the provisions of the Act—I am referring to section 149 of the English Income-tax Act of 1918—require, that when an assessee applies to the Commissioner to make a reference to the High Court, he is bound to do so if the assessee makes a certain payment as fees in order to provide for the expenses of the reference. And in a country like that, where the people are educated, where the assessment is made by such responsible people with the assistance of assessors, where you have got such an elaborate machinery, the law recognises the right of the assessee to apply for a reference to be made to the High Court in order to decide questions of law which arise during the course of the assessment. I think it is much more necessary in this country that such a reference should be made compulsory. We have got several provisions in other Acts such as the Presidency Small Cause Courts Act and several other Acts, where references at the instance of parties are made compulsory on the part of the Authority and it would be a great relief indeed where difficult questions arise in the course of assessment cases, as we see in practice, and it would be highly beneficial to the parties and also to the Government to take the decision in complicated questions of the highest courts in the land. On the other hand, the unpopularity due to the administration of the Income-tax Act throughout the country will disappear if such facilities are given to the parties.

I, therefore, strongly urge upon the Government to consider the advisability of bringing the law into conformity with the law.

The section I had in my mind is section 149 of the English Act.

The Honourable Mr. W. M. Hailey: I hope that the Honourable Mover and the House will excuse me if I do not deal with the subject at great length because I am, as you yourself explained, Sir, just now, under the necessity of attempting to be in two places at once, and I wish to get over that physical disability attending such an operation as soon as possible.

I think that the complaint that the Honourable Mover has brought against the present provisions of the Act is, if I may say so in justice to the Act and the manner in which we administer it, largely a local one. The matter was discussed at considerable length in the course of the last meeting of the Associated Chambers of Commerce at Calcutta and there was not on that occasion expressed a general feeling that the Act needed revision in this respect. But the figures that we have supplied to the Honourable Member in reply to questions which he put in this House, certainly show that there have been in Madras a considerable number of applications for a reference being made to the High Court, and that a considerable proportion of these have been refused by the Revenue Authorities. Now, our interests are all in the direction which the Honourable Member has suggested, namely, that we should try to give the maximum possible satisfaction to our assesseses. We have in late years raised the maximum tax on them and we are proposing to do so again. The consequence is, that every one is taking a greater interest in the administration of the Act; complexities in working are continually being brought to light; legal difficulties are being put forward in increasing numbers, and I myself am free to confess that I think in consequence that it is better that we should place it within the power of assesseses to obtain without restriction the decision of the High Court on points of difficulty. As the Honourable Member and the House are aware, we are doing our best to secure a more highly qualified establishment for assessments under the Act; the House had this matter before it in the course of our demands for grants, and I think there was a very general agreement that we were justified in placing a considerable sum of money in the Budget with a view to improving our income-tax establishment. As I have said before, our object is not only to get in more money—though, of course, that is one object—but to get absolute fairness in the assessments made under the Act.

Now, with regard to the definite measure which the Honourable Member asks us to accept, I may tell the House that we are about to appoint a Committee to go into the whole question of the revision of the Act particularly in regard to methods of assessment. The recent report of the Commission on Income-tax at Home has placed a great deal of new material and new points of view at our disposal and we intend to see what we can do to improve our own Act on the lines adopted in England. We do not want to make it too complex, but we do want to get the fairest, the easiest and the most equitable methods of assessment possible. I can undertake that the question of a direct reference to the High Court shall be placed before that Committee, and I myself am also prepared to undertake that it shall be placed before them as sympathetically as possible. I hope that the Honourable Member will be satisfied with that declaration. I cannot give him a positive commitment at this stage that we shall legislate because, as the House will very easily understand, it is not possible for me to bind the Government to propose legislation in any one form or other. But I myself am prepared to put forward as sympathetically as possible this question to the Committee which will shortly examine the whole scope of the Act.

Mr. Eardley Norton: While, Sir, I am grateful to the Government for giving us an assurance that when a reference is made to the Committee appointed to consider the revision of the present provisions of the Act, a sympathetic attitude will be adopted towards the principle embodied in the Resolution of my friend, Mr. Bangachariar, I should prefer to have been told that the acceptance of that Resolution and of its contents depended rather upon the acceptance of the question of principle than upon any mere question of expediency. There is a great principle at stake here, a principle which has been consistently departed from by the Government for years past, and that principle is that no man shall be a judge in his own case. That principle has been departed from not merely on questions with regard to income-tax but in almost every fiscal question which arises between the subject and the Crown. The Government have invariably arrogated to themselves the indefensible position of first of all saddling you with the amount which they claim and then allowing you practically no appeal against that decision. Take for instance, the question of income-tax. It is the Government through their Collectors who first of all make up the amount. From the Collector, who is only a department of the Government, you go to the Revenue Board which is another department of the Government. The sympathy between these departments extends naturally, although improperly, to the extent of trying to support each other's views; and with very few exceptions the Board of Revenue accepts and endorses the view of the Collector. In how many instances does the Board of Revenue act upon the discretion with which it is invested to refer these matters to the decision of an impartial tribunal like the High Court? Practically never.

Then, another matter which I have to complain of, is, that in contradistinction to the Commissioners of Revenue in Bengal, in Calcutta, the Revenue Board in Madras decline to hear counsel. They not only adjudicate *ex parte* upon the views as propounded in the first instance by the Collector, but they refuse to hear parties by counsel. I maintain that that also is a grave infringement of the rights and privileges of citizenship. In that respect, the Presidency of Madras for which I sit is more benighted than the Presidency in which I live and work; in Calcutta, at any rate, they go through the semblance of a form of impartiality by listening to counsel, although possibly they do not often understand him. But I must protest against the system as a whole and I hope the Honourable Member will go much further than merely offer us a benevolent sympathy on this question when it comes up before the contemplated tribunal for the revision of this act. I ask him to go much further; I ask him to press it as an act of justice to which we are all equally entitled. As I have said, the principle at Home, which is never departed from, is that in all questions of fiscal dispute between the Crown and the subject, the matter is taken, as it ought to be taken, out of the hands of the gentlemen who adjudge the imposition of the fine; it is taken out of their hands and placed in the hands of a tribunal which is absolutely impartial and cannot be influenced. I do not understand why there should be any difficulty in introducing this wholesome practice into India. I ask that when this matter comes up for consideration and determination at a future period, the Honourable Member and the Government will not merely press the matter sympathetically, but will insist that the procedure which has been in existence for so long in England shall be introduced into and made part of the law of this land on the short and simple principle that no man ought to be the judge in his own case.

Rao Bahadur T. Rangaohariar: Sir, in view of the statement made by the Honourable the Finance Member,—and I take it he is shortly going to appoint a committee to go into the question,—I will not press my Resolution.

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

RESOLUTION *RE* THE EXECUTION OF THE PROGRAMME OF NEW DELHI WORKS.

Mr J. K. N. Kabraji: Sir, I beg to move :

'This Assembly recommends to the Governor General in Council that in the interests of economy and of general convenience alike the execution of the programme of New Delhi Works may be expedited and the necessary funds provided or raised so that the Secretariat and Legislative buildings and connected works, including residences, may be completed as early as practicable.'

Sir, I feel there is an easy task before me. I may assure Honourable Members that I do not propose, nor do I think it necessary, to make a long speech in support of this motion. Only a week ago, a debate took place on the demand for grant No. 53, relating to 'Delhi capital outlay', and that debate showed, that whatever may have been the views as to the amount of expenditure on the New Delhi works, there was practically unanimity on one point; in fact I believe there was only one dissentient; and the unanimity was on the point that the work should be pushed on as fast as possible. There were some motions indeed for reducing the grant; but I formed the impression that these motions were put down more with a view to raise the question why the works were not pushed on and why more money was not being voted every year so as to complete the programme in a short time.

Now, the question of the site of a capital city for the Government of India is no longer open to discussion. From a political, no less than from a historical point of view, Delhi, it is generally agreed, is the natural capital of India and it is also the national capital of this country and of the British Indian Empire. It may be in the recollection of several Honourable Members that some time ago a picture of India,—a symbolical picture of India,—was issued which was meant to be a political picture for propaganda purposes. It represented Goddess Hind (India) as a figure over-spreading the whole continent of India, from the Himalaya mountains to Cape Comorin, and from the westernmost to the easternmost point. I say, it was intended to be a political picture, but it has a special significance. I think Honourable Members will agree that it typifies a united India under British rule. For it is certainly for the first time in history that all India from north to south and west to east up to the furthestmost points is united under one rule together with the native states of India. That picture shows Delhi as situated at the seat of the heart of the goddess who represents that body politic, the united continent of India and it is therefore in the fitness of things that Delhi should be the capital of the India of to-day as it has been in ages past.

In last week's debate, the general feeling was that interests of economy were not really served by this protracted programme which has now been in course of operation for some five years and is expected to last for another 7 and 8 years. All this time all concerned have to put up with much personal inconvenience as also inconvenience of their official work. It is not the case that all this is unavoidable, for it was understood that if more money was forthcoming every year, more could be done by the Public Works Department

I think I understood Sir Sydney Crookshank to say that he would be quite prepared to spend two crores of rupees every year instead of one crore, and probably that would keep the establishment more fully employed, while he would not be able to see his way to reduce the present establishment even if the annual grant was maintained at one crore only.

The only other Government department concerned seems to be the Finance Department, and we have had no clue from the Finance Minister as to how he looks at the matter, and whether he is prepared to help further than he has been able to do this year.

Now, as Sir Sydney Crookshank explained, the present position is roughly, that the new Government House is about a third built, the Secretariat is about two-fifths built, and the residential buildings are about three-fifths built, which has led to the remark that 'nothing is complete but everything is fractionally done'. Let us now consider the point of view of economy. The present net expenditure on establishments, which includes travelling allowances, supplies, services and contingencies is given at page 361 of the Compilation of 'Demands for Grants' as Rs. 11,31,000. This apparently cannot be reduced as long as the work lasts. Well, then, for every year the work is completed sooner, probably Rs. 10 lakhs could be saved.

Again, if we turn to details under 'general administration' given at pages 60 to 74 of the volume, there are various items of travelling allowance and house rent under each Department of the Government of India. Each of these items is small by itself, but the total comes to Rs. 2,13,600 for travelling allowances alone, and Rs. 67,440 for house rent and other allowances. Add to that Rs. 80,000 provided in the Budget for motor bus charges for the establishments which go from Raisina every day to the Secretariat, as given at page 202. We have thus a total of Rs. 3,61,000, and it is reasonable to suppose that a good deal of this sum, say Rs. 3 lakhs, if not the whole, may be saved every year when the Secretariat and the Legislative Chambers are built and the necessary residential quarters are completed, particularly for the subordinate establishments. Altogether, therefore, Rs. 13 lakhs may probably be saved every year if the programme is completed sooner. *Per contra* when the residences are built, Government will draw rent from the occupiers, instead of paying house rent to its staff as at present. At the same time, one must bear in mind that the establishments are put to an immense amount of personal inconvenience by having to live in tents for a good part of the year.

It is not for me to suggest how the additional funds necessary are to be provided for. It has been proposed on some hands that a loan of Rs. 7½ crores might be raised which might be liquidated in 40 or 50 years, so that the total expenditure may be spread over a number of years and may not have to be charged every year to revenue. I commend this suggestion to the consideration of the Honourable the Finance Member. In doing so, however, I have no wish to embarrass the Honourable the Finance Member whose honesty and fixity of purpose as regards the public debt and the rehabilitation of the credit of the country, we are bound to admire and to uphold. In paragraphs 37 and 38 of his Budget speech, he has told us how necessary it is in the first instance to restore the credit of the country, and I take the liberty of reading

[Mr. J. K. N. Kabraji.]

a short extract from his speech, as it is most necessary to bear this in mind. The Honourable Mr. Hailey says in paragraph 38 of his speech :

' We propose, however, should the rupee loan bring in more than the Rs. 15 crores budgeted for, to devote such excess to the purpose of making a further reduction in our floating debt or of the deflation of the currency. I feel very strongly that these objects have the first call upon any surplus assets that the operations of next year may give rise to. I have already spoken at some length on the urgent necessity for taking early steps to rehabilitate our financial position. I will only add here that in my opinion the interests of the country will be best served by our concentrating our energies upon freeing ourselves as soon as possible from the financial embarrassments which are a legacy of the war. The sooner we do this, the sooner will our hands be free to make additional funds available for purposes of railway expansion',

and other important works which are awaiting to be completed, and among these we may include the completion of the Delhi programme. All the same, while not wishing to embarrass the Honourable the Finance Member in the measures which he may wish to take to meet our suggestion, I think we must emphasise the fact that it is necessary to push on with the New Delhi programme in the interests of economy itself, no less than in the interest of the convenience of all concerned. It seems to me that what may be done is that the Secretariat and the Legislative Chambers should be completed, say within the next two years, and the remaining works in another couple of years as far as may be practicable, and I understand, that granted sufficient money every year, it might be done. But the result of last week's debate did not show us any certain conclusion, and how it struck an on-looker—and his feeling is shared by several Honourable Members here also—has been described in a leading paper, thus : ' And so the debate ended. Government have given no assurance even that they will do their best to carry out the wishes of the House, let alone that they will certainly find more funds to proceed with the new city in a business-like manner'. I ask, must the matter rest here? I think, not. This leaves the whole position in a state of uncertainty. It is not only uncertain, but I venture to say, it is unsatisfactory. I therefore commend my Resolution to the acceptance of this House.

Babu K. C. Neogy : Sir, I should very much like to know as to whether we have got a settled and definite policy in regard to the Delhi project. In their despatch of August 1911, the Government of India considered the possibility of a City of Delhi Loan at 3½ per cent. Well, Sir, the maximum estimate was fixed at 4 million sterling or Rs. 6 crores, and the Government of India thought at that time that this would never be exceeded. Then, speaking in March 1912, Lord Hardinge strongly repudiated the suggestion that 6 crores would be exceeded, and he characterised the suggestion as fantastic and exaggerated. As we all know, we have already spent over 6 crores and we have provided for more than a crore in the present Budget. I should like to know what the total cost is now estimated to be.

Then, with regard to the question of the financing of the project. Mr. Kabraji has suggested the issuing of a loan to the extent of Rs. 7½ crores. I should very much like to read to him the words of caution that were uttered by Sir Guy Fleetwood Wilson in March 1912 in regard to this matter. Referring to the flotation of the proposed gold loan, he says :

' If we had raised it in gold in London, we could hardly have hoped that there would not be some appreciable reaction on the market for our ordinary railway loans—a market which does not even in normal circumstances yield as much as those interested in the rapid extension of our railway systems would desire. If, on the other hand, we had raised the

loan in rupees in India, the effect upon our limited loan market in this country would unquestionably have been serious. Moreover, we were advised, on authority which I am sure my commercial friends would accept as good authority, that the flotation of a special loan for Delhi in India would not be altogether popular.'

Well, Sir, these words of caution have a much greater import to-day than in 1912. What Sir Guy Fleetwood Wilson proposed to do was to finance the scheme partly from loans and partly from whatever 'spare revenues' remain in each year after meeting our ordinary administrative needs. These are his exact words. But we very well know that we have to charge a part of the Delhi expenditure to revenue even in years of deficit. It will be remembered that Mr. Gokhale was very much opposed to the policy of charging any part of the Delhi expenditure to revenue, his idea being that it should be wholly financed from loans.

I hope, Sir, that our discussion to-day will enable us to formulate a definite policy in regard to this matter.

Dr. Nand Lal: Sir, the suggestion, embodied in this motion, seems to be very sound and I believe the Finance Member will have no hesitation in endorsing the same view. I believe the Finance Department of the Government of India will be able to kill two birds with one stone. In the first place, the tax-payers will be relieved of their responsibility, and, in the second place, the object in view will be attained the sooner. The loan may be raised and out of that loan money may be spent in expediting the work which is necessary. There is another phase of it which is more important and it is this, that recurring expenses, as they are appalling in this case, will be put an end to. The money which is to be spent will be spent at once and the buildings will be ready to be used sooner as all of us desire.

With these few remarks I support this motion heartily.

Colonel Sir Sydney Crookshank: Sir, I think I made it abundantly clear to this Honourable Assembly, when I spoke on the subject of the New Capital demand a few days ago, that the rate of progress of the construction of New Capital buildings was not on its present lines on a satisfactory economic basis. I hope I also made it clear, that until the Capital had been completed on the present programme, it would not be possible to house all the various Government offices and officials, Members of the Assembly and Council of State, and others in Delhi. I think the House will therefore agree with me that in putting up this Resolution, my learned and far-seeing friend, Mr. Kabraji, has hit the right nail on the head. The position briefly is, that during the last 7 or 8 years the construction of the Capital has been eking out a slow progress against conditions of adversity in the shape of yearly grants varying between 30 and 60 lakhs per annum. Last year or rather I should say this year as we still have a few days to go to see it out, our hopes ran high in that we were able to spend up to about 124 lakhs. However, our expectations have now been damped in that it has only been possible to make a grant for the work of 106 lakhs in the ensuing year's Budget. This is not a sufficient amount, and, as I pointed out when I spoke before what we really want in order to get on with the job is not less than 150 lakhs per annum, but better still 200 lakhs per annum. Unless we can command more than 100 lakhs per annum we shall have to spin out the work over another 8 years, and, for the information of my learned friend, Mr. Neogy, I may mention that the revised estimates of the Capital now amount to 13 crores of rupees, and that this has been brought about because of the war, which has raised prices, wages

[Colonel Sir Sydney Crookshank.]

and rates; also on account of the reforms it being necessary to add on new buildings such as the New Legislative Chambers and the hostels for Members. So that, although there is a very considerable difference between the estimates which Lord Hardinge gave, which Mr. Neogy has referred to, and the present revised figure, it is only in consequence of the ordinary course of events.

The difficulty, of course, in a project of this magnitude is that of financing it and here I may remark, for the information of my Honourable friend, Mr. Neogy, that the funds are not provided from revenue but from loan.

Now, Sir, I do not propose to enter into a long discussion on finance with Mr. Neogy because, as for one thing I don't know anything about it, but this much I understand from the Honourable the Finance Member (and perhaps I may be permitted to give him the designation of Minister which my broad-minded friend, Dr. Gour, has so generously and befittingly conferred on him) that the loan market is now about full up, and that, were it possible to raise any more funds in the market, it would, from his point of view, naturally be more favourable to give them to railways which are productive works whereas Delhi cannot be put into the productive category.

My Honourable friend, Mr. Spence, as I dare say the House will remember, made what appeared to be a very practical proposition in connection with finding funds for this work. His idea was to raise a loan of, say, 750 or 800 lakhs of rupees payable capital and interest year by year over a period of 40 or 50 years. The point of this being that our successors should also pay their share of the total expenses of the capital instead of as at present that we pay for the capital and make a present of it to our successors. I do not know whether this proposition is a feasible one but I am sure it is one which would be considered in connection with this Resolution by the Standing Finance Committee and by the Honourable Mr. Hailey.

So that it amounts to this. Now that this House has already set its seal to the demand on this account for the year 1921-22 and also to the means of raising any more funds from which to obtain money in the ensuing year, and since no more funds are available, what, if the House approves of this Resolution, will happen would be that the matter would be taken into consideration by the Standing Finance Committee and the Honourable Finance Member with the idea of making a supplementary demand of, say, 50 lakhs of rupees when the House meets again for the summer session. I would not ask for more than 50 lakhs this year, because for works purposes the year is already getting on, and by the time we were given this extra amount it would be too late to utilise more than about 50 lakhs. Next year I would ask for the full two crores and so on, year by year, until, at that rate of expenditure, in four, or at the outside five years' time, the buildings would be completed, and the Government of India and the Legislature would be able to go into occupation of them.

I may point out to my learned friend, Mr. Kabraji, that in early completion of the work there is a great deal more than the actual saving of the establishment engaged on the works, that it is really only a fraction of the expenditure which would be saved were it possible if more funds were given to complete the work in a shorter time. The heavy expenses are really the running of the light railways, and of the plant and machinery, the maintenance of workshops and so on, for the actual execution of the work, and that is what we, in the Public Works Department would like to see shut down, because

that is where heavy recurring expenditure actually lies. Admittedly, the establishment is also an expensive one, but it is not possible to reduce it below its present figure, and if the work were to be raised to a total of two crores per annum we should naturally have to raise the establishment proportionately in order to meet the extra demand thrown on them. I would, at the same time, inform my friend, Mr. Kabraji, that it would not be possible to complete a building like the Secretariat in two years' time. I want the House to be quite clear on that point. I think that with a great push it could be finished in three years. That would be about the same time as it will take to finish all residential buildings and the engineering services that are required in connection with the Capital. We would also hope to finish off the Legislative Chamber block in four years, but as we have yet not begun it, it will take a longer time than some of the others which we have in hand.

Sir, I may point out, perhaps, that in the matter of irrigation, India leads the whole world, and I think, considering the natural resources of the country in stone and marble, timber, lime and cement and in the excellence of the artisans and craftsmen and promising rising generation of engineers and architects we have in India, there is no reason at all why India should not equally well lead the world in its buildings. In the maritime cities, we already have magnificent buildings which we are proud of. Here at Delhi we have our old cities, and we have archaeological remains which we set great store by. It is now time, I think, and I gather it is also the sense of the House, that we should make a great effort and get on with the completion of this Capital, which, as I said before, will take about four or five years' time to do if full provision of funds is made, and will, when completed, be one of the finest cities in the whole world.

Mr. R. A. Spence: Mr. President, might I say with reference to what has fallen from Sir Sydney Crookshank, while I think we all recognise in this Assembly that the present year is not a year in which more money could be raised by loan for the purpose of pushing on with Delhi, there are very strong points in favour of raising the money for the completion of this work by means of a loan. Sir Sydney Crookshank said, that the Finance Member would prefer to raise his money for productive works. But I think the sense of this House, from what we have just been told to-day is that a loan raised for the purpose of completing the New Delhi quicker would be productive because it would be productive of a great saving in expense. Another point in favour of a loan is this. If you want to push on with Delhi quickly you may have to spend 2 crores or $1\frac{1}{2}$ crores a year. That means that certain other works of utility will have to suffer. Whereas if you raised a loan, and as Sir Sydney Crookshank said only paid 40 lakhs a year, you would have a large sum of money available for other purposes which you would not have if you were spending two crores out of revenue. And the third point which Sir Sydney Crookshank mentioned is this: why should we, the present generation, spend all this money out of our own pockets, why not the future generation pay a part of it?

The Honourable Mr. B. N. Sarma: The Honourable the Finance Member has had to be unavoidably absent from here, and so I shall explain the position of the Government of India in regard to this Resolution. Speaking for the Department over which I have the honour to preside, I cannot but be too grateful to the Honourable Members for the cordial support they have given to the Department in trying to help it to complete the New Capital

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works as soon as possible. That has been our desire, and that shall be our endeavour, and we shall not allow the Finance Member a minute's rest if we feel convinced that we can get any money out of him.

I am glad Sir Sydney Crookshank has corrected one misapprehension with regard to the method of financing this Capital work. The whole of the money that we are going to spend during the next year would be met out of loan and not of revenue at all. There seems to be a good deal of misconception on the point, and I have seen various newspapers remark 'Look at the expenditure during the year and previous years. It was 16, or 20 or 30 lakhs. So it is going to be 106 lakhs at a time when we are taxing to the extent of 19 crores'. The policy of Government has been to construct the New Capital out of loan funds. The difficulty which the Government felt, and particularly the Finance Member, was as to whether we could, as a Government, borrow money in the limited Indian market for all the purposes we had in view, namely, railways, telegraphs, and other works including the Capital of Delhi. The whole of the loan had to be apportioned amongst these various objects, and much to our regret we have been compelled to allot only a crore of rupees for this purpose although the Department of Public Works pressed very hard for at least 150 lakhs of rupees.

Well, we are glad that the House is again with us to complete the building of this Capital as early as may be practicable and the Government, relying upon that assurance, would endeavour their level best to find as much additional money as may be possible during this year. No definite promise can be held out because we are not sanguine as to whether we can borrow even to the extent that we budgeted for. If, fortunately, we are able to raise larger funds, it may be possible to allot a portion thereof to the Capital works in Delhi. Whether a new loan, a special loan for the purpose of Delhi works is a suitable method of raising a loan is a point which requires careful examination, and I feel sure the matter would be examined and some conclusion arrived at before we next meet in Simla. All that I can say at present is that the Government are grateful to you for this assurance of your support in this undertaking, that they would leave no stone unturned in building this Capital as expeditiously as may be practicable, that if they can find more money to be allotted to this work they would gladly do so, and if they have any additional proposals which they can lay before you with confidence, they would not hesitate to come forward, explain the position and ask for further provision for this work.

Sir Logie Watson: Sir, it is quite evident from what has been said that the building of New Delhi will be delayed for want of funds. I am of the opinion that no very big loan could be floated at the present time under what Government would regard as a prohibitive rate of interest,—possibly not under 7 per cent. But there are other ways of getting money than by resorting to an ordinary loan. I brought this matter up before and I received a considerable amount of sympathy from a good many Members of Government. We all know that on the Continent, in France, Italy and so on, there are such things as premium bonds. These bonds give a small return of interest, say 3 per cent. and 1 per cent. is set aside to pay off capital and to give prizes. Personally, I do not know why the Honourable Member, Sir Thomas Holland smiles, but he is not perhaps the only one who has, although I am very serious in bringing this matter forward. I have heard it described as a

gamble. Well, Sir, I deny that it is a gamble. You are giving 3 per cent. return on money which you could only borrow at 7 per cent. and you are giving 1 per cent. away in prizes and in part redemption of the loan. It means that Government are saving 3 per cent. on a loan of say 250 millions or any other sum you care to mention. Now, by taking the saving of interest into account, say 3 per cent.,— Government could have New Delhi built without delay and you would have rents coming in, and I believe, that within a period of 20 or 30 years, New Delhi would stand Government practically free of charge and be a large source of revenue and possibly the means of reducing millions from the Budget at the end of every year.

I put this scheme forward for what it is worth. Personally, I am a strong believer in it and I see nothing immoral in it.

Babu K. C. Neogy: May I ask a question, Sir? I find that under Civil Works, page 199 of the Demands for Grants, we have voted Rs. 16,99,000 for Delhi. Will this amount or any part of it be devoted to the New Delhi? This certainly is charged against revenue.

Colonel Sir Sydney Crookshank: The item to which the Honourable Member refers, namely, one of Rs. 16,99,000 for Delhi is under Civil Works, that is to say, works in connection with the Delhi Province as a province quite apart from the New Capital which is a capital fund work.

Mr. Wali Mohamed Hussanally: Sir, while I am in sympathy with the Honourable Mover of this proposition so far as expediting the work of building New Delhi is concerned. I do not understand how and why an Official Member of the Assembly has brought forward this proposition. It amounts, in other words, to the Government asking for more money at this stage for the works at New Delhi and that at a time when we are hard pressed for money and the money market is tight and there is absolutely no chance of raising a loan unless we pay an exceptionally high rate of interest, as has just been explained to the House. I think a proposition of this kind, Sir, would be out of place at this moment and the Honourable Mover would be better advised to withdraw the proposition and bring it at the next session at Simla. By then, it would be possible to know whether the money market is easier and whether we can raise a loan at a reasonable rate of interest. At the present moment I believe, that it would be almost impossible to raise a loan unless we probably pay a very exceptionally high rate of interest, and that, in the present circumstances of our finance, is not very wise.

Mr. J. Chaudhuri: The Honourable Mr. Sarma made a statement here that the New Delhi was being built out of loans. He is not here, but I expect Mr. Aiyar will be able to tell me whether I am right or wrong, because what I shall say will be from memory. My recollection of the last Budget—not this year's Budget but the previous year's Budget—which I read as an amateur, is that a sum of 9 crores was allotted for the New Capital project and that was earmarked out of the profit that was made out of the Home charges due to a rise in exchange. In other words, the Government of India had a windfall owing to the rise in exchange and, with the sanction of the Secretary of State, they voted 9 crores of rupees for New Delhi, and out of that I think 5 crores and a half have already been spent. I am, of course, speaking from memory. In previous years, various sums were voted and, if I recollect aright, the Secretary of State gave directions to the Government of

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India, that with regard to the Delhi project, they should spend money on roads.

Before the buildings were actually taken up in hand in previous years a large sum was spent in constructing roads in Delhi. So, whether that comes within the estimated expenditure for the New Capital that is what is not quite clear to me. With regard to the profits made out of exchange last year, I should have thought that the wiser course for the Government of India would have been to invest that in gold in our currency reserve. It is not every year that we make profit out of exchange, and all our miseries in the present year are due to the fall in exchange. So whenever we get any wind-fall out of currency or exchange, I think it has been the accepted policy of the Government of India not to spend it for any other purpose, but for strengthening our gold currency reserve. So I think it has been very unwise of the Government of India if they spent the profits that they made last year out of the exchange, for the Delhi project.

Of course I find it very awkward to say anything against Delhi, because any remarks may be misinterpreted; but we are quite happy in Calcutta, and when Government for no fault of ours has forsaken us we do not want to go down on our knees and beg them to come back to Calcutta. All the same, they have made a very unwise decision and they are now themselves paying the penalty for it. I am not going to say anything unkind to them over and above that. But having regard to the fact that this Delhi project is more or less a speculative project, I do not see anything immoral or improper to adopt the course that my friend, Sir Logie Watson, recommended. When we have a bad job before us we do not know how to finance it, let us issue premium bonds, so that people who are speculatively inclined or are enthusiastic about the New Capital may subscribe for it, and in that way let us finish with this Capital building business for good.

Chaudhuri Wajid Hussain: Sir, I am afraid I cannot allow Sir Logie Watson's suggestion to remain unchallenged. He has made a suggestion which may not be immoral from the western point of view, but is certainly immoral from the Indian point of view. Sir, . . .

Sir Logie Watson: May I rise to point out to the Honourable Member that this very subject was discussed in the House of Commons in London without its being objected to as immoral?

Chaudhuri Wajid Hussain: There is no reason why what is justified in Europe should be justified in India. Then, I object to his proposal on another ground. When this proposal happens to be worked out, there is every danger of petty officials abusing the duty and business of selling those bonds, and it is difficult to avoid the impression that Government is levying some subscription in the name of New Delhi. When I say this, I hope I shall not be misunderstood. While, like Mr. Chaudhuri, I am very jealous of the social capital of my own province—I mean Lucknow—and feel that that place could have been more suitably chosen for the Capital of India, I am equally anxious that we should have more comfortable houses in Raisina to live in, that we should have better buildings for transacting our business in. I am also anxious that visitors to Delhi should have something more pleasant to look at, than tumbling towers, crumbling walls, barren lands and several other eye-sores. It is very important that the Capital of an Empire which embraces

one-fifth of the human race should not be in the shape of unfinished buildings. But I cannot possibly agree to the suggestion made by Sir Logie Watson; and I think the Resolution proposed by Mr. Kabraji is also open to the objection that it gives undue preponderance to the completing of the Capital of Delhi. We should spend as much money as we can on the building of the New Capital; but we ought not to lose sight of the fact that there is such a thing as a sense of proportion, and I do not think we ought to incur heavy debts for bringing the capital into being at an early date.

Mr. Pyari Lal: Sir, after the speech of Sir Sydney Crookshank I feel that the Resolution moved by Mr. Kabraji loses much of its value, because according to the Honourable Member who spoke on behalf of Government, the Delhi works cannot possibly be finished within five years. According to the present estimates he puts it at seven years and according to enhanced grants it is five years; there will thus only be a difference of one or two years. That hardly makes any difference; it does not really matter much, especially when we are going to have such a magnificent place as it is proposed we should have.

Colonel Sir Sydney Crookshank: Sir, I rise to explain that the Honourable Member is not quite aware of the facts. What I said was that at the rate of one crore per annum it would take eight years to finish the work, whereas if we were given two crores a year we could finish the work in four years, but that as we have already entered on this year and I could not spend fully two crores, it would take between four and five years. I hope my explanation is satisfactory.

The Resolution* was adopted.

RESOLUTION RE REPRESSIVE MEASURES.

Mr. B. H. Jatkar: Sir, I beg to withdraw the Resolution that stands in my name.

The Honourable Sir William Vincent: May I be allowed to speak before this Resolution is allowed to be withdrawn?

The Honourable the President: Is the Honourable Member willing to move his Resolution in order to hear what the Government have to say?

Mr. B. H. Jatkar: I have already intimated, Sir, that I do not wish to move it.

Dr. Nand Lal: On a point of order, Sir, if I am permitted, I wish to move it.

The Honourable Sir William Vincent: Sir, when the Government received notice from the Honourable Member, Mr. Jatkar, that he wished to move his Resolution, the notice was not within time, and the Honourable Member explained that he could not hope to secure a non-official day; and therefore pressed me to give an opportunity on the next official day, without requiring the prescribed period of notice. I had received information from other Members also—one of them is here now and he can bear me out that they wanted the subject to be discussed. We, therefore, gave him an official day, and I hoped to have an opportunity of stating what the policy of the Government was and to elicit the views of this Assembly on a very important subject.

* Vide page 1504 of these Debates.

[Sir William Vincent.]

The Honourable Member, by taking the course that he has, has treated the Government and I think some Members at least of this Assembly with unfairness and with great want of consideration. If he had not asked me to allow him to move his Resolution, I know of one gentleman at least who told me he wanted to move a Resolution on the subject. The Government have also been put to considerable inconvenience in preparing a statement of the case which might have been of some interest to Members of this Council.

Mr. Eardley Norton: On a point of order, Sir, is it not open to one Member to god-father a Resolution which the real father has abandoned?

Mr. Jamnadas Dwarkadas: On a point of order, I want your ruling, Sir, as to whether a Member can be allowed to withdraw his Resolution after he has given notice of it and after it has been tabled on the agenda. I want to make clear to the Honourable House the situation in which we stand. There were many Members who were anxious to get the Government to declare their policy on this important question of non-co-operation and the measures . . .

(A voice—Only one.)

There were many Members to my knowledge who were desirous to know the policy of Government on this important question, and I was one of them. As soon as we see that a Resolution is to be moved by one Member, although we may not agree with the wording of that Resolution nor the demand it conveys, believing that we shall have an opportunity of eliciting from Government a statement with regard to their policy and that we shall have ample opportunity of expressing our own views on that particular question which is one of vital importance at this moment, we refrain from giving notice of a similar Resolution. What happens now, is this. We have a Resolution which is tabled on the agenda; an official day is given at the request of the Honourable Member himself and the Government prepares a statement, and when they come to the House we are told that the Resolution is going to be withdrawn. I ask whether it is to be allowed in fairness to the other Members of this House that such a practice should be resorted to?

The Honourable Sir William Vincent: Sir, I only wish to say that if I can devise any method by which I can meet my friend, Mr. Jamnadas, I shall only be too glad to do so.

The Honourable the President: The situation in which the Assembly finds itself is, that an Honourable Member having been permitted by arrangement with the Chair and with the Government to put down a Resolution at a shorter period of notice than that allowed by the rules, does not now wish to move the Resolution. Neither the House nor the Chair possesses any power, except that of persuasion, to induce the Proposer of the Resolution to move his Resolution. He is strictly within his rights in withdrawing it.

What I am about to say must not be regarded as a ruling, but as a declaration of what I believe to be the general sense of the House. The Honourable Member will be guilty of grave discourtesy, first of all to the Assembly, secondly to the Chair, and thirdly to the Government if he does not give the Assembly an opportunity of discussing the Resolution. If the Honourable Member does not desire to make a speech, he may simply move *pro forma* the Resolution standing in his name. He need not commit himself to anything else.

Chaudhuri Shahab-ud-Din: May I just draw the attention of the Members of the Assembly to Standing Orders Nos. 61-A. to 68?

The Honourable the President: I have just told the Assembly what the substance of that standing order is. They can read it themselves.

Mr. B. H. Jatkar: Sir, I am within my rights in withdrawing my Resolution and I will do so.

The Honourable the President: The Chair must use its discretion to give leave to another Member to move the Resolution.

Dr. Nand Lal: Am I permitted to move the Resolution, Sir?

The Honourable the President: Yes.

Dr. Nand Lal: With the permission of the Chair, I move the Resolution which runs as follows:

'That this Assembly recommends to the Governor General in Council that the Government should adhere to the declaration of its policy made in October and November last and ask the Local Governments to stop all repressive measures now being used all over India'.

Sir, I think there is a great truth in the contents of this Resolution. I believe all Members of this Assembly can recall to their minds the contents of the most brilliant and hopeful declaration made by the Government. I think I need not reiterate the contents, because that will mean a waste of time. All of us have got very faithful memories, and we can take assistance from that divine gift. Now, the whole country was greatly delighted at hearing the most sincere and genuine declarations, and the whole country anticipated that all repressive measures would be a matter of history now and that we should never see them in future. But the unfortunate thing is, that it is not a matter of history, and that we are compelled to see repressive measures put into execution somewhere, or other. Therefore the strong element of discontent, which unfortunately happened to exist some time back, revives to our disappointment. We the representatives of this country do feel it and we therefore urge upon the Government that they should kindly adhere to those declarations. I am sorry to say, that on some occasions, Government have failed, for reasons best known to themselves, to adhere to that policy. Government might have got very plausible and perhaps convincing reasons according to their own lights. The view of the country is this, that the Government had no justification for embarking upon a policy of repressive measures; instead of putting an end to them, Government is, in some cases, seriously adopting repressive measures. Therefore the country has deeply felt the position, and we here are placing the message of the country before this House.

The repressive measures, which have been adopted, as I have submitted already, sometimes here or there, had no justification. Can we ask the Government what was the reason for the introduction of repressive measures? No doubt, in the Punjab and in some other quarters, undesirable incidents did occur. Taking them into consideration and remembering some other events which took place in other parts of the country, the country taking the view of the majority of the people submits very respectfully that the Government was wrong. If Government had adhered to the policy which was declared, they would have been respected much more. With these few remarks I put forward this submission before the House in the hope that the Honourable Members of this Assembly will heartily support this motion.

Mr. Amjad Ali: If there is any duty so pious on the part of this Assembly, it is I think the duty to support this Resolution. This Resolution was withdrawn by the Mover and I offer my thanks to the Chair and to the Honourable the Home Member of the Government that an opportunity has been given to us to let the Government know that the feelings of the country are very much exasperated and the result would be disastrous in the near future unless and until the Government is pleased to consider that it is time these repressive measures should be put an end to. Sir, the result of the drastic repressive measures, I should say in India has been most disastrous. I am told, Sir, that the Bihar and Orissa Government has issued a circular most repressive in its character, so much so that instead of quieting down the people, that measure has exasperated them and they are ready to undergo anything to carry on their object of non-co-operation by holding meetings here and there. I am further told, Sir, that one gentleman of eminence and reputation went to a district in the province of Bengal and the District Magistrate there has most unjustly and illegally issued an order prohibiting that gentleman to enter the city and to perform his mission, for which he was sent there by his fellow-countrymen. Sir, I should, for the sake of the good name of the Government to be achieved by the redemption of the pledges that have been held out to us by that declaration, hope and trust that the Government of India would be pleased to consider and see that the subjects of His Gracious Majesty the King-Emperor are now no longer in such a state and subjected to such hardships and that unless and until the Government of India is pleased enough to go to their rescue, their position will be most disastrous, most unhappy, and it is in the fitness of things, I think, that the Government of India should be very much pleased, graciously pleased, to come to the rescue of the subjects of His Gracious Majesty the King-Emperor by abolishing the repressive and illegal measures which are now in force in the country.

The Honourable the President: May I inquire of the Honourable Member what his intention is in rising to his feet? Does he wish to speak to his Resolution?

Mr. B. H. Jatkár: Sir, I am very sorry that the whole House is so much put out with my attitude. I admit, that I had given notice of this Resolution with a full knowledge of the consequences and I also wanted the Government to make some declaration of its policy in this connection.

I had written on the first opportunity with a request that the required notice may be dispensed with and the Honourable the Home Member, the Honourable Sir William Vincent, very kindly allowed me that privilege. But unfortunately the placing of the Resolution on the Agenda to-day has taken me by surprise. I thought I would have got a chance of a non-official day, that is on the 26th, and I had also balloted for that date.

The Honourable Sir William Vincent: Sir, may I rise to a point of order? I would like to read the Honourable Member's letter in which he says distinctly that he did not expect to get in on a non-official day.

Mr. B. H. Jatkár: If I have offended the Honourable the Home Member and the whole House, I must beg pardon of the whole Assembly. I only wanted that the Resolution should not be moved by me although I am in entire sympathy with the principle of the Resolution. Now I would like to say a few words on the Resolution that has been moved by Dr. Nand Lal.

The Honourable Members of this House must have read the Resolution of the Government of India, Home Department, dated Simla, the 6th November 1920, which contains the declaration of policy referred to in the Resolution. I shall only give the substance of this policy. It is a policy of non-interference, which the Government of India has declared to have adopted towards the non-co-operation movement and this is based on three considerations, *viz* :

First—The reluctance of the Government to interfere with liberty of speech and the freedom of the press at a time when India was on the threshold of a great advance, towards realisation of Self-Government within the Empire, when the first elections were in sight.

Secondly—The Government was always reluctant to take action against individuals, which would give them unnecessary importance and an opportunity of evoking false sympathy in their adherents and thus swell their number.

Thirdly—That the Government relied on the commonsense of India and believed in the sanity of the classes and masses.

This policy of non-interference was, however, subject to the limitation that the movement would be non-violent and will not endanger public peace. So far it is alright, but I don't associate myself with the view mentioned in the Government Resolution that the movement was unconstitutional. In the remaining part of it, the Government of India depicts the perils it may lead to, if the movement spreads to the students and the masses.

This, then, was the policy of Government declared in November, but what do we find in February and March, within a period of not more than 4 months? The Provincial Governments have taken up this weapon of repression in their hands all at once. Seditious Meetings Act is being freely applied to district after district. We hear prosecutions undertaken under Seditious and under the Security sections. Persons are served with notices under section 144, Criminal Procedure Code, restraining them from speaking and if I remember aright their number has already exceeded 125. The same section has been freely used to stop all agitation by extending its application to towns and even to wholesale districts. It is really a novel use of the section which, though mild in form, is nothing but repression. In my unfortunate province, prosecutions under 124-A and 153-A have been launched against two prominent men—one of them being a Vice-Chairman of the Nagpur Municipality. Even in a small district place like Yeotmal from where I come, security cases are going on against volunteers who were found preaching temperance. The reasons assigned for taking such repressive actions are strange and appear to have nothing to do with non-co-operation. In our province, the action appears to have been directed against the temperance movement. In some cases, the agitation against *begar* (forced labour) is said to be the reason for this action.

What does this all indicate? Have the Provincial Governments adopted this policy of repression on their own responsibility or on the initiative of the Central Government?

I don't think the Government of India, after the declaration of policy of non-interference, would issue such instructions to the Provincial Governments. I know that in the provinces law and justice are reserved subjects, but would it not have been a wiser course for the Central or the Provincial Governments to take the popular assemblies in their confidence before undertaking this repressive policy? I have not heard in any province that such course was

[Mr. B. H. Jatkari]

adopted. After the formation of the new Councils the representatives of the people should have been allowed an opportunity to discuss the changed situation if any, and to suggest the means. His Excellency the Viceroy has stated about these reforms in his opening speech of the 9th February :

' For the first time the principle of autocracy which had not been wholly discarded in all earlier reforms was definitely abandoned. The conception of the British Government as a benevolent despotism was finally renounced.'

While speaking of the powers of the Indian Legislature, His Royal Highness the Duke of Connaught says :

' You may feel that the Ministers in the provinces will be in closer touch with popular causes and have larger opportunities of public service. But this is true only in a very limited sense. It is the clear intention of the Act of 1919 that the policy and decisions of the Government of India should be influenced, to an extent incomparably greater than they have been in the past, by the views of the Indian Legislature; and the Government will give the fullest possible effect, consistent with their own responsibilities to Parliament, to this principle of the new constitution. From now onwards your influence will extend to every sphere of the Central Government; it will be felt in every part of its administration. You are concerned not with the province, but with all British India, and statesmanship could not ask for a nobler field of exercise.'

If such are the powers of the Legislative Councils in the New Era, would it be too much to expect that the Councils should have been consulted before a general repressive policy was adopted?

Let us examine the conditions in February and March, and whether they call for such a change in policy. The non-co-operation movement is and has been declared to be non-violent in character in words and deeds not only against Government, but amongst people themselves. It cannot, however, be denied that in some cases the students acted with overenthusiasm, but now the agitation about the withdrawal of students, which once had attained the highest pitch, is now deteriorating. Many students have returned to their schools; others are availing themselves of the national schools that are being started. The impracticability of some of the other items of the non-co-operation programme are visible and they don't justify any repressive action. It is no doubt true that this non-co-operation has its effects in awakening a spirit of self-consciousness among the people. They are now more capable of understanding the agitation carried on by the educated people to remedy their grievances.

Can the Government deny that there are many grievances of the people, which are yet to be removed? The economic condition of the people is miserable. The evils of litigation are so great that they have disturbed the peace of every village. The drink evil and the system of forced labour are growing without check and are demoralizing the masses. The agitation in this connection has nothing to do with non-co-operation.

The new Reformed Councils have not been a panacea to any of these longstanding grievances of the people. They had done nothing to evoke confidence in the people. None of the repressive laws have been repealed; mere appointment of committees does not appeal to the masses as anything substantial. Their previous experience of such committees is far from being satisfactory. The year is one of economic distress, famine is raging in many

parts of the country, and the prospect of additional taxation is disturbing their minds.

The Government ought therefore to realize the strained feelings of the country and any adoption of repressive policy at this moment would lead to embarrassments worse than before.

The very considerations which led to the declaration of the policy in November ought to be of greater weight now in adhering to the same policy of non-interference.

The Government need not be so anxious of non-co-operation. In the new form of government, it may settle down as a principle of one party in the land. It is true that the non-co-operators should not have boycotted the Councils, but should have sent their own representatives, who would have been able to press their views openly in the Councils. There are such parties in the Western countries which are tolerated and allowed to have free deliberation. There is a party of direct action even in England which is in no way less than a non-co-operation party.

The principle has come to stay in India and the Government, by having recourse to repression, would drive it underground with dangerous results. Let it be met fairly in its face. Government should, by a policy of conciliation, respect the feelings of the people and create confidence in representative institutions by allowing them greater control over the affairs of the country.

His Royal Highness the Duke of Connaught has said :

' I repudiate, in the most emphatic manner, the idea that the administration of India has been or ever can be based on principles of force or terrorism.'

I request the Government of India to show by action that this is so and to put a stop to the repressive policy which is nothing but a policy of force and terrorism.

I beseech the Government to adhere to its former policy of non-interference and ask all Provincial Governments to adopt the same policy of non-interference.

The Honourable Sir William Vincent : The Honourable Member who has just spoken has said that he was surprised by the Resolution being placed on the agenda for to-day. I think the Assembly will have noticed, however, that this did not prevent him from reading out a long written speech from which I conclude that he must have, at least, made some preparation for the debate, and I must also repudiate the suggestion that he expected this debate to come on on a non-official day. I will read to this Assembly this letter which I received from the Honourable Member because I am anxious that the facts should be placed before the Members so that they may judge between me and Mr. Jatkari. The letter begins :

' Sir, I have given notice of a Resolution on the 16th March (this letter is dated the 20th March) to be moved in the Legislative Assembly to the following effect: (Here follow the words of the Resolution.) As previously announced, there was no day available for non-official business after the 5th March, but recently 26th March has been allotted for that purpose. I am sorry, I could not give notice before the requisite time.'

Now, will the Honourable Member explain how it was that he expected—as he has just told this Assembly—that the Resolution was going to be on a

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non-official day? Have I not some ground for complaint in this matter? The letter goes on:

'The subject matter of the Resolution is one of urgent public importance, and I would request you to give your consent in order to allow it to be entered in the List of Business.'

I hope I have been able now to satisfy this Assembly that the Honourable Member at that time did not expect this Resolution to come up on a non-official day and asked me, pressed me, to give him a day. That is the interpretation which I put on the letter.

At the same time, I welcome the debate to-day because it will enable me not only to place before this Assembly an appreciation of the political situation at the moment, and to explain what our policy has been, together with the motives which underlie it, but also to secure, I hope, the views of this Assembly and suggestions of the Honourable Members as to this policy and the changes, if any, which we ought to make in it. The moment is particularly opportune for such a debate because the question will come up for discussion before the Executive Council in a few days. I may say that we periodically re-examine the situation and review our policy in the Executive Council, and what is said in this Assembly to-day will be placed before the Council for their consideration at an early date, and while I am speaking on the question of policy, may I say, it is based on one great underlying principle, and that our one object is to promote the progress of this country towards responsible government and at the same time to preserve public tranquillity? Those are the two objects which we have in view. The situation is one full of complexity as anyone who considers the facts even for a short time will realize. I know of no historical instance of such a great change in the government as we now have inaugurated in this country being effected peaceably even, in a homogeneous country; and in this country there are great additional difficulties, some permanent and some of a temporary character. There are, for instance, complexities caused by differences of race, religion, by the very character of the government, and by the vast distances by which different parts of India are divided. To these, at this moment, must be added temporary difficulties of a very serious kind, economic, religious, and financial and I may say quite frankly, political difficulties also. Now, all these difficulties have been exploited by the non-co-operation party to the utmost limit. There is no doubt of this. In their efforts to paralyse Government—that is the declared object which they have in view—and in their efforts to achieve that object, there is no source of discontent which they have not used. Wherever they find discord between employer and employé, there some agent, some emissary, of the non-co-operation party proceeds at once fostering discontent—promoting ill-feeling. Where there is racial ill-feeling, as at times there has been in my own province and other provinces, there again these missionaries hurry on their evil errand further to stimulate ill-feeling and disorder. Where there are quarrels between landlord and tenant—have we not seen this in the United Provinces—there again proceed these emissaries of evil to propagate unrest and stir up disorder; the ultimate object being, we are told, to paralyze the Government and to secure immediate self-government of this country. Many of these adherents of the party do not hesitate even to say, that they seek a severance of India from the British Empire. Now a movement of his kind cannot but be extremely dangerous and full of evil potentialities. It is purely destructive and, so far as I have been able to

ascertain, contains no element of constructive ability. Self-government, as I have often said before, connotes the power of self-protection, and a country which cannot protect itself is not prepared for immediate and complete Self-government. Even if you were to have that most impossible of all things, a peaceful revolution and in the twinkling of an eye the whole character of the government was changed and this present administration was paralyzed in the manner which Mr. Gandhi boasted he will achieve in a few months, what does this Assembly think would be the result? Would it not be ruin and anarchy, chaos and disorder, the destruction of every vested interest and everything else that is valuable in the land?

Nevertheless, while we are fully aware of the evil potentialities of this movement, the Government has hitherto restricted the measures against it to the narrowest limits compatible with the maintenance of the public peace. They have always hoped, and they still hope, that the sanity of the people of this country will turn them away from a scheme that can but result in disaster. They have had every confidence that the efforts of sane and moderate politicians would have a great influence on public opinion. This is the view put forward in the Resolution of the 6th of November last to which one of the speakers referred, and I desire to take this opportunity of acknowledging gratefully the many efforts that have been made by sound and loyal citizens of this country to combat and counteract the mischievous propaganda of the non-co-operation party. I do not know if I shall be doing wrong in naming two persons who have been particularly active in this direction, but I may be excused for saying that I believe that Mrs. Besant and Mr. Sastri have earned the thanks of all good citizens in this country by their courage and patriotism, and when this Assembly finds the Government benches complimenting Mrs. Besant it may take it that the compliment is really well deserved.

Well, Mr. Gandhi's present position really is this: He has failed to a great extent with the educated classes; his efforts, in so far as the boycott of these Councils is concerned, have, as the presence of Honourable Members here shows, been a failure; the number of titles surrendered has been very small, and, so far as I have heard, very few lawyers have given up the fees which they earn by their practice in the courts. It is true that the movement was a temporary success among immature students, but even that success was effervescent and is, I think, now passing away for most of the young men are, under better influences, returning to their schools and colleges. Well, seeing that he was unsuccessful in these directions, Mr. Gandhi—or his lieutenants I am bound to say more than he—have turned from the educated classes and tried to secure success for their movement by creating unrest among the masses; and therein lie great potentialities of danger and mischief. We have at present much economic unrest prevalent, much political unrest, partly local, partly caused by world-wide causes, and these it is possible for any evil-minded man now to use for evil purposes. It is easy to arouse ill-feeling and passions at a juncture like the present and that, I fear, is the course which many of these non-co-operators are pursuing.

Now, in such a situation, there were three policies open to Government. We could have gone in for a general policy of repression, but we were very unwilling to adopt this course, though we have been pressed to undertake it by a certain section of opinion. Such a policy leads nowhere: it is not consistent with the spirit of the Reforms; it would have served merely to increase bitterness and racial feeling; it would have impeded the social and political

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progress of this country; it is inconsistent with the greater liberty of speech and action which these Reformed Councils would demand from the Government; it would have necessarily involved an invasion of private rights which are highly cherished by all the people; it would have alienated support from Government, would have strengthened the very people we wanted to weaken and would, I believe, materially have weakened the moderate party and precipitated disorder. Those are the reasons why we did not take that line. It might have been possible to suppress this thing at an early stage with comparatively little bloodshed but, even if it had been done, I maintain that the effect would not have been lasting, and I do not believe any Government relying on repression alone could have lasted for more than say, three or five years.

Now, I say this in answer to the charges that have been brought against Government outside this Chamber, and I am afraid outside this country, that we have acted unwisely in not using every weapon in our armoury, including such emergency measures as the Defence of India Act and Regulation III of 1818 to intern anybody who said or did anything to support this movement, and I have tried to explain to this Assembly—and I hope I shall have the support of Honourable Members in this matter—the reasons why the Government did not adopt that policy—a policy which is also not consistent with the trend of modern European opinion. There is another reason why we were averse to a campaign of general repression. We know that men's minds are profoundly disturbed, partly by religious and partly by political causes; and in such circumstances, it is better for Government to bear with discontents, to do what they can to remove them and exercise the greatest patience and tolerance in dealing with men whose minds have been tried very sorely in various ways.

The second course would have been to come forward and concede in full the extremists' demands. Well, I pointed out recently that I believe that such a course is not consistent with our duty towards His Majesty's Government. It would, I believe, and I have always said so, connote the withdrawal of the protection which is afforded to this country by its inclusion in the British Empire. That is a position that is in my opinion unassailable. Further, I believe, that any abandonment of our responsibilities in this country at this juncture would immediately lead to anarchy and chaos; indeed, there are so many moral and material objections to such a course that it would be impossible to particularise them in the time available. No one, I think, can visualise the destruction of sixty years' work since this country came under the direct control of the Crown without a pang of sorrow. Great Britain has undertaken a great trust in this country and, relying on that, capital has been invested; Indians and Europeans alike have dwelt in security; are all vested interests, all law and order, and all prosperity to be sacrificed to the demands of a party which, so far as I am aware, is destitute of all constructive policy? That is a policy which it would be impossible to defend, and it would be a breach of trust of the grossest kind incompatible with our duty to His Majesty's Government, incompatible with the statute by virtue of which we administer this country, and incompatible with our duty to India itself. Further, I do not think it is what the best elements of the people of this country for a moment desire. Sir, the third possible course was to take up the line that we have taken; that is, to prosecute those guilty of disorder or incitements likely to lead to disorder, and at the same time where there

are grievances among the people, agrarian grievances, labour grievances, or anything else, to do our best to see that they are remedied; where legitimate demands are made upon us by this Assembly to remove political grievances we are also doing our best to meet them; and it was in response to a demand of this kind that we appointed a committee recently on repressive legislation; and the same motive of course prompted me in the action I took regarding the Press Act. Indeed, throughout this session the Government of India has always been guided by a desire to meet this Assembly as far as possible, to do what they can to accede to its wishes, and to invite its support when they thought they were entitled to do so. That is the spirit in which I have attempted speaking on behalf of Government, to approach this subject; and I am glad to take this opportunity of saying that I have received the greatest consideration from this Assembly throughout this session, consideration for which I cannot express myself too gratefully to Members of this Assembly now and here.

I do not deny that the position before Government is one that causes very grave anxiety. I do not want to exaggerate the dangers, but it would be equally unwise to minimise them. We have these powerful forces working on masses of uneducated people, exercising in the case of Mr. Gandhi an influence which is of an extraordinary character. We have this inflammable material and unrest already caused by these economic causes. In such conditions I cannot say, and no man could say, when or where it will result in disorder or to what extent. But on this I am clear, there is one thing we must do, that is, to suppress disorder where it does occur and to prevent it when possible by punishing those who incite others to violence; and it is on this point that I seek the support of this Assembly. There is a dangerous spirit of lawlessness abroad; you have only to read what happens in various parts of the country to see this for yourselves. Honourable Members must have read for instance of the account of what happened in Rai Bareilly the other day. Here is the official account.

'Political agitators exploiting the legitimate grievances of the tenantry have worked them up to attempts to take the law into their own hands. The criminal classes have seized the opportunity and commenced looting; it has been necessary to fire, and there has been regrettable loss of life. Of the extent of the lawlessness there can be no question whatever; nor can there be any question that the agitators attempted to give a political objective to the disorder. It was preached that the British raj was coming to an end. Mr. Gandhi's name was brought in on every occasion; and one Maulvi was induced to declare that he would be King of Salona on the advent of the Gandhi raj.'

That, Sir, is the spirit in which these people work. The mobs are of course incited to these forms of disorder largely by professional agitators. If we are to prevent serious outbreaks of violence in various parts of the country, it is essential that we should be allowed to proceed at least under the ordinary law of the land against those who are guilty of misconduct in promoting such acts of lawlessness.

I heard a great deal of talk about repressive measures from some Honourable Members, but I heard very few instances cited of the use of any measures other than those which we are entitled to use under the ordinary law of the land. The Government prosecuted evil-doers wherever it could, although it is very difficult to prosecute in many cases owing to the unwillingness of witnesses to give evidence and to intimidation. Further lengthy prosecutions must involve delay and in themselves are an advertisement and cause unrest and excitement. The Government of India have always advocated prosecutions under the

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ordinary law of the land rather than any executive action in the form of internments and the like. Our policy is now challenged by the Honourable Member on the ground that it is unduly harsh and oppressive. May I read to the Assembly the last instructions that we have given to Local Governments? I cannot read the whole letter because there is necessarily confidential information in it. I will read a portion :

'For the present therefore the Government of India would prefer to rely on measures such as :

(1) keeping the closest possible watch on attempts by the non-co-operators to spread disaffection among the rural masses and the labouring classes in the big towns or industrial centres ;

(2) the initiation and early enactment of remedial legislation wherever, as in the matter of Tenancy Law in some provinces, such legislation is required ;

(3) counter-propaganda, as for example, by giving the widest possible publicity to the intention of the Government to introduce remedial measures ;

(4) the vigorous prosecution under the ordinary law of all persons who are guilty of making seditious speeches and of inciting to violence and against whom evidence is available.

The Government of India have already urged this measure to which they attach the utmost importance on Local Governments, and they must again express their regret that so far such prosecutions have been instituted only in a small number of cases. The Government of India have refrained, for reasons that have been fully explained to Local Governments, from prosecuting the leaders on the general charge of advocating non-co-operation.'

If I may pause here for a minute I may say there has been, so far as I am aware, no prosecution at all of any man merely for advocating or joining in this principle of non-violent non-co-operation. We have left such men alone, rightly or wrongly.

Mr. K. C. Neogy : May I know the date of that letter ?

The Honourable Sir William Vincent :

'But they must again impress on Local Governments that this fact constitutes no reason for refraining from prosecuting the others.

(4) the enforcement in general of respect for the law. Cases have come to the notice of the Government of India in which large crowds have been allowed to indulge with impunity in demonstrations of an obviously unlawful character. Incidents of this kind cannot but tend to weaken the respect for law and order amongst the masses of the people.'

We then go on to recommend prosecutions in such cases under section 148 of the Indian Penal Code. The date of the letter is the 28th of January 1921.

Now, I appeal to Members of this Assembly to say whether there is anything in that letter for which Government can be held to blame as adopting repressive measures, and I make this appeal with confidence. It is quite true, that Mr. Gandhi himself is an idealist and a visionary, and he does advocate or professes to advocate—I hope he does so genuinely—abstention from all violence and I repeat here that no man who advocates peaceful non-co-operation, that is to say, who merely abstains from co-operating with Government or who does not use any violent means, has ever yet been prosecuted. Can any Honourable Member say, however, that the co-adjutors and Lieutenants of Mr. Gandhi act on the same peaceful principles whether they are actuated even by the same motives? Has that ever been seriously believed by any non-official who has been in contact with some of Mr. Gandhi's Lieutenants

recently? Let us take the case of two prominent Muhammadans who identify themselves with the case of Mr. Gandhi. Has it not been freely bruited abroad, rightly or wrongly, that they conceive the idea of a Mussulman empire in this country? Has it not even been said that they intend to effect this with the aid of foreign enemies? Has it not even been said that they contemplate an invasion of this country by a foreign power within a couple of months which invasion Muhammadans inside this country are to aid? If there is nothing in all these rumours why was then this anxiety recently to prevent friendly negotiations being arranged between the Amir of Afghanistan and the British Government? Was it not rather a curious attitude to take up? Are there not again among the non-co-operation party other persons with a distinct tendency to Bolshevism and others who secretly and indeed often overtly encourage and incite the masses to violence and disorder? Are not calumny—extending even to men whose names have long been honoured by Indians in this country—intimidation and social boycott the weapons to which adherents of this movement have not scrupled to resort? Are there not men among them who openly say that they are endeavouring to seduce our soldiers and police from their duty and allegiance? Are there not those who deliberately promote such discord between employer and employé and between landlord and tenant as can only end in serious disorder? And in such circumstances, is it not essential that the Government should be allowed to take such action as is necessary to preserve the public tranquillity? Is disorder to be allowed to spread until it is impossible to check it? Are we to stand aside and allow these incitements to disorder to continue and the disorder itself to go on unchecked merely because we are accused of using repressive measures? These are questions which Members of this Assembly have to answer bearing in mind their responsibilities as representatives of the people of India and I maintain that it is essential that the Government should retain and exercise these powers, that the instructions which I have read out to this Assembly now are perfectly fair, and that there is nothing in them that any loyal or reasonable citizen can quarrel with.

Now let us proceed to consider the manner in which these principles have been applied. It is true that there have been more prosecutions lately than before. What is the reason? The reason has been simply this, that the forces of disorder have gained strength and we have found it necessary to do what we can to counteract them. I read just now to the Assembly what happened in Rai Bareilly. We have had much the same thing in Bihar—hat looting. We have had the same sort of disorder in other provinces—deliberate attempts made by men, often in a religious garb, to promote and incite the masses to disorder, leading unfortunate, ignorant people to commit violent crime. Every one at this moment knows again the dangerous state of affairs in the Punjab. Dr. Nand Lal himself quite frankly admitted it and every one is aware of the critical state of affairs created by Sikh unrest in that province.

Now let us see how far the action of the Local Governments was challenged in the places where we might expect it to be challenged, that is, in the local Councils. I will take the case of the United Provinces, first of all. There was a debate in the United Provinces Council about the measures taken to suppress disorders at Rai Bareilly and if there had been any unduly drastic action, is it not certain that the local Council would at once have censured the Government for their action? The fact that Members in the United Provinces Council did not regard the action of the Local Government as unfair and

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repressive is conclusively proved by the result of that debate in which the critics of Government were positively flattened out. They could not secure any support from the United Provinces Council and the action of Government was not only defended, but successfully defended and approved by the Council.

Now let me take the case of Madras where action was taken against a gentleman of the name of Yakub Hasan. I believe, he has a Turkish wife. He was prosecuted under the ordinary law of the land and the action of the local authorities was discussed in the local Council. There are a number of lawyers in the Madras Council and I believe a fair number of Madrasi Brahmins—and they would never let unduly harsh measures go unchallenged. The debate on the occasion was on a motion for adjournment and so no actual question was put to the House, but I am assured that the whole trend of the debate was on the side of the Government. Further, Honourable Members who know the truth about this gentleman and the danger of allowing excitement in the Mopla country will, I think, bear me out in the view that the Madras Government was entirely justified in its action.

Let us take the case of Bihar. The non-co-operation movement has been actively promoted there recently and some Member of the local Council took exception to the policy of Government in suppressing certain illegal activity and moved a Resolution on the subject in the local Council. This was not pressed to a division but was withdrawn. Now we know perfectly well what that means. It means that the Council was satisfied that there was really no cause for complaint. Of course there are sometimes other reasons for withdrawing a Resolution, but ordinarily when a Resolution is debated and withdrawn, the reasonable inference is that which I have stated. Similarly in the Punjab, I believe, I am right in saying that they had a debate on the question of the application of the Seditious Meetings Act. I think Raja Narendra Nath put up the motion. What happened there? Nothing. I think the Resolution was either withdrawn or rejected. Now what do all these things show? They show that in the opinion of the local Councils the application of the principles which I have advocated has been justified. I have read out the principles to this Assembly and I believe they will accept them too. And may I here refer again to Delhi where action has been taken to suppress certain assemblies and prosecute evil-doers for persistent intimidation and shameful acts of violence; where not only the living but even the dead are not spared from insult and indignities, are we not justified in taking action? The conduct is typical of the terrorism and intimidation that is practised in certain parts of Northern India and I am sure this Assembly will support the action of Government in prosecuting evil-doers in such cases and in taking measures to suppress illegal associations created to intimidate peaceful citizens and promote sedition and disorder.

I have now explained what the position is and what our policy is. We are prepared to go as far as we can to meet legitimate demands, to strengthen moderate opinion in this country, to make the Reforms a reality, to make these legislative bodies great bodies in the reformed Government, to remove genuine grievances wherever they occur, to go out of our way even at a sacrifice of efficiency as far as we can to meet demands of educated opinion; at the same time where we have proof of incitements to disorders either direct or indirect to punish the offenders.

I want to ask if this Assembly which has accepted its share in grave responsibility *vis a vis* the Government, so well throughout this session, will not support us in this policy also.

Mr. Eardley Norton: Sir, may I ask the Honourable Member before he sits down, whether there is any truth in the allegation made here to-day that men have been prosecuted for merely preaching temperance?

The Honourable Sir William Vincent: Certainly not, and I can at once prove this, if I may read the telegram I have here. There is a prosecution connected with excise sale in the Central Provinces and for that reason I did not like to refer to it. But I can assure the Honourable Member that the Government have never either now or in past years taken any action against anyone who simply advocated the cause of temperance. It was only when there was deliberate intimidation used that persons have been prosecuted. As the matter is *sub judice*, I hope I am not committing contempt of court if I read the telegram.

The Honourable the President: If the case is *sub judice*, you had better not read it.

Khan Bahadur Zahir-ud-Din Ahmed: Sir, I oppose the Resolution. In my opinion, the Government instead of adopting repressive measures is showing great forbearance which in some quarters is being interpreted as weakness. On the above ground, I am against the Resolution.

Government is bound to uphold the peace and order of the country. If the Government does not do it, it fails in its main duty. If some people are determined to upset the tranquillity of the country, they are not the friends of the peaceful citizens of the Empire but are their enemies and as such they are to be taken in hand by the Government. To countenance them means doing us, the peaceful people, a great wrong.

The Mover said, that non-co-operation is non-violent. I have seen a good deal of non-co-operation, but I must admit they were not at all non-violent. Whatever the non-co-operators may say, I am convinced, they are determined to have a great revolution. They want Swaraj without British connection which means quite a different thing from Home Rule. I may submit here, that Swaraj without British connection cannot be secured without a successful rebellion. The people I represent do not want rebellion. Suppose we rebel, there is very little chance of success. If we succeed, we go back half a century. There will be so much loss of life that even 50 years will not make it up. Suppose we fail, we get a century behind. In both accounts such alternatives are to be avoided. Even if the British leave us of their own accord to-day, we shall have to call them back to-morrow. For without the British there will be chaos and anarchy in the country. Mussalmans will be fighting with Hindus, Sikhs with Pathans—Afghans, Nepalese and Japanese will all be on us, and our position will be the worst on the face of the earth.

Mr. Gandhi was in Dacca recently. He was talking to a Mussalman, a friend of mine there, that Swaraj is life and death to us. My Mussalman friend replied, 'Yes, life for you and death for us'. I am for peace and order, hence I am against non-co-operation as by non-co-operation the peace and order of the country will be upset.

[Khan Bahadur Zahir-ud-Din Ahmed.]

We are going to get Home Rule sooner or later if we know how to behave well. I cannot understand why we should court trouble for a thing which we can get in the usual way when the time must come, just as a ripe fruit falls to the ground. Let us have common sense and separate ourselves from the non-co-operators and let us say good-bye to them for all time.

Personally, I love my religion greatly, but I love peace and order in the country still more.

One word more, Sir. One of these non-co-operators said, that he would give us Swaraj within one year. Now the man does not believe it himself, for he is a cute man. He knows that it cannot be given, he is simply saying it with some ulterior object. He may say, that you will be the President of the Republic of United India.

Now, take the case of a girl who is married to-night. If she expects she will be a mother to-morrow morning, you would say, 'Well, her expectation is wrong.' Similarly, if we expect to get Swaraj in one year, our expectation is wrong. The girl has to wait ten months before the child is born. We cannot get Swaraj. We do not want it. I am a Muhammadan. Swaraj will mean Hindu raj. We have not yet been able to make up our differences. We are making them up gradually. We are not yet fully united. Before that comes about, we must act very very cautiously. We blame Government and say 'The Government is not doing this, is not doing that'. Government is not doing enough for our protection. I have seen so much trouble created by these non-co-operators in my own country that I am sick of them and more sick of Government for giving them a free hand.

Sardar Bahadur Gajjan Singh: Sir, I rise to oppose the Resolution. In my opinion, Government up to this time has been following a policy which, it is my painful duty to point out, is unwise. No Government worthy of the name could hear for a number of months speeches openly made to the effect that this Government is to be overthrown, this Government is to be turned out of India, money is to be collected, an army is to be raised, if there is any invasion from outside this Government is not to be assisted.

I am strongly in favour of patience and forbearance, but there must be some limit to that. I venture to point out, that measures sufficient to cope with the situation should have long ago been undertaken. Government, I am sorry to say, have neglected their duties towards their loyal subjects and the law-abiding people. No Government on earth could possibly have allowed such a propaganda without a word of protest. I tell you, Sir, from my own experience, that the subordinate Government officials are simply showing weakness in the matter, because they think that there will be no support given to them by the Central Government. I hope I may not be misunderstood. I am not for repressive measures. I am for the progress and development of my country. But I am strongly in favour of maintaining law and order. It is impossible to assert that this movement of non-co-operation can be carried out without any violence. We know what has happened in Calcutta. The boys would not allow other students to go into the examination hall. They would not allow the examiners to enter the hall. Men like Mr. Sastri and Pandit Malaviya were assaulted. Such instances can be multiplied.

Then, what effect would this propaganda have upon the uneducated people, upon the masses, upon the villagers? They simply construe that into weakness of Government. They will be of opinion that Government have made up-

their minds to leave them to themselves, and that they are entirely at the mercy of these persons. Open seditious meetings and lectures are given which no Government on the face of this earth can possibly tolerate. For a time it appeared as though all those sections of the Indian Penal Code which deal with such offences had been repealed. There is absolutely no reason why Government should not handle the situation boldly, legally and constitutionally. There was one difficulty of which people were very much afraid of. When any necessity arises, the rude element of the country take advantage of the situation. They commit robberies, dacoities, and other serious offences against the law of the land, and when those offences are being investigated, innocent people are hauled up. Of course, nobody can blame the Government for that. Government never wanted any innocent person to be hauled up or to suffer. There is absolutely no doubt that Government are in possession of many facts in connection with this movement, but I very much doubt if they fully realise the whole situation. They are well-informed on each and every detail. It is all very well to say, that all these measures of repression ought to be a matter of the past. But it is for us to show that there is absolutely no necessity for the Government to take any repressive measures, and I very much doubt whether the actual bringing to justice of legal offenders is really a repressive measure. I am strongly against Government taking any action which will crush the spirit of the people, at least the political spirit. But I would boldly and strongly advise Government that lawlessness and commission of offences should be boldly faced and put an end to in the interests of law and the law-abiding people of the country. As long as this movement was confined to educated people who can think for themselves and who can come to correct decisions, nobody need be anxious about it. But as we know, it is now proposed that the movement is to be taken from home to home, from village to village, and from city to city. Then it should be very unwise on the part of the Government of India to initiate a policy which would lend colour to the view that Government themselves encourage these people and embolden them, and do not do anything. So, I think Government have done only the right thing in initiating the new policy, and I strongly urge upon them that they should never allow such sort of propaganda work—I do not know whether non-co-operation itself is very serious or not—but what have the actual speeches effected? How are the minds of the people being poisoned? No Government worth its salt can tolerate such a thing. Such things should be stopped. They are offences against the law of the land and I regret to say that for several months past the law had not been brought into force. I, therefore, submit, that while I am very strongly against any unnecessary repressive measures and in favour of the progress of the country on very liberal lines, Government should not forget their duties and should enforce what is necessary according to law, to preserve peace and order at any rate.

Khan Bahadur Sarfaraz Hussain Khan: Sir, I have given notice of an amendment to the Resolution, and that is this:

'That the words 'as far as possible' be inserted after the word 'adhere' and the sentence beginning with 'and' and ending in 'India' be omitted.'

What I meant was, that there are always new conditions, and new developments arising; and if the Government find themselves under the necessity of doing something new, we should in no way tie their hands. Secondly, my object was, that when the Local Governments are already doing their work

[Khan Bahadur Sarfaraz Hussain Khan.]

satisfactorily so far as this non-co-operation is concerned, we should not tie their hands or embarrass them. That is the object of my amendment. But after hearing the Honourable the Home Member and my Honourable friend, Sardar Gajjan Singh, I wish to endorse every word that has fallen from them.

It is, I think, the clear duty of Government to protect all law-abiding people. It was evident from the very beginning that Government showed want of firmness so far as they allowed this propaganda to stand. Government have failed to understand not only its violent character, but have allowed it to go on for a long time, and it will now take double the labour to check it. As is now the case, non-violent preaching is becoming violent and I have seen people rushing in and interrupting speakers at meetings. There was a meeting in Mr. Hasan Inan's house at Patna. Some boys and some elderly men too, uninvited, rushed in and sat and wanted to speak. When they were told, that they had no right to speak, then, in a body, they retired. It is the duty of Government to check these things and to help the law-abiding people. It is, I again say, the clear duty of Government to help the people when they are molested. The Honourable the Home Member is sitting here and I am addressing him and I tell him that plainly. I need not dilate on the matter any further. I do not wish to be irrelevant or talk nonsense, but I am firmly of opinion that the measures that are being taken should in no case be stopped. As a Member coming from Bihar, I have personal experience of the whole matter, and as a Congressman, I know Mr. Gandhi and know the motives of non-co-operators. I do not wish to detain the House any longer. My friend, Mr. Jaminadas Dwarkadas, will say what his fate was when he tried to speak at the Congress held in Calcutta. Let the Government have a free hand in the matter. Besides we are going to hold a sub-committee, and all these things will come up before it. With these words, I strongly oppose the motion.

The Honourable the President : Does the Honourable Member move his amendment ?

Khan Bahadur Sarfaraz Hussain Khan : My amendment is this :

'That the words 'as far as possible' be inserted after the word 'should' and the words from 'and ask' to 'India' be omitted.'

The Honourable the President : Amendment moved :

'That after the word 'should' in line 2 of the Resolution the words 'as far as possible' be inserted, and thereafter all the words from 'and ask' to 'India' be omitted',

so that the Resolution would then read :

'This Assembly recommends to the Governor General in Council that the Government should as far as possible adhere to the declaration of its policy made in October and November last.'

Rao Bahadur T. Rangachariar : May I move an amendment to that, Sir ? I wish to propose this amendment. I would omit the last clause, as my Honourable friend, Khan Bahadur Sarfaraz Hussain, suggests, 'and ask the Local Governments' to the end, and substitute this instead :

'and prevent the adoption by Local Governments of measures other than under the ordinary law of the land except under emergency and, when extraordinary measures are to be resorted to, this should be undertaken only with the concurrence of the respective Ministers and the Government of India'.

The Honourable Sir William Vincent: May I have a copy of this amendment? It is a rather long one.

Rao Bahadur T. Rangachariar: I have just drafted it; my writing is so bad that it is somewhat difficult to read. Sir, this is an occasion when every responsible citizen has to give expression to his sound views without fear or favour, without fear either of the Government or of the public, because both are potent factors in influencing the judgment of man.

Sir, I wish to tell the House a little story which I told at a meeting in Madras held in 1916 when Sir William Meyer went down there to propagate the war loans during the war period. Sir, the position of our countrymen then was that we all felt that we belonged to one household, that we were all members of the same household, and that we were bound to take all measures to protect that house against external aggression. I reminded my countrymen there of a small incident in the lives of the three Indian saints of South India which appealed to me and appealed to the public. The first three saints in South India were known as Poigai Alwar, Peya Alwar, and Buttha Alwar. They lived nearly 4,000 years ago. They happened to meet at a particular place about 60 miles from Madras known as Tirkoilur. Sir, it was a stormy night; they had a humble cottage to resort to. One of them went there. We have in our part of the country, in the entrance to the house, what is called a small *pial* between the innermost part of the house and the outer part of the house. Fearing to disturb the inmates of the house, the first man went and took shelter in that *pial* and laid himself down in order to take rest having been tormented by the storm.

Sir, he had hardly laid down for about a few minutes, when another saint came there and he claimed a place. Well, the *pial* was big enough for one man to lie down and big enough for two men to sit, so the first man gave the other accommodation. Hardly a few minutes had passed when the third man came up and he had to find accommodation. Then they said: 'Very well, there is room for one to lie down, for two to sit, and for three to stand'. Well, the point of the story is this. They were all there; the night was a stormy one. They went on praying; they went on co-operating with each other, and after all their prayers had effect, and they found afterwards a fourth man, another saint, in their midst. They could not recognise him, but he was what he was. Then the storm cleared and the fourth man was the presence of the Great God Himself; He came to help them in the hour of need. Such I took to be the position of Indians. The Hindus first occupied the country. They were there enjoying all the benefits and the fruits of the country and they had gone to rest and were lying down at ease and the Muhammadan brother came and disturbed them and, for a time, they were fighting with each other and then they settled down co-operating with each other. Then, Sir, the third big brother came, i.e., Briton. He also claimed space and the two people who were already occupying India gave him space and so all three were working together and co-operating, though the big, burly brother now and then gave kicks with the hands and feet in the shape of the Ilbert Bill and other things. All the same, the big burly brother was tolerated, loved sometimes, but never hated, although he was now and then full of his pranks and mischief, especially the planting community, but all the same we were prepared to tolerate them, we were prepared to work together, to co-operate together. I appealed to that ancient story in our legend and I appealed to the audience to equal the sentiments expressed

[Rao Bahadur T. Rangachariar.]

there and they were all prepared to protect the Empire against external aggression such as faced us that year.

Now, what has happened since that? The non-co-operator found a fertile field for operations. Unfortunately, the history of the last two or three years has not been creditable. Now, the Honourable the Home Member asked us for sound advice in this matter, and I appeal to him to look at the pages of the history of the measures adopted by Government from 1910 onwards and see what has been the result of the measures adopted during those ten years. The lessons are writ large during the period of the last ten years. Sir, when I read the debates in this Council a year before, I think over the Punjab affair, I formed a very bad opinion of the Honourable the Home Member, whom I had not set eyes upon; and, therefore, Sir, when I came to this Assembly I came with rage and anger and I was ready to pounce upon him if occasion arose. But, Sir, he has disarmed me in that respect. Not only he, but the other Members of Government, have also disarmed me in this matter. What is the cause for this change? What is the cause for the change in the attitude adopted by us? It is all because Government as now administered and advised are pursuing a very sound policy indeed. Their readiness to be frank and full in the statement of their case, their readiness to comply with legitimate demands made by the peoples' representatives in this hall, all appeal to us. Are these the men, was the question put by myself to myself, are these the men who treated Madan Mohan Malaviya with that contempt which we see in the debates? I was surprised to see the change that had come upon them, and I hold that it is due in large measure to three causes: First of all, the presence of my Indian friends in the inner counsels of Government; secondly, the attitude of His Gracious Majesty the King-Emperor, and thirdly, Sir, the great event which we witnessed last month by which His Royal Highness the Duke of Connaught came here to inaugurate the various Assemblies. I welcome the change. I welcome the change for more reasons than one. The non-co-operator had a fertile field to sow his seed upon; but, Sir, the seed was a rotten seed; the soil was fertile enough, but the seed is not one which can appeal to the intellect, to the sane intellect, of my countrymen. My countrymen may be given credit for shrewdness; they are not fools, they are not likely to be led away easily as the Honourable the Home Member supposes. No doubt, now and then there will be ebullitions here and there but, Sir, such ebullitions can be put an end to by the ordinary weapons which the Government have in their hands; and I am glad Government's policy has been to resort only to the ordinary law of the land. Repressive measures other than those under the ordinary law will never pay, have not paid at any time. Has not the history of the last ten years taught us that the more you resort to repressive measures out of the ordinary law, the deeper the discontent, the deeper the disloyalty which you create in the minds of the people? Therefore, Sir, I welcome the announcement of the policy made in November last. I welcome again the announcement which has been read just now by the Honourable the Home Member from that confidential despatch which he referred to of January. By all means use the ordinary law of the land. It is because the ordinary law of the land was not sufficiently used that the situation which you now find it difficult to eradicate arose in the last seven or ten years. By all means use them. No responsible citizen, no sane man, will object to the ordinary law of the land being used; therefore

I move my amendment, namely, that while welcoming the declaration of policy as contained in the announcement in November and October last, I think the Government ought to take care that the Local Governments do not resort to other than the ordinary law of the land except with the consent of the Ministers of the provinces concerned and with the concurrence of the Government of India. Sir, this safeguard is necessary. We know, Sir, especially in Madras, we know the bitter experience which we had of the executive being led away by private reports given to them without the knowledge of other people. We know, Sir, how the Home Rule movement for instance, which was started by Mrs. Besant, who is now revered and honoured in this hall, was persecuted, how she was persecuted on the bad advice of the people on the spot. But that was the reason why the Home Rule movement gained strength. The more opposition you create to one thing the more you encourage it, the more life you give to it. We feel it by experience; and therefore Government cannot be too careful in these matters. But we responsible citizens who have come here to assist the Government ought to assist the Government in maintaining law and order. Who can say nay to it? But in maintaining law and order, whether the agents of Government practise law and order, is what we have to see. Government, just as they are swift enough to come down upon citizens, should also be equally swift to come down upon their agents who break the law and order. It is because they do not do this, that even people who are constitutionally conservative are perforce obliged to distrust the Government. Now, all those days are past, and I hope they are past for ever, and I hope the Government will be strong not only in dealing with the agitator and the people, but also with their agents who have to carry on the trust that is entrusted to them by their being placed in a position to look after the welfare of the millions of this country. Therefore, Sir, while we are prepared to go so far just now as the Government apparently are anxious to take the opinion of this Assembly and as the Honourable the Home Member has warned us that this view which we are going to give is going to guide them in their deliberations, especially at a time when a new Viceroy is coming here, so that his hands may not be tied by any steps which may be taken by the Government before he comes, I think, Sir, it is our bounden duty to warn the Government against resorting to measures other than those under the ordinary law of the land. So long as you have the support of the Ministers, who are all good and true men, so far as I know them, so long as you have their assistance, I say, and their co-operation in the matter, any steps taken to counteract the influence of the non-co-operator would have our hearty support. But, acting in concert with them, do not give a *carte blanche* to Local Governments. We have had bitter experience of that *carte blanche* in the Punjab; by trusting to the men on the spot, the Government of India have been faced with a situation which it would take years and years to eradicate. Let that theory be dropped. By all means trust him, at the same time keep your guiding and controlling hand over him, do not leave him all to himself. Sir, with these words I beg to move my amendment.

The Honourable the President: A second amendment has been moved. Before I put it to the House I should like to know whether the Honourable Member (Mr. Sarfaraz Hussain Khan) who moved the original amendment wishes to adhere to it.

Khan Bahadur Sarfaraz Hussain Khan: What is the position, Sir?

The Honourable the President : The position is, that there are two amendments before the House; one must be disposed of before we take the other. Does the Honourable Member wish to move his amendment? The Resolution as proposed to be amended by Khan Bahadur Sarfaraz Hussain Khan reads as follows :

'This Assembly recommends to the Governor General in Council that Government should adhere as far as possible to the declaration of its policy made in October and November last.'

That is the form in which the Honourable Member would leave it if his amendment were carried. The form proposed by my Honourable friend on the left (Mr. Rangachariar) runs as follows :

'That this Assembly recommends to the Governor General in Council that Government should adhere to the declaration of its policy made in October and November last to prevent adoption by Local Governments of measures other than under the ordinary law of the land, except in some emergency, and where extraordinary measures are to be resorted to, this should be undertaken only with the concurrence of the respective Ministers and of the Government of India.'

We must dispose of the first amendment before I put the second amendment to the Assembly.

Khan Bahadur Sarfaraz Hussain Khan : If it is the wish of the House, I shall withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

The Honourable the President : The next amendment proposes to leave out all the words from 'and ask' to the end of the Resolution, and to add the words 'to prevent the adoption by Local Governments of measures other than under the ordinary law of the land, except in some emergency, and where extraordinary measures are to be resorted to, this should be undertaken only with the concurrence of the respective Ministers and of the Government of India.'

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

Sir P. S. Sivaswamy Aiyer : Sir, I wish to associate myself with the remarks which have fallen from my Honourable friend, Mr. Rangachariar, in moving this amendment. I do not propose to claim the attention of the House for more than two or three minutes. I have no intention of telling the House any long stories. Those who have heard the statement of the Honourable the Home Member must feel it their duty to support the Government in their attempts to preserve law and order by recourse to such measures as the ordinary law provides them with. The statement of policy which was made by the Honourable the Home Member must commend itself to all of us. The Government say, they have only two objects: one to make the Reforms a real success and promote the attainment of full responsible government; and the other, the preservation of peace and order. No one of us can possibly take exception to that statement of the policy of the Government of India, and as regards the measures to be adopted by them, I am in entire concurrence with the course which has been advocated by my Honourable friend, Mr. Rangachariar. If all sections of the public have felt themselves bound to oppose the Government in any of the measures they have taken in recent times to suppress disorder, it is because the Government have tried to resort to measures of an exceptional kind instead of resorting to the ordinary law of the land. If the Government follows the policy which has now been suggested by my

Honourable friend, and which, I am sure, is the policy of the Government also, I do not think any one of us would feel inclined to withhold his approval from the measures which the Government may feel disposed to take for the maintenance of peace and order. I would only add that it is necessary for us to effect some amendment of the original proposition. The original proposition places us in a most awkward position. It uses the expression 'repressive measures', an expression which is of a question-begging character. If we vote against the proposition we shall be held to have voted in favour of repressive measures. That, I think, is not the intention of those who wish to support the Government on this motion. We have no wish to encourage the resort to repressive measures, but we wish to support the Government in all attempts by them to withhold law and order by all means under the ordinary law. I would therefore strongly urge upon the House the necessity for not allowing the original proposition in its unamended form to go to the vote for it would mean that we are in favour of repressive measures. There are repressive measures and repressive measures. Even measures taken under the ordinary law for the suppression of disorder may by some be described as a repressive measure, but that, I think, is not the sense in which the words are ordinarily used in political discussion. I would therefore ask the House to accept the amendment which has been moved by my Honourable friend so that it may be made clear, that in according our support to the Government, we accord our support to them to the extent they use the ordinary law of the land, and if they are at any time compelled to use other exceptional measures, we hope they will do so subject to the limitations which have been mentioned.

Mr. Harchandrai Vishindas : '.....They came to curse! and went home blessing.' I think that proverb in a great measure applies to the debate that we have listened to to-day. I want to inform you, Sir, that I was one of those who had sent a similar notice of motion, and while the Honourable the Home Member was referring to somebody other than Mr. Jatkar, he was referring to me. I was the culprit. Sir, I think to-day's debate has served a very useful purpose. I want to explain that when I sent in a notice of motion I wanted to have a declaration of policy from the Government and to ascertain whether what is being bruited abroad about Government resorting to unnecessary repressive measures was really true or false, and I wanted also to urge upon this Assembly, that when we have begun work under such peaceful conditions, that when there has been so much harmony between the Legislative Assembly and the Government, it is highly undesirable that any action should be taken by the Government to discredit the Assembly and give an opportunity to our opponents outside this Assembly to laugh at us. Now, Sir, you are aware that the chief plank in the non-co-operation platform was the boycott of the Councils, and therefore you can at once conclude that all those who have assembled here to-day are against non-co-operation. Sir, I wanted, in order to bring this motion before this Assembly, as I have explained, in the first place to have a declaration of policy, and in the second place to impress upon the Government that this was not the opportune time for the adoption of repressive measures as we had originally understood them. But here I might say, that after hearing the Honourable the Home Member, if his statements are to be believed, and I do not see any reason why they should not be believed—really no such repressive measures as are implied in this Resolution are being adopted. As the Honourable the Home Member has explained to us,

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it is only the ordinary law of the land that is being resorted to and that also where disorder arises, where the peace and tranquillity of the country is threatened, and where the law-abiding people have otherwise to suffer. Under those circumstances, I do not think there is any man who, unless he is a man who has lost all sense of order and peace, will question the action of the Government.

There is also another aspect of the question which presents itself to my mind, and which I intended to place before this Assembly and the Government, and it is this. Much of the ground has been already cleared in the interest of the country already. We had the Punjab debate to begin with. That was another of the sorest points over which the people were aggrieved. I will not go the length of saying that people have received complete satisfaction on that question by the decision that was arrived at, specially having regard to the white washing of an individual, who shall be nameless, still I think that the Government did meet us half way and that the Government did descend from that high horse which they were riding in the debate last autumn to which Mr. Rangachariar has just referred. That is a concession which should be appreciated.

And, after all, that question, for the time being, so far as this Assembly is concerned, is at rest. Then, another point which is plied on the platform of the non-co-operators, is the Khilafat question. I think the latest telegram on that question has produced a very reassuring effect. We hear that the delegation of the Turks have been satisfied with the terms for revision of the Treaty of Sevres, and have departed from London, for Angora, and they expect that the terms will not only satisfy them, but they will satisfy the Anatolians with whom the decision rests. We ought to thank the Honourable Mr. Bhurgri, who raised this question with the consent of the Honourable the Home Member in the Council of State, which resulted in the Government authorising the despatch of the Muhammadan delegation to the Peace Conference in London, and which has produced very beneficial results. It cannot possibly be denied that it is on account of the feeling of Indian Mussalmans that such desirable results as these are probably being arrived at that Mussalmans certainly will recognise that it is by no means

The Honourable the President: I recognise that it is not easy to make a speech upon this question without referring to this particular subject, but the reference must be very brief.

Mr. Harchandrai Vishindas: I thank you, Sir. That is the second point on which also we have had a satisfactory result. The third point is—I am talking of the non-co-operation point of view—Swaraj. Well, we who have come to this Assembly are assured that we are on the way to Swaraj, although I have no faith in its coming in seven months' time. We have shouldered a very heavy Budget owing to circumstances over which we had no control. In the next place, the new Viceroy is on the eve of his arrival and no action should be taken which would have the result of embarrassing him. These were my reasons for sending my notice of motion, but after the statement of the Honourable the Home Member, I think that the object which the Resolution had in view has been achieved, namely, that Government would not resort to such repressive measures as are contemplated to be condemned, but only to the ordinary law of the land. That being so, I think the adoption of the Resolution as modified by Mr. Rangachariar would meet the wishes of the Government itself. Because they themselves say, that they have been doing so and

they will be confirmed in their action and their policy by the opinion of this Assembly. I think the Home Member, after the speeches that have been delivered in this House, will be satisfied that this House has no intention of embarrassing the Government, but on the contrary of helping the Government in the preservation of law and order. So, on that point also, the Home Member will be satisfied. I think, considering the peaceful and the harmonious relations which have existed between the Legislative Assembly and the Government, it will be in the interests of the continuance of these relations that this Resolution should be adopted. With these few words, Sir, I support the amendment.

The Honourable Dr. T. B. Sapru: Sir, after the very lucid and exhaustive speech of my Honourable Colleague, Sir William Vincent, I do not think I should be justified in taking the time of the House unnecessarily in explaining the policy of the Government. So far as that policy is concerned, if I may be permitted to sum it up, it can be summed up in one word. The mere fact that a person happens to belong to the non-co-operation movement or that he is carrying on non-co-operation propaganda is not enough to bring him within the purview of the law. But when he transgresses a certain limit, when he appeals to popular passion and incites people to violence, he cannot under any system of law or political morality claim exemption for himself. That was the keynote of the Resolution which was issued by the Government in November last and I venture to think, that if you examine dispassionately each single case that has arisen since November last, you will find that the Government has scrupulously adhered to that principle. It is possible, that whenever any prosecution has been started, either under one section of the Penal Code or under another section of the Penal Code, you may hold that the conviction is wrong, but that is not the question before the House. The question is, whether in regard to any important matter which is to be found in that Resolution the Government has made a departure. On that point, my Honourable Colleague, Sir William Vincent, has given what is, I venture to submit, an effective answer, and I hope that the House will accept it. Now, with regard to the amendment which has been moved this afternoon by my Honourable friend, Mr. Rangachariar, I am sure, it has been moved in a spirit of friendliness, and I believe that nothing is further from the intention of my Honourable friend, Mr. Rangachariar, than that his amendment should have the effect of embarrassing the Government. But I also hope, that when I point out to him certain inherent defects in that amendment, he will see that there is a good deal in the view which I am going to put before the House. Now, in the first place, I will just invite the attention of the House to the terms of the Resolution which stood originally in the name of Mr. Jatkar and which has been moved this afternoon by my friend, Dr. Nand Lal. It says :

'This Assembly recommends to the Governor General in Council that the Government should adhere to the declaration of its policy made in October and November last and ask the Local Governments to stop all repressive measures now being used all over India.'

Now, if you analyse the terms of this Resolution, and I will beg you to analyse them rather closely because that will prevent you from going astray, if I may be permitted to say so,—it really comes to this : in the first place, the Government of India are asked to declare that they are adhering to the policy enunciated by them in October and November last, and, in the second place, it asks the Government of India to request Local Governments or to ask

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the Local Governments to stop all repressive measures without any exception which are now being used all over India. So, if you bear the terms of this Resolution in mind, the field of discussion becomes very narrow. Now, I don't think that it would be very germane to the terms of this Resolution to discuss extraordinary acts to which, except in two instances to which reference was made by Sir William Vincent, recourse has not been had during the last two months. I believe what was passing in the minds of Mr. Jatkar when he framed his Resolution, and what I must assume passed also in the mind of Dr. Nand Lal when he stood god-father to it, was the prosecutions which are being started under section 144 of the Criminal Procedure Code in various parts of the country. Now, here, I will beg you to remember that you have passed a Resolution in this Assembly asking this Government to appoint a committee for the consideration of all repressive legislation and I would respectfully remind the House that among the various acts or laws that you have referred to, certainly section 144 is not one. Now, what I would say is, whether the provisions of section 144 have been applied correctly or incorrectly to a particular case is a different question, but the question really is, whether when you find that a particular individual is transgressing the limit or when he is acting or is about to act in a manner prejudicial to public safety, the Government is to stand aside and to stand as if it was helpless, or whether it is not its duty to prevent any one of these disastrous consequences which it is easy to imagine.

I venture to think, that there can be only one answer, and that has been given to-day by almost every speaker who has proceeded me this afternoon.

Now, I come to the amendment which has been moved by my Honourable friend, Mr. Rangachariar. His objection is not to the application of the ordinary law of the land whenever it may be necessary, but his objection is that the application of the ordinary law should be subject to two important conditions

Rao Bahadur T. Rangachariar : No, no. You have misunderstood me. Extraordinary law I said.

The Honourable Dr. T. B. Saprū : I thought my learned friend looked upon section 144

Rao Bahadur T. Rangachariar : Certainly not. Section 144 has been the law of the land for ever so long.

The Honourable Dr. T. B. Saprū : So far as my argument is concerned, it remains unaffected by that distinction which has been pointed out to me. Take, for instance, the extraordinary law of the land. I will only venture to point out to the House, that there are certain special Acts passed by the Legislature which can be extended to the provinces only with the previous sanction of the Government of India, so that my learned friend need have no apprehensions with regard to that particular matter. Again, it is quite obvious that if the terms of the amendment which has been moved by my Honourable friend, Mr. Rangachariar, are accepted in the manner in which it has been moved, I venture to submit, it really casts a reflection upon the local Governments. It is a severe censure upon the Local Governments, who are better able to examine the local situation and to take action whenever any grave emergency may arise. But the Government of India, when it is asked to

extend any special Act, carefully examines the position and asks itself whether a case has been made out for the extension of that particular Act. Therefore, I think that so far as this part of the amendment of my Honourable friend is concerned, it is misconceived.

I will now briefly deal with the second part of the amendment, and that is that which relates to consultation with the Ministers. I shall venture to point out, that Law and Justice in the provinces are reserved subjects, and constitutionally it would be absolutely wrong to impose the condition that no action should be taken under any extraordinary Act by the Governor in Council unless he had the concurrence of the Ministers who had nothing to do with Law and Justice. In actual practice, you will find in certain provinces, that the Ministers are generally consulted by the Governor, and I can say that no Governor has placed more confidence in his own Ministers than the Governor of the province from which I have the honour to come. Therefore, while it may be, and while probably it happens, that in actual administration the Governor, as a matter of precaution or prudence, takes into consultation informally his Ministers, I think you would be imposing an absolutely unconstitutional condition upon the exercise of his powers by the Governor in Council to ask him to first obtain the consent of the Ministers. Therefore, I will ask you on these grounds not to accept the amendment which has been moved by my Honourable friend, Mr. Rangachariar.

I have only one word more to say and then I shall resume my seat. Probably, it has been assumed in the course of the discussion that most of the prosecutions that have been started have been started light-heartedly. The best answer that I can give is, in the words of Mr. Gandhi himself which I came across in his own paper this morning. Honourable Members may no doubt be aware that a distinguished Member of the Legislative Council, I refer to Pandit Madan Mohan Malaviya, has the misfortune of differing from Mr. Gandhi in regard to the non-co-operation movement. I need not remind the House of the recent happenings at Benares, but it is sufficient for me to say, that a man of his personality deserves certainly better treatment, and yet the treatment he has received you will gather from the paragraph that I am going to read to you. It will give you the view which Mr. Gandhi himself has taken of the Benares prosecutions in his *Young India*. These are the words used :

'The attack on Pandit Madan Mohan Malaviyaji is symptomatic of the temper of the people. If any man in India should be free from insult it is Panditji. His services to the Punjab are still fresh in our memory. After all, his labour alone has brought into being that great University in Benares. His patriotism is second to no one's. He is gentle to a fault. It is India's misfortune, not his fault that he does not see his way clear to risk the temporary giving up of his idol (that is, the Benares University). That he should have been insulted in the manner reported is a matter of deep sorrow. If the Sanskrit students or the so-called Banyasis chose to block the passage of the students, Panditji certainly had the right—it was his duty—to intervene and secure a free passage for co-operating students. In my opinion, the police were perfectly justified in prosecuting the ringleaders or those whom they believed to be such. That those arrested were roughly handled I can well believe. But we may not expect gentleness from the police even when we have attained *Swaraj*. I am, therefore, unable to extend any sympathy to those who so manifestly discredited a cause which they ignorantly claimed to represent.'

When intolerance of this character spreads over the land, can you really expect the people to behave otherwise than these people did, and can you expect any other judgment than that which has been given by Mr. Gandhi himself? The whole point to my mind is this. I say to those who are

[Dr. T. B. Saprū.]

responsible for the movement, 'You have sown the wind, and you cannot refuse to reap the whirlwind.'

Mr. Jamnadas Dwarkadas: My Honourable friend, Dr. Saprū, has anticipated me in quoting the passage from *Young India*, but there is one sentence particularly in that paragraph written by Mr. Gandhi which he would apply to Pandit Madan Mohan Malaviya, and which, with due deference, I would apply to Mr. Gandhi himself. He says, speaking about the beloved Panditji:

'It is India's misfortune and not his fault that he should not give up his temporary idol and not join the non-co-operation movement.'

I should say the same thing about Mr. Gandhi:

'It is India's misfortune and not his fault that he should not give up his idol of non-co-operation, and not join this movement of making the reforms a success.'

Mr. President, I rise to oppose the Resolution moved by my friend, Dr. Nand Lal. It has been pointed out, and I entirely agree, that it would not be right for us as responsible Members of this Assembly to tie down the hands of Government to a policy which it may be necessary for them to change any day in view of the circumstances that are to-day existing in the country. One does not know what developments will take place in the movement of non-co-operation. We see clear signs of outbursts of violence here and there. It may not be at certain places in a very acute form, but there are clear indications that the spirit of intolerance is growing far and wide among those who call themselves non-co-operationists, and for the purpose of preserving law and order and giving peace to the people of this country it may be necessary for the Government to resort to the law of the land in order to deal with those who are inciting the people to crime.

Mr. Gandhi himself has justified the action of the police against those who treated Pandit Madan Mohan Malaviya in that manner. This morning I was reading in the *Leader* a letter written by a gentleman called Krishnaji in Allahabad, and in that letter I read a piece of news which made me very angry. Last year, or the year before last, when I heard of the treatment accorded to the revered Pandit Madan Mohan Malaviya in the Council by Government officials, I confess I could not help feeling angry with those who had thus insulted a man who stands as an example of self-sacrifice and love of country in India, but I assure you, Sir, that when I read this morning of the insult that had been hurled at Pandit Madan Mohan Malaviya by those who pose as leaders of the country to-day and who have succeeded in driving out of the Indian National Congress leader after leader to the detriment of the cause that is dear to us all, that insults have been hurled by those which go far beyond the insult that even in imagination the officials could have ever hurled at Pandit Madan Mohan Malaviya, my anger against the officials entirely disappeared. This is what one of the leaders of the non-co-operation movement says about Pandit Madan Mohan Malaviya. He said at a public meeting that he wished that Pandit Madan Mohan Malaviya had been dead rather than that he should not join this movement. I ask you, Sir, whether these so-called non-co-operators and their leaders have not transgressed all the limits of propriety in trying to make their movement successful. It is likely that they may escape the result the penalty, for these crimes, as I may call them, but those whom they incite to crime will, I think,

not be able to escape being victims of the action of those who incite them. Sir, if, in this country, any one had ventured to insult a man of the type of Pandit Madan Mohan Malaviya in the presence of some of us who hold him as an example of patriotism and self-sacrifice for the country, I think it would not have been possible for some of us to keep in our minds the principle of *ahimsa* which Mr. Gandhi is, in season and out of season, preaching. We would probably have taken the law into our own hands and justifiably so; and, at this moment, in the country, when insults are being hurled at those who have grown grey in the service of the motherland in this manner, when, under the guise of staunch nationalism and patriotism, men with questionable aims come out and create a following in the country, then, I think, it becomes the duty not only of the Government but of all who consider themselves peaceful and law-abiding citizens to come out and join hands and say emphatically that this movement shall be put down. Sir, the Honourable the Home Member has told us that no person is going to be prosecuted only because he belongs to the non-co-operation movement and that is, I think, a very great safeguard that is provided against resort to repression. The Honourable the Home Member has also informed us that some of those who call themselves followers of Mr. Gandhi far from sharing the high ideals of Mr. Gandhi and his views about non-violence are known to be carrying on negotiations with foreigners with a view to make it possible that a foreign aggression should come to this country. I say, Sir, that if this is the state of affairs, then it is high time, that instead of being afraid of unpopularity, instead of facing the situation as it stands to-day, we should refuse to allow ourselves to be carried away by a sense of false fear of the people, and refuse to act against their interests by acceding to a Resolution like the one that my Honourable friend, Dr. Nand Lal, has moved. Sir, I assure you that there is not a single Member of this Assembly, who, in whatever he does in this Assembly and outside it, is not stirred with a feeling of patriotism and of staunch nationalism. I am sure that there is not one Member of the Assembly who does not look upon the country as the sole object of his services and who would do anything that is against the interests of the country. I may say that there is no Member of this Assembly whose sole object in coming to this Assembly is not to serve to the best of his ability the interests of his country. I am sure that there is no Member of the Assembly who does not hold his country dearer than, I may say, life itself: and, if that is so, then I think it becomes the paramount duty of every Member, when a situation of this character arises, to come forward, even at the risk of displeasing the people, and tell them, as Charles Bradlaugh told them in old times—and there was hardly a man who was more popular than Charles Bradlaugh:

‘I love you; I shall work for you; I live for you; I am prepared to die for you; but when you go wrong, I shall have the courage to say, stop, you are wrong, you shall not do this.’

Sir, I oppose the Resolution.

The Honourable Sir William Vincent: Sir, I want to say a word with reference to this amendment of Mr. Rangachariar, because it is very important from my point of view and from the point of view of Government, that where there is so little difference of opinion, there should not be apparent to the outside public a division over the matter such as he has put forward. I believe that the policy of the Government of India, as I enunciated it to-day, has the almost unqualified support of this Assembly (Hear, Hear), and it would,

[Sir William Vincent.]

therefore, be lamentable if any impression was created outside by the acceptance of such an amendment as he has proposed that this was not the case.

On the other hand, it has been pointed out to me by Sir P. S. Sivaswamy Aiyer that the Resolution is so worded that it is difficult for most to oppose it. It implies that repressive measures have been adopted, and are approved, and the term 'repressive measures' ordinarily means measures under some extraordinary legislation. On the other hand, when I looked at Mr. Rangachariar's amendment, when I read it with the original motion—if Honourable Members will just take the Resolution in their hands for one moment they will follow me—I find it runs :

'. . . . and to prevent the adoption by Local Governments of measures other than under the ordinary law of the land except in some emergency, and when extraordinary measures are to be resorted to they should be undertaken only with the concurrence of the respective Ministers and of the Government of India.'

Well, the first point I want to make on this amendment is—does this Assembly wish to weaken the hands of the Local Governments? Because that will undoubtedly be the effect of accepting this amendment. The suggestion will be 'that Local Governments have been issuing repressive measures improperly and we are preventing them.' I do not think that Mr. Rangachariar or any one else wants that impression to be created. Local Governments have been suffering from all this disorder and it is essential to check it. One accusation indeed brought against us, as said by Sardar Gajjan Singh, was that the Local Governments are unreasonably backward in prosecuting when they ought to; and a great many people take that view. If in such circumstances you are going to tell the Local Governments that they have been too hard and that we are going to prevent them from prosecuting hereafter without the concurrence of the Ministers, they will say 'Well, here is the Government of India, here is the Legislative Assembly letting us down again; we have struggled hard against this movement; first you asked us to take certain action and then you will not support us.' Another point is, that there are certain Acts which the Local Government can do—certain powers which they have and certain duties they are bound to perform for the maintenance of law and order; in some cases they have, under the law, to come to the Government of India for sanction to use certain legislation. For instance, if a Local Government wants to put Regulation III of 1819 into force it has to come to the Government of India. If it wants to put the Seditious Meetings Act into operation, it has to come to us. But, on matters within their powers as given by the law, neither the Government of India nor this Assembly nor any one else can control the Local Government. Take the Local Government of Bombay for instance. I should not like to have to tell them, 'You should abstain from this or that Act although it is within your statutory powers.' No Local Government will stand it. They would say, 'This is a reflection cast upon us; within our powers given to us by the law we are going to act as we think best.' Now, let us take the question of consulting the Ministers. Ministers are responsible for transferred subjects, and Members are responsible for the reserved subjects; the Assembly knows that; and that is the constitutional position under the Government of India Act, and you cannot alter that by any Resolution of this Assembly; and I hope that this Assembly will not ask the Government of India deliberately to break what is the law of the land. That is a plain proposition; and there is nobody, if I may say

so, who knows it better than my Honourable friend, the Mover of the amendment, because a more acute lawyer there has not been in this Council for some time.

However, I appreciate his difficulty and I suggest that we might, if it meets the Members of the House, close the debate on these lines : and accept an amendment in the following words, which I have drafted, I may say, in consultation with my friend, Sir Sivaswamy Aiyer. It runs as follows : 'That the Government should adhere to its policy as announced to the Assembly to-day and as far as possible to avoid recourse to any proceedings under exceptional legislation in dealing with the non-co-operation movement ; that is, they should prosecute under the ordinary law where they can, but should not have recourse to exceptional legislation save in exceptional circumstances.' I believe that will meet everybody. It will avoid any appearance of censure—I say appearance, because I do not think any one really meant to censure the Local Governments—and it will not weaken the Local Governments.

I have only two more points to make. I have just mentioned that there are some people who think that the Local Governments do not prosecute enough. Now, this is a very difficult question. I am myself all in favour of prosecuting more people under the ordinary law ; but the difficulty is, that witnesses will not come forward ; they are intimidated and are therefore unwilling to give evidence, and prosecutions take a long time and create a good deal of excitement. Again, I get reports of a dozen speeches from the C. I. D. If we were to prosecute on these reports, Members of this Assembly would at once say, ' Good heavens. Look at the policy of the Home Member. Was there ever such a piece of wickedness ?' At the same time there is no other agency to secure correct reports and in these circumstances it is often extraordinarily difficult to prosecute.

The only other point to which I wish to refer is the allegation that I have changed my attitude since last year. I gather that the Honourable Member thinks that the change is for the better. The best reason I can give for this, if it is correct, is that I am a servant of His Majesty the King-Emperor, and of His Majesty's Government, and it is our duty to make every effort to carry out the policy of His Majesty's Government to make these Reforms a success by co-operating with this Assembly. And it is the proud privilege of the Indian Civil Service to which I have the honour to belong, to join in the effort to make the Reformed Governments the most successful that this country has ever seen.

Bhai Man Singh : Sir, the Honourable the Home Member has said in his first speech and also repeated it in his second speech that the Government Members want to make the Reforms a success. I respectfully submit, that the present Resolution, especially the amendment proposed by my Honourable friend, Mr. Rangachariar, is quite in the spirit of the new Reforms Scheme. The underlying idea of the scheme is popular Government, and of course I clearly see that the only principles that can truly be said to form the basis of a popular Government are love and affection rather than repression. Only those measures should be adopted that command the public confidence, nay, love and admiration, not awe and fear. The main principles of our governance should be love and not fear. Of course, it is very clear that the real foundation of a great empire can only be love and mutual good-will. My friend, the Honourable Sardar Bahadur Gajjan Singh, just made a little allusion to the fact

[Bhai Man Singh.]

that certain boys at certain places had misbehaved themselves in certain ways. I hold no brief for them, nor do I at all justify their action. I say that such movements according to the theory of a long rope, very often begin to die their own death. We clearly see that the movement of non-co-operation amongst students is undergoing a re-action. Governments should have larger hearts and should not grow nervous at trifling things.

The best principles of statesmanship require that such measures only should be adopted as are most conducive to the peace and prosperity of the country in the longer run. The best policy always is to go to the root of the evil and to strike at it. The Honourable the Home Member just related certain troubles at Rai Bareilly. I submit, that if the Government were to go to the root of the thing and find out what the real difficulties of the people were and why and from what troubles they were suffering, and then took speedy measures to root out those evils, then even the non-co-operator would not have been able to bring matters to such a long pass.

Repression is not the only measure to bring about peace and order; as I have pointed out, there are other means, besides repression, of removing the very causes that may give rise to any breach of the peace and, in many cases, I submit, it is quite possible to remove them. Repression may perhaps bring about order at a certain moment, but sometimes it may have quite the reverse effect. It may sometimes lead to desperation, and if certain things subside for a short time there is a greater re-action. We have got such instances in the case of Martial Law in the Punjab where repression and certain extreme measures did subdue agitation for the time being but has brought about a greater re-action.

I may further add, that the reports which the Government get through the C. I. D. or other agencies and the theories that may be built upon these reports are not always correct, and misunderstandings cause mistakes, which in turn lead to very deplorable results. Therefore, in speaking on this Resolution I wish to draw the attention of this House and of the Government to the fact that no doubt every Government has at certain times to use repression perforce. But the best thing always is to avoid repression as far as possible and try to strike at the very root of the thing.

The Honourable the Home Member made a little reference to the Sikh position in the Punjab. I may say, that the movement is a purely religious one, and as a Sikh knowing my people in the Punjab full well, I could say that the situation was and is very easy to handle if a little tact is used. In order to illustrate what I have already said about removing the causes and using a little foresight to avoid future unrest or breach of order, I might say, that even the present situation in the Punjab could have been avoided if the sentiments of the people had been read in due time and their complaints about the management of the Golden Temple and Babe-di-Ber were heard and decided in a satisfactory way. I do not want to discuss this point at length here,—I do not mean to say that I am afraid of discussing this question, but going into details would lead us further from the point before the House, but I cite this as an instance to prove the fact that if due care and caution had been exercised and the complaints of the people were heard, and remedied in proper time, many of the difficulties which exist to-day could have been avoided. Even when difficulties arise, if they are

handled more calmly and tactfully, much of the trouble can be avoided. The underlying idea of the Resolution being that repression should be avoided as far as possible—of course I myself would never say that any Government can afford to make it a universal rule, not to use repression under any circumstance, but I think that much of the repression can be avoided with very good results and so this course should only be adopted very sparingly. I support the Resolution.

The Honourable the President: Order, order. There are really two Resolutions before the House, and I want to know whether after the closing remarks of the Honourable the Home Member, Dr. Naud Lal proposes to withdraw his.

Dr. Nand Lal: I may be permitted to offer some remarks, Sir: (Cries of 'No, No,' and 'Withdraw, Withdraw'). Those who are ready to ask me to withdraw, I am sorry, will feel disappointed.

All gentlemen who moved the amendment or offered suggestions for withdrawal, did so after making a few remarks. I may also be permitted to offer some remarks, Sir, and those remarks will lead to some deduction. But I promise that I shall take only a few minutes though I cannot promise to withdraw.

The Honourable the President: I am not quite sure what point the Honourable Member is speaking to now.

Dr. Nand Lal: I should like to offer some remarks in reply to the criticism that was levelled against the wording of the motion so far as interpretation is concerned, and I shall offer some remarks in reply to the arguments advanced so far as non-co-operation is concerned. My arguments so far as the amendment is concerned, will be very brief. I shall give only a skeleton of my views, and not the details. This I promise. I cannot say anything unless I am permitted by the Chair. I must abide by the rules of discipline. (After a pause) Am I allowed to proceed, Sir?

The Honourable the President: I do not know what the Honourable Member is waiting for.

Dr. Nand Lal: Thanks very much. Simply because I am a keen observer of discipline I was waiting for permission Sir, I think, not only I, but also every Member of this Assembly has to perform a duty, and that duty is characterised in a peculiar way. The terms of our service are, that we have to convey the message of the majority of the people of India to the Government, and at the same time we have got to assist the Government thereby. In that spirit this Resolution has been moved, so that the Government may be able to hear what the views of the majority of the people of India are; the Government will have an opportunity of giving an explanation and the people of India will hear what the Government has to say in the matter. Therefore, I entertain every hope that the Government will be pleased to hear the views of the people of this country. The Honourable Sir William Vincent has endeavoured to give an explanation. If I have rightly followed him, it is this, that there is the non-co-operation movement and it is creating numerous difficulties and that consequently Government is compelled to resort to repressive measures. In reply to that, I may venture to inform him that there are two schools of thought in India.

[Dr. Nand Lal.]

Non-co-operation is one school, the other school comprising gentlemen who are in favour of co-operation. So, therefore, I think his fears, with due deference to his experience, power of anticipation, foresight and insight, are a bit magnified. If the school, comprising gentlemen in favour of co-operation, do not, as I dare say they do not, share the view of the other school, then, I believe, there is not much to fear.

The Honourable the President: Order, order. The Honourable Member should not go into the entire natural history of Indian politics. He should confine himself to the terms of his own motion and it might assist us if he would give us a hint as to whether he means to withdraw or not.

Dr. Nand Lal: Probably I may eventually feel inclined to countenance the amendment, moved by the Honourable Mr. Rangachariar. The other point, which I have got and which I think is a full answer to the Honourable Sir William Vincent's argument, is that our Government is a mighty Government, a powerful and great Government. The greatness and the mightiness of the Government require that they should not think of trifling things. These things do happen. They do not happen in India alone. They happen in every country. Such offences are committed: the heinousness of these offences should not be magnified because they happen to have been committed in India. Take a homely instance. The father is there in the chair, the children are fighting with each other. If the father is going to hold a court (I mean trial) in the case of every child, I think there will be no end of cases of dispute in the House. So, therefore, my appeal to the Government is, that being as mighty as our Government is, they should look upon these disturbances as ordinary disturbances which are compatible with human life occurring not only in India but everywhere else.

The third point which I have got to urge is this. Let us ask history as to what is its verdict. Because history is the best guide. From 1907 right up to now, repressive measures have been adopted to a certain extent, barring a few intervals. What has been the consequence? I ask for what purposes are these repressive measures resorted to: what is the ultimate object? Peace and order. Well, let us examine whether it has proved really productive of peace and order. With due deference I very respectfully submit that the result of repressive measures has not been wholesome. In any case it has not been so good as it was expected by the Government. Further, on this score, too, I think I can, with some amount of justification, urge on the Government kindly not to adopt repressive measures if they are not necessary. My Honourable friend, Dr. Sapru, the Law Member, has tried to construe the wording of the Resolution and he has dilated upon the word 'now'. I may point out to him, that the word 'now' does not mean 'this moment' alone. It includes that no doubt, but it also includes 'yesterday' or 'day before yesterday'; here it (the word now) has the significance of 'from the time the declaration was made right up to now'. So, therefore, if my Honourable friend, Dr. Sapru, will kindly adopt my definition of the word 'now', then he will, I think, find it not very difficult to accede to my contention that we should not have repressive measures. And my request is, that those repressive measures may not be adopted where they are not necessary. Then, my learned friend has laid great stress on the word 'repressive'. He has tried to construe it. With due deference to his advocacy and his way of

construing it, I may very respectfully submit, that I beg to differ from him. Here the word 'repressive' means what is really repressive in its character. Other things are not to be brought into it. The wording of the Resolution, so far as I can see,—I am subject to correction—is appropriate. 'Repressive'—nothing which is not repressive is included in it.

The Honourable the President: I am afraid I shall have to put into operation a piece of repressive legislation against the Honourable Member. If he will read Standing Order 62, he will find out why his speech is now at an end.

The question I have to put—(to Mr. Rangachariar) I understand the Honourable Member withdraws his amendment?

Rao Bahadur T. Rangachariar: Subject to two words, Sir.

The Honourable the President: Order, order. I understand the Honourable Member does not desire to press his amendment. The question I have to put is, that leave be given to Mr. Rangachariar to withdraw his amendment.

The amendment was, by leave of the Assembly, withdrawn.

The Honourable the President: The question is, that leave be given to Dr. Nand Lal to withdraw his Resolution.

Dr. Nand Lal: I have not withdrawn my Resolution, Sir.

Mr. S. P. O'Donnell: Sir, I beg to move the following amendment:

'That this Assembly recommends to the Governor General in Council that Government should adhere to its policy as announced to the Assembly to-day and should as far as possible avoid recourse to any proceedings under exceptional legislation in dealing with the non-co-operation movement.'

Rao Bahadur T. Rangachariar: May I say a word, Sir?

(Cries of 'No, No!')

The Honourable the President: Amendment moved:

'That this Assembly recommends to the Governor General in Council that the Government should adhere to its policy as announced to the Legislative Assembly to-day and should as far as possible avoid recourse to any proceedings under exceptional legislation in dealing with the non-co-operation movement.'

(Several Honourable Members rose to their feet.)

Mr. Harchandrai Vishindas: I move that the question be now put.

The Honourable the President: The question is, that the question be now put.

The motion was adopted.

The Honourable the President: The question is, that the amendment be made.

The motion was adopted.

The Honourable the President: The question is, that the Resolution, as amended, be adopted.

Mr. Eardley Norton: I am sorry to intervene at this late hour but I shall not detain the House for more than a short period.

I wish to dwell upon a point ancillary to a matter to which the Honourable the Home Member made reference, a matter in my opinion of first rate importance. I have nothing to do with the question of non-co-operation. This is not a debate at all. It is a series of one-sided explosions. There are no non-co-operators here. I wish there were to listen to and to defeat. We are all co-operators and we have no one to fight. Of the existence of any repressive measure there has been absolutely no evidence and no proof.

[Mr. Eardley Norton.]

And on the other hand the Honourable the Home Member has given us an assurance to which personally I am quite satisfied he will scrupulously adhere. The question about which I wish to say something, is this. It may be—I do not know, and I trust that I may be wrong—but it may be that in the future, near or distant, in consequence of new activities of the non-co-operators, the Government may have to ask for new penal legislation in order to meet new offences. That is, at any rate in my view, quite possible, and to that no one can have any objection. Force must be repelled by legal force; offences against existing provisions must be repelled by the application of those provisions. But if new offences spring into existence, at present unprovided for, born of ingenuity devising escape from the law, in such an event it is only right that the Government should be armed with such new defences as may be needed. All this everyone must concede. What I do earnestly pray the Government to remember is, that while no one can object to the trial and punishment of offenders either under existing laws or under laws hereafter to be called into being, we do most strongly protest against the application of a procedure which breaks through every canon of fair play and is a standing trespass upon the whole system of British justice. I speak, Sir, from my own personal knowledge. I speak from personal, bitter outraged experience. No reason has been advanced—I believe no reason can be advanced—why in many cases the authorities have had recourse to the Defence of India Act and all that that Act implies in preference to using the ordinary criminal procedure. I would ask for the indulgence of this House, especially of its lay Members while I briefly explain the difference between the ordinary criminal procedure and the procedure of the Defence of India Act. Under the ordinary criminal procedure, the accused person who is taken up before a magistrate in a case which is eventually committed to the Sessions Judge, has the advantage of hearing all the witnesses for the prosecution examined in his presence, of cross-examining them, if he chooses; of having all their statements in written depositions which are subsequently supplied to his Counsel for use in the Court of Session. He has also, if he is convicted by the Sessions Court, the right of appeal to the High Court with its body of trained, independent Judges.

Lastly, the proceedings are in public; a Press, more or less vigilant, watches and reports; the unseen, but not unfelt, force of public opinion acts as a bar, to some extent, to the indulgence of judicial impropriety. That, Sir, is one picture—picture which faithfully portrays the orderly and decent exhibition with which we are familiar and to which we have grown accustomed in an ordinary trial. Now, look at the other picture—the picture of a special tribunal, of its special procedure; its special machinery; its special purpose and its special and violent interference with the long established and well-tested safeguards of the rights of all accused persons. Under the Defence of India Act, every one of these salutary and protective provisions is taken away, and men have been convicted and hanged—I speak from my own experience and of my own first-hand personal knowledge—who for five months had never heard one single word of the statements made by the witnesses in the witness-box as to the offences on which they were being tried. If this is an instance of the application in this country of the great legal principles which obtain, unchallenged, at home and which have been so long and so loyally followed here—all I can say is, God save the mark! Why should accused persons who

are supposed by the law to be innocent until they are proved to be guilty—why should they be subjected to the harassment of this class of special procedure? Why should a man not be entitled under the Defence of India Act to hear the opening speech of the prosecuting counsel, to be told, clearly and definitely, on what the Crown relies, what evidence it intends to produce? Why is he to be deprived of the statements already taken from those whom it is intended to call? How can cross-examination for the defence be effective when no one but the counsel for the Crown and the Judges who are supplied with the statements withheld from the accused know what the witnesses have said or are going to say? The ordinary law sanctions, nay enforces, this elementary principle in favour of all accused. The Defence of India Act suppresses all that can help the accused in order to arm the prosecution and the Judge against him at his expense and to his cost. In the Police Court all this is every day law. Under the Defence of India Act not one single word in writing is given to the accused. He does not know from day to day, from hour to hour what the next witness is going to say or what he has already said before the Police. No materials are furnished him.

Over a hundred accused were deprived of all these safeguards in the Katarpur Riot case. Finally, instead of having the right of subsequent appeal to a Court of Law where the Government have not already selected the Judges, where the Judges sit in the open light of day and in the hearing of the public, the Katarpur Commissioners sat in secret conclave, within the walls of a prison from which the public was excluded; where admission was by ticket; where counsel could not secure approach to their clients while the accused were herded like cattle in a pen; where the reports to the newspapers were censored. I quote this case as an instance, and a bad one, of the abuse of an Act and a grave and knowing violation of every principle which has made British justice respected, trusted and admired through the civilised world. But this case is not the only one. There are many of similar complexion. The procedure I have described has obtained in India for some years past. It is a procedure which by its introduction and toleration has cast a slur upon the administration of justice in this land. It has existed and still exists to-day to the shame of the Government. It has led and is still leading to profound distrust in the good faith of England. It augments daily and, I am constrained to say justly, the volume of enlarging discontent. I have protested against this elsewhere and in vain. I protest to-night in the presence and hearing of this Assembly amongst whose Members there are many lawyers with experiences similar to my own.

I ask them to make it their business to protect men from the operation of laws such as this disgraceful and indefensible Act. There is no reason whatever in justice or in expediency why a man who is tried under the ordinary procedure should enjoy a benefit of what his brother is deprived under another Act. Under the circumstances I have described—and they are but a small item in a lengthy catalogue—can Honourable Members of this House wonder at the existence of discontent and dissatisfaction, grave and deep and growing and abiding; of discontent and dissatisfaction to which I, as an Englishman and an honest man can render no honest answer; discontent and dissatisfaction against procedure which humiliates counsel, cancels the centuries old protection which the genius of the English law insists shall be afforded all persons accused of an offence, and promises to destroy the last shred of trust and confidence still extant in the good faith of Great Britain. Nothing can justify the use to which the Defence of India Act has

[Mr. Eardley Norton.]

been illegitimately extended. The Katarpur case may have fallen textually within the four corners of that Act. Spiritually it was a gross and unpardonable application of a measure to facts which that measure was never intended to embrace. I have, as already conceded, no objection to legislation in the sense that Government may be compelled to frame special laws to meet especial emergencies. But I deny that the Government is justified in altering the procedure, in sweeping away all barriers to conviction, in denuding men of their weapons of self-defence in a British Court of Law.

I do pray the Government as Englishmen and English gentlemen responsible for the administration of justice in the sense of which they and I are alike so proud, not to betray accused persons hereafter, not hereafter to fling them bound hand and foot to tribunals on which they pack their own Judges whom they commission lawyers to address who offer no opening and who withhold from the defence the statements of the witnesses they propose to call. A trial stripped of all the armour provided by law for the accused is worse than a farce. It is a crime, and a crime not merely against the person of the accused but against the person of that justice which all Englishmen and all men living under the British flag so justly vaunt.

I know as a fact of my own personal experience—though I know also that the Government attaches little weight to the opinion of a non-official Barrister—that the discontent in this connection is deep-seated, ominous and justified. I ask the Government to abolish this hateful procedure. I ask them to return to the canons of British notions of evenhanded justice and fairplay. The procedure I denounce is the child of their rearing. Let them hereafter disown it. How for so long a time a Government of English gentlemen could have tolerated such a departure from all that is good and right and true in law, is and always will be with me a matter for melancholy surmise. It is because you, the Members of the Government are Englishmen and English gentlemen that I appeal to you to remove from the Statute Book an Act which is a blot upon your own characters and reputations; a slur upon the fair fame of Great Britain; a fruitful source of increasing hate and mistrust of our country and ourselves and an unpardonable and shameless robbery of the rights of every accused person to clear himself from the machinations of unscrupulous policemen and their twin brothers, unconscionable approvers.

Babu K. C. Neogy: Before this Assembly records its approval of the policy of the Government as enunciated by the Honourable the Home Member to-day, I desire to say a few words. I do not think that the tone of the Honourable the Home Member's speech to-day is quite in accord with the note underlying the speech that was delivered by His Excellency the Viceroy at the Calcutta Club only the other day, that is, on the 23rd February last. His Excellency said :

'We are not the only country which is subject to unrest at the present moment. Indeed, look where you like all over the world, unrest is almost the order of the day. But you may naturally ask, granted that it is so, what is our policy with regard to the present situation . . . Now as to our policy with regard to non-co-operation movement, the reforms and the reformed Councils are the keynote of our policy. Indians now share responsibility with the Government, and therefore Government may well claim from Indians help in combating this agitation. Non-co-operation is spread by propaganda. It behoves us then, British and Indians, to counteract it by propaganda. Non-co-operation takes hold of grievances where they in y exist, . . . and it behoves us so far as in us lies to remedy these grievances.'

Then His Excellency referred to the failure of the movement with regard to schools and went on to say :

' Non-co-operation succeeded temporarily in inducing emotional boys, to leave their schools and colleges, but here again as soon as the emotional ebullition had passed the students have returned in large numbers to their class rooms. We have thus every reason to take heart with regard to the success of the policy which we have adopted. But the non-co-operators having failed with the classes, especially the educated classes, are now devoting their attention to the masses. Here again we must endeavour by co-ordinated effort to teach the masses aright.'

His Excellency thereafter proceeded to say :

' But a moment may come when our policy fails and when the two alternatives of order on the one hand or anarchy on the other alone face us. In such an event there can be only one course for the Government to pursue and that is to uphold the cause of order.'

Now, Sir, you will observe that this speech was delivered a month later than the instructions to Local Governments which were read out this evening by the Home Member as embodying the Government policy.

His Excellency said that the policy of Government was to counteract propaganda by propaganda, to teach the masses right and to remedy the grievances which non-co-operation takes hold of. Can it be said that this policy has been given a sufficient trial, and that it has failed? It has been said that whatever action is taken, will be taken under the ordinary law. We are thankful for this assurance, but the ordinary law itself is quite liable to grave abuse unless used with caution. I am reminded of a recent order under section 144 of the Criminal Procedure Code passed by the executive authorities at Mymensingh in Bengal against Mr. C. R. Das and some prominent public men of the district. The order had to be withdrawn only a few days later when it had done great mischief by embittering public feeling. I submit, Sir, that Government should not put section 144 of the Code in motion without the most serious consideration.

Lord Reading is coming here with an open mind, and has made an appeal to all not to prejudge him. I feel the appeal is addressed not only to non-officials but to officials as well. And I strongly urge Government not to do anything which may prejudice the mission of reconciliation on which Lord Reading is coming to this country.

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

The Honourable the President: The question is, that the following Resolution be adopted :

' That this Assembly recommends to the Governor General in Council that Government should adhere to its policy as announced to the Assembly to-day and should, as far as possible, avoid recourse to any proceedings under exceptional legislation in dealing with the non-co-operation movement.'

The Resolution was adopted.

THE CIVIL MARRIAGE (AMENDMENT) BILL.

Dr. H. S. Gour: Sir, at this late hour I shall simply ask this House to give me leave to introduce this Bill to amend Act III of 1872, and, if you will permit me, Sir, I shall give my reasons to-morrow, unless the House is prepared to sit for about half an hour longer.

The Honourable the President: The question is :

' That leave be given to introduce a Bill further to amend Act III of 1872.'

Munshi Mahadeo Prasad: I beg to oppose this motion of my friend, Dr. Gour and have to submit my reasons for the same.

The Honourable the President: Does the Honourable Member wish to divide the House? I think, in view of the abstinence of Dr. Gour, the Honourable Member might follow his good example.

Munshi Mahadeo Prasad: Yes, Sir, I do mean to divide the House.

The Honourable the President: The question is:

'That leave be given to introduce a Bill further to amend Act III of 1872.'

AYES—32.

Afsar-ul-Mulk Akram Hussin, Prince.

Ahmed, Mr. Zahir-ud-Din.

Aiyer, Sir Sivaswamy.

Bagde, Mr. K. G.

Carter, Sir Frank.

Chaudhuri, Mr. J.

Cotelingam, Mr. J. P.

Currimbhoy, Mr. R.

Das, Babu Braja Sundar.

Dwarkadas, Mr. J.

Gajjan Singh, Mr.

Ginwala, Mr. P. P.

Gour, Dr. H. S.

Iswar Saran, Mr.

Joshi, Mr. N. M.

Keith, Mr. W. J.

Lalthe, Mr. A. B.

Maw, Mr. W. N.

McCarthy, Mr. Frank.

Mitter, Mr. D. K.

Misra, Mr. Piyari Lal.

Muhammad Hussain, Mr. T.

Nag, Mr. Girish Chandra.

Percival, Mr. P. E.

Pickford, Mr. A. D.

Rangachariar, Mr. Tiruvenkata.

Samarth, Mr. N. M.

Shahab-ud-Din, Chaudhuri.

Spence, Mr. R. A.

Vishindas, Mr. Harchandrai.

Wajid Hussain, Mr.

Watson, Sir Logie Pirie.

NOES—17.

Abul Kasem, Mr.

Agarwala, Lala G. L.

Amjad Ali, Mr.

Bhargava, Mr. J.

Dass, Pandit R. K.

Gulab Singh, Sardar.

Ibrahim Ali Khan, Nawab Muhammad.

Jeejeebhoy, Sir Jamsetjee.

Mahadeo Prasad, Mr.

Mukherjee, Babu J. N.

Nabi Hadi, Mr.

Nand Lal, Dr.

Rajan Baksh Shah, Mukhdum Syed.

Sarfraz Hussain Khan, Mr.

Sen, Mr. Sarat Chandra.

Singh, Mr. B. P.

Sinha, Babu Adit Prasad.

The motion was adopted.

Dr. H. S. Gour: Sir, will this House sit for about thirty minutes more? May I not be permitted to state my reasons . . .

(Cries of 'No.' 'No.')

The Honourable the President: At this stage the Honourable Member can only introduce the Bill.

Dr. H. S. Gour: Yes, Sir. But I want to take advantage of rule 68, that is to say, I shall give reasons for circulating it for the purpose of eliciting public opinion thereon.

The Honourable the President: The Honourable Member cannot move one of those motions without giving notice. I would rule it out of order.

Dr. H. S. Gour: I introduce the Bill, Sir.

The Honourable the President: The Assembly meets again to-morrow to deal with the Finance Bill. Owing to lack of time the List of Business for to-morrow has not been circulated; it will not be in the hands of Honourable Members till late to-night. I would ask them to excuse this delay which is due to inevitable circumstances.

The Assembly then adjourned till Thursday, the 24th March 1921.