

Wednesday, 18th March, 1936

THE  
**COUNCIL OF STATE DEBATES**

**VOLUME I, 1936**

*(15th February to 25th April, 1936)*

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**ELEVENTH SESSION**  
OF THE  
**THIRD COUNCIL OF STATE, 1936**



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# COUNCIL OF STATE.

Wednesday, 18th March, 1936.

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

## QUESTIONS AND ANSWERS.

### NUMBER OF "DUFFERIN" CADETS APPOINTED TO THE BENGAL PILOT SERVICE.

103. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :  
(a) Will Government be pleased to state the number of Indian cadets from the "Dufferin" who have been recruited to the Bengal Pilot Service during each of the last five years ?

(b) Have several European Chambers of Commerce represented to Government not to recruit the Indian cadets from the "Dufferin" ? If so, will Government be pleased to state the names of the Chambers of Commerce from whom such representations were received ?

THE HONOURABLE MR. T. A. STEWART : (a) Seven during 1933 and two during 1935.

(b) No.

### MARINE ENGINEERING STATE SCHOLARS.

104. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :  
(a) Were some students recruited a few years ago by competitive examination for being trained as Marine Engineers ?

(b) Will Government be pleased to state the names of all those candidates who were recruited for being trained in Marine Engineering and who were sent to England for education and training ?

(c) Will Government be pleased to state the amount of expense incurred by Government on the training and education of each of such candidates during the last 10 years ?

(d) Was one of the Indian students who was awarded a Government scholarship for being trained as a Marine Engineer given an appointment in the Peninsula and Oriental Company after he had passed his course of Marine Engineering ?

(e) Was this Indian officer maltreated by the Peninsula and Oriental Company ?

(f) Did the said officer resign his post ? If so, what are the reasons for his resignation ?

THE HONOURABLE MR. T. A. STEWART : (a) Yes.

(b) Messrs. B. K. Dhar, S. H. A. Razzaqui, P. K. Mukerjee, D. A. Moghe, Q. D. Ahmad, B. S. Sood, B. K. Gupta, W. K. Katre and M. I. Kidwai.

(c) From 1929 when the first batch of scholars was selected up to the end of the year 1934-35 the total expenditure incurred was Rs. 1,38,723.

(d) No.

(e) and (f). Do not arise.

NUMBER OF INDIANS APPOINTED TO THE SUPERIOR SERVICE IN THE TRAFFIC AND AUDIT DEPARTMENT, ASSAM BENGAL RAILWAY.

105. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :  
(a) Will Government be pleased to state how many Indians have been appointed in the superior cadre of the Traffic and Audit Department of the Assam Bengal Railway between 1932 to 1935 ?

(b) Will Government kindly inform what are their special qualifications ? Were they appointed by the Company in England or by their agency at Chittagong ?

(c) Was an application of an Indian trained in railway traffic in England forwarded by the Chief Commissioner of Railways to the Agent of the Assam Bengal Railway ? If so, will Government be pleased to state whether the same was considered when the last recruitment was made ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am collecting information and will lay a reply on the table of the House in due course.

COST OF CONSTRUCTION OF BHAIRAB BRIDGE, ASSAM BENGAL RAILWAY.

106. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Will Government be pleased to state what is the estimated cost of the Bhairab Bridge of the Assam Bengal Railway now under construction ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The estimated cost of the bridge is Rs. 56,33,069.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Were tenders called for beforehand ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The contract is let by the Assam Bengal Railway which is a company-managed railway and I do not know if they have called for tenders or not yet. I understand they are calling for tenders but I do not know whether it has been done or not.

BRIGADE HEADQUARTERS, DACCA.

107. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Have Government abandoned the idea of making Dacca the military headquarters for the Eastern Fronts ? If so, why ? If not, when do they propose to make an announcement ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I am afraid I do not quite understand what the Honourable Member means by the Eastern Fronts. As he is aware, certain additional troops have been stationed in Bengal of recent years and there is a Brigade Headquarters at Dacca.



MILITARY SUB-ASSISTANT SURGEONS.

108. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :  
(a) Are a large number of students qualified as military sub-assistant surgeons for appointment to the Indian Medical Department cadre or still completing their course of studies ?

(b) Have such students been given free education at Government cost ?

(c) Were such students before being selected for the training given the definite understanding that immediately they qualify themselves as sub-assistant surgeons they will be appointed to the permanent cadre of the Corps ?

(d) Will Government be pleased to state whether they were compelled to execute a bond to serve Government ?

(e) Will Government be pleased to state the number of military sub-assistant surgeon students who have already qualified and the number who are still receiving education ?

(f) Do Government propose to provide employment to the above military students ? If not, why not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) and (e). Since 1932, when the system of recruitment from the open market was introduced, 133 military medical students have qualified as military sub-assistant surgeons and 21 are now under training.

(b) Yes.

(c) They were given such an understanding, but this was conditional on the existence of vacancies.

(d) Yes, but the regulations provide for their release from service when they are qualified if there are no vacancies.

(f) Yes, if they are fit in all respects.

MILITARY SUB-ASSISTANT SURGEONS.

109. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :  
(a) Before a military sub-assistant surgeon student is taken on a permanent cadre, has he to be enlisted as a reservist for the Indian Medical Department service ?

(b) Did no age limit exist previously in respect of military students for the purpose of their permanent employment in the Indian Medical Department ?

(c) If the reply to part (b) is in the affirmative, will Government be pleased to state whether any change is proposed in the case of those military students who have already received or are receiving education at Government cost ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) Not necessarily, but one who joins the reserve is specially considered.

(b) There has always been an age limit.

(c) No.

QUALIFYING SERVICE FOR PENSION OF SUB-ASSISTANT SURGEONS.

110. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :  
In the case of Indian Medical Department officers, is the total service for qualifying pension 25 years active service ? If so, do Government propose to enquire from amongst those who have completed 25 years whether any would like to volunteer for retirement ? Will Government be pleased to

state what steps they propose to take to make room for such military students who were given an undertaking for Government service ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** In the case of sub-assistant surgeons of the Indian Medical Department, qualifying service for a retiring pension is 30 years. Government do not propose to change their present policy which is to employ ex-military medical students in permanent appointments as vacancies occur, if they are found suitable in all respects.

**NUMBER OF INDIAN ARMY CADETS SELECTED FOR TRAINING BUT WITHDRAWN FROM THE INDIAN MILITARY ACADEMY, DEHRA DUN.**

**111 THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :** (a) Will Government be pleased to state the number of the gentlemen cadets selected from the Indian Army for training as Indian commissioned officers turned out of the Indian Military Academy, Dehra-Dun, and (i) declared as totally unfit and (ii) reverted to their respective units from which they were taken during each of the years since the Academy was started ?

(b) What were the reasons in each case for resorting to such action ?

(c) What was the age of each of such cadets when he left the Academy ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** (a) (i) The number of Indian Army cadets who were removed or withdrawn, or who failed to graduate during each year since the Academy was opened, is as follows :

1932	.	.	.	.	.	.	.	.	.	.	Nil
1933	.	.	.	.	.	.	.	.	.	.	3
1934	.	.	.	.	.	.	.	.	.	.	8
1935	.	.	.	.	.	.	.	.	.	.	11
1936	.	.	.	.	.	.	.	.	.	.	Nil

(ii) As regards this part of the question, enquiries are being made and a statement will be laid on the table in due course.

(b) They were removed or withdrawn because in the opinion of those best qualified to judge they were definitely unlikely to come up to the standard upon which we must insist for all officers of the Indian Army.

(c) They were between the ages of 23 and 26.

**NUMBER OF INDIAN ARMY CADETS REJOINING THE INDIAN ARMY ON REVERSION FROM THE INDIAN MILITARY ACADEMY, DEHRA DUN.**

**112. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :** How many of the cadets turned out of the Indian Military Academy joined the army after reversion from the Academy and how many of such cadets are serving in the army now ?

(See reply under question No. 113.)

**NUMBER OF INDIAN ARMY CADETS NOT REJOINING THE ARMY ON REVERSION FROM THE INDIAN MILITARY ACADEMY, DEHRA DUN.**

**113. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :** Will Government be pleased to state the number of those cadets turned out of the Military Academy who have not accepted the offer of Government to allow them to rejoin their respective units after reversion and have since resigned ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** With your permission, Sir, I will reply to questions Nos. 112 and 113 together.

Enquiries are being made and a statement will be laid on the table in due course.

**NUMBER OF CADETS RECRUITED THROUGH THE OPEN COMPETITIVE EXAMINATION FOR THE INDIAN MILITARY ACADEMY, DEHRA DUN, AND REMOVED AS UNFIT.**

**114. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :** Will Government be pleased to state the number of direct recruits to the Indian Military Academy who have been turned out as unfit during each of the years since the Dehra Dun Academy was opened ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** If the Honourable Member is referring to cadets who entered by the open competitive examination the numbers are as follows :

1932	.	.	.	.	.	.	.	1
1933	.	.	.	.	.	.	.	3
1934	.	.	.	.	.	.	.	3
1935	.	.	.	.	.	.	.	3
								10

**NUMBER OF CADETS ORIGINALLY FIXED FOR ABSORPTION IN THE INDIAN ARMY FROM THE INDIAN MILITARY ACADEMY, DEHRA DUN.**

**115. THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH :** Will Government be pleased to state the number of cadets fixed originally for being absorbed in the Indian Army as officers on the completion of their course at the Indian Military Academy, Dehra Dun, and how many have actually been so appointed in each of the last five years up to date ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** The Indian Military Academy takes in 30 cadets each half year, and all those who pass out at the end of the two and a half years' course are appointed to the Indian Army. Since the Academy started three half-yearly batches have been commissioned :

22 in February, 1935.

25 in July, 1935.

25 in February, 1936.

**RESOLUTION RE PROPOSED SUBSTITUTION OF NOMINATION FOR ELECTION IN THE FIJI LEGISLATIVE COUNCIL.**

**THE HONOURABLE MR. P. N. SAPRU** (United Provinces Southern : Non-Muhammadan) : Mr. President, before coming to the main part of my Resolution\* I should like to mention a few facts about Fiji. Fiji is a Crown Colony. It is under the direct administration of the Colonial Office. It has a population of nearly 200,000, of these 200,000, 94,976 are Indians, about 35,000 are half-castes and the rest are Fijians. It will be seen, therefore, that the Indians number very nearly one-half of the total population of the

\* "This Council recommends to the Governor General in Council that he may be pleased to communicate to His Majesty's Government the dissatisfaction of this Council with the recommendation that the method of Indian selection to the Legislative Council in Fiji should be nomination and not election".

[Mr. P. N. Sapru.]

Colony. From the beginning of the 19th Century Indians had been going to Fiji. In 1879 the Indians started going to Fiji under a system of indentured labour. This indentured system continued till 1917 when it was discontinued by the Government of India. I mention these facts to show, Sir, that both the Government of India and the Fijian Government have a special responsibility for safeguarding the rights of Indians in every way they can in Fiji. Indians in Fiji are largely employed on sugar plantations. A very large number of them have settled down on the land as peasant proprietors. Agriculture is the main occupation of the majority of the Indian population and very nearly two-thirds of them derive their livelihood from the main industry of the Colony—sugar. The contribution which Indians have made to the development and prosperity of this Colony is very very great indeed. It would not be an exaggeration to say that the whole prosperity of the sugar industry in the Fiji Islands is dependent upon the Indians. The relations between the Indians and the Fijians have been cordial. They have been very friendly. I do not propose to refer to the grievances of Indians in general in Fiji. They have certain grievances, but I am not going to refer to those grievances in this Resolution. They cannot, for example, own land; they cannot lease land without undergoing a great deal of expense and trouble. I have no doubt that these matters are receiving the consideration of the Government of India. I propose to confine myself to one question, namely, the proposal that nomination should be substituted for election as the method of representation in the Legislative Council. Let me just state very briefly the history of Indian representation in the Fiji Legislature. Prior to 1929, the Legislative Council consisted of the following members :

- 11 nominated officials ;
- 7 nominated non-official Europeans ;
- 2 natives selected by the Governor ;
- 1 Indian nominated member.

The House will see that the nominated official element was in a majority. The House will also see that under this Constitution, the representation given to the Indians was grossly inadequate. Indians had only one nominated representative under this Constitution. In 1929, a new Constitution was given to Fiji. That Constitution is regulated by Letters Patent, dated the 9th February, 1929. It provides for a Governor and an Executive Council consisting of the Colonial Secretary, the Attorney General and the Colonial Treasurer as ex-officio members, three other official and two nominated unofficial members. It also provides for a Legislative Council whose constitution is as follows :

- 13 nominated unofficial members ;
- 6 European official members ;
- 3 native members selected out of a panel recommended by the Council of Fiji Chiefs ; and
- 3 Indian elected members.

This Constitution, when it was introduced in 1929, was severely criticised by Indians on several grounds, but it will serve no useful purpose if I were to enumerate the various objections that were raised to it. The point is that in 1929 the elective system was introduced in Fiji. Fiji has no form of responsible government and it is unlikely to have any responsible government in any foreseeable future. Under this Constitution, the officials had a clear

majority of one over all the nominated elements combined and the elected Indians are only three. The Constitution therefore gives the Europeans a dominating position and there can be no question of Indian domination under this Constitution. As I have just said, there was some dissatisfaction with the 1929 Constitution and some Indians carried it to the extent of following certain non-co-operative tactics. It will serve no useful purpose if I were to go into the history of the period between 1929 and 1935. I will come from 1929 to June, 1935 direct. In June, 1935, a Resolution was moved in the Fiji Legislature and the Fiji Legislature carried a Resolution that in future members should be selected by nomination and not election. The Mover of this Resolution in June was an Indian of the name of Mr. Singh. I have read his speech. He made what I can only describe as a Machiavellian speech. He was for election, but he wanted equality with the Europeans. And in the circumstances which existed in Fiji, he thought equality could be achieved only through nomination. The principal ground, of course, was that he had lost the confidence of his Indian constituents, and therefore, if nomination was substituted he would have a chance and other Indians would have no chance. He said that they had divided communities in Fiji, and that nomination would promote communal unity. We have divided communities here. Why not have nomination here? Even our nominated friends—we have respect for some of our nominated friends; we have very valued nominated gentlemen here; there is our esteemed friend, Sir Ramunni Menon; there is our friend Sir David Devadoss; even our nominated friends here—will not say that nomination should be substituted for election. They will not be prepared to go so far. The fact of the matter is that Mr. Singh had lost the confidence of the Indian community. It is a human failing to desire to stick to one's post. We all want to do so. We all want to be returned to the Legislature and sometimes our votes are influenced by that consideration. This was the case with Mr. Singh also. Mr. Singh wants to be nominated to the Legislature; he wants to remain in the Legislature, and nomination will help him to secure a seat for himself. Anyway, in the debate in June last in the Legislative Council, the Europeans were divided. Three voted for nomination and three against it. The three Fijian members remained neutral and the two Indians, Mr. Singh and his colleague Mr. Mudaliar, voted for it. The Governor was not, however, quite satisfied with the result. He was not satisfied with the result as three European members had voted against it. A Motion was therefore allowed to be brought forward again in November, and the Standing Orders were suspended in order that the Motion might be discussed. Where was the need for further discussion? In June, the Council had discussed this matter thoroughly and had arrived at a certain decision. Where was the need for further discussion? Anyway, the discussion took place in November, and the Council was opened by the Governor with a speech. It was a clever speech. The Governor's speech was what we, lawyers, would call a charge, which in its summing up was absolutely against the accused, namely, the system of election. He raised the bogey of Indian domination. Indians were politically-minded. They were bent on acquiring a new status in their country; they were multiplying fast; if nomination was not adopted, they would dominate the Colony some day; the demand for constitutional changes and changes in the electoral system with which Indians were dissatisfied would, under pressure from India and Indians, become irresistible. His advice therefore was that Europeans should take time by the forelock and nip the mischief in the bud by killing election. After the Governor's speech there was a debate which was initiated by a member named Sir Maynard Headstrom who dwelt on the changed and changing conditions of the Colony. He stressed the fact that they had to look ahead. The Indians wanted

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equality with the Europeans and an electoral system which would give them that equality and there the danger lay. Sir Henry Scott also spoke in a similar strain. The speech of the day however was made by a European member Mr. Bayley. He pointed out that of the three Fijian members, two were officials and the third was an ex-Government official. These Fijian members had remained neutral in June. Of course in the meanwhile they had changed their mind. How and why they had changed their mind we do not know. They trotted out the view that Fiji had been ceded by their forefathers to Queen Victoria, that they were quite happy with their European masters and that democracy was unsuited to Fiji. These are all arguments with which we in this country are familiar. These are arguments which are trotted out by our die-hard friends against any extension of the franchise in this country and against any extension of reforms in this country. We can get a certain type of Indian also in this country to say all this. Therefore it is not surprising that there should be in Fiji some members who in the 20th Century are alarmed by democracy. I cannot see any democracy in this Constitution. It is not a democratic Constitution. The official majority will be there. Fiji is a Crown Colony. It remains under the control of the Colonial Office. But anyhow this is the attitude that those Fijian members had taken up. Well, Mr. Bayley pointed out that the Fijian members had taken a somersault, that it was difficult to explain this somersault, that in fact rumour had it that their speech had been written out by the Governor or the Colonial Secretary, and the Governor, when Mr. Bayley made this remark, did not contradict him. He said, "It is a compliment". Then Mr. Bayley pointed out that the Indian members had lost the confidence of their constituents. He also said that the Council was unnecessarily nervous about domination. The Indians, he thought, were prepared to work the Constitution of 1929, and finally and very rightly he pointed out that nomination would provide no solution of the Indian question, and indeed would accentuate the political discontent among the Indians. Then there was another European member, Mr. Reid, who stressed the danger of Indian domination. He trotted out the arguments which had been advanced by other members. Of course, as I have just pointed out, the Fijian members who had remained neutral in June have voted against election this time.

Now, Sir, the Constitution of 1929 is not a democratic Constitution. It gives no kind of responsible Government to Fiji. There is even no dyarchy under that Constitution. It is the sort of Constitution which we used to have before the Minto-Morley Reforms in this country. The Government there under this Constitution has an official majority, and the Colony is under the direct administration of the Colonial Office. The Indian representation is very small. Therefore let us be quite clear about the issue. The issue simply is this. What will suit Fiji best? If you must have a Legislature then it is clear that you must have a Legislature which will reflect accurately the wishes and needs of the people it represents. Elected members are bound to be more effective. I say this with all respect to our nominated friends. Elected members are bound to be more effective than nominated members. Nominated members can never be so independent as elected members. They will not be able to voice the sentiments, feelings and aspirations of their countrymen. What guarantee is there that the Governor will nominate really representative men? What guarantee is there that the Governor will not nominate men who will say ditto to him and who will be convenient to him?

THE HONOURABLE THE PRESIDENT : Do you not think they have a conscience ?

THE HONOURABLE MR. P. N. SAPRU : I did not say that, Sir. We are all human. I only say that whether we are elected or whether we are nominated we are human.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : Nobody is infallible.

THE HONOURABLE MR. P. N. SAPRU : I do not claim infallibility for myself. Probably Mr. Suhrawardy claims it for himself.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : No, certainly not. I only said nobody is infallible.

THE HONOURABLE MR. P. N. SAPRU : Sir, nomination will demoralise public life in Fiji. The fact that Europeans are prepared to agree to nomination must make us look with suspicion upon this proposal. I do not really know what the reasons are. I am not concerned with Europeans. I am not concerned with Fijians. I am concerned with Indians, and I say that it is a serious step to deprive a community of a right which it exercises today. It would be a retrograde step to substitute nomination for election. The real issue therefore before the House is, should the Indian members be elected or nominated ? In the Colonies and in Fiji too, as I have pointed out in the opening part of my speech, Indians have many grievances. Their position is very unsatisfactory, and therefore it is very necessary that they should be properly represented, that they should be represented by men who enjoy their confidence, who can faithfully and accurately represent their sentiments, wishes and feelings. It is very necessary that they should be represented by men on whom they will have some hold. Therefore, Sir, I would like the House to record a unanimous vote in favour of election. I do not think it is necessary for us to go into the question whether democracy is suited or is not suited for peoples in the position of the Fijians. That is not the real issue. We may have our own views about democracy, but the Constitution which the Fijians have got is not a democratic Constitution. They have no responsible government today ; they are not likely to have responsible government in any foreseeable future. There is no question of Indian domination at all. Therefore the only question is whether the Indians should be given the right of electing their representatives or not, should be given the right of choosing men in whom they have confidence or not ? That is the real issue before the House. Of course it is very difficult to say what is happening in Fiji, but the impression that the debate leaves upon one's mind is that the Governor is forcing the issue, is not leaving the issue to the free vote of the people in Fiji. The proposal that the matter should be referred to a referendum was turned down by him. In fact a limited referendum was held in one of the municipal towns and there was a 90 per cent. majority against nomination. Then, Sir, look at the way he has been behaving. The life of the present Council has been extended. The Governor has found the present Legislature useful. He can control the present Legislature and therefore he says that the present Legislature must continue until this issue has been decided one way or the other. That is not, Sir, really the correct way of doing things. If you want to know what the people really think about nomination, then you must have a new Legislature and the men who will come to this new Legislature will be in a better position to advise you than the men who are a sort of

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your nominees now. Because the life of the present Legislature has expired, these men are really his nominees. Therefore, Sir, I would urge that strong representations ought to be addressed by the Government of India to the Colonial Office and to the India Office. Sir, we cannot be indifferent to the fortunes of our nationals in other parts of the world. As I have said once before in this House, our *izzat* is involved in these matters. We have a special responsibility in the case of Indians settled abroad. In the case of the Fijian Indians our responsibility is even greater, because these Indians went as indentured labourers under the patronage and with the active assistance of the Government of India. Therefore, Sir, we have a special responsibility in regard to these Fijian Indians. Finally, Sir, I should like to make an appeal to the non-official European Members of this House. They have always taken a very great deal of interest in the welfare of Indians abroad and I would like them especially to support this Resolution on this occasion. I hope, Sir, that it shall have a unanimous vote here in this House, that all of us, Hindu, Muslims, Christians and Europeans, will join in this united protest against the substitution of nomination for election to the Fiji Legislative Council.

THE HONOURABLE MR. BIJAY KUMAR BASU : With what result ?

THE HONOURABLE MR. P. N. SAPRU : Sir, with these words, I move the Resolution.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Mr. President, the Indian Legislature has time and again, and very rightly, tried to impress upon our Government the necessity of safeguarding the interests of our countrymen in distant parts of the Empire, whether the question related to politics or economic condition or anything else, and we will gladly admit that the Government of India particularly after the date of the Viceroyalty of Lord Hardinge have tried to do what best they could to espouse the cause of Indians overseas. That, the House will admit, is indeed a very gratifying sign.

The question before us today is in regard to the position of Indians in Fiji. I have not had the benefit of reading the proceedings of the meeting of the Fiji Legislative Council referred to by the Honourable Mover, but Mr. Sapru, Sir, has placed facts and figures so clearly and so lucidly before us that I am perfectly certain that the final appeal he made to the House has not been made in vain and that the House will unanimously support his Resolution. He said that as in other parts of the Empire Indians labour under certain grievances. We do not want to refer to them here today. For example, even if an Indian has lived for a number of years in Fiji and comes to India for a time and desires to return, it has now become necessary for him to obtain the necessary permission to go back. Then again there is the grievance that they are not sufficiently represented. But these are points which we do not desire to bring up today. What is wanted is to request the Colonial Government to see that the system which has prevailed since 1919 of Indians under their separate electorate electing their representatives should be continued and the proposal of nominating them rejected. We do not for a moment ask for a common electorate, for we know that in our own country we have not common electorates. We are quite content with the separate electorate that Indians have in Fiji, but what we want is that they should have the right to continue to elect their representatives. The Honourable Mover referred to the tactics of non-co-operation on the part of some of our



Indian friends in Fiji. They might have had good reason for adopting those tactics, although we here at a distance do not approve of them. There are three Indian members in the Legislature, but we understand that one of them has not taken his seat, or only two were elected. That again is a mistake on the part of our Indian friends and we certainly hope that wiser counsels will prevail in the future.

It is very surprising indeed that one Indian elected member supporting the Resolution in June advocated that Indians should be nominated and not elected, but I think Mr. Sapru has made it clear that this member's speech in the Fiji Council on that occasion was based on self-interest, because he was afraid that if he had to stand for election he might, perhaps for sins of his own, not be elected again. But the worst part of the story according to Mr. Sapru lies in the fact that the Governor of Fiji took such a partial attitude on this question. He should have been absolutely impartial, but from what Mr. Sapru has narrated he certainly was not impartial and that is to be very greatly regretted. Fortunately the last word does not lie with him. It will rest with the Secretary of State for the Colonies and we do hope that the Government of India will agree with the Resolution which my friend the Honourable Mr. Sapru has moved and will make a strong representation as a result of which the old policy of Indians being returned by their separate constituency as elected members will be continued, for otherwise it must mean that Indians have been treated very unfairly in that part of the Empire.

\*THE HONOURABLE MR. W. T. McINTYRE (Burma Chamber of Commerce): Mr. President, I rise to support this Resolution (Applause), and to thank my Honourable friend Mr. Sapru for his very illuminating review of the history of Indians in Fiji. In this year of grace, Sir, I personally cannot but regard it as a retrograde step to substitute nomination for direct election either to the Fiji Legislature or for that matter to any other Legislature. (Hear, hear.) I therefore cordially support the Resolution. (Applause.)

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): Sir, I think it is naturally to be expected that a man from the nominated side of the House should have a say in this matter. I really do not understand why my friend the Honourable Mr. Sapru and my friend the Honourable Sir Phiroze Sethna took all the pains to elaborate on the Resolution placed before the House. It is a question, I take it, Sir, of principle and the principle has been accepted in the Reforms of 1935 in our own country. As Mr. Sapru knows, in many of the Legislatures hereafter there will be no nomination consequently there will be no bogey of nominated Members going and voting against the elected Members. The principle that nominated Members would not be as good representatives of the people as the elected Members has only to be stated and need not be proved. I think it is like an axiom, a self-evident truth. Therefore, Sir, if any particular community wants to be represented in any public body, that community will certainly think that it would be better represented by a man elected by them who will be, if I may say so, under the thumb of the electorate, who will be more or less a gramophone of the constituency, voicing forth the views of the constituency. When I say "gramophone" I do not use the word in any disparaging sense. Therefore, Sir, Mr. Sapru and Sir Phiroze Sethna could have spared themselves the trouble and I am sure that this Resolution will be acceptable not only to the nominated Members and the non-official Europeans but also to the Government Members on the Treasury benches.

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\* Not corrected by the Honourable Member.

\*THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, I whole-heartedly support the Resolution which has been moved by my Honourable friend Mr. Sapru. As a matter of fact, Sir, in any representative form of government it is impossible to see how it can exist if the method of representation is by nomination. I personally think, Sir, that one can quite understand a personal government carried out by one individual but it is impossible to see how a government can be run by a body of members who are nominated by the Government. I hope that the Government of India will take the necessary steps to convey the united feeling of Indians on this matter that the method of representation should be by election and not by nomination.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras : Non-Muhammadan) : Sir, I have very great pleasure in supporting the Resolution of my Honourable friend Mr. Sapru. I agree with the principle of representation by election but I am only sorry Mr. Sapru said that nominated Members have no conscience.

THE HONOURABLE MR. P. N. SAPRU : I did not say that.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY : Anyhow I am glad to say that Mr. Basu, though a nominated Member, has many times voted against the Government on things with which he did not agree, and I am glad the European Member from Burma was also very sympathetic. I do not think there are any dissentient voices on the question.

\*THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I rise to give my whole-hearted support to this Resolution. After all that has been said about it I do not think I need make a lengthy speech but I would like to say that in our attempt to have the principle of election widened we make no reflection upon the nominated Members. We know that nominated Members have mostly conducted themselves even in this House in a way which would have done credit even to the elected representatives in this House. As has been very rightly observed by my Honourable colleague, Mr. McIntyre, it is too late in the day for nominations to be resorted to as the method of representation in a legislative body. The principle has been recognised all the world over that every legislative body should have only elected Members.

THE HONOURABLE THE PRESIDENT : Order, order. Let me correct you. The principle has not been recognised in the Government of India Act of 1935. Six nominated seats have been allowed for the Council of State.\*

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : There is a small sprinkling of nominated Members, Sir. It merely serves to emphasise the rule that holds the field that representation ought to be through elected Members, and this exception only goes to prove the rule, to prove the universal recognition that it is only through elected representatives that effective responsible government can be secured. I do not think, Sir, that I need labour the point. I support the Resolution.

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\* Not corrected by the Honourable Member.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, the Resolution has had the unanimous support of the Honourable Members of this House. We have a very eminent Parsi business man of Bombay supporting the Resolution. It has found support in a representative of the European community from Burma. Two Muslim Members, one hailing from the Punjab and the other from Madras, have supported the Resolution. I think it is unnecessary for me to go into the detailed history of the events leading up to the Resolutions that were passed in 1935 in the Fiji Legislative Council asking for the substitution of nomination for election in that Legislature. But in order that Honourable Members may know what the issues are with which they are dealing, I think it is necessary to give a very brief summary of the Constitution in Fiji and of the arguments that were advanced in the Legislative Council advocating the substitution of nomination for election. Up till 1921—and at that time the total number of members of the Legislative Council was 21—only the European community had the right to return elected members. The Constitution was so framed that the officials had a majority over the non-officials. Out of 21 members, there were 11 nominated officials, seven elected Europeans, two nominated Fijians, and one nominated Indian. In that year, as has already been pointed out by my Honourable friend, by the Letters Patent that were issued in February the total number of members was increased from 21 to 25 but the official majority was still maintained. There were then 13 official nominated Members, six elected Europeans—(the House will notice that the number of European elected Members was reduced from seven to six)—three nominated Fijians and for the first time three elected Indians. So that it was only after the Letters Patent were issued in 1929 that the right of Indians to send representatives by election was conceded. This was the checkered history of the Fiji Legislative Council so far as the Indian representatives were concerned. I will not go into the details of that history. I think it is known to a number of Honourable Members here that after election the Indian members resigned their seats. The seats remained vacant till 1932. Two Indians were then elected in that year. The third seat remained vacant and has remained vacant up to the present time. Of these two Indian members, one has continued to sit in the Legislative Council continuously and the other after a brief interval has also been a member, and he is the member who subsequently moved a Resolution in May, 1935, asking for the substitution of nomination for election. As I have said, so far as the Legislative Council is concerned, there is an official majority. So far as the Executive Government is concerned, the Governor has an Executive Council which has a purely advisory function and that also is composed at present largely of officials,—being composed of officials and two nominated non-Indians. As far as I know, the two nominated non-officials are both from the European community. In May, 1935, one of the Indian elected representatives moved a Resolution that it would be in the best interests of the Colony that the system of nomination should be substituted for election and that the number of Indian nominated members should be equal to the number of nominated members for Europeans and for Fijians. As Honourable Members are aware—they must have gathered from the figures I have given—there were 12 non-official members, and if an equal division had taken place, it would have meant that there would have been four nominated Europeans, four nominated Fijians and four nominated Indians. In other words, instead of three elected Indians, there would have been four nominated Indians. Analysing the Resolution, that is what it comes to, that the six elected Europeans should be replaced by four nominated Europeans, that the three nominated Fijians should be increased to four and that the three elected Indians should be replaced by four nominated

[Sir Jagdish Prasad.]

Indians. Soon after this Resolution was passed, we received a communication from the Secretary of State asking for our views. Meanwhile, in order to give the Fijian Legislative Council a chance of discussing this question further, its life was extended by a year. It will now expire in June, 1936. We consulted our Emigration Committee, which, as Honourable Members know, is predominantly composed of Members elected from the Assembly and the Council of State. On the advice of the Emigration Committee, we made a representation at the end of September to the Secretary of State saying that we did not agree to the substitution of nomination for election. I should like at this stage to mention to Honourable Members that when the Resolution was debated in the Legislative Council in May, the voting was on these lines. Of the six elected European members, three opposed the Resolution and three were in favour of it. The Fijian members remained neutral, and, of course, so did the official members. The Resolution was therefore carried by five votes to three, those in favour being three elected Europeans and two elected Indians, and those against being three elected Europeans. In November, when the Resolution was again moved, it was moved in somewhat different language. It was said that in the changed and changing conditions of the Colony and having regard to its present and future interests, it will be better that the system of election should be replaced by a system of nomination. The Mover of the Resolution this time was a European. When the voting took place, there was a certain amount of displacement of votes. The Resolution was opposed by two European members, but it was supported by the Indian members and by the other remaining European elected members. When we received a copy of the debates, we again reiterated our objections to the Secretary of State for India. I think the House is entitled to know what the considerations are on which we based our opposition to the proposal which was carried in the Fiji Legislative Council. On looking through the debates, the impression was borne in upon us that one of the decisive factors in the voting was the fear of the non-Indian members of the Fiji Legislative Council that if the system of election remained it would lead to the domination of Indians over the other communities. Now, Sir, we here feel that this is a somewhat far-fetched conclusion. I have already brought to the notice of Honourable Members that the system of government in Fiji is not responsible government. Government have a definite majority of nominated official members in the Legislative Council. The Executive Council is an advisory body. There is, therefore, so far as we can see—in politics we have often to look to the near future—there does not seem to be any question of domination of the Indian community over the others. It can scarcely be said that in a Legislative Council composed of 25 members, of whom even now 19 are Europeans—six elected Europeans and 13 nominated officials—the fact that there will be three elected Indians is likely to lead to domination by that community. That is one of the first considerations which lead us to feel that the ground on which it is proposed to make the change is in our opinion not tenable. What is the second consideration? As I mentioned to Honourable Members a few moments ago, it was only in February, 1929, that the system of election was introduced for the first time so far as Indian representation was concerned. It is scarcely seven years since the system was introduced. We therefore feel that the experiment has been in existence for too short a time to enable Government to come to a decision that there should be a radical change. We think that this method should be given a further trial. We should see to what extent Indians are likely to co-operate with the other communities in working the existing Constitution. I am prepared to admit that the non-

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co-operation of certain of the elected members had unfortunate repercussions on the other communities in Fiji, but I should invite the Fijian Government to consider what would be the repercussions in India if, after giving this system a trial for only seven years, the ground on which the change is to be made is that the Fijian Government and the people in Fiji other than Indians are afraid of Indian domination. I should like them to consider what would be the repercussions on Indian opinion here. We all know the intense feeling that has already been created in this country. I am afraid that if this change were made it would have the most unfortunate repercussions. It would be a source of constant irritation and ill-feeling. I think it is the desire of all of us here, and it must be the desire of other component parts of the Empire, to promote harmony between the various races which form the British Empire; that nothing should be done which would create ill-feeling or racial ill-will. That I think is a proposition on which there cannot be any two opinions. I therefore think that it would be an unfortunate result if the system of nomination is to take the place of election.

Before I sit down, Sir, I should like to say that I do not in any way associate myself with what has been said in regard to His Excellency the Governor of Fiji. I have tried to base my arguments absolutely on an impersonal basis. I am not prepared to endorse the remarks of my Honourable friend Mr. Sapru in regard to the speech of the Governor. I do not think that it helps in the solution of this very difficult problem to drag in personalities. I base my case and I think the people of India base their case on the merits. We feel that with a population of over 80,000 Indians, nomination will not give effective representation. It is essential that the representatives of the Indians should be real representatives who can voice the wishes of their countrymen. I do not for a moment mean to imply that nominated members have no independence, but the issue is not a mixture of election and nomination. The issue in Fiji is to take away three elected Indians and to replace them by a pure system of nomination, and I think it will be agreed that that proposal is regarded in India and is regarded by all sections of the House here as a retrograde measure. The Government of India therefore feel that they must express strongly their view that if such a system is adopted, it will not give effective representation to the Indians there, in whose future the Government of India and the people here must continue to take the liveliest interest. I accept the Resolution moved by my Honourable friend. (Applause.)

**THE HONOURABLE MR. P. N. SAPRU :** Sir, I have nothing to say except to thank the House for the cordial support which it has given to this Resolution. I have to thank my friend the Honourable Mr. McIntyre for his valued support, and Raja Ghazanfar Ali Khan, Mr. Padshah, Mr. Basu and the Leader of the House for the support which they have given to this Resolution.

**THE HONOURABLE THE PRESIDENT :** Resolution moved :

“That this Council recommends to the Governor General in Council that he may be pleased to communicate to His Majesty's Government the dissatisfaction of this Council with the recommendation that the method of Indian selection to the Legislative Council in Fiji should be nomination and not election”.

The Question is :

“That that Resolution be adopted”.

The Motion was adopted.

## RESOLUTION *RE* POLITICAL PRISONERS UNDER DETENTION WITHOUT TRIAL.

**THE HONOURABLE RAY BAHADUR LALA MATHURA PRASAD MEHROTRA** (United Provinces Central : Non-Muhammadian) : Sir, I beg to move :

"That this Council recommends to the Governor General in Council to appoint a Judicial Committee of three High Court Judges to examine the cases of all political prisoners now under detention without trial and to release forthwith those prisoners recommended by the Committee in this behalf".

Before I go into the merits of the Resolution I want to make it quite clear that we on this side of the House have absolutely no sympathy with actual terrorists, nor is it the object of this Resolution that they should be released. But we consider that along with terrorists there are certainly some members who have been detained on mere suspicion. Sir, even if one member has been deprived of his liberty on account of suspicion, whether the suspicion be strong or weak, I think the Resolution requires the deep consideration of Government.

Let us see what is the position at present. The terrorist movement has existed for a very long time, say about 30 years. The Government could not cope with the movement under the ordinary sections of the Penal Code, as was said when they introduced the Bengal Criminal Law Amendment Act. That Act was first passed for a short time and then in 1934 it became a permanent measure. Up to date thousands of men have been detained in Bengal, Deoli and certain other places. In a statement replying to a cut motion moved in the other House by Mr. Aney the Honourable Home Member said that there are still 1,400 detenus and he also stated the number of persons released so far. When he said there had been a welcome improvement in the public tone in the past year the Government had released unconditionally 217 detenus, while 101 were placed in home domicile and 80 were being taught industrial work. By this statement, Sir, we thought that as many as 271 detenus have been set free on the re-examination of their cases. So this gives a definite ground that the question of others who are under detention requires some serious consideration. I have therefore recommended that a Judicial Committee may go through them. My proposal is a very moderate one. I do not say that the committee should have a non-official Member who might command the respect of the public as recommended by the Rowlatt Committee. Considering that that recommendation of the Rowlatt Committee was not given effect to by the Government, I have contented myself with recommending that the cases of these prisoners might be taken into consideration thoroughly with all the material that Government has got in its possession by an independent judicial committee. Sir, I do not say in my Resolution that these detenus should be given a right of representation by some advocates. I do not say that these detenus may be given a right of disproving the allegations against them by putting in witnesses. I only submit that the whole material should be placed before this committee and the whole thing may be thoroughly examined and those cases in which the committee finds that there are only doubts or suspicions may be set free. Sir, with your permission, I should like to quote one or two sentences from this important Committee-

I mean the Rowlatt Committee. Under the heading "Scope of our proposals" in paragraph 189 they say :

"But while we feel bound to formulate such a scheme, we think that the whole of it must be subject to the observance of four main principles—

- (i) No interference with liberty must be penal in character. Nothing in the nature of conviction can be admitted without trial in strict legal form. If in the supreme interests of the community the liberty of individuals is taken away, an asylum must be provided of a different order from a jail.
- (ii) Any interference with liberty must be safeguarded by an inquiry which, through circumstances exclude the possibility of its following forensic forms, must be judicial in the sense that it must be fair and impartial and as adequate as it can be made.
- (iii) Every order (which should be made by the Local Government) authorizing such interference must recite the holding of such inquiry and declare that, in the opinion of the Local Government, the measures ordered are necessary in the interests of public security.
- (iv) The order must be made for a limited time only (say, not exceeding a year) and must be renewable only by a new order (not necessarily a new inquiry) reciting that the renewal is necessary in the interests of public security".

So, Sir, according to the four principles, it is also necessary for the Government to go through all the cases annually and see which of them require reconsideration, which of them require that they should be detained for a further period of one year. My object is that these cases should be gone through by this committee with all the material and as the situation has much improved as stated by the Honourable the Home Member in the other House these detenus who are merely kept on suspicion should be set free. Sir, with your permission, I will quote two more sentences from this Report. In connection with creating an investigating authority, the Committee says :

"The duty of the investigating authority will be to inquire *in camera* upon any materials which they may think fit and without being bound by rules of evidence. They would send for the person and tell him what is alleged against him and investigate the matter as fairly and adequately as possible in the manner of a domestic tribunal. It would not be necessary to disclose the sources of information, if that would be objectionable from the point of view of other persons. No advocates would be allowed on either side or witnesses formally examined, nor need the person whose case is under investigation be present during all the inquiry. Should such person indicate that other persons or any other inquiries may throw light on the matter from his point of view, the investigating authority would endeavour to test the suggestion if it seems relevant and reasonable. At the close of the inquiry the investigating authority would certify their conclusion to the Local Government".

So, Sir, this is the procedure which has been laid down by the Rowlatt Committee and in my Resolution I have stated nothing that goes against the spirit of the recommendation of this important Committee. I have made one alteration only. They have recommended :

"But we think we may say as based upon the experience gained in the course of our labours that one member should be a non-official Indian selected for his knowledge of the people".

I have omitted this person because it may not be acceptable to the Government. I personally think that that would have been better and the Committee would certainly have commanded greater respect, but I leave it to the consideration of the Government. Sir, as I have said, the situation has improved, I hope the Government will kindly see their way to accept the very moderate demand set forth in the Resolution.

With these words, Sir, I move.

**THE HONOURABLE MR. P. N. SAPRU** (United Provinces Southern Non-Muhammadan): Sir, the Resolution which my friend the Honourable Mr. Mehrotra has moved is a very moderate Resolution. He wants the cases of detenus to be examined by a Committee of High Court Judges; he does not want this committee to act as a tribunal; that is not his intention. It is not his intention that they should be released indiscriminately. That is not the Resolution. This committee would really advise the Executive Government. The decision, if his Resolution is accepted, would rest with the Executive Government. He is not raising any question of principle. So far as the principle of detention without trial is concerned, it was accepted, I think wrongly, in my opinion, by the House in the Bengal Criminal Law Amendment Act; but he is not raising any question of principle in this Resolution. He wants the cases to be reviewed by a strong committee. That is what the Rowlett Committee had suggested itself—that cases should be reviewed every year. And they had also provided for an investigating committee. Now the investigating committee that he visualises is a Committee of High Court Judges and I think it is right that we should have the most experienced men to examine the cases of these detenus. Some of us are really uneasy in our minds about these men. Of course, we have no sympathy whatever with terrorism. We condemn it as strongly as Members opposite but we think that these men who are suspects have a right to have their cases properly investigated and I hope, Sir, that Government will adopt a sympathetic attitude towards this Resolution and will meet Mr. Mehrotra's point of view to the extent that it is possible for it to do so.

**THE HONOURABLE RAJA GHAZANFAR ALI KHAN** (West Punjab: Muhammadan): Sir, may I ask the Honourable the Home Member whether in accordance with the present procedure these cases are not examined by a High Court Judge?

**THE HONOURABLE MR. M. G. HALLETT** (Home Secretary): Sir, I will reply to the Honourable Member's question in the course of my speech. I am afraid I must oppose this Resolution, modest though it is. I quite recognise that the Opposition have not the least sympathy with the terrorist movement and are anxious not to do anything which will hamper the Government of India or the Government of Bengal in their very difficult task of combating that movement. But though I must oppose it for reasons which I shall state later, I welcome this opportunity of putting before this House many of the arguments which were made by the Honourable the Home Member a few days ago in another place. Many of you no doubt have read that speech—I think I may say, without fear of contradiction that very impressive speech which he made, I think it was on last Friday—a speech which had very considerable effect on the Assembly on that day. He took the House into his confidence and I hope to do the same today and if I am merely repeating what many of you have read in the papers I trust I may be excused, but I think it is desirable to make these repetitions, for even now some of our critics are not impressed with what the Home Member revealed but still refer to the case of these terrorists and contend that we put them away on mere suspicion and on the reports of police informers and spies. This contention was effectively met by the Honourable the Home Member in another place and I hope to be able to show in the course of my speech in some detail the kind of evidence which is produced before Government before action is taken under the Bengal Criminal Law Amendment Act or in certain cases under Regulation III tg



show how that evidence is carefully tested and examined by different authorities, including as I shall show two senior Sessions Judges in Bengal. That fact, that the cases are already examined by Judges, is really the main answer to the Honourable Member's Resolution. We have accepted in fact ever since 1919 or so the recommendation of the Rowlett Committee that these cases should be so examined. The fact that they are so examined makes it somewhat unnecessary to have them re-examined by a very expensive Bench of three Judges of the High Court.

However, my first point is, as I have said, to show the kind of evidence on which these cases are based and to dispel the impression that possibly prevails in certain quarters—but I trust not among Honourable Members of this House—that many of the Bengal detenues are persons who are quite innocent and have been put away merely on malicious or inaccurate police reports. That view has no foundation in fact. I need not deal with the present situation in Bengal. I quite admit there has been a distinct improvement and the figures which I quoted in reply to a question the other day show that improvement. Other facts were quoted by the Honourable the Home Member in his speech in another place which fully support the view that there has been an improvement in the situation. That however is not relevant to the present discussion. My first point is to show what kind of evidence is produced before an order of detention is passed. But before doing so, there is one point I would like to emphasise. It is a point which comes up in connection with the quotation which the Honourable Mover made from the Rowlett Committee's Report where they said that the detention should not be penal. It is not penal in any of these cases. It is preventive action. When a Government officer or a private individual is murdered, when a dacoity or robbery is committed then we take all possible steps to prosecute the culprits in Court for the crime they have committed, but it is not very satisfactory, even if we secure conviction; it is far more satisfactory if we can by taking preventive action and subjecting these people to detention prevent the commission of these outrages and the fact that outrages have decreased in recent years and in recent months in Bengal shows clearly in my view that we are putting away people who are guilty of terrorist conspiracy. Now, Sir, the terrorist movement is a secret movement; the terrorist organisation works underground. It does not come out into the open except when an outrage is actually committed. They conspire together with the object of perpetrating some outrage. They collect recruits by getting hold of and bringing their influence to bear on impressionable youths who have been brought up for years in an atmosphere of hatred and hostility towards Government. They collect arms and as I quoted to the House the other day there is still evidence to show that there is very considerable illicit traffic in arms in Bengal even now; I referred, and the Honourable the Home Member also referred, to the significant fact that a ship in the Hooghly was found the other day to have concealed on board some 30 or 40 automatic pistols and revolvers. If this kind of smuggling goes on, it shows that there is a demand for these weapons and that demand can only come from people who want to use them for improper and illicit purposes. Having got their recruits, having collected their arms, having prepared in some cases bombs and other destructive weapons, the leaders of the gang very often take steps to train their youths in the use of the revolvers. In the case of the murder of Mr. Burge in Midnapur, when the case was tried in Court, there was, I think, direct evidence that these boys were taken out to some lonely place in the district and taught to use the revolver which was subsequently used on Mr. Burge with such fatal effect. Such being the conspiracies which are the prelude to terrorist outrages and it being the object of Government to prevent the outrages, Government and the police must get to know of the conspiracy

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at a comparatively early stage. To do so it seems sometimes to be imagined that we employ or the police employ professional spies; that they get hold of somebody out in the street, pay him ten or twenty rupees to go and get information about the terrorists. That, of course, is entirely incorrect. Nothing of the kind is done and any evidence of that kind picked up from a mere casual person is rejected by the police. What does happen is that statements are made by people who are actually in the conspiracy, statements and confessions—in some cases confessions made in Court are useful—in other cases statements are made to the police. It may be asked, "How is it that these statements come to be made?" That is a point which was referred to by the Rowlatt Committee and I do not think I can do better than read an extract from their Report. They were referring to the statements which were made by people who are actually engaged in the conspiracies :

"Some speak under the impulse of a feeling of disgust for an effort which has failed. Some, of a different temperament, are conscience-stricken. Others speak to relieve their feelings, glad that the life of a hunted criminal is over. Not a few only speak after a period of consideration, during which they argue with themselves the morality of disclosure".

The psychological fact is that these people do come forward quite frequently and make statements to the police officials and other people engaged in this work.

Now, Sir, we do not rely solely on the statements of people of that type. And here again, I will read a further quotation from this paragraph in the Rowlatt Report :

"We have not failed to bear in mind that information of this kind is not to be blindly relied upon, least of all in India. But we have had remarkable facilities for testing these statements. The fact that they are exceedingly numerous, that they have been made at different dates and often in places remote from one another give an opportunity for a comparison far more useful than if they were few and connected. But this is not all. In numerous instances a deponent refers to facts previously unknown, to revolutionary haunts not yet suspected or persons not arrested. Upon following up the statements, the facts have been found to have occurred, the haunts are found in full activity.....".

I would say something more on that last point in a minute or two. The point I would first make is that when such statements are made, the police check them very carefully with other statements made by other people, entirely disconnected with the first person, coming very often from different parts of the district and from different parts of the province. But in addition to checking one statement against another, they also see whether these statements are corroborated by other means. In some cases, they are corroborated by documentary evidence. Letters are often intercepted, or are found in the course of house searches. In particular, it sometimes happens that cypher documents are found in the course of house searches. If cypher documents are found, they are of particular value for corroborating and substantiating the case against a detenu. I may quote from another Report which was submitted to Government some years ago to show the value of the cypher documents which are occasionally found, and in which the following passage occurs :

"When an organisation whose object is revolutionary crime works in secret and adopts a cypher system to conceal the names of its members, its acts and its movements, we think that cyphers being one of the methods of the conspiracy form most valuable evidence".

That is the opinion of two High Court Judges who examined these cases in 1918.

Then, Sir,—and this is shown in the extract from the Rowlatt Committee's Report which I have just read out—the statements made are often corroborated

by what I may call material evidence. That is to say, if the terrorist who is giving information says that guns or ammunition are to be found in such-and-such a place, the police go there and find them there. As an example of that, I may perhaps quote a case which happened not so many years ago. I am not going to weary the House by referring to it in detail. Honourable Members of the House who come from Bengal may remember the time when the terrorist movement was first started in 1908. One of the persons whom they wanted to assassinate was Mr. Kingsford, at one time Presidency Magistrate in Calcutta. As Honourable Members will recollect, when he was District and Sessions Judge of Muzaffarpur in 1908, an attempt was made to kill him by means of a bomb, but he escaped and unfortunately two ladies were killed. But, several years later, a terrorist stated to the police that yet another determined attempt had been made to kill Mr. Kingsford, that the terrorists had prepared a bomb in the form of a large book, that is to say, they had cut out several pages of a book and placed explosives inside it, and sent it to Mr. Kingsford. The police thought there was nothing in the story. They never heard anything about this attempt; they never had any trace of it. However, the statement having been made, they considered that it was necessary to investigate and see whether there was any truth in it. They went down to Mr. Kingsford and asked him whether by any chance he had not opened a book parcel which he had received some time ago and whether that parcel was still in his library. The parcel was actually found; the police got hold of it and opened it with great care and found, as had been reported to them, that it was a very dangerous bomb. That, I quote, as an example of how these statements are corroborated by actual material evidence. Such are the general lines of the evidence which the police collect before action is taken.

I now turn to the question of how that evidence is tested and examined. It is first of all tested by superior police officers, not by the officers themselves who have conducted the investigation, but by officers at headquarters, officers who have carried out for many years the difficult task of unravelling these terrorist conspiracies, who are well acquainted with the methods and psychology of terrorists and who have full knowledge of the whole of the revolutionary movement. I quite admit that examination by police officers will be regarded by some as not being effective or desirable, but I cannot refrain from quoting a fact quoted by the Honourable the Home Member in another place the other day which shows how very careful the police are not to send up weak cases and certainly not to send up cases based merely on suspicion. The police knew before Mr. Burge was murdered in Midnapore in 1933 that a dangerous terrorist conspiracy was going on there, but they were not satisfied that the dossier of evidence they had collected against certain terrorists was sufficient for them to recommend action to be taken against them. As a result, these terrorists went on with their conspiracy and they murdered Mr. Burge. They were themselves hanged for it. The police in this case were possibly overcautious, but the fact shows that the police do not send up weak cases and that they test the evidence with the greatest possible care.

Now I come to what is really the main answer to this Resolution, and that is, that when the case comes to Government,—it is really following a recommendation, in some modified form, of the Rowlatt Committee,—the case is laid before two experienced and senior Sessions Judges. They examine it with the very greatest care. They first of all, individually and separately, examine the dossier prepared by the police, and the evidence contained therein. They then have a conference together and discuss the case. If there are any obscure or doubtful points, they refer back to the police and, as a rule, they put a good many questions to the police in regard to the evidence

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that has been produced. They examine the original statements that have been made, they examine the documents either in original or in photographic copies; they also examine the handwriting and other points. They consider also the statements, if any, made by the accused in reply to the allegations made against him, and by these means they satisfy themselves as to whether the evidence is sufficient to justify the preventive action which it is proposed to take. It has been accepted as a convention by the Government of Bengal that the advice given by the Sessions Judges on these cases should be invariably accepted. That shows I think that the position is very different from what it was in 1918 when there was no such procedure and when no Judges were introduced into the cases. But even in those days, and also now, the cases were very carefully examined by the officers in the Secretariat and in such cases as I have dealt with since I have been here I can assure the House that in all such cases as come before us in the Government of India we do examine them with the greatest care and on the lines which I have indicated are followed by the Judges in Bengal.

Now, Sir, to pass to a further point, it is argued that there may be cases in which mistakes have been made and innocent people put away. I do not think that is likely. With this very careful and elaborate procedure which is followed the chances of even a few innocent people being put away are rather remote. That a large number of innocent people are put away is, I think, entirely a wrong impression, because we have the undoubted fact that when preventive action of this kind is taken against terrorists it does have the effect of stopping overt outrages. On the other hand, when terrorists are released we unfortunately have a recrudescence of terrorist activities and further outrages are committed. Also we have the fact that in many criminal cases which have been prosecuted in Courts—I could quote numerous examples—many of the people who have been finally convicted have been people who have been detenus and who have been either released or have escaped from the detention camp. All the five leaders in the Chittagong raid case, which occurred in 1931, were people who were once detenus. It is perfectly clear from that, that they had been previously and at the time of the Chittagong raid undoubtedly were members of a terrorist conspiracy.

Now, Sir, I will refer to what happened in 1918. At that time, there had been a serious terrorist movement during the time of the Great War. It became necessary to put under preventive detention a large number of persons in Bengal, and they were put away either under the Defence of India Act or under Regulation III. But, Sir, at that time the procedure of bringing in Judges into the case was not followed. The cases were submitted by the police; they were examined by the Secretariat, and orders were then passed, everything was done by the Executive authorities. But the Government of Bengal in order to satisfy themselves that the orders were correct in all cases put the cases before two High Court Judges. One was Mr. Justice Beachcroft of the Calcutta High Court and the other was Mr. Justice Chandavarkar of the Bombay High Court. What was the result of that examination? They examined no less than 806 cases, and in only six of those cases, or rather less than 1 per cent., did they consider that there were insufficient grounds for the orders that had been passed. Now, Sir, surely the result of that examination compares very favourably even with appeals in criminal cases in High Courts; the percentage of successful appeals in ordinary cases is far greater than that. To show with what care they examined these cases and the tests which they applied, I will quote from their Report, because the observation also meets that suggestion which has been made that we put

away people on mere suspicion. They followed certain principles in examining these cases, and those principles are still followed by the Judges. They said :

“ We have in every case declined to act on circumstances of mere suspicion, by which we mean absence of positive proof of guilt and the mere presence of circumstances of an equivocal character not necessarily leading to a presumption of crime. For instance, mere association with proved revolutionaries or mere residence in a mess consisting of revolutionaries and others, or mere seditious talk of an irresponsible character in company, without more of an incriminating nature, has been treated by us as insufficient for action, whether under Regulation III of 1818 or the Defence of India Act or the Ingress Ordinance ”.

That, Sir, shows with what care these cases are examined, and those same principles are still followed by the Judges who examine these cases in Bengal.

It is not necessary for me to deal with the question of the impossibility of putting these people on open trial. That has been admitted by the Honourable Mover and he recognises that in these circumstances there is no question of a Tribunal and we have to adopt special methods to meet this special menace of terrorism.

That I think concludes the point which I wish to make, that very detailed evidence is collected from various sources ; that that evidence is scrutinised with the greatest care by police officers, by Judges and by the officers of the Bengal Government who are employed in the Secretariat. The system is different from that followed in 1918. In 1918 when these cases were examined, although Judges were not employed at that time, the High Court Judges who examined these cases found that the decision was right in practically every case ; in only six out of 806 cases did they differ from the decision arrived at.

There is a further point that I would like to make. I have been dealing with the evidence upon which the first order of detention is based against a terrorist. But the Honourable Member has referred to and suggested that owing to the improvement in the situation it would be possible for Judges to reconsider those cases and decide whether any persons can be released. I quite recognise that when a case is first instituted, it is proper to consult Judges to see if the evidence is sufficient but once this question has been decided, the question of the release of a detenu is a decision which must rest with the Executive Government, on whom lies the responsibility for maintaining law and order and for preventing any recrudescence of the terrorist movement. It is not a duty which they can possibly delegate to anybody, and it would be to my mind entirely wrong for them to consult High Court Judges as to whether the time had come for a certain terrorist to be released. That release must be based partly on a knowledge of how the terrorist is himself shaping, whether his terrorist mentality has changed—that can be easily obtained from the camp or jail in which he is detained—partly on a general appreciation of the terrorist situation. But the decision must be a decision of the Local Government and they cannot pass it on to anybody else. As was shown by the figures quoted by the Honourable Home Member and to which the Honourable Mover referred, the Government of Bengal are releasing detenues whenever they possibly can. They have started this system of camps where terrorists are given training in industry or agriculture, and they will no doubt, if the situation does not deteriorate and I trust it will not, carry on that system. But, Sir, the decision as to when it is safe to release a terrorist must be definitely one for the Executive Government.

Finally, Sir, I would make the point, though I do not wish to emphasise it, that this suggestion is one that should have come before the Government of Bengal. The Resolution is a more suitable one for the Bengal Council. But, Sir, as I said, I welcomed it because it gave me the opportunity of givin

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a somewhat long account of how we deal with the terrorists. But in Bengal itself the suggestion that cases should be submitted to a further examination has not been made, and I think people there fully realise all the great care with which these cases are examined and are satisfied that there is no need for any further examination by such an outside authority as three High Court Judges.

Sir, I must oppose the Resolution.

**THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA :** Sir, my friend the Honourable Home Secretary has placed before us certain facts and figures about the way in which these cases are examined. Sir, I do accept what my friend has said and we accept that all possible care is taken in the examination of the cases. At the same time he has also said that in 1918 all cases, numbering about 806, were placed before a Tribunal of two High Court Judges. They went through them and found six out of 806 were weak, or six out of 806 required to be released. My point is that even one case is enough for an examination which I have recommended in my Resolution. The greatest punishment that any civilised Government could inflict on a citizen is to deprive him of his liberty on suspicion. As far as the terrorists are concerned, my friend and ourselves are at one and we do not want that they should be released. I would therefore request Government to kindly see their way to appoint a similar committee to the one they appointed in 1918 and examine all the cases and if there are any in which leniency is required, it should be shown. This will also make their position very strong before the public and I hope that the Government will not oppose this moderate Resolution of mine.

**THE HONOURABLE THE PRESIDENT :** Resolution moved :

"This Council recommends to the Governor General in Council to appoint a Judicial Committee of three High Court Judges to examine the cases of all political prisoners now under detention without trial and to release forthwith those prisoners recommended by the Committee in this behalf".

The Question is :

"That that Resolution be adopted".

The Motion was negatived.

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#### MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

**THE HONOURABLE THE PRESIDENT :** Honourable Members, I have to deliver to you a Message from His Excellency the Governor General. The Private Secretary to His Excellency the Governor General has written today to the Council Secretary to the following effect :

"I write to inform you that His Excellency has decided to address the Members of both Houses of the Legislature at 11 o'clock on Wednesday, the 8th April".

(The Message was received by the Council, standing.)

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#### STATEMENT OF BUSINESS.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) :** Sir, there is no official business at present and the Council will only transact non-official business.

**THE HONOURABLE THE PRESIDENT :** The Council will now adjourn.

The Council then adjourned till Eleven of the Clock on Wednesday, the 25th March, 1936.