

Wednesday, 7th October, 1936

THE
COUNCIL OF STATE DEBATES

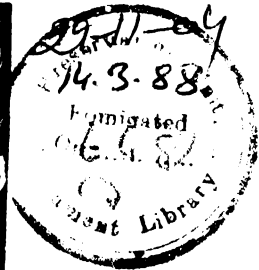
VOLUME II, 1936

(21st September to 17th October, 1936)

TWELFTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1936



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COUNCIL OF STATE.

Wednesday, 7th October, 1936.

The Council met in the Council Chamber at Viceregal Lodge at Ten of the Clock, the Honourable the President in the Chair.

MEMBER SWORN :

The Honourable Sir Bertrand Glancy, K.C.I.E., C.S.I. (Political Secretary).

QUESTIONS AND ANSWERS.

CREATION OF CERTAIN TECHNICAL POSTS IN THE HOME, FINANCE, COMMERCE, LEGISLATIVE AND THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH DEPARTMENTS IN 1930.

139. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Is it a fact that :

(a) In 1930, a few new posts were created in the Home, Finance, Commerce, Legislative and Imperial Council of Agricultural Research Departments, under the Government of India, with the sanction of the Finance Department and with the approval of the Standing Finance Committee ?

(b) These posts were meant to be filled by technical experts ?

(c) Such experts were recruited, neither through the Public Service Commission nor with their concurrence before actual recruitment, but by the department concerned, direct from another Government technical office ?

(d) Such candidates were recruited on the clear understanding that they would be confirmed after a six months' probationary period on their giving satisfaction in their work ?

(e) Such candidates, after passing the selection tests, got their services transferred to the new departments in the hope of being confirmed after six months ?

(f) Such posts were abolished during the retrenchment days and the candidates were retrenched on one month's notice ?

(g) No further action was taken by Government either (i) to confirm them in some other posts, or (ii) to find employment for them in some other department, or (iii) to approach the Public Service Commission to register their names for any vacancy in any department in the near future ?

(h) Such technical experts, besides their technical duties, also performed clerical duties ?

(i) No adequate consideration was given to such directly recruited experts?

(j) No retrenchment concession was given, under the Government of India circular, to such retrenched hands?

If so, will Government kindly state their reasons for not giving adequate consideration to such cases so long?

THE HONOURABLE MR. R. M. MAXWELL: Sir, with your permission, I propose to answer questions Nos. 139 and 140 together.

I regret that the information desired is not readily available and could not be collected without an expenditure of time and labour incommensurate with its value.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: May I understand that the answer will be given in a few days?

THE HONOURABLE MR. R. M. MAXWELL: No, Sir. It is not possible to conduct a random search of the records for six years of the different departments referred to in the Honourable Member's question.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: What is the difficulty, Sir?

THE HONOURABLE THE PRESIDENT: He has already said that the labour involved is not commensurate with the value and that his answer is complete. You cannot ask any supplementary questions on it.

NAMES OF CANDIDATES, ETC., RECRUITED FOR THE TECHNICAL POSTS CREATED IN 1930.

140. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Will Government kindly furnish a statement showing:

- (a) Names of candidates referred to in the preceding question?
- (b) Their mode of recruitment?
- (c) Nature of technical work?
- (d) Technical office from which recruited?
- (e) Amount of continuous combined service rendered both in old and in new office?
- (f) Number of times they were re-employed in their own departments; if any, in any subsequent permanent vacancy? and
- (g) Reasons for not confirming in such posts such candidates?

(See reply to question No. 139.)

COMPULSORY RETIREMENT OF GOVERNMENT SERVANTS WHO HAVE ATTAINED 50 YEARS OF AGE.

141. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that Government have under consideration a scheme for making retirement compulsory for those employees who have

attained 50 years of age and have put in 25 years' total service, including temporary and permanent Government service in order (i) to enforce revised scales of pay, and (ii) to provide the retrenched staff and unemployed persons ?

(b) If so, from which date do Government propose to enforce the necessary orders giving effect to the scheme and what amount of pension and what concession, if any, will be given in such circumstances ?

THE HONOURABLE MR. J. C. NIXON : (a) No such question is under consideration.

(b) Does not arise.

EXTENSION OF SERVICE TO GOVERNMENT SERVANTS WHO HAVE ATTAINED 55 YEARS OF AGE.

142. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that Government is contemplating to stop granting extensions to those Government servants who have completed their services ?

(b) If not, why ?

THE HONOURABLE MR. J. C. NIXON : (a) No such question is under consideration.

(b) The attention of the Honourable Member is invited to the reply given to question No. 819 in the Legislative Assembly in February, 1936.

RE-EMPLOYMENT OF PENSIONERS.

143. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that pension holders are being re-employed in a few departments of the Government of India and their Attached Offices ?

(b) If so, the reasons for such re-employment ?

THE HONOURABLE MR. R. M. MAXWELL : Presumably the Honourable Member refers to the re-employment of members of the clerical staff who were thrown out of employment as a result of the general retrenchment campaign of 1931-32. It was decided by the Government of India to re-employ, as far as practicable, such of the retrenched personnel as may be considered suitable for re-employment in order to make good, to some extent, the loss sustained by them owing to retrenchment. They are mostly re-employed on the new scales of pay and in view of their past experience their appointment is considered to be conducive to the public interest.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : May I know whether these pension holders are getting pension at the same time also ?

THE HONOURABLE MR. R. M. MAXWELL : I would like notice of that question, Sir.

RECRUITMENT AND POSTING OF RELATIVES IN A DEPARTMENT OR BRANCH OR SECTION.

144. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Is it a fact that Government committed themselves in the Delhi Assembly Session, 1935, "to issue instructions to all the departments of the Government of India, to the effect that the recruitment and posting of relatives in a department or branch or section should be sedulously avoided" ?

THE HONOURABLE MR. R. M. MAXWELL : Government have not been able to trace any general undertaking in the sense referred to by the Honourable Member.

RECRUITMENT AND POSTING OF RELATIVES IN THE OFFICES OF THE PRIVATE SECRETARY TO THE VICEROY AND MILITARY SECRETARY TO THE VICEROY, AND THEIR BRANCH OFFICES.

145. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Is it a fact that the procedure referred to in the preceding question is not yet followed in the Offices of the Private Secretary to the Viceroy and Military Secretary to the Viceroy and their branch offices ?

THE HONOURABLE MR. R. M. MAXWELL : As stated in my reply to the previous question no undertaking has been given either generally or in respect of the particular offices mentioned by the Honourable Member.

STRENGTH OF OFFICERS IN THE FOREIGN AND POLITICAL DEPARTMENT.

146. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Is it a fact that :

(a) The entire strength of officers in the Foreign and Political Department of the Government of India was only six formerly ?

(b) The present strength on the Political side only is made of the Political Secretary, Additional Secretary, Joint Secretary, Joint Secretary—Federation, Deputy Secretary and Under Secretary ?

(c) Besides these six officers three more officers have been recently appointed for the forthcoming Federation work ?

(d) There are more officers on the Political side than there are branches for which they can be called branch officers ?

If so, what are the reasons for such an abnormal increase in the number of officers ?

THE HONOURABLE SIR BERTRAND GLANCY : (a) Yes, assuming that the Honourable Member refers to the Foreign and Political Department Secretariat.

(b) The present strength of officers in the Secretariat of the Foreign and Political Department whose duties are concerned with the Political side only is three : Political Secretary, Joint Secretary and Deputy Secretary.

(c) Three officers have been appointed by His Excellency the Viceroy for temporary employment as his special representatives.

(d) No.

The last question does not arise.

APPOINTMENT OF A FINANCIAL ADVISER IN THE FOREIGN AND POLITICAL DEPARTMENT.

147. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that a Financial Adviser has been appointed in the Foreign and Political Department of the Government of India ?

(b) If so, will Government state the date of his appointment, the period for which he has been appointed, the reasons for his appointment, and his present pay and secretariat rank ?

(c) Is it a fact that the present Adviser has with the concurrence of the Finance Department already taken another officer to deal with the budget work of the Department ? If so, what are the reasons for extra recruitment ?

(d) Is it a fact that the Political Secretary used to discharge such Adviser's duties, with the assistance of his junior officers and with the help of the Finance Department, the Central Board of Revenue and the respective Agents to the Governor General ? If so, what are the reasons for creating extra posts of Adviser and Assistant Adviser ? Why is not such work distributed among the new additional officers ?

THE HONOURABLE SIR BERTRAND GLANCY : (a) No.

(b), (c) and (d). Do not arise.

APPOINTMENT OF AN INDIAN TO THE CENTRAL CYPHER BUREAU, FOREIGN AND POLITICAL DEPARTMENT.

148. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that an Indian has been appointed in the Cypher Branch ?

(b) If so, will Government kindly state the name of the candidate, the date of his appointment, the mode of recruitment, his present pay and grade and whether he has been appointed against a temporary or a permanent post ?

THE HONOURABLE SIR BERTRAND GLANCY : (a) Yes.

(b) Mr. Bakhtiyar Ali Khan, a permanent clerk of the Foreign and Political Department was transferred to the Central Cypher Bureau in December, 1935. He is at present officiating in the second division on a salary of Rs. 132 per mensem.

NORMAL STRENGTH OF THE CENTRAL CYPHER BUREAU, FOREIGN AND POLITICAL DEPARTMENT.

149. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will Government kindly state the respective strengths of the male and female staff in the Cypher Branch with their various grades ?

THE HONOURABLE SIR BERTRAND GLANCY : The normal strength of the Central Cypher Bureau consists of 15 persons of whom at present ten are men and five women. Their grades are :

One assistant secretary, one superintendent, seven assistants, one stenographer, one second division clerk, and four routine division clerks.

RE-EMPLOYMENT OF RETRENCHED TECHNICAL CLERKS.

150. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that the Government of India has issued instructions to the Public Service Commission to register the names of the following class of retrenched persons only for re-employment :

- (i) Permanent clerks retrenched from offices which recruit through the Public Service Commission ?
- (ii) Retrenched temporary clerks of offices which recruit through the Commission who have qualified at any of the Ministerial Service Examinations held by the late Staff Selection Board or the Public Service Commission ?
- (iii) Retrenched clerks of offices situated at Simla and Delhi which do not recruit through the Commission, who have qualified at any of the examinations mentioned in (ii) above ?

(b) If so, has the Government of India issued any instruction to the Public Service Commission to register the names, at the same time, of the retrenched technical candidates, who were recruited, not on the basis of the above rules and tests, by the departments concerned, but directly, on the understanding that they would be confirmed at the end of the probationary period ? If not, what are the reasons for not doing so ?

THE HONOURABLE MR. R. M. MAXWELL : (a) Yes.

(b) Since recruitment to the technical posts for which these persons are suitable is not made through the Commission, there would have been no object in asking the Commission to register their names. The departments from which they were discharged or other departments requiring persons of similar technical qualifications can re-employ them if they need their services. It would not be possible to absorb them in vacancies for assistants and clerks as their qualifications are different.

RECRUITMENT OF TECHNICAL CLERKS.

151. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Will Government kindly state whether a department :

- (i) Can make direct recruitment to a technical post without consulting the Public Service Commission ?
- (ii) Can give an undertaking to confirm them at the end of the probationary period ?

(b) If so, what are the reasons for the Commission not granting exemptions when requested, and for not registering their names so long after retrenchment ?

THE HONOURABLE MR. R. M. MAXWELL : (a) and (b). If a post has been excluded from the regular cadre of a department on the ground that it requires technical qualifications the department can recruit direct to this post

without consulting the Commission and can confirm the person so recruited if he proves suitable. Persons so recruited are not exempted from the Public Service Commission's examination and are not eligible for posts on the regular cadre of the department which are filled through that examination, but are eligible only for the technical posts which have been excluded from the regular cadre. The reasons for not registering their names for re-employment have been explained in reply to the Honourable Member's previous question.

REPRESENTATION FOR PROVINCES IN THE OFFICES OF THE PRIVATE SECRETARY TO THE VICEROY AND MILITARY SECRETARY TO THE VICEROY.

152. **THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA :** (a) Is it a fact that Government have not so far taken any step to give effect to the question of provincial representation in the Offices of the Private Secretary to the Viceroy and Military Secretary to the Viceroy and their branch offices? If so, why?

(b) Do Government propose to enquire into this matter and to furnish a statement showing the respective numbers of Hindu and Muhammadan employees in the above offices, province by province, serving at present against temporary, permanent and leave vacancies, the province which overwhelmingly predominates there, their reason for not taking into consideration such a question so long?

(c) Is it a fact that, even now, temporary and leave vacancies are filled by Hindu and Muhammadan candidates from one single province? If so, why?

THE HONOURABLE MR. R. M. MAXWELL : (a) to (c). It has on several occasions been explained in this House that the Government of India do not undertake to secure representation for provinces in the services under their control which are recruited on an all-India basis. The attention of the Honourable Member is invited to the replies given to the Honourable Mr. Jagadish Chandra Banerjee's questions Nos. 238 and 239, on the 14th December, 1933, and to the Honourable Khan Bahadur Syed Abdul Hafeez's questions Nos. 161 and 163, on the 27th April, 1934. In view of this, Government are not prepared to take the action suggested.

TYPHOID IN VICEREGAL ESTATE.

153. **THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA :** Is it a fact that :

(a) Typhoid is spreading in an epidemic form in the Private Secretary to the Viceroy's Press quarters, in the Public Works Department quarters under the Viceregal Estate, and in the menial quarters?

(b) Anti-typhoid injections were many times administered to all the employees of Viceregal Lodge?

(c) The Military Secretary to the Viceroy, the Comptroller, the Surgeon and the Sanitary Officer, finding the situation serious, set up an enquiry in this matter?

(d) They came to know that it was due to bad sanitation, very poor accommodation, over-congestion and bad management?

(e) The authorities expressed their desire to make immediate additions and alterations in these old quarters ?

If so, what immediate action Government have so far adopted to remove the difficulties in the matter ?

THE HONOURABLE MR. A. G. CLOW : (a) There were six cases amongst the members of the Private Secretary's Press and one in the inferior establishment. There was no case amongst the members of the Public Works establishment.

(b) A large number of members of the staff were inoculated during the last Delhi season and in the current Simla season.

(c) An enquiry was held.

(d) The enquiry showed that three of the six cases occurred in quarters occupied by large families where there was a certain amount of congestion, and that three of the quarters where typhoid was contracted adjoined each other. It also showed that the sanitary arrangements of the quarters were satisfactory. Typhoid occurred only among the non-inoculated personnel and was probably fly-borne.

(e) The matter is under examination.

EMPLOYMENT OF CANDIDATES WHO FAILED IN HANDWRITING.

154. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA :

(a) Do Government propose to consider the cases of those candidates who appeared in the last ministerial service examination held by the Public Service Commission and secured excellent marks in all subjects except one subject, *e.g.*, handwriting ?

(b) Have Government appreciated their merits and appointed them in a few departments of the Government of India and their Attached Offices in temporary posts where they are rendering satisfactory service ?

If so, will Government kindly state whether such candidates will be offered permanent posts ? If not, why ?

THE HONOURABLE MR. R. M. MAXWELL : (a) No : it is a matter with which the Public Service Commission are primarily concerned.

(b) Candidates who failed in handwriting but secured the requisite number of marks in the aggregate were appointed, with the concurrence of the Commission, to fill temporary vacancies for which qualified candidates were not available. Such candidates are not eligible for permanent appointment.

RULES FOR THE SUBMISSION OF MEMORIALS BY STATE RAILWAY SERVANTS.

155. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : (a) Will Government state whether there are any rules for the submission of memorials by State Railway servants ? If so, will Government be pleased to state whether those rules are applicable to representations and not to memorials to heads of departments ? If not, will Government be pleased

to state whether there are any separate sets of rules for submission of representations by State Railway servants ?

(b) Will Government be pleased to state whether the rules for the submission of memorials and for the submission of representations by State Railway servants are the same as those applicable to the other Government of India servants ?

(c) Will Government be pleased to lay on the table of the House a copy of the rules for submission of memorials and those for the submission of ordinary representations both for the State Railway servants and for the other Government of India servants ?

(d) Is there any rule which debars joint representations by subordinates in one branch or in one department of a State Railway office from being entertained by heads of departments ? If so, will Government be pleased to state the rule ?

(e) If there is no such rule, will Government be pleased to state whether in the Eastern Bengal Railway, and the Great Indian Peninsula Railway head offices such joint representations have been returned to the persons who signed the representations on the ground that such joint representations cannot be entertained and, if so, how many were refused during the last two years ?

(f) Will Government be pleased to state whether such action of the officers was correct ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) The reply to the first part of the question is in the affirmative and to the second and third parts in the negative.

(b) and (c). The rules governing the submission of appeals by non-gazetted railway servants will be found in the " Rules regulating discipline and rights of appeal of non-gazetted railway servants ", a copy of which is in the Library of the House. The rules for the submission of memorials are the same for State Railway servants as for other Government servants and will be found in the Home Department Notification No. F. 6/7/33-II, dated the 19th June, 1933, a copy of which is in the Library of the House.

(d) I would invite the Honourable Member's attention to rule 18 of the Rules regulating discipline and rights of appeal of non-gazetted railway servants and to instruction (6) in the memorial rules referred to in reply to parts (b) and (c) of the question.

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

PROPOSAL FOR RESTRICTING THE OUTPUT OF COAL.

156. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : Will Government be pleased to state whether there was a proposal for the coal raising control in the collieries of the Raniganj, Dhanbad, Jharia and other coal districts ? If so, was the proposal made for the purposes of stopping wastage and unfair competition and for the purpose of raising the general price level of Indian coal ? If so, will Government be pleased to state whether

the coal control proposal has been accepted by Government and, if so, when will the necessary legislation be effected ?

THE HONOURABLE MR. A. G. CLOW : Proposals were made for restricting the output of coal with a view to securing a rise in price. These were rejected by Government. But Government have had under consideration for some time the question of exercising further control over the methods of extracting coal, both to secure a greater measure of safety for those employed and to prevent avoidable waste of coal resources. As I stated in this House on 24th April, they contemplate appointing a committee to advise them on the measures that should be taken. No legislation is likely to be undertaken until after the committee's report has been received and considered.

INAUGURATION OF FEDERATION.

157. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : Will the Federation be brought into existence soon after the introduction of provincial autonomy next year ? If so, will Government be pleased to state whether the Federation will come into being by the beginning of 1938 ? If not, when is Federation expected ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : It is not possible at this stage to make a forecast as to the probable date of the inauguration of Federation.

ISSUE OF ORDERS BY THE POSTMASTER GENERAL, BENGAL AND ASSAM CIRCLE, FOR THE TRANSFER OF POSTAL AND RAILWAY MAIL SERVICE OFFICIALS.

158. THE HONOURABLE MR. H. P. BARUA : (a) Is it a fact that the Postmaster General, Bengal and Assam Circle, has issued orders for the transfer of postal and Railway Mail Service officials who have more than five years' service in one place ? If so, has he got any instructions from Government to do so ?

(b) Will Government be pleased to state whether such orders have been issued in other circles also ? If not, why have such orders been issued especially in Bengal and Assam alone ?

(c) Is it a fact that while making enquiry about the pay and prospects of the postal and Railway Mail Service officials in 1925, Sir Bhupendranath Mitra issued orders to recruit these officials from the revenue districts or divisions and to post them to their own districts or divisions ? If so, why have orders been issued by the Postmaster General, Bengal and Assam Circle, in contravention of those previous orders ?

(d) Is it a fact that nearly 80 per cent. of the officials will have to be transferred in the Railway Mail Service Division if these orders of the Postmaster General are given effect to ?

(e) Are Government aware that the Calcutta University has introduced the system of teaching students in the respective vernaculars of Bengal and Assam from 1937 and that the Railway Mail Service officials will be put to great difficulty in the matter of the education of their children if Bengali officials are transferred to Assam and Assamese to Bengal under the said

orders of the Postmaster General, Bengal and Assam Circle? If so, do Government propose to rescind the said orders?

THE HONOURABLE MR. A. G. CLOW : (a) Instructions have been issued by the Postmaster General, Bengal and Assam, to Superintendents that post office clerks and sub-postmasters should not be retained in the same station for more than five years. I do not know if these orders extend to Railway Mail Service officials. No orders were issued by Government.

(b) I am not aware of any exactly similar orders, but orders of this character relating to clerks in Divisional Offices and some other employees have been issued elsewhere at the instance of the Director General of Posts and Telegraphs. The latter part of the question does not arise.

(c) The reply to the first part of the question is in the negative. The second part does not arise.

(d) As I have stated, I am not aware that the orders apply to the Railway Mail Service.

(e) I am not aware of the Calcutta University's intentions in the matter. The transfer of officials to areas where there are no schools teaching in their own language, though sometimes necessary, would give rise to some difficulty, but I have no reason to suppose that any wholesale inter-provincial transfer is contemplated. As regards the last part, I would refer to the answer I have given to part (d).

NUMBER OF GUARDS RECRUITED FOR THE LAHORE DIVISION, NORTH WESTERN RAILWAY.

159. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Will Government be pleased to state:

(a) The number of guards appointed by the North Western Railway in the Lahore Division by direct recruitment in 1936?

(b) Whether all these guards recruited directly were transferred to the Delhi Division? If so, will Government be pleased to state whether a large number of permanent railway employees from the different grades of service in the Delhi Division of the North Western Railway have qualified themselves as guards after appearing at the necessary examinations? If so, will Government be pleased to state the reasons why these qualified men of the Delhi Division have not been absorbed before men were brought from the Lahore Division?

(c) Whether the seniority of the guards is based on an inter-divisional basis? If so, will Government be pleased to state why qualified men from Muitan Division who are junior to the qualified men in the Delhi Division have been transferred to the Delhi Division as guards?

(d) The number of qualified guards now waiting to be absorbed in the Delhi Division?

(e) Whether these qualified guards qualified themselves along with those of the other qualified guards of other divisions?

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

BLICK STAFSINE MACHINES.

160. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :

(a) Is it a fact that the Railway Department have purchased two time punching machines for noting down the time of arrival and the time of departure of each member of the Railway Department staff ?

(b) Will Government be pleased to state :

(i) The number of men working in the Railway Department for whom these machines have been purchased ?

(ii) What system of checking attendance was in vogue in the Railway Department before these machines were purchased ?

(iii) The cost of maintaining the attendance register per annum and the reason it was given up in favour of these machines ; and

(iv) Whether these machines are from a British factory ?

(c) Is it a fact that some Railway Board officer is interested in the British factory manufacturing these machines ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Yes. Blick Stafsine machines.

(b) (i) Seventeen officers, 137 other staff.

(ii) The usual attendance registers used in most Government offices.

(iii) The cost of a book and part of the salary of the clerk maintaining it, but the machines were adopted as they afford a more effective check than the registers.

(iv) The machines were purchased through the Indian Stores Department. They are manufactured in England.

(c) No.

BLICK STAFSINE MACHINES PURCHASED BY STATE RAILWAYS.

161. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :

Will Government be pleased to state :

(a) How many machines like those in use in the Railway Board have been purchased up till now by the State Railways in India since those machines were first imported into India ?

(b) When was the first machine of the kind imported into India ?

(c) Whether the selling agent of this machine is a Britisher and is related to some officer of the Railway Board either at present working or some one who has just retired and gone to England.

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). Government have no information on these points.

(c) The selling agents are Messrs. Walter Locke and Co. (1933), Ltd., Lahore, but no officer on the Railway Board is in any way related to any member of that firm.

USE OF BLICK STAFSINE MACHINES IN WORKSHOPS AND PRESSES.

162. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Will Government be pleased to state whether :

(a) Time-punching machines are used generally in Government workshops and printing presses where attendance of a large number of men is involved ?

(b) Time-punching machines and a time-keeper is employed in workshops and presses for employees who are paid overtime allowances or for payment according to the number of hours work is rendered ? If so, will Government be pleased to state whether the staff of the Railway Board will be paid overtime for extra hours put in by them or less for lesser number of hours of work rendered ? If not, what is the reason for importing these machines ?

(c) The cost of each of these machines is Rs. 700—or thereabouts and that this money has been spent from the contingent grant without previous sanction of the Finance Department ?

(d) The sanction of the Standing Finance Committee for Railways was obtained before spending the money ? If not, why not ?

(e) The officers of the Railway Board including the Member-in-charge are using this machine daily for keeping a record of their attendance ?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Government have no information on this point.

(b) Allowances for overtime are inadmissible. The machines have been installed for the purpose of checking the times of arrival and departure of the staff.

(c) Previous sanction of the Finance Department was not required. Each machine cost Rs. 336.

(d) The sanction of the Standing Finance Committee was not required.

(e) The Honourable Member in charge of the Department does use the machine. The officers of the Railway Board record on the machine the time of their arrival and departure.

HOURS OF WORK OF OFFICERS AND OFFICE STAFF.

163. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : Is it a fact that generally the subordinate staff in all Government departments and offices puts in more hours of work in office than the officers with higher salaries do ?

THE HONOURABLE MR. R. M. MAXWELL : The reply is in the negative.

LOSS OF INCOME BY THE KALKA-SIMLA RAILWAY DUE TO ROAD MOTOR COMPETITION.

164. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : (a) Is it a fact that owing to road competition the Kalka-Simla Railway is losing income heavily and is being run at a loss ? If so, will Government be pleased to state whether the North Western Railway Administration have done

anything to regain their traffic from the road motor? If so, what are the steps they have taken during the last three years for that purpose?

(b) Will Government be pleased to state the number of rail motor passengers carried by the rail motors on the Kalka-Simla Railway during the last two years and will they be pleased to state the number of pass-holders who used the rail motor of the Kalka-Simla Railway during that period?

(c) Will Government be pleased to state the proportion of the pass-holders who travelled on the Kalka-Simla Railway to the total number of passengers carried on such rail motors during the last two years?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) I would refer the Honourable Member to the reply given by the Honourable Sir Maurice Brayshay to the Honourable Khan Bahadur Dr. Sir Nasarvanji Choksy's question No. 6 on the 17th September, 1935.

(b) 7,670, out of which 3,176½ were pass-holders.

(c) About 41 per cent.

RAISING OF RAIL MOTOR FARES BETWEEN SUMMER HILL AND SIMLA.

165. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: (a) Will Government be pleased to state when and why the rail motor fares between Summer Hill and Simla were raised from 9 annas to 14 annas a trip?

(b) Will Government be pleased to state the earnings from the rail motor passenger traffic between Summer Hill and Simla during the years 1933, 1934, 1935 and in 1936 till July?

(c) Do Government propose to reduce the fares on monthly tickets by rail motors between Summer Hill and Simla? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Passenger fares were reduced over the Kalka-Simla section from 1st March, 1933 as an experimental measure, and the cost of a single journey first class ticket from Summer Hill to Simla was then reduced from fourteen annas to nine annas. As the experiment did not prove successful, the fares previously in force were reverted to.

(b) Earnings from passengers carried by rail motor are not separately recorded. The total earnings from first class passengers between Summer Hill and Simla in 1933 were Rs. 485-1-0, in 1934 Rs. 115-11-0, in 1935 Rs. 160-10-0 and in 1936 up to the end of July Rs. 108-8-0.

(c) No: the basis for charge is the same as between any other two stations on the North Western Railway, and there is no particular reason for differentiating in the fares between Summer Hill and Simla.

NORTH WESTERN RAILWAY BOOKING OFFICE ON THE MALL, SIMLA.

166. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to state whether the North Western Railway Booking Office in Simla on The Mall is self-supporting or is a losing concern? If

it is a losing concern, is it kept open only for the convenience of the European officials ?

THE HONOURABLE SIR GUTHREE RUSSELL : I am unable to understand the Honourable Member's question. The provision of booking offices in large towns away from a railway station is intended to afford additional facilities and conveniences to passengers, and there can, therefore, be no question of any such office being either self-supporting or a losing concern. The latter part of the question does not therefore arise. It will, however, interest the Honourable Member to know that during the months of May to September, 1936, 785 third class tickets were issued from this booking office in addition to over 1,000 tickets of other classes.

FORMATION OF A STEEL MERGER IN INDIA.

167. **THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :**
(a) Will Government be pleased to state whether a Steel Merger Company has been formed in India ? If so, will Government be pleased to state whether Government has recognised such a merger company for the purposes of placing orders for steel and steel materials required by Government and State Railways ?

(b) Will Government be pleased to state the amount of British capital and the amount of Indian capital invested in the company and the ratio each of such capitals bear to the whole capital of the company ?

(c) Will Government be pleased to state the number of Indian shareholders and number of British shareholders in the company ?

(d) Are Government aware that such a merger has been formed for the purposes of unfair competition with other Indian steel companies that are in existence and will come into being and which are outside the merger company ?

THE HONOURABLE MR. H. DOW : (a) Government have seen reports about the proposal in the press. They have not been approached for any concession by the promoters. It is not possible to supply detailed information about the company before it is registered.

(b) and (c). The information is not available.

(d) No.

STATEMENT LAID ON THE TABLE.

PROTECTION OF INDIAN INTERESTS IN PALESTINE.

THE HONOURABLE SIR BERTRAND GLANCY (Political Secretary) :
Sir, I lay on the table the information promised in reply to question No. 7 asked by the Honourable Kunwar Haji Ismail Ali Khan on the 22nd September, 1936.

(a) Yes.

(b) and (c). As far as the Government of India are aware there is no representative of the " Indian Association " in the Supreme Moslem Council, but any complaint submitted by a member of the Indian community is duly considered by the Government of Palestine. The Government of India therefore do not propose to take any action in the matter.

DURGAH KHWAJA SAHEB BILL.

THE HONOURABLE THE PRESIDENT : Raja Ghazanfar Ali Khan, the next item on the list of business is your Bill. You will now proceed with your speech, but I may remind you that you made a very exhaustive speech on the 26th of February, 1936 and the whole proceedings have been reported. It is not necessary for you, therefore, to traverse over the whole ground again, but in a few words you will explain to the House the purport of this Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, at the very outset of my speech I think it would be appropriate that I give a very brief history of this piece of legislation. As Honourable Members are aware, the Bill was first introduced in the last Simla session. It reached the consideration stage in February last and then on an objection being raised regarding the validity of the Bill on the ground that the Governor General's previous sanction had not been obtained, I agreed to withdraw the Bill. On the same day I gave notice of a fresh Bill. And, Sir, here I must acknowledge that you were kind enough to provide every possible facility for this Bill coming before the House before the session was over. I, Sir, further acknowledge the kindness shown by my Honourable friend, the Political Secretary, for circulating this Bill under executive order. This was what I had expected, Sir, after the Government of India had made a technical mistake in writing to me that the Bill did not require the Governor General's sanction.

Well, Sir, this new Bill was introduced some time in March last and six months have now passed. So much has been written about this Bill in all the papers all over India, whether English or vernacular, that it would be hardly necessary for me to give the details. It is a matter of gratification, Sir, that the Bill has received universal support. I have not come across a single opinion expressed by either any Local Government or any public body who are opposed to the principle of the Bill. Of course, certain suggestions have been made with regard to the changing or amending of certain clauses. But everybody agrees that the state of affairs now prevailing in Ajmer requires to be eradicated.

Now, Sir, as you very kindly remarked, I made quite an exhaustive speech in connection with the last Bill, therefore I have no intention to detain the House on that point ; but to refresh the memory of Honourable Members I will very briefly narrate the short history of this greatest holy place of Muslims in India, in regard to which this Bill has been brought forward. The Durgah is the greatest Muslim centre and the Durgah Khwaja Saheb of Ajmer is regarded with the greatest veneration by high and low alike. The Saint hailed from Seistan and was universally venerated for his piety. The Kings of Malwa, the Moghul Emperors of India, and lately, the Nizam of Hyderabad, and other Muslims have contributed to the building of the dome, mosques and other structures in the Durgah. The Durgah was first endowed by King Akbar the Great in 1567. But, Sir, as I know my Honourable friend, Colonel Nawab Sir Mahomed Akbar Khan, who we all know is a great authority on history and religion, will be able to throw more light on this aspect of the subject, I pass on to my next point.

Sir, from the very commencement of the Durgah, the property remained under the direct management of the Moghul Emperors. They used to issue *farmans* appointing mutawallis and also giving instructions as to how the property should be managed. In 1818, the Collector of Ajmer, when the British occupied the territory, took charge of the management of the Durgah and up to 1863 the Durgah was managed by the Collector of Ajmer through a manager. Then, Sir, some agitation was started in England that it was not a wise policy for the British Government to interfere in the management of religious places and the result was that the Religious Endowments Act of 1863 was passed according to which an inquiry was to be made whether a particular religious place was managed by a hereditary mutawalli or manager or a non-hereditary one, and it was decided that in those places where the mutawalli was not hereditary a committee should be appointed to make arrangements. This committee was appointed in 1866. Sir, the constitution of the committee and how the election takes place is, I am sure, fresh in the memory of Honourable Members. The period of membership is lifetime, and the method of election is that whenever one member dies, the other members put up a notice that all those people who are interested in voting should reach a certain place by 12 noon. When they are collected there, the members of the committee stand outside the gate and every single voter passes and records his vote. The votes are then counted and the man who obtains the largest number of votes is declared elected. The committee consists of five members, the mutawalli, the sajjadanashin, two khadims and one independent Muslim from Ajmer. It is also laid down that the independent Muslim should always be the president of the committee. Sir, for the last several years, unfortunately, this shrine has been the resort of civil suits, litigation and various quarrels, with the result that the management of this great shrine has deteriorated to a very great extent. It was noted some time ago by the officers on the spot, the District Magistrates of Ajmer, that things in Ajmer regarding this Durgah management were unsatisfactory and that something should be done. I would remind Honourable Members that if there is any party who can be called responsible for my bringing forward this measure, it is the Government officials, particularly the Political Department. I had no intention of meddling in the affairs of a Durgah which is situated at such a long distance from my own residence, but when I read the opinions expressed by such unbiassed and impartial officers whom I knew personally, and for whose opinions I had great regard, I thought I must bring forward this measure. Sir, I would appeal to all Honourable Members here, whether they be Muhammadans or non-Muhammadans, whether they be officials or non-officials, kindly to listen carefully to the extracts which I am going to read. I am reading from page 8 of the small pamphlet circulated to Honourable Members, entitled "*What Indian Mussalmans and Provincial Governments in India think of the Durgah Khwaja Sahib Ajmer Bill*". Mr. E. B. Howell, District Magistrate, Ajmer, writes in the course of a judgment :

"I cannot refrain from the comment that this case presents a striking picture of the management of the Durgah, the holiest Muhammadan shrine in India, which, if anything, might have been expected to enjoy some degree of immunity from the unbridled rapacity of its attendants. But with a manager slovenly careless and unbusinesslike to the last degree, besides being by no means above suspicion in the matter of honesty, the greedy hordes of his underlings have matters all their own way. And if the great one to whom the

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shrine is dedicated can still take cognisance of mundane matters he must contemplate with profound melancholy the degeneracy and incompetence of his modern representatives ”.

Sir, this is an opinion expressed by an impartial judge, an officer who lived in Ajmer for a number of years and who had personally to deal with the various quarrels arising between the various members of the committee and the management.

Then, Sir, the late Sir Charles Watson, whom I am sure most of the Honourable Members present here know, wrote in one of his judgments :

“ I share the opinion of my predecessors that the present constitution of the Durgah Committee is lamentably ill-fitted to secure the conservation of the shrine in the interest of the worshippers as a whole. Past experience has shown that the president, who is the only independent member, is powerless in the face of combinations among and quarrels between the other members who are more interested in securing profit to themselves than in using the revenue of the shrine for the charitable and religious objects demanded by an enlightened public opinion. The remedy is to have the Notification of 1867 and Act XX of 1863 amended by legislation ”.

Sir, this was written, I think, some time in 1923 or 1924. Twelve years have elapsed. One would expect that the Government would themselves take the initiative in the matter. But I regret, Sir, that the Government followed the old, old policy of just confining their activities to matters which concern the administration directly and not taking any steps towards improving the social or religious conditions in this country. I do not know, Sir, what attitude the Government are going to adopt today towards my Bill which, as I have proved, was brought at their instance? But from what I can judge from the symptoms, they are still suffering from that old disease of caution and being careful not even to help or co-operate in bringing forward or encouraging any social legislation.

THE HONOURABLE THE PRESIDENT : Why do you say that the Bill was brought at their instance ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Because, Sir, Sir Charles Watson said that the only remedy was to have the Act of 1863 amended by legislation.

THE HONOURABLE THE PRESIDENT : That has nothing to do with Government.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : Local conditions then were different.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Then I will remind the Honourable the Political Secretary that the Muhammadans of Ajmer submitted a Durgah Bill to the Agent to the Governor General at Rajputana. The Agent to the Governor General forwarded that Bill to the Government of India and the Government of India wrote back that the initiative should be taken by some private individual.

THE HONOURABLE THE PRESIDENT : That is quite different.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That is exactly my point. It is the duty of the Government to help in removing the evils

which prevail in this sacred and holy place. It is more so when the Government have already interfered in such religious matters. If no Act were applied to the Ajmer Durgah, if the Durgah at Ajmer were managed by some private individuals or some private body, I would certainly have said that the Government are justified in saying that this matter should be left to the private members. But when the Government have already applied their Act of 1863 to it and the present committee is appointed by the Government themselves under the terms of that Act, then is it not the duty of the Government, when their officers have discovered that this Act is defective, to take the initiative and try to mend matters? However, Sir, when Government have now read the opinions expressed by the various Local Governments and various Muslim Associations I do expect that they would help me in getting this Bill through.

Now, Sir, I will not at this stage discuss the various clauses of the Bill. I will just confine myself to reading one or two opinions expressed by authorities who have a direct knowledge of the administration. The Agent to the Governor General in Rajputana says there is a strong body of opinion in favour of the Bill and only a minority who are interested are opposed to this Bill. He says :

“ The mutawalli, who is the head of the khadims, a body consisting of some hundreds of persons, contends that Muhammadan law, the *farmans* of the Moghul Emperors and decisions of civil courts alike require that the post should be hereditary. But the fact remains that it was not hereditary originally although it may have become so. The mutawalli's present legal position is however really irrelevant to the consideration of the present Bill, for whatever that position may be, there is no doubt that if this Bill becomes law, his position then will not be a hereditary one and he will not be a member of the committee of management. It is evident that hereditary managership is not conducive to efficient management. Moreover, if the management of religious property is hereditary in a family there must be inevitably a tendency in course of time for the members of that family to regard the property as their own ”.

Now, that is the opinion expressed by the present Agent to the Governor General in Rajputana. Then, Sir, the president of the present committee, Khan Bahadur Abdul Wahid Khan, strongly supports this Bill. Certainly, nobody could be in a better position to give an opinion about the management of the committee than the president of the committee himself. In view of these opinions I would appeal to Honourable Members to help me in getting this important Bill passed. Sir, I remember that in the Punjab Council when the Sikh Gurdwara Bill was brought His Excellency Sir Malcolm Hailey declared that the policy of the Government should be to help the communities who want to improve the management of their religious places. I would here remind my Honourable friends who are non-Muslims that when this Gurdwara Bill was brought forward there was not a single Muslim Member of the Punjab Council who did not support it. They said, we in this country cannot possibly desire to get separate legislatures for Hindus, Sikhs, and Muslims. Sometimes questions will come up which concern the Muslim community alone; at other times some measure will come up which concern the Parsi community alone, and so on. And if Members who belong to communities other than the one which happens to be concerned remain indifferent towards the fate of such measures, then I am sure we will not be honestly performing the duties which we are required to perform on being elected to this House. I would

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appeal to all Members to consider the matter in a judicial spirit, to weigh the merits of each clause and to record their votes in accordance with their conscience. I am sure that my Honourable Muhammadan friends will support this Bill and I may assure them that all the amendments which I consider reasonable and fair I will have no hesitation in accepting.

Sir, with these words, I commend the Bill to the Council.

THE HONOURABLE SIR BERTRAND GLANCY (Political Secretary): Sir, may I say one word about the attitude of the Government as regards this Bill. Government have got every sympathy for the welfare of the Durgah Khwaja Saheb, but they think that any questions relating to changes in its management should appropriately be left to those who are more directly concerned in Durgah affairs. The attitude of Government as regards this Bill is therefore strictly neutral.

THE HONOURABLE THE PRESIDENT: Honourable Members, I am now in possession of the list of amendments that have been proposed to this Bill to be moved today. It is necessary, therefore, before I allow a formal debate on the Bill itself, to dispose of some of the amendments. There are three descriptions of amendments. One set wish to refer the Bill to a Select Committee; another to circulate the Bill for eliciting public opinion; and the other to effect modifications in the clauses of the Bill. As regards the amendments for circulation, in view of the fact that Government have already circulated the Bill for public opinion and opinions have been obtained from all classes and especially from Local Governments, I consider this a dilatory Motion and I do not propose to allow amendments under this head.

Then, as regards reference of the Bill to Select Committee, I have received this morning an amendment from the Honourable Mr. Suhrawardy on the same lines as the amendment of the Honourable Saiyed Mohamed Padshah Sahib Bahadur who, I was informed by Mr. Suhrawardy, was ill, but I find that he is in his seat here today.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I was not well yesterday.

THE HONOURABLE THE PRESIDENT: Then it is not necessary for me to consider Mr. Suhrawardy's amendment, and I will ask the Honourable Saiyed Mohamed Padshah Sahib Bahadur to move his amendment but to confine himself strictly to the amendment and not deal with the main Motion. Because if the amendment is carried there will be no need to discuss the main Motion, and if it is defeated I will allow a full dress debate on the original Motion.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: I propose not to move my amendment about reference to Select Committee. Since sending in my amendment there has been some discussion between some of us and the Honourable mover and we have come to an agreement in regard to the Bill.

THE HONOURABLE THE PRESIDENT : I am not concerned with your agreement but wish to know whether you propose to move the amendment or not ?

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : I do not propose to move the amendment as regards the Select Committee. But, with your permission, Sir, I would like to make some observations regarding the Motion before the House.

THE HONOURABLE THE PRESIDENT : That you can do at a later stage. The Honourable Mr. Suhrawardy.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY : Sir, I thank you for the courtesy shown in allowing me to speak on the floor of the House. I do not understand why my friend, the Honourable Saiyed Mohamed Padshah Sahib Bahadur, has adopted a new policy today. It is a shameful matter for the Muhammadans.

THE HONOURABLE THE PRESIDENT : Order, order.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY : Sir, we agreed that this Bill should be referred to a Select Committee.

THE HONOURABLE THE PRESIDENT : Please do not make any reference to what was agreed outside this House or use any unparliamentary language.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY : I should like, with your permission, Sir, to move my amendment. It is identically the same.

THE HONOURABLE THE PRESIDENT : I will give my ruling presently.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN (United Provinces : Nominated Non-Official) : Sir, on a point of order. The amendment proposed by my friend Mr. Mahmood Suhrawardy is an amendment to an amendment of the Honourable Saiyed Mohamed Padshah Sahib Bahadur.

THE HONOURABLE THE PRESIDENT : Order, order. He has not yet moved the amendment. When I allow him to move it and when he moves then you can raise the point.

In the circumstances stated by the Honourable Mr. Suhrawardy, I think it is only fair on my part that I should allow him an opportunity of moving his amendment, particularly as the opinions which are given on the paper and which I have read are of great importance, complexity and are capable of wrong interpretation. It is only fair therefore that I should allow the Honourable Member to move his amendment, especially as it was understood that the Honourable Saiyed Mohamed Padshah Sahib Bahadur would move it and I should not like the Council to be deprived of the opportunity of referring the case to a Select Committee.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY : Mr. President, I thank you for the courtesy and the justice you have done to me in allowing me to move my amendment, which is of all-India importance and which affects the Muslims all over India.

THE HONOURABLE THE PRESIDENT: Will you please read the amendment first ?

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Very well, Sir.

“That the Bill be referred to a Select Committee consisting of (the names of the members to be mentioned here)——”

THE HONOURABLE THE PRESIDENT: Will you please mention the names !

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: The Honourable Rai Bahadur Lala Ram Saran Das, Khan Bahadur Abdul Halim—— (Sir, I accept the names which the Honourable Saiyed Mohamed Padshah Sahib Bahadur has supplied.)

THE HONOURABLE THE PRESIDENT: I have not got the list here. You have not given me the list.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: I am going to supply the list. I will read out the names.

THE HONOURABLE THE PRESIDENT: You can read out the names and immediately give the list to me.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: The Honourable Sir Bertrand Glancy, Mr. Shavax A. Lal, Rai Bahadur Lala Ram Saran Das, Khan Bahadur Abdul Halim, Sir David Devadoss, Raja Ghazanfar Ali Khan, Nawab Sir Mahomed Akbar Khan, Nawab Sir Hayat Khan Noon, Khan Bahadur Shams-ud-Din Haidar, Kunwar Haji Ismail Ali Khan, and the mover.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: On a point of order, Sir. In accordance with the Standing Order and the practice here, anybody who proposes the names of members of a Select Committee should take their consent first whether they are prepared to serve. I can assure you, Sir, that the Honourable Member has not taken my consent. He has not asked me and I have not given my consent. I refuse to give it. Similarly, he has not taken the consent of any Honourable Member whose name he has mentioned, and I am sure they are not prepared to serve on the Select Committee.

THE HONOURABLE THE PRESIDENT: The point of order is quite correct. There is no doubt that an Honourable Member who proposes names of members to a Select Committee must take their consent. There is no Standing Order to that effect, but it is the general practice. But in regard to yourself (Honourable Raja Ghazanfar Ali Khan) he has done you the courtesy as the mover of the Bill. Your objection on that score does not stand. Certainly, I am not aware whether other Honourable Members whose names he has mentioned have consented to serve on this Select Committee or not. If they have not consented to serve on the Select Committee, you cannot include their names.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I have not given my consent to serve on the Select Committee.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON (Punjab : Nominated Non-Official) : Nor have I given my consent.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : No, Sir, I have not given my consent.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : No, Sir.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (to the Honourable Rai Bahadur Lala Ram Saran Das) : You were not in your seat and therefore I asked your Deputy.

THE HONOURABLE THE PRESIDENT : And Sir Phiroze Sethna ?

THE HONOURABLE SIR PHIROZE SETHNA : No, Sir, I have not given my consent.

THE HONOURABLE THE PRESIDENT : All the Honourable Members whom you proposed to ask to serve on the Committee are not willing. Under the circumstances your amendment cannot be moved. The debate will proceed. I do not propose to allow the other dilatory Motions to be moved. The debate will therefore proceed on the main Motion.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : Sir, before proceeding to discuss the Durgah Khwaja Saheb Bill I would like to discuss and give a brief history of the wakf property and how it came to be recognised in Islam. Sir, Islam is no new religion. It is a mistaken view of some of the Christian missionaries and of the other religious authorities to say that Hazrat Mohammad originated Islam. Islam is as old as mankind. From Adam down to the Grand Patriarch Hazrat Ibrahim, the religion of Islam remained and it was called Hanifia, and a Muslim in those days was called Hanif. The first charitable endowment in the world was the dedication of a certain land by Hazrat Ibrahim, the Grand Patriarch, and his son Ismail in the name of the Invisible Almighty God, the strip of land called Kaba in Mecca. The Temple of Jerusalem was built by Hazrat Sulaiman, the son of Hazrat Daud, *i.e.*, Solomon, the son of David, at about 1000 B.C. Hazrat Ibrahim, together with his son Ismail dedicated the Kaba or the Temple of Mecca about 4000 B.C., so the Temple at Jerusalem is at least 3,000 years after the first wakf and dedication of Kaba to God Almighty. After a long study of Indian history and the history of Persia, I can boldly say that Ramesh Chandra Dutt in his history of India clearly says that no temple to worship God was ever established in India before 3000 B.C. On the other hand the civilisation of Persia is much older than that of India and even in Persian history no trace can be found of any temple or place of worship before 3500 B.C. So, Sir, I can prove it that the Kaba in Mecca is the oldest dedication of land to God and is supposed to be the oldest wakf in the world. As I have previously said that Islam is as old as the creation of the first human being in the world and the dedication of Kaba by Hazrat Ibrahim is undoubtedly the oldest wakf and the temple of God for His worship.

The word Hanif, the religion of Hanifia, or Hunafa, means the people who follow the right path. Islam means submission to the right path. In fact Hanif or Hanifia and Islam are synonymous words in the Arabic language for

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the people following the right path. We Mussalmans claim that from Adam to Ibrahim every Muslim in those days was called Hanif worshipping the one Invisible God. Hazrat Mchammad purified the Hanifia religion and the Kaba, that is, the first temple and first strip of land dedicated to God Almighty for His worship as a temple, to the form of the days of the Grand Patriarch Hazrat Ibrahim and his son Ismail. Sir, I am mentioning these facts for the benefit of the non-Muslim Members of this House, so that they might be able to judge aright the present case.

Secondly, when I speak on this subject, I do so because the Afghans were the first people who brought the Muhammadan religion into India in the days of Subaktagin and Mahmud of Ghazni in the Tenth and Eleventh Century A.D. Amir Mohlib's conquest up to Multan and Kassim's conquest of Sindh past like a whirlwind without leaving any trace of Muhammadanism behind it. The advent of Muhammadanism came into India through the source of the Afghan population, both by preaching as missionaries and the crusade called *jihad*, and hence every Afghan recognises himself to be the custodian of this religion in India. As I spoke two years ago in my well-known address, "The Islamic Influences in Europe and the World", at the Anjuman-i-Hemayatul Islam, Lahore, a pamphlet of 250 pages, which most of the Muslim Members of the present Legislature must have studied because the Anjuman-i-Hemayatul Islam, Lahore, distributed it freely in India and in that lengthy address of mine I proved it full well that no Arab preacher or lawgiver ever came to India to preach Muhammadanism here. All the Muhammadan Saints that came to India were people from Afghanistan and they devoted their life to the upliftment of humanity spiritually. They are commonly known as Sufis and with regard to Sufism in Islam I would like to explain to the non-Muslim Members of this House that renunciation of the world together with complete seclusion and a continual system of worshipping God, wholly devoting oneself to the worship of Almighty God and leading a quiet and pious life is called Sufism in Islam. There are four schools of thought of Sufism in Islam and these are: (1) Qadaria, (2) Chishtia, (3) Naqashbandia, and (4) Suhrawadia. A Sufi in Islam represents the Rishi of Hinduism, or the Guru of Sikhism and the Saint of Christianity, such as Vishva-Mitar, Jamadagni Kashap-Rishi, Valmaki, Mahatma Buddha, Sri Guru Baba Nanak Sahib, Guru Ramdas Ji, Guru Amardas Ji, Saint Anthony and Saint Augustine. To a Sufi or a Rishi, a Guru and a Saint there is no difference between any two religions, for they are not at all concerned with the conversion of anybody but are always exerting for the upliftment and betterment of humanity spiritually. Khwaja Moinuddin was a Sufi of the Chishtia school which got its origin from a village named Chisht in the Herat district in Afghanistan. All the Muhammadan law Commentators were mostly people from Afghanistan and Central Asia and even now the Afghan population of the Frontier and Afghanistan is supposed to be the most learned and well versed in Muhammadan law throughout the Islamic world.

Khwaja Moinuddin Chisthi, a resident of the village Chisht in the Herat district, came with Mohamed Ghauri in his well-known crusade or *jihad* of 1192 A.D. After disposing off the forces of Rai Pathora or Prithvi Raj in the battle

of Thanaser, Mohamed Ghauri entered Delhi and appointed one of his slaves named Qutbuddin Abeck as his viceroy in India. He gave over the Raj of Ajmer to the son of Prithvi Raj after the death of Prithvi Raj, but as the son found it difficult to acquire the suzerainty of Ajmer, Mohamed Ghauri with Khwaja Moinuddin Chishti hastened to his relief and established him there as the Raja of that place. On his return, Khwaja Moinuddin refused to go back to Afghanistan and undertook the work of a Muslim Sufi at Ajmer. As an Afghan Mussalman and keenly interested in the knowledge of history, I know more about the arrival of the Khwaja Saheb in India and for the information of the Honourable Members I would like to state that he was born at Chisht in 536 A.H. corresponding to 1117 A.D. He migrated to India in 611 A.H. corresponding to 1192 A.D. and died intestate in 633 A.H. corresponding to 1235 A.D. He did not bring his family with him to India, nor did he marry here because at the time of his migration to India he was nearly 75 years old. He died at the advanced age of 97 years, working for the spiritual upliftment of the people of this country for nearly 22 years. There are no direct descendants of his anywhere in India according to Tabqat-i-Nasari of Minhajussaraj and this historical fact is further supported by Allama Abul Fazal in his well-known book, *Akbar Nama*, Volume II. Although Shaikh Hussain, an ancestor of the present Diwan Saheb of the Durgah Khwaja Saheb claimed to be a descendant of the Khwaja Saheb in the reign of the Moghul Emperor Akbar with the result that Akbar deputed his minister Abul Fazal to enquire into the genuineness of this descent of Shaikh Hussain. The finding of the inquiry in the actual wordings of Allama Abul Fazal was that :

“ Bād az pairavi bisyar mālum shud ki dāvai-farzandi hāch ael nadāsht ”.

I am quoting this from memory because I have not the book with me and this quotation means that after a good deal of investigation and exertion this descent seems to be of non-existence. Subsequently, Mullah Abdul Qadar of Badayun in his well-known history, *Muntakhib-ut-Tawarikh*, says that although it is rumoured that the Khwaja Saheb had left descendants but, honestly speaking, there are no descendants of his as he died intestate. Well, Sir, I have the authority of Tabqat-i-Nasari, Akbar-Nama and Muntakhib-ut-Tawarikh, all of the one opinion that there do not exist any direct descendant of Khwaja Saheb in India. On the other hand the khadims and mutawalli claim their descent from Khwaja Fakhruddin Gardazi. Gardez is another village in Afghanistan and they claim that Fakhruddin Gardazi was a disciple and deputy of the Khwaja Saheb. But historically I am not in a position to verify this descent also. To the best of my information the Khwaja Saheb died childless, but if there is any descendant of his, he is not entitled to any share in the wakf of Durgah, because the wakf, *i.e.*, Khwaja Saheb, never left any will.

What is my own historical knowledge about this wakf is that Khwaja Moinuddin Chishti took up his abode first on the hill which overlooks the Daulatbagh and subsequently at the Tripolia Darwaza where he lived up to the advanced age of 97 years. After his death people began to make pilgrimages to his tomb. The Durgah was commenced in the time of Shamshuddin Altamash and it was enlarged in the time of Giasuddin and in the reign of Akbar a mosque was built. Shahjahan built the present marble mosque. An Urs began to be held at the tomb for six days during the month of Rajab for it is

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uncertain on what day he died. Offerings began to be offered at the shrine which were divided between the diwan and the khadims. The Durgah was first endowed by Akbar and the first sanad on record is one of that Emperor of the year 1567 granting 18 villages and one per cent. on the sale of salt at Sambhar as *Wakf-i-Langar-i-Mazar*, *i.e.*, "as a charitable endowment to the shrine". Of these villages only two, that is Nabab and Kanea, are now in the possession of the Durgah. In the tenth year of his reign, *i.e.*, 1637 A.D., Shahjahan cancelled the old *farman* and gave a new jagir of the annual value of Rs. 25,780. Of this amount Rs. 10,057 was to be granted in cash and the remainder Rs. 15,723 was the estimated rental of 17 villages, *i.e.*, Nabab, Parbatpura, Chandsain, Khwajpora, Kayar, Massena, Birwae, Koraree, Khyria, Pecholean, Tillora, Kishanpora, Hokran, Kanea, Raila, Kotree and Arnea. According to the sanad this grant is made as

"*Waqf-i-raozai munawwara muqaddassa sarf-ul-urs wa langar-o-roshnai wa farsh-o-gul-o-arbabi-masjid-o-wazaif ashabi-istihqaque wa hifaz wa sadr-ul-warid wa sair wa wajh-al-khairat wa mabarāt*".

Farukhsair added Budhwara and Dautra to the grant of 17 villages named above. It holds therefore 19 villages of which 16 are in British territory but including Kadampore which was separated from Nabab before the present measurement, it holds 17 villages in the Ajmer district. Of these 19 villages, 14 belong to the first class, three to the second, and so on. In the year 1769 Shah Alam issued a *farman* granting Hokran, Kishanpora to the Diwan Syed Imanud Din. In 1802 Daulat Rao Scindia granted Dantra, to Mir Azimullah Mutawali "*Baiwaz Roziana Mutawalli*", *i.e.*, for daily maintenance of the mutawalli. The annual value of Hokran and Kishanpora on an average of ten years collections is Rs. 3,534, that of Dantra Rs. 3,544. In this place it will be better for me to give the definitions of all the three classes of jagirs granted in regard to the Durgah. These are as follows :

1. (a) Endowments of the institution themselves.
- (b) Endowments of offices connected with the institution.
2. Grants to individuals.
3. Grants to corporations of which no name is specified in the grants.

This wakf is meant for the sacred shrine to be spent on lighting, carpeting floor, flowers, at oblations, hospitality to the congregation of the mosque, and to the pilgrims. Stipend to deserving persons such as the Reciter of the Koran, and stipulation to important pious persons engaged in wazaif, and other charitable purposes.

The cancellation of Akbar's *farman* of 1567 A.D. by Shahjahan is quite illegal and unauthorised in Muhammadan law because a wakf once made by a person cannot be cancelled, changed or substituted by another, and hence Shahjahan had no authority to cancel the wakf of his grand-father Akbar. It is therefore desired that the 16 villages taken by Shahjahan from the wakf of Akbar and the income of one per cent. sale of salt at Sambhar should be restored to the Durgah.

Now, Sir, it is claimed by the Diwan Saheb and most probably by the mover of this Bill that the village of Arnea, Raylon, Kotri and Sampdara situated in Udepur State, are leased out to some Thakars there. On the other hand, the mutawalli's party claim that there are certain villages administered by the Diwan Saheb as his personal property. Well, Sir, I must warn both the parties that wakf property is wakf property and that there can be no adverse possession of it and also that there can be no encumbrance on it. It can never be the personal property of anybody both according to the Muhammadan law corresponding to the existing British law by which we are administered at present. Because the Sikhs had a certain property in Pir Kali near Nowshera dedicated to Bhai Phula Singh Akalis' shrine, and certain Pathan individuals bought that property. The Sikh Gurdwara Committee brought a suit against them and the Judicial Commissioner, North-West Frontier Province, Mr. Barton (who eventually retired as Sir William Barton from the post of Resident of Hyderabad), decided that no adverse possession or sale of any wakf or charitable property can be valid and legalised under any court and hence the vendees must suffer for their indiscretion in buying such charitable and wakf lands.

Now, Sir, the controversy between the diwan (sajjada-nashin) and the mutawalli (guardian) of this shrine or Durgah is no secret from anybody.

11 A. M. Both of these factions tried to see me at Hoti and even here at Delhi, and I have heard both the parties very patiently. My reply to both of them was that as I am an Afghan Mussalman I will not take sides with any of them. As the Durgah belongs to a resident of Afghanistan my judgment on this question will be quite an impartial one. But, Sir, the difficulty is that each side, *i.e.*, the diwan supported by the Honourable Raja Ghazanfar Ali Khan are both of the one and same opinion that the post of mutawalli (guardian) is not an hereditary one; on the other hand, the mutawalli in his book and pamphlet calls himself the hereditary mutawalli. The question is how the present aukaf originated, whether the donors or wakfs gave it to the Durgah nominating the mutawalli's ancestors to be hereditary, or during their life, or temporary mutawallis, for a certain period. Unless one can see the old Persian sanads or true copies of them, it is impossible for us here to decide one way or the other. To my mind the best course will be that the matter should be placed before a Board of Ulemas consisting of Jamiatul-Ulema, Deoband, Nadwah and one or two Ulemas of the North-West Frontier Province and all the sanads and other necessary papers placed before them, so that the unanimous school of the Hanafi sect called Sunatul-Jamat should pass a valid verdict on it. At the same time it cannot be definitely said how much of this wakf was donated in the lifetime of Khwaja Saheb for his mission and how much after his death by various Afghan rulers of India until its conquest by Babar in the year 1526 A.D. To the best of my information some thing was given by the Emperor Akbar and the greater portion of it was added by Shahjahan. What was given by his successors or the various Rajput Chiefs and Rajas is not known to me, and unless we know something about their respective sanads it is impossible for us to form an opinion on this subject.

Anyhow, as far as my knowledge goes, a wakf property is meant for a certain class, if the donor (wakf) intend to do so, and when that particular

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class becomes extinct the property is for the general public of the Mussalmans, and is supposed to be the property of God Almighty to be administered for the benefit of the Muslim community at large. No adverse possession of a thousand or two thousand years of it can ever have its force on wakf lands and no king or ruler can give the wakf property to anybody against the donor's will. If the original donor (wakf) gave the property to the Durgah it is wakf land and no judgment or sanad of any sort can make it the personal property of anybody. The question of wakf, Sir, is the patrimony of the Mussalmans from the days of the Grand Patriarch Hazrat Ibrahim known in Europe as Abraham who flourished about 4000 B.C., and the solution of wakf lands is a very simple matter for a Mussلمان knowing Muhammadan law, if the attested copies are produced for his study. Every Frontier Afghan is bound to know something about Muhammadan law and it is an acknowledged fact even nowadays that our Ulemas know the Muhammadan law much better than the rest of the Muhammadan world. The perusal of the attested copies will enable the Frontier Ulemas, within an hour, to pass the proper verdict on this controversial subject. Someone, I do not know has sent me a booklet in Urdu containing the Fatwas of (1) Maulvi Abdul Hanan of Hoti, a prominent Maulvi well versed in Muhammadan law, (2) Sahib-i-Haq of Rajjar, another Maulvi of undisputed reputation in Muhammadan law on the Frontier, and (3) Mufti Kafaitullah Sahib of Delhi. All of them are unanimous as to the removal of the mutawalli provided he is not performing his duties honestly and faithfully as laid down in the original wakfs. Well, Sir, to convict the mutawalli on a charge of dishonesty or unfaithful discharge of his duties is the office of a Judicial Court and not a layman like myself, but what I want to ask the Honourable the mover of this Bill is to have the mutawalli or his nominee on the committee also as an ex-officio member like the sajjadanashin, for after all it is not fair in the opinion of any impartial person to condemn the mutawalli in this manner without proving his irregularities in a regular Judicial Court. It is, therefore, that I have tabled an amendment with regard to the composition of the committee desired to control the Durgah affairs, providing its membership for the mutawalli or his nominee for the time being. Since the Durgah of the Khwaja Saheb is a sacred place for the Hanafi sect of Mussalmans all over the world, it is further desired that the committee in question should have the representatives of other parts of this country besides Ajmer. With this object in view I propose that it should have three representatives of the Central Legislature, one from the Provincial Assembly of the North-West Frontier Province and Bombay Presidency, one from the Muslim University, Aligarh, and one nominee of His Exalted Highness the Nizam of Hyderabad, thereby increasing its membership to 16 instead of nine members as proposed in the Bill under consideration. I hope this arrangement will satisfy every reasonable person and both the sajjadanashin and the mutawalli, but in case its experience of work is found disagreeable to anybody, of course it is always open to anyone to bring a modifying Bill later on.

As regards my amendments I will move only two of them, *i.e.*, regarding 2 (4) (e) and clause 21. The rest I leave to my Honourable friends Saiyed Mohamed Padshah Sahib Bahadur and Kunwar Haji Ismail Ali Khan.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, before I make my observations on the Motion before the House I should like to express my deep sympathy with my Honourable friend, Mr. Mahmood Suhrawardy, for the disappointment which he has suffered for having been deprived of the opportunity of reading the speech which has been prepared for him. Sir, my Honourable friend, in his short and sweet speech that he just made has expressed his deep concern with the matter that is before the House.

THE HONOURABLE THE PRESIDENT : Order, order. We are now dealing with the Bill. You need not deal with what Mr. Suhrawardy said.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Your are Madras, I am Bengal!

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : He made an unjustified attack on some of us. This is to explain my position. He vehemently denounced some of us.

THE HONOURABLE THE PRESIDENT : Order, order. There is no necessity to explain the position at all. Will you please proceed ?

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : I bow to your ruling, Sir, and leave the matter at that.

Sir, Honourable Members will remember that I opposed this Bill when it was introduced in the last Delhi session. I did so, Sir, not because I was opposed to the object for which the Bill was said to have been introduced but because I felt that the Bill as presented to the House was one which did not completely give us the assurance that the objects which were intended to be achieved by the Bill could be expected to be encompassed by it. It was for this reason that I opposed the Bill on that occasion. However, I am now, as I even then was, in perfect accord with the object of the Bill.

THE HONOURABLE THE PRESIDENT : There is no apology needed for your conversion !

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : I have got to explain my position, Sir. I have got to take quite a different attitude now.

THE HONOURABLE THE PRESIDENT : You can take any attitude you like. No apology is needed.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : There is no need for any apology but I owe a duty to the public at large because the public knows that I opposed the Bill on the last occasion. They ought to know the reasons which prompted me to oppose this Bill then and the reasons which now induce me not to oppose it and to suggest constructive methods by which the Bill could be improved and passed by this House. Well, Sir, I had to oppose it because the Bill as it is, contains provisions of a very contentious character. From the opinions that have been circulated to us it is apparent that there are very strong and conflicting opinions held about this matter. All those who have expressed opinions are agreed that there is need and scope for improvement in the management of the waqf at Ajmer, but there are differences of opinion as to the specific manner in which the

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improvement is to be effected. Even those who have enthusiastically welcomed this measure have suggested substantial changes in various clauses of this Bill. Therefore, we find there is really need for making modifications in very important respects in this measure. It was in view of this and of the fact that any measures we might take might have a very serious effect upon the administration of the waqf and also might involve various rights and privileges which are claimed by some parties to be enjoyed by them for several generations that I tabled my Motion for the Select Committee, in order that the whole thing might be very carefully and minutely scrutinised. Honourable Members will observe that the Bill contains several provisions which necessitate our adjudicating on matters which ordinarily have to be determined by courts of law, provisions which endeavour to deprive some parties of the rights and privileges which are claimed by them to be hereditary. Also, there are proposals in the Bill which are in conflict with the decisions of courts of competent jurisdiction. My contention is, and all along has been, that even if there is any need for making a drastic change, if we find that in the making of this change the existence of hereditary rights and privileges presents an obstacle in the way of effecting this change, that fact would not justify us in trying to solve the difficulty by adopting a method which was adopted in the ancient days by the hero who cut the Gordian knot. My submission is, that in trying to solve these difficulties we cannot achieve our purpose by ignoring these difficulties; we have got to face them and solve them, and we should not ignore all those rights and privileges which are claimed by some of the parties to be hereditary. It is difficult also for us to come to a decision on this matter. For while one party claims to hold some office as of hereditary right, the other party denies that right on the ground that all the evidence relied upon in support of the right is not credible. Therefore, these are matters which cannot be decided arbitrarily by discussions in this House. As my Honourable friend Sir Mahomed Akbar Khan has said in his very lucid and historic speech, these are matters which can be decided only by a judicial tribunal. It was for this reason I thought there should be a Select Committee, and there were Members of this House who thought that even a Select Committee was not equal to the task and that nothing short of a Commission of inquiry could do all that was necessary in investigating this very important matter which affects the Muslim community all over India. If such a committee had been appointed it would have had to go into evidence, examine witnesses, take expert evidence, scrutinise ancient documents, *farmans*, *sanads*, etc., which have any bearing upon the hereditary nature or otherwise of the various offices connected with this endowment. It was a stupendous inquiry which had to be made, and in view of the fact that this House was shortly to be dissolved we thought there was no possibility of instituting such an inquiry. It was in view of this we thought it would be better that we should come to some sort of understanding between us and try to do the little we can under existing conditions. With this view some of us had discussions with the Honourable mover and we came to the understanding that, instead of trying to come to any arbitrary decisions upon such contentious matters as the rights of the parties concerned, we would rather try to steer clear of any decision upon this

matter and try to effect an improvement without giving any decision upon this question, which ordinarily should be decided by a court of law and which, even if it has to be decided by a Legislature like this, could only be done after a very elaborate and thorough inquiry. We have therefore tabled a number of amendments suggesting various ways in which improvement could be brought about in the management of the waqf without having any adverse effect upon the rights which are enjoyed by any of the parties concerned. In view of this fact I had decided not to move my amendment, and for this very reason I support the Motion before the House.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the Bill before the House is a strange combination of good and evil. The desire of the Honourable mover to reform the management of the Durgah is a laudable one and he has the sympathy of all India in his well-meaning effort to reform the management there and the opinions are based on this principle alone. The only difficulty and the reason why I have called this a measure compounded of evil and good is that it does not safeguard the religious principles as much as it ought to have done ; neither does it have regard for equity as much as it should have. While I am a confirmed reformist in matters mundane, I am prepared to admit that in matters religious, I am prepared to take my cue from the religious heads and authorities. I do not wish to show myself off in false colours and say that I am following a certain religion but disregard its commands and its orders. I am neither mean enough to say one thing and do another. The opinions which have been circulated to us are voluminous and it was almost impossible to go through them and in the ordinary course I should have been the first to support a Motion for reference to Select Committee ; but placed as we are in the circumstance that the Council is to be dissolved and it is the last non-official day when we can discuss this measure, there is no option left but to look into the Bill and try to improve it as much as possible. Sir, if we had time we would have preferred to take it to a Select Committee and get the opinion of the religious heads on the points brought into the Bill. But as it is not possible, I for one do not find my way either to support the measure or to oppose it. The reason why I say it goes counter to the religious dictates is based on the religious opinions we have received. On page 4 of the opinions you will find that the Amir Shariat of my province has definitely stated that the following proviso should be added :

“ Notwithstanding anything contained in the Bill the committee shall not and cannot interfere with all those rights and powers of the diwan, mutawalli and khadims which they have been enjoying on the basis of old customs or provisions in the waqf deeds ”.

The principle of Islamic law is that a waqf deed is a statute by itself and the rules and regulations entered therein have the force of law, and no power, not even the Qazi, has the power to over-ride these rules and regulations. The utmost that a Qazi or a Muslim potentate could do is to declare that the object of the waqf being illegal or irreligious the waqf does not hold. There

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is complete unanimity in the opinions of Ulemas which have been circulated. Then, again, Sir, they say :

“ That the mutawalli shall exercise all powers conferred upon him by the Islamic Shariat. But the committee shall have full power of supervising the work of the mutawalli and the diwan ”.

Then, Sir, we have the opinion of Maulana Mainuddin on page 55. He says :

“ That all the time-honoured rights and customary privileges of the diwan, mutawalli and the khadims which they have been holding up till now in accordance with the laws of the Shariat Islam and the sanction of the Government as well as the courts of law shall be taken for granted without any exception in the body of this Bill ”.

And the crowning thing is the opinion published at page 102 of Dar-ul-Ifta (the Fatwa-issuing Department) of the Central Jamait-ul-Ulema-i-Hind, Delhi. It is the Central Body of the Muslim Diwans and it deserves extreme respect inasmuch as it is the opinion of the combined body of Ulemas of India. It says :

“ No one, not even the Muslim Qazi can dismiss a mutawalli who has been appointed as such under the rules of the Islamic law and who possesses the ability of performing the duties of a mutawalli and who performs his duties of a mutawalli as these ought to be performed ”.

These three are my dicta. I am not prepared to say that the Ulemas do not know anything. I am not prepared to say that Ulemas are a body of ignorant people who do not deserve support from the Legislature. We have our own field of action, and they have theirs, and where their business is concerned they deserve respect on the principle of division of functions. This is not the end. But when the Muslim divines and the executive both combine, I feel they ought to have even much greater respect. You will agree with me, Sir, that no one is more competent than the Commissioner of the Ajmer Division to express an opinion as to what should and what should not be done in this Bill. In this connection I should like to invite your attention to page 34 of the opinions which have been circulated—the letter from Mr. Griffin, Commissioner, Ajmer-Merwara—in which he says in paragraph 3 :

“ The mutawalli lays claim on the basis of certain pronouncements by the Civil Courts to his post being hereditary. This was not considered to be the case when Notification No. 1811-A., dated the 1st June, 1867, of the then Local Government was made under section 7 of the Religious Endowments Act, XX of 1863, appointing the present committee, and section 3 of the Act was held to apply to the case of the Durgah ”.

This is a statement of fact. Then it goes on :

“ This, however, was a view of the executive, the correctness of which could be questioned in a court of law ”.

This is the dictum of the executive authority most intimately concerned with the management of the Durgah :

“ If, however, the present Bill becomes law it will no longer avail the mutawalli to claim that his office is hereditary ”.

So we go again to what the law demands from us. Further on it says :

“ As a matter of justice ”—mark the word ‘justice’—“ however, it would seem desirable for legal opinion to be taken as to the finality and applicability of the pronouncements on which the mutawalli relies ”.

I expected, Sir, that the Government benches would honour the opinion of their own executive head at the place. I for one am not by temperament or by association a communist and therefore I am not prepared to lend my support to a measure of expropriation which this Bill involves. Even if expediency be the guiding principle, we should consider the possibility of legislating for a class of persons, but I humbly submit that it is wrong even for a legislature to bring forward a measure to deprive any one person of any right that he may possess. It would be wrong to bring in a law that all the property belonging to our noble friend the Khan of Hoti should be taken by Government, because of certain mismanagement that people might allege; but it will be a different thing to bring a law to regulate land tenure in a province. You might legislate for a class of persons. It is wrong to legislate for a particular person or a particular shrine.

Sir, my difficulty and the reason why I do not see eye to eye with the Honourable mover is that some of the opinions that have been circulated to us contain the opinions of people who have absolutely no concern with the matter and whose opinions in fairness ought not to have been allowed to sway the decision of this House. I will not dilate on the point, Sir; I will simply mention that even the Chief Commissioner of Ajmer was constrained to remark in paragraph 18, page 31 :

“The gentleman who makes these suggestions is a Shia and it is not clear why his opinion was sought or what *locus standi* he has in this matter”.

Then, Sir, although you know there is no difference among the Mussulmans of caste or creed, there are different schools of thought just as in the Protestant Church there are included any number of different churches, for instance, the Presbyterians, the Welsh Dissenters and the Church of England. Now, to pass a legislation affecting the Church of England, would you be guided by the opinion of any one belonging to the other Churches? My Honourable colleague may cite to me an example, that when the Prayer Book controversy was going on in Parliament this anomaly did happen but fortunately it did not go far enough and the matter was settled. But, Sir, the opinions that are circulated to us are sometimes based on wrong premises; just as many a time it has happened, Sir, that the opinions of the Legislature are based on the facts placed before them. We are so overworked, Sir, that we do not give time to study the case from both sides as both sides do not appear before us. One of the fundamental reasons why we objected to the Criminal Law Amendment Act last year was that it allowed executive action to supersede the judiciary. Here, Sir, we are doing exactly the same. We have a number of pamphlets, a number of papers circulated to us, giving stories of mismanagement and refusing the rights and interests of certain people who claim a right. I do not say that they have a right but at least they lay claim to a right and that right ought to have been adjudicated in a judicial atmosphere and by a judiciary rather than by a Legislature who are more or less in the position of the executive in the present case. I say this because, according to the traditions of British justice, the evidence adduced before us has not been tested by cross-examination or by the other party being allowed to bring their own arguments in support of their case. For these reasons, Sir, if I had my own opinion and if we had time I would have insisted that this matter should not be proceeded with here, because the difficulties are too great.

[Mr. Hossain Imam.]

Secondly, Sir, the opinion^f among the^f Muslim Members of this House has been in favour of acceptance, as the Honourable mover has been very reasonable and has intimated his intention to accept almost all their amendments. That, Sir, will materially improve the Bill. And here, Sir, I would like to remind the House, and with your permission lay on the table the formidable list of amendments* which the Chief Commissioner has forwarded to us in pages 29-33 giving amendments to the Bill which he thinks should properly have been made. The amendments he has suggested come to four pages. We are not able to incorporate all of them in our amendments but I hope, Sir, that when the Bill goes to the Assembly they will have more time at their disposal and will look into the Bill with greater care and make a better job of it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I am very grateful to my Honourable colleagues for giving their unanimous support to this measure. I have no hesitation in admitting, Sir, that in an important administration of this kind there is bound to be a certain difference of opinion. I do know, Sir, that there are certain Honourable Members here who are of the opinion that the Bill should be forwarded to a Select Committee and we should devote more time to it. I respect their opinion and I can assure them that I would have myself willingly accepted their suggestion but for the difficulty that, if the Bill were referred to a Select Committee, it would not be possible for them to submit their report during this session and this being the last session this Bill would lapse.

THE HONOURABLE THE PRESIDENT: But even if this Bill is passed, there is nothing to prevent the other House from delaying the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Yes, Sir, certainly they can. And so I am very grateful to my friends that, in view of the fact that the legislation was very important and almost every organisation in every part of the country had expressed its opinion in favour of the Bill, they have agreed to get this Bill through this session, this very day.

Now, Sir, I have no intention to reply to the various remarks which have been made during the course of the discussion. But, Sir, there are one or two points which I think it my duty to lay before the House. My Honourable friend, Mr. Padshah and, Sir, I am very, very grateful to him because there are very few amongst us who have the courage to change their opinions when they consider that the rights of the occasion give justification to change the same when he originally opposed my Bill, it then was altogether a different measure. It was in regard to the wishes of some of my Honourable friends that in the Bill which is now before the House certain important changes have been made. In the first instance, the franchise has been lowered. In the second instance, the qualifications of the candidates for the Select Committee have been changed. And thirdly—and this is the most important—the chances of interference by the Government have been reduced to a minimum. Therefore, Sir, considering that I have expressed my willingness to accept any reasonable amendments suggested by my Honourable friends, I think Mr. Padshah had sufficient justification to be converted to my view and support the Bill.

* See appendix, pages 368—371.

As far as my Honourable friend, Mr. Hossain Imam is concerned, I knew from the very beginning that my Honourable friend had certain difficulties in lending his support to the Bill and it is very generous of him that under the circumstances in which he finds himself he has expressed his intention not to oppose the Bill.

Now, Sir, there are one or two points which I believe have been the cause of misunderstanding in some circles and I consider it my duty to remove that misunderstanding. In the first instance, it has been asked why this Ajmer Durgah alone has been picked out for such a measure and why a Bill has not been introduced including all the religious places in India? I may inform my friends that after withdrawing the previous Bill I gave notice of two Bills. One was this Durgah Bill and the other Bill was intended to amend the Act of 1863. But His Excellency the Governor General refused to give his previous sanction to the introduction of the Bill to amend the Religious Endowments Act on the very reasonable ground that this was primarily a provincial matter and legislation should be brought forward in the province. But as Ajmer is a directly administered area, and it is not part of any Provincial Government, therefore legislation regarding it could be brought up in the Central Legislature only.

Another point which seems to be in the minds of certain Honourable Members is that this is religious interference, and that it is a wrong policy to ask the Legislature to pass measures regarding the management of religious places. I have two answers to this criticism. The first is that it is a matter of extreme doubt whether this Bill can be called a religious Bill. As Honourable Members are aware, even such a high legal authority as Sir Lancelot Graham, now His Excellency the Governor of Sind, who was Secretary of the Legislative Department then, wrote a letter to me that this was not a religious Bill and that no sanction of the Governor General was required because the Bill related not to the performance of any religious ceremonies.

THE HONOURABLE THE PRESIDENT : You need not go into all that now.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : This is most vital because I want to remove a misunderstanding in regard to this Bill, namely, that it interferes with religion. I want to say that it is secular—

THE HONOURABLE THE PRESIDENT : I decided by my ruling that the Governor General's sanction was necessary and the sanction was subsequently obtained. You need not go into that now.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : May I most humbly submit, Sir, that you did not give that ruling. On the other hand, your ruling was that you will not stop the mover from proceeding with the debate, but that you would give him advice, and if he considers fit to follow that advice, he can withdraw the Bill.

THE HONOURABLE THE PRESIDENT : Exactly, and you withdrew that Bill in deference to my remarks.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Yes, Sir, in deference to your advice I withdrew that Bill.

[Raja Ghazanfar Ali Khan.]

As I was saying, this Bill relates merely to the secular side of the Durgah, that is, how to manage the property and to see that the money is not misappropriated. Another reply is that this is not introducing legislation concerning a place where one does not already exist. As Honourable Members are aware, the Act of 1863 is already applied to the Ajmer Durgah. This Bill is just to amend that Act and remove the defects in the law which now exist. My Honourable friend has quoted certain opinion. I think, Sir, he quoted the opinion of the Commissioner, Ajmer-Merwara. I would ask my Honourable colleagues not to be carried away by those quotations because what I am now quoting is the opinion of the same gentleman, Mr. L. C. L. Griffin, I.C.S., Commissioner, Ajmer-Merwara, writes :

“ In asking for these I have endeavoured to secure every shade of local Muslim opinion. There can be no doubt that there is widespread dissatisfaction among Muslims in Ajmer with the condition of affairs prevailing in and with respect to the Durgah and a general desire that this should be rectified. The majority of Muslims would, I believe, welcome any measure which would remedy the present state of affairs and conduce to efficient administration and would not be concerned at the effect on the rights, alleged or otherwise, of certain interested parties which would according to some of the opinions received be infringed as the result of the enactment of the provisions of the Bill. It is extremely difficult to form and express an opinion on general opinion in a matter of this kind and it is always possible that even if this opinion is correct at the time when it is given it may be apparently falsified at a later stage owing to the facility with which views on these questions can be guided. As far, however, as I can ascertain, the enactment of a law on the lines of the Bill designed to constitute a more popularly composed committee to control the affairs of the Durgah and to give such a committee the means to exercise effective control will be generally welcome.

“ As for my own opinion, I consider that legislation on the lines of the Bill is the most satisfactory, if not the only, method by which an attempt can be made to bring to an end the state of affairs prevailing with respect to the Durgah ”.

This is the opinion, Sir, of the Commissioner of Ajmer, and the Agent to the Governor General sums up the opinions and says :

“ A large number of bodies and individuals are in favour of it, but there is a very strong minority opposed to it ”.

That is the opinion which the Chief Commissioner gives. As far as other opinions are concerned, I have no doubt that there is no social or religious measure which has received such unanimous and unqualified support. The Western India States Agency says :

“ The general opinion is in favour of the Durgah Khwaja Saheb Bill ”.

Government view :

“ The opinions of these two officials appear to me to be sound, and I have no further comments to offer ”.

Hyderabad Residency :

“ The proposed change in the constitution of the Durgah Committee is desirable and the Bill necessary ”.

Coorg :

“ Out of the five Muslim Associations, three are in favour of the Bill and the other two have not replied ”.

Bihar :

“ Amir-i-Shariat, Bihar and Orissa, has accepted the Bill with some amendments ”.

The Bihar and Orissa Muslim Association, Patna, is of opinion :

“ That the Bill must be passed except this that efforts should be made to make it less expensive ”.

The Anjuman Himayat-i-Islam of Monghyr supports the Bill but considers :

“ That the office of the mutawalli should not be hereditary and it should rest with the committee to appoint the best man to the office by election and not by inheritance ; the Anjuman also considers that the several members composing the committee should be those who have got no personal interest in the income and in the affairs of the waqf properties and that the tenure of the life of a member should be reduced from five to three years ”.

Central India Agency :

“ The opinion of the majority is in favour of the Bill, though certain amendments have been suggested. In particular, the Government of Bhopal as well as local Muslim opinion at that place, have expressed unanimous and unqualified approval of the Bill ”.

Muslim opinion in Central India :

“ There is a large consensus of agreement in the aims and objects of the proposed Bill. Alterations and amendments have been proposed ”.

Sind :

“ Local Muslim opinion supports the Bill. The Local Government are in agreement with the principle underlying the Bill ”.

Central Provinces :

“ The Governor in Council supports the Bill as the bulk of Muhammadan opinion in this province is in favour of it ”.

Gujarat States Agency and Baroda Residency, Agent to the Governor General for the Gujarat States and Resident, Baroda :

“ It is generally admitted by these States that some provision is necessary for the better administration of the Durgah and I endorse their opinion ”.

Bombay :

“ The Government of Bombay (Transferred Departments) state that they have no objection to the provisions of the Durgah Khwaja Saheb Bill as it seeks to provide for the efficient management and administration of the Durgah ”.

THE HONOURABLE THE PRESIDENT : Order, order. I do not think it is right that you should read these extracts in replying to the debate. You quoted some extracts in your opening speech. Now, you are quoting other extracts. It is not fair to other Honourable Members since they have no right of reply.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : May I submit, Sir, that in my opening speech, I refrained from quoting these extracts.

THE HONOURABLE THE PRESIDENT : You did read some extracts.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I read one extract in my previous speech. I did not then quote from these opinions, but I quoted from the opinions of officers—opinions given about 12 years ago. But, as Honourable Members, particularly my Honourable friend from Bihar, has made extensive quotations from these opinions therefore I thought it my duty to bring on record the opinions in favour of the Bill. I would request you to permit me to do this. I shall be very brief. I am quoting only a few words or sentences from each opinion.

THE HONOURABLE THE PRESIDENT : Every Honourable Member has got a copy of the opinions you are reading from.

THE HONOURABLE MR. HOSSAIN IMAM : On a personal explanation, Sir. I should like to mention that I did not read the opinion of the general public. I only read out the opinions of religious societies and associations. If the Honourable Member wants to contend me, he ought to reply by reading the opinions of religious bodies.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I may assure you that I have listened with great patience to the opinions quoted against me. My Honourable colleagues will permit me to quote the opinions which are in favour of the Bill. I know that Honourable Members have received copies of these opinions, but those copies do not form part of the official record, and my humble opinion is that the other House will be guided by the speeches which are delivered today in connection with this Bill, and I hope, Sir, you will kindly allow me to quote just a few.

THE HONOURABLE THE PRESIDENT : Have you any religious opinions ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Yes, Sir.

THE HONOURABLE THE PRESIDENT : Then quote those. It is no use quoting private individuals.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : In Orissa the local Muslim opinion is in favour of the Durgah Khwaja Saheb Bill. His Excellency the Governor has no special comments to offer on the provisions of the Bill, which appear to him to be likely to make the management of the Trust more efficient. The Muhammadans of Madras support the Bill generally.

Assam :

“ Muhammadans in this province while differing on points of detail are generally in favour of the main principle of the Bill ”.

Baluchistan :

“ The Anjuman Islamia, Baluchistan, Quetta, is in entire agreement with the objects of the Bill and supports the Bill as it is ”.

That is the opinion of a very well known Islamia Association.

Punjab States Agency :

“ All the States in the Agency except Khairpur who have given their opinions have supported the Bill. The Durbars of Jind, Nabha, Mandi, Sirmoor, Bilaspur, Malerkotla, Faridkot and Loharu have intimated that the local Muslim communities are in favour of this Bill ”.

I am not quoting the opinions of the Durbars but of the Muslim subjects in those States.

“ The leading Muslims of Patiala have suggested amendments ”

but they are in favour of the Bill. In Delhi Province Muslim opinion has supported the Bill. Of course, the Punjab, with the exception of one or two

is whole-heartedly for this Bill. The Gwalior Residency supports the Bill. The North-West Frontier Province has practically unanimously supported the Bill. All the Islamia Anjumans of the province, the members of the Provincial Council, all the leading lawyers and Bar Associations and Maulvis and Sufis and Chistis, they have all unanimously supported this Bill. And that is a province which contains a large number of religious-minded people and men with a knowledge of Islamic history like the Honourable Nawab Sir Mahomed Akbar Khan of Hoti, whom I heartily congratulate on his felicitous speech, and they unanimously support this Bill. Then, Sir, the Bengal Government supports the Bill and Muslims in Bengal approve of the Bill. The United Provinces have given stronger support than any other province, and, similarly, almost every organisation in India and every province has supported the general principles of the Bill.

Now, Sir, in spite of our having certain differences today it is a great day for us. We have shown, that however acute our differences may be, when the welfare of our community is concerned, and when it is a question of making better arrangements for the management of a place which is held sacred by us, irrespective of whether we are Sunnis or Shias or members of other Muslim sects, we can sit down and agree. After all, Sir, if we had had a Select Committee it would have meant half a dozen of us sitting down and trying to improve the Bill. And, actually, we have held unofficial meetings on three or four days consecutively at the residence of one of our friends, and we have thrashed out every single clause and have come to a unanimous decision and agreed upon these amendments which we have discussed today. I can assure my friends that I have no personal grudge against any individual or party, and I will be glad to accede to these valuable suggestions which my Honourable colleagues have made.

THE HONOURABLE THE PRESIDENT : The Question is :

“That the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah Khwaja Saheb, Ajmer, be taken into consideration.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Clause 2.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I move the amendment which stands in my name and runs as follows :

“That for item (e) of sub-clause (4) of clause 2 the following item be substituted, namely :

‘(e) All offerings made at the tomb or any place within the premises of the Durgah or its gates and all money orders by whatever names received in Ajmer for application to any purpose or object connected with the Durgah Sharif’.”

Under the present item of this sub-clause only that income of the Durgah is included which has been held to be such by a civil court. But there are

[Sir Mahomed Akbar Khan.]

other incomes besides this, for instance, that collected at the gates of the Durgah, which is received by money order or in other ways. These receipts are not included in the existing provision of the Bill. It is to remove this irregularity that I want to replace this item by the one I have proposed, so that the income received through these various means should also be properly accounted for. I do not want to make a lengthy speech as we have a lot of business to get through, and I therefore move my amendment.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: It is always unpleasant to differ from our Honourable and respected colleague the Honourable Nawab Sir Mahomed Akbar Khan of Hoti. It is more so today because the Nawab Sahib has made a powerful historical speech in support of this Bill. But I would submit that this amendment will cause not only great hardship to a vast number of khadims who have been getting a small share from this income for several generations past, but it would also go against the decision of the Judicial Courts. Sir, at present the offerings which are made at the shrines are distributed between the diwan, the mutawalli and the khadims. I know the diwan would not mind because he gets a half or a one-third share. But the other half or one-third is distributed between the khadims, whose number is more than 700 and a number of people which includes widows and orphans. In this connection I submit that the khadims are a class of people who trace their descent from people who were associates and servants of the Hazrat Khwaja Saheb. I personally think that it would be unfair that a little share which hardly amounts to more than 8 or 12 annas per head which they are deriving from this shrine for so many generations should be denied to them. Sir, Nawab Sir Mahomed Akbar Khan and myself
 12 NOON. and probably some other friends are getting jagirs from the Government because our ancestors fought for the Government at certain critical times. Similarly, if these people have not done anything to deserve all that reward, they are descendants of those people who hold a very high and important position in respect of the Durgah. I would therefore humbly appeal to my Honourable friend not to press this amendment and to let this new committee start work. Then, if they find that any further change is required, any Member can certainly bring in a Bill for amending this provision.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Sir,——

THE HONOURABLE THE PRESIDENT: Order, order. You are not entitled to reply. You can say whether you withdraw or not.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: In view of what has been said by my Honourable friend the mover, I should like to withdraw.

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

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 4.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, there is a similar amendment standing in the name of my Honourable friend Saiyed Mohamed Padshah Sahib Bahadur and I would therefore leave this to be moved by him.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : Sir, I move :

“That in sub-clause (1) of clause 4 for the words ‘superintendence, management’ the word ‘supervision’ be substituted”.

My object in moving this amendment is to make it clear that this committee which is being appointed under this Bill is one which will have only supervisory powers. The committee appointed in 1868 under the Religious Endowments Act which is now functioning is one which is only of a supervisory character. The administration of the waqf property is in the hands of the mutawalli and the function of the present committee is only to supervise. Inasmuch as we have come to an agreement that there should be no decision by this Honourable House on this occasion about the hereditary nature or otherwise of the offices involved, we thought it advisable not to make any change in the functions of the present committee ; and I may also submit that this arrangement is one which is desirable from other points of view also, for if we combine the offices both of supervision and administration in one and the same body it would not conduce to healthy management. If this committee is to be at once the managing and supervising agency it will have nobody else to check or control its actions when it goes wrong. According to the present arrangement the mutawalli is the sole manager, and if he mismanages there is this committee to call him to account and check and control him. According to Islamic law also these functions are kept apart. Islamic law makes provision for the mutawalli to be the sole manager of a waqf property and in order that the mutawalli might discharge his duty properly and work on the right lines, it has provided for the office of the mushraf who has got to exercise the function of supervision and control over the mutawalli. In view of all this, Sir, I hope this Honourable House will accept my amendment.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : As long as the supervision of the mutawalli is in the hands of the committee he should manage properly. This amendment is perfectly reasonable and I gladly accept the same.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“That in sub-clause (1) of clause 4 for the words ‘superintendence, management’ the word ‘supervision’ be substituted.”

The Question is :

“That this amendment be made.”

The Motion was adopted.

Clause 4, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 5.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, amendments similar to the one standing in my name have also been given notice of by my friends Saiyed Mohamed Padshah Sahib Bahadur and Haji Ismail Ali Khan. So I shall leave it to them to move their amendments.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, the amendment that stands in my name on the order paper runs thus :

“That for clause 5 the following clause be substituted, namely :

‘ 5. The committee shall consist of nineteen members of whom—

- (a) one shall be sajjadanashin for the time being *ex-officio* or his nominee ;
- (b) one shall be mutawalli for the time being *ex-officio* or his nominee ;
- (c) two shall belong to the khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act ;
- (d) five shall be elected from amongst the Muslim citizens of Ajmer (other than khadims, mutawalli and the sajjadanashin) by persons (other than the khadims) possessing the qualifications mentioned in section 7 of this Act ;
- (e) two shall be elected by the Muslim Members of the Federal Legislative Assembly from among themselves ;
- (f) one shall be elected by the Muslim Members of the Federal Council of State from among themselves ;
- (g) four shall be elected by the Muslim Members of the Indian Legislature from among various Muslim Hanfi Ulemas and Sufis ;
- (h) one shall be elected by Muslim Members of the North-West Frontier Province Legislative Assembly ;
- (i) one shall be elected by Muslim Members of the Bombay Provincial Legislature ;
- (j) one shall be nominated by His Exalted Highness the Nizam of Hyderabad’s Government ’.”

Sir, much has been said on this point—

THE HONOURABLE THE PRESIDENT : Order, order. I would like you to alter clauses (e) and (f) slightly. The Federal Assembly and the Federal Council are not in existence now and you cannot make any legislation in anticipation. Therefore, I would like you to add the words “ when it comes into existence ” to both (e) and (f).

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I accept the correction with pleasure. I know that the business on the order paper is very heavy and I do not want to make a lengthy speech but just to make a few points. Much has been said during the course of the general discussion on this Bill by my friends the Honourable Mr. Hossain Imam and Saiyed Mohamed Padshah Sahib Bahadur. I do not want to repeat those arguments. The chief object in putting forward this amendment is, that at present the committee is some sort of arena for fighting and entering into litigation, which is against the principles of the Durgah so I think it is essential that we

should form a committee of a most representative capacity. If we will go into the details of opinions that are advanced by every school of thought, those are all in favour of my amendment.

Sir, I move.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: As a matter of fact, Sir, the most important part of this Bill is the constitution of the committee and I am sure that Muhammadans of every party will be quite satisfied that the committee which this amendment proposes to give them is the most impartial and a very efficient one. I am sure that with these new members, whom we are importing from outside, the settlement of disputes will be much more expeditious. Therefore I gladly accept this amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved:

“That for clause 5 the following clause be substituted, namely:

“5. The committee shall consist of nineteen members of whom—

- (a) one shall be sajjadanashin for the time being *ex-officio* or his nominee;
- (b) one shall be mutawalli for the time being *ex-officio* or his nominee;
- (c) two shall belong to the khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act;
- (d) five shall be elected from amongst the Muslim citizens of Ajmer (other than khadims, mutawalli and the sajjadanashin) by persons (other than the khadims) possessing the qualifications mentioned in section 7 of this Act;
- (e) two shall be elected by the Muslim Members of the Federal Legislative Assembly when it comes into existence from among themselves;
- (f) one shall be elected by the Muslim Members of the Federal Council of State when it comes into existence from among themselves;
- (g) four shall be elected by the Muslim Members of the Indian Legislature from among various Muslim Hanfi Ulemas and Sufis;
- (h) one shall be elected by Muslim Members of the North-West Frontier Province Legislative Assembly;
- (i) one shall be elected by Muslim Members of the Bombay Provincial Legislature;
- (j) one shall be nominated by His Exalted Highness the Nizam of Hyderabad's Government.”

The Question is:

“That this amendment be made.”

The Motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 7.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

“ That item (d) of clause 7 be omitted.”

My idea is to provide a franchise on the basis of universal suffrage.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I have no objection and I accept it.

The Motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8, 9 and 10 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 11.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

“ That in sub-clause (I) of clause 11, after the word ‘ members ’ the following be inserted, namely :

‘ except those who are elected under items (a), (b) and (c) of clause 5 ’.”

Sir, my idea in moving this amendment is this, that members who are elected or nominated such as the sajjadanashin or the mutawalli or the khadim of the Durgah, all these are interested parties and we must have an impartial president of the committee. If we take him from those persons who are naturally interested they would not be impartial. So I hope the House will agree with me as to electing the most impartial president of the committee. I do not like to spend the valuable time of the House by quoting the opinions which are in favour of this amendment.

Sir, I move.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I regret I must oppose this amendment because it will really be fettering the discretion of the committee. In accordance with the provisions of the Bill the committee shall be at liberty to elect their own president—and who does the committee consist of? It consists of such independent and respectable Mussulmans from all over India—one elected by the Bombay Provincial Council, another by the Frontier Council; three from the Assembly and the Council of State, and a nominated member from the Nizam of Hyderabad. So, Sir, you can imagine that such an independent and respectable committee should be left free to elect any one they like to be president and not have their discretion fettered. I would appeal to my Honourable friend to withdraw this amendment, otherwise it will be my painful duty to oppose it.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That in sub-clause (I) of clause 11, after the word ‘ members ’ the following be inserted, namely :

‘ except those who are elected under items (a), (b), and (c) of clause 5 ’.”

The Question is :

“ That this amendment be made.”

The Motion was adopted.

Clause 11, as amended, was added to the Bill.

Clauses 12 and 13 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 14,

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, I move :

“ That clause 14 be omitted and the subsequent clauses be renumbered accordingly.”

Sir, clause 14 quotes the Act of 1863. That Act has ceased to exist and there is now a new Act, Act XLII of 1923. So, the retention of this clause is absolutely useless and that is why I move that this clause be omitted altogether.

THE HONOURABLE SAYYED MOHAMED PADSHAH SAHIB BAHADUR : Sir, I rise to support the amendment though on a different ground from the one stated by my Honourable friend. The apprehension is, that if this clause is allowed to exist, it might mean some change in the office of the mutawalli. Since there has been an agreement between us that we should not come to any decision and make any change about this office, we have agreed that this clause should be omitted.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : My reason is a better one.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : It is not necessary that every one who supports this amendment should have the same reasons for doing so. People can support one thing for different reasons. I have no quarrel with them. I agree that this clause is unnecessary and I have no objection to accepting this amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“ That clause 14 be omitted and the subsequent clauses be renumbered accordingly.”

The Question is :

“ That this amendment be made.

The Motion was adopted.

Clause 14 was omitted from the Bill.

Clauses 15 and 16 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 17.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

“ That for item (j) of sub-clause (2) of clause 17 the following be substituted, namely :

‘ (j) maintenance of peace and order within the Durgah compound ’.”

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I accept the amendment.

The Motion was adopted.

Clause 17, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 18.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR :
Sir, I move :

“That clause 18 be omitted and the subsequent clauses be re-numbered accordingly.”

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I have no objection to accepting this amendment. Of course, I would have preferred to retain this clause because it is intended to explain certain other provisions of the Bill. Naturally, Sir, when the committee have the power of appointment, they have also the power of dismissal. The intention of this clause was that the committee should not be able to dismiss any hereditary servant except on any of the five grounds mentioned in the clause. If they dismiss a hereditary servant on any of these five grounds, still the servant will have the right to move a civil court to set aside their order. As a matter of fact, this clause was intended to give protection to the mutawalli or other hereditary servant. Of course, we do not admit the mutawalli to be a hereditary servant. But for those who are hereditary servants we suggested this protection. If my Honourable friends think that this should be eliminated, I have not the slightest hesitation to do so, but I would prefer to retain it.

THE HONOURABLE THE PRESIDENT : Will you please be decisive whether you accept the amendment or not ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I accept the amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“That clause 18 be omitted and the subsequent clauses be re-numbered accordingly.”

The Question is :

“That this amendment be made.”

The Motion was adopted.

Clause 18 was omitted from the Bill.

THE HONOURABLE THE PRESIDENT : Clause 19. There are two amendments for adding new clauses.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, I move :

“That the following two new clauses be added at the end of the Bill, namely :

‘ 20. The Durgah Committee shall not be empowered to use the property, moveable and immoveable, for the Durgah Endowments for any purpose other than those intended by the founders of the waqf.

‘ 21. The Committee shall in the expenditure of the income of the Durgah Endowments abide by the directions contained in the waqf deed and shall allot not less than 20 per cent. of the income from Durgah Endowment and one-third of the income derived from the offerings to the fulfilment of the mission of Khwaja Saheb himself’.”

I need not, Sir, make a lengthy speech. The first amendment by itself shows that whatever property there exists for the Durgah, it should not be taken away but should remain where it is. I hope the Muhammadan Members will agree with me that that should be the case. Because, after all, what is endowed to the Durgah is a sacred thing and these things should not be utilised by any private person or removed from the Durgah for private use. I hope the Raja Sahib will agree with me that nothing should be removed from the Durgah and that these things should remain sacred and should not be utilised by any private persons.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I very gladly accept these two amendments.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT (to the Honourable Kunwar Haji Ismail Ali Khan): The first part of your amendment the Council have agreed to just now. If you wish, you will only move the second part.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Sir, I beg to move that the following new clause be added at the end of the Bill, namely:

“The provisions of Act 42 of 1923 shall be applicable to the Durgah and the committee shall also publish once every year a report on the administration of the Durgah with a copy of the accounts duly audited and certified by a chartered accountant or an auditor holding a certificate from the Government”.

Sir, I move, without making any speech.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I accept the amendment, Sir.

The Motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I rise to move: “That the Bill as amended, be passed.”

At this stage, Sir, I would not like to make a long speech but I would congratulate my Honourable friends, particularly my Muslim friends, on the passing of this Bill which will lay the foundation stone of a very big all-India movement. We are all aware that the income derived from these religious places of worship which are now under the control of private individuals or of vested interests amounts to several crores of rupees. Though figures have not been collected, to the best of my information the income from Muslim wakfs in India is not less than Rs. 5 to Rs. 6 crores a year, and so if a poor backward community like the Muslims can rise to the occasion and bring in legislation which will place the control of these places—whether they be Sunni or Shiah endowments—in the hands of properly constituted committees, I am sure it will help the Muslims very much. Sir, I am sure that with this precedent dealing with the most sacred shrine in India, the members of various local Legislatures will now take the initiative and bring forward Bills more or less on the same lines. Sir, we are aware that our friends, the Sikhs in the Punjab, merely

[Raja Ghazanfar Ali Khan.]

by getting the Gurdwara Bill passed, have added to the wealth, happiness and progress of their community. I hope the Muslims will not have to pass through that stage of strife, bloodshed and struggle to get back their religious endowments but on the other hand they will do it by peaceful and legitimate means. They will not rest till all the religious endowments have been placed in the charge of such proper committees.

I am also indebted to my non-Muslim colleagues in this House who have all along shown a good spirit of friendship and co-operation. I can assure them that whenever any one of them brings forward any measure with the intention of improving their religious endowments, we, the Muhammadan Members, will always welcome such an attempt and will lend our whole-hearted support.

Sir, before I conclude there is one more thing I want to say. There is no doubt that in Ajmer at present there is a good deal of strife and struggle between the different interests. I would appeal to the members who will be elected to this committee not to take a partisan view, and in case of those people who have held offices over several generations, whether those offices legally speaking are hereditary or non-hereditary, preference should be given to them, and instead of turning them out, should only try to improve the wakf. I hope the passing of this Bill will bring peace and goodwill to the people of Ajmer.

Sir, I once again thank you for providing facilities. As I mentioned at the beginning, this is perhaps the last occasion when a non-official Bill will be placed before this House during the lifetime of the present Council and I would be failing in my duty if I did not express my sincerest gratitude to you for the concern you have always shown in seeing that non-official business in this Council is facilitated. You have even gone out of your way to sit late. You have also tried to persuade the Honourable Leader of the House to get extra days from His Excellency the Governor General. But your chief concern has been to see that non-official business in this House gets the fullest opportunity. (Applause.)

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I want to express my pleasure at the reform in the right direction which the Honourable mover and my colleagues have sought to make in passing this Bill. I did not like to speak on this Motion before because I held that I should follow the wishes of the majority of my Muslim colleagues in such a measure. Sir, in the Punjab and in other provinces generally religious shrines and endowments are not very well managed, barring a few exceptions, so it is necessary that reforms should take place in their management. I congratulate the mover of the House on passing this measure which I hope will bear good fruit.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, I am not so much concerned at this stage with the Bill itself as with the original Act No. 20 of 1863, which has been replaced by this Bill. I should like specially to draw the attention of the Leader of the House to the fact that all those committees formed under Act XX of 1863 are lamentably lacking in any reformist spirit. There is ground for apprehension that they are all being mismanaged. In addition to that there is a general misconception in the minds of the public as well as of officials that the 1863

committees are not perpetual. I should like to quote the opinion on page 14 of Mr. M. S. Jayakar, M.A., C.I.E., Collector of Bombay, in which he has suggested that instead of bringing forward a legislative measure the Honourable mover and his friends should have gone to a civil court under section 92. That was my own misconception too. On page 61 of the opinions we find that in a memorandum from the Commissioner of Ajmer-Merwara to the Secretary of the Anjuman Nazir-i-Auqaf mention is made of the committee being replaced by having recourse to section 92. It was only recently that people woke up to the realisation, as mentioned on page 62, that a court could not frame a scheme when one is already in force. This letter is dated the 25th February, 1926. I therefore think that it is the duty of the Government in the interests of the better management of all the religious trusts that exist at the present moment that a Bill should be brought in by the Government in order to make section 92 applicable to the religious endowments which have been established under Act XX of 1863.

Now, Sir, as regards this Bill, we are passing the measure in a hurry and therefore there might be some mistakes which we have not looked into; therefore, Sir, I think it is the duty of the Assembly to give the Bill detailed consideration.

THE HONOURABLE THE PRESIDENT : Order, order. We are not supposed to teach the Assembly!

THE HONOURABLE MR. HOSSAIN IMAM : Due to this hurry, we have not looked carefully into the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : We are wiser men than the Assembly!

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I do not like to indulge in self-praise myself, but we should be guided by the opinion of the world which will show in what respect they hold us. The measure is going to be passed in this House under the impression that it has received universal support. As I said, the opinion of religious authority should be universally respected. But my Honourable colleague with all his endeavour could not quote to me the opinion of a single religious institution. The name "Anjuman-i-Islamia" does not make it a religious authority, just as Mahasabha is not so authoritative as Sankaracharya who can give a fiat. In a similar manner the Muslim Association has given the support on the distinct understanding that it is a measure of reform and as a measure of reform it is bound to receive universal support, but we do not know whether religious points have been safeguarded or not. On this I venture to suggest that the opinions we have received have a weighty contribution to make. Therefore, while this measure is being passed through this House we should take care that in future the endeavour is made in a better way and with the concurrence of judicial, legal and religious opinion.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-din Chisti, generally known as Durgah Khwaja Saheb, Ajmer, as amended, be passed."

The Question is :

"That this Motion be adopted."

The Motion was adopted.

RESOLUTION *RE* APPLICATION TO INDIA OF THE POISON RULES OF GREAT BRITAIN.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : Sir, the Resolution that I have the honour to move reads thus :

“ This Council recommends to the Governor General in Council that in the interests of public health he be pleased to apply with such modifications as may be found necessary, the New Poison Rules, sanctioned by Parliament and made effective in Great Britain and Northern Ireland from May 1st, 1936.”

This Resolution bears upon another aspect of the drugs question on which this House passed my Resolution last year. It had been felt for a considerable period in Great Britain that in spite of the then existing Act to regularise the sale and dispensing of poisonous drugs, there were loopholes that enabled dealers and the medical profession to circumvent the safeguards provided and thus evade the law. The most recent instance that came up before the last session of the General Medical Council was that of a registered doctor who had been prescribing twelve and a half grains of morphia to a patient. The case was proved and his name erased from the medical register.

Parliament passed a new Act—The Pharmacy and Poisons Act of 1933. A special Committee of the House of Commons was appointed to frame a code of rules that was approved and brought into force from 1st May, 1936. They affect (a) retail chemists ; (b) retail dealers who are not chemists ; (c) educational institutions and laboratories ; (d) manufacturers and wholesalers ; (e) medical practitioners, dentists and veterinary surgeons ; and (f) hospital authorities. This comprehensive list includes all persons who have directly or indirectly to deal with poisonous drugs. The immediate results, Sir, of the operation of the code were indeed striking, so much so that such drugs as were openly sold on the 30th April, 1936 with the same freedom as milk and eggs became on the following day circumscribed as the deadliest poisons known to mankind. One instance will suffice to illustrate this. A proprietary article called *amidopyrin* was advertised in the press as vitalising forces which make the old young, grey hair black and pale cheeks red. The searcher of eternal youth will have now to see a doctor about it as he will not be able to obtain it otherwise !

The new rules are calculated to exert a salutary influence both upon the doctor and his patient and would prevent the latter from becoming an addict to any particular poisonous drug. Opium, morphia, heroin, cocaine, etc., have been hitherto used by such addicts. The list is however being added to. At the last opium session of the League of Nations the American delegate said that a new drug had been introduced, which was the world's deadliest poison more terrible than even heroin. Every doctor requiring a poison has to sign a form giving details of his purchase and should it be required immediately by 'phone, he has to do the needful the following day. Proper storage and labelling has to be attended to by him as well. Further poisonous drugs included in the schedules of the code can only be sold retail to *registered medical practitioners, dentists or veterinary surgeons*. They have to sign prescriptions which should state their addresses, the dates and the patients' names and

addresses. Also the total amount of the drug prescribed and the dose have to be mentioned. Such prescriptions can be dispensed *once only*, unless specific directions are laid down under the doctor's signature as to how often and at what intervals they should be repeated. If we contrast these regulations with what obtains in India we find that any medical man, registered or unregistered, any quack or any one who styles himself a doctor or any other person who poses himself as one connected with some arts or other can obtain a poisonous drug. Again none of the prescriptions containing such drugs have any instructions about the frequency of repetitions, nor the total amount of drugs, etc. It thus shows how far we lag behind in ensuring the safety of the people. One instance of the facility with which poisons can be had came within my personal observation, when I used to work for the Surgeon to the Coroner of Bombay. Five persons in a family met their death from poisoning by strychnine obtained surreptitiously from a dealer as also another person in the same family six months previously, strychnine was detected after *post mortem*. This case illustrates the laxity of poison rules. The Excise Department of the Government concerns itself with the sale of alcohol, opium, morphia, and cocaine but no department appears to know anything about the poisonous synthetic preparations that are now being used extensively, under trade names, their composition being kept secret. Four comprehensive schedules are attached to the code.

Sir, the blame for the enormous number of new poisonous drugs rests upon the synthetic chemist who day after day discovers new compounds and floods the medical profession with his samples, literature, etc., advertising those as innocuous even if taken for long periods. Such preparations are responsible for casualties and many physical and mental wrecks.

One class of persons who apply externally some poisonous drugs that are by no means harmless are those conducting slimming establishments, beauty parlours and hair dressing saloons who I understand have escaped notice in the Act. Several disastrous accidents and even deaths have occurred through ignorance and persons who know not what poison they use under the guise of a trade name. Advertisements that blatantly proclaim rapid reduction of weight and a streamline body even with full or extra full diet are not unknown. Only recently a well-known and widely read American journal related eight fatalities from preparations for slimming. They also cause blindness from cataract and other grave constitutional disturbances. And, finally, Sir, the haggard painted appearance of some of the patrons of beauty parlours are, to say the least, simply shocking, while others look like painted dolls or circus clowns.

The Hairdressers (Registration) Bill, introduced by Mr. Compton in the House of Commons and read first time on July 29th, includes, in clause 2 a definition that :

“The expression ‘hairdressing’ means the performance of any treatment of the hair and scalp, face, hands or arms of any person for the cleanliness, comfort, or better appearance thereof, and includes the diagnosis and treatment of any disease of the hair and scalp, face, hands or arms, providing the treatment is not of a nature requiring medical attention and does not include the performance of any operation for which an anæsthetic is required”.

[Sir Nasarvanji Choksy.]

This country thus requires to be protected against all and every insidious poison used both internally and externally. That, Sir, is my sole object in inviting the attention of Government to their baneful effects upon the rising generation of both men and women of all classes.

Sir, I move.

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, it may be useful first of all to explain what the present position of the Government of India is with regard to these poison rules. Under the Poisons Act of 1919, it is left to the Local Governments to frame rules subject to the control of the Governor General in Council. Before the present Act of 1919 was passed, the Government of India had sent to provinces a set of model rules in 1917 under the 1904 Act. They are a very simple set of rules with a schedule of only five poisons and I believe all the provinces have now framed rules more or less on these lines, using their discretion as to the number of poisons which should be scheduled and adapting the rules generally to their conditions. So the position now is that the initiative in making these rules or amending them rests with the Local Governments and all that the Governor General can do is to bring suggestions to the notice of the Local Governments for such action as they may find possible.

Now, the scope of the existing Poisons Act and Rules is very simple. They merely provide for licensing, maintaining registers of sales, and for storage, and there are a few restrictions as to the class of persons to whom they may be sold in the Act itself or the rules framed under it. When we compare that with the Poisons Rules of 1935, which the Honourable mover wishes to be adopted generally with such modifications as may be found necessary, we find an exceedingly elaborate set of rules based on the Pharmacy and Poisons Act of 1933. Most of these have reference to the provisions of the Act itself. I am sorry to say I have not been able to see the Act but various provisions in the rules refer to one part or other of the Act. There are also a number of elaborate schedules which also have reference to various specific provisions of the Act. It is quite clear that a set of rules of this character could not possibly be read with the Poisons Act as in force in India. This being so, it is really for the Honourable mover of this Resolution to show exactly in what respects use could be made of the Poisons Rules of 1935 which are in force in Great Britain, and I was hoping that he would come here with a learned exposition showing the exact effect of these various rules and how the adoption of one or other of them would assist in the control of the sale of poisons in India. However, he has rather left us guessing on that subject. He has spoken in quite general terms and his arguments have been based very largely on the condition of things existing in the United Kingdom for which these rules were devised. For instance, if his intention is that attempts should be made to close down the slimming establishments and beauty parlours in the rural villages, I am afraid he would find there would be a very poor response.

I have tried to see what was in the mind of the Honourable mover in bringing this Resolution forward. I see he speaks as if opium, morphia, heroin, cocaine and such drugs require further control in the matter of sales. I

presume he is aware that under the Dangerous Drugs Act rules have been framed for the control of the sale of all the dangerous drugs falling into that group and that the method by which the sales are regulated and the kind of control is very largely comparable to that applied by the Poisons Rules in Great Britain for all kinds of poisons. That is to say, there is a very close control over the sale of opium, morphia, heroin, cocaine and other manufactured preparations developed from these substances, and I take it that what the Honourable mover really means is that regulations similar to those applied to these drugs by the Dangerous Drugs Rules should be applied to all other kinds of poisons, such as strychnine and so on, and that these should be included in the lists of poisons under the Poisons Act. Actually in the model rules which the Government of India suggested to Local Governments in 1917 only five poisons were listed whereas in the list of poisons appended to the Poisons Rules of 1935 in force in Great Britain, as the Honourable Member has pointed out, the number of poisons scheduled covers something like 10 pages of the rules—a very much larger list. If, however, it is desired to enlarge the list of scheduled poisons and to regulate their sale more closely, it would seem more reasonable to do what has been done in the case of the Dangerous Drugs Rules, that is to say, to frame rules applicable firstly to the existing Act in force in India and also adapted to local conditions, and possibly to the machinery for supervision, instead of taking over wholesale a body of rules framed with reference to an entirely different Act and for the requirements of an entirely different country. All I can therefore say on this Resolution is that we cannot accept it as it stands but it is possible that the sale of poisons does need some slightly more elaborate control under present-day conditions. Government will therefore consider the result of this debate and if they find that any elaboration of the rules is possible and necessary they will bring the suggestions to the notice of the Local Governments; and I hope that on this assurance the Honourable mover will withdraw his Resolution.

THE HONOURABLE THE PRESIDENT (to the Honourable Khan Bahadur Dr. Sir Nasarvanji Choksy): Do you agree to withdraw your Resolution?

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY: Yes, Sir, I am agreeable to withdraw the Resolution.

THE HONOURABLE THE PRESIDENT: Honourable Members, is it your pleasure that leave be given to the Honourable Member to withdraw his Resolution?

(When this question was put, the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra said "No.")

THE HONOURABLE THE PRESIDENT: The practice is that when the President asks the mover if he wishes to withdraw his Resolution and if he says that he agrees to withdraw it and when permission is asked of the Council even if there is a single Member who objects to the withdrawal, the President is bound to put the original Motion to the House. (To the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra): Do you wish to say anything?

1 P.M.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): No, Sir, I do not wish to speak.

THE HONOURABLE THE PRESIDENT: Then I have to put the original Motion to the House. Resolution moved:

“This Council recommends to the Governor General in Council that in the interests of public health he be pleased to apply with such modifications as may be found necessary the New Poison Rules, sanctioned by Parliament and made effective in Great Britain and Northern Ireland from May 1st, 1936.”

The Question is:

“That this Resolution be adopted.”

The Motion was negatived.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

RESOLUTION *RE* RECOMMENDATIONS OF THE TARIFF BOARD ON THE COTTON INDUSTRY.

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

“That this Council recommends to the Governor General in Council not to give effect to the recommendations of the Tariff Board on the Cotton Industry till a suitable agreement has been arrived at between India and Great Britain.”

The Honourable Members of this House know that a special Tariff Board on the cotton industry was appointed by the Government of India in their Resolution, dated the 10th September, 1935. I may just read the terms of reference to this Tariff Board, which are contained in Appendix I to the Report, and the paragraph runs as follows:

“To recommend on a review of present conditions and in the light of experience of the effectiveness of the existing duties the level of duties necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom, of (a) cotton piecegoods, (b) cotton yarn, (c) fabrics of artificial silk and (d) mixtures, fabrics of cotton and artificial silk.

“By adequate protection is meant that which will bring the price of imported goods to the fair selling price of similar goods produced in India”.

Sir, I would like to draw the attention of this House to the words “to afford adequate protection to the Indian cotton industry”. I do not know why they thought it proper to define “adequate protection” by adding the words in the last sentence. However, Sir, I will leave the question to be dealt with later on, and will come to the recommendation in the Board’s report, which was submitted on the 26th March. The report was in the hands of Government when the Assembly threw out the Ottawa Pact and the question of giving notice to the British Government was under consideration as well as of making a

new agreement with the British Government. In the circumstances it was not necessary for the Government to hurry up in giving effect to the recommendation of this Tariff Board by an executive order. The Government ought to have given full opportunity for the discussion of the report by the industry concerned as well as by the Legislature, and they could have taken advantage of the impending new agreement to make favourable terms. There are moments when agreements can be made with greater advantage than at other times. But this was not done. The Government in a hurry gave effect to the recommendation of the Tariff Board by executive order. Sir, we all know that this Tariff Board was appointed in consequence of the Resolution of the Government of India on the Tariff Board of 1932. Perhaps the Government was not satisfied with the recommendation of the Tariff Board of 1932. They recommended a much higher duty but Government evolved its own scheme and accepted a lower duty so far as the United Kingdom was concerned; and they also did not accept the period recommended by the Tariff Board for protection. Instead they promised that another Tariff Board would be appointed after two years, and the present Tariff Board was appointed in pursuance of that undertaking. Sir, I do not know what the object was in lowering the duty in the teeth of the opposition by the industry concerned. The Tariff Board in its report has lowered the duties from 25 to 20 per cent. They say on page 113 :

“ On this basis the Board recommends that on cloths of bordered grey, that is, chaddars, dhoties, saris, piecegoods and coloured goods, the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem*.”

“ The Board recommends that on plain grey goods the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem* or 3½ annas per lb. whichever is higher ”.

As for artificial silk and mixtures of cotton and artificial silk, the Tariff Board could not make up its mind and they leave it where it was. They say :

“ The Board is unable to make an accurate estimation either of the protection afforded by the present tariff or of the level of duties necessary to afford adequate protection against imports from the United Kingdom of fabrics of artificial silk and mixture fabrics of cotton and artificial silk ”.

These were the recommendations of the Tariff Board.

Sir, if the Government had the idea of increasing its customs revenue, the one and most important factor was the increase in imports and I understand from the representation made by the Federation of Indian Chambers of Commerce and Industry to the Government of India that the imports of British goods in 1930-31 were 521 millions of yards, in 1931-32 they were 377 million yards, in 1932-33 they were 586 million yards, in 1933-34, 414 million yards, in 1934-35 they were 553 million yards, giving an average of 490 million yards. So the import duty which the Government derives from this industry would be equal to the reduced duty if import of about 150 million yards is increased, which I doubt very much. Supposing it is increased to that extent and the import duty is equalised, the Government ought to pay attention to the other aspects of the indigenous industry. It will be done not only at the loss

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

of the industry, but at the loss of the poor agriculturists, the producers of cotton. We all know, Sir, that since 1931 the consumption of Indian cotton by the Indian mills has increased by 409,000 bales of cotton, that is 18 per cent. So, Sir, if these mills are consuming more of Indian cotton, it is an advantage to the agriculturist who produces cotton. This aspect ought to have been very much considered by the Government in a country like India which lives on agriculture.

Sir, I would now like to refer to the constitution of this Special Tariff Board. We all know that when this Board was constituted there was wide criticism from the press and platform that it is not expected from a Board presided over by a British businessman that the Indian case would be fairly considered. Sir, I will just refer to the remarks of the Fiscal Commission on the basis of which these Boards are appointed. The majority of the Fiscal Commission recommended that the constitution of the Tariff Board should be such as will command the confidence of the country and must be above suspicion of any subservience to any particular interests. This was the recommendation of the majority of the Fiscal Commission members. What does the Minority of that Commission say? The Minority which also consisted of the Chairman of the Commission said that the Chairman of the Board should be

“ a trained lawyer occupying the status of a High Court Judge ”.

May I know, Sir, why such a man was not appointed to preside over such an important Tariff Board dealing with one of the most important industries of the country. Therefore the recommendation of the Board for lowering the duty is not unexpected. Now, Sir, I want to tell the House very plainly that we have no ill-will against Lancashire. We sympathise with her in her difficulties, but so far as the Indian mill industry is concerned, certainly we claim, and rightly claim, that when there is conflict between the interests of Lancashire and those of India the latter should prevail. We maintain the principle of paramountcy of indigenous interests, which has always been upheld by the British Government itself. Sir, I would, with your permission, quote one or two sentences from the representation of Indian Chambers as they are very pertinent. They say about the policy of the Government of India in this matter :

“ Their policy leads to the conclusion that the grant of protection to this industry has always been influenced by a desire to safeguard British textile interests even at the cost of Indian ones ”.

Sir, at the end of their representation, the Committee say :

“ The Committee, therefore, feel it their duty to submit that particularly when the whole question of bilateral treaties with the United Kingdom and other countries is soon to engage the attention of the Government in the near future, the Government would have deferred their decision with greater advantage to India. The Committee expected the Government to rise above their traditional old methods of serving British interests at the cost of Indian ones, thus dispelling all doubts about their policy from the mind of the public ”.

So, Sir, these are the views of the most representative Chamber of the country when they made representation about this Board to the Government of India.

Sir, the whole object of my Resolution is that the Government should stop the lowering of this duty till an agreement, a suitable agreement, has been arrived at between this country and Great Britain and every advantage of giving preferential treatment to the United Kingdom should be derived by it.

With these words, Sir, I move.

THE HONOURABLE MR. H. DOW (Commerce Secretary) : Sir, I invite the attention of the House first of all to the actual wording of this Resolution ; it recommends to the Governor General in Council not to give effect to the recommendations of the Tariff Board. I think the whole House is aware that Government have already given effect to those recommendations and that nothing further remains to be done ; so that, on the face of it, it asks Government to put the clock back in a way that Government cannot possibly do. They cannot refrain from taking action which they have already taken. It would sometimes no doubt be very useful if Government had the power not to do things which they had already done ; they could then re-model things nearer to the heart's desire.

3-5 P. M.

But I do not wish to take my stand on any narrow interpretation of the literal meaning of the Resolution. The speech that was made by the Honourable Member was more or less devoted to a censure of the Government for what they had done, though at the end of the speech he indicated that that also was not his real object, but that his real object was to get Government to take off the duties which they had put on. Sir, I would remind the House that it is an integral part of the policy of discriminating protection, which is Government's policy, that protection should not be more nor less than is necessary for the purpose. That policy was very recently re-affirmed and embodied in the Tariff Act of 1934. Section 4 of that Act empowers Government either to increase duties if they find that existing duties are not adequate to give protection, and to decrease them if they find that they are more than adequate. I should like to remind the House that, when that Bill was under discussion, Sir Abdur Rahim, who is now President of the Assembly, brought forward an amendment that Government, if it took such action, should afterwards bring it up to the Legislative Assembly, and it should only continue to be of effect if it was approved by the Assembly. The House very decisively rejected that amendment, and I think it will be agreed that it follows from that, that if the Assembly did not think it desirable that they should be consulted even after Government had taken action, we may assume *a fortiori* that they did not desire or think it proper that Government should only take action after consulting the Assembly. So, even looking at it from the purely general point of view Government has a duty imposed upon it by the Legislature to see that protection is neither more nor less than is necessary. In this particular case, in addition to this general duty laid upon Government, there was a special obligation to take action at once. That special obligation arises out of the Clair Lees-Mody agreement. I think that the general terms of that pact are sufficiently familiar to Members of this House to make it unnecessary for me to quote from it. That pact, I would remind the House, was not anything imposed on the industry by Government. It was negotiated freely by people in the trade in India and

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England. It afterwards more or less received the blessing of Government and Sir Joseph Bore in his speech on the Textile Protection Bill of 1934 specifically repeated the undertaking that it was incumbent on Government to take action, when it was found to be necessary, and that again, as late as January, 1935, was repeated by Sir Bhupendranath Mitra in the note attached to the supplementary trade agreement between His Majesty's Government and the Government of India. Government were then bound to take action as soon as possible, both in accordance with their general policy, and in pursuance of a specific agreement and undertaking. I think I have sufficiently dealt with the suggestion that it was necessary for Government to bring this matter up to the Legislature before taking action.

The Honourable mover of this Resolution has spoken of Government lowering the duty in the teeth of opposition from all the interests concerned. Now, Sir, there was a full dress debate only a week ago on this subject in another place when the matter was the subject of an Adjournment Motion. It is a very notable thing, I think, that in the course of that debate not one Member connected with the cotton trade spoke against the agreement.

THE HONOURABLE THE PRESIDENT: I would ask you not to refer to a debate that took place during this session.

THE HONOURABLE MR. H. DOW: Well, I will not make that point. If the action taken by Government had been ruinous to the cotton trade or very much against their interests, one would have expected some reaction on the stock exchange as soon as Government's action was known. Well, Sir, there was such a reaction, and what happened was that the shares of almost every mill company that was quoted went up when the action taken by Government was known.

There are other reasons why Government had to take action at once. There is the well-known effect on trade of a state of uncertainty. It was known that this Tariff Report was in the hands of Government, and very naturally forward trade was more or less at a standstill until the action to be taken was known. Such a state of uncertainty reacts very adversely on Government's revenue. If you take the months of April to June for the last three years, the figures of customs revenue under the heads affected were Rs. 74,15,000 in 1934, Rs. 68,71,000 in 1935, and in 1936 they had gone down to Rs. 52,52,000. That is another indication that it was necessary for Government to take action at once.

Lastly, there is the suggestion that, having imposed these duties, we should now take them off again, and that in some obscure way that would help pending negotiations between India and the United Kingdom, I really fail to see how it would help us in those negotiations. Having first of all broken one solemn undertaking before we go into new negotiations is in some way supposed to be going to assist us. I cannot follow that argument at all. It is quite obvious that, if we were to take off these duties, we should have great dislocation in trade and it would not possibly benefit us in any way in the negotiations that are about to take place.

I therefore appeal to the Honourable Member to withdraw his Resolution. On the face of it, it asks a thing which we cannot possibly do, because we are

asked not to do something which has already been done, and nothing more remains to be done. I have done my best to answer the arguments which he has adduced. With one simple emendation of his Resolution I should be very pleased to accept it. Where he says, "This Council recommends to the Governor General in Council not to give effect" if he will accept the insertion of the word "further" before the word "effect" that would at once make sense of his Resolution and enable Government to accept it. If the Honourable Member is prepared to accept the addition of the word "further" in front of the word "effect" it will make the Resolution at least intelligible and it will make it one the Government can accept.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, my Honourable friend, in replying to my Resolution, laid stress on three points. The first is, that Government have already taken action. We all know it, Sir. The action was taken at a time when the Legislature was not in session, and the Resolution has been brought when we are in session now. Then, Sir, he said that the principle of Government is that protection should be neither more nor less. This point the Federation of Indian Chambers of Commerce has dealt with very fully and they say that the real question in judging to the prices of the goods manufactured in the United Kingdom and India was not considered. They say:

"The Committee, after carefully going through the Report of the Tariff Board, find that the industry established a case for an increase in the rate of duties on imports of cotton piecegoods from the United Kingdom. Various efficient mills in India calculated that fair selling prices for the same goods if manufactured in Indian mills as are imported from Lancashire. This was certainly the correct basis on which an estimate could be made as to the amount of protection needed by the local industry. The Committee are aghast to find that the Tariff Board brushed aside this equitable method for no other reason than that it disclosed the necessity of a higher import duty. With what seems to be a predetermined idea of reducing the present duty on the British imports, the Tariff Board adopted the queer and unfair method of comparing the fair selling prices of inferior Indian goods with the c. i. f. prices of superior Lancashire goods".

So, Sir, they have fully discussed this case and said that the basis was incorrect.

The third point on which my Honourable friend laid stress was that Government was free to take action before consulting the Legislature. My Honourable friend may think whatever he likes from his point of view but we, on this side of the House, are very keen that the Executive should follow the decisions of the Legislature. The Legislatures are higher than the Executive and the Government ought to have considered it their duty not to give effect to the recommendations of the Board without the consent of the Legislature, because of its plain verdict on the Ottawa Pact which dealt with differential treatment.

These were the points raised by my Honourable friend, and he has now come forward with an amendment—

THE HONOURABLE THE PRESIDENT: There is no amendment whatsoever. He has only suggested if you would care to have the word "further" before the word "effect" inserted in your Resolution.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : If Government are willing to accept my Resolution with this addition, I am prepared to agree to it.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“This Council recommends to the Governor General in Council not to give further effect to the recommendations of the Tariff Board on the Cotton Industry till a suitable agreement has been arrived at between India and Great Britain.”

The Question is :

“That this Resolution be adopted.”

The Motion was adopted.

RESOLUTION *RE* ADVANCE OF LONG-TERM CREDIT TO ZEMINDARS.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I rise to move :

“That this Council recommends to the Governor General in Council to advance long-term credit to zemindars on low rates of interest through the Provincial Governments for repayment of loans and for improvement of land, specially in the provinces where land mortgage banks do not exist.”

This Resolution, Sir, has found two more echoes on the agenda. This would show to the Government how difficult is the situation of the zemindars and how keen we are that some sort of help is given by the Government. Seemingly, Sir, this Resolution of mine is aimed at helping the zemindars alone, but in reality, considering the fact that India is an agricultural country—80 per cent. of its population are dependent for their daily bread on agriculture.

THE HONOURABLE THE PRESIDENT : Will you confine yourself to your own Resolution ? The other Resolution, which applies to poor agriculturists, will be moved by the Honourable Rai Bahadur Lala Ram Saran Das.

THE HONOURABLE MR. HOSSAIN IMAM : I was simply saying that through the prosperity of the land-holding classes you get the prosperity of entire India and of the Government of India too. Our difficulty is that we are relying on our own produce and everywhere the door is closed against us. The Congress have not a good word for us. The Provincial Governments also follow suit. I will just give two instances. When Pandit Jawaharlal Nehru made his no-rent campaign in the United Provinces, the Government of the United Provinces, of which the Honourable the Leader of the House was then a distinguished member, accepted the Pandit's dictum in effect by reducing the rental of the tenant. I am not here questioning the propriety of the order, or whether it was good, bad or indifferent. But it was the zemindars who had to foot the bill. Government came to the succour of the tenantry, but without incurring the cost itself. They did reduce the land revenue by a small instalment—

THE HONOURABLE MR. J. C. NIXON : Over a crore.

THE HONOURABLE MR. HOSSAIN IMAM : What was the reduction in the rental ? Four and a half crores, I am told. That shows the difference between the treatment which is meted out to the industrialists and to the agriculturists. In the case of industries, it is the consumer who is made to pay and the industrialists are there to enjoy the benefits, whereas in our case, it is we who pay through our noses and the credit goes not to the zemindar but to the Government and to the Congress. Perhaps the Government thought that their action in reducing the rental of the tenantry will have some good effect on the election results. We will wait and see whom the tenantry regard as their real benefactor, the Congress or the Government which has simply followed in the footsteps of the Congress. In my own province the Government is trying to placate the Kisan Sabha in our parts by using indirect influence on zemindars to reduce their demands from the tenantry. There too the underlying idea is to win over the sympathy of these people who are going to form the main electorate under the new constitution. But there too I am sure the Government will be disappointed. Our case is that when we go to the Governments of our own provinces we are told that the resources available to the provinces are very meagre, that the iniquitous financial settlement made by the Government of India in 1919 has allowed them no expanding sources of revenue. So the provinces refuse to come to our help and when we come to the Government of India we are told that things are in the hands of the provinces. Thus we go begging from door to door and are shown no sympathy. Now, Sir, may I point out that the plight of the Indian agriculturist is really very bad. New competitors have come into the world markets which are trying to oust us from what we regard as our monopolies. They have marketed a substitute for jute, and for other commodities Russia is coming into the field. In addition, the depreciated currency of Australia has been responsible mainly for the stoppage of our wheat export. All these factors make it incumbent on India, if it wants to maintain its present scale of living, that some steps should be taken to maintain our footing in the international trade markets. If our export trade is jeopardised, what will be the result ? The result will be that imports will have to be reduced, and the reduction of imports means the crippling of the Government of India finances, because those finances are mainly dependent on the income from customs. The Government of India should take a long view and not remain as complacent as they are at present in the hope that everything will turn out for the best. Sir, there are two methods of improving the agricultural situation. One is very much near our hearts.

THE HONOURABLE THE PRESIDENT : The main theme of your Resolution is to advance money to zemindars for their needs and you are referring to the position of agriculturists, which is covered by the Honourable Rai Bahadur Lala Ram Saran Das' Resolution. You have now spoken for ten minutes and not said a word about loans to zemindars.

THE HONOURABLE MR. HOSSAIN IMAM : I am referring to the improvement of land, Sir. There are two ways open to us. One is devaluation, by which we could sell in outside markets at competitive rates. But that door being bolted and barred according to Sir James Grigg in the other

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House, the only other method is to go in for land improvement, improvement of implements, irrigation facilities, etc. But these things require money. Now a zemindar can only get money from three sources. One is the village *mahajan* or *bania*, but his rates of interest are so ruinous that I am sure the Honourable Finance Secretary will himself agree that he is not a person to whom any one can go for money even for land improvement. As a matter of fact the activities of the *mahajan* are mostly confined to advancing money for non-productive purposes. There remain two other sources, one is the Bank and the other the Government. I think the Honourable Finance Secretary will agree with me that it is impossible for commercial banks to advance money to zemindars whose credit is so shaky and who require money for long periods which banks are not prepared to give as they want quick returns. Therefore the only source left to us is the Government. Another alternative which might suggest itself to some Members would be to look to the Reserve Bank to come to our rescue. But, as the House will remember, the Reserve Bank has been debarred from having any business with private individuals except in very exceptional circumstances. And so the Reserve Bank can only come to our rescue if there is a land mortgage bank to which they can advance money. But land mortgage banks have not been formed in most of the provinces, and therefore we have no other source than the Government. Now, the question arises whether we should ask for aid from the Provincial Governments or whether the Centre should come to our rescue? The Provincial Governments, as I have said, have very meagre resources and also they do not look at things with that broad view which the Government of India does. The Government of India have ample resources; their dealings are not in crores but in hundreds of crores, whereas we in the provinces think in lakhs. Knowing, Sir, the magnitude of the indebtedness of the zemindars it would seem that the only authority which can effectively come to their rescue is the Central Government and not the Provincial Governments.

Now, Sir, it may be said that the agriculturists of India are very backward and therefore their difficulties are of their own creation. That is not correct. Everywhere in the world where agriculture forms the subsistence of a substantial part of the population the difficulties are the same. The most advanced country in the world, the United States of America has its share of troubles in regard to the agriculturists. But the difference between America and India is that they have been doing things while we have been sitting idle. As far back as 1916, the American Congress passed the Federal Farm Loans Act and under that they formed 12 Federal Land Mortgage Banks, and they also authorised the formation of Joint Stock Banks under the Federal Farm Board to give long-term credit to the agriculturist. In 1929 these 12 Federal Banks and the Joint Stock Banks had advanced to the agriculturists the enormous sum of 1,200 million dollars on land mortgages. Americans were not satisfied even with this. They went a step further. In 1923 they gave intermediate credit facilities by an Act of the Congress whereunder 12 further Federal Intermediate Credit Banks for intermediate credit were formed in different cities. These intermediate credit banks were able

to advance money at a very cheap rate of interest on securities other than real estate, like livestock, grains, and other things, which the agriculturists possessed. They were so helpful that they were able to lend money at a rate much below the rate the Government of India itself was borrowing. They were able as far back as 1934 to advance money to agriculturists for intermediate credit at the low rate of $2\frac{1}{2}$ per cent. This is what America has been doing. That is not all. These steps were taken in ordinary times, but when extraordinary times came in the days of depression, subsequent to 1929 the Government of the United States of America through its Reconstruction Finance Corporation has been doing things which would simply astound the present Government. They paid something like 270 million dollars in order to increase the price through the Grain Stabilization Corporation. I have cited the instance of America, because England itself not being an agricultural country has no problems like America and America is the only country which I could cite as mainly dependent on the prosperity of the agricultural population. Our demand is not that Government should by a magic wand remove all the difficulties of agriculturists. We have in spite of the phenomenal and disastrous fall in prices carried on our work, but now we find that whatever vital force we had has been exhausted and unless the Government comes to our rescue and gives some loan, it would be impossible for the zemindar to continue.

May I say one word, Sir, that no province is satisfied with the award of Sir Otto Niemeyer. All of them consider that they have been given step-motherly treatment by the Government of India. With the small resources available to Provincial Governments after the advent of provincial autonomy, they would not be able to do much to alleviate the condition of agriculturists unless the Government of India make a generous offer. I do not want them to give something for nothing, but simply ask them to make a friendly gesture that they would be prepared to advance money to the provinces for this purpose if they should want that help. My Resolution would not bind the Government to anything definite. The Government of India will consider the application of the Provincial Governments on their merits and if it finds that the proposals given by the provinces are financially sound, then only will they accept them. What I want them to do just now is to give the hand of friendship, tell them that they are prepared to come to the rescue of Provincial Governments and thereby assure the land-holding classes and the agriculturists in general—

THE HONOURABLE THE PRESIDENT: You do not think that would commit the Government of India ?

THE HONOURABLE MR. HOSSAIN IMAM: The Government of India would be committed to a certain line of action, but the acceptance of any proposal will depend on the financial condition. The reason why I have added a rider to my Resolution, "specially in the provinces where land mortgage banks do not exist" is that it would make the task easier, because in the provinces in which there are already land mortgage banks they would not be bound to make advances. It will only be a question of the Eastern Provinces like the United Provinces, Bengal, Bihar and Assam which are hard hit at the present moment ; because the Punjab with all her troubles has a sheltered market for wheat, which we have not. I wish the Finance Department would

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give us some sheltered market for rice as they have given for wheat; then perhaps we would not be in such a difficult position. The long and short of my Resolution is that we want the Government of India to share the responsibilities of the provinces and their help to inaugurate provincial autonomy with good wishes and goodwill.

Sir, I move.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, I am in entire agreement with the main underlying principle of the Resolution moved by my Honourable friend. But yet, Sir, I cannot subscribe fully to the idea of unrestricted long-term loans to be given to the zemindars. Loans are always arranged, whether by a state or by an individual, to meet certain exigencies and extraneous demands. Therefore, I would like to amend the Resolution in the following terms. My amendment which I move reads as follows :

‘ That for the original Resolution the following be substituted, namely :

“ This Council recommends to the Governor General in Council to arrange to provide in the annual budget a fixed substantial amount for advancing long-term loans at a nominal rate of interest to zemindars and landlords, to be recovered from them in ten equal annual instalments beginning from the sixth year after the advance, on the distinct understanding that such advances will be utilised by the zemindars and landlords chiefly for the purpose of improving the water supply, sanitation, drainage, education, fertility of lands in the rural areas and for introducing the modern improved methods of cultivation with a view to increase substantially the produce per acre.”

Sir, the amended Resolution is self-explanatory. It does not require much explanation. The long-term loans which we are recommending Government to give us, must be for a certain definite period as well as for certain definite purposes. The period of repayment suggested by me is 15 years which, to my mind, is reasonable. Then, Sir, my amendment suggests the repayment of such loan from the sixth year from the date of the borrowings. It means that during the first five years of the loan the money may be utilised by the zemindars and landlords to improve their estates, and to improve the condition of their tenants living in rural areas. Sir, there are no less than 80,000 villages in British India. The reconstruction of these villages is a gigantic task, which no individual Government or individual organisation, like that of the Congress can successfully carry out. If the Government and the people are agreed, that village reconstruction is to be achieved then, Sir, I think the 15 years planning suggested in my amendment is the only way by which that object can be attained. There is no denying the fact that landlords are now impoverished, together with their tenants. Owing to trade depression for the last few years, and due to the recurring floods and famines in India, and also due to the currency policy of the Government, the condition of the peasantry is pitiable and is going from bad to worse. They are unable to pay their dues to the landlords. But the landlords on the other hand are to deposit their Government revenue in time, whether they get their dues from the tenants or not. The result is, that the landlords have exhausted all their accumulated funds in paying Government revenue, and in most cases have run into heavy debt, at high rates of interest. Hundreds of estates are

being sold every year owing to non-payment of Government revenue on the due date, under the Sunset law. As it is, all the landed properties are heavily involved and there are no means left to the landlords to extricate themselves from such debts unless Government come forward with long-term loans at cheaper rates of interest. If once they are relieved from the draining of their resources by way of interest, they may devote their energies to rural uplift and village reconstruction. Sir, this village reconstruction on the basis of a 15-year economic planning can only help the agriculturists in getting better road communication, better sanitation, better facilities of education for their children, and better facilities to adopt the improved methods of agriculture. Is there any denying the fact that village after village is being depopulated, owing to the migration of village labourers to towns, for employment in mills and factories and in various other salaried offices? Educated youths from villages also are migrating to towns for employment in Government and other offices.

Now, let us see why the labour population and the educated population are keen to live in towns.

THE HONOURABLE THE PRESIDENT: You want to give the go-by entirely to provincial autonomy.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Provincial autonomy will soon come in the provinces. It is solely due to the better comforts of living available in towns. As a result of such a huge influx into the towns that unemployment has become acute both amongst the labourers as well as amongst the educated classes. I think if metalled roads are constructed inter-connecting the villages, the communication between the villages and towns will be easy in these days of motor transport. If sanitation is improved and a real and earnest effort is made for driving out the malaria scourge, especially from the Bengal villages, half the unemployment problem will be solved, as, in that case, educated families would like to live in villages which would mean more intensive cultivation. Once the educated section take the idea of living in villages the other items of village reconstruction will automatically follow, such as facilities for water supply, facilities for education, and facilities for improved methods of cultivation. The difficulties in the approach to, and exit from, villages to towns is one of the main causes, which is helping the migration from villages to towns and causing the devastation of rural areas. I say further that if money is made available to the landlords for the construction of good motor roads connecting all villages with towns, railway stations and steamer stations, the villagers will also be able to get better prices for their produce, which in turn will help the landlords in the repayment of the advances proposed in the Resolution. Sir, the question of easy communications and the question of village sanitation are the two main problems which must be tackled immediately if the rural area is to be saved from utter ruination and further devastation. The present system of the free supply of quinine in malaria-stricken villages during the malaria season is nothing but tinkering with such a huge and important problem. If the African colonial empires of the western countries could be saved from malaria, and if the scourge of malaria could be driven from even the Federated Malay States within a few years, I do not see any reason

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why it cannot be driven from the villages in India? The whole village reconstruction scheme and the rural uplift scheme can only be made a complete success in this country within the shortest possible time if both the Provincial and the Central Governments allocate a fixed annual sum in their budgets for advancing long-term loans to landlords at cheaper rates of interest for being spent solely for the purpose of improving communication, sanitation, water supply, lighting arrangements, the drainage system, etc., in rural areas. Other things like the solution of the unemployment problem and facilities for education are bound to follow automatically as soon as the educated section is attracted to villages. I therefore hope the House will accept the Resolution and thereby pave the way for making India once again a prosperous country with a contented people, well-fed, well-housed and well-built, like the people of India about 200 years ago.

THE HONOURABLE THE PRESIDENT: The debate will now proceed both on the original Resolution and the substitute Resolution.

THE HONOURABLE SARDAR BUTA SINGH (Punjab: Sikh): Sir, I wish to give my whole-hearted support to this Resolution. It is not only that the small agriculturists are concerned, but members of old families who, on account of the depression, have no credit whatsoever. So far as the Co-operative Department is concerned, it does not make any advances to large landlords and the banks have closed their doors to them. Therefore, there remains no option for the large landlords but to sell their estates and pay off their debts or place them under the Court of Wards. The Court of Wards, though always ready to help, is not in a position to take up all the indebted estates. Therefore, there is great need for providing credit for members of old families. If I may, I wish to make the suggestion that Government should fix an instalment value on these large estates just as the Government of the United Provinces has fixed an instalment value on landed estates under the Encumbered Estates Act and on landlords giving an undertaking that instalments may be collected as land revenue, Government may either advance loans or issue bonds just as is being done in the United Provinces against the security of land. This would set money in circulation and help people who at present see no way out of their difficulties.

The other day a Resolution was moved in the Assembly and the Official benches brought experts like Mr. Darling from the Punjab and another from Bengal, to oppose the Resolution. All that these experts could say was—

THE HONOURABLE THE PRESIDENT: Please do not refer to the Assembly debates here.

THE HONOURABLE SARDAR BUTA SINGH: I am not quoting what they actually said. I am only giving the purport of what was said. All that these experts could say was that the co-operative movement in the Punjab was providing finance to the extent of Rs. 12 crores and in Bengal debts of about Rs. 11 lakhs were settled. Now, if we turn to the Banking Inquiry Committee Report, the two Provinces, the Punjab and Bengal, were indebted when this inquiry was held to the extent of about Rs. 150 crores each. Does not the official plea that the Co-operative Department is meeting the needs of the

agriculturist in the Punjab, or settlements in Bengal are affording substantial relief, seem ridiculous? It would be interesting to know the number of credit societies that are doing business and the number of societies that have been placed in class "D" in the Punjab. Is it not a fact that almost every day the landed gentry haunt Provincial Secretariats requesting that their estates may be taken under the Court of Wards, because the debt legislation has closed all sluices of credit and they cannot pay their debts? The reaction of the breakdown of the credit system is reflected in depression of trade, in shrinking earnings from railways and growing unemployment? Debt legislation varies from province to province and needs codifying. The Government of India promised to constitute a Rural Credit Department of the Reserve Bank, but it has taken no steps to implement its promise. It is true the Reserve Bank cannot lend money directly, but it can revive and organise rural credit in the provinces.

Sir, I support the Resolution.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, I rise to support the Resolution moved by my Honourable friend, Mr. Hossain Imam. There is no doubt that the agriculturists at present stand badly in need of some assistance, not only for the improvement of their lands but also for clearing their debts. In the last session of the Council of State a Resolution was moved regarding the assistance which should be given by the Reserve Bank to the agriculturists for paying off their debts. The Government replied that the Reserve Bank authorities were collecting figures and facts and they will be able to announce at a later stage what the Reserve Bank can do in the matter. A period of six months has passed and I would be very much interested to hear from the Government whether any progress has been made in that direction? If the Reserve Bank have really made some progress and there is a prospect of their putting into practice those proposals, then I would request my Honourable friend to withdraw this Resolution. But if we find that the Reserve Bank have made no progress in the matter and have paid no attention to this question then I would certainly like him to press this Resolution. I know, Sir, that in the Provincial Councils certain Acts have been passed, called by different names. The Punjab Council also passed an Act which they called the Indebtedness Act. But I am afraid those Acts are not enough to remove the grievances and hardships of the zemindars. On the other hand, there is a greater chance of there growing a racial hatred and class war than giving substantial assistance. I am one of those who strongly support those Bills which have been passed. But, Sir, the result is that the money-lenders in the villages have altogether stopped lending money even to most respectable zemindars, while on certain occasions there is a genuine necessity for taking loans, not for wasting but for improving their estate and property. Government by passing those measures have discouraged the money-lenders and they have not devised any other means of making up the deficiency and any other way in which the zemindars could obtain loans at reasonable rates of interest. Therefore, this is not a problem which could be shelved or disposed of merely by saying that it is the concern of the Provincial Governments. The Government of India must make a move in the matter and should take the initiative.

I support the Resolution, Sir.

^{to}THE HONOURABLE MR. J. C. NIXON (Finance Secretary) : Sir, with your permission, I propose to apply myself to the wording of the Resolutions themselves and thus save myself from having to go into explanations of various somewhat irrelevant matters.

THE HONOURABLE THE PRESIDENT : Quite right.

THE HONOURABLE MR. J. C. NIXON : The Honourable mover of the original Resolution has no doubt observed that in the matter of granting loans to zemindars for the purpose of improvements, it will be necessary for some agency to approve the particular improvements proposed. Presumably, the agency will have to see also that these improvements are actually carried out, and possibly, the agency will have to assure itself that the money that has been lent has actually been spent on those objects. The Honourable mover knows as well as I do that the only agency which could carry out these functions is the district officer in the provinces under the Provincial Governments, and therefore, unlike my Honourable friend Mr. Banerjee, the Honourable mover of the original Resolution does realise that the Provincial Governments enter very prominently into this picture, when he proposed that the Government of India shall make the loans to provinces. I would like to paraphrase some portions of his Resolution. He proposes that the Governor General in Council shall advance long-term credit. There are times when the market will grant long-term credit to the Government of India and there are times when the market will not do so. But irrespective of whether the Government of India can get from the market long-term credits or not, the Honourable mover suggests that the Government of India should loan to provinces on long terms. He will know, and the House will know, as well as I do, that this involves some risk to somebody. He wants that that risk should be carried, not by the provinces, not by the zemindars, but by the Central Government. Further, he suggests that the money should be lent to provinces at low rates of interest. The Government of India are not in a position to dictate the rate of interest that the market will charge on the money lent by it.

THE HONOURABLE THE PRESIDENT : The amendment says "not low rates but nominal rates".

THE HONOURABLE MR. J. C. NIXON : I saw that, Sir. I intend to mention that later on. The market at some times will lend money to the Government of India at low rates, but at other times it will not lend money at low rates. But the Honourable Member's Resolution is, that whatever rate the market is prepared to lend at to the Government of India, the Government of India should advance money to the provinces at *low* rates of interest. I suggest that somebody then will have to hold this baby also and in the Honourable Member's mind, the body to bear this burden is the Central Government.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : What is the usual rate ?

THE HONOURABLE MR. J. C. NIXON : There is no usual rate. The Government of India have borrowed money from the market in recent years

at between $2\frac{3}{4}$ per cent. and $6\frac{1}{2}$ per cent. Sir, if some additional cost is involved in all this, the Honourable mover says that it has to be borne by Government of India revenues. His proposition is really that this shall be an additional concession made to Provincial Governments over and above those which come out of Sir Otto Niemeyer's recommendations.

The Government of India in publishing the correspondence on the subject made no secret of the fact that in order to bear the burden imposed on them by Sir Otto Niemeyer's recommendations, together with others, such as the separation of Burma, the finances of the Centre would for the next few years be very seriously strained, and nothing that has happened in the meantime has gone to alter that position. So far as the Government of India are able to see the matter at the moment, there are no more surpluses coming out. But suppose out of the revenue position of the Government of India surpluses were emerging, I wonder if this House would be unanimous in recommending that those surpluses should be made over to Provincial Governments or whether there would not be at any rate a few Members who would press for some reduction in central taxation.

But, Sir, I may be doing the Honourable Member an injustice. It may be that he really intends that the Government of India shall give to the provinces only the benefit of their higher credit. He obviously does not mean that we should lend to provinces, as in fact we have done in the past, in any circumstances in which the provinces care to ask for money. The Honourable Member coming from Bihar will, I am sure, agree with me that we should no longer go on lending money to provinces which care to outrun the revenue constable merely on the certainty of their being able to draw the difference from the Government of India. I feel certain he will be on my side when I make that statement. I may say that the present policy of the Government of India in regard to the borrowing requirements of the Provincial Governments of the future is that in general they should seek those requirements from the investing market with the help and the advice of the Reserve Bank. The Government of India believe that the market will be a better test of the soundness of provincial finance and of the credit of provinces than a Government Department situated either in Simla or Delhi. And if a Provincial Government of the future desires to raise loans for the purpose of its zemindars or for any other legitimate provincial purpose, it is unlikely that the Government of India will do anything to prevent its doing so so long as the Reserve Bank advises that the investment is a sound one and that the market will be prepared to subscribe to it. As the United Provinces Government has recently been able to raise a loan at 3 per cent. for 30 years, there is no reason for believing that provinces with prudently managed finances should not be able to raise the money for such a policy as is advocated by the Honourable Member if that Government concludes that this is a legitimate and advisable course for it to pursue. I also believe that the province from which the Honourable Member himself comes will be able to go into the market and obtain money on reasonable terms after it has been relieved of the whole of its pre-autonomy debt according to Sir Otto Niemeyer's recommendation and has been given the additional resources which he has recommended. With

[Mr. J. C. Nixon.]

its excellent reputation of the last 15 years behind it for the prudent management of its finances, I feel certain that the future credit of the Bihar Government will be high.

Now, Sir, I turn for a few moments to what is not called an amendment to the original Resolution but what is called, I think rightly, a substitute Resolution. I notice that my Honourable friend Mr. Banerjee omits to make provision for granting money to zemindars for the purpose of repaying previously incurred debts. In that respect I think his Resolution is an improvement on that of my friend the Honourable Mr. Hossain Imam. There are various difficulties obviously involved in granting loans for repaying debts. The original mover did not suggest that these debts should be limited to those which had been incurred in agricultural pursuits. Some of them might have been incurred in unfortunate share transactions or even on a race-course. However, in other respects the substitute Resolution of Mr. Banerjee has what I might perhaps be allowed to describe as objectionable features. But when I use that word I do not want it to be understood in an objectionable sense. His Resolution differs in three important regards from Mr. Hossain Imam's Resolution. In the first place, Mr. Banerjee omits any mention of Provincial Governments. He presumes, I take it, that it shall be the Government of India itself which shall examine the various proposals put up by zemindars for improving their land. The Government of India shall itself have an agency of its own to see that those improvements are properly carried out and that the money has been spent on them. I can say quite frankly we have not got the agency for that purpose. The only agency which exists in India for carrying that out would be the Provincial Governments. Secondly, another important point in which his substitute Resolution differs from the original is that he suggests that the money supplied by the Central Government and loaned direct to zemindars shall be at a merely *nominal* rate of interest. He does not suggest that we should go to the market and borrow the money at a *nominal* rate, because he realises that the market would not necessarily lend it. Also his Resolution speaks of a fixed substantial amount, presumably in the Government of India revenue budget, every year. So that his Resolution is really the first alternative of those which I suggested might be the real meaning behind the mover of the original Resolution. It is not merely placing the credit of the Government of India at the disposal either of the provinces or of the zemindar classes. This is definitely a matter of giving them money. This is definitely giving them concessions which are going to cost the Central Indian taxpayer money. That is to say, his recommendation is blatantly an attempt to supplement the provisions of the Otto Niemeyer award, and presumably, since he is referring to concessions to zemindars, concessions additional to those recommended by Sir Otto Niemeyer only in those provinces where zemindars on any large scale exist. In regard to any supplementing of Sir Otto Niemeyer's recommendations I can only refer back to what I have said previously. The Government of India will not be in a position to be financially more generous to the provinces than Sir Otto was. My own Department has no Fortunatus's purse out of which it can conjure funds, and I do not believe that the taxpayer who pays money to the Central

Government is any more philanthropically inclined than the taxpayer who pays to the Provincial Government.

I must definitely oppose the substitute Resolution of my friend Mr. Banerjee. I have also to oppose the original Resolution of my friend Mr. Hossain Imam. But, at the same time, while I oppose it, I do not want him to think that we have not a considerable amount of sympathy in regard to the purpose which moves him. I only suggest to him and to this House that his Resolution would be more properly moved in one of the Provincial Legislatures.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, the Honourable Finance Secretary has shown his sympathy for the class to which I belong by his concluding remarks, but he is not prepared to translate his sympathy into action as I desired. Unfortunately lip sympathy does not serve my purpose. I want something material in addition to sympathy and good wishes. I am grateful to the House that so far there has been no opposition.

Now, the Honourable Finance Secretary brought forward some difficulties which he thought were insurmountable. In the first place he mentioned the fact that it is not possible for the Government of India to get long-term accommodation always. May I remind him that since 1921, upto the present time, barring the first four years of the depression when he was unable to get long-term credit ; for the rest of the period he has been getting long-term credit for whatever period he asked. Even at the present moment, he was able to float a 1960 loan only two years ago and at the present moment his credit is so high that he can with advantage convert even his non-terminable loans if he so desires. Then there are other sources of loans available to the Government which are in effect long-term but which are not called long-term credit. I refer to the Provident Fund, to which every year more is added than is taken out, with the result that we are increasing the Provident Fund at the rate of about Rs. 8 to Rs. 12 crores per annum. That is a solid source of income on which he could have drawn for provincial accommodation if he had so desired.

THE HONOURABLE MR. J. C. NIXON : May I point out, in order to clear that up, that the assets that come in of the nature of provident fund deposits will in future accrue to Provincial Governments ?

THE HONOURABLE MR. HOSSAIN IMAM : That is as far as the Provincial services are concerned, but the bulk of the arrangements will remain under the purview of the Central Government. The major part of the Provident Fund will still remain with the Centre and not with the provinces ; the Army and the Railways will still remain Central subjects.

Then, Sir, he said that I wanted low rates of interest irrespective of the market condition and the rate at which Government may get its own loan. Low rates do not mean any definite rate. It is a comparative term. At the present moment a low rate means $2\frac{3}{4}$ per cent. Before the depression it was 4 and 5 per cent. He said, Sir, that he had to pay for discounting Treasury Bills at the enormous rate of $6\frac{1}{2}$ per cent., but that was for a very short time. I do not think it lasted even for six or seven months. For a fairly long period, the Government rate of interest for funded loans has been round about 5 per cent. Even that to us is fairly low. The zemindars do not get loans at

[Mr. Hossain Imam.]

anything less than 9 per cent. The most fortunate among us get it at 9 per cent. Barring a few big land-holders who can afford to go to certain quarters and get loans at 6 per cent., the rest of us have to consider ourselves fortunate if we get loans at 9 per cent.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : What are those quarters ?

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable Maharajadhiraja of Darbhanga is one quarter from which some borrow. He does not give less than Rs. 5 lakhs.

Then, Sir, he referred to a very material fact, the higher Government credit means that our finances are sound. However prudently the provinces may manage its revenues they cannot attain the same degree of credit which the Government of India enjoys in the money market. As against that, I may mention a matter which occurred only a few days ago. I refer to the loan floated by the Calcutta Corporation at 3 per cent. The full amount could not be subscribed. They asked for tenders and they were not able to get much. They took a small loan of Rs. 12 lakhs at Rs. 99-8-0. The credit of the Calcutta Corporation is better than that of, say, Assam. The income of the Calcutta Corporation is more than that of Assam ; it is a little short of our own income. Another advantage which we could have in dealing with the Government of India would be some sort of cash credit account. If you had a cash credit account, you could repay whatever money you had got ; and if we take a long-term credit from the market, we will not have that facility. We will have to resort to a sinking fund arrangement. If our credit is good we will have to pay more than we would have to pay when our credit was bad. It would be in the interest of the provinces to have their credit worsened so that they can buy their loans in the falling market. It was for this reason that I asked the help of the Government of India. Besides this, the Government of India can tide over temporary difficulties through the savings bank and cash certificates. These are sources of income which give the Government accommodation at very low rates of interest. All these advantages are denied to Provincial Governments if they embark on loans on their own account. I do not see how it would be possible for our Provincial Governments to have the same amount of facility which the Government of India enjoys. These are the difficulties with which we are faced and I do not see that the Honourable Finance Secretary has made out a case. Our difficulties are not imaginary ; they are real and they deter us from withdrawing my Resolution.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : I want to ask a question, Sir.

THE HONOURABLE THE PRESIDENT : You cannot ask a question at this stage. (To the Honourable Mr. J. C. Nixon) : Do you wish to say anything further ?

THE HONOURABLE MR. J. C. NIXON : No, Sir.

THE HONOURABLE THE PRESIDENT : I will first take the sense of the Council on the original Resolution of the Honourable Mr. Hossain Imam.

Resolution moved :

“ This Council recommends to the Governor General in Council to advance long-term credit to zemindars on low rates of interest through the Provincial Governments for repayments of loans and for improvement of land, specially in the provinces where land mortgage banks do not exist. ”

The Question is :

“ That this Resolution be adopted. ”

The Council divided :

AYES—8.

Banerjee, The Honourable Mr. Jagadish Chandra.	Mehrotra, The Honourable Rai Bahadur Lala Mathura Prasad.
Ghazanfar Ali Khan, The Honourable Raja.	Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.
Hossain Imam, The Honourable Mr. Kalikar, The Honourable Mr. V. V.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.	

NOES—25.

Akbar Khan, The Honourable Lieutenant-Colonel Nawab Sir Mahomed.	Ismail Ali Khan, The Honourable Kunwar Haji.
Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Jagdish Prasad, The Honourable Kunwar Sir.
Arthur, The Honourable Mr. C. G.	Johnson, The Honourable Mr. J. N. G.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.	Lal, The Honourable Mr. Shavax A.
Charanjit Singh, The Honourable Raja.	Maxwell, The Honourable Mr. R. M.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Clow, The Honourable Mr. A. G.	Nixon, The Honourable Mr. J. C.
Commander-in-Chief, His Excellency the.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Devadoss, The Honourable Sir David.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Dow, The Honourable Mr. H.	Parker, The Honourable Mr. R. H.
Ghosal, The Honourable Sir Josna.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Glancy, The Honourable Sir Bertrand.	Russell, The Honourable Sir Guthrie.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	

The Motion was negatived.

THE HONOURABLE THE PRESIDENT : As the original Resolution is rejected by the Council, it is not necessary to put the substitute Resolution.

RESOLUTION RE FURTHER CONTRIBUTION FROM THE BRITISH EXCHEQUER TO DEFENCE EXPENDITURE IN INDIA.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, the Resolution that stands in my name runs thus :

“ This Council recommends to the Governor General in Council to make further efforts for securing contribution, as proposed by the India Office to the Capitation Tribunal from the British Exchequer to the defence expenditure of India. ”

[Mr. V. V. Kalikar.]

Sir, in moving this Resolution, I think I am in very good company because I think, Sir, that this Resolution is such an innocent proposition and it will bring such a lot of money into the pockets of my Honourable friend, the Finance Secretary, and of the Government of India that I am sure they also will not oppose this Resolution of mine. This Resolution, Sir, does not ask the Government of India to go against any policy of theirs. This Resolution, Sir, does not burden the finances of the Government of India with any charges. This Resolution of mine only asks for efforts to be made to secure for India her just right and to get justice from the British Government.

Sir, when I sent this Resolution I thought this was a proper time to move it because Sir Otto Niemeyer's Report was before me and I thought it advisable that the Central Government must get something for their just demand from the British Government because their finances are likely to be reduced when provincial autonomy is introduced in the provinces as under the Niemeyer Report the Central Government will have to make subventions to certain provinces and will have to reduce their debts which various provinces owe to them and after five years they will have to give a share of their income-tax to certain other provinces. I, Sir, do not propose to discuss the Report of the Capitation Tribunal here today because that was already discussed in 1935 on the Resolution of the Leader of the Opposition. But, Sir, I am encouraged in bringing this Resolution forward again this year on account of certain remarks made by Sir Philip Chetwode, the then Commander-in-Chief, when he replied to a similar Resolution, though not exactly the same, of my Honourable friend Mr. Hossain Imam. Sir Philip Chetwode then said :

“ Sir, I hope the Honourable mover and the House will not think if I formally oppose this Resolution that I do so because I think in the least that the Honourable mover is wrong in bringing it forward. On the contrary, I think, it is a very good thing that this very important matter should be aired occasionally and the House will recollect that so far from the Government of India or myself opposing this contribution from England at any time during the time it has been mooted we, on the contrary, not only supported it but we did our best by briefing counsel to appear before the Garran Tribunal and put forward every possible argument that we hoped might influence that Tribunal and we actually did our best to get more ”.

So, Sir, the position is this, that the Government of India through Sir Philip Chetwode accepted that the demand of India in this connection is just and fair. Further on, he says, Sir, that the Rs. 2 crores which we got from the British Exchequer was not quite sufficient. It was bare justice done to India. I do not want to enter into the controversial question—though according to me it is not controversial—whether the Army in India is used for imperial purposes. I do not agree with those who hold the view that the Army in India is not used for imperial purposes. I submit with all the emphasis at my command that it is maintained and used for imperial purposes. The argument is very often advanced that it is not only used for imperial purposes but also for Indian purposes. If the Army in India is used even to some extent for imperial purposes, then other colonies and dominions get the benefit of the troops stationed in India without paying a share of the cost. So, India has got a just right to demand a share of the expenditure from the British Exchequer. The demand of the India Office before the Garran Tribunal was this :

IN INDIA.

“The India Office has tentatively suggested several alternative formulæ on which a contribution might be based. A fixed percentage of India’s total expenditure on Defence, say a half, about £18,000,000 per annum or alternatively some lower percentage ; the extra cost of maintaining the British troops in India over the cost of maintaining a corresponding number of Indian troops, estimated at £10,000,000 ; the existing defence expenditure of India relating to the cost of British troops, say, £16,000,000, or alternatively a percentage of this. And the last is, the excess of India’s defence expenditure over a certain percentage of India’s total revenue ”.

It is very unfortunate that the Garran Tribunal did not come to any decision on these demands, and expressed the view that none of the formulæ appeared to them to have any satisfactory foundation in principle. I do not, Sir, want to criticise the judgment of the Garran Tribunal here. But I am really surprised to find that when the India Office and the Government of India through their Counsel made these demands, the Tribunal did not come to any decision on these points. The Army in India is maintained also for the benefit of the dominions and colonies, like Australia and South Africa. My straight question, not to the Government of India because the Government of India demanded that amount from the British Government, but to the British Government is “ Why should not the Dominions be made to pay a certain portion of the expenditure of the Army in India, which is at times used for their purposes ? Why should there be such step-motherly treatment towards India ” ? If Colonies are treated in a fair and generous way that they must pay only for troops maintained for their internal requirements, then, Sir, India must be treated in the same manner. In colonies, the expenditure, I understand, is controlled by a certain rule fixed by the British Government. I think that the colonies or the dominions spend 20 per cent. of their revenue for expenditure on their army. But in India it is nearly 37 per cent. of her revenues. On several occasions the authorities were able to send troops from British India to some of the distant parts of the world. There are other and more important members of the British Commonwealth, but when the emergency arose in the past and the War Office had to send reinforcements abroad, it was India and not the other parts of the British Commonwealth which was asked to send the necessary forces, because those countries maintain forces only just enough to supply their own needs and not the needs of the War Office. If today a large portion of Indian revenues is absorbed in expenditure over the Defence Department, I submit that the reason is that the Army in India is treated as an army of the Empire. Sir, our claims are just and fair. We do not want it as a sort of charity from the British Government that we must be paid more. We have got a just right and a claim to get more money from the British Exchequer in respect of the expenditure on the British Army in India. Sir, I understand that a remark was made in this session in the other House that what India got was quite sufficient and that India could not demand more. If that remark is correct——

THE HONOURABLE THE PRESIDENT : You are not entitled to refer to what happened in the Assembly.

THE HONOURABLE MR. V. V. KALIKAR : I am not referring to the debate. I am referring only to the information I got. I know, Sir, that I cannot refer to the debates ; otherwise, I would have read the answer of the Defence Secretary. I am using it as an argument that the remark is not correct.

THE HONOURABLE THE PRESIDENT: We do not know the remark.

THE HONOURABLE MR. V. V. KALIKAR: Well, Sir, I will not dilate on that point. My contention is, that the demand put forward by the India Office was,—after great consideration and labour on the part of the Government of India and after investigation and inquiry by the India Office,—put forward for getting just and fair treatment for India. The Army in India serves an imperial purpose. It is unquestionable that the British garrison in India is of incalculable value to the British Government and the Empire generally, in addition to the services it renders to India in particular. Without it either the imperial garrison would have to be increased or an imperial reserve would have to be located in the East at the expense of the Home Government. Sir, there is the very highest authority and testimony of British statesmen that the Army in India does serve an imperial purpose. Even the Right Honourable Mr. Ramsay Macdonald has stated that in his book on the Government of India that the British Exchequer must give to India half the cost of the Army in India.

Then another point that has struck me is that after the introduction of provincial autonomy and the separation of Burma and Aden our Eastern Frontier from China to Siam goes out and that will become the concern of the British Government and not of the Government of India. In that case the cost for the protection of that frontier should be incurred by the British Government and not by India.

Sir, the question is, whether we should make a demand at this time or not? I submit this is a proper time for making a demand because if the report which I have read in the papers is true, the British Government have withdrawn 10,000 troops from Egypt; if so, the expenditure which they were incurring by keeping that force in Egypt should be remitted to India. And I think we should make a demand at this time because that will to some extent relieve the financial burden on the Central Government. Sir, I do not want to say much on this point but I think this is just the time for us to make such a demand and I hope my colleagues will agree to my proposal and support my Resolution.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, as stated by the Honourable mover, a very similar Resolution was moved by the Honourable Mr. Hossain Imam only a year ago but was withdrawn on the assurance of my predecessor that Government were not unsympathetic towards the Resolution but considered it a singularly inopportune moment to raise the question with His Majesty's Government. As the Honourable mover has said, Sir Philip Chetwode also agreed that it was a good thing that this very important question should be aired occasionally, and it is chiefly for this reason, I imagine, that the Honourable mover has brought forward this Resolution today.

Now, Sir, I regret that I can add very little to what Sir Philip said in September, 1935. I do not think it can be reasonably argued that any particular event has occurred in the interval to make the moment more opportune than it was last year. During these last 12 months His Majesty's Government have not only paid us their contribution of one and a half million, but have also relieved us of the total cost of certain small units which were sent

to Aden and other places in connection with the Italo-Abyssinian situation. On the other hand, the last thing I wish to do is to give the House the impression that Government are opposed to the principle behind the Honourable Member's proposal. We have always admitted that the amount of the contribution received as a result of the Garran Tribunal was something of a disappointment from our point of view. I can, however, assure the House that they need be under no apprehension that this matter will cease to engage the attention of the Government of India. It is a matter that we continually have in mind and we are not in the least likely to forget it. I do hope, therefore, that the House will agree to leave the matter in the hands of Government on the assurance that they will not hesitate to reopen the question with His Majesty's Government if and when conditions are favourable for doing so. I regret I cannot say more than this at the moment and hope that the Honourable Member will understand my difficulties and agree to withdraw his Resolution in the knowledge that Government, while not opposed to the principle of it, are really not in a position at present to take the action recommended even if the Resolution was passed.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I have listened with great patience to the remarks of His Excellency the Comander-in-Chief and I think that the question is before the Government of India. I might agree with them that this is not the proper time to make an effort in that direction, but in view of the financial situation of the Central Government I thought it would be advisable to make this effort before the introduction of provincial autonomy. I thought it reasonable and advisable to make an effort in this direction before the introduction of provincial autonomy. However, Sir, as His Excellency thinks that the Government of India will make an effort in that direction as stated by me in my Resolution, I beg leave of the House to withdraw the Resolution.

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

RESOLUTION *RE* PROTECTION TO INDIAN-BRED RACE-HORSES.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, I beg to move the following Resolution :

“This Council recommends to the Governor General in Council that with a view to give protection to the country-bred race-horses the following steps should be taken immediately :

- (a) That an import tax of Rs. 1,500 be placed on all geldings and Arab horses which are imported into India for racing or which are used in races in India after importation, and
- (b) That all race-courses in India should be licensed and that a condition of the licence should be that at least one race on each day of every meeting of the race in India should be provided for Indian horses and that the stakes for that race should not be less than the average value of the other races on the same day.”

Sir, this is not the first occasion that the attention of this Honourable House is invited to one of the most vital problems of India, namely, providing protection to the horse-breeding industry in this country. This question has

[Raja Ghazanfar Ali Khan.]

been mooted on the floor of this House on more than one occasion. I myself was responsible for bringing two Resolutions, one concerning the horse-breeding colonies of Sargodha district and the other concerning the horse-breeding colonies in Montgomery district. This particular question of race-horses was also brought, although in a somewhat different form, by my Honourable friend, Sir Phiroze Sethna, in 1934. The object of this Resolution, as Honourable Members will realise from the wording of it, is to afford protection to this horse-breeding industry. India was at one time the greatest horse-breeding and horse-using country in the world. Up to about the year 1857, India was virtually self-supporting in respect of her horse supply, but owing to the Mutiny the importation of horses in large numbers began. Since then owing to the importation of horses in large numbers, the horse-breeding industry has languished except in two areas in the Punjab where subsidies of draughts and lease of land has been given since 1903. Even in these two areas methods of compulsion rather than persuasion have to be used to force the zemindar to produce good horses. The poor horse-breeding zemindars are threatened with the forfeiture of their lands if they do not satisfy the Army Remount authorities. These methods of compulsion rather than of encouragement have not succeeded on Government's own admission. The number of Indian horses produced for the army in the last ten years is only about 10,000. As the number of mares retained for the purpose in the various horse-breeding areas exceeds 10,000, it follows that each of these mares has produced only one horse suitable for the army in the course of ten years. The waste of young stock horses rejected for army use has been immense and the breeders have had to sell them at sacrificial prices of two or three scores of rupees. As long as a certain number of remounts have been obtained annually for the army, Government has not considered that this lamentable wastage has been a matter for their consideration. Being content with a limited horse-breeding factory in the two compulsory areas in the Punjab, Government has not concerned itself with the immense wastage of young stock in the two compulsory and all the voluntary horse-breeding areas. Because the army established a limited horse-breeding factory in the two new compulsory areas, virtually all the old areas, formerly famous for horses and where the people were hereditary horse-breeders of ancient renown, were allowed to fall into neglect.

In practically every country in the world where it exists on an organised basis, racing serves an important national purpose, apart altogether from the provision of sport and recreation for the public, namely, to assist the national horse-breeding industry. The value of this industry cannot be disputed.

Now, Sir, England was the first country to discover those means. There were so few riding and pack-horses available in England at the time of Queen Elizabeth that the commandeering of 3,000 horses for the defence of the country to a great extent disorganised the public transport available. It was largely due to Charles II, 1660—1685, encouraging racing that the best breed of saddle-horse in the world was evolved, and England, and later, Ireland, became famous for their plentiful supply of good saddle-horses.

The instance of South Africa can also be quoted as a typical instance where the Government thought it their duty to give protection to the country-bred horses. Similarly, Sir, you will hardly find any country in the world which has not come to the conclusion that the only way to encourage horse-breeding is by means of providing protection. The policy adopted in South Africa has been followed in all countries and parts of the Empire except India. The home-bred horse is given preference—even in places under British influence that are not within the Empire. At Shanghai, for instance, the racing is confined to Chinese ponies. At Hongkong, Chinese ponies from the mainland are favoured. At Rangoon, about Rs. 8 lakhs are given in stakes for Burmese ponies as compared with only Rs. 30,000 for imported horses. In South Africa all the classic races are for home-bred horses, and in many other ways they are favoured. In France, Germany, Hungary and Austria some of the most valuable races are confined to home-bred horses.

Sir, the importation of geldings of other breeds are subsidised by Griffin schemes as well as by vastly more valuable races than for Indian horses. Races to the value of more than Rs. 40 lakhs annually are given for imported horses and only to the value of about Rs. 2 lakhs for Indian horses. The average value of the stakes apportioned is about Rs. 3,000 per imported horse and only Rs. 1,000 per Indian horse, whereas the cost of training each kind of horse is the same. This is a great discouragement to people who would like to buy Indian horses.

Sir, the Government of India in spite of giving assurances on various occasions have not taken any practical steps in the way of fulfilling their promises.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : What promises ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That the Government of India will do something in the way of giving protection to the horse-breeding industry in this country. I will presently quote the speech of the Honourable the Leader of this House on the subject.

Now, Sir, the army people who are the largest buyers of horses every year
 5-5 P.M. —it is an unfortunate charge to make, Sir, but they have been all the time inclined to encourage horses imported from Australia rather than the horses bred in this country. If you will kindly look at the figures, Sir, the Punjab Government is the only Government in India who have done something to encourage horse-breeding. Land, which can be valued at about Rs. 6 crores, has been allotted by the Punjab Government for the purpose of horse-breeding. The number of horses which are purchased by the Army Department only, if the amount spent on the Army Remount Department is divided up on them the price of each horse would work to something like Rs. 3,000. Therefore, Sir, the Army Remount Department should be the first Department of the Government who should encourage this industry. I have purposely left out the army from this Resolution because I thought I might be faced with some important political problem. I have confined my Resolution merely to horses imported for the purpose of racing.

[Raja Ghazanfar Ali Khan.]

If I were an extremist, Sir, I should have insisted that in the interests of the industry, the Government ought to stop altogether the importation of race-horses into India. But I have satisfied myself with just making this modest demand. And what is that demand, Sir? It merely says in the first instance an import tax of Rs. 1,500 should be placed on all geldings and Arab horses which are imported for racing purposes and the other is that in the race-courses a condition should be laid down for issuing a licence that they will devote one day in their meetings for country-bred horses and that the stakes should be of as high a value as for other races on the same day. When this question was discussed in 1934, the Honourable the Leader of the House on behalf of Government replied in the following words :

“ But I am prepared to say that if the Honourable mover of the Resolution feels that there is an industry for horse-breeding in India and that it needs promotion, then the course for that industry is absolutely clear. They have to make out a case for reference to Government on definite grounds that they deserve help and the way in which that help should be secured ”.

THE HONOURABLE THE PRESIDENT : That is quite different from what you stated—that the Government made promises which they did not fulfil.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I have not finished the quotation. He went on to say .

“ On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or deserves, and so on. I trust the Honourable mover will realise that that is as far as it is possible for Government to go ”.

Now, Sir, these were the words of the Honourable the Leader of the House. And it was on that assurance that the Honourable mover of the Resolution agreed to withdraw the Resolution. He said :

“ I have already given figures to show that out of a total of about Rs. 42 lakhs for stakes, only Rs. 2 lakhs is allotted to races for Indian horses, which I say is a scandal. I have nothing more to add. I accept the Honourable Leader's assurance and ask for leave of the House to withdraw my Resolution in the fervent hope that Government will do their best to improve the existing situation ”.

Now, Sir, after this assurance from the Leader of the House, am I not entitled to ask the Government what practical steps they have taken since 1934? Naturally, Sir, as you are aware we, the Members of this Upper House, are always willing to meet the Government half-way. As a matter of fact, Sir, we are always anxiously waiting to catch the slightest opportunity where we can with a certain amount of satisfaction and self-respect come to a compromise with them. In return, Sir, we expect that even if the Government's declaration or announcement is cleverly worded, they mean to do something in the matter. If the Honourable the Leader of the House will assure me that since that announcement was made by the Leader of the House Government did look into this question or did start some sort of inquiry, I will have no objection to withdrawing the Resolution, but if I find that things are the same in 1936 as they were in 1934, I would ask the House to accept the Resolution.

Before I conclude, Sir, I would ask the Government to kindly abstain from taking part in the discussion because it is only fair that when anybody is

directly concerned in any business he should not be allowed to take part when that business is under discussion. As I have shown, Sir, the Army Department, one of the most important departments of the Government, is directly concerned with the horse trade, I would request you to ask the Government Members to keep the same strict neutrality as the Honourable Political Secretary ordered his party to keep in connection with my Bill.

Sir, I move the Resolution.

THE HONOURABLE THE PRESIDENT: It is not in my province to advise Government.

THE HONOURABLE SIR HENRY CRAIK (Home Member): Sir, in opposing this Resolution I do so in three capacities and of those three capacities perhaps the least important is that of a Member of the Government of India. I speak, Sir, primarily as President of the National Horse-breeding Society and on behalf of that Society, and I also speak as one who for some years has been very much interested in racing, and especially in the racing of what the Honourable Member incorrectly describes as country-bred horses—the proper term is Indian-bred—and as one who has some small knowledge of the technical and financial side of racing.

Sir, this Resolution purports to be for the benefit of Indian-bred race-horses and if I were convinced that it was for their benefit I should not hesitate to give it my strongest support because anything that would promote and encourage the horse-breeding interests in India has, and for years has had, my deepest sympathy, and nothing in my opinion tends so directly to encourage the horse-breeding industry in India as the development of the only profitable market that exists, that is, the market offered by the race-course. But, Sir, in my opinion the measure proposed by the Honourable mover of the Resolution, so far from benefiting the trade in Indian-bred race-horses would do it the greatest injury, and I will try to show why. The imposition of a tax of Rs. 1,500 on imported geldings and Arab horses would give a blow to racing throughout India (and this the Honourable Member can take from me because I have studied it in close consultation with both the principal Turf Clubs)—would give a blow to racing throughout India which would mean probably the complete cessation of all racing of any kind whatever. I say that after careful reflection and on a somewhat careful study of the facts. The average value of horses imported into this country is, in the case of the United Kingdom, about Rs. 2,000; in the case of horses imported from Iraq, that is, Arabs, it is something like Rs. 300 and in the case of horses imported from Australia, about Rs. 570. Does the Honourable Member seriously suggest that horses of that value can stand an import tax of Rs. 1,500 each? From that point of view the proposal can have only one result, *viz.*, that the importation of horses of this class will completely cease. South Africa has been quoted as an example of a country where racing has gone on in spite of a heavy import tax. The analogy is in no way complete. To begin with, for some years after the import tax was placed, South African racing suffered very heavily. The total value of stakes offered went down considerably and the number of horses running also went down considerably. But, apart from that, South Africa had at that time a far better and greater supply of indigenous horses than India

[Sir Henry Craik.]

has at present. It also had a considerable number of very rich owners who could afford to import horses in spite of the import of tax of—I think it was—£137 per horse. In India there are few, if any, owners to whom such a sum is a small consideration.

The present position as regards racing in India is that there are about 290 Indian horses registered for racing at the outside. I have checked up the numbers today. Of these at least 50, I am convinced, will never see a race-course again. So, we can say that roughly 240 Indian horses are registered, that is, qualified for racing in India. Of the imported horses, not counting Arabs, there are, I think, over a thousand. Assuming that the importation of English and Australian horses was stopped, as I believe this tax would stop it, does the Honourable Member seriously suggest that racing on any considerable scale could go on with the comparatively few Indian horses at present available? The suggestion, when examined, is altogether impossible.

Another suggestion is that Arab horses should be taxed Rs. 1,500, or about five times their market value, on importation. Well, Sir, the number of Arab horses has already steadily declined. In three years, the number imported into this country has gone down from 721 to 395, and the number of horses of all classes imported into this country has gone down in the same period from nearly 3,700 to 2,300. Arab horses, though I agree that they are a poor class of race-horse, do supply in Bombay and Poona four races per day. Now, the racing industry is a business matter just as any other industry and if you stop the importation of Arabs—and this tax would surely stop it altogether—what does the Honourable Member suggest the racing executive of Bombay and Poona can substitute for those four races? For, remember the racing executive have to face facts. They have to make their racing pay. They have to provide a programme that will offer good sport and will attract the public, and if you cut four races out of eight clean out of the programme without being able to offer any other scheme as a substitute, you can hardly imagine a more severe blow to racing as a whole. Of course, if racing as a whole goes, Indian-bred horse-racing goes too.

The Honourable Member hinted that Government had given some promise to do something themselves for Indian-bred racing. When it came down to quoting the words actually used—I can read them to you—it became clear that no sort of promise was given. But, as a matter of fact, a great deal has been done to encourage the Indian breed both by the Society of which I have the honour to be President and by the great Turf Clubs and Race Clubs of India. At present the position is this, that the number of Indian horses available and qualified for racing is barely sufficient to fill the closed races already provided for them. During the cold weather in India there are race-meetings which cater for Indian horses at Bombay, Madras, and also at the race-courses of Northern India. Races are also provided for Indian horses during the monsoon at such centres as Ootacamund, Mysore, Bangalore, and this year in Calcutta. The number of races provided at the above mentioned meetings is more than sufficient to meet the number of horses available and some of the races barely fill. What the Indian breeder requires is a guarantee that as the

number of Indian horses increase, the number of races provided for them should also increase and that guarantee in the case of the Royal Western India Turf Club has been given and has been observed. That Turf Club drew up a five-year programme of closed races for Indian horses, the amount of stakes provided being roughly in the neighbourhood of three-fourths of a lakh. That programme has been faithfully carried out. We are now in the fifth year. But the number of horses competing in those races has in recent years shown a falling off although the stakes were attractive enough. The average yearly replenishments from the few studs which breed Indian horses has declined in recent years from about 40, which was the number five years ago, to 21 in this year. The amount of stakes provided for closed races for Indian horses—I am talking now of Western India ; of Poona and Bombay—has risen since 1916-17 when it was about Rs. 12,000 or Rs. 13,000, to Rs. 75,000 now. But the number of horses running has not, to the regret of the Turf Club, shown a corresponding increase. In Calcutta, for example, this year, the Calcutta Turf Club started closed races for Indian horses at their monsoon meetings. Four of such races were, I think, provided. My Honourable friend Mr. Arthur will correct me if I am wrong. There were four of such races provided. The number of entries was miserably small, the number of runners in each single race never exceeded five and actually, in one race only one horse appeared and had a walk-over—a thing which I believe is practically unknown on the Calcutta Race-course.

I think I have shown that the suggestion in the Resolution as a means of encouraging the Indian-bred horses is altogether fallacious, and that it would kill Indian-bred racing as well as every other kind of racing. Provided the number of horses increases, and unfortunately there is little sign at present that the number of Indian horses qualified for the race-course is increasing, what is required is the provision of more races, especially on those race-courses which are close to the breeding centres, that is the race-courses in the north of India. Now, I have here the prospectuses of four meetings which are to be held in the north of India this winter, the only four that have yet published their prospectuses. These are the Lucknow Autumn Meeting, the Meerut Autumn Meeting, the Lahore Extra Meeting and the Lahore Christmas Meeting. That means 12 days racing with six races a day. Of those 72 races no less than 30 are closed races for Indian-breds. Of the remaining 42 there is not one in which an Indian-bred horse cannot enter, and in the great majority I have not the slightest doubt that there will be Indian horses competing. Well, I think it is quite unreasonable to say that this is not, within the means of the Race Clubs concerned, a very generous allotment. On every race day on those courses there will be two closed races at Lucknow and Meerut and at Lahore, which particularly caters for the breeding centres, there will be three closed races every day for Indian-bred horses. The Honourable Member must admit, if he understands racing at all, that that is a very generous provision for one class of horse, especially when you consider that they are eligible to run, and a great many will run, in the other races. I do not really think that at the moment there is any case for reserving more races for Indian horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I would just like to ask one question. What about the prizes for these closed races?

THE HONOURABLE SIR HENRY CRAIK : Without looking at the prospectuses I cannot say. But some of the races for Indian-breds are as valuable as some of the races for other horses. That comparison which the Honourable Member made of Rs. 40 lakhs in stakes being provided for English and Australian horses and only Rs. 2 lakhs for Indian-bred horses is a most misleading comparison. Indian horses are eligible to compete for those Rs. 40 lakhs. The Rs. 2 lakhs are for closed races only in which no horse except an Indian-bred can run. Indian horses do run in and win those other races and it is completely fallacious and misleading to quote those figures in that way.

I think I have said enough to show that at the moment it would be an act of the greatest folly to impose a tax of the size proposed in the Resolution. It would provoke opposition from everybody interested in racing, and I think it would provoke more vocal opposition from the Indian breeder than from anybody else. It could have only one effect, to kill racing altogether.

As to the second part of the Resolution, that in effect asks that Government should step in and interfere with the management of race-courses. Now, there are in India two great racing authorities, the Royal Calcutta Turf Club and the Royal Western India Turf Club. These are bodies of considerable antiquity and to the best of my belief are held in very general respect. They have managed racing affairs in India, as the Jockey Club do in England, for many years with success and impartiality and they command the respect of all people connected with racing. There is no case whatever for Government to interfere in a matter of this kind in which there is already a well-established, independent and highly competent authority. I can see no justification whatever for Government taking any steps to control the management or to license race-courses. The Turf Clubs at present perform that task and perform it with competence and command the confidence of the racing public. To ask that on every day on which racing is held there should be a closed race for Indian-bred horses of the average value of all the races of that day would be in effect to impose on the Turf Clubs the obligation in some cases to provide a race where the stakes were greatly in excess of the value of the animals running. If you take the Viceroy's Cup Day in Calcutta, it would mean that the Calcutta Turf Club would have to provide a closed race for Indian-breds—a class, as I have said, which has only appeared in very small numbers on the Calcutta Race-course and when races are provided for them they do not fill—on that day of the value of over Rs. 10,000. That I submit would be altogether out of proportion to any field that could be expected to turn out for such a race. In Bombay, on the day when the most valuable race in the West of India is run, the Eclipse Stakes, it would mean the Royal Western India Turf Club would have to provide a race for Indian-breds of the value of nearly Rs. 12,500. There again, considering the generous way in which that Turf Club has catered for Indian-breds and the considerable financial assistance it has given to the Horse-breeding Society in various directions, I think that would be returning evil for good in a completely disproportionate measure.

Sir, it seems to me that this Resolution is ill-considered and could only have the exact opposite of the effect which it is intended to have. As I have said, I have every sympathy with Indian racing and Indian breeding, and I have shown it for many years in a very practical form. I am willing to

assist the Honourable Member or any Indian breeder with any well-thought-out and balanced scheme to assist Indian breeding. I think a great deal has been done in that direction and done lately by the provision of a larger number of closed races for Indian horses on the Northern India race-courses this year, and by the provision through the generosity of the Turf Clubs of large sums for research into equine diseases. In all those ways the horse-breeders—and especially the horse-breeders of the province from which the Honourable Member and myself both come—are certain to benefit. But they will not benefit by ill-conceived and badly-thought-out proposals of this kind.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I think all Members here are very grateful to my Honourable colleague Sir Henry Craik for giving us such detailed and first-hand information on racing in India. Sir Henry Craik has been closely connected with racing here and he has done, as he has shown, all that lies within his power to encourage horse-breeding in this country.

I now come to the speech of my Honourable friend the mover of the Resolution. I will not be very long because I know that Honourable Members are very anxious to get on with their other Resolutions and the clock is against them. My Honourable friend said that my distinguished predecessor, Sir Fazl-i-Husain, had given an undertaking on the floor of this House that the Government of India—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: An assurance.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: An assurance—I accept that—on the floor of this House that the Government of India would take steps to impose a customs duty—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I never said that.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: An assurance with regard to what?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: To do something to give protection to the horse-breeding industry in India.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I was only paraphrasing it—that he would give protection to the Indian horse-breeding industry. If my Honourable friend will go through the speech, he will find that Sir Fazl-i-Husain said that it is impossible on the floor of this House to come to a decision. My Honourable friend in spite of this warning wants us to come to a decision whether protection can or cannot be given on the floor of this House. Sir Fazl-i-Husain suggested that as it was impossible to decide a question of this kind on the floor of the House those who wanted protection should state their case and then if there was a case the Government of India would no doubt be prepared to hand it over to the proper authority. This is what Sir Fazl-i-Husain said:

“On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or deserves, and so on”.

[Sir Jagdish Prasad.]

It was not possible to decide on the floor of the House whether protection should be given; if such a course was desired, an application should be made supported with facts, and if the Government of India were satisfied that there was a case for proceeding further, they would hand over the case to the proper authority. That is what Sir Fazl-i-Husain said. Therefore, I think I am justified in saying that no assurance was given on behalf of the Government of India that they will take steps by way of protection for the encouragement of the Indian horse-breeding industry.

Now, Sir, I come to the merits. My Honourable friend suggests that we should impose a customs duty of Rs. 1,500 on horses and a certain amount on geldings. How is the Customs Officer to know whether a particular Arab which is imported is going to be raced or whether it is going to be used for polo or hacking or breeding purposes? That is going to be the first difficulty. It is impossible by looking at a horse to be able to say that this is a horse which will be raced. Everyone of us recognises—(The Honourable Raja Sir Ghazanfar Ali Khan rose to interrupt.) If my Honourable friend will allow me to continue without his very interesting interruptions, I think we will get on with the work much more quickly—I was going to say that even if a horse is originally intended by the owner to be raced, if it does not come up to expectation, he may use it for another purpose. That is going to be the first difficulty and it is impossible to be able to discriminate between a horse which is to be raced and which is to be used for other purposes. Therefore, if a duty is to be imposed, it will have to be imposed on all horses. You cannot say that only the horses which are to be raced will bear the duty and not the others. Now, if we impose a duty on all horses, as my Honourable friend will recognise, this may have a most deleterious effect on the improvement of the breed of horses in India. It will also increase the cost to the army. We know that a large number of horses are imported from Australia for the army and if every horse which is imported is taxed, then the expenditure of the army in regard to the purchase of these horses will be increased. Therefore, on those two grounds alone, if there were no others, the imposition of a duty would *prima facie* be regarded as requiring further examination. Now, I also challenge the statement of my Honourable friend that after 1857 the horse-breeding industry in India has greatly declined. The figures show that during the last five years the number of horses has increased by about 15,000. The population of horses according to the census is over 1,400,000. The imports from foreign countries, as Sir Henry Craik showed, are decreasing. The imports of Arab horses has practically declined by half within the last three years. There has also been a decrease in the import of horses from Australia and from England. Therefore, there is every reason to assume that the number of Indian-bred horses is increasing. I would not repeat again what the Turf Clubs have done. I would only say that I understand that the Army Department are spending over Rs. 20 lakhs a year in encouraging the breeding of Indian horses and also mules—the major portion of the expenditure is on Indian horses. As we know, there are what are called, bound areas in the Punjab. This breeding is confined mostly to the Punjab and to three districts in my own

province, the United Provinces, the districts of Aligarh, Bulandshahr and Meerut. Apart from what the Military Department are doing, I understand there are about six private farms and particularly one farm which supplies about 75 per cent. of the Indian-bred racing horses. As my Honourable colleague Sir Henry Craik has said, the Government of India fully realise the importance of giving every legitimate assistance to the Indian horse-breeding industry. If my Honourable friend's proposals were to be carried out, it would mean that practically all racing in India would be destroyed and the very object which he has in view would be frustrated. Sir Henry Craik has shown that at present there are not enough Indian-bred horses to make race meetings thoroughly successful and if we were to exclude foreign horses from our race-courses, the result would be disastrous to the breeding of Indian horses. The Royal Calcutta Turf Club have already made it a rule, I believe, that in all races run under their rules there will be no Arab horses.

Sir Henry Craik also mentioned that the number of special classes for Indian-bred horses has been increased to three and that every effort is now being made to increase the number of such races and also to increase the stakes available for such races.

As regards the second part of the Resolution, the question of licensing of race-courses, if I may again say so without offence to Honourable Members, it is a matter which is primarily the concern of Local Governments. They are the persons who are responsible for that, and, apart from the question of jurisdiction, Sir Henry Craik has shown that licensing might indicate a reflection on the efficiency and impartiality of the two Turf Clubs existing in India. There is no reason to think that they are not doing all that is possible to encourage Indian horse-breeding and no Government would like to interfere unless it were satisfied that this interference was absolutely necessary and would promote the industry. In these circumstances I hope my Honourable friend, if he is wise, will withdraw the Resolution. If unfortunately I have not been able to persuade him, it will be my duty to oppose it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, today's debate on this somewhat unimportant question gives us many lessons. The first is how the Government can cleverly take shelter behind words and phrases. They have tried to draw a distinction between the words "promise" and "assurance". They have further tried to make a distinction between a Resolution and an application. They have also tried to show us that if we can establish in the course of the debate that a certain case deserves consideration, that is not enough. We should submit a memorial couched in the most humble language and there we should state what are the facts to persuade Government to take certain action. The Honourable Leader of the House has admitted that his worthy predecessor gave an assurance that if an application is made the Government of India would look into the matter.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: If a case is made out and sent to the proper authorities; not otherwise.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I would like to know what is the proper authority and what is the form of application? Is

[Raja Ghazanfar Ali Khan.]

there any prescribed form which we should fill in and put before the Government ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I am very sorry. I merely stated what the late Mian Sir Fazl-i-Husain said in this House.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Is that your opinion also ?

Sir, I would submit that a Resolution being discussed in this Honourable House should have more value with the Government than an application signed by half-a-dozen horse-breeders. We, who are mostly the representatives of landlords and come from horse-breeding areas, when we are here to make a request to the Government that they should kindly do something to give encouragement to the horse-breeding industry, is it not enough for the Government to get up and give an assurance that they will consider the matter ?

Now, Sir, it is much easier to give lessons to others to be wise, but I wish the Government of India were wise themselves. If they had the slightest sense of wisdom, the only thing they would do would be to get up and say that they regret that, since the Leader of the House in 1934 gave an assurance that the matter would be looked into, they had done nothing, but that they now proposed to look into the matter by appointing a committee or holding a departmental investigation. Instead of adopting that simple course, the Government are trying to take shelter behind these empty words and phrases.

Now, Sir, I have just to deal with one point raised by the Honourable Leader of the House before I turn to the Honourable the Home Member. The Honourable Leader of the House has questioned my statement that horse-breeding in India has decreased after 1857. I would like to ask a simple question at least from those people who have read something of Indian history. Before the British came to India, were the horses required for the armies in India imported from Australia ? Sir, is it not a fact that all the Rajput Chiefs and the Emperors in India used to have cavalry regiments in much larger numbers than we have at present and all the horses required for these regiments were Indian-bred horses and they were not imported from Australia ? I know that the Government have done something to encourage the horse-breeding industry but they have managed the business in a most unbusinesslike manner. And here I would quote the authority of the late Sir Fazl-i-Husain. He said :

“The cost of the horses would be somewhere near Rs. 2,000 per horse while in the market that poor animal would not find patrons of Indian horses willing to give even Rs. 300 for it”.

That is, the money that is spent on the Army Remount Department in India to look after this horse-breeding industry makes the price of the horse Rs. 3,000 while that poor animal would fetch only Rs. 300 in the market. Now, Sir, I leave it to the businessmen here in this House as to whether the Government is running the business in a business-like way. That is my reply to the Honourable the Leader of the House.

Now, Sir, I must acknowledge that the Honourable the Home Member can speak on this subject with great authority. As he has himself said, Sir, he was speaking in three capacities—(Of course, the third was the least important, that is his being the Home Member, although I think this portfolio of "Home Member" is such that it can include anything in the world, but still I think racing is not one of its subjects.) One capacity, he said, was as President of a certain association which is interested in horse-breeding and is called by the name of the National Horse-breeding Society. How far they are trying to achieve that object it is difficult for me to say at present. But the other capacity, and to which I attach the greatest importance is his own personal interest which he has been taking for such a long time in racing. If my information is not wrong, Sir, the Honourable Sir Henry Craik must have in the beginning of this hobby favoured and patronised Indian horses—

THE HONOURABLE SIR HENRY CRAIK : He still does !

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : But finding that the Indian-bred horses were not as superior as imported horses, his patronage has now been shifted to a different country.

THE HONOURABLE SIR HENRY CRAIK : On a point of personal explanation, Sir. The Honourable Member's information is entirely incorrect. I have won more races with Indian-bred than with imported horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : But at least you are not patronising any Indian horses now. Sir, the Honourable Member's speech can be divided into two parts. The first part is of what may be called a general character. Whenever there is any question of giving protection to any industry in this country, 90 per cent. of the arguments advanced by the Honourable Member are advanced by the Member in charge. And therefore in the short time at my disposal I would not like to answer all these points. There is no doubt that when you give protection to Indian-bred horses, the standard of racing would be lowered to some extent for a short period. It is a matter of supply and demand. If there is a demand for good Indian-bred horses, I am sure the supply will automatically follow. But you cannot expect that, while your valuable prizes are earmarked for imported horses, that Indian horse-breeders would be encouraged to produce good horses. Now, Sir, he has counted a large number of races which he calls "closed races" but he has not given the value of those races. This, Sir, reminds me of a little story. A sahib was travelling in a train and his chaprasi, who seemed to be a very modest sort of self-respecting man, was travelling in the servants' compartment. He was well-dressed and naturally somebody thought he was a Deputy Collector. So, after some conversation, he asked him: "What is your salary?" He replied: "Well, the salaries of the sahib and myself put together come to Rs. 2,020". Now, Sir, I will tell you the value that is paid to Indian-bred horses. Three races for imported horses, of the hundreds of races provided for them, are alone of more value than all the races given for Indian horses. The most valuable race in India, the Eclipse Stakes at Bombay, Rs. 75,000 in value, was founded for the encouragement of horse-breeding in India, but it has been won nine times in 13 years by imported geldings. Indian-bred horses are not even permitted to enter for this race. I may here inform the Leader of the House that geldings were not used for

[Raja Ghazanfar Ali Khan.]

breeding purposes. The two other most valuable races for imported horses, "The King-Emperor's Cup" and "The Viceroy's Cup", each of a value of about Rs. 70,000, were each won 11 times in 15 years (1920—1934) by geldings. The Royal Calcutta Turf Club does not provide a single race for Indian horses at its more important meetings in the winter.

Now, Sir, after these figures, I am sure my Honourable friend will agree with me that the encouragement which is being given to Indian-bred horses is very nominal and insignificant.

THE HONOURABLE SIR HENRY CRAIK : Not at all.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : If racing in India is used merely for gambling purposes and it is only intended for the amusement of a few who can afford to indulge in these luxuries, I have no sympathy for racing in India and I would not mind if it is stopped altogether. But, Sir, if it is used for the purpose of helping this national industry, then, Sir, I would not mind if the amusement and gambling is considered as a secondary part. To give importance to gambling and amusement at the sacrifice of Indian-bred horses is a perfect scandal. I have no intention of withdrawing the Resolution unless the Government are prepared to honour the assurances given by the late Sir Fazl-i-Husain that the Government would consider it their duty to look into the matter without waiting for any memorials or applications and will straightaway start inquiring into this question. If the Government are prepared to agree to this modest request of mine, I will then gladly withdraw this Resolution. But if the Government just want to put me off on this occasion, if some Honourable Member gets up and raises this same debate later on, they will again get up and say that they have not received an application in the proper form. If that is what Government are going to do, I have no intention of withdrawing the Resolution. I hope the Honourable the Leader of the House, who himself is a very leading and popular zemindar of the United Provinces will be in sympathy with his poorer zemindar brethren and will take a more sympathetic attitude and tell us that he will look into the matter and start departmental enquiries. If he says so, I will be satisfied and will withdraw the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I would like to clear up a misconception. Perhaps my language might have been ambiguous or I might have failed to make myself clear. All I said was that when the Resolution was last discussed in 1934, the late Sir Fazl-i-Husain made a certain statement and I think it will probably resolve our doubts if I read out—I hope the House will bear with me while I do so—what actually the late Sir Fazl-i-Husain said. The House will then be able to judge whether the Government of India have done anything which is contrary to the statement made by the then Leader of the House. This is what the late Sir Fazl-i-Husain said :

"They have to make out a case (this is with reference to customs) for reference to Government on definite grounds that they deserve help and the way in which that help should be secured. If their application makes out a *prima facie* case, I have no reason to believe that the Government of India will not be prepared to give them a chance of establishing their case before a proper authority and it would be only after a proper investigation by a properly constituted authority that we can arrive at a reasonable decision on a matter

of this importance. On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or serves and so on".

This is what I said the late Sir Fazl-i-Husain had said——

(At this stage, the Honourable Raja Ghazanfar Ali Khan rose to interrupt.)

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Sir Jagdish Prasad is in possession of the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I am prepared to give way, Sir. I did not for a moment say, Sir, that it was my opinion that it was necessary that application should be made to the Government of India and that action could not be taken on a Resolution of this House.

I was only stating to the House what the late Sir Fazl-i-Husain said. I did not make any comment on it. I did not annotate it. I did not state that that was my opinion. All I said was that the late Sir Fazl-i-Husain said that if action were to be taken, a certain procedure will have to be adopted. That was all that I said in discussing this question. I hope that during the course of the remarks that I made I did not give the impression to Honourable Members here that the Government of India or I was not interested in the encouragement of the breeding of Indian horses. My Honourable friend, whilst describing how horse-breeding was encouraged in England, said that in the time of Charles II racing was established. It was thought that the establishment of races would lead to the improvement of the breed of English horses. Here, when my Honourable colleague Sir Henry Craik says that if you impose a customs duty you will destroy racing, my Honourable friend says, "I don't care if racing is destroyed; it means so much less gambling". The whole point was that encouragement of racing is necessary for the improvement of the breed of horses in this country. My Honourable friend started on that very basis when he gave us a description of how the improvement of English thoroughbreds took place. We do not encourage, nor does the Honourable Sir Henry Craik encourage, racing in this country merely to enable rich men to gamble. The whole object is to improve the breed of Indian horses. The point we are trying to make is, that if you have fewer horses, if there is not enough money, it will not be possible for these Turf Clubs to encourage Indian racing. That was the whole point. If you destroy the very institution which you yourself have admitted does encourage the breeding of horses, it will not help you. I hope I have been able to show that we are in full sympathy, but all that we do differ in is that we think the actual suggestion that my Honourable friend has made will not achieve his purpose. The only difference is as regards the method. There is not the slightest difference between this side of the House and the other that it is desirable and necessary that we should give every possible encouragement to the improvement of the breed of Indian horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: What method do you suggest, Sir.

THE HONOURABLE THE PRESIDENT: Order, order.

[Mr. President.]

Resolution moved :

" This Council recommends to the Governor General in Council that with a view to give protection to the country-bred race-horses the following steps should be taken immediately :

- (a) That an import tax of Rs. 1,500 be placed on all geldings and Arab horses which are imported into India for racing or which are used in races in India after importation, and
- (b) That all race-courses in India should be licensed and that a condition of the licence should be that at least one race on each day of every meeting of the race in India should be provided for Indian horses and that the stakes for that race should not be less than the average value of the other races on the same day."

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: May I request you, Sir, kindly to put these two parts separately, because some may find it possible to support the second part while they may have some difference with the first part? This will give them a fair opportunity of expressing their opinion on both the parts.

THE HONOURABLE THE PRESIDENT: During the course of the debate I have not heard anybody say in the House that he is prepared to adopt the second part of the Resolution only.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Nobody spoke, Sir,

THE HONOURABLE THE PRESIDENT: That is not my fault. In view of that fact, I think it is not necessary to divide the Resolution into two parts.

The Question is :

"That that Resolution be adopted."

The Council divided :

AYES—1.

Ghazanfar Ali Khan, The Honourable Raja.

NOES—25.

<p>Akbar Khan, The Honourable Lieutenant-Colonel Nawab Sir Mahomed.</p> <p>Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.</p> <p>Arthur, The Honourable Mr. C. G.</p> <p>Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.</p> <p>Charanjit Singh, The Honourable Raja.</p> <p>Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.</p> <p>Clow, The Honourable Mr. A. G.</p> <p>Devadoss, The Honourable Sir David.</p> <p>Dow, The Honourable Mr. H.</p> <p>Ghosal, The Honourable Sir Josna.</p> <p>Glancy, The Honourable Sir Bertrand.</p> <p>Haidar, The Honourable Khan Bahadur Shams-ud-Din.</p> <p>Ismail Ali Khan, The Honourable Kunwar Haji.</p>	<p>Jagdish Prasad, The Honourable Kunwar Sir.</p> <p>Johnson, The Honourable Mr. J. N. G.</p> <p>Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.</p> <p>Lal, The Honourable Mr. Shavax A.</p> <p>Maxwell, The Honourable Mr. R. M.</p> <p>Menon, The Honourable Diwan Bahadur Sir Ramunni.</p> <p>Nixon, The Honourable Mr. J. C.</p> <p>Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.</p> <p>Pandit, The Honourable Sardar Shri Jagannath Maharaj.</p> <p>Parker, The Honourable Mr. R. H.</p> <p>Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.</p> <p>Russell, The Honourable Sir Guthrie.</p>
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The Motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE THE PRESIDENT: There are still four Resolutions on the list of business, of which the mover of the fourth Sir Phiroze Sethna has already left for Delhi. This being the last non-official day, Honourable Members are anxious to have an opportunity of moving their Resolutions, but as the Council met at 10 o'clock this morning and it is now nearly a quarter past six, I should like to leave the decision of this matter to the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): As far as we are concerned, I leave the decision to the non-official Members of the House.

(On a count being taken by the Honourable the President, a large majority of the non-official Members were in favour of adjourning.)

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I understand that the Companies Bill will probably be finished in the other House sometime this evening. I am sorry that it is not possible to lay it on the table of this House tomorrow, so that it will be necessary to meet on Friday, when the only business will be questions and the laying of this Bill on the table. We propose then, Sir, to meet on Monday and continue meeting day by day until official business is concluded.

The Council then adjourned till Eleven of the Clock on Friday, the 9th October, 1936.

APPENDIX.

Statement of criticisms and suggestions regarding the Durgah Khwaja Sahab Bill.

I. Section 2 (2) should read as follows:—

“ Court ” means the court of the District Judge, Ajmer.

II. Section 2 (4) (d).—The word “ or ” should be added before the words “ dedicated to the Durgah ” and after the words “ any source whatsoever ”.

III. Section 2 (5).—The word “ Mutawalli ” should be used in place of words “ trustee, manager or superintendent ”.

IV. Section 3 should be altered as follows:—

“ The Religious Endowments Act, XX of 1863, shall always cover this Bill where inconsistency occurs ”.

V. Section 4 (1) should be modified as follows:—

“ The supervision and control of the Durgah endowment and all buildings connected therewith shall be vested in a Committee constituted in the manner hereafter provided.”

VI. Section 5.—

- (1) The Mutawalli should also be an *ex-officio* member of the Durgah Committee.
- (2) In clause (c) the word “ Muslim ” should be replaced by “ Hanafi Sunni ”.
- (3) The public and Durgah members should be half and half.
- (4) The members of the Committee should be from Rajputana as a whole and not from Ajmer-Merwara alone.
- (5) The existing rights of the Dewan, Khadims and Mutawalli should be safeguarded.
- (6) Provision should be made in the Bill for the representation of the Mutawalli on the Committee.
- (7) Provision should be made for a representative of His Exalted Highness the Nizam on the Committee, if he wishes it.
- (8) The number of members should be increased from 9 to 10.
- (9) As the Kishengarh State has donated a village to the Durgah, the Kishengarh Darbar should have a representative on the Committee.
- (10) The Khadims should have one seat on the Committee.
- (11) The office of the President of the Committee should be reserved for an independent Muslim representative.

(12) Section 5 should be amended as follows:—

“ The Committee shall consist of 9 members of whom—

- (a) one shall from the family of Dewan :
- (b) one shall be from the family of Mutawalli ;
- (c) two shall belong to the Khadim communities, *viz.*, one from the Sheikhzadas and the other from the Syedzadas :
- (d) two shall be Muslim citizens of Ajmer other than the three classes mentioned in clauses (a) to (c) above. All these members shall be elected by persons possessing the qualifications mentioned in section 7 of the Bill :
- (e) two shall be elected by the Muslim members of the Federal Assembly from among themselves : and
- (f) one shall be elected from the Muslim members of the Council of State from among themselves.”

(13) Section 5 of the Bill should be read as follows:—

“ The Committee shall consist of 11 members of whom:—

- (a) one shall be the Dewan for the time being *ex-officio*, or his nominee :
- (b) one shall be from the Pirzada community.
- (c) same as clause (b) in section 5 :
- (d) 7 shall be elected from amongst the Muslim citizens of Ajmer other than the Pirzadas and the Sajjadanashin :

- (14) All the time-honoured rights and customary privileges of the Dewan, Mutawalli and the Khadims should be maintained.
- (15) The Mutawalli or his nominee should be a member of the Committee.
- (16) The office of the Mutawalli should be hereditary.
- (17) No person deriving any pecuniary benefit from the Durgah should be a member of the Durgah Committee.

(18) In place of section 5 of the Bill substitute the following :—

The Committee shall be composed of the following members :—

- (a) a nominee of the Sajjadanashin :
- (b) a nominee of the Mutawalli of the Durgah :
- (c) two members of the Khadim community elected by the members of their own community :
- (d) a nominee of His Exalted Highness the Nizam :
- (e) a Muhammadan member of the Legislative Assembly :
- (f) a Muhammadan member of the Council of State elected by the Muhammadan members of the Council :
- (g) a representative of the Muslim University, Aligarh :
- (h) 4 Muslims elected from amongst the Muslim citizens of Ajmer other than those coming under (1) and (7) above :
- (i) a representative of a donor other than (4) donating a sum in cash or property adjudged to be worth Rs. 1,00,000 or a recurring contribution of Rs. 5,000 per annum ;
- (j) 2 Muslims to be nominated by the Administration of Ajmer-Merwara.
- [The gentleman who makes these suggestions is a Shia and it is not clear why his opinion was sought or what *locus standi* he has in this matter.]
- (19) In clause (c) the word "Muslim" should be replaced by the words "Hanafi Sunni".

(20) Clause (c) should be amended as follows :—

"Out of 6 members from amongst the Muslims of Ajmer one will be from amongst the Muafidars elected by them only and the remaining 5 shall be from amongst the Muslim citizens of Ajmer other than Sajjadanashin, Khadims and Muafidars and 3 shall be elected by persons other than the Sajjadanashin Mutawalli, Khadims and Muafidars possessing the qualifications mentioned in section 7 of the Bill."

VII. Section 6 should be amended as follows :—

"For the purpose of election to the Durgah Committee, the electoral area shall consist of the City of Ajmer and all places within a radius of five miles from the Durgah Sharif."

VIII. Section 7.—

- (1) The word "Muslim" should be replaced by "Hanafi Sunni".
- (2) The Pirzadas should be given the right to elect at least one out of nine members of the Committee and the Khadims should have nothing to do with the management of trust of which they are servants.
- (3) The proposed franchise should be based on some tangible property qualification and should be extended to the towns of Beawar, Nasirabad and Kekri.

IX. Section 8 (a).—The words "and should be acquainted with the necessary religious knowledge" should be added after the words "he can read and write Urdu".

X. Section 8 (b).—

- (1) The drafting is a little obscure.
- (2) The words "for a period exceeding three months" be deleted. There should be no provision at all for a morally (sic) convicted person for election on the Committee.

(3) The clause should read as follows :—

“ he has not been convicted by a Criminal Court of any offence involving moral turpitude and sentenced to any imprisonment or fine ”.

(4) Clauses (c), (d) and (e) should be added to this section as follows :—

“ (c) he shall be a member who can attend at least 90 per cent. of the meetings and shall be among the local respectable Rais of Ajmer :

(d) one who possesses the qualifications under section 7 (a) shall not be a candidate for membership :

(e) he is not deriving any pecuniary benefit from the Durgah or the endowment of the Durgah Khwaja Saheb, Ajmer, by way of emoluments, perquisites, allowances, and contract money under any subsisting contract or otherwise ”.

XI. Section 10.—

(1) There should be some provision in the Bill for the removal of a member of the Committee who is found unfit to continue as a member.

(2) There should be some provision for bye-election to fill casual vacancies.

XII. Section 11.—Clause (1) should be amended as follows :—

“ The Committee shall elect a President and a Vice-President from among its members other than the Dewan, the Mutawalli, Khadims and local Muslim members. ”

(2) The President of the Committee should not be elected from amongst the independent members.

(3) Clause 11 (1) should read as follows :—

“ The committee shall elect a President and a Vice-President from amongst its members other than Sajjadanashin or his nominee and the members belonging to the Pirezada or Khadim communities. ”

(4) In place of section 11 the following should be substituted :—

(a) “ The Committee shall elect a President and a Vice-President.

(b) In the absence of the President, the Vice-President shall exercise the functions of the President. In the absence of both the President and the Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

(c) The members of the Committee under (a) to (c) in the list given in VI (18) above will not be eligible for election to preside over a meeting under sub-sections (1) and (2) of section 11. ”

(5) The powers and duties of the Vice-President should be elucidated.

XIII. Section 12.—

(1) The following should be added at the end of sub-section (1) :—

“ and shall not usurp the rights of the Dewan Mutawalli or Khadims which they enjoy at present and which do not derogate with (sic) the purpose of this Bill. ”

(2) The following should be added to section 12 :—

“ The Local Government shall have supreme power over the Committee, such as power of desolation (sic) and power of interfering in the management of the Committee. The Committee shall not have power to spend the Durgah revenues on expenditure other

than mentioned in paragraph 9 of the Report of Jageers of Ajmer District and shall not have control to alter the grants, perquisites, allowances and all other payments which are in force since the time of Mughal Emperors. The Committee shall treat all the connected persons according their status."

XIV. *Section 14* shall be amended as follows :—

"Save as expressly provided in this Act the provisions of the Religious Endowment Act, 1863, shall apply in respect of the Durgah Committee and the Mutawalli of the Durgah, except that the post of Mutawalli shall remain hereditary on account of the established practice of the provisions of the Muhammadan Law."

XV. *Section 15*.—The following should be added to this section :—

"which are in force since the time of the Mughal Emperors and which are performed at present."

XVI. *Section 17*.—

- (1) Clause (2) (j) should be deleted.
- (2) Sub-section (3) should provide for a period within which objections to the draft bye-laws may be made.
- (3) Bye-laws framed under section 17 should be subject to the confirmation by the Chief Commissioner.

XVII. *Section 18*.—

- (1) The proviso to this section would produce a good deal of litigation. It is very difficult for a Civil Court to determine what constitutes a persistent default or neglect of duty. It would be much better if the orders of the Committee were final or else final subject to an appeal to some Executive Officer.
- (2) The orders of the Committee should be final subject to an appeal to the Chief Commissioner.
- (3) The words "and except in the presence of at least 7 members of the Committee" should be substituted for the words "except at a meeting specially convened for the purpose by a notice issued at least a month prior to the date of that meeting".
- (4) The word "paid" should be inserted between the words "hereditary" and "servants".
- (5) The following should be added at the end of clause (c) :—
"but the Committee or its President shall have no power to assign the works (sic) other than prescribed in the Mughal Emperors' Farmans."
- (6) Appeal from orders passed under Section 18 should lie to the Chief Commissioner.

XVIII. *Section 19*.—It is not clear among whom the offerings of the Durgah should be distributed. It should be made clear that while distributing the offerings, the rights of the present claimants will not be adversely affected.

XIX. *Section 20*.—An extra section 20 should be added as follows :—

"The Durgah Committee shall not be empowered to use the property movable or immovable of the Durgah Endowment for any purposes other than those intended by the donors of the wakf."