#### THE

# **COUNCIL OF STATE DEBATES**

Volume I, 1937

(16th February to 8th April, 1937)

## FIRST SESSION

OF THE

FOURTH COUNCIL OF STATE, 1937



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## COUNCIL OF STATE.

## Saturday, 3rd April, 1937.

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

#### MEMBER SWORN:

The Honourable Mr. James Cochrane Highet (Government of India: Nominated Official).

#### QUESTIONS AND ANSWERS.

#### SATUATION OF THE FEDERAL COURT.

100. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH: Will Government be pleased to state where will the Federal Court be situated? If in Delhi, have Government considered the desirability of making Delhi a Province adding Meerut and Ambala Divisions to it?

THE HONOURABLE MR. R. M. MAXWELL: Under section 203 of the Government of India Act, 1935, the Federal Court will sit in Delhi and at such other place or places as the Chief Justice of India may, with the approval of the Governor General, from time to time appoint. The fact of its location in Delhi has no bearing on the size of the Chief Commissioner's Province.

THE HONOURABLE MB. P. N. SAPRU: Is Government going to take over the Western Court for the Federal Court and deprive Members of the Western Court facilities?

THE HONOURABLE MB. R. M. MAXWELL: It does not arise, Sir.

THE HONOURABLE THE PRESIDENT: I do not think it arises out of the answer. This is an entirely new question.

TRANSFER OF THE IMPERIAL LIBRARY FROM CALCUTTA TO DELHI.

101. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH: Is there any proposal to shift the Imperial Library from Calcutta to Delhi?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: The reply is in the negative.

EXPENDITURE INCURRED IN HOLDING THE SESSIONS OF THE COUNCIL OF STATE, AND THE LEGISLATIVE ASSEMBLY IN DELHI AND SIMLA IN 1925 AND 1926.

102. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH: (a) Will Government be pleased to state separately, the total amounts of expenditure incurred in holding the sessions of the Indian Legislative Assembly and the Council of State in Delhi and Simla in 1925 and 1926?

(b) Does it cost less to hold the sessions in Simla than in Delhi on account of motor car haulage and other additional charges in Delhi?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (on behalf of the Honourable Mr. J. C. Nixon): (a) I presume that the Honourable Member for some reason or other deliberately chose the years 1925 and 1926. I lay on the table a statement containing the information asked for by the Honourable Member. Only approximate figures are readily availables:

(b) Yes.

Statement showing approximate total expenditure incurred on account of the sessions of the Indian Legislature held in 1925 and 1926.

Litrik Tie auton			4			Logislative A	seembly.	Council of State.		
Year.		er.	Patrick C		Delhi.	Simia	Delhi.	Simla.		
						Ba.	Rs.	Rs.	Rs.	
1925	•		•	•		2,53,760*	1,83,050	83,9201	47,730	
1926	•	•	•	•	•	3,39,420†	8 <b>3,36</b> 0	79,1506	37,480	

## **MOTION FOR ADJOURNMENT RE COMING INTO OPERATION OF** THE GOVERNMENT OF INDIA ACT, 1935.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have received just a few minutes ago a notice of a Motion for Adjournment from the Honourable Kumarsankar Ray Chaudhury. I will read the Motion to The notice is:

"Sir, I beg to give notice that I intend to move today the adjournment of the Council of State to consider a matter of urgent public importance, namely "—you will observe the words,—" the coming into operation of the Government of India Act, 1935, and its effect upon the Government in India".

I want to know from the Honourable Member if he has given notice to the Government Member in charge as required by the amended rules?

THE HONOUBABLE MB. KUMARSANKAR RAY CHAUDHURY (East Bongal: Non-Muhammadan): Yes, Sir, I have.

THE HONOURABLE THE PRESIDENT: Now, therefore, it is for me to consider whether I should permit this Adjournment Motion and hold it in order. As you are all aware, the Orders in Council were made several months ago intimating that the Government of India Act would be brought into operation on the 1st April, 1937. The Act itself was passed in 1935, and it is for me to decide therefore whether this Motion is in order. I cannot possibly regard this Motion as a matter of urgent public importance when several

Includes Rs. 59,870 on account of haulage of motor car and conveyance allowance. Includes Rs. 51,210 on account of haulage of motor car and conveyance allowance.

I Indutes Re. 20,750 on account of haulage of motor car and conveyance allowance. Includes Rs. 29,930 on account of haulage of motor car and conveyance allowance,

months have elapsed and you could have given notice of a Resolution; and would have been entitled to discuss this matter by way of a Resolution. Then you say in your notice, "the coming into operation of the Government of India Act, 1935". The Act has already come into operation on the lat of April and the provinces are acting in pursuance of the provisions of that Act. The matter is not of recent occurrence. Even, however, if for some reason I was in a position to admit this Motion for Adjournment, it would have been my plain and obvious duty to advise the Governor General to disallow this Motion for Adjournment on the ground that the public interest would considerably suffer if the Motion was debated at this stage. I therefore disallow this Motion.

THE HONOUBABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan); May I ask for a little elucidation of one remark. Did we hear you to say that even if you had admitted this Resolution as President of the Council you would have thought it your duty to advise the Governor General to withhold his sanction?

THE HONOURABLE THE PRESIDENT: The Government Member in charge would have done it, and I also would have considered it my plain duty to inform the Governor General to exercise his powers under rule 22.

THE HONOUBABLE PANDIT HIRDAY NATH KUNZRU: Why should you as our President ask the Governor General to disallow a Motion?

THE HONOURABLE THE PRESIDENT: That is my business.

## FAREWELL TO THE HONOURABLE SIR FRANK NOYCE.

THE HONOURABLE THE PRESIDENT: Sir Frank Novce, I would be failing in my duty this morning on the occasion of your presence here today, probably for the last time, if I should fail to convey to you the good wishes of this Council and myself on your impending departure from India on your quitting the service of the Government of India which you have adorned for several years. (Applause.) I particularly refer—and have pleasure to refer to this matter today—because during the last five years you have been associated with the Indian Legislature and your association with this House has the most pleasantest memories. Your genial nature, your affability, your consideration for your opponents, the civil and courteous and dignified manner in which you have always addressed this House and performed your duties, all extort our admiration and respect for you. (Applause.) You have been closely associated during the period of your service with the Madras Government and the Government of India, and to my knowledge no other Civilian has ever been associated with so many departments and different and varied duties as you have been during the term of your office. You have been connected with almost all important commissions, committees and other important bodies appointed for the deliberation of all vital interests regarding India. It would take several minutes to give a catalogue of all those committees and associations with which you have been connected for all these years and in which as a Member, as President, you have done wonderfully good work. I will only mention a few of those committees. You have worked as Secretary of the Indian Cotton Committee with great distinction and your services have been very much appreciated by the Committee and all over India. You have acted as Controller for cotton cloth and there you have done your duty most impartially and faithfully and evoked the admiration of these

## [Mr. President.]

who were very much concerned in that Committee. You have been the President of the Indian Sugar Committee. There you discharged excellent work and as Trade Commissioner in London you have merited the approbation not only of the Secretary of State for India but also of India generally. The greatest service which you have rendered is perhaps as President of the Indian Coal Committee and the Indian Tariff Board. In both these capacities your work has been admirably spoken of, fully appreciated and the value of your services highly recognised. But by far the greatest and most conspicuous service which you have done to this country is when in 1927 you were attached on special duty to the Royal Commission on Agriculture at the special request of His Excellency the Governor General, the Marquess of Linlithgow. In the midst of the arduous duties of that Commission, on account of your wide knowledge, experience in this country and the information you then possessed, you were called upon to help that Royal Commission with your great experience and I shall only quote a passage from that Report at the end which states:

"Mr. Noyce has prove chimselferer willing to place at our disposal his wide knowledge and experience of the subjects under review and his services have proved a source of much strength to the Commission".

This is really a compliment of which you, Sir, ought to be proud of. But your work, Sir, as Member in charge of Industries and Labour invites our special attention and entitles you to our sincere gratitude. It was your energetic efforts, it was your human temperament and disposition, it was your feeling for the poor and the working classes in this country (Applause) that resulted in most important changes in the Indian Factories Act during your administration and during your charge of the Department. You have also done similar service in the matter of the Bill for the Payment of Wages. You have identified yourself with those colliery disasters in Bengal and you have adopted methods and taken steps to relieve the distress of coal cutters and other people and to treat them humanly and appointed committees to report on methods to be adopted for the amelioration of the conditions of that class of people. This all speaks of your good nature, your humanity, your kindness, consideration for the people of this great country. I must also not omit to mention the grants that have been made from time to time during your regime for promoting cottage industries, especially hand looms, and the establishment of the Indian Industrial Research Bureau. Greater Indianisation in the matter of purchase by the Indian Stores Department is one of your outstanding schievements. In the Assembly you have done your work in a quiet, unostentatious and silent manner. Your work in this country will be remembered for many a year with great and heartfelt gratitude and with much respect and I now say that you carry with you the kindly feelings, and the affectionate sentiments and respect of the members of the Indian Legislature and we the Members of the Indian Legislature wish you all manner of happiness in your well-earned retirement and we hope that you will be spared for many years to do good work in your own country. (Applause.)

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to associate myself with the happy sentiments expressed by you in wishing good-bye to Sir Frank Noyce. I was in this Council for five years from 1925 to 1929 and I had opportunities of coming into intimate centact with him in some of his activities. I have always found in him a genuine friend of the Indian agriculturist and the Indian worker.

(Applause.) The two most important Royal Commissions that have so far been appointed are the Agricultural Commission and the Royal Commission on Labour. These are the Commissions whose recommendations touch very intimately the welfare of the peasants and the workers and if some of the recommendations of both of these Commissions have been given effect to more promptly than the recommendations of some other Commissions, I think the credit for it goes very largely to Sir Frank Noyce. The peasants and workers of India will be the future rulers, the future electorates for legislatures in self-governing India and very soon the Government will pass into their hands. And when that event happens, I think they will look back with some amount of satisfaction to the encouragement given to them by Sir Frank Noyce when he was a member of the Government.

THE HONOURABLE THE PRESIDENT: I hope you won't be long because the Honourable Sir Frank Noyce is the Leader of the other House and has to be there.

THE HONOURABLE MR. V. RAMADAS PANTULU: Therefore, Sir, I wish him every happiness in his retirement in England and I hope he will continue to take an active interest in the peasants and workers of this country.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, on my own behalf and on behalf of the Members who sit on this side of the House I wish to associate myself with all that you have said about my Honourable colleague and friend, Sir Frank Noyce. Sir, he has spent the best part of his life in the service of this country, and I think he can be correctly described as a true and faithful friend of India and especially of the poor and lowly in India. (Applause.) And now that he is about to lay down his exalted office after 35 years in this country, I think he can look back with some satisfaction on a career in which he has earned the esteem, affection and gratitude of the people to whose service he has devoted so much labour and where he has achieved so much success. And what has been the secret of his success? I think it will be recognised that the reason why Sir Frank Novce has won such universal approbation and confidence is the integrity of his character, his sincerity of purpose, his simplicity, his freedom from racial prejudice, and his constant desire to be just and fair both in public and private life. And I think I would not be exaggerating if I were to say that Sir Frank Noyce has given a remarkable illustration in his person of how Indians and Europeans can work together in complete confidence and harmony for the advancement of this great country. I hope I am not using the language of convention if I say that his name will be gratefully remembered and that he carries with him our best wishes and that we trust that in his retirement he will still have warm memories of the country and the people to whom he has rendered such conspicuous service.

\*The Honourable Mr. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, on behalf of our Party I would like to join in the good wishes that you have conveyed to Sir Frank Noyce on behalf of this House. Sir Frank Noyce has served the country well over 35 years. For five years he has been associated with the Government of India and I can say, Sir, with truth that there is no one who was more universally respected on the Treasury Benches than Sir Frank Noyce. (Applause.) Ability he has in plenty but it is not his ability that has endeared him to us. It is his goodness. We look upon him essentially as a

<sup>\*</sup> Speech not corrected by the Honourable Member.

## [Mr. P. N. Sapru.]

good man, a God-fearing man. Sir, as a Member who has taken some interest in labour questions, I consider it my duty to say that Sir Frank Noyce has served Indian labour and the Indian working class well. He was responsible for the Indian Factories Bill; he has been responsible for the Indian Mines Act, and many other legislative measures of a beneficent character. Sir, he has been a great public servant who has earned well of this country in his retirement. We hope that he will have long years of life, health and prosperity. We are glad, Sir, that he will be going as our representative to the International Conference at Geneva and we wish him many many years of life, health and prosperity. (Applause.)

The Honourable Sie Frank NOYCE (Industries and Labour Member): Mr. President, Sir, it is difficult, indeed impossible, to find words in which to thank you, Sir, for the kind things you have said about such services as I have been able to render to India and to thank the House for its warm endorsement of what you were good enough to say. I know that this House entertained friendly feelings towards me. I have always felt that, but I must honestly confess that I am surprised and overwhelmed by the cordiality with which those feelings have been expressed today.

You, Sir, have referred to my long and varied career, but amongst the distinctions which I have been fortunate enough to obtain during my 35 years! service in India, one I specially value is the Leadership of this House, which I held for a brief but not entirely uneventful period. I had previously to that been a Member of this Council for a full session. I have always received the greatest kindness and courtesy from it and most—in fact after this morning I would say all—of its Members are my personal friends.

You, Sir, mentioned my long association with commissions and commit-It was perhaps specially fitting that during the last five years, when it was impossible for me to be a member of a Committee or Commission, I should have been very closely associated with the work of another Commission, the scope of which had previously lain outside my field of activities—I refer to the Labour Commission. Not the least important part of my work during the last five years has been the implementing of the recommendations of that Commission, and I have to thank this House very warmly for the generous support it has given to all the measures in connection with that Commission which have been laid before it. There is yet another measure—a small one to come before it and I ought at this moment to be in the other. House moving It will come to this House, I trust, next week, and I also trust that the House will give it the same measure of support as it has done its predecessors. I am glad to have this opportunity of referring to the work connected with the Whitley Commission because it enables me to pay a tribute to the invaluable assistance that I have received from the Member of this House who sits immediately behind me. I do not think that we should have got through half of what we did if we had not found ourselves in such complete agreement and had not been able to work so well together. I can only say in conclusion, Sir, that I feel that I have very inadequately expressed my deep thanks to this House for the kindness which it has shown me this morning. I have, during the last few weeks, been wished a happy retirement from many quarters. You, Sir, have mentioned—and I think you have been the first to mention what is the only thing that could make that retirement happy, and that is, further work. (Hear, hear.) I much hope that some of that work, at any rate, will be in the service of this country in which I have spent 35 years

(Applause), which I have served to the best of my ability and which I shall ever hold in the warmest affection. (Applause.)

#### STATEMENTS LAID ON THE TABLE.

IMPORTATION OF CLOUKS, WATCHES AND MOSQUITO NETS INTO INDIA.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, I lay on the table the information promised in reply to question No. 34, asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 24th February, 1937.

Statistics relating to the quantity of clocks and watches imported into India during the years 1930-31 to 1934-35 will be found on page 84 of Volume I of the Annual Statement of the Sea-borne Trade of British India for the fiscal year ending 31st March 1935. For the following fiscal year particulars of the quantity are not yet available but the value of the imports of clocks and watches, including parts thereof, is given in the Accounts relating to the Sea-borne Trade and Navigation of British India for March, 1936. Both the publications referred to are available in the Library of the Indian Legislature.

Statistics of the imports of mosquito nets are not separately recorded in the official trade returns.

The statement below shows the quantity and value of clocks, timepieces, watches and mosquito nets purchased by the Indian Stores Department during the three years 1933-34 to 1985-86:

	Quantity.	Value.							
								Nos.	Rs.
Clocks and timepieces		•	•		•	•		1,671	19,088
Watches	•		•				.	712	10,385
Mosquito nete	•	•	•	•	•	•	•	150,230	3,70,028

Figures for the two preceding years are not available.

Information regarding the prospects for factories in any particular area may be sought from the Director of Industries for the province concerned.

#### CERPAIN RAILWAY PROJECTS ON THE EASTERN BENGAL RAILWAY.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner of Railways): Sir, I lay on the table the information promised in reply to question No. 37, asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 4th March, 1937.

(a) (i) and (ii). No.

11

(a) (iii) The reply to the first part is in the negative.

The following are the alternative proposals that have at one time or the other been considered:

- (i) Khulna-Barisal-Faridpur Railway.
- (ii) Faridpur-Charmaguria-Barisal Railway.
- (iii) A branch from Kalukhali-Bhateapara Railway to Barisal.

These projects have either been given up or not proceeded with for the reason given under part (b).

#### [Sir Guthrie Russell.]

(b) Dacea Aricha Railway.—Estimates were prepared. The decision to abandon the project was based on the views of the Bengal Government.

Ishurdi-Pahna-Shadhuqanj (Bera) Railway.—Estimates were prepared but the project was given up, as it was found to be unremunerative.

Khulna-Barisal Faridpur Railway.—Estimates were prepared, but the project was abandoned in 1916, as the Bengal Government apprehended that the project would be a standing menace to the general health of the population by interfering with the natural flow of the drainage of the country traversed.

Faridpur-Charmaguria-Barisal Railway.—Estimates were prepared of the portion between Faridpur and Bhanga, but the project was found to be unremunerative.

A branch from Kalukhali-Bhateapara Railway to Barisal.—No estimates were prepared. In the first instance a Reconnaissance and Traffic Survey from a point on Kalukhali-Bhateapara Railway to Syndia Ghat was sanctioned in October 1929, but the project could not be proceeded with on account of the financial situation.

- (c) This is a matter for the Local Government.
- (d) A representation was received in 1930 from the India General Navigation and Railway Co., Ltd., and the Rivers Steam Navigation Co., Ltd., claiming due consideration from Government in the event of the interests of the Inland Steamer Companies being jeopardised by any proposed new rail extension directly competitive with their operations.

#### CODE OF CIVIL PROCEDURE (THIRD AMENDMENT) BILL.

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, I move: "That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Sir, the object of this Bill is to remove certain doubts which have arisen in the interpretation of Order XXXII in the First Schedule to the Code of Civil Procedure. Sub-rule (1) of rule 3 of this Order, to which the present Bill refers, reads as follows:

"Where the defendant is a minor the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor".

Sir, it has always been held by the High Courts that the appointment of a guardian made in the manner provided by that sub-rule is not limited to the original trial but continues through proceedings on appeal and there is no doubt on that point. It has however been held by one High Court that on the passing of a final decree for the payment of money, there is no longer a pending suit, with the result that the appointment of a guardian for the suit does not hold good in the execution proceedings. Some Courts have therefore been insisting on the fresh appointment of guardians for execution proceedings. Although it is possible for different High Courts to place their own interpretation on the existing rule, it is generally agreed that the matter is one in which uniformity is desirable and that this can best be secured by legislation. We have consulted all Provincial Governments who in their turn have consulted High Courts, Law Officers, Advocates' Associations and Bar Councils and we find it to be their unanimous opinion that the appointment of guardian for the suit should endure throughout subsequent proceedings including those for execution of the decree. It will be noticed that appellate and revisional proceedings are expressly mentioned in the Bill as well as execution proceedings. Although in the absence of any specific rule on this subject no doubt has hitherto arisen in regard to appellate and revisional proceedings, this effect might conceivably follow if a sub-rule making specific provision for the continuance of the appointment of guardian were limited to execution proceedings and it has therefore been thought necessary to make the rule comprehensive

on this point. I am confident that the Bill, as passed by the Legislative Assembly, will commend itself to this House.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause I was added to the Bill.

The Title and Preemble were added to the Bill.

THE HONOURABLE MR. R. M. MAXWELL: Sir, I move:

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

The Motion was adopted.

## INDIAN RED CROSS (AMENDMENT) BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India: Nominated Official): Sir, I move:

"That the Bill to smend the Indian Red Cross Society Act, 1920, for certain purposes, as passed by the Legislative Assembly, be taken into consideration".

The main object of this Bill is to supplement the Red Cross Society (Allocation of Property) Act, 1936. That Act was designed, in view of the impending separation of Burma, to exclude Burma from the activities of the Indian Red Cross Society which, as Honourable Members are doubtless aware. is governed by the Indian Red Cross Society Act, 1920. The Act of 1936 also provided as an equitable measure for the transfer to a body of trustees to be set up in Burma for purposes analogous to those of the Indian Red Cross Society of a sum equivalent to 7 per cent. of the total property of the Society. When this Act was passed in 1936, through inadvertence the Second Schedule to the Indian Red Cross Society Act, 1920, was overlooked. That Schedule sets out a number of percentages of the annual income of the Society payable to any Branch Committees set up in various parts of India including Burma. Burma is in fact referred to in the Second Schedule. The Act of 1936 should have deleted from the Schedule the reference to Burma and Burma's percentage of the income and should have made consequential alterations in the other percentages. That is all that clause 3 of the Bill now before the Council does.

As regards clause 2 of the Bill, it has been considered reasonable to avoid constantly repeated legislation whenever any domestic changes are made by the Society amongst its Branch Committees. It seems unreasonable that in every case where change within the Society is carried out at the wish of the Society as a whole it should be necessary as in the present instance to come up with a Bill for an amendment of the Second Schedule. In view of the fact that the Society is governed by an Act of the Indian Legislature it was not considered appropriate to leave this matter entirely to the Society itself. Therefore clause 2 of the Bill provides a power for the Governor General in Council on occasions where the Society as a whole wishes to make changes within itself to effect the consequential changes in the Second Schedule to the Act of 1920. As this power cannot be exercised except with the consent of every Branch Committee of the Society in India, the Council will, I hope, agree with me that it is a reasonable one.

Sir, I move.

The Motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOUR/BLE MR. A. DEC. WILLIAMS: Sir, I move:

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

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: Honourable Members, I may bring to the notice of the House that any Honourable Member who has been nominated for election to the Standing Committee for Roads and the Central Advisory Council for Railways, who desires to withdraw his candidature should give early intimation to the Council Office, as it is extremely inconvenient to correct the ballot papers if intimation of withdrawal is given at the last minute.

Before I adjourn the Council I wish to express to you my apologies for my inability to continue as President of the Council till the end of this session. My presence is required in England urgently in connection with my duties as the Leader of the Empire Parliamentary Delegation to England, and I have obtained His Excellency the Governor General's permission temporarily to leave my office. During my absence the work will be done by two Members of the Panel of Chairmen, the Honourable Sir Phiroze Sethna and the Honourable Sir David Devadoss. I may be allowed also to state that this session has been somewhat arduous and during the next week three or four days of public work still remain; but I have no doubt the work will be completed most probably by the 8th of April. Though the session has been arduous, you have all contributed to the best of your ability in the discharge of your duties, and with the exception of a few small unhappy episodes, which generally do happen, you will all part from each other in a friendly atmosphere. I wish you at the termination of your labours a safe journey to your homes.

The Council then adjourned till Eleven of the Clock on Monday, the 5th-April, 1937.