

Monday, 7th March, 1938

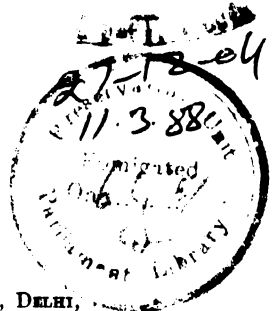
THE
COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION
OF THE
FOURTH COUNCIL OF STATE, 1938

Member designated... 18/4/38



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI,
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI.
1938.

CONTENTS.

PAGES.

Monday, 14th February, 1938—

Members Sworn	1
Questions and Answers	1—33
Information promised in reply to questions laid on the table	33—62
Messages from His Excellency the Governor General	62—63
Committee on Petitions	63
Congratulations to recipients of Honours	63—64
Governor General's Assent to Bills	64
Bills passed by the Legislative Assembly laid on the table	64—65
Message from the Legislative Assembly	65
Death of Sheikh Mushir Hossain Kidwai	65
Presentation of the Railway Budget for 1938-39	65—72
Standing Committee for the Department of Education, Health and Lands	72
Standing Committee for the Department of Commerce	72—73
Statement of Business	73

Thursday, 17th February, 1938—

Member Sworn	75
Questions and Answers	75—80
Death of Sir Prabhshankar Pattani	80
Information promised in reply to questions laid on the table	80—81
Standing Committee for the Department of Labour	81—82
Repealing Bill—Considered and passed	82
Dangerous Drugs (Amendment) Bill—Considered and passed	82—83
Insurance Bill—Further amendments made by the Legislative Assembly agreed to	83—93
Indian Companies (Amendment) Bill—Considered and passed	93—96
Standing Committee for the Department of Education, Health and Lands	96
Standing Committee for the Department of Commerce	96

Friday, 18th February, 1938—

Questions and Answers	97—98
General Discussion of the Railway Budget, 1938-39	98—146

Monday, 21st February, 1938—

Member Sworn	147
Questions and Answers	147—159
Resolution re Indians in British Guiana—Adopted	159—166
Cutchi Memon Bill—Motion to refer to Select Committee, adopted	166—167
Resolution re military training for Indians—Negatived	167—179
Criminal Procedure Code Amendment Bill (Jury trial in seditious cases)— Motion to consider, negatived	179—187
Durgah Khawaja Sahib (Amendment) Bill—Considered and passed, as amended	187—190
Standing Committee for the Department of Labour	190

Thursday, 24th February, 1938—

Questions and Answers	191—194
Ruling <i>re</i> impropriety of premature publication of questions and resolutions	194—197
Information promised in reply to questions laid on the table	197
Transfer of Property (Amendment) Bill—Introduced	198
Resolution <i>re</i> stabilisation of the price of wheat, cotton, etc.—Negatived	198—214
Resolution <i>re</i> increase in number of cadets admitted to the Indian Military Academy, Dehra Dun—Negatived	214—234
Resolution <i>re</i> Indo-British Trade Agreement—Moved	234
Statement of Business	235

Saturday, 26th February, 1938—

Cutchi Memon Bill—Presentation of the Report of Select Committee	237
Presentation of the General Budget for 1938-39	237—245

Wednesday, 2nd March, 1938—

Member Sworn	247
Questions and Answers	247—261
Ruling <i>re</i> Supplementary questions	261—267
Information promised in reply to questions laid on the table	267
Bill passed by the Legislative Assembly laid on the table	267
Standing Committee for Roads, 1938-39	267—268
Manceuvres, Field Firing and Artillery Practice Bill—Considered and passed	268—272
Destructive Insects and Pests (Amendment) Bill—Considered and passed	272—273
Resolution <i>re</i> Draft Convention and Recommendations relating to safety in the building industry—Adopted	273—278

Friday, 4th March, 1938—

Questions and Answers	279—283
Standing Committee on Emigration	283
General Discussion of the General Budget for 1938-39	284—307

Monday, 7th March, 1938—

Questions and Answers	309—318
Bill passed by the Legislative Assembly laid on the table	318
Resolution <i>re</i> Indo-British Trade Agreement—Withdrawn	318—344
Cutchi Memon Bill—Considered and passed, as amended	344—346
Child Marriage Restraint (Amendment) Bill—Considered and passed	346—354
Muslim Dissolution of Marriage Bill—Introduced	354
Resolution <i>re</i> construction of a railway between Dacca and Aricha—Withdrawn	354—359
Motion <i>re</i> amendment of the Standing Orders—Disallowed	359—360
Standing Committee on Emigration	360
Standing Committee for Roads, 1938-39	360

Thursday, 10th March, 1938—

Member Sworn	361
Questions and Answers	361—366
Resolution <i>re</i> distribution of Defence expenditure between the land, sea and air forces—Negatived	366—383
Resolution <i>re</i> reduction in Defence expenditure—Negatived	383—401

Thursday, 10th March, 1938—contd.

Resolution <i>re</i> establishment of a Supreme Court of Criminal Appeals— <i>To be continued</i>	401—406
Statement of Business	406—407

Thursday, 17th March, 1938—

Member Sworn	409
Messages from His Excellency the Governor General	409
Indian Finance Bill, 1938, laid on the table	410

Monday, 21st March, 1938—

Questions and Answers	411—441
Information promised in reply to questions laid on the table	441—442
Bills passed by the Legislative Assembly laid on the table	442
Resolution <i>re</i> establishment of a Supreme Court of Criminal Appeals— Withdrawn	442—456
Resolution <i>re</i> surcharge on railway freight on coal—Negatived	456—462
Resolution <i>re</i> Government recruitment and unemployment—Withdrawn	462—481
Statement of Business	481

Tuesday, 22nd March, 1938—

Questions and Answers	483—489
Central Advisory Council for Railways	489—490
Indian Finance Bill, 1938—Considered and passed	490—499

Wednesday, 23rd March, 1938—

Member Sworn	501
Questions and Answers	501—502
Indian Tea Control Bill—Considered and passed	502—503
Workmen's Compensation (Amendment) Bill—Considered and passed, as amended	503—507
Standing Committee for Roads	507
Central Advisory Council for Railways	507—508
Statement of Business	508

Friday, 1st April, 1938—

Members Sworn	509
Questions and Answers	509—518
Congratulations to the Honourable Sir Thomas Stewart on his appointment as Officiating Governor of Bihar and to the Honourable Mr. A. G. Clow on his appointment as Officiating Member of the Governor General's Executive Council	519
Presentation of a mace to the Council of State by the Honourable Maharajadhiraja Sir Kameshwar Singh of Darbhanga	519
Information promised in reply to questions laid on the table	520
Statement laid on the table	520
Bills passed by the Legislative Assembly laid on the table	520—521
Messages from the Legislative Assembly	521
Standing Advisory Committee for the Indian Posts and Telegraphs Department	521
Trade Disputes (Amendment) Bill—Considered and passed, as amended	521—543
Hindu Women's Rights to Property (Amendment) Bill—Considered and passed	543—547
Central Advisory Council for Railways	547—548

Monday, 4th April, 1933—

Member Sworn	549
Questions and Answers	549—565
Information promised in reply to questions laid on the table	565
Standing Advisory Committee for the Indian Posts and Telegraphs Department	566
Central Advisory Council for Railways	566
Resolution <i>re</i> declaration of the birthdays of Guru Nanak Dev and Guru Gobind Singh as holidays—Negatived	566—567
Resolution <i>re</i> subjection to income-tax of the interest on sterling loans and pensions paid from Indian revenues—Negatived	567—585
Resolution <i>re</i> discrimination against Indians settling in the Highlands of Kenya—Adopted	585—593
Resolution <i>re</i> formation of a national army recruited from all classes and provinces—Negatived	594—606
Indian Succession Act (Amendment) Bill—Motion to refer to Select Committee, adopted	606
Statement of Business	606—607

Thursday, 7th April, 1933—

Member Sworn	609
Questions and Answers	609—613
Bills passed by the Legislative Assembly laid on the table	613
Message from the Legislative Assembly	614
Sugar Industry Protection (Temporary Extension) Bill—Considered and passed	614 —616
Sind Salt Law Amendment Bill—Considered and passed	616 —617
Indian Coffee Cess (Amendment) Bill—Considered and passed	617
Standing Advisory Committee for the Indian Posts and Telegraphs Department	618

Friday, 8th April, 1933—

Questions and Answers	619—623
Information promised in reply to questions laid on the table	623
Statement laid on the table	624—665
Standing Advisory Committee for the Indian Posts and Telegraphs Department	666
Indian Tariff (Amendment) Bill—Considered and passed	666—667
Trade Disputes (Amendment) Bill—Considered and passed	667
Delhi Joint Water Board (Amendment) Bill—Considered and passed	668
Child Marriage Restraint (Second Amendment) Bill—Considered and passed	668—689

COUNCIL OF STATE.

Monday, 7th March, 1938.

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

QUESTIONS AND ANSWERS.

TRIBAL ALLOWANCES.

152. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state whether any payments are made to tribal leaders or any other person within or beyond the Frontier?

(b) If the answer to (a) is in the affirmative, what amount has been paid during the last three years and to whom?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) The Honourable Member when he speaks of the Frontier, presumably refers to the administrative border between the Settled Districts and Tribal Areas and not to the International Frontier of India. On this presumption the answer is in the affirmative.

(b) The following amounts were paid as tribal allowances during the last three years:

	Rs.
1934-35	7,38,152
1935-36	6,10,964
1936-37	6,88,197

Government do not consider that it will be in the public interest to give the names of the various tribes to whom the payments were made.

THE HONOURABLE MR. HOSSAIN IMAM: Were any payments made to individuals?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I must ask for notice. I cannot give any information beyond what I have stated.

THE HONOURABLE MR. G. S. MOTILAL: Are any arms supplied to them?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I do not see how this supplementary question arises out of payments?

THE HONOURABLE THE PRESIDENT: I agree with you.

COMMERCIAL LIBRARY AT CALCUTTA.

153. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state the year in which the Commercial Library at Calcutta was established ?

(b) Was it established in response to any demand or did Government take the initiative in establishing it ?

(c) If there was a demand for it, by whom and how was it made ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) The nucleus of a library was maintained by the Commercial Intelligence Department for its departmental needs, but the present combined technological library of reference in Calcutta in the place of the separate libraries attached to the Departments of Commercial Intelligence, Statistics and Patents and Designs was sanctioned by the Government of India in September, 1919.

(b) As stated already, the library was established in the first instance by Government for its departmental needs. Its development took place in response to a growing demand for technological books.

(c) The demand was made by industrial and other firms anxious to take up new lines of development, and is further expressed by the number of readers which has gone up from 6,441 in 1920 to 51,726 in 1935, and by the number of books issued by the Library which has increased from 4,902 in 1930 to 8,652 in 1935.

THE HONOURABLE MR. HOSSAIN IMAM : Have the Government considered the advisability of amalgamating it with the Imperial Library in Calcutta ?

THE HONOURABLE SIR MUHAMMAD YAKUB : I understand that the Imperial Library at Calcutta serves quite a different purpose and I could not say offhand whether it would be possible or desirable to amalgamate the two.

AMERICAN COTTON POLICY.

154. THE HONOURABLE MR. G. S. MOTILAL : Will Government state :

(a) What measures the Federal or State Governments of the United States have adopted for stimulating export of cotton ?

(b) Whether those measures will hamper the export of Indian cotton ?

(c) What measures do Government propose to take to help the export of Indian textile manufactures so that Indian mills may use Indian cotton in larger quantities ?

(d) Whether they propose to send a trade mission to Japan to study her modern industrial development ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) So far as Government are aware, a subsidy is paid in respect of the 1937 crop equal to the difference between 12 cents a lb. and the average market price of middling cotton subject to a maximum of 3 cents a lb. payable on two-thirds of the crop. It also appears that an additional subsidy of about 2 cents a lb. is paid to the grower if no cotton is grown on part of his land.

(b) It is not possible to estimate in isolation the precise effect of any one factor which may affect the export of Indian cotton.

(c) Protection has already been extended to the Indian Cotton Textile Industry as a result of Tariff Board enquiries. A Trade Mission on which the Cotton Textile Industry was represented surveyed the market of the Near East and Africa in 1928 and as recommended by that Mission Government have appointed an Indian Trade Commissioner at Mombasa recently, and another such appointment at Alexandria is under active consideration. Government continue to watch further opportunities for expansion of Indian trade in other directions also.

(d) No, Sir.

NOMINATION OF MEMBERS TO THE MEDICAL COUNCIL OF INDIA.

155. THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY :
Will Government state :

(a) How many members are nominated to the Medical Council of India by the Provincial Governments and how many by the Government of India ?

(b) What was the practice followed in the past with regard to nominations by the Provincial Governments ?

(c) Has there been a departure from the practice followed in the past in respect of nominations from the provinces ?

(d) If so, what is the reason for making such a departure ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) No nominations are now made by Provincial Governments. All the 15 nominated members, including 11 from the Governors' Provinces, are nominated by the Central Government.

(b) The nominations of members from the Governors' Provinces were made by the Provincial Governments concerned and notified on their behalf by the Government of India.

(c) and (d). As a consequence of the Government of India (Adaptation of Indian Laws) Order, 1937, the Indian Medical Council Act, 1933, had to be adapted, so that nominations fell to be made by the Central Government instead of the Provincial Governments. In practice, however, we have made no change, for we merely notify the nominations of the Provincial Governments.

MEDICAL COUNCIL OF INDIA.

156. THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY :
(a) What is the total number of members of the Medical Council of India ? How many of these are non-officials and how many are Government servants ?

(b) Do Government contemplate increasing the number of non-official representatives in the Indian Medical Council ?

(c) Are there no representatives from the Graduates of the Central Provinces ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) (i) Fifteen members are nominated by Government, 14 of these are Government

servants ; (ii) seven members are elected from amongst the members of the medical faculties of the seven British Indian Universities having medical colleges ; and (iii) eight members are elected by the Medical Graduates of the eight provinces in which Provincial Medical Registers are maintained. In the present Council, five of the persons elected under (ii) and (iii) happen to be Government servants.

(b) and (c). No.

NEGOTIATIONS BETWEEN THE MEDICAL COUNCIL OF INDIA AND OTHER COUNTRIES ABOUT THE RECIPROCAL RECOGNITION OF MEDICAL DEGREES.

157. THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY :

(a) Did the Medical Council of India enter into negotiations for reciprocity with countries outside India including Great Britain as contemplated in the powers given to the Council under the Indian Medical Councils Act of 1933 ?

(b) Have most countries refused to enter into direct reciprocity with the Indian Medical Council ?

(c) Has the General Medical Council of Great Britain stated that the word "reciprocity" does not occur in the British Act and that they are unable to recognise any qualifications recognised and entered in the First Schedule of the Indian Medical Act without satisfying themselves as to the sufficiency or insufficiency of the qualifications of each individual case ?

(d) If so, is it open to the Indian Medical Council also to consider and satisfy themselves in respect of qualifications recognised by the General Medical Council of Great Britain in the matter of entering in and removing from the Second Schedule of the Indian Medical Act the names of British qualifications ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Yes.

(b) A number did so refuse, but a number acceded. The result of the negotiations is embodied in the Education, Health and Lands Department Notification No. F. 43-18/37, dated the 13th October, 1937, a copy of which is in the Library of the House.

(c) Yes. But, in practice, since the Indian Medical Council was established, the General Medical Council have extended recognition to Indian medical degrees on the basis of recognition given by the Indian Medical Council.

(d) Subject to the relevant provisions of section 120 of the Government of India Act, 1935, it is open to the Indian Medical Council to treat British medical qualifications according to their judgment of the sufficiency or otherwise of those qualifications.

PUBLICATION OF RETURNS OF MOTOR VEHICLES, ETC.

158. THE HONOURABLE MR. G. S. MOTILAL : Will Government state :

(a) Whether they intend to publish the returns of road vehicles in India similar to those published by the Ministry of Transport of the United Kingdom in regard to road vehicles in Great Britain ?

(b) The number of motor cars, cycles, motor hackneys and commercial vehicles taxed in India during each of the last three years, and the total receipts from taxes from motor vehicles during each corresponding year ?

THE HONOURABLE MR. S. N. ROY : (a) I am afraid it would not be practicable to compile statistics on lines as elaborate as those issued by the Ministry of Transport, but the question of the compilation and publication of more detailed statistics than are now available, showing the number of vehicles taxed and in use, by classes, the amount of tax realised annually under the provincial Taxation Acts on each class ; the total amount of annual taxation realised by local bodies on such vehicles, as well as statistics of accidents caused by motor vehicles, is under the consideration of the Government of India and it is proposed to consult Provincial Governments in the near future on the subject.

(b) A statement giving the number of different classes of motor vehicles at the end of 1935-36 was laid on the table of the Assembly on the 25th January, 1937, in reply to Mr. Ramsay Scott's question No. 149. I am afraid later information is not complete but it is hoped to place this matter on a satisfactory basis when consultation with provinces has taken place.

STEPS TO BE TAKEN TO IMPROVE EXPORTS TO BURMA.

159. **THE HONOURABLE MR. G. S. MOTILAL :** Will Government state what steps they propose to take to improve our exports to Burma in view of the fact that our exports to that country in the year 1936-37 were only of the value of Rs. 10 crores while imports from that country amounted to Rs. 34 crores ?

THE HONOURABLE SIR MUHAMMAD YAKUB : The Honourable Member's question seems to imply that it is desirable that India's imports and exports with each individual country should balance as nearly as possible. Government do not hold that view. Indian goods already enter Burma free of import duties, and Government do not consider it necessary to take any other steps to assist Indian exports to that country.

THE HONOURABLE MR. HOSSAIN IMAM : Are the facts stated in the question correct ?

THE HONOURABLE SIR MUHAMMAD YAKUB : That question should be addressed to the questioner !

THE HONOURABLE MR. G. S. MOTILAL : Yes, they are.

NUMBER OF BROADCAST RECEIVER LICENCES ON 31ST DECEMBER, 1937, ETC.

160. **THE HONOURABLE SIR RAHIMTOOLA CHINYOY :** Will Government state :

(a) The total number of Broadcast Receiver Licences up to the end of December, 1937 (i) in India, (ii) in each province ?

(b) The total capital expenditure incurred on Broadcasting during 1937 (i) on all stations, (ii) on each station ? and

(c) The total allotment for programmes during 1937 (i) to all stations, (ii) to each station ?

THE HONOURABLE MR. S. N. ROY : (a), (b) and (c). A statement giving the required information is laid on the table of the House.

Statement showing the number of broadcast receiver licences on the 31st December, 1937, and the total expenditure, capital and on programmes, during 1937-38.

	Approximate number of licences during the calendar year 1937 in provinces.	Anticipated expenditure at the various stations of All-India Radio during 1937-38.		
		Station.	Capital expenditure.	Expenditure on programmes.
			Rs.	Rs.
Assam	860	Delhi	2,89,200	1,22,600
Bengal	12,740	Bombay	1,53,900	1,09,500
Bihar and Orissa	1,400	Calcutta	58,200	1,07,100
Bombay	16,560	Peshawar	3,400	57,745
Central Provinces	1,310	Lahore	1,57,100	21,250
Madras	3,470	Lucknow	1,83,700	6,250
North-West Frontier Province.	800	Madras	1,66,800	4,600
Punjab	7,460	Trichinopoly	23,500	
Sind and Baluchistan	1,700	Dacca	12,700	
United Provinces	3,860			
Total number in India	50,160		10,46,500	4,29,045

JUMA MOSQUE AND FATEHPURI MOSQUE IN DELHI AND MOSQUES IN NEW DELHI.

161. THE HONOURABLE MR. HOSSAIN IMAM : Will Government give the following information in regard to the management of the Juma Masjid and Fatehpuri Masjid in Delhi and the masjids in New Delhi assigned to the Committee of management of the Fatehpuri Masjid :

- Names of the members of the Committees ?
- Period of office (tenure) ?
- Annual income and expenditure of last two years ?
- Balances standing on 31st March, 1937 and how and where deposited? and

(e) The authority under which the Committee is working. (Act, rule, regulation or judicial action) ?

THE HONOURABLE MR. F. H. PUCKLE : I have called for the information and it will be laid on the table in due course.

TOTAL GOVERNMENT TRANSACTIONS AT THE DELHI BRANCH OF THE RESERVE BANK OF INDIA.

162. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the expenses of the Delhi Branch of the Reserve Bank for the year ending 31st March, 1937 and the total amount of Government transactions in that year ?

THE HONOURABLE MR. J. C. NIXON : The total Government transactions at the Delhi Branch of the Reserve Bank during the year 1936-37 were, in round figures :

	Rs. Lakhs.
Receipts	2.26
Expenditure	4.62

Government have no information regarding the expenses of the Branch.

RECRUITMENT OF STAFF BY THE RESERVE BANK OF INDIA.

163. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement showing the number of (a) officers and (b) subordinates, taken from the Imperial Bank and newly appointed by the Reserve Bank up to 31st December, 1937 ?

THE HONOURABLE MR. J. C. NIXON : No, Sir. As was explained by the Honourable the Finance Member in his replies to question No. 292 and supplementary questions asked in the Legislative Assembly on the 18th of February, 1935, the recruitment of staff for the Reserve Bank is a matter entirely for the Central Board of the Bank.

THE HONOURABLE MR. HOSSAIN IMAM : Could not the Government get these figures from the Central Board ?

THE HONOURABLE MR. J. C. NIXON : They do not wish to call for the figures, Sir. They do not wish to interfere with the internal working of the Bank.

PAY, ETC., AND PERIOD OF CONTRACT OF GOVERNORS AND DEPUTY GOVERNORS OF THE RESERVE BANK OF INDIA.

164. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement showing the pay and emoluments and the period of contract of the Governors and Deputy Governors appointed to the Reserve Bank ?

THE HONOURABLE MR. J. C. NIXON : With your permission, Sir, I shall answer questions Nos. 164 and 165 together.

I lay on the table a statement respecting the present Governor and Deputy Governor. For the rest, I have nothing to add to the replies given from time to time to questions on this subject and particularly to starred question No. 561 answered in the Legislative Assembly on the 8th March, 1937.

	Pay, etc.	Period.
Governor	Pay at Rs. 7,500 per mensem and free furnished houses in Bombay and Calcutta, liability to income-tax and super-tax, and with no retiring pension or gratuity.	Five years with effect from the 1st of July, 1937.
Deputy Governor	Pay at Rs. 4,500 per mensem liable to income-tax and super-tax and without house allowance and retiring gratuity.	Five years with effect from the 21st of December, 1936.

GRATUITIES PAID TO GOVERNORS AND DEPUTY GOVERNORS OF THE RESERVE BANK OF INDIA.

165. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the amounts of gratuities paid to the Governors and Deputy Governors by the Reserve Bank up to the end of the year 1937 ?

(See reply to question No. 164.)

NUMBER OF RADIO LICENCES ISSUED DURING 1936-37, THE INCOME FROM THEM AND EXPENSES OF ALL-INDIA RADIO.

166. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement showing the number of radio licences issued in each of the provinces during the last financial year and the income from them and the expenses of All-India Radio ?

THE HONOURABLE MR. S. N. ROY : A statement giving the required information is laid on the table of the House.

Statement showing the number of radio licences issued during 1936-37, the income from them and the expenses of All-India Radio.

	Approximate number of radio licences issued in provinces (including Burma) during 1936-37.	Income from the licences, 1936-37.	Expenses of All-India Radio during 1936-37.
		Rs.	Rs.
Punjab	5,520	} 4,07,700 (approximately)	Capital 1,39,423 Recurring 9,55,465
North-West Frontier Province.	650		
Central Provinces	980		
Bengal	10,860		
Assam	690		
Madras	2,860		
Bombay	14,120		
Sind and Baluchistan	1,330		
United Provinces	2,770		
Bihar and Orissa	1,090		
Burma	1,278		
Total number for India and Burma.	42,148	4,07,700	10,94,888

DYNAMOS PURCHASED BY STATE-MANAGED RAILWAYS.

167. THE HONOURABLE MR. HOSSAIN IMAM : Will Government give the following information in respect of the Indian Railways :

(a) The number and average price of dynamos purchased by each Railway ?

(b) The number and average realised price of dynamos scrapped by each Railway ?

(c) The number and average price of dynamos budgeted for purchase in each Railway in the year 1938-39 ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The Honourable Member has not stated the class of dynamo in respect to which the information is desired, neither has the Honourable Member indicated the periods to which the information asked for in parts (a) and (b) of the question should relate. If the Honourable Member has train lighting dynamos in mind, the information is not available.

THE HONOURABLE MR. HOSSAIN IMAM : Do I take it, Sir, that Government have no information in the Budget papers ?

THE HONOURABLE THE PRESIDENT : No discussion is allowed on the Budget, and you ought to know that as an experienced Member.

THE HONOURABLE MR. HOSSAIN IMAM : My question part (c) was " How many dynamos have been budgeted for " ?

THE HONOURABLE THE PRESIDENT : Government replied that they have no information. I cannot insist on Government giving information.

INTRODUCTION OF A HALF ANNA NICKEL COIN.

168. **THE HONOURABLE MR. G. S. MOTILAL** (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether it is proposed to introduce a half anna nickel coin ? If so, from what date ? What are the advantages of the nickel coin over the current half anna bronze pieces ?

THE HONOURABLE MR. J. C. NIXON : Government are considering the question of introducing a half anna nickel coin but no decision has yet been reached. Copper half anna coins have not been minted since 1880, and although they are still legal tender the amount now in circulation is comparatively small. A half anna nickel coin would be of a more convenient size and would also be more hygienic. If it proved popular and resulted in a reduction in the demand for bronze coin, there would be an appreciable saving in Mint expenditure.

MISREPRESENTATION OF INDIAN ART IN BRITISH MUSEUMS.

169. **THE HONOURABLE MR. G. S. MOTILAL** (on behalf of the Honourable Raja Yuveraj Datta Singh) : Have Government taken any steps, or do they propose to take any, in connection with the misrepresentations of Indian art and archæology in the British Museum in which (a) one bronze statue is labelled as " Sri Ram with his two wives " but on examination the other " wife " was no other than Rama's brother Lakshman : (b) the label on the marriage of Rukmini and Krishna reads " Elopment in high life ", and (c) Humayun's tomb is identified to be the Taj Mahal ? Do Government propose to take necessary steps to have the above misrepresentations rectified ? If not, why not ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) to (c). Government understand that statements of the kind mentioned by the Honourable Member have been made by Dr. Sita Ram and they are quite willing to bring them to the notice of the authorities of the museums concerned.

KENYA TRANSPORT LICENSING ORDINANCE, 1937.

170. THE HONOURABLE MR. G. S. MOTILAL (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state what are the main provisions in the Kenya Transport Bill which adversely affect the interests of Indians in Kenya : and what steps have been taken by Government in this connection ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The attention of the Honourable Member is invited to the reply given by me on the 14th February, 1938 to his question No. 19.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill further to amend the Workmen's Compensation Act, 1923, for certain purposes, which was passed by the Legislative Assembly at its meeting held on Friday, the 4th March, 1938.

RESOLUTION BE INDO-BRITISH TRADE AGREEMENT.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I rise to speak on the Resolution I moved on the last non-official day on the subject of our trade agreement :

"That this Council recommends to the Governor General in Council to give notice of termination of the present trade agreement with Britain, if His Majesty's Government do not accept the terms offered by India on the advice of non-official advisers."

This Resolution, Sir, as it is worded, is inoperative until a contingency arises, that is, the refusal of His Majesty's Government to accept the demand of the Government of India. At the time when I gave notice of this Resolution the prospect of an early settlement appeared to be quite bright. We were told that matters had gone to a very great length and some minor misunderstandings only had to be removed, therefore the Honourable Member in charge of the Commerce Department was himself going to England. But as time passed, we found that the small differences were assuming mighty proportions and the prospects of an early settlement were not very bright. Under these conditions, Sir, the Members of the Opposition discussed this matter and decided that in the form in which I had worded my Resolution it would remain a dead letter because His Majesty's Government would neither refuse *in toto* nor accept the terms offered by India. In view of that, they have decided that an amended form of the Resolution should be the official Resolution. That amendment, Sir, will be moved by my Honourable friend Mr. G. S. Motilal. The spirit of the amendment is not antagonistic to that of the original Resolution. They are simply pictures of the same thing taken from different

angles and therefore I shall speak more in consonance with the amendment form.

THE HONOURABLE THE PRESIDENT : At this stage you are not entitled to speak on the amendment.

THE HONOURABLE MR. HOSSAIN IMAM : I said, more in consonance with it, Sir, not on it ; because as I said the two are not antagonistic.

Sir, I may say that in discussing this important Resolution we are a little handicapped because our Honourable colleague, the new Commerce Member, is absolutely innocent of any misdeed in this connection. Whatever attack I have to make is directed against the indivisible Government of India and not against the Honourable Member in person. Even at the present moment, the talks that are going on in England are being more or less talks *in camera* without any ventilation and therefore we do not know exactly at what stage the talks are. It is not our fault that we do not know. It is the fault of the Government who have kept us in the dark. Now, Sir, before I come to the operative part of my Resolution, I crave your indulgence to trace out the Ottawa Pact as it emerged and as it has affected Indian trade. At the time when Sir George Schuster came from Canada with his two advisers, Sir Shanmukham Chetty and Sir Abdoola Haroon, there was a big cleavage of opinion in the country. On the one hand there were the merchants who, as usual, in order to guard their own interests posed as benefactors and tried to convince, and they succeeded generally in convincing, that this pact would not be beneficial. On the other hand, we had the nationalist politicians who, on the principle that they were opposed to any form of Imperial preference, strenuously opposed this particular agreement. On the one side there was vehement opposition and on the other side there were the usual hangers-on and others who were easily deluded into supporting the Government. At the time when this agreement was discussed in this House, I took an attitude different from that of all these groups. I was neither opposed to an agreement nor was I the supporter of the agreement. I favoured the idea of a bilateral trade agreement and my only condition precedent was that it should be manifestly in the interests of India. I stressed that if the Government could show that the trade pact was really favourable to India, then we should enter into the agreement. But I doubted whether the particular trade agreement came up to this standard. I am glad, Sir, that the country has come round to this view, and it is prepared to have an agreement provided it is not manifestly against Indian interests to enter into it. This ought to be welcomed by the Government because they have improved their position to a degree which they had not at the time of the Ottawa Agreement. Sir, in the teeth of the opposition of the nationalists in the other place, Government, with the help of the manufactured votes and with the connivance of the deluded and spineless people, were able to carry that Resolution. In this House, of course, nothing was necessary. There is a constitutional majority in this House which saw them through without any difficulty. After the pact had been in operation for some time a report was published by the Director of Information and Statistics which showed that the pact had not given a half of what people had thought it would give. At the time of the Ottawa Pact, it was said that we would be living in heaven on earth, and there will be such a tremendous change that the whole of our export trade and our raw produce would benefit by it. But the reality was altogether different. In reality, we neither improved our position in the United Kingdom market as much as the United Kingdom products did improve in ours, nor did our total

[Mr. Hossain Imam.]

trade in raw produce increase, rather it decreased. Now, Sir, after it had been in operation for its full period, the matter came up before the Assembly. It did not come to our House, and we are glad that it did not come to us, because then the action of the Government would have been supported. When it came before the Assembly, the Government gave an undertaking that they will abide by the decision of the Legislature. In a memorable debate and division, the Government was defeated. The Government, being past masters in the art of evasion and distortion, carried out the wording of the Resolution but not its spirit. They denounced the agreement and said they had carried out their promise. But by a back door thrown wide open, they implicated us and impaled us in a worse position than we were under the original agreement. The notification to which reference has been made by the Honourable Member in reply to our questions has made matters worse. Formerly, we had simply to give a notice, but now no notice can be given for its termination without consultation. They have entered into an interim agreement which promises to be for even a longer period than the original agreement. The original agreement was for three years, and it is now close upon two years since the interim agreement was thought of. The Government has gone back on its pledges, and in order to keep us in the dark, they are not publishing any reports on the lines of the former reports on the effect of the Ottawa Agreement on our trade in recent periods. That has been deliberately done in order to cloud the issue and not to give information detrimental to their own interests. As there is a long list of non-official business today, I do not wish to prolong the debate by entering into details. The position is quite clear. The Indian people had no hand in the original agreement and in its replica that is going to be made, and although non-official advisers have been associated, I regret that agricultural interests have not been adequately represented in the personnel. The interests of the agriculturist in export trade are predominant. Our manufactured articles do not find much place in our export market. We want to have a greater share in the manufactured goods, but first we have to make ourselves cheap enough to sell without protection in India, and then we can dream of having an external market. We can do so if we get a subsidy. If Government is prepared to subsidise the export of manufactured articles, there is nothing against it in the canons of sound finance and a sound national budget. We may have a share, but the facts at the present moment are that as exporters only the agriculturist has the lion's share and in the import field our established industries clash with imports and therefore their representation on any trade talk is essential to safeguard the national industries.

THE HONOURABLE THE PRESIDENT : Is it worth while going into the personnel of the Committee at this stage ?

THE HONOURABLE MR. HOSSAIN IMAM : I am not going into the personnel. My idea was that although the personnel may not be quite adequately representative of the major interests, I say that even that is not being acted upon. These unofficial advisers have been giving advice and the talks have been going on for months and months. It is more than a year since they started the talks. Now, at the time of the Ottawa Agreement our delegates were like Caesar : I came ; I saw ; I conquered. Sir George Schuster went, talked and conquered ; and he entered into the agreement within a space of two months. Now, why has this been dragging along for all this time ? The reason is not far to seek. It is apparent on the face of it why they are having no trade agreement. As I said in the beginning, I am not going to quote facts

and figures. I will simply quote one set of figures to show exactly what happened in the time of which we have a report from the Government. Between 1931 and 1934 the export of Indian preferred articles to the United Kingdom increased by 7·5 per cent. and the export of non-preferred articles to the United Kingdom market increased by 39 per cent. That is, if we had been given no preference we would have increased our trade more, as is apparent from the figures, because there was an increase of 39 per cent. of non-preferred articles while the preferred articles only gained by 7·5 per cent. Look at the picture of England. British goods entering India in the preferred list increased by 34 per cent. and in the non-preferred list only by 14 per cent.

THE HONOURABLE THE PRESIDENT : That is the result of the accidental fluctuations of trading.

THE HONOURABLE MR. HOSSAIN IMAM : This was the result of three years working. If we find that the percentage of non-preferred British goods does not increase so much as the preferred, it shows that the British people were wise and they have selected their list with caution and with care, while our people—well, in their usual bureaucratic method thought that no one was fit to be asked ; no one knew except the almighty I.C.S.

THE HONOURABLE THE PRESIDENT : I am sorry you are so disparaging in your remarks to our people.

THE HONOURABLE MR. HOSSAIN IMAM : Of their mentality, whether it is a brown or a white bureaucrat, the mentality which acts on the basis that they know all and they have nothing to learn.

THE HONOURABLE THE PRESIDENT : I am sorry you are running down the mentality of your countrymen.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, but they are wiser. They did not rely on themselves. They have associated unofficial advisers with them this time and therefore they are less likely to blunder now than in former times. That is the stumbling block—that they have taken along unofficial advisers. Now, the British people are not fools. They are wise business men and they know that now it is difficult to throw dust into the eyes of the Indian representatives. Everything they say and every demand that they make will be scrutinised and subjected to microscopic examination, and that is the reason of these difficulties and delays. Now, what is the prospect before the British people ? If they do not come to any conclusion and do not accept the Indian terms they continue indefinitely the original agreement under which they are making great strides.

THE HONOURABLE THE PRESIDENT : This is all premature at present in the face of your Resolution.

THE HONOURABLE MR. HOSSAIN IMAM : That is what I am saying. If His Majesty's Government is not willing to accept the advice of our non-official advisers—and it has not been accepted though they have been at it for a year and a half. What is the reason ? The reason is that you do not force them to come to an agreement. They always choose the lesser of the two evils, as is usually done by everybody. The lesser of the two evils in this case is to continue the present agreement, because thereby they are gaining. They have nothing much to gain from the future agreement because that will not be so favourable to the British people as the present agreement.

[Mr. Hossain Imam.]

If the present agreement were not to the advantage of the Britishers the natural course of events would have been that the trade pact would have been terminated ; we would have no reciprocal agreement ; we would be competing in the market on equal terms with others. But that is not being allowed. There was nothing to prevent the Government of India after it had given notice of the termination of the Ottawa Pact to say that after three months there will be no concessions to British goods. But the trouble is that in giving concessions to the Britishers, our masters, we have gone out of our way. We have not given them concessions simply through the Ottawa Trade Agreement, but in various other fields irrespective of the trade agreement, for instance the preference given to British goods in all the protected industries. Sir, the Government thought—and I can admire them for their acumen—that the loudest in condemning the trade pact were the manufacturers ; therefore to gain their sympathy and to give a sop to Cerberus, they allowed the trading interest to come to mutual agreements and we had the Mody-Lees Pact. It was entered into simply to assuage the wounded feelings of the textile traders who were really responsible for a great deal of the agitation in the country. Now, even that has proved ineffective. That concession made by the Government has not convinced our merchant princes that they have got adequate advantage over the disadvantages which ensue from this pact and therefore there is again an agitation against this. My proposition and my request to the Government is to bring us on an equal footing. At the present moment if the trade agreement is to the best interest of India why do you want to change it ? Come out boldly and tell us that you think this is to our best advantage and the best protection that can be had and therefore we must either take it or refuse it and as you have given notice of termination we will suffer. There is nothing to prevent them from doing that. Our masters in Whitehall would not interfere to protect India at the cost of Great Britain. But that sort of thing is not happening. That shows clearly that the present pact is in the interests of British trade and for that reason it is being perpetuated. Can you imagine any business man giving up a more advantageous contract for a contract less advantageous merely for the satisfaction to be derived from the fact that the other party would be pleased at it ? Such things do not happen in the trade world.

THE HONOURABLE THE PRESIDENT : I have allowed the Honourable Member sufficient indulgence. Under the guise of this Resolution he is expressing his sentiments on the old Ottawa Agreement as if we are wholly discussing the Ottawa Agreement in this House.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I most humbly submit that we are discussing the Ottawa Agreement, because that is the only agreement which is in force at the present moment.

THE HONOURABLE THE PRESIDENT : Please stick to the terms of your Resolution.

THE HONOURABLE MR. HOSSAIN IMAM : My terms are that if the Government do not accept the non-official terms, this agreement should be terminated, and I have to show that this agreement is to the disadvantage of the country and therefore I am perfectly justified in dealing with the Ottawa Agreement, because that is the main bone of contention between us. The new agreement has been so long in the making that we are doubtful whether it will ever come into effect.

Mr. President, I will now conclude. Our intention is not in any way to jeopardise the position of the Government of India, but rather to help them. These British traders should know that these dallying tactics of theirs had gone on too long, and it was now time that they concluded a new agreement. They would have either to accept India's terms or reject it. I would have shown by facts and figures how Canada and other countries improved their position, but I am not going into details as I have already taken 25 minutes.

Sir, I commend this Resolution to the acceptance of the House.

THE HONOURABLE THE PRESIDENT: Honourable Mr. Motilal, you have got two amendments. I do not know which you desire to propose.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan): The second one, Sir.

THE HONOURABLE THE PRESIDENT: You will speak on the amendment.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I move that for the original Resolution the following be substituted :

"That this Council recommends to the Governor General in Council to give notice immediately of termination of the present interim trade agreement with the United Kingdom and not to give effect to any new agreement unless it is approved by the Central Legislature."

I shall briefly state my reasons for moving this amendment and commending it to the acceptance of the House in preference to the Resolution moved by my Honourable friend Mr. Hossain Imam whose devotion and patriotism we have come to admire. My amendment is not a hostile amendment but one which more effectively serves the purpose which he and we all have in mind.

May I ask this House to realise that the Resolution, as it stands, requires that notice of termination should be given only in case His Majesty's Government do not accept the terms offered by India on the basis of the advice given by non-official advisers. In the first instance we do not know whether any terms have been offered by India and what these terms are. Secondly, it is not known whether terms have been offered only by India and not by the other side too. It may be assumed from the nature of the negotiations that either party have formulated their own terms for the acceptance of the other and in all probability India alone has not offered terms for acceptance by Britain as the Resolution of my Honourable friend assumes. We have no knowledge whatsoever of the advice which the non-official advisers have tendered, nor do we know that Government have formulated their terms in conformity with the advice of the advisers in any or every respect. We have no authoritative information as to any of these matters. Nevertheless we earnestly hope that Government have followed their advice. We cannot ignore the fact, however, that they are the advisers who have been appointed by the Government of India and not chosen by the Legislature. In saying so, I do not intend to cast any reflection on the non-official advisers. I have great regard for some of them. Yet I would not agree to surrender in advance our right to examine and judge their advice on its merits when it sees the light of day. I am sure my Honourable friend Mr. Hossain Imam will himself not hesitate to denounce the advice of the Indian delegation if it deserves adverse criticism, or accord his approval if it merited his support..

[Mr. G. S. Motilal.]

We are still in the dark as to the views of the advisers. The advice of the non-official delegation and the attitude of the Government of India are necessarily a guarded secret. In these circumstances, we cannot give our consent to a prospective agreement even though it may closely follow in every respect the advice of the Indian delegates.

Again the Resolution, as it is framed, gives plenty of discretion to the Government for withholding notice of termination until His Majesty's Government definitely say that they do not accept the terms required by India on the advice of the Indian delegates. In the face of the attitude taken by Government in disregarding and circumventing the Assembly Resolution to terminate the Agreement, it will not be wise for us to leave loopholes for Government after this bitter experience. The way in which the negotiations have been dragged on for such an intolerable length of time makes one fear that His Majesty's Government may not condescend for still longer time to commit themselves to a definite reply. The Assembly in its Delhi session in 1936 urged the Government that the Ottawa Agreement be terminated without delay and the notice of termination be given in terms of Article 14 thereof. Here is what the Assembly Resolution says :

" This Assembly recommends to the Governor General in Council that the Ottawa Agreement, dated the 20th August, 1932, be terminated without delay and a notice of denunciation be given in terms of Article 14 thereof. The Assembly further recommends that the Government of India should immediately examine the trend of trade of India with various other important countries and the United Kingdom and investigate the possibility of entering into such bilateral trade treaties with them, whenever and wherever possible to bring about the expansion of the export trade of India in those markets and submit such treaty or treaties for the approval of this Assembly "

Article 14 of the Ottawa Pact referred to in the above Resolution provides that—

" This agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denunciation has been given by either party :

Provided that in the event of circumstances arising which in the opinion of either party necessitate a change in the rates of duty or margins of preference settled by the agreement on any particular description of goods that party shall notify and consult with the other party with a view to adjustments being agreed upon. If no agreement is reached within six months of the date of such notice it shall then be open to the original party to give to the other party six months' notice of his intention to carry into effect the change desired in the rate of duty or margin of preference on goods of the description named in the original notice and to bring the revised rate of rates into operation at the expiration of this period "

The Honourable Members of the House will observe that, even while pretending to comply with this Resolution, the Government in fact acted contrary to it. They did give notice of termination but at the same time or soon after that they stultified themselves by entering into another agreement which virtually destroyed the effect of the notice of termination given by them earlier. In spite of the notice of denunciation and in the teeth of the Assembly verdict the Ottawa concessions are continued and continue to hold the field to this day. This makes it all the more necessary that we should be very clear and emphatic in defining our attitude and leave no room to Government to adopt a vacillating policy. I submit that my amendment endeavours to achieve this object. It urges in unmistakable terms that the notice of termination should be given here and now. The serving of this notice will still give the two Governments three months' further time within which they will have ample opportunity to bargain and conclude a new

Agreement. The two Governments have had no less than twenty and four months for negotiating a settlement. It will not be wrong to infer from the Press Note issued by Government in October, 1936 that the notice of termination was given in the month of March of that year. As a matter of fact when the Assembly passed the now famous Resolution, His Majesty's Government must have realised that the Ottawa Agreement was doomed. I am sure that none in this House or outside would contend that Government have not had sufficient time for full discussion to negotiate a fresh agreement. I cannot help feeling that if His Majesty's Government had only the desire to have a fair deal with this country, they had more than ample time to conclude an agreement satisfactory to both the parties. Unless the notice for termination of the interim pact is given forthwith, the indefinite continuation of the trade parleys will only serve to prolong the life of the original pact which has been condemned throughout the country. The Resolution of my friend the Honourable Mr. Hossain Imam does not debar the Government from following such tactics. Sir, in my humble opinion Government committed a blunder in making the interim agreement over the head of the Assembly. Had they not made this agreement, which has proved detrimental to the interests of the country, they would have been able to secure ere long an arrangement much better than the first one. It is this so-called interim agreement which has proved the enemy of a new agreement, and as such is must be scrapped at once, without waiting any longer for the outcome of the negotiations now said to be in progress.

I have so far dealt with the first part of my amendment. Let me now turn to its second part. The amendment says that effect should not be given to any new agreement unless it is approved by the Indian Legislature.

The Commerce Member and the non-official advisers had been to England in last summer on this mission and after nearly six months of abortive discussions returned to India with empty hands. The Commerce Member again sailed for the second time to London for the same purpose. The latest report in the Press is not of an encouraging character and reveals that the fabian policy is at work. We cannot sit with folded hands and be a party to such dilatory tactics. What I next wish to emphasise before this Honourable House is that it is no less essential that any new deal, before it is put into operation, should be placed before the Legislature and should have the seal of its approval. The Legislature will endorse it only if it is satisfied that it is in the interests of the country. If it is not in the interests of the country, it will refuse to give its consent to it. The Legislature should, we claim, be the final arbiter on an issue of such great moment between India and England. Government ought not to arrogate to themselves the role of the Legislature and present us with a *fait accompli*. The Legislature will take into consideration all the relevant factors which should weigh in assessing the benefits to be derived and concessions to be accorded under the deal. The factors to be weighed by the Legislature are, to state them briefly, in the first place the deal should not hamper but help a rapid growth of industries in India; secondly, it should take into account not merely visible but invisible imports from Britain; thirdly, it should not provoke other countries to strike us for the concessions we might extend to Britain. It should also provide necessary stimulus not only for the export of our raw materials, but also for our manufactures. Judged by every one of these tests, the Ottawa Agreement has failed to come up to our requirements, and I do not think, Sir, at this stage it is necessary for me to enter into a close examination of the details of the working of the agreement to prove its injurious ramifications on our

[Mr. G. S. Motilal.]

trade, industries and our economic life. I need go no further to establish my contention than to point to the fact of the denunciation of this iniquitous agreement by the Government themselves after an exhaustive debate in the other House.

THE HONOURABLE THE PRESIDENT : Will you please bring your remarks to a close. I have already given you four minutes extra.

THE HONOURABLE MR. G. S. MOTILAL : Sir, I shall only mention that the United Kingdom purchases far more goods than she sells to certain countries. Her imports in 1935-36 were more than £730 millions and this year I find her imports have gone up to one thousand and odd million pounds. Whereas her exports are far less, and she is favouring, if I may use this expression, other countries by drawing her imports from them rather than from India. I say, Sir, that this should be kept in mind by the Government of India and it is within the power of the United Kingdom to draw more goods from India merely by diverting her imports from other countries to India, and that will give India a better opportunity to have a trade deal with the United Kingdom.

THE HONOURABLE THE PRESIDENT : Substituted Resolution moved to the original Resolution :

“That that this Council recommends to the Governor General in Council to give notice immediately of termination of the present interim trade agreement with the United Kingdom and not to give effect to any new agreement unless it is approved by the Central Legislature.”

The debate will now proceed simultaneously both on the original Resolution and the substituted Resolution.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Sir, it is a matter of common knowledge that negotiations are in progress at the present moment for the replacement of the Ottawa Pact. It may well therefore be asked why it has been thought necessary by non-official Members to bring forward a Resolution at this stage asking for the termination of the pact. There are two reasons which, so far as I know, have led them to take this view. One is that the negotiations have been unduly protracted. It was expected that a settlement would be arrived at some time about the middle of last year. Unfortunately, although the discussions continued for several months, they proved infructuous. We do not know the details of the discussions that took place, but our suspicions were aroused by what was published in the newspapers. The news that was available to us tended to indicate that the delay in the conclusion of a settlement was due to the attitude of British interests and the support given to them by the Board of Trade.

THE HONOURABLE THE PRESIDENT : I have told Honourable Members more than once in this Council that they should not act upon newspaper reports.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are we not entitled even to refer to them ? I am not quoting from newspaper reports. I think I am perfectly within my rights in referring to them.

THE HONOURABLE THE PRESIDENT : You are perfectly within your rights but you should not refer to them as correct.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : For the matter of that, not all that Government say in this Council is always correct.

THE HONOURABLE THE PRESIDENT : That is not the point now.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What are we then to go upon? We can neither go upon newspaper reports nor upon what Government say. We have to draw our own conclusions from what we see in newspapers and from what we hear Government representatives. The unfinished negotiations have now been resumed. Let us hope that they will be attended with a better result than the negotiations of last year. But there is a fear which cannot be regarded as illegitimate that so long as the Ottawa Pact is continued in practice, a dilatory policy will find favour with those who are unable to get their demands accepted either by the Indian advisers of the Government of India or by the Government of India themselves.

Another cause of anxiety is the Communique of the Government of India which was issued in October, 1936, to which both the previous speakers have made reference. This Communique announced that it had been agreed by the Governments of England and India that pending the conclusion of a new agreement, the 1932 agreement shall continue in force subject to termination at three months' notice on either side unless it is replaced by a new agreement. The Ottawa Pact required six months' notice. *Prima facie* this agreement seems to be more satisfactory inasmuch as it reduces the period of notice from six to three months. But there is a sting in the tail of this agreement. The last paragraph of the Communique says :

"It has further been agreed that in the event of failure to conclude a new agreement, neither party shall withdraw the existing preferences without a prior consultation with the other party".

There come first of all the negotiations for the conclusion of a new pact. If these negotiations fail, three months' notice would be needed in order to end the pact that is already in force in practice. And even after that, it is said that no party shall withdraw the existing preferences without prior consultation. To what extent are these dilatory proceedings to go on? Even when the protracted negotiations fail and no new agreement has been arrived at, it will still be incumbent on the Government of India to consult His Majesty's Government before withdrawing the existing preference. Thus the existing preferences may be continued indefinitely. This shows that the uneasiness that exists in the minds of Honourable Members is perfectly justified, and that they are on good ground in asking that the present agreement should be immediately discontinued, so that a proper atmosphere might be created for the conclusion of a suitable agreement.

The most important part of the amendment which has been accepted by the Honourable Mover of the Resolution is that which asks that no new pact should be accepted unless it is approved by the Central Legislature. There are certain facts which I should like to place before the House in this connection. When the Indian Delegation went to the United Kingdom in 1932, Mr. Baldwin, at the joint meeting of the Indian and British delegates, said that the welfare of the various countries making up the British Commonwealth of Nations depended

"to a large extent on the adoption of a policy of economic co-operation, using that term in the widest sense".

He then added :

"The actual development of this co-operation rests on the citizens of our countries more than with the Governments".

[Pandit Hirday Nath Kunzru.]

This seems to me to admit the principle of our demand. Government may have the legal power to give effect to any new pact without consulting us, but the view expressed in 1932 by Mr. Baldwin, who was at the time Prime Minister of England, goes clearly to show that he did not want that what he called the policy of economic co-operation should be forced on this country. He only wanted that it should be accepted with the concurrence of the people of India. Sir Atul Chatterjee, at a later meeting at Ottawa, also said something to the same effect. He said :

“ When the Government of India and the Indian Legislature are in agreement, the Secretary of State in London stands aside and does not exercise the power of control which is vested in him in our existing constitution ”.

And later on he added :

“ The Indian delegation is unique in this respect that it is not composed of Ministers of the Crown under the Government it represents. Though it does not command a majority in its Legislature it must act in concurrence with the Legislature if in the sphere of tariffs it is to act at all ”.

Now, it may be said, that this quotation clearly shows what the legal powers of the Government of India are. Well, we all know what they are, but both Mr. Baldwin and Sir Atul Chatterjee were at pains to emphasise the point that whatever powers the constitution might have vested in the Government of India, they were anxious to carry Indian opinion with them and that it was no part of their intention to accept a policy the fundamentals of which would not find favour with the people of this country. Sir George Rainy too, referring to the conclusion of a trade agreement, said in the Legislative Assembly on the 14th April, 1932 :

“ If the conclusion of a trade agreement is recommended as a result of the conference any changes in the tariff which it may involve will be duly placed before the Legislature for its approval. The Government of India have no wish to put any such changes into effect unless the Legislature is satisfied that they are in the interests of India ”.

Now, I may be told that I am reading more into this pronouncement than it was intended to convey. I may be told that all that Sir George Rainy meant to say was that if the Government of India wanted to change the duties it must come forward with a Bill embodying those changes and the Bill would be of necessity have to be placed before the Assembly. Sir, the matter is not quite so simple as that. I do not think that the language of Sir George Rainy can be interpreted in so narrow a sense. Considering the atmosphere in which he was speaking, and his manifest desire to be conciliatory, it is fair to infer that he meant by his persuasive language to assure the House that it was not the desire of the Government of India to pursue an anti-national policy or to do anything which Indian opinion would condemn. But even if the words be taken in a restricted sense, I have to draw the attention of the House to clause 4 of the Indian Tariff Act, 1934. This clause says, among other things that when the Government of India find that a duty has become “ excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India ”, the Governor General in Council may by notification in the *Gazette of India* “ reduce such duty to such extent as he thinks necessary, either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification ”.

Now, Sir, the main question which we have to consider in connection with the conclusion of an Indo-British Pact is that of the reduction of duties on British goods. That is obviously the crux of the matter. If Indians adopted a favourable attitude on that point there would not be the slightest difficulty in concluding an agreement. The hitches that have so far taken place are, so far as I understand, due to the reluctance of Indians to concede all that has been asked for by the representatives of the British interests in this respect. Now, the Government of India are empowered by the Tariff Act to reduce a duty when they think that it has become excessive for the purpose for which it was levied. It is possible therefore under the present law for the Government of India to arrive at a pact with the British Government one of the main points of which would be a reduction in the duty on British goods of certain kinds, and to effect this agreement without coming to this Legislature. In view of this situation we have to ask that no agreement that is concluded now should be ratified without being first placed before and approved by the Central Legislature.

Sir, I have already quoted from the speeches of eminent British authorities which support our demand. If further examples had to be mentioned, I would draw attention to the fact that the Ottawa Agreement itself was discussed in the Legislative Assembly before Government took any action to implement its provisions. Again, in 1936, in accordance with the undertaking given by the Government of India the Legislative Assembly was consulted with regard to the continuance or otherwise of the pact. In asking therefore that the Government of India should follow the same policy at the present time we are not asking it to do anything that is new. We are asking it to follow its own policy, to act in accordance with the pronouncements of Mr. Baldwin and Sir George Rainy and to disabuse the minds of Indians of the fear that the Government of India, taking advantage of their powers under the Act of 1934, might accept a pact which would be detrimental to the interests of India and advantageous to British interests only. We are strengthened in putting forward this demand by the knowledge that the position of world trade and Indian trade have both improved since the Ottawa Pact was concluded. The prices of agricultural products have risen and today the rise, roughly speaking, is greater in the case of agricultural products than in the case of manufactured goods. India therefore does not stand to lose anything if a pact is not immediately concluded. On the contrary I think India will gain and perhaps the conclusion of a pact will be hastened if the policy recommended in the amendment moved by my Honourable friend Mr. G. S. Motilal is accepted by this House.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official) : Sir, I do not wish to give a silent vote on this Resolution. Having listened very patiently to the statements made by previous speakers I am second to none in maintaining, whatever be the outcome of this trade agreement between England and India, that India should not be placed at a disadvantage nor should Indian industry in any way be handicapped either through the manipulation of tariffs or through patronage and concessions given to Great Britain. On that proposition I do not think any Indian would differ. But the question is, is this the time for us to take up discussion of this important question when negotiations are going on between the two countries? I do not approve of the statements made that the Indian representatives have not been properly heard or they have not properly placed the case for India before the representatives of Great Britain.

THE HONOURABLE MR. G. S. MOTILAL : No one suggested that.

THE HONOURABLE SIR A. P. PATRO : Search your hearts and search your speeches, you will find what it is. It is most disheartening that such statements should be made. Representatives who had gone there had put up a strenuous fight and placed India's case in unmistakable terms having regard to the industrial and material welfare of the country. The reasons that were suggested for placing this Resolution are, first, the negotiations have been prolonged so long that there is an apprehension that things may not go straight or fair in favour of India, it is necessary that this Council should take up the matter and ask that if the negotiations are concluded the results must be placed before the Legislature for final approval or sanction. Sir, on this matter of suspicion, possibly it is mutual. If Great Britain were to think similarly that India has been only fighting artificially, not really, not sincerely, then there is an end to all agreement. Mutuality is the basis, is the life, of an agreement and if that mutuality is to be deprived by this suspicion of intentions, then no agreement will be possible. The Resolution completely ignores the condition of things in our country. Just now the Honourable Mr. Kunzru referred to the agricultural prosperity in the country.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I did not refer to agricultural prosperity. All that I said was that the position was better from the point of view of India than in 1931.

THE HONOURABLE SIR A. P. PATRO : If he were in contact with the condition of things in the rural areas, certainly even that statement he would not make ; he will make a very qualified statement. That is because of our want of contact with the people. Look at the position. We produce ground-nuts and cotton. The demand for cotton is entirely at a discount. Japan does not buy cotton from us ; Great Britain does not buy the same quantity and other countries are exporting cotton to Great Britain and to other countries. Hereafter what will happen ? The Indian cotton grower will be at a disadvantage. Then again we were exporting large quantities of ground-nuts. There is a slump in the market now or prices have fallen. Similarly, the agricultural produce with which I am conversant, namely, turmeric. We produce turmeric and there is no demand. Unless the British market improves, the producers here have no opportunity of improving their economic condition. It is there, I submit, very unfortunate that we should at this stage threaten as it were, hold out a threat, that unless things are concluded as we desire, there will be an end of the agreement. Now, Sir, when we do not know yet what the terms are on both sides, what the conditions are which are demanded from one side or the other, whether there has been any rapprochement or an agreement with regard to these matters, without any definite knowledge of these facts, that we should argue a case about which we are thoroughly ignorant, passes my understanding. I submit therefore, while as I said that we should all endeavour to see that India is not let down in the negotiations, that there should be no discouragement placed on Indian industries, at the same time we shall have to see not so much to the industrialist or manufacturer as to the condition of the actual agricultural producer, the man behind the plough we should take into consideration and not the class of manufacturers or capitalists. Therefore, Sir, from that point of view I submit it is rather premature and unnecessary to discuss this Resolution.

THE HONOURABLE SIR MUHAMMAD YAKUB (Commerce and Labour Member) : Mr. President, I do not doubt for a moment the honesty of purpose and the sincerity of the Honourable Mover of this Resolution. On the

other hand, I am rather surprised that an astute and far-sighted statesman like my friend the Honourable Mr. Hossain Imam should have thought it desirable to move a Resolution like this. Mr. President, while I was attentively listening to the eloquent speech which the Honourable Mover has made, I thought that the first part, and I should say the major portion, of his speech was directed towards matters which have no direct bearing upon the Resolution which he has moved before the House.

Now, Sir, let us look carefully at the wording of the Honourable Mr. Hossain Imam's Resolution. It asks us to give notice of the termination of the present agreement with Britain if His Majesty's Government do not accept the terms offered by India on the advice of the non-official advisers. In the first place, this seems to imply that the Government of India ought not to put forward any terms that the non-official advisers do not approve of. I do not know whether Mr. Hossain Imam puts this forward as a general proposition, or whether he is confining himself strictly to the matter of the present Indo-British negotiations. If he intends his principle to have any general application, he must surely recognise how dangerous this principle would be from his point of view. These advisers were appointed by Government of their own initiative, and particularly without any consultation with either House of the Legislature. If he seeks to bind Government to agree to accept, in advance, the advice of any non-official advisers whom Government may appoint, he must surely realise he is inviting Government to seek advice only in such quarters who are likely to give advice that is palatable to the Government. This point of view would be against all the nationalistic ideas which my Honourable friend has expressed before the House.

Mr. President, I will assume, however, that Mr. Hossain Imam intends his Resolution to apply strictly to the present negotiations and not to lay down a general principle which may be taken as a precedent. It is gratifying to find that Government has in this particular instance at least, in exercising their own arbitrary authority, and on a subject of such great importance, been able to choose advisers who are commended so unreservedly by the gentlemen on the opposite Benches. It will at least be admitted that Government have shown no desire to rig the Committee with "Yes-men" and to seek only such advice as they knew they could accept.

Now, it is all very well for the Honourable Mover to have such a touching faith in the wisdom of these advisers. Mr. Hossain Imam does not know the nature of the advice which has been tendered; yet he is prepared to give these gentlemen a blank cheque, and to honour it for any amount they care to write in. He is in fact seeking to place these gentlemen in charge of the government of the country in respect of matters of the most vital importance to the trade and commerce of the country and to the well-being of the whole commercial community. Mr. President, I am sure that so able a constitutional lawyer as the Honourable the Mover of the Resolution must realise that it is constitutionally impossible for Government to accept such a proposition. As long as Government are charged with responsibility in these matters, it is quite impossible for them to bind themselves in advance to accept the advice, whatever it may be, of any body of advisers, however eminent and capable they be. And I would point out that, since these advisers are appointed by the Government itself, the acceptance of such a Resolution could do nothing whatever to transfer the ultimate responsibility for these matters from Government to any elected representatives of the people. It would merely be replacing

[Sir Muhammad Yakub.]

one autocracy by another and that is a thing which, I believe, nobody in this House requires.

I would further point out that it is the universal experience that negotiations such as the present are not concluded merely by the presentation of an ultimatum from one side to another. The very word "negotiation" implies some elasticity, a process of give and take. Amongst the advisers themselves there may be differences of opinion which they may or may not be able to accommodate. Is Government always to accept only the advice of the majority in the course of discussions? The demands may be found susceptible of modification. At what stage is Government to stand on its minimum requirements? On all these matters, vital to the progress of the negotiations, Mr. Hossain Imam's Resolution has no guidance to give to us.

Moreover, Mr. President, in the present case negotiations have been entrusted to a person whose sound judgment and whose solicitude for the protection of India's interests cannot be doubted by anybody in this House. Sir Muhammad Zafrullah Khan has established his fame both as a great advocate and a statesman and to fetter the discretion of an unbiased and independent plenipotentiary like Sir Muhammad Zafrullah, and to make it absolutely subordinate to the non-official advisers would be a great impediment to the success of the negotiations.

Mr. President, the negotiations have now reached an advanced stage and the other party may not place all its cards on the table if they find that our representative has got his hands tied down and is not in a position to deliver the goods. Two other nations are just at present carrying on trade negotiations with Great Britain, namely, America and Ireland, and neither of them has taken the help of non-official advisers. The Government of India alone have taken advantage of the advice of their non-official advisers, and I submit that to go beyond this would be extremely disadvantageous in the interests of the negotiations themselves. I hope Mr. Hossain Imam will now realise that his Resolution is such that it is constitutionally, as well as practically, impossible for Government to accept and that its acceptance would indeed form a precedent at least as dangerous to the development of representative institutions as to Government itself and I hope therefore that he will withdraw his Resolution.

Now, Mr. President, as regards the amendment moved by my Honourable friend Mr. Motilal, I would only say that we are at present under an agreement with the United Kingdom to continue the present agreement until a new agreement is arrived at; failing this, to give three months' notice of termination. The question of withdrawing tariff concessions forthwith therefore can hardly arise. My friend the Honourable Mr. Motilal says nothing about the other side of the agreement. It is obviously impossible for India to withdraw the concessions which are accorded to imports and expects to retain the concessions which are accorded to Indian exports by England.

THE HONOURABLE MR. G. S. MOTILAL : It is implied.

THE HONOURABLE SIR MUHAMMAD YAKUP : I do not know. There is nothing in the present situation which would justify our breaking off negotiations with the United Kingdom at the late stage at which we have now arrived. Both the Honourable Mr. Motilal and the Honourable Mr. Kunzru have complained a great deal about the delay in carrying out these Resolutions. Well, in reply to that I would only submit that Honourable Members

of the House are aware that the non-official advisers of the Government of India, last year, left England, for their private business, before the negotiations could be concluded and, in order to respect the advice of the non-official advisers, the Honourable Sir Muh mmad Zafrullah came back to India and had to take the non-official advisers into confidence. Here he was carrying on consultations with them. And, naturally, the larger the number of persons whom you have to consult the longer the time it requires to come to any definite conclusion. So the delay in carrying on the negotiations, which was in a way in obedience to the wishes of the Members of the Central Legislature, was inevitable. The suggestion by my Honourable friend Mr. Mo ilal that small differences are assuming large dimensions is not correct according to the information at my disposal.

THE HONOURABLE MR. G. S. MOTILAL : That was Mr. Hossain Imam's suggestion.

THE HONOURABLE SIR MUHAMMAD YAKUR : It was both yours and his. During the course of day to day negotiations it would be impossible to keep the House aware of the proceedings of the negotiations and therefore it cannot be made any ground of complaint that these negotiations were being carried out *in camera* and that the Honourable Members knew nothing about it. From the very nature of the negotiations it would be impossible, and probably it would be disadvantageous for the course of the negotiations, if everything, from day to day, was published in the papers or was placed on the table of the House.

There was another point on which great stress was laid by the Honourable Members on the other side, namely, that no effect should be given to the result of the negotiations until the verdict of the Central Legislature had been obtained. The constitutional position on this point is quite clear. The responsibility of giving effect to the trade pact lies upon the Government of India, and although no guarantee can be given at present that the Central Legislature's verdict will be followed to the letter, I am sure that, so far as possible, due consideration will be given to the views of the Central Legislature, as has been the case up to this time.

There is one small point more to which reference was made by my Honourable friend Pandit Hirday Nath Kunzru. He referred to section 4 of the Indian Tariff Act. On this point, I would submit that section 4 of the Indian Tariff Act is limited only to protective duties and provides that they may be either reduced or enhanced without reference to the Legislature. Beyond this, section 4 of the Indian Tariff Act does not go.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But that point is important enough by itself.

THE HONOURABLE SIR MUHAMMAD YAKUR : No, not in the way in which my Honourable friend wanted to put it before the House.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I should like to know what the view of the Government is about the utilisation of section 4 of the Indian Tariff Act.

THE HONOURABLE SIR MUHAMMAD YAKUR : Section 4 of the Indian Tariff Act is limited to certain particular items and the provisions of the section will be followed according to the terms of the section itself.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What about the point that a great deal of mischief might be done ? The section may be limited to a certain number of items, but they are important items.

THE HONOURABLE SIR MUHAMMAD YAKUB : I do not know if the position will be in any way worse than that which in accordance with the constitutional authority the Government of India retains today.

Another point was made about allowing the present pact to continue until a fresh pact was entered into. It is obvious that there would have been great dislocation with regard to the trade and India would have suffered a great deal if no interim agreement, or arrangement, had been made to carry on the trade of the country.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : How, may I ask, would India have suffered ?

THE HONOURABLE SIR MUHAMMAD YAKUB : All the concessions which India enjoys today as regards the trade with the United Kingdom would have been withdrawn, and in the present political conditions in the world, with war in Japan and in Spain and other places, we do not know what would have been the commercial position of India if there had been no interim agreement as we have got at present. As my Honourable friend Sir A. P. Patro has pointed out, it would certainly be very disadvantageous to India itself if we pass a Resolution like this at the present moment, and I think that my Honourable friends, the Mover of the Resolution and the Mover of the amendment, after hearing the explanation which I have given, will withdraw their Motions.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I am glad that the Honourable the Commerce Member appreciates our motive though he doubts our wisdom in regard to this Resolution. Sir, the main point about the Resolution and the amendment is the inordinate delay in concluding a new agreement in the place of the old one. The facts are that the Ottawa Agreement of 1932 was disapproved, and was supplemented later on by another agreement on the 9th January, 1935, and it was that supplemental agreement, read with the Ottawa Agreement, that was denounced by the Legislative Assembly almost as its first act after it had been set up. The agreement of 9th January, 1935, was objected to by the Assembly, and a Resolution that in the opinion of the Assembly the said agreement was unfair to India and that the Government of India should terminate it forthwith was passed on the 30th January, 1935. It is now more than three years and the Legislative Assembly has run its normal course already and is enjoying an extended term, and still the Resolution of 30th January, 1935, passed by the Legislative Assembly, has not been given effect to. On the 13th May, 1935, a notice of denouncement was given by the Government of India, and we are nearing three years since then. The interim agreement thus entered into is still in force. These are facts on which any Legislature would be justified in criticising the action of the Government. If the Government wants to escape criticism, some facts should have been placed before us to show that every possible step is being taken to expedite the conclusion of a new agreement, and that there was no delay or remissness on the part of the Government of India. Beyond telling us that the non-official advisers have been travelling between India and England and that the Government's representative himself has been in England more than once, we are not told anything more about it. I quite

appreciate the position of the Honourable the Commerce Member that it will not be possible for the Government to lay on the table of the House or make public the details of the negotiations. No one wants it. In our own interests, we do not want it. We only want some assurance that everything possible is being done to expedite the conclusion of a new trade agreement. I found not a single word or expression of that kind in the Honourable the Commerce Member's speech. He has left that portion severely alone.

THE HONOURABLE THE PRESIDENT : How can he give an assurance on behalf of the persons who are engaged in the negotiations that are now going on ?

THE HONOURABLE MR. RAMADAS PANTULU : He can give an assurance that at least they are doing all they can to expedite it.

THE HONOURABLE THE PRESIDENT : That is expected.

THE HONOURABLE MR. RAMADAS PANTULU : But why not then assure us ? If they can not assure us they deserve our condemnation. They will have no justification to claim that they are acting in the interests of India if they cannot even give us an assurance that they are trying to expedite the conclusion of this agreement. The very inability to do something in three years' time is enough to condemn them and to show their incapacity to govern this country in our interests.

As to the point raised by the Honourable the Commerce Member that if the amendment is given effect to and the interim agreement is terminated, great disaster will overtake this country, that is a question of fact. This is a question on which there may be difference of opinion. We, on this side, feel that India has not benefited by the interim agreement. We feel at any rate that India has not benefited by the continuance of the interim trade agreement these two or three years. My Honourable friend Mr. Motilal would probably have referred in detail to the figures of the export and import trade of India if he had not exceeded his time limit. I will only mention one or two sets of figures for the years 1936 and 1937. According to the statistical statements furnished by the Department of Commercial Intelligence of India itself, for the nine months from 1st April to 31st December imports from the United Kingdom were Rs. 34 crores in 1936 and Rs. 38 crores in 1937 ; and taking all the Empire countries there were Rs. 44 crores of imports in 1936 and Rs. 57 crores in 1937, Burma being excluded. So the United Kingdom has gained by our importing more as an effect of this interim agreement. And I find that the exports to the United Kingdom were Rs. 46 crores in 1936 and Rs. 47 crores in 1937, and in regard to all the Empire countries put together they amounted to Rs. 65.91 crores in 1936 and Rs. 71.54 crores in 1937. While there was an increase of exports to the Empire countries there was a diminution in so far as foreign countries are concerned from Rs. 69 crores in 1936 to Rs. 64 crores in 1937. Therefore while there is an increase of imports from the United Kingdom and Empire countries into India during the operation of the interim agreement, there is a diminution of the exports from India to foreign countries. These two sets of figures put together clearly show that the agreement has not operated to the benefit of India. Of course there may be many complicated factors in a case like this and I agree that this is not in itself a conclusive argument. It has been pointed out that improvement in industrial conditions and other considerations may have had some effect upon the export and import trade of India. But nevertheless we on this side contend that no harm would have been done if the interim agreement had not

[Mr. Ramadas Pantulu.]

been in force and in any case India has not gained under it. There are two considerations which move us in asking for the speedy termination of the interim agreement and the conclusion of a new one. First of all we feel that the existing agreement cannot be the basis of a new agreement. We feel that unless there are bilateral agreements with many important foreign countries and the agreement with the United Kingdom is a part of that arrangement, it cannot do any good to India. A trade agreement with England alone will not do. Therefore to proceed on the basis of the existing agreement and merely try to patch it up whether it will be better or worse I cannot say will not help us. What we want is a thorough overhaul of our trade agreements with all foreign countries and make the agreement with England a part of that overhaul.

The position is this, that hitherto the foreign countries have been buying a large amount of merchandise from us, but recently they have stopped purchasing to the same extent. Whether that is due to the Ottawa Agreement or not I do not know. It may not be due to that; it may be due to the new economic nationalism of foreign countries. They are trying to be more and more self-sufficient. They want to trade on a sort of barter or exchange control system; they take so much from you if you take so much from them.

THE HONOURABLE THE PRESIDENT : What you say is perfectly true. That may be so, but the point which has been missed throughout the debate is, could we at this stage unceremoniously break off negotiations which we started and on that point I have not heard a word said.

THE HONOURABLE MR. RAMADAS PANTULU : I will say a word. If these countries are not going to buy from us, either on account of their policy of national self-sufficiency or on account of the effect which the Ottawa Agreement has had on the import of their goods into India, then in either case there is a reason for the speedy termination of the existing agreement, because it operates to the prejudice of India. And England must take note that if she has to get her dividends from this country and if we are going to pay Rs. 70 to Rs. 80 crores a year to meet our commitments to England, it can only be through a favourable trade balance in this country. And unless England takes care to see that the trade agreement is so conceived as to allow India to have a favourable trade balance both with regard to foreign countries and the United Kingdom, she cannot expect to improve her trade relations with India in any way. Therefore we are saying that if this agreement continues to be in force much longer what will happen is that India's trade balance will be more and more unfavourable. For a long time we have been meeting our commitments abroad by exporting gold to the tune of Rs. 300 crores. But we cannot send any more gold. Therefore the United Kingdom must buy more of our goods and also enable us to sell more of our goods to foreign countries by bilateral trade agreements. We want in fact a completely new orientation to the trade agreement between India and the United Kingdom. That is what is at the bottom of our demand for a speedy termination of this agreement which stands in the way of India improving her foreign trade.

I do not wish to cite any more figures, though figures have been furnished to us by the Federation of Indian Chambers which clearly demonstrate the adverse effect of the Ottawa and the interim agreements on various articles produced in India, and those figures when analysed show that India has not only not gained by the existing trade agreement but has very largely suffered

from the existence of that agreement. Therefore we want it to be speedily terminated, whether ceremoniously or unceremoniously.

With regard to the assurance given by the Honourable the Commerce Member that if a new agreement is entered into it will be placed before the Central Legislature and due consideration will be given to our views, so far as it goes we are thankful to him. But we insist upon our right to dictate the trade policy of India and we will not be satisfied with his merely giving due consideration to the views of the Central Legislature. We ask him to accept the decision of the Legislature. The tariff policy ought to be one which the Government of India and the Central Legislature must together formulate, and the Government should not conclude the new agreement without our previous concurrence. It is only when we both agree that the fiscal convention will come into operation and the Secretary of State will also accept it. Therefore,

1 P.M.

Sir, I support the amended Resolution moved by Mr. Motilal and submit that it is an improvement on the original Resolution, for it places two definite proposals before the Government, namely, that the existing agreement should be brought to an end as soon as possible and that the new agreement should not be given effect to unless it is accepted by the Central Legislature.

With these words, Sir, I support the Resolution substituted by Mr. Motilal for the original Resolution.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, I was not able to hear all that the Honourable the Commerce Member said in reply, but whatever I heard was very unconvincing, particularly on the point whether India has gained by this interim agreement or not. I had no mind to speak on this Resolution unless I thought it necessary. As the Honourable the Commerce Member observed that in case the interim agreement had not been in existence, India's fate would have been adverse. How? I cannot understand. I want to prove that the impression of the Honourable the Commerce Member, with due deference to him, is not right.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Sir David Devadoss.)

Sir, England is a big creditor country and in order to draw her dividends she imports more goods than she exports. I will only cite the export and import trade figures of the United Kingdom for the last two years as they are illustrative of that country's trade position during the post-war period. We find in 1934 that her total imports of merchandise from all countries stood at £731 millions while her total exports under that category amounted to £447 millions and in 1935 these stood at £756 millions and £481 millions, respectively. She has been particularly favouring, if I may say so, the United States and other countries of Europe by purchasing much more from them than the latter's purchases from the United Kingdom. It is time that Great Britain should now make an earnest effort to draw from India a greater part of her purchases which she is at present making from other countries. The excess of her annual intake from the United States, Canada, New Zealand and Argentine over her export trade to these countries bears no comparison with her similar transactions with India. For instance, in 1934, England bought from the United States merchandise to the tune of 383 million dollars as against her export of 115 million dollars worth of goods. The same great rush for American material is kept up in the following year 1935 for which the corresponding figures for imports and exports are 433 million dollars and 155 million

[Rai Bahadur Lala Ram Saran Das.]

dollars, respectively, and all this even after Great Britain was given preferential treatment by this country in consequence of the Ottawa Pact. In earlier years also, the United Kingdom has been purchasing from the United States much more than she used to sell to that country. I hope that in the negotiations now going on the Government of India will be able to secure for this country her due share in the excess of imports over exports which the United Kingdom retains due to her privileged position of economic superiority. It would not be out of place to look into the subsequent trade figures of the United Kingdom. In 1936 her total imports and exports of merchandise were of the value of £788 millions and £440 millions, respectively. The figures for the year 1937 are still more significant. Her imports and exports during this period rose up to £1,029 millions and £521 millions, respectively. It is pertinent to note that while India's exports to the United Kingdom in the nine months ending December, 1936 were Rs. 46,87 lakhs, for the corresponding period in 1937 they amounted to only Rs. 47,49 lakhs, the improvement being only to the extent of Rs. 62 lakhs. This shows that India has not received her due share in the United Kingdom market. This is one of the tests by which I would invite the House to judge any new deal when it is brought before us. I would not develop at length on the other equally important and vital tests which we shall discuss when the new deal comes before this House.

Before I conclude, I wish to stress the point once again that the elected representatives of the Indian Legislature are the best judges of what is good and what is not good in the interests of India. Trade agreements are submitted to the Legislature in every country which has a popular Government. The Indian Legislature was invited to pass legislation to give effect to the Ottawa Agreement. It would, therefore, be an act of monumental irresponsibility and callousness if on the eve of a new relationship between England and India of which we are hearing so much in these days, the Legislature is itself ignored by the executive on so grave an issue touching the economic fortunes of the millions. For these reasons, I earnestly implore the House to accept the amendment moved by my Honourable friend Mr. Motilal.

(At this stage the Honourable the President resumed the Chair.)

Sir, I do not want to add more to this debate, but I must say that from the figures I have given I have proved that even an interim agreement has been of no advantage to India and the sooner the Government seriously consider and press upon Whitehall the importance and the seriousness of the Indian economic situation, they will be doing their duty.

With these words, Sir, I support the amended Resolution.

* THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I would like to contribute a very few words indeed to this debate. Many Members opposite, and particularly my Honourable friend Mr. Ramadas Pantulu, in very simple fashion managed to convince themselves that no agreement at all either in the future or in the interim period would be best for India and that, they suggest, is the universal opinion of India.

THE HONOURABLE MR. RAMADAS PANTULU: I am sorry to interrupt. I said that no agreement was needed when it was only to be with England and not with other countries as well.

THE HONOURABLE MR. J. C. NIXON : I hope that when Mr. Ramadas Pantulu makes that assertion he has sought the advice of the carpet and leather manufacturers of India. However, the main point that I want to put before the House is this. In any consideration of any agreement corresponding to the Ottawa Agreement we are faced with a particular problem and it is on the solution of that problem, I suggest, that whether or not there should be an agreement and whether that agreement is of advantage to India to some extent rests. The Ottawa Agreement involves the existence of certain preferential tariffs. There are two rates of import duty. For one set of goods there is a higher and a lower rate and if we had not the Ottawa Agreement either permanently or for an interim period, somebody would have to decide whether we are to put the lower rates of duty up to the higher rates or pull the higher rates of duty down to the lower rates or have some intermediate rate for both ; and I suspect that whether or not the result would be of advantage to India would depend in a very large measure on the solution of that problem; and I may also inform the House that in regard to the solution of that problem the revenue position of the Government of India would be a very serious consideration.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, the discussion which has taken place has brought out the position quite clearly and therefore I need not say much in dealing with the speeches of my Honourable colleagues. I shall confine myself to the remarks of Sir A. P. Patro and the Honourable the Commerce Member. I should like Sir A. P. Patro to enlighten me as to what he meant when he referred to Pandit Kunzru's speech? Did he mean that the position of the agriculturist today is worse than it was in 1932? I should like him to enlighten me first on this.

THE HONOURABLE THE PRESIDENT : Will you please now proceed with your remarks, whatever may be the observations of other Members. It is an irregular procedure to ask Members to explain.

THE HONOURABLE MR. HOSSAIN IMAM : Taking it that he does not deny, silence being—

THE HONOURABLE THE PRESIDENT : It is not that he is silent. I have not given him an opportunity. You proceed with your speech now.

THE HONOURABLE MR. HOSSAIN IMAM : I think, Sir, he was right when he told us that the position of the agriculturists has not improved since 1932. As a patriot he knows in what plight we are, and that, Sir, is an additional reason why we should terminate the present iniquitous pact.

Sir, the Honourable the Commerce Member's remarks on the original wording of the Resolution were uncalled for since I had stated at the beginning that we did not wish to press the original wording of the Resolution ; and therefore I shall not deal at great length with his criticism of the wording of my Resolution. He was perfectly correct in assuming that I did not wish my present recommendation to be regarded as a general matter of policy for the Government of India. But when one has the choice of two evils, one always chooses the lesser of the two, and as between the bureaucracy and the non-official advisers, I think the latter are the lesser evil of the two. If the Government wish to place before us the choice between these two, we would choose the non-official advisers. They are more reliable guides on the whole than the bureaucracy. Now, Sir, the non-official advisers and the executive

[Mr. Hossain Imam.]

Government must both, in a democratic country, give precedence to the Legislature. The final authority must vest in the Legislature and in no one else, whether they be advisers or our executive heads. And that is the form which obtains in other parts of the British Empire. Here, Sir, if we have to choose between our present masters and the non-official advisers, I simply think that the latter would do less harm.

Then, the Honourable Member referred, Sir, to the Member of the Viceroy's Executive Council who has gone to England to negotiate this pact. But I hope he will not forget the character of the Government of India, in which the personality of the individual Member does not count for much. It is a body corporate consisting of eight persons which constitutes the Government of India; and however reliable and trustworthy one of the eight might be, he will not be able to change the policy.

THE HONOURABLE THE PRESIDENT: Are you giving us a lecture? This has nothing whatever to do with the Resolution.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the Honourable Member remarked that it would hamper the discretion of the Commerce Member if a Resolution of this nature was passed. I say, Sir, that he is not a Dictator of India that he can decide what he likes. He is a member of a corporate body and has only a 12½ per cent. influence in this corporation, and therefore it argues no distrust of Sir Muhammad Zafrullah to bring this Resolution before this House for acceptance.

Then he referred, Sir, to the fact that other countries have not associated non-official advisers with their delegations. That may be so, but there is a cardinal difference between the position of the Government of India and other foreign countries. For instance, I have just seen, Sir, in this week's issue of the British papers that His Majesty's Government have invited suggestions from interested persons on the trade negotiations that are to take place with the United States of America. The Board of Trade in England takes much more care and sounds trade demands and trade concerns more thoroughly than the Government of India has ever done; therefore it is not so much the form in which a demand or an agreement is concluded as the preparation for it. If you make out your case in England after consultation with the Chambers of Commerce and do not associate any non-official advisers with it, you will not be doing wrong. But here everything is reduced to a farce. Then he referred, Sir, to the fact that day to day negotiations cannot be laid before the Legislature. That was a perfectly correct statement, Sir. It is impossible to do so. But a guide, an indication of some of the principles underlying your negotiations, might have advantageously seen the light of day. As it is, we are completely in the dark as to the basis of the trade talks which are taking place at the moment. I, Sir, would have liked to know what is the exact constitutional position of the Legislature *vis-a-vis* trade pacts under the Government of India Act, 1935.

THE HONOURABLE THE PRESIDENT: You can raise that point by way of another Resolution. It is absolutely irrelevant to the present debate.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the Honourable Member told us that the ultimate responsibility for the trade talks rests with the Government of India. I want to know whether he was speaking with reference

to the Government of India Act, 1919, or the Act of 1935 and Transitory Provisions. Which of them was he thinking of when he stated that the ultimate responsibility is with the Executive and not with the Legislature ?

THE HONOURABLE THE PRESIDENT : You know perfectly well that in all these matters where a committee is appointed from India to discuss matters with the Home Committee, it is the privilege of the Government of India to appoint such Committee and not of the Legislature. The result of the discussions may be placed before the Legislature for their acceptance. But the original responsibility certainly rests with the Government of India.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, the amendment of the Honourable Mr. Motilal was that the Legislature should be consulted prior to any final decision on the matter. Speaking on that issue, the Honourable the Commerce Member stated that the responsibility is of the executive head. That is why I wanted to know what is the provision of the Government of India Act at the present moment. Have we been deprived even of this right which we have acquired after years and years of fighting ?

THE HONOURABLE SIR MUHAMMAD YAKUB : Will the Honourable Member read the amendment ?

THE HONOURABLE MR. HOSSAIN IMAM : That is what I am referring to, Sir. The amendment wants the ratification by the Legislature of any new agreement.

THE HONOURABLE THE PRESIDENT : Ratification at what stage ? You would be quite justified in asking for ratification by the Assembly when the result is known. You may argue then that it must be placed for acceptance or rejection. You are asking my opinion on the constitutional point.

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir, I am not asking for any opinion at all. I simply want a statement of facts and nothing but facts from the Government of India.

THE HONOURABLE THE PRESIDENT : Now, will you finish your speech.

THE HONOURABLE MR. HOSSAIN IMAM : " And not give effect to any new agreement unless it is approved by the Central Legislature ". Now, this is the issue on which I want a definite pronouncement from the Government of India, whether the fiscal autonomy convention has been broken by the advent of Federation ?

THE HONOURABLE THE PRESIDENT : You are not going to cross-examine the Government of India. I rule this as altogether out of order. Will you please complete your speech and reply to all the arguments that have been advanced by other Honourable Members ?

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I most humbly submit that any statement which the Honourable the Commerce Member makes in this House has to be replied to by us, and we are perfectly entitled to reply.

THE HONOURABLE THE PRESIDENT : I give you full permission to reply. You reply as much as you like and you say whatever you like, whether it is right or wrong. But you cannot ask him questions.

THE HONOURABLE MR. HOSSAIN IMAM : I am asking for a statement as to the position of the Government of India.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : That is not a reply !

THE HONOURABLE MR. HOSSAIN IMAM : He made a statement. I say that that statement is not correct. The statement on behalf of the Government of India is that the Legislature is debarred, and its right of fiscal autonomy is taken away, that is what the Honourable Member implied.

Another point which the Honourable Member made and which was echoed by the Honourable Mr. Nixon, is that India would lose much if there had been no agreement.

THE HONOURABLE MR. J. C. NIXON : I did not say that, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : Not in so many words. The point that he would suffer if there was no agreement. (*An Honourable Member :* "He has denied it".) We are glad that the Finance Department says that we would not have lost anything from the termination of this pact.

THE HONOURABLE THE PRESIDENT : He did not say anything of the kind.

THE HONOURABLE MR. HOSSAIN IMAM : He denied the negative. So, two negatives make an affirmative ! I come to the point whether India would have suffered if there had been no pact or not. It is accepted on all sides that the major portion of our export trade is of raw produce and not of manufactured articles. On this point, I have a definite and authoritative opinion from a person, who both on account of his academic qualifications and his position in the Government, deserves special consideration. I refer, Sir, to Dr. Meek. In the Assembly Debates of 9th November, Dr. Meek said as follows :

"The question of retaliation crops up every now and then. In my opinion, it is an entire bogey. The countries which buy our raw materials buy those raw materials, because they are cheap. They would not buy from India if they could get them cheaper elsewhere. They cannot"—mark these words—"put a very high tariff or a very high import duty on the raw materials because their importers would complain that their industries were being crippled".

This is the advantageous position which we occupy in the world market. That is, people buy our goods because by that means they can export to other countries manufactured goods. The manufacturing countries have to rely for their raw produce on our exports. That is not the case with the manufactured articles of Great Britain. She would suffer if she had no preference, and we are suffering in a double way, firstly, because Great Britain, which is a creditor country, buys more from foreign countries than she sells to them. Some figures have been quoted by the Honourable the Leader of the Progressive Party and I would just bring to the notice of the House only one set of figures. From foreign countries not forming part of the British Empire, Great Britain imported goods worth £471,000,000 in 1935, whereas she exported goods valued at £266,000,000, that is to say, a balance of £205,000,000 was allowed by Great Britain to foreign countries with which she has no pact, but India cannot have anything but a pact which will ensure equilibrium between export and import, whereas, as a matter of right, justice and equity,

we can claim that we have to make payments to Great Britain of about £40,000,000 every year and that we must have that much surplus in our trade with Great Britain alone. I do not want to have a share of what she gives to foreign countries. I simply want that we must be able to repay to Great Britain in the only possible manner in which international payments are made: International payments are made, not in species but in goods.

THE HONOURABLE THE PRESIDENT: Your time is up. Will you please conclude?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I will conclude. Another disadvantage is that due to the fact that foreign countries were not able to compete with the preferred British articles, they have to forego purchase from us. Suppose country A has only exported to India goods worth Rs. 1 crore. Naturally, she can buy only goods worth Rs. 1 crore from us. Formerly she used to export to India goods worth Rs. 3 crores and she used to take goods worth Rs. 3 crores. Our total trade—that is the only criterion on which you can judge the success of an agreement—has been a dead failure. England's part in the consumption of our main goods is very small. Just now I looked into the book, and I find from reports that of cotton yarn, she consumes 3 per cent. of our export; in linseed, about which so much was said at the time of the Ottawa Pact, she has only 45 per cent. share—I mean, the whole of the British Empire, and other foreign countries are consuming 55 per cent. of our export.

THE HONOURABLE THE PRESIDENT: You have already exceeded your time.

THE HONOURABLE MR. HOSSAIN IMAM: I will just conclude, Sir. I am quoting only one set of figures. Vegetable oils, England consumes 41 per cent. of our export. I am quoting the figure for 1934-35. Foreign countries not granting preference purchase at 59 per cent. It is not that our goods are worth more and therefore they are not being purchased from us. It is because our foreign buyers have not the money available to purchase our goods that they have to go to other countries, because their import cannot compete with the British goods.

I will again draw attention to the fact that the present interim agreement is worse than the original one, because, there we were not bound to take the consent of the other party for termination, whereas here, we cannot terminate the existing preferences without previous consultation with the other party. I submit, Sir, that this is necessarily a much worse position than we had at the time of the Ottawa Pact.

Sir, with these words, I commend this Resolution, as amended, for the acceptance of the House.

THE HONOURABLE SIR MUHAMMAD YAKUB: With your permission, Sir, may I say a word. The Honourable the Leader of the Congress Party wanted me to give some assurance. Well, if any assurance is required I am prepared to give the assurance that we are doing our best to safeguard the interests of India and that every effort is being made to expedite negotiations. Government has no desire to prolong the negotiations for a minute more than is absolutely necessary. Now that I have given this assurance, on both the points I think the Honourable Member of the Opposition will withdraw his Resolution.

THE HONOURABLE THE PRESIDENT: Substitute Resolution moved:

"That this Council recommends to the Governor General in Council to give notice immediately of termination of the present interim trade agreement with the United Kingdom and not to give effect to any new agreement unless it is approved by the Central Legislature."

Question put and Motion negatived.

THE HONOURABLE THE PRESIDENT: I will now put the original Resolution.

THE HONOURABLE MR. HOSSAIN IMAM: I beg to withdraw the original Resolution.

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

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

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

CUTCHI MEMON BILL.

THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR (West Bengal: Muhammadan): Sir, I beg to move:

"That the Bill to make it obligatory for all Cutchi Memons to be governed in matters of succession and inheritance by the Muhammadan Law, as reported on by the Select Committee, be taken into consideration".

Mr. President, it gives me very great pleasure to say that the Bill has met with the unanimous support of members of the Select Committee. To the Report a separate minute has been added by the official Members to the effect that the Government having decided to remain neutral, they do not associate themselves to the recommendation for the passing of the Bill, which means that the Government have left the fate of the Bill to be decided by the vote of the non-official Members only. I would now like to indicate the modifications suggested by the Select Committee in the Bill as introduced. The Committee has in fact made very slight changes which are mainly of a drafting character. The extent clause, being unnecessary, has been omitted and a definite date for the commencement of the Act has been inserted. The Select Committee has also provided that the provisions of this Act shall not affect the provisions of the Muslim Personal Law (Shariat) Application Act of 1937. As I said these are very minor modifications and do not substantially change the measure.

Having explained to this Honourable House the changes suggested by the Select Committee, I pass on to the object with which I have brought forward this Bill. The Bill, Mr. President, is an honest endeavour at a piece of social reform long overdue and is a non-controversial measure, as it does not affect any other community than the Cutchi Memons for whose general well-being it has been designed.

Sir, in my previous speeches I have made it abundantly clear that the increasing consciousness of my community has demonstrated the necessity for such a measure in a clear and unmistakable manner and the Cutchi Memon

jamaths all over British India have unanimously praised and supported it. The Press of Bombay and Sind, which are the stronghold of the Cutchi Memons, have given prominence to and published full and detailed accounts of all the *jamath* meetings and the resolutions passed by these bodies. I have myself received numerous congratulatory messages from all parts of British India, which very clearly indicate the warm and enthusiastic support of the community primarily affected by this Bill; though I personally feel that I do not deserve any praise for doing what I consider to be my duty.

Mr. President, in 1920, an enabling piece of legislation was passed by the Imperial Legislative Council in spite of the strenuous efforts of my late lamented friend, Sir Ebrahim Haroon Jaffer, to make it compulsory, as at that time the full significance of his Bill was not quite realised and there were a few dissentient voices. The position has since changed and there is not a single Cutchi Memon *jamath* who has not enthusiastically supported the proposed enactment. This has been the result of 17 years' experience since the passing of the 1920 Act. I can assure the House that even the microscopic minority which still labours under the disadvantages of the customary law, instead of the Islamic law, do so because of their ignorance which prevents them from making the necessary declaration. This Bill, if passed, will remove the anomaly and disability of the limited few, and will be a great boon to my community, bringing in, as it must do, a much needed solidarity and uniformity among the Cutchi Memons and also bring them in line with other Mussalmans in all respects.

Mr. President, the Bill in its present form, I hope will meet with the approval of the House and before I resume my seat I appeal to my Honourable friends to show their genuine sympathy towards my community by supporting it.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 3.

THE HONOURABLE LT.-COL. SIR HISSAMUDDIN BAHADUR (North-West Frontier Province: Nominated Non-Official): Sir, I beg to move the following amendment:

"That in clause 3—

(i) the letter and brackets '(a)' be omitted; and

(ii) the following be omitted, namely:

'or

(b) the provisions of the Muslim Personal Law (*Shariat*) Application Act, 1937';"

Sir, in moving this amendment, I have not the least intention to do anything which may go to obstruct the passing of this Bill, which I feel is really a very useful and beneficent measure; but my only object is to see that the clauses of the Bill are so framed and worded that every ambiguity may be removed which owing to the existence in the Bill of any superfluous and unnecessary provisions may arise in the way of interpreting it. Looked at from this standpoint, the portions of clause 3 which I wish to be removed, seem to me not only unnecessary but also calculated to introduce undue difficulty and doubt in the interpretation to be put on clause 2 of the Bill.

[Lt.-Col. Sir Hissamuddin Bahadur.]

As between this Bill and the Muslim Personal Law (*Shariat*) Application Act, 1937, there is no conflict whatever; even without the qualification which is proposed to be added by means of sub-clause (b) of clause 3 to clause 2 of this Bill, the effect of the proposed measure will in no way offend against the provisions of the Muslim Personal Law (*Shariat*) Application Act. Therefore, Sir, sub-clause (b) of clause 3 is obviously unnecessary. Again, a reference to the Muslim Personal Law (*Shariat*) Application Act is likely to tend to restrict the effect of the proposed measure. The Cutchi Memon community is governed by the Muslim law in all matters except in respect of succession and inheritance and if this proposed measure is enacted into law, which we all hope will soon be done, the Cutchi Memon community will come to be completely governed by the Muslim law. And therefore reference to the Muslim Personal Law (*Shariat*) Application Act seems to be utterly uncalled for.

Again, Sir, the original Bill which was circulated for public opinion and in favour of which there has been such enthusiastic and universal support from all *jamaths* of the Cutchi Memon community, had no such qualifying clause. There was qualification only so far that the measure was not to have any retrospective effect and that qualification has been effectively ensured in sub-clause (a) of clause 3 of the Bill. May I hope, Sir, that in view of the reasons I have just mentioned the Honourable Mover and all my colleagues in this Honourable House will be pleased to accept my amendment.

Sir, I move.

THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR :
Sir, I accept the amendment.

Question put and Motion adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. ABDUR RAZZAK HAJEE ABDUS SATTAR :
Sir, I move :

“That the Bill, as amended, be passed,”

and in doing so, I take the opportunity to offer my most grateful thanks to all my Honourable colleagues in this House and beg to assure them that in helping this measure to be enacted into law, they have earned the everlasting gratitude of the whole of my community.

Sir, I move.

The Motion was adopted.

CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras :
Nominated Non-Official) : Sir, I move :

“That the Bill to amend the Child Marriage Restraint Act, 1920, as passed by the Legislative Assembly, be taken into consideration.”

The amending Bill does not in any way modify or add to the general principles of the Act which it seeks to amend. The scope of the Bill is very limited. As I shall explain presently, it seeks to amend the Act in a certain respect and for a definite purpose. The Sarda Act, as the Child Marriage Restraint Act is popularly called, has been in existence for about eight years now. I am not aware if any statistical review of its operation has ever been attempted or if any figures are available which would warrant an exact appreciation of its effects. But I think it will be generally admitted that the Act has brought about a reduction in the number of child marriages and has had an educative influence on public opinion. Notwithstanding all that can be said to its credit, the fact remains, however, that it has failed to achieve that measure of success which its promoters expected. It will serve no useful purpose on this occasion to analyse the causes of this failure, to enumerate the several defects in the Act or the various shortcomings in its administration. Suffice it to say that experience has revealed the existence of a very clear loophole in the Act, which has enabled large numbers of persons in different parts of India to evade its provisions. The object of the amending Bill is to effectually stop this loophole and thereby prevent the recurrence of these large-scale evasions. Though judicial pronouncements do not seem to be unanimous on the point, the generally accepted view is that the present Act is operative only in British India. It is a matter of common knowledge that numbers of persons cross over from British India into Indian States and the territories of foreign powers adjacent to their own, celebrate the marriage of their minor children, and return to British India, without the least fear of being hauled up under the Act. If any Honourable Member is interested in facts and figures bearing on this statement, I would commend to him the proceedings in the other place on this Bill. I think the number of these marriage-hoppers, to use a convenient name, is really considerable. The object of the amending Bill is to bring their operations within the purview of the Act. The Bill provides for the extension of the operation of the Act to all British subjects and servants of the Crown in any part of India, and to all British subjects who are domiciled in any part of India wherever they may be. I may mention in passing that the wording of the effective part of the principal clause is a verbatim reproduction of the relevant part of sub-section (2) of section 99 of the Government of India Act, 1935. Honourable Members will find a copy of this section reprinted on page 67 of the Council of State Manual. If this amendment is passed, the scope of the Act will be extended as far as the territorial and personal jurisdiction of the Central Legislature can extend it. And we may reasonably expect that there will be a considerable reduction in a large category of cases of evasion.

Before I resume my seat, I should like to say that Mr. Lalchand Navalrai, who sponsored this Bill in the other place, has taken considerable pains over it. But for his public spirit, initiative and perseverance, this Bill would not have reached its present stage. I am sure Honourable Members will join with me in offering our warm congratulations to the Honourable Member on the successful outcome of his labours. We cannot show our appreciation better than by adopting his Bill.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadian) : Sir, I rise to support the Motion made by my Honourable friend, and to make it clear that I am putting forward my personal views and not the views of any orthodox institutions with which I am connected because I have received no mandate from them.

[Rai Bahadur Lala Ram Saran Das.]

Sir, there has been agitation on this Bill but during the past eight years we have seen that such agitation meagrely appeared in the super orthodox Press or on such platform but in a very very small degree in practice, particularly in the Punjab. As far as the Hindu Shastras are concerned, Sir, they have in no way advocated the cause of child marriage. In case you will allow me, I will give some quotations from the Hindu religious authorities which will bear me out. I do so, Sir, because it will accelerate the working of reform the Bill aims at and the people who are unaware of these Shastric authorities will cease opposition on this measure. There can be no doubt that in some places the Shastric authors have advocated child marriage, but the Vedas and the authors of Puranas have not advocated such marriage on all occasions. The Shastric authors of comparatively modern period have certainly advocated the cause of child marriage but the fact should not be lost sight of that at the time when these Shastras were written down, such marriages appeared to be essential because it was impossible in those days to protect unmarried girls from external violence. But even when marriages were performed they were consummated after a ceremony which is termed *Muklawa* in my part of the country and this *Muklawa* was not permitted before the girl attained puberty. This state of affairs does not exist any longer now and the country is enjoying perfect peace under the ægis of Pax Britannica. When such is the present state of affairs, why should not we, Hindus, obey as obligatory the injunctions of the Vedas and the ancient Rishis regarding the marriages of boys and girls who have attained puberty. I shall show further on that the Vedas and the Shastras have not recognised the desirability of child marriages. It is worthwhile stating here that if the mother is physically unfit to bear children, it necessarily follows that the children will certainly be weak, sickly and decrepit. Is it not desirable under these circumstances that we should relinquish the poisonous practice of child marriage, follow the guidance of the Vedas and the true Shastras and marry boys and girls on their attainment of puberty? All doctors, vaidyas and hakims are unanimously of opinion that so long as boys and girls do not attain puberty they should not be married, because such marriages lead to the procreation of sickly and decrepit children. Boys and girls should therefore be married when they attain puberty and are fit for marriage. I shall now discuss some Shastric authority on this subject.

It is laid down in the 4th verse of the 35th Shukta of the 2nd Mandal of the Rig Veda that "A young girl should accept the hand of a youth in marriage in the same way as the rivers are united with the ocean". What does the expression "young girl" mean here? The Shastras lay down that a female child is a girl up to the age of 16 and that she should be regarded as a young girl up to the age of 30. This practically means that so long as a girl does not attain the age of 16 she should be considered a female child or girl and should be called a young girl when she attains her age varying from 16 to 30.

There is another injunction in the 3rd verse of the 37th Shukta of the 5th Mandal of the Rig Veda. It is laid down therein, "This woman desires a husband". This clearly shows that the woman in this verse means a young girl, because no woman will desire a husband so long as she does not feel a strong desire in her mind for a union with a husband. From this it can be safely inferred that it is highly desirable that the girls should be married after the appearance of the menses. It is laid down in the Atharva Veda "By remaining celibate a girl secures a young husband". What does the term

“girl” here signify? It is written in the Smṛiti, “A female child who undergoes purification after the appearance of her menses is called a girl”. It apparently means that any woman who undergoes purification after the appearance of her menses and who is pure is called a girl. The expression “By remaining celibate a girl”, etc., means that she is a girl who has undergone a purification after the appearance of the menses. It may be urged by some people that the expression means that the girl is she who has kept Brahmacharya. But such interpretation of the passage is scarcely intelligible. It is now clear that the Śāstras commend that only those girls should be married who are young and who have attained puberty. This is verily the injunction of the Vedas and as such, it should be observed as obligatory by all people who have faith in the Vedas.

Many other verses extracted from the Rig Veda and the Atharva Veda in support of this contention have been incorporated in the Report of the Age of Consent Committee. Indeed, it must be admitted without any contradiction that the Rig Veda has laid down injunctions quite in opposition to child marriage. As a matter of fact, the Vedas have nowhere supported child marriages. The verses which are recited on the occasion of marriage also declare that “Kanyas” should be given in marriage. I have already shown above that the word “Kanya” connotes a young girl. I have also shown above that by the term “Kanya” is meant a young girl who has attained and in whom the signs of puberty have appeared. This is also laid down in the verses known by the name of Vyas Sūtra.

The other portion of marriage is called “Panigrahan” or the taking of the bride by the hand. In this aspect of the marriage “Saptapadi” is included which is a most essential portion in a marriage ceremony and which must be gone through before a marriage can be considered completed. On the occasion of the performance of this ceremony the bridegroom makes a promise to the bride and *vice versa*. This also clearly shows that both the parties are young boys and young girls and that both of them have the capacity to understand the terms of promises which are made on the occasion of marriage. The third part of marriage is called entering a house. On the occasion of the performance of this ceremony the bridegroom introduces his bride to his father, mother, brothers, sisters and relatives, and makes over his house to the care of his bride. He also transfers the cows and calves to the care of his bride, and these cows, be it noted, constituted the wealth of the bridegroom in those days. He declares “I am giving you authority over my house”. This shows that he must make over to his bride all authority over the control of the house. The last element of the marriage ceremony is “Garbhadhan” or procreation of children. This clearly shows that husband and wife are ready to effect consummation of marriage and that they are physically fit for that purpose.

If we now study the verses of the Smṛitis we find that it is laid down in Chhandogya Brahman, “Whatever injunction Manu has laid down constitutes a prophylactic medicine”. This shows that all injunctions laid down by Manu have the effect of nectar and ambrosia, or in other words, they must be obeyed without demur. Manu declares to the father of the bride that he should not marry his daughter to a worthless bridegroom without any qualification whatever even although he is obliged thereby to keep his daughter in his house for the rest of her life. (Manu, Chapter 9, verse 89).

THE HONOURABLE THE PRESIDENT: There is no opposition to the Bill whatsoever. Is not this sufficient—what you have quoted from the Śāstras?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : As I already stated, Sir, I am quoting these authorities, and if they come in the proceedings, the agitation on the working of the Act will subside and the pace of this reform will be accelerated. That is my reason, Sir.

THE HONOURABLE THE PRESIDENT : You have stated enough of the Shastras. However, if your speech is not a long one, you can finish it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I will take a few minutes more, Sir.

Manu also declares to the bride that if her father does not marry her to a qualified bridegroom three years after the appearance of puberty, she should elect a qualified husband for herself. (Manu, Chapter 9, verse 90.) In order to lay stress on these injunctions, Manu declares that if the father does not give away his daughter in marriage, neither bride nor bridegroom incurs any penalty of sin, although giving away the daughter in marriage constitutes an essential element in marriage.

There are also other authorities laid down in the Smritis which enjoin that youthful girls who have attained puberty must be married. Old Gautama declares that a girl who is young and who has not had any connection with a male is fit for marriage according to the Brahama rites of marriage. This also clearly shows that a "Kanya" alone should be married and by the word "Kanya" is meant a girl who has attained youth and puberty.

There is another Smṛiti known by the name of Jaimini Sutra. It is laid down in it that a girl who has attained puberty and who is fit for the consummation of marriage should be married. It is laid down in the Goblia Grihya Sutra that an Anagnika girl who has attained youth and puberty should be given away in marriage.

It is laid down in Brihat Parashar that where bride and bridegroom love each other and desire each other in marriage there exist religion, prosperity and fulfilment of all desires. He expressly enjoins that a girl should alone be married who has attained youth and puberty.

It is laid down in Bodhayana Smṛiti that a marriage of a youthful girl is alone permissible.

1. *Bodhayana Smṛiti*—

A menstruous girl may wait for three years for getting her father's order ; then in the fourth year she may get a suitable husband (herself).

2. *Apastama Smṛiti, Chapter VII*—

In marriage ceremony when the Yajna is begun and the girl gets menstruation, how can the Samskāra be performed ? Get the girl bathed and decorated with other clothes and having given oblations saying (the Mantra) "Let it be not again....." Let him perform the remaining rites.

This shows that the girl is married when she has attained the age of puberty.

3. *Vasiṣṭha Smṛiti* also holds the same view.

A menstruous girl may wait for three years and after three years she may obtain a suitable husband.

Rig Veda 10, 85, 21—

Rise up from hence : this maiden hath a husband. I laud Visvāvasu with hymns and homage.

Seek in her father's home another fair one and find the portion from of old assigned.

Visvāvasu : One of the Gandharvas, the protector of virgins. He is told to leave the bride who no longer needs his care, and to transfer his guardianship to some marriageable maiden whose limbs have developed and who has not yet found a husband.

Rig Veda 10, 85, 22—

Rise up from hence, Visvāvasu : with reverence we worship thee.

Seek thou another willing* maid, and with her husband leave the bride.

* The word in the text mean a wanton or lascivious girl. Some take it in the sense of a "broad-hipped girl". Anyway the idea here is of a grown up girl who is still unmarried.

These are the authorities which I have quoted and which go to support the marriage after puberty. Sir, I think that the measure which has now been put before the House is a desirable one because we want that when an Act has to operate it ought to operate all over India and people should not be given a loophole to go to the States to break the law.

With these words, Sir, I commend the Bill.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I am desired by my non-official Muslim colleagues in this House to make a statement on their behalf to indicate their attitude to the Motion before the House, and with your permission I will proceed to do so.

Honourable Members are aware that the Muslims as a community have all along been opposed to the principle of this law. Ever since the day that it was known that this law would apply to the Muslims also, the Muslim community has been protesting against it persistently and very vehemently. It is not only to the orthodox section that the Sarda Act appears to be objectionable but even those sections among the Muslims which are of the most advanced and liberal views have regarded it as a most objectionable piece of legislation and an unwarranted interference with Muslim personal and religious law. On the floor of the Legislature, from public platforms, in the Muslim press of the country, by means of Motions moved in the Central Legislature, by means of deputations and even by open defiance of this law, the Muslim community voiced forth its protest in every possible way, leaving no doubt whatever as to their attitude against this legislation. But it is a matter of extreme regret that in their ambition to enact a piece of legislation which they consider to be an act of social reform, the Government not only passed this legislation in the teeth of opposition from all sides but also refused to accede to the modest demand of the Muslim community to be exempted from the operation of this law.

We do not wish to enter into a detailed discussion to show how unconstitutional was the procedure which was adopted in enacting this law. We only wish to point out that this legislation which was referred to the Select Committee was only a civil law and applicable only to one community and when it came out of the Select Committee it had become a penal law applicable to all communities, and despite the fact that this was thus changed out of all recognition, no further leave of the Governor General was obtained. It is thus obvious, Sir, that it is a most unconstitutional law.

But whatever the character of this Bill and whatever the objections on the ground of constitutional defects, we would not have taken any objection

[Saiyed Mohamed Padshah Sahib Bahadur.]

to it, since we know that our Hindu brethren and other non-Muslim colleagues wished to have this law applied to their communities. We would not have taken any objection to this law if only the Muslims had been kept out of the purview of the law. This is our attitude so far as the principle of this law is concerned. But, Sir, in this Bill which is now before the House, the point at issue is not the principle of the Bill but only the widening of the scope of the application of the law. We do not therefore propose to actively oppose the Motion but since we are opposed to the very principle of the law, we cannot allow ourselves to be made a party to any proceeding which is concerned with the giving of effect to the provisions of this law. We have therefore decided to dissociate ourselves from these proceedings and will not vote on this measure either way.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) : Sir, I am more than happy that the Leader of the Opposition my friend Rai Bahadur Ram Saran Das has given his support and very strong support to this amending law. In giving his support to this measure I bear in mind that he is not only the Leader of the Opposition in this House but also a leader of the orthodox thought in the country. He has been careful to say that he is expressing his own personal opinion. His personal opinion also is valuable as the opinion of a leader of orthodox thought should be. As such his personal opinion does count, not only with us but with the orthodox community. As a well-wisher, the leader is one who will lead the community and tell them what he honestly feels on a given issue and not merely echo the opinion of some one else even when he does not agree with that opinion. I am very happy that he has supported this Motion and in supporting it he has cited a number of texts of the Hindu Shastras and Vedas. I might have read some of them at one time but have forgotten them at the moment ; they will be in the proceedings and form a useful part of the debate. But, Sir, I may tell this House, that there is a growing section which feels, with all respect for the authority of the Shastras and the Vedas, that if a change is required that change should be adopted. The times have changed since the Shastras and Vedas laid down certain precepts, and the very Shastras say that the people must change the injunctions according to the time and circumstances. Now circumstances have changed. This law was adapted some years ago ; what is now before the House is an amendment to fill in the lacuna found in the Act which has enabled some people to evade the Act by going out of British India and performing the marriage of young children. The object of this Bill is to stop that practice and therefore I give my support to the Bill.

There is only one thing I cannot help saying. I was rather pained to hear the statement made on behalf of some Members of the House. I enquired from a very respectable Member who comes from my country and I am very glad to say that his answer was that he is in favour of this Bill. I know young men among Muslims would not object to supporting this Bill.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I wish to say a few words in support of this Motion. So far as my province is concerned, the law already is, as is laid down by this amending Bill. The Madras High Court have decided that under the Child Marriage Restraint Act as it now stands it will be an offence which could be tried in British India even if a British subject performs a marriage outside the limits of British India in an adjoining Indian State. Sir, we have adjacent territories in many districts in the Madras Presidency. Marriages are performed

in villages adjoining British districts and the villagers there have made huge fortunes by renting out their houses for Rs. 200 and Rs. 300 for each marriage and also many musicians have made huge fortunes because they were persuaded to go to these villages and earn very large fees. This practice has been practically put an end to now by an authoritative judgment of the Madras High Court, that this offence will be punished by virtue of the provisions of sections 3 and 4 of the Indian Penal Code which cover an offence under the Child Marriage Restraint Act. But the Bombay High Court have given quite an opposite decision and therefore I think there is need in any case for a Bill like this from a purely legal point of view to settle conflict of opinion between two important High Courts, the High Courts of Madras and Bombay. If for no other reason, at least for the reason of settling conflict between two High Courts the Bill will be a welcome measure. I associate myself with what my friend Mr. Motilal has said in regard to the value of the support given to it by my Honourable friend Lala Ram Saran Das, who is the leader of Sanatanists in Northern India and therefore his opinion will go a long way in making this measure popular. We need all the support at this stage because we have really not got a satisfactory measure on the Statute-book. The Child Marriage Restraint Act, even with this amendment which is intended to prevent the evasion of performing marriages in the territories adjoining British India has many loopholes. For instance, there is no way of preventing a marriage which is likely to take place when people are prepared to submit themselves to the penalties. If a man is prepared to pay a fine or go to jail for a few days, he can still commit an irrevocable act by performing the marriage of a poor little girl of five or six and the only consequence is he will be punished. With regard to the punishment in my part of the country, people have got accustomed to that. In fact it is a question of fine only. Many magistrates are unwilling to impose any penalty higher than a fine and in marriage contracts the parties to the contract always stipulate for a dowry which includes the fine which a man has got to pay. The parent of the party to the marriage below the age will always stipulate for Rs. 200 or Rs. 300 in addition to the dowry, so that he may pay the fine when the Court imposes it. With regard to the question of lodging complaints and taking cognisance of offences also, the provisions of the Act are very inadequate. I hope therefore that other Bills will be soon brought and will be supported by the Government and the public. So the support for the principle of the original Bill by eminent Hindu leaders like Rai Bahadur Ram Saran Das is of more than casual importance on an occasion like this, because it forebodes support to measures to make the Act really more effective.

I hope my friend Mr. Padshah, a very enlightened Muslim gentleman, will use his influence with members of his community to realise the benefits of this Bill. I know many young Muslims in my province are really in favour of the Bill. Therefore I hope his statement does not reflect the considered opinion of the Muslim community of India.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : On a point of personal explanation, Sir. It was said that some Member of this House had taken objection to the statement made. He is sitting just behind me. He was the gentleman who was mentioned.

THE HONOURABLE THE PRESIDENT : It is for him to contradict ; you need not contradict.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : The pity of it is that he does not understand the language in which debates take place.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to amend the Child Marriage Restraint Act, 1929, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE DIWAN BAHADUR SIB RAMUNNI MENON : Sir, I move :

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

I do not think it is necessary for me to make any speech. I would like to express my appreciation of the kind support given to the measure by several Honourable Members who spoke on it, particularly by the Honourable the Leader of the Progressive Party. I regret that the Honourable Mr. Padshah Sahib should have taken up the attitude that he did on behalf of certain Members. I associate myself with the Honourable Mr. Ramadas Pantulu in expressing the hope that he will try and influence the members of his community towards more progressive ideas.

Sir, I move.

The Motion was adopted.

MUSLIM DISSOLUTION OF MARRIAGE BILL.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-
madan) : Sir, I rise to move for leave to introduce :

"A Bill to consolidate the provisions of Muslim law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie."

It is not customary at this stage to make a speech. I will refer Honourable Members to the Statement of Objects and Reasons.

Sir, I move.

The Motion was adopted.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I introduce the Bill.

RESOLUTION RE CONSTRUCTION OF A RAILWAY BETWEEN DACCA AND ARICHA.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, I beg to move the Resolution that stands in my name. It runs as follows :

"That this Council recommends to the Governor General in Council to direct the railway authorities to construct a railway line between Aricha, a place on the opposite side of Goalundo on the E. B. R. and any station on the railway line between Dacca and Mymensing at an early date."

Sir, the project of the construction of this railway line, as the Honourable Sir Guthrie Russell told us the other day, was first surveyed in 1877—1879. It was resurveyed in 1915. At the instance of the Government of Bengal further surveys were made between 1924 and 1927 and its construction was sanctioned in 1929. But in 1930 the Government of Bengal withdrew their previous support of the project and appointed a committee to consider what measures would be necessary to safeguard public health and sanitation along the route of the proposed railway. In 1933 the Government of Bengal supporting the report of the committee, objected to the construction of the railway on the ground that it would be a serious menace to public health and agricultural prosperity of a large area and the project I am told has been accordingly abandoned. That the proposed railway if opened, would serve to shorten railway communication between East Bengal and West Bengal largely, admits of no doubt, because it now takes place *via* Sirajgunj, Jagannathgunj and Mymensing and was perhaps the sole reason why the line was surveyed from time to time and in spite of various objections raised again and again, was finally sanctioned in 1929. Before such sanction was given there must have been held an investigation as to how it affected the health of the locality and one fails to understand how that question could subsequently assume such importance as not only to negative the proposal altogether, but to render the construction even of an embanked road usable throughout the year undesirable and the result has been that the people of this locality have been thrown back to a state of nature as it were, so far as communication is concerned and this can best be described in the words of the majority report of the committee, dated 16th November, 1921, appointed before the sanction was granted in 1929. It runs as follows :

“The present means of communication between Dacca and all parts of the Manikgunj sub-division do not satisfy the public. The river service on the Dhaleswari is yearly subject to considerable interruption owing to lack of water.”

A glance at the graph contained in Mr. Lawson's note will show that in recent normal years the steamer cannot ply above Sabhar for often as much as five months at a time. Even when it can reach Betila the ghat for Manikgunj a traveller leaving Manikgunj at 7 A.M. will be fortunate to arrive in Dacca before 8 P.M. The District Board road from Tetuljhora ferry over the Dhaleswari below Sabhar is impassable for wheeled traffic. The road from Manikgunj to the steamer ghat at Shealo Aricha on the Padma is passable for wheeled traffic only in the dry season, as by the nature of its constitution it becomes a clayey morass in the rains, although embanked above flood level. Such then are the artificial communications which serve the dense population summarised in the thana figures of the 1911 census given below :

	Per square miles.
Gheor	798
Manikgunj	1,015
Harirampur	1,015
Nawabgunj	1,297

That was the condition in 1921 and it is growing worse and worse year after year.

The area lying between the Padma and Dhaleswari rivers is roughly a strip 60 miles long and 15 miles wide lying north-west and south-east. It

[Mr. Kumarsankar Ray Chaudhury.]

is bounded by rivers on all sides having a south-easterly flow and may be compared to a shallow tray, the ground level in the northern sub-division being somewhat higher than in the southern and the rivers that flow over this area consequently also take a south-easterly course. But being surrounded on the north-west by the big river Jumna, on the west by the south-easterly course of the combined Jumna and the Ganges and on the south-east by the Meghna river, these mighty rivers during the rainy season spill into the area overflowing its banks with their silt laden waters and cover the entire area depositing their silt first on their banks and then in the interior thus raising an outer wall on the borders which is consequently higher than the interior, so that the rivers that flow through the tract are all gradually drying up. That, I venture to submit, is the cause of the health of the locality deteriorating year after year and not the embanked roads that may be in existence in different portions of the tract of the country. For it is a well known fact in the locality that when there is less overflowing and washing off of the various stagnant dead rivers and cesspools created artificially by the indiscriminate raising of homestead lands, the greater is the prevalence of malaria there. This is borne out by the note of Dr. Sur, one of the members of the last committee, where it states that the malaria endemicity of this tract varies with the level at which the subsoil water table is found. To improve the health of this locality it is therefore necessary to raise the centre of the locality to a higher level than the portions bordering on the rivers and as overflowing of the tract by the big rivers provides us with material for doing so we should try our best to utilise such material by preventing the flood from passing over us too rapidly by erecting a dam through the central lower region. The roads from Aricha to Bentha and from Dhaleswari to Dacca will not serve this purpose so long as the central portion between Bentha and the Dhaleswari river remains open. This river at this locality now runs in an easterly direction and a branch of this river further down feeds to a large extent the river Buriganga which flows past Dacca. There is a tendency of the Dhaleswari river here to change its easterly course to a southern one and if this is allowed to happen, Buriganga which flows by Dacca is likely also to dry up in the near future so that all places now bordering on the two rivers including the city of Dacca will soon become unhealthy. This point was forcibly pointed out by Rai S. N. Banerjee Bahadur who was in charge of the conservancy of rivers in Dacca district and who was also a member of the 1921 committee and he strongly pressed for the construction of the embanked railway line from Aricha to Dacca not only for the purpose of affording traffic facility to East Bengal by this shorter route but also for the purpose of conserving the river system in the Dacca district. The erection of this embanked railway line across this tract will also retard the hasty flow of the too heavy flood over this tract without fully checking it if sufficient openings are left in the line as the railway authorities were fully prepared to do. That will serve a double purpose; first it will allow the portion of the country north of the embankment to be fully flushed and covered with silt and secondly by preventing the flood from running hastily across the whole face of the country and forcing it through the openings in the embanked railway line it will protect them from being choked and silted up as is happening now. As regards the portion on the south of the embankment it is affected not so much by the overflowing of the Jumna but of the Padma which comes from the west and the embanked road running east from west will not seriously affect it. This flood passes by Ichamati into the Jamsa bed and from there by the river Kaliganga into the Dhaleswari further down below Dacca. The Com-

mittee appointed in 1930 on whose report the railway project has been abandoned state in paragraph 6 of their report that—

“ Practically the whole area concerned is inundated during the flood season so that there is a flow of spill water across the field in addition to the flow along the defined channels ” and that “ an embankment of any description, either a railway or an embanked road usable throughout the year must interfere to some extent with the spill flow across the country ”,

but they do not discuss or say anything as to what effect it will have upon the health of the locality beyond stating the fact that tracts of the country near the embanked roads on the two sides are more malarious than the central portion where there is no embankment. That may be true, but as I have already submitted it is due to the fact that these portions are higher than the central region and are therefore less flushed by the flood than the central and may be rendered more healthy by the retardation of the hasty flow of the flood by closing up of the gap in the centre by the embanked railway line. The Committee finally recommends :

“ In these circumstances they are of opinion that the construction of either a railway or an embanked road is undesirable and suggest that before any definite action is taken in connection with the construction of the proposed railway the Government of Bengal should investigate thoroughly the possibility of improving the waterways and thereby providing the area affected with better communications by water ”.

That, Sir, as I have submitted before had already been done by Rai S. N^o Banerjea Bahadur and his report recommended among other things the construction of this railway line ; but the Government of Bengal beyond creating a Waterways Board have through want of funds done nothing in the matter. Moreover it is very difficult for the Provincial Government to tackle this question. The condition of the river system of a province mainly depends upon the condition of the rivers that enter into it and in the case of Bengal particularly from other provinces after they have been thoroughly utilised by those provinces to serve their irrigation, forest and other projects. To that is mainly due the deleterious effect it has upon the health of Bengal. For in my humble opinion it is due to the disforestation of the country as a whole that rainfall nowadays is not so evenly distributed throughout the year as it was before, so that when it comes, it comes in a deluge and overflows the whole of the lower province of Bengal swelling the main currents of the big rivers with water and mud which chokes up the small rivers in the country. That is why the main current of the river Ganges instead of flowing through the many rivers of West Bengal has taken in its violent rush an eastern course leaving them silted up and dead. That is also why the Brahmaputra taking a westerly course has abandoned her former course by the east of Mymensingh district and now passes by the west of it choking up the rivers from North Bengal that flowed down to the Ganges in a southerly course. This is what happens during the rainy season and the same process is aggravated by the irrigation policy of the United Provinces and other provinces through which the Ganges passes through the summer and winter seasons. Most of her waters are diverted through the various irrigation canals over those provinces leaving hardly any sufficient water for the irrigation and drainage purposes of Bengal. Now that a Department of Communications has been established and a Member of the Government of India has been put in charge of it and I hope I am not mistaken, if I say that inland navigation has been placed under his charge, these questions will attract his attention.

[Mr. Kumarsankar Ray Chaudhury.]

I shall now bring my observations to a close by dealing with one matter which I have not dealt with before. The Committee set up by the Government of Bengal objected to the construction of this railway line on the ground of its being a cross-country one. I have already tried to show that it would not have a deleterious effect upon the health of the locality and in this connection I would like to draw the attention of the House to the railway map of India, for with the exception perhaps of the A.B.R. and the B.N.R. and a few other railways, most of the other railways are cross-country railways. The whole of the E.I.R. and the N.W.R. and the coastal railways of India are cross-country railways and it is a pity that such an objection could be raised in the case of a small section of the E.B.R. running barely over 60 miles.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, the position, as I understand it, is that the Honourable Mover does not accept the expert opinion obtained by the Government of Bengal. Now, I wonder if he has heard that opinion. I shall read that opinion, as stated to us in a letter which was received in 1933 :

"The weight of opinion, therefore, of those most competent to form a decision on the matter is opposed to the construction of the railway. The danger to public health and agriculture arising from interference by embankments of any kind with the flow of silt-laden water over the countryside and the danger of interfering with the natural development of a river in an active area of the delta by embankments or training works designed to hold it in its course are now more fully realised than they were even in 1920, and the Local Government, although they fully recognise that this involves a reversal of the view they formerly held, are convinced that an embankment across the spill of the Dhaleswari would be a serious menace to the public health and agricultural prosperity of a large area and that as stated in an earlier paragraph of this letter, the danger to public health and agriculture far outweighs the benefit to communications which would accrue from the construction of the railway. The conclusion which they have reached after the most careful consideration is that the construction of the railway is altogether undesirable and should not be proceeded with."

I think Honourable Members will agree that with that opinion before them, the Government of India could not possibly have forced the construction of a line between Dacca and Aricha. Actually, what happened was this. On receipt of that letter, the whole matter was very carefully considered. It must be remembered that the construction had already been sanctioned and at that time we considered that we could get a return of 6 per cent. on this line. So, with the prospect of a return of 6 per cent., we were rather loth to abandon the project. What we finally replied to the Government of Bengal was as follows :

"I am to say that in no case will the construction of a line in Bengal be commenced in future, until the important question of waterways, headways, general alignment, etc., have been settled in detail with the Government of Bengal, nor will projects for new lines be sanctioned by the Government of India until the requirements of the former, on general lines, at least, have first been ascertained. In fact the intention of the Railway Board is that they will not, in future, consider any project which is not known to be based on the previously ascertained requirements of the Government of Bengal in respect of waterways, headways, etc."

I think Honourable Members will agree that having made this arrangement, we could not possibly agree to this Resolution being passed.

There is one other point I would like to clear up. When the Honourable Member talks about cross-country railways, he presumably refers to railways from east to west. But if a river runs from east to west, the railway is not a cross-country railway. It runs in the same direction and there is no objection in that case. Take the east and west railways along the banks

of the Ganges—the E.J.R. and the B.&N.W.R.—there is no objection whatsoever. But in the case of Eastern Bengal the position is entirely different.

I am afraid, Sir, I must oppose the Resolution.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Sir, I want to make a few observations—

THE HONOURABLE THE PRESIDENT : You have made many observations! If you will kindly reply to the Honourable Sir Guthrie Russell, on the Government of Bengal's opinion, the Council will be in a position to decide on your Resolution.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : The Government of Bengal has no doubt said that no further construction of railway lines should be taken up before the question of the improvement of the river systems is taken up and thoroughly gone into. Now that the Minister of Communications has been placed in charge of not only railway communications but other communications also, I submit that he should take up the question of inland waterways also and try to come to a decision as to the improvement of the river system of Bengal. That is the main method of communication in Bengal, no doubt, and therefore, it ought to attract the serious attention of the Member in charge of Communications.

As regards cross-country construction of railways, I submit, that no doubt the railways running from east to west follow the course of the Ganges, but then, the Ganges running through a valley many rivers flow into the Ganges and the cross-country railways run across and choke them up. That is also the case with this railway line.

THE HONOURABLE THE PRESIDENT : Do you wish to withdraw your Resolution?

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : I do not press it, Sir.

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

MOTION *RE* AMENDMENT OF THE STANDING ORDERS.

THE HONOURABLE THE PRESIDENT : I have received notice of a Motion from the Honourable Mr. Kumarsankar Ray Chaudhury for the amendment of the Standing Orders. Amendments to Standing Orders are regulated by a special Chapter, I mean Chapter X, in the Manual of Rules and Regulations. In the first instance under Standing Order 54 when a notice is received I have to read the Motion to the Council and ascertain whether the Members are prepared to give leave to the Honourable Member to move his amendment. The Motion is :

“That in clause (1) of Standing Order 71 after the words ‘carried in the Council’ the words ‘upon a date to be fixed by the President’ be added”.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India : Nominated Official) : Sir, I rise to take formal objection to this Motion. In the whole history of the Council there have only been two Motions under Standing Order 71, in the years 1926 and 1930. As regards the Motion in 1930 it was ruled by the Chair that it was governed by rule 24A of the Indian Legislative Rules. Sir, there is nothing left to be done in respect of the procedure relating to these Motions and I submit that they are so infrequent that it is not worth the while of the Council to deal with this matter.

THE HONOURABLE THE PRESIDENT : I must ascertain the sense of Members of the Council by asking them if they are prepared to give leave to the Honourable Member to move his amendment. If 15 Members rise in their places, the Council will give leave ; if less than 15 rise the consent of the Council will not be given. Will Honourable Members who desire to give leave to the Honourable Member to move this Motion rise ?

(Four Members rose.)

Only four Members have risen. Therefore the Council refuses to give you leave to move this Motion.

I may also add that even if the Council had given permission it would not have made any difference, because of the words which you propose to add " upon a date to be fixed by the President ". It is always the President's prerogative to fix the date in such cases and he fixes it.

STANDING COMMITTEE ON EMIGRATION.

THE HONOURABLE THE PRESIDENT : I have two announcements to make. First with reference to the announcement made by me on the 2nd and 4th March, 1938, regarding nominations to the Standing Committees on Emigration and for Roads, I have to announce that the following Honourable Members have been nominated for election to the Standing Committee on Emigration :

The Honourable Pandit Hirday Nath Kunzru.

The Honourable Mr. P. N. Sapru.

The Honourable Kumar Nripendra Narayan Sinha.

The Honourable Mr. B. N. Biyani.

There are four candidates for four seats and I declare them duly elected.

STANDING COMMITTEE FOR ROADS, 1938-39.

THE HONOURABLE THE PRESIDENT : The following Honourable Members have been nominated for election to the Standing Committee for Roads :

The Honourable Mr. R. H. Parker.

The Honourable Mr. Susil Kumar Roy Chowdhury.

The Honourable Rao Bahadur K. Govindachari.

The Honourable Rai Bahadur Lala Ram Saran Das.

The Honourable Rai Bahadur Sri Narain Mahtha.

The Honourable Rai Bahadur Satyendra Kumar Das.

There are six candidates for three seats and an election will be necessary. The date of election will be announced later.

The Council then adjourned till Eleven of the Clock on Thursday, the 10th March, 1938.