

Thursday, 15th September, 1938

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1938

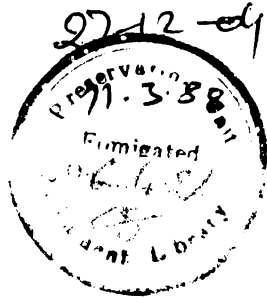
(5th September to 22nd September, 1938)

FOURTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1938

Chamber Fumigated...*18/X/38*...



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COUNCIL OF STATE.

Thursday, 15th September, 1938.

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

QUESTIONS AND ANSWERS.

AGREEMENT WITH MESSRS. TATAS SONS, LTD., AND INDIAN NATIONAL AIRWAYS, LTD., FOR THE OPERATION OF THE KARACHI-COLOMBO AND KARACHI-LAHORE AIR MAIL SERVICES, RESPECTIVELY.

121. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Is there any proposal before Government with regard to the renewal of the agreement with Tatas, and Indian National Airways ? If so, on what lines will such agreements be concluded ?

THE HONOURABLE MR. S. N. ROY : The Government of India have negotiated with Messrs. Tata Sons, Ltd., and Indian National Airways, Ltd., new agreements for the operation of the Karachi-Colombo and Karachi-Lahore air mail services respectively in connection with the Empire Air Mail Scheme. A statement giving the main terms of these agreements is laid on the table.

Main terms of the agreements with Messrs. Tata Sons, Ltd., and Indian National Airways, Ltd., for the operation of the Karachi-Colombo and Karachi-Lahore air mail services respectively.

The services will connect with the Empire services between England and India at Karachi and will be operated to the same frequency as the Empire service, viz., four services a week each way at first increasing later to five a week.

The schedules of the services will be arranged so as to provide normally an advantage over surface means of transport, which will be at least 48 hours in the case of the Karachi-Colombo service, and at least six hours in the case of the Karachi-Lahore service.

The companies will employ on the services aircraft of a type approved by Government, and will increase their fleet as required to meet the demands on the services.

The companies will be given for carriage on their respective services all Empire mails, non-Empire air mails and internal air mails for which the time tables of the services provide a saving in time over any other means of transit. Tata Sons will be paid for such carriage the sum of Rs. 15 lakhs a year with an additional payment of Re. 1 for each pound of mail carried by them in excess of 500,000 lbs. in each year. Indian National Airways will be paid the sum of Rs. 3½ lakhs a year with an additional payment of Re. 1 for each pound of mail carried by them in excess of 130,000 lbs. in each year. These rates will be subject to revision at the end of every fifth year from the date of commencement.

The companies will, so far as suitably qualified Indians are available, use their best endeavours to employ Indian personnel to the fullest extent.

Government will allow the companies free use of their aerodromes and afford them wireless and meteorological facilities where they exist.

The companies will use their best endeavours to develop the services technically and to develop passenger and freight traffic.

In the case of the Karachi-Colombo service, the Government of Ceylon have undertaken obligations similar to those of the Government of India and will pay to the Government of India for the carriage of Ceylon mails on the service, Rs. 4½ lakhs a year with an additional payment of Re. 1 for each pound of such mail carried in excess of 150,000 lbs. in each year.

A penalty of Rs. 1,000 in the case of Tata Sons and Rs. 300 in the case of Indian National Airways may be levied in respect of every flight required by the agreements which is not operated by the company concerned; and Rs. 500 and Rs. 150 respectively per each delayed flight. No penalties will however be levied if the cancellation or delay of a service is due to *force majeure* or other cause not within the control of the company concerned.

The period of validity of the agreements is 15 years from the 28th February, 1938.

INDIAN COINS.

122. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Is there any proposal before Government with regard to the change in the shape, or value of the various denominations of Indian coins ? If so, what are those changes ?

THE HONOURABLE SIR JOHN NIXON : The reply is speaking generally in the negative. But I remind the Honourable Member of the reply which I made to his own question No. 168 on the 7th March last. Also there is in contemplation a slight change in the two anna nickel piece.

ADVERTISEMENT FOR ASSISTANT AIRCRAFT INSPECTORS.

123. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Has the attention of Government been drawn to an advertisement published in the press (*vide* the *Pioneer*, dated the 5th May, 1938) over the signature of the Secretary, Federal Public Service Commission, Delhi, inviting applications " from British subjects or subjects of Indian States " for two posts of Assistant Aircraft Inspector (Grade I) in the Civil Aviation Directorate ?

(b) Will Government kindly state why the posts are open to " British subjects " other than Indians, and why the appointments are not confined to Indians only ?

(c) Why the posts in British India are open to " subjects of Indian States " ?

(d) Are Government aware that most of the Indian States have by rules discouraged the employment of British Indian subjects in their territories ?

THE HONOURABLE MR. S. N. ROY : (a) Yes.

(b) and (c). As there are not many Indians possessing the necessary qualifications it was thought desirable to widen the field of recruitment.

(d) So far as Government are aware, no States debar British Indian subjects from employment in their services, though certain States give preference to their own subjects.

DEPORTATION OF SYED AMIR HASAN MIRZA FROM THE U .S. A.

124. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Will Government state the circumstances under which Syed Amir Hasan Mirza of Bengal, was deported from the U. S. A. by the Washington authorities ?

(b) What are the facts of his career as they have come to the notice of the Government of India, and what steps, if any, have been taken in connection with his deportation ?

THE HONOURABLE MR. J. A. THORNE : (a) and (b). Syed Amir Hasan Mirza gained admission to the U. S. A. in January, 1937 as a student for the purpose of entering the Eastern Baptist Theological Seminary in Philadelphia. He was not a satisfactory student and was informed, after one term, that he could not be enrolled for the following session. He made several unsuccessful attempts to enrol in other approved educational institutions. The immigration authorities having been informed that there was little prospect of his being accepted by another institution, took the only step possible as he was without funds, *i.e.*, deportation proceedings on the ground that he had failed to maintain his status as a student. He expressed his willingness to be deported and to return to India. He was deported as a result of those proceedings but not before being given one more chance, at the instance of His Majesty's Embassy, to regain his student status. He took no steps in this direction and there is nothing the Government of India can do.

ARREST OF INDIANS IN RUSSIA.

125. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Will Government state whether almost all the Indians in Moscow and Leningrad in Russia have been arrested recently ? If so, how many Indians have been arrested, what are the charges against them, and what steps have been taken for securing their release, and for safeguarding their rights ?

(b) Among those arrested is Mr. Virendra Chattopadhyya, a brother of Mrs. Sarojini Naidu ?

THE HONOURABLE KUNWAR SİR JAGDISH PRASAD : (a) Government have ascertained through His Majesty's Government that the British Embassy in Moscow have no information of any cases of British Indian subjects in Russia who have been arrested. It is stated that there may be such cases among Indians, who have not registered at the Embassy as British subjects, but the Embassy point out that no useful representation can be made in any case, unless full particulars are given as the basis of such representation. The second part of the question does not arise.

(b) Nothing is known about Virendra Chattopadhyya's present whereabouts, but under instructions from His Majesty's Government an enquiry has been addressed by His Majesty's Ambassador to the Soviet Government.

LOWERING OF THE RUPEE RATIO.

126. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh) : Have Government received any representations from any Provincial Governments regarding the question of lowering the rupee ratio ? If so, what Provincial Governments have made such representations and what replies have been given to them ?

THE HONOURABLE SIR JOHN NIXON : Communications between Governments are confidential.

RECIPROCAL ARRANGEMENTS BETWEEN THE GOVERNMENTS OF INDIA AND BURMA IN CONNECTION WITH EXEMPTION FROM DEPOSITS TO BE MADE BY INSURANCE COMPANIES UNDER THE INSURANCE LAW OF EACH COUNTRY.

127. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state what reciprocal arrangements have been arrived at between the Government of Burma and the Government of India to secure for the Insurance Companies of either country working in the other, exemption from making deposits under the Insurance Act ?

THE HONOURABLE MR. M. SLADE : The matter is under consideration.

CONVICTION OF THREE PERSONS IN DELHI FOR UNLAWFUL POSSESSION OF SWORDS, REVOLVERS AND GUNS PURCHASED AT A GOVERNMENT AUCTION.

128. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Were three persons in Delhi or New Delhi convicted and sentenced in May last for keeping without licence about 22 swords, five revolvers, and half a dozen guns, which they had purchased at a Government auction, ordered by the Civil Court in execution of a decree against a Film Company ?

(b) Will Government state why the arms were sold and delivered over by the Government officer who conducted the auction to persons who were not in possession of licences ?

(c) Has any steps been taken against the official concerned ?

THE HONOURABLE MR. J. A. THORNE : (a) Yes.

(b) The arms were auctioned by the Court auctioneer under the impression that they were dummy weapons, as the Bailiff who was entrusted with the execution of the warrant of attachment reported them to be so.

(c) Yes. The Bailiff has been punished.

EXTRADITION AGREEMENTS WITH CERTAIN INDIAN STATES BORDERING ON SIND.

129. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh) : Did Miss Millicent Shephard, the Central Organizer of the Association of Moral and Social Hygiene in India, make a representation to the Government of India suggesting them to enter into

mutual extradition agreement similar to those with Bikaner and Khairpur States with other Indian States surrounding Sind in respect of offences of enticing away married women for immoral purposes? If so, what is the result of this representation; and what steps, if any, have been taken in this connection?

THE HONOURABLE MR. J. A. THORNE : Yes. Miss Shephard has been informed that in suitable cases the extradition of persons who are alleged to have offended against section 498 of the Indian Penal Code is even now possible in the discretion of the Central Government under the procedure laid down in section 9 of the Indian Extradition Act, 1903 (XV of 1903), and that in these circumstances no further action appears to be necessary.

DISCOVERY OF ANCIENT PATHAN COINS.

130. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): (a) Has the Archaeological Department of India recently made a discovery of several ancient coins of the old Pathan period which bear the inscription of "Sree Giasuddin Toghlak" in Devnagri character?

(b) If so, where were these discoveries made, and where have the coins been kept in deposit?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) No.

(b) Does not arise.

GRIEVANCES OF RAILWAY LICENSED PORTERS.

131. **THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :** Have the licensed railway coolies (porters) approached the courts of law at various stations for the redress of their grievances? If so, will Government state whether they propose to invite tenders for the supply of licensed coolies on the terms and conditions which prevail at present?

THE HONOURABLE SIR GUTHRIE RUSSELL : So far as I am aware, licensed porters at only one station, i.e., Hyderabad (Sind) have taken their case to a court of law, but allegations have recently been made that similar action has been taken by licensed porters at Lahore. The arrangement for licensing porters at railway stations is a matter for Railway Administrations to deal with. I understand the Honourable Member's question refers to the N. W. R. and will, therefore, convey the suggestion in the last part of the question to the General Manager of that line for such action as he may consider necessary.

**MOTION FOR ADJOURNMENT *RE* ANNOUNCEMENT BY HIS EXCEL-
LENCY THE COMMANDER-IN-CHIEF IN CONNECTION WITH
THE SUBJECT OF DEFENCE.**

THE HONOURABLE THE PRESIDENT : Honourable Members, I have received a notice of adjournment. I will read to you this notice:—

" Sir, we wish to move an adjournment of the House on the 15th instant to consider a matter of urgent public importance, namely, the announcement made by His Excellency the

[Mr. President.]

Commander-in-Chief in the Council of State on behalf of His Majesty's Government regarding India's claim for (a) a more adequate contribution by the British exchequer towards Indian defence expenditure, and (b) a reduction in the matter of British troops stationed in India".

This notice is signed by the Honourable Mr. Hossain Imam and the Honourable Mr. Sapru. I will ask the Honourable Members to satisfy me firstly as regards (a) that it is a matter of definite and urgent public importance, and, secondly, as regards (b) that it is a matter of urgent public importance.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the urgency of the question, as regards the first part, lies in the fact that His Majesty's Government is going to place its proposals before Parliament and when once a certain sum is sanctioned by Parliament it would be very difficult to induce His Majesty's Government to get it revised.

As regards the second part, Sir, we on this side of the House think that a reduction of a larger number should have been made and therefore when once a subject is being taken it is better to broach it before final orders are passed.

THE HONOURABLE THE PRESIDENT : I want to know how this matter of the reduction of the British Army becomes a matter of urgent public importance.

THE HONOURABLE MR. HOSSAIN IMAM : It would entail a lot of saving to the Finance Department, a saving of nearly a crore of rupees, if we had a reduction of even 10 per cent. in the British Army in India. That is the reason why we wanted to introduce a 10 per cent. reduction.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I would emphasise what the Honourable Mr. Hossain Imam has said as regards the urgency of this matter. His Excellency the Commander-in-Chief told us that the proposals will be placed before Parliament and we want Parliament to have the opinion of this House before it takes any action. If we do not discuss this matter now, it may be too late for Parliament to consider any representations that we may make hereafter. This is so far as the first part of the Motion is concerned.

THE HONOURABLE THE PRESIDENT : That is on the question of urgency. Neither the Honourable Mr. Hossain Imam nor you have satisfied me as to the matter being "definite". You have conveniently dropped the word "definite" from your Motion.

THE HONOURABLE MR. P. N. SAPRU : That is probably a drafting mistake for which we are sorry, Sir.

THE HONOURABLE THE PRESIDENT : I do not think it was a drafting mistake.

THE HONOURABLE MR. P. N. SAPRU : If we had remembered that word when we were drafting the Motion we would have put it in. It is a matter of public importance. The finances of India are involved. The budgetary position will have to be considered by the Finance Member before he

actually frames his budget. The announcement may have repercussions upon the entire budgetary position. Therefore, I would say that so far at all events as the first part of the Motion is concerned, it is a matter of public importance. So far as the second part of the Motion is concerned, that too is a matter of urgent, definite public importance because if a further reduction is effected in the British troops stationed in India, our budgetary position will improve. These are the grounds on which I would support the adjournment Motion and I would ask you to consider admitting it.

THE HONOURABLE THE PRESIDENT: Honourable Members, it is open to me to summarily disallow this Motion for adjournment, under rule 12 (ii) which says:—

“Not more than one matter can be discussed on the same Motion, and the Motion must be restricted to a specific matter of recent occurrence”.

There are two questions which the Honourable Members have raised in this Motion of adjournment, first, the inadequacy of the contribution offered by His Majesty's Government, and, secondly, the reduction in British troops. These two subjects are entirely opposed to each other and are of a different nature and character. They cannot be put in one single Motion and debated on an adjournment Motion. However, as the matter is very important, I do not propose to disallow the Motion only under rule 12. I shall go into the merits and show that the first part of the Motion is neither definite nor of urgent public importance, and the second part is not at all of urgent public importance. I have already informed the House that the word “definite” has been omitted by the Movers because they themselves realized that the statement which His Excellency the Commander-in-Chief made the other day is not of any definite character. My Honourable friends probably did not remember exactly what His Excellency the Commander-in-Chief said. I have sent for the statement from the Legislative Department and I will analyze that statement and show that it is neither of a definite nor of an urgent character. In the first paragraph, His Excellency the Commander-in-Chief began in this way:—

“I think, Sir, that everyone here is aware of the discussions that have been taking place in London during the summer and I am now authorized to make the following statement by His Majesty's Government with regard to this question”,

and then he uses the words:

“to indicate to you how the matter now stands”.

That means, how the matter stands at this stage. Lots of other stages it has got to go through. He has only mentioned at this stage how the matter stands. I will omit the next two paragraphs, as they are not important and in the next paragraphs he said:—

“The need for early action to place the defence organization of India on a more satisfactory basis accepted. It has not been possible in the time available to reach agreement on all matters which have presented themselves for consideration in the course of these discussions”.

It is admitted that an agreement has not yet been reached. The whole matter is still in the stage of conversation. It has to be further thrashed out and definite decisions have to be reached hereafter. His Excellency continues:—

“But definite progress has been made and in the light of this progress”.

[Mr. President.]

that is, definite progress in the matter of discussions, not in the matter of results. Only definite progress has been made in the discussions, not the final results.

"an offer has been made by His Majesty's Government in the United Kingdom, subject to the approval of Parliament, to increase by £500,000 as from April annual grant of £1,500,000 which has been paid to the Government of India since 1933 in aid of Indian defence expenditure in accordance with recommendations of the Garran tribunal. In addition, His Majesty's Government in the United Kingdom propose to ask Parliament to authorize offer to Government of India of a capital grant up to five million pounds".

So, there is nothing definite here. They say the offer is to be placed before Parliament for their sanction. Parliament might reject the offer, Parliament might increase the offer, or Parliament might reduce the offer. There is nothing definite. Only, His Excellency has informed the Council of what is going on, because the Council at some time expressed their anxiety to know what was going on in England, and His Excellency has only made a statement regarding the matters which are being discussed. So, you will find there is nothing definite. But the whole matter as regards the definite character of the Motion is set at rest by the subsequent paragraphs. It appears clearly from the paragraphs which I have read to you that this is simply an offer. His Majesty's Government have not come even to a definite decision in connection with this matter. They have not yet finally decided. They are hazy, they are very doubtful about the matter themselves and therefore they are going to send an expert committee to India to thrash out the matter, which is of a technical character, with the Commander-in-Chief and other experts, and for this purpose His Majesty's Government have decided to send out to India an expert committee which will go into all these matters with definite instructions.

THE HONOURABLE MR. HOSSAIN IMAM: Will it go into the financial aspect also ?

THE HONOURABLE THE PRESIDENT: I will presently tell you. I am afraid you did not hear His Excellency the Commander-in-Chief's statement. He said :—

"Further it has been agreed that four British battalions should be transferred from Indian to Imperial establishment, etc. Finally in connection with discussions which have taken place in London the Government of India have suggested that His Majesty's Government should send out an expert body of enquiry to India at the earliest opportunity to investigate the military and financial aspects of problems on the spot, and to submit a report before discussions between the two Governments are carried to their conclusion".

So it is all vague. Discussions are to take place between the two Governments. Then definite instructions have been given to this Expert Committee and the issues on which it is asked to report are definitely stated :

"Having regard to the increased cost of modern armament and to the desirability of organizing the equipment and maintaining the forces in India in accordance with modern requirements and to the limited resources available in India for defence expenditure, to examine and report in the light of experience gained in executing the British rearmament programme how those resources can be used to the best advantage".

When those recommendations are made, if His Majesty's Government thinks fit, they will ask for the sanction of Parliament. It will all depend on those recommendations whether the sanction of Parliament will be asked.

I have shown that the whole thing is in the melting pot. Absolutely nothing has been decided. Only an offer has been made and that offer has to be considered by an Expert Committee in India and the Government will decide on the recommendations of that committee. The Honourable Mr. Hossain Imam says, once this amount is decided it will be difficult to get it changed. But as you will see from what I have read, His Majesty's Government simply suggest that £500,000 is to be added to their annual contribution and a grant of £5 millions, which is a very large grant, is suggested to be given. Are we in a position at this stage to say that this is a definite guarantee or offer or will it help our position by having a discussion in this House at this stage? The grant may be raised to £10 millions or it may be reduced. When that question is finally decided it will be time enough for us to support or quarrel with Government and to attack the definite proposals which are submitted to Parliament.

Therefore I feel on the first ground, definiteness and urgency, the Motion for adjournment is inadmissible. It may take some months for a decision to be arrived at, and on both those grounds I think this Motion is inadmissible. That concludes clause (a), I will now come to clause (b).

THE HONOURABLE MR. RAMADAS PANTULU: Before you give a ruling I want to say one word. Will it not help the Government of India to have the views of the Central Legislature before they finally accept the offer made by the British Government? In that sense it is urgent.

THE HONOURABLE THE PRESIDENT: To my recollection during the last two years, and when I deal with the second aspect of this Motion I will show that, the views of the Honourable Members of this House have been so vigorously and so often expressed on that question that it leaves no doubt as to their views, especially through the composite Resolutions moved by the Honourable Mr. Kalikar in this House and also the Resolution moved on the 6th September by the Honourable Mr. Sapru. The views of this House in those debates have been expressed in a very pronounced and emphatic manner and you cannot improve on them by any further debate on this point.

Now clause (b) relates to the reduction in the number of British troops stationed in India. Now the Council will remember that the question of reduction of British troops in India has been discussed in season and out of season in this House. In every budget debate an attack is made on military expenditure and the first point raised is that the British section of the army should be dispensed with. I have had a statement prepared of the occasions when the question of military expenditure and the admission of Indians in larger numbers into the army has been discussed within the last 18 months, and it shows that there were no less than twelve such occasions. If my Honourable friend wants to see this statement he is welcome to see it. The first time this question was discussed was on the 16th March, 1937, and then our esteemed friend Mr. Kunzru raised the exactly similar question of the replacement of British troops by Indian troops in the Army in India. So that particular question has been definitely discussed only a few months ago. The views of other Honourable Members of this House on it have been definitely placed before Government. Then on other occasions similar resolutions were moved,

[Mr. President.]

on 27th September, 1937, Mr. Kunzru moved for the nomination of members of the University Training Corps to the Indian Military Academy, it was there discussed that British soldiers were not needed in India. Then on the same day there was a Resolution about Cadet Corps in Schools, etc. On the 21st February, 1938, there was another Resolution of Mr. Susil Kumar Roy Chowdhury on the military training of Indians and the admission of Indians in larger numbers in the army. On the 10th March the Honourable Mr. Kunzru again moved a Resolution regarding the distribution of defence expenditure between the land, sea and air forces, and on that occasion this same question was again discussed.

I have brought with me all these proceedings but I will not occupy your time by reading extracts from them. I will read only one or two to show that the question has been discussed threadbare in this House. Then there were the Resolutions of Mr. Hossain Imam, Mr. Kalikar and lastly Mr. Sapru's Resolution. Here is one extract to show that the question has been thoroughly discussed :—

" It is necessary ", Mr. Kunzru said, " for us to consider why it is that such a large British element is maintained in the Army in India, why it is that the Indian Army cannot do without the presence of a large British force. We have been hearing for a long time that the Indian Army owes its value as a fighting machine at the present time entirely to the leading of the Indian soldiers by their British officers. But we had not heard till a few years ago that the British soldier was also needed in order to stimulate the Indian soldier and to get the best out of him. Lord Rawlinson made such a statement in this House in 1921. I believe the statement was repeated by Sir Philip Chetwode. The army, Sir, showed a little enterprise a few years ago and carried on a little propaganda to convince the people of India that its present strength and expenditure were absolutely necessary in the best interests of the country and it brought out a pamphlet dealing with the various branches of the army ".

I have got other quotations from recent debates on exactly the same lines. These things have been pointed out to Government. Even Mr. Hossain Imam has said in this Council :—

" The question of cost will not come in the way if Government have the will. It will always loom large as an insurmountable barrier, almost of Himalayan heights when they are pleased to reject a Resolution, and trot out a lame excuse. Sir, in the present political condition of India, it is essential that the foundations of a citizen army should be laid. When Dr. Bhagwan Das in another place advocated the possibility of starting a citizen army it was, I am sorry to say, not only rejected, but it was practically laughed at ".

There are various quotations. I have got them all here, but I shall not take up the time of the Council when we have got a very important and a full agenda today. I only now want to point out that this question of the reduction of the British Army in India is not a question of urgent public importance at this stage. If it was so, it was open to Honourable Members who have given notice of the Motion of adjournment before the session commenced to have given notice of a Resolution and that Resolution would have been admitted and the matter further discussed. The question has been so often discussed in this House that its urgency is lost, and not being a matter of urgent public importance I must confine myself within the limitations of the rule and hold that this Motion as regards both parts (a) and (b) is out of order and I therefore disallow it. (Applause.)

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Am I to understand from the statement that you have made, Sir, that the Government has now started giving intermediate information to this House on the progress of important matters ? If that is the case, I welcome that procedure.

THE HONOURABLE THE PRESIDENT : It is so.

THE HONOURABLE MR. HOSSAIM IMAM : May I ask you, Sir, to intercede on our behalf and request Government to allow us a day for discussion of the first part of the adjournment Motion ?

THE HONOURABLE THE PRESIDENT : I think the Honourable the Leader of the House will probably bear your request in mind.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Honourable the Leader kindly consider this ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : As regards the request that has been made, as my Honourable friend knows, this is a matter which the Government as a whole will have to decide. So I cannot give any undertaking.

RESOLUTION *RE* BIHTA RAILWAY DISASTER.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I rise to move the following Resolution :—

“ This Council deploras the loss of life occasioned by the Bihta railway disaster, offers sympathy to the relatives of the dead and the injured, records its grave concern at the finding of the Honourable Sir John Thom that XB engines on the E.I.R. have been failures, that the railway authorities were grossly negligent in handling the situation and in using the particular XB engine, that the attitude of the authorities of the E.I.R. Administration and some of their high officers mentioned in the report after the accident and during the enquiry was most unsatisfactory, and recommends to the Governor General in Council that he should make full investigation into the individual responsibility of officers responsible for the accident and after such independent investigation, take suitable action against those officers who have been adversely commented upon by the Honourable Sir John Thom, and further that the design, purchase and continued purchase of XB engines should be the subject of a thorough, searching and independent enquiry, and that action should be taken and all measures adopted for avoiding similar accidents in future ”.

Sir, in the first part of the Resolution I express the sympathy of the House with the victims who suffered in the Bihta disaster. The accident which took place near Bihta on the E.I.R. was probably the worst railway accident in India. The train was carrying 450 passengers ; 107 out of them were killed ; 117 were injured severely and quite a number sustained injuries which did not necessitate their detention at any hospital. Sir, we all deeply deplore the accident and our hearts go out to those persons who were the victims of this unfortunate disaster. Human suffering is a terrible thing. We cannot be indifferent to human suffering. There is far too much suffering in this world. It is but right and proper that we should begin our discussion of this solemn

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Resolution by placing on record our genuine grief at the loss which the disaster occasioned. We live, Sir, in an age of mechanized transport, speed and hurry. When we travel by rail, motor, boat or air, we take risks with our lives and nothing that man can do will eliminate accident altogether from life. But here in the case of the Bihta disaster, as I shall show, we shall be dealing with an accident which was avoidable and this is what adds poignancy to our grief. Those of us who have travelled on the E.I.R.—it is our biggest railway—we the people of Northern India are proud of our E.I.R.—can testify to the general efficiency of that Railway. It is a Railway which we, the people of Northern India, constantly use and I am sure that the House and the people are grateful to the many railwaymen, big and small, drivers, firemen, guards, signalmen, who have hard jobs to do and who have shown commendable efficiency in securing the safety of the public which travels on the Railway. I would like, therefore, Sir, to endorse everything which the Honourable Sir John Thom has said about the E. I. R. Administration and its staff generally. On page 68 he says :—

“ From the facts above set forth the conclusion that the Railway Company have been guilty of gross negligence is inevitable. The Company has undoubtedly a good record. Its standard of efficiency has been high. This is clear from the figures which were given by the Agent at the Inquiry. Millions of passengers every year are carried millions of miles with comparatively little loss of life. Loss of life in the year 1936-37 was two and in 1935-36 nil ”.

Sir, before dealing with the report, the House will perhaps permit me to thank the eminent Chief Justice who conducted this inquiry and who presides over our Court for the great care and thought which he gave for months to this inquiry. Sir John Thom, Sir, has the reputation of being a just and conscientious Judge and those of us who have the honour and privilege of practising in His Lordship's Court feel a legitimate pride in the fact that the report for which he is responsible enhances the reputation which he justly enjoys in our province and the country as a good Judge.

I will now deal, Sir, with that part of my Resolution which records our grave concern at the findings of Sir John Thom. Those findings, as I shall show, constitute a grave condemnation of the Railway Administration and particularly the Railway Board so far as the purchase, design and use of XB engines is concerned. They also constitute a strong criticism of the attitude of the authorities of the Railway Administration and some of the officials of that Administration after the accident and during the inquiry. And it is these findings that lend importance to the Resolution. It is these findings which have caused us such grave and justifiable concern. The irresistible conclusion to which one is driven is that the principle cause of the accident was the use of an XB engine on a train for which, under the link system, a different engine should have been allotted and the failure of the Administration to enforce the speed regulations. The case of the Railway authorities was that the accident was due to weakness of the track and its prior distortion, that the speed of the engine was not excessive, and that the particular engine XB 1916 was not hunting sufficiently violently to distort a track of normal strength. Sir

John Thom has rejected this case altogether and his finding is that XB engine 1916 had a tendency to hunt violently and that in fact it was hunting violently when approaching Bihta on July 16, 1937. In arriving at that finding he has relied on certain direct evidence and has refused to base it on the testimony of experts, which is, as he says, I think, rightly, in a sense theoretical and often based on inferences and deductions from premises which are doubtful and not open to direct observation. He has gone further and shown that XB engines are faulty and dangerous and that that particular XB engine was particularly faulty and dangerous and that the Railway authorities were quite well aware of the defects of the engine and that they had taken no steps either to scrap it or replace it. Now, Sir, so far as these XB engines are concerned, their history is to be found in Exhibit 172 of the evidence given before Sir John Thom. They were designed in India in 1926 and manufactured in England and came out to this country in 1928. They were first introduced in 1928 on the E.I.R. with which we are most directly concerned. Sir John Thom finds it clearly established that they had a tendency to excessive hunting from the very start and that this tendency of theirs to hunt violently caused the Railway Administrations the greatest concern. They used to oscillate and hunt to an excessively grave degree—the cause of hunting is not known: that was one of the questions about which experts were not very clear—and distort the track, and the distortions were not confined to 88½-lb. rails. The first recorded case of track distortion of an XB engine occurred on the 26th June, 1928. The track distorted consisted of 90-lb. flat-footed rails. Again, on the 8th February, 1929, one of these engines got involved in an accident at Talanda. On account of this accident and their generally unsatisfactory behaviour, they were withdrawn on June 12, 1929 from the fast passenger services for which they were intended. Between June, 1929 and April, 1931 certain modifications and improvements in the engines were effected and so we find that at the end of two years they were again restored to use on fast passenger services. But the modifications and improvements effected did not entirely eliminate the hunting tendency of the engines. They continued to hunt and distort the track and they were (so the evidence shows) a continuous source of anxiety and trouble to the engineers. This, Sir, will be evident to anyone who cares to read Exhibit 191 on page 282 of Volume IV of the Report. In spite of all this, they continued to be used until 1933 when an XB engine was involved at Ganj Khwaja near Moghal Serai. It appears that on that occasion a train derailed as a result of the distortion of a track by an XB engine 9109. Sir John Thom was particularly dealing with the E.I.R. but he says that from Exhibit 172 it is clear that these engines have been a source of trouble to other Railways also. Following the accident near Moghal Serai the E.I.R. imposed a restriction in speed during the monsoon of 45 miles per hour on this class of engine on 75-lb. and 88½-lb. rails. The E.I.R. has over 700 miles of 88½-lbs. rail track. This speed restriction was imposed on June 1st, 1934, and it has not been removed. The Railway Administration continued to keep an observation on these engines even on 90-lb. rails. Further following four cases of track distortion in the month of June, 1934, these engines were taken away from mail services and have not been reintroduced in those services. Now, the point that one would like to know is,

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what were the steps that the Administration took to see that this restriction of 45 miles an hour was strictly enforced? It is clear from what Sir John Thom says about XB engines that they had not been so improved by one device or another as to be incapable of excessive hunting at a speed under 65 miles an hour. The conclusion at which Sir John Thom arrives is that the derailment was due to distortion and that the distortion was caused by a heavy XB class engine running at an excessive rate of speed—nearly 55 miles per hour—that is his finding—and hunting violently.

This brings us, Sir, to the main charge of negligence on the part of the Railway Company, a question with which the report deals, is:

“Is the accident in any way attributable to negligence on the part of the railway authorities?”

That is the question I propose to consider now. A speed limit of 45 miles an hour had been put upon XB engines and they had been withdrawn from mail service. Unfortunately, XB 1916 was allotted by Jhajha shed authorities on the early morning of July 16th to the 13-Up. The engine which was taking the 13-Up to Moghal Sarai was to return with the 18-Down. This was a fact within the knowledge of the authorities. An HP engine and not an XB engine ought to have been attached to the 13-Up, but it would appear that no HP engine was available at the Jhajha shed on the 16th July. It appears that under the link system, for which the Operating Department of the Railway is responsible, certain types of engines are allotted to certain classes of trains. XB class engines were not being allotted to fast passenger service as a maximum speed of 45 miles per hour had been prescribed for them during the monsoon season. The power position at Jhajha shed was weak. Many engines were out of action or under repair, and by July 10th, the shed authorities knew that they had not a sufficient number of non-XB engines to work non-XB links. We are faced with the fact that an XB engine was attached to a train which under the link system should have been worked by a non-XB engine. It was a train which had a booked speed of 45 miles an hour. It appears that in spite of this link system, an XB engine was in regular use upon the 17-Up train which had a speed of over 45 miles an hour and that we find is the reason why it was allotted by the shed foreman on the 16th to 13-Up. A booked speed of 45 miles an hour means that a train has to run at a speed much higher than 45 miles an hour. The Agent had himself on a previous occasion declared that there ought to be a margin of 12 per cent. between the booked speed of trains and the maximum permissible speed of the engine attached to the train. How did it happen that an XB engine came to be attached to 17-Up the booked speed of which was 45 miles per hour? There was no margin of 12 per cent. here. The point is important because the Assistant Foreman at Jhajha justifies his action in putting an XB engine to 13-Up on the ground that that class of engine was being used on a train, 17-Up, which had a booked speed of 45 miles per hour. There can, therefore, be no doubt that in the language of Sir John Thom the Operating Department of the Railway were negligent in the manner in which the time table and the link system were drawn up. As regards

the contention that it was the duty of the drivers to observe the speed restrictions and that where there was a conflict between the speed restrictions and the time table, the speed restriction was to prevail, it may be pointed out that the evidence establishes that so far as the Operating Department was concerned, punctuality was all important. Sir, I would like to refer in this connection to the letter of Mr. Robertson on page 51 of the report. He says :—

“ I call absolute punctuality ‘ quite satisfactory ’ and nothing else. The views of some Divisional Superintendents on what constitutes ‘ quite satisfactory ’ are not the same as mine ”.

On page 53 of his report Sir John Thom says :—

“ It would appear, therefore, that so far as the Operating Department was concerned, punctuality was all important ”.

The Railway authorities knew what these XB engines were like. They had received complaints about them before. The Agent in his evidence said that the Railway Company, apart from reports, had been definitely warned by a large number of letters of complaints from subordinate officers about XB engines. In one of these letters, the XB engine has been described as positively dangerous. In Exhibit 277 we have a letter, dated the 7th September, 1936, from Mr. B. G. Smith to the Chief Operating Superintendent in which it is said :—

“ We are clearly asking too much of these engines. There is not a single part of the engine which has not given trouble except the boiler of it. No boiler has burst ”.

On one of the reports, the Chief Operating Superintendent, Mr. Robertson, noted that no advantage had been gained by the purchase of these large and expensive engines. There was a letter, dated October 15th, 1936—I am referring to Exhibit 187—by Mr. Turner to the Operating Superintendent in which he said in regard to XB engines that he could not force out much better results or even maintain the result in trains running under the present conditions. Here, you have letters from responsible railway officials to the Railway Administration warning them that they should not attach the importance that they were doing to speed and that they were sacrificing everything to speed. Was any attention paid to these letters? What was the attention paid to them by the Railway authorities? This is a question which we are entitled to ask from the Railway authorities. Speed was being emphasized by the Chief Operating Superintendent, Mr. Robertson, and he had indicated to all drivers on the E. I. R. that he regarded speed and punctuality as of supreme importance. Is it to be expected that drivers who have to be judged by speed and punctuality would disregard in their own interest the orders of the Chief Operating Superintendent? A driver could not get credit for driving his train slow. The fact remains that 17-Up was being run by an XB engine, that it was being run fairly punctually, and as it was being run fairly punctually, it must be assumed that it was exceeding the limit which had been allotted for its speed. It may be that a speed limit was imposed by the Railway authorities but they failed to enforce that speed limit. The conclusion therefore is irresistible that the railway company were guilty of negligence so far as XB engines and the speed at which they were run is concerned. The position in regard to the particular engine 1916 would seem to be somewhat like this. Between the 1st and the 14th July three drivers of

12 Noon.

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considerable experience had reported that engine for bad hunting. No action was taken on those reports. The only thing that was done was that the bogey springs were changed. The authorities knew that XB engines had a tendency to hunt. Repeated cases of bad hunting had been brought to their notice, and yet no instructions were ever issued to the shed foreman that cases of bad hunting should be brought to the notice of higher authorities. This fact suggests that there was something fundamentally wrong with railway administration, and the conclusion that is forced upon one's mind is that Sir John Thom is right in his conclusion. I would respectfully ask the House to endorse the verdict of Sir John Thom which is to be found at page 70 of his report.

" I am satisfied after a full consideration of the entire evidence that the Railway Administration have been guilty of negligence. It was suggested in the course of arguments that the Railway Administration in relation to the matters under discussion had throughout acted in a manner consistent with ordinary railway working. I am unable to accept this contention. The law on the matter is perfectly clear. It demands from a railway company, as indeed from every other concern which has a duty to make provision for the safety of the public, that care, caution and circumspection which a prudent man of business would exercise in the direction of his own affairs. The Railway Company in my judgment have clearly failed in the discharge of their function to exercise that ordinary care upon which the law insists "

I come now, Sir, to the part of my Resolution which draws the attention of the House to the unsatisfactory attitude of the E.I.R. Administration and their high officials after the accident and during the inquiry. I wish to speak with restraint on this part of my Resolution as I do not like to comment on the conduct of officials who are not present to defend themselves here. I do not wish to go into the individual cases of these officials. Sir John Thom has had to comment on the unsatisfactory nature of the evidence of these officials. He has disbelieved many of them. He has also had to comment on the conduct of some of these officials during the inquiry. About one officer he says at page 21 :—

" It is most unfortunate that the Deputy Chief Mechanical Engineer " he was persuading some people to say that the engines were not hunting " should have interviewed them and adopted toward them the overbearing attitude which his question to them clearly indicated he assumed " .

Sir John Thom has shown in great detail how this preliminary attitude resulted in vitiating the entire testimony that fell not only from him but from other drivers as well. It was their endeavour to avoid the word " hunting ", and to use some other word that created difficulties in the way of the inquiry.

There is another official, about whom he has had to say a great deal, who according to Sir John Thom went hectoring these people not to use the word " hunting " and to give evidence not damaging to the Railway Administration. It is a tribute to the class from which our drivers are drawn that, notwithstanding this hectoring, some of them came forward and gave honest, truthful and straightforward evidence.

Now, Sir, it is not suggested that these officials should be punished without any opportunity being given to them of pleading their case before the Public

Service Commission or departmental authorities. Even a man who has been declared to be a liar by the highest courts of law has further opportunity of showing that the view taken by the court in regard to his statements and conduct was not correct, and I should not like this elementary principle of justice to be reversed in the case of Government officials. But I do insist upon a fair and impartial and thorough inquiry into the individual cases of the officials who have been reported against by Sir John Thom. Sir, I do not want a whitewashing inquiry. I want an independent and impartial inquiry into the individual responsibility of these officials. It is a serious thing for an official to be disbelieved by a competent judicial officer. It is a serious thing for a competent judge to say of a man that he has been tampering with witnesses.

Since the Resolution was sent an announcement has been made that the design, purchase and continued purchase of these engines will be the subject of a thorough, searching and independent inquiry. That was the principal recommendation Sir John Thom made and I know that the Government has already appointed a committee of experts. One of these experts I understand is a French expert. We have 99 XB engines and 38 of them are on the E.I.R. A considerable amount of public money has been spent on the purchase and design of these engines. Now, Sir, as men who are interested in wishing that our railways are run efficiently it is our business and our duty to see that this inquiry is conducted thoroughly and efficiently. I do not feel myself competent to comment upon the composition of this committee. I assume that the men who have been appointed on this committee are experts in the real sense of the term. But there is one request that I would like to make to the Honourable Sir Guthrie Russell. There is one guarantee I would like him to give to this House, and it is that this House should be given an opportunity of considering the report of these experts when it is available. A lot of money has been spent upon these XB engines and as taxpayers, as men interested in the purity of our railway administration and in its efficiency, it is our right that we should be given this opportunity of considering the report when it is ready. The Railways represent a great commercial undertaking. If a business concern had been found guilty of negligence of this kind it would have had to face an outraged body of shareholders. We who represent the public, who are interested in the safety of our passengers, in the safety of the lives of our women and children, cannot treat the Railways less severely than private shareholders would have treated their directors if those directors had been guilty of gross negligence.

Lastly, I would urge that humanity and, more than humanity, justice requires that compensation should be paid on a generous scale to the victims and the relations of those who have suffered by this accident. This accident was the result of gross negligence on the part of the Railway Administration. Therefore, Sir, we should not grudge the victims who have been permanently disabled for work, and we should not grudge the relations of those who were killed, a generous compensation. Sir, I hope that Sir Guthrie Russell will be able to reassure us on these points. I would be sorry if this Resolution was regarded as a controversial Resolution. It is a Resolution which affects the safety of all of us, Europeans and Indians alike, and I should be sorry if it

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were regarded as a political Resolution. It is a Resolution which is based upon the findings of a Judge of great eminence and we have to assume that those findings have been arrived at on the evidence that was tendered before him.

THE HONOURABLE THE PRESIDENT : Your time is exhausted.

THE HONOURABLE MR. P. N. SAPRÚ : I shall therefore request the Honourable Sir Guthrie Russell to reassure us on the points which I have emphasized in my speech.

THE HONOURABLE THE PRESIDENT : I have at the commencement of the discussion of this Resolution received a notice of amendment from the Honourable Mr. Ramadas Pantulu. This amendment proceeds practically on the same lines as the amendment that was moved in the Assembly. However, I shall read the amendment and point out the Standing Order. As proper notice has not been given it is for you to decide whether you will allow this amendment to be moved or not. The amendment runs thus :

“ This Council deplures the loss of life occasioned by the Bihta railway disaster, offers sympathy to the relatives of the dead and the injured, records its grave concern at the findings of the Honourable Sir John Thom and recommends to the Governor General in Council that he should make full investigation into the individual responsibility of officers and after such independent investigation, take suitable action, and further that the design, purchase and continued purchase of XB engines should be the subject of a thorough, searching and independent inquiry and that action should be taken and all measures adopted for avoiding similar accidents in future ”.

A similar amendment was moved and accepted in the other House. I draw your attention to Standing Order 64, which says :

“ If notice of such amendment has not been given two clear days before the day on which the Resolution is moved, any Member may object to the moving of the amendment, and such objection shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the amendment to be moved ”.

Sir Guthrie Russell, have you any objection ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I have no objection, Sir.

THE HONOURABLE THE PRESIDENT : Has any other Member any objection ?

SEVERAL HONOURABLE MEMBERS : No objection.

THE HONOURABLE THE PRESIDENT : Mr. Ramadas Pantulu, you may move your amendment.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I thank you very much for the concession you have shown me and I thank the Honourable Sir Guthrie Russell. Sir, I move the amendment that for the original Resolution substitute the following :—

“ This Council deplures the loss of life occasioned by the Bihta railway disaster, offers sympathy to the relatives of the dead and the injured, records its grave concern at the findings of the Honourable Sir John Thom and recommends to the Governor General in Council that he should make full investigation into the individual responsibility of officers and after such independent investigation, take suitable action, and further that the design, purchase and continued purchase of XB engines should be the subject of a thorough, searching and independent inquiry and that action should be taken and all measures adopted for avoiding similar accidents in future.”

Sir, the object of my moving this amendment is very simple. In the Resolution there are certain conclusions mentioned which were disputed in the other House as not correctly stating the conclusions of the Honourable Sir John Thom. Therefore, I wanted to see that the contested matters are eliminated because the report stands by itself and what Sir John Thom found is to be gathered from the report itself. Honourable Members who gave notice of certain amendments in the other House were met by the Honourable Mr. Clow by the argument that the amendments did not correctly state the findings of the Honourable Sir John Thom. Therefore, to eliminate that weakness from the Resolution I have moved this amendment which I hope the Honourable Sir Guthrie Russell will accept, because the Honourable Mr. Clow has accepted a similar amendment in the other House. Sir, I do not wish to make any speech on the merits of the Resolution or the amendment because they are self-explanatory and almost all the points that have to be urged have been urged by the Honourable Mr. Sapru in his able speech with which he moved the Resolution. I however wish to make a complaint against the Government. In the other House an opportunity was given to the Members of that House to discuss Sir John Thom's report without any necessity for any Member to move a Resolution of this sort. I think it is the correct procedure; on matters of great importance like this, on which an inquiry was held and a report was submitted, a formal Motion for the consideration of the report, which is a parliamentary method of opening the discussion, should have been tabled; when that courtesy is shown to the Legislative Assembly a similar courtesy should have been shown to this House also.

THE HONOURABLE THE PRESIDENT : Did you ask for this opportunity ?

THE HONOURABLE MR. P. N. SAPRU : Yes, I did.

THE HONOURABLE MR. RAMADAS PANTULU : I hope in future when important reports are to be discussed in the Legislature, when a Motion is made for their consideration in the other House a similar Motion will also be made in this House. In the amendment which was accepted in the other House there was also another clause which I have omitted from my amendment.

THE HONOURABLE THE PRESIDENT : Please do not refer to it.

THE HONOURABLE MR. RAMADAS PANTULU : That only asked the Government to place the report of the expert committee when it is made before the House for consideration. As the Honourable Mr. Clow has accepted that suggestion, I felt that it would be similarly brought up before this House and that this House will be given a similar opportunity to discuss that report. So I did not include that request in my amendment. I appeal to the Honourable Sir Guthrie Russell to treat this House in exactly the same way as the Government treats the other House in regard to the discussion of the expert committee's report. With regard to the composition of the expert committee, I do not feel very happy. I appreciate the very weighty arguments which the Honourable Mr. Clow put forward in the other House in favour of appointing an expert committee of outsiders. Of the five members I think four are outsiders, three British experts and one Continental expert. His reason is

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this. The questions that will come up for examination will be the responsibility of the Railway Board and its subordinate officials in this country and serious allegations are made against them both by the public and in the report. Therefore, any enquiry by Indian experts who are somehow or other connected either with the Government of India or the Railway Board is not likely to command that amount of confidence which an inquiry by outside experts is likely to command. There is certainly great force in the argument used. Sir, I feel that it is not however satisfactory. India in future should be more and more dependent upon the investigation made by her own experts and not on experts from outside. Our experts are no doubt largely the experts of the Government. We can however trust them to deal efficiently and honestly and justly with such matters, though they are the servants of the Railway Board or the Government. Sir, there was a very big airline disaster in England the other day in which one of the cabinet ministers lost his life. The British Government set up an inquiry of experts to investigate into the causes of the disaster and to suggest remedies to avoid future accidents. But did they go outside for their experts? Probably German experts may be better than English experts, or American experts may be better than English experts in the air. But still they thought fit to appoint their own men to investigate the matter. So, even if there is a suspicion that Indian experts may be zealous of the reputation of the Railway Board and the Government of India, I would welcome an examination by a committee of Indian experts. It may be that there is a tinge of politics in this desire—I do not deny it—but national self-respect demands that in such matters the Government of India should depend upon our own experts and not on foreign experts.

Sir, there is one other observation that I wish to make and that is about the compensation that the relatives of the victims should get. From the statement made by the Honourable Mr. Clow in the other House, I find that proper arrangements are made to assess the compensations by impartial agencies. Difficulty in assessing compensation in a matter like this is that it is not regulated by any statutory provisions. In the case of the Workmen's Compensation Act, for instance, we know exactly how to assess the compensation, but in a case of an accident like this there is no guidance to be had from any statute which is in force in India. Various considerations have got to be taken into account, such as the amount of financial assistance which the relatives of the victims used to get during his lifetime. People who never had any financial assistance from the victims or were not actually his dependents might come forward with claims; there may be other considerations which the Government ought to take into consideration in assessing these compensations. I feel, Sir, that what is necessary is a just compensation and not a generous compensation. Just compensation will be adequate. I say this for this reason that the compensation is being given out of the taxpayers' money. The E. I. R. is also a State Railway and when compensation is to be paid from public funds, what we should demand is a just treatment and a just adjudication of claims and not a generous adjudication. Because there is no reason for giving to the relations of the victims any compensation which they are not justly and properly entitled

to. I am as zealous of the revenues of the country as of the rights of the claimants and I do not think we ought to be over-generous in this matter. No one is entitled to compensation unless they make out a case for getting compensation from either the Railway or the Government.

Sir, I do not wish to take up any more of the time of this Council with any further details. There are one or two accusations which are most prominent in the findings of Sir John Thom. One is that too many XB engines have been purchased without testing how they behaved before further orders were placed. Between 1926 and 1930 about 100 of these engines had been purchased and there is evidence that even in 1928 these engines had shown erratic behaviour on more than one occasion. And the E.I.R. do not seem to have been wholly responsible for investing a large amount of money in these engines. The responsibility is thrown on the Railway Board who through their Standards Office have practically forced them on the E.I.R. The Agent of this Railway, I understand, protested against the suitability of these engines but his protest was not heeded.

THE HONOURABLE SIR GUTHRIE RUSSELL : Who protested ?

THE HONOURABLE MR. RAMADAS PANTULU : The Agent of the E.I.R. protested. At least that is what I gathered. If it is not correct, I would like to be put right. That is what I gathered from the report and the evidence. I did not read the whole report but only the summary of it which appeared in the press.

Then, Sir, another accusation that was made is that the Railway Board allowed Mr. Robertson, who was a very important witness, to leave the country during the inquiry. The excuse which was given is very, very lame indeed. That has been so fully and completely dealt with in the other House that I do not wish to repeat it. If it is possible to get back Mr. Robertson he may be sent for and asked to give evidence before the Expert Committee. In these days of aeroplanes it should not be difficult to do this. Of course, it should be left to the experts themselves to decide if they want him. I am not insisting that he should be called.

Sir, these are serious allegations against the Railway Board and I hope that the Government of India and the Railway Board will take the public of this country into their confidence and give full opportunity for them to represent their case before the Expert Committee that has been appointed. The Honourable Mr. Clow promised not only an inquiry by an expert committee into the matters suggested by Sir John Thom but also other matters which have since been included. I am glad to say that the scope of the inquiry has been made wider than what Sir John Thom suggested. He suggested an inquiry into XB engines, but the terms of reference of the Expert Committee include also an inquiry into XA and XC engines which are of similar type—broad gauge passenger train engines. Mr. Clow has also promised an inquiry into the conduct of the individual officers concerned. Of course, he did not say by whom this departmental inquiry will be held and as matters are going to be thoroughly investigated I do not wish to say any more at this stage. Sir,

[Mr. Ramadas Pantulu.]

I hope and trust that the Honourable Sir Guthrie Russell will accept the amendment. It does not commit the Government or the Committee which is set up to anything and it only asks for a thorough, searching, and independent inquiry and for action to be taken on the report.

THE HONOURABLE THE PRESIDENT : As the amendment has been read twice to the House, I do not propose to read it again. The debate will now proceed on both the original Resolution and the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the amended Resolution. After what my Honourable friends Mr. Sapru and Mr. Pantulu have said, there is very little left for me to say. I wish, Sir, that the Expert Committee which is now inquiring into XB and other Pacific type engines may also inquire into the very serious matter of the repair of engines and rolling stock. Sir, my information is that after the recommendations of the Dickinson Committee the outturn from the workshops has increased without any increase in efficiency. My information is that only a certain time is allowed for the repair and overhaul of engines and coaches. When that time expires, the foremen in charge say : " Well time is up ; better send out the engine or the coach—if there is any defect left, it will come back again for further repair ". Well, Sir, in case an engine is seriously defective, it should not be sent on the line for work—Sir Guthrie Russell shakes his head, but I can tell him that I am talking on reliable information.

THE HONOURABLE THE PRESIDENT : And I can tell you that this has nothing to do with the Resolution !

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, it has to do with the Resolution in this sense that, when the engines are not properly repaired and are turned out of the shops after a fixed time, whether the repair is fully complete or not, is a source of danger. I am afraid that when this No. 1916 XB engine went to the workshop, it was not properly and fully repaired and was sent out on the line in a condition unfit for service and hence may have been the cause of overhunting.

I also wish that in future, all such inquiries and award of compensation should be entrusted to a committee on which there will be more independent non-officials, because, after all, the public get more satisfaction in case there is a majority of the non-official element on such inquiry committees. I find that one Indian has been put on this committee, but that Indian being a civil engineer, perhaps may not be so competent to go into the mechanical details of these engines. An Indian with mechanical experience ought to have been put on the committee in addition. However, Sir, I do not want to detain the House long. I gave this suggestion because I think that incomplete repair in the workshops to engines will add to the number of accidents and will not be in the public interest.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, a layman like myself, on reading the report of Sir John Thom and the bulky evidence that came before him comes to the regrettable conclusion that

there was negligence on the part of the authorities in using these XB engines. Sir, the facts which have been so ably submitted before this House by the Honourable Mr. Sapru and the facts that found a place in the report clearly show that XB engines were giving trouble to the Administration since their arrival in India and their being attached to fast trains. The Railway authorities ordered 30 engines in 1926-27, and when they arrived in 1928, they did not wait to give a trial to these engines, but in the same year they gave an order for 24 more engines. I find from the report that since these engines arrived here and were used for carrying trains, they were found hunting and unsatisfactory and the engineers took some trouble to re-balance them, and after re-balancing, they were still found unsuccessful. If that was the case—the Honourable Sir Guthrie Russell will correct me if I am giving incorrect information—what was the necessity for giving a further order for 26 engines in 1929, and again for 16 engines in 1930? I find that an engine costs about Rs. 1,05,000 and nearly 97 or 98 engines have been so far purchased. To a layman like myself it appears that proper care was not taken for examining whether the first lot of engines was quite fit for the work for which it was intended. The first accident that was brought to the notice of the Railway authorities was in February, 1929, and they came to know then that these engines were not working properly on fast passenger trains, that they were showing a tendency to hunt violently and also they were distorting the track. In 1929, the authorities discontinued the use of these engines for two years. In 1931, the engines, after some changes, were again put on fast passenger service. In 1933 it was found that the engines were still hunting and producing distortion. There was another accident in 1933 and after six months it was decided to withdraw the XB engines from mail service, and after another six months an order was passed that from 1st June, 1934, the speed limit of these engines would be restricted to 45 miles an hour, when these engines were operating on 88½-lb. rail tracks during the monsoon season. We have heard just now that the Agent directed that there ought to be changes accordingly in the time table, but in spite of orders restricting the speed to 45 miles an hour, we find another XB type engine was used to carry a fast passenger which was booked to run over 45 miles an hour. That shows that the authorities were not careful in finding out particular types of engines for fast work when this type was working unsatisfactorily. I find from the report that this XB type was used for the 17-Up train and the train had a booked speed of over 45 miles an hour. But in spite of the restriction order of the Agent, this XB type of engine was used for that train, and this clearly proves negligence on the part of the authorities to take proper care for the lives and safety of the passengers in the train. And the next thing that I find very surprising is that the Senior Government Inspector has reported that an engine fit for a speed of 45 miles an hour cannot be attached to a train whose booked speed is in excess of 40 miles an hour. This statement clearly shows that the authorities were not careful and did not exercise proper caution in making use of this engine on a fast passenger service. The authorities knew that the engine was booked to take out a train running at a speed of over 45 miles an hour though there was an order by the Agent that the speed of this engine should be restricted to 45 miles an hour only.

[Mr. V. V. Kalikar.]

Then Mr. Sapru has told us what is corroborated by the evidence and appears in the report that at the time when this XB engine was put on 17-Up there was no other engine in that particular shed, the Jhajha shed. That shows that no proper care was observed, when the authorities knew that between 1928 and till 1937 there were so many incidents which ought to have shown to them that this type of engine was quite useless for fast trains, and in spite of that they used that engine on the 17-Up train.

Then Mr. Sapru has referred to a letter which the Divisional Superintendent of Dinapore had written to the authorities about the unsatisfactory nature of the working of these engines. That shows clearly that though the authorities knew that the engines were not working satisfactorily still they used those engines on fast passenger trains and they therefore could be charged with negligence.

Sir, as my time is over I would deal with only one point and that is about the unsatisfactory nature of the conduct in the inquiry on the part of the Railway authorities. We have before us the statement of the learned Chief Justice that during the inquiry the Railway authorities trifled with his orders about producing books, documents and certain papers. Not only that, but as the report shows, a witness who wanted to give correct evidence before the inquiry was hectorated and bullied by another official. If this inquiry had taken place in an ordinary civil court, I am afraid they would have been charged with contempt of court. The position is this, there was no judicial inquiry in such matters up till now. When an accident happened it was suggested that it was due to sabotage and the matter was whitewashed. So I find they were reluctant to afford ample opportunities to the Tribunal to come to a definite conclusion. I therefore submit that this action on the part of the Railway authorities is not satisfactory.

Sir, I am really sorry to find also that one of the officers left India before the inquiry. I understand he was Mr. Robertson. I do not understand why he should have left. The remarks of Sir John Thom can be found on page 71 about this officer. Sir John Thom states that this officer deserted his colleagues when the inquiry was going on. His presence at the inquiry was most essential and steps ought to have been taken by the Railway authorities to detain him.

In conclusion I submit that to a layman like myself it appears that there was gross negligence on the part of the Railway authorities in not taking proper care in using these engines on fast passenger services.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): The Resolution which my Honourable colleague Mr. Sapru has so ably moved does not require much to be said in favour of it, because most of it is based on the findings of a judicial inquiry presided over by a Judge of the eminence of Sir John Thom. The real matter at issue in this Resolution is

this: are we satisfied with the action taken up till now by the Government in the Railway Department, or do we wish something more to be done. I will not weary the House with all the details which have been dealt with by other Members, but I should like to say one thing. Mr. Ramadas Pantulu in his speech has said that these engines were received without knowledge whether they would work well or badly and hasty orders were placed; but my complaint is that they were purchased in spite of definite proof that they were a failure. The engines were first bought in 1928 and from the very beginning there were troubles. The first case of distortion of track was noticed on the 8th February, 1929. On the 12th June, 1929 they were withdrawn from fast passenger traffic. They were imported because it was thought that they would be cheaper and a more efficacious means of locomotion, but within a year and a half even this slow-moving Government realized that they were proving a failure. They continued the purchase of these locomotives in spite of failure and of the opposition in the two Houses of the Legislature. We had occasion in this House to point out how big a failure these XB engines had been. We, Sir, are laymen, but even when their own people point out that the thing is not a success, still the purchases are not discontinued. What was behind this? There ought to be a searching enquiry into the motive behind this purchase. A thing is provided in the country by their own experts, by the people who are using it themselves to be unsuitable, still why should the purchase be continued? I might also question the competence (or rather the possibility of improving on what is to be obtained in the general market) of our Central Standardization Office, because these engines were designed, I am told, by this big department of ours. It was on their own design basically that these engines were manufactured. I am not going to weary the House with all the details of the track distortions and other troubles which these engines gave. Suffice it to quote only one sentence from an expert which has been quoted by Sir John Thom. This statement is made in paragraph 70. The learned counsel for the Railway Company said:

"I may mention, in passing, my Lord, that my instructions are that in the earlier stages of running this type of engine in 1928 their behaviour was so extraordinary and unforeseen that the engineers sat down to rebalance them".

After the improvements made in 1933 it was theoretically found that they would not give any more trouble and that hunting would cease. In January, 1934, four cases of track distortion occurred which resulted in the second withdrawal of these engines from hauling mail trains. In paragraph 67 the contention of the Railway Company that these engines would not distort the track below 60 miles per hour has been refuted. The Honourable Mr. Clow in the other place while discussing this Motion said—

THE HONOURABLE THE PRESIDENT: Please do not read it.

THE HONOURABLE MR. HOSSAIN IMAM: I will just paraphrase it. He admitted that in spite of endeavours these engines have not been cured of their hunting tendencies. Technical improvements were made, but the net result is that the defect is not fully cured and the engines have never been satisfactory. Those were the words that he used. What I wish to insist is that

[Mr. Hossain Imam.]

the Expert Committee which has come out to India to inquire into this matter should deal not only with the improvements which ought to be made in the engine but it should go into the past history and find out the motive behind this continued purchase. I want an inquiry on the lines on which inquiries are held in the United States of America.

THE HONOURABLE SIR GUTHRIE RUSSELL: If the Honourable Member will suggest what the motive is I shall be able to reply.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the thing has proved an absolute failure.

THE HONOURABLE THE PRESIDENT: You talk about the motive and the Chief Commissioner for Railways would like to know the motive. I understand that you insinuate that there was something behind it.

THE HONOURABLE MR. HOSSAIN IMAM: I am not insinuating anything, but I want a searching inquiry into the past history to find out whether it was really false pride: that because the thing has been evolved in India and it needs must be A1, that was responsible for this continued purchase; or was there any other reason? I do not know the motive behind it, but there must be some motive behind it.

THE HONOURABLE THE PRESIDENT: Sir John Thom does not say that there was motive behind it, and so I think you have no authority to say anything of that sort because the judgment of the Tribunal is quite sufficient to show that there was no motive.

THE HONOURABLE MR. HOSSAIN IMAM: In paragraph 182 Sir John Thom says:

"I am of the opinion that in the interests of the public the design, the purchase and the continued purchase of these engines should be the subject of a thorough, searching and independent inquiry".

THE HONOURABLE THE PRESIDENT: That is quite different.

THE HONOURABLE MR. HOSSAIN IMAM: He does not only refer to the continued purchase but he also refers to the purchase originally made—

THE HONOURABLE THE PRESIDENT: But he does not attribute any motive.

THE HONOURABLE MR. HOSSAIN IMAM: He is a judicial officer of a very high standard and his words are such that I cannot copy, but when he wants an inquiry into the purchase, into the past history, what does it mean? You do want to know why it was continued. If the thing has not proved such a gross failure we would not have suggested that the past history should be raked up and Sir John Thom would not have said that the continued purchase of this type of engine should be subjected to an inquiry; he refers to the purchase as well.

Now, Sir, I come to two definite matters more and then I shall conclude. The Honourable Mr. Sapru has suggested that an inquiry should be made into

the conduct of officers who are responsible for this accident directly or indirectly.

THE HONOURABLE MR. RAMADAS PANTULU : It is promised.

THE HONOURABLE MR. HOSSAIN IMAM : I want a list of the people whom the Railway Board regard as persons who would be asked to reply to chargesheets, and I also wish to know what steps they propose to take against Mr. Robertson and also the Agent for his error of judgment in allowing him to proceed on leave on the most flimsy ground that could possibly be made—that he had to deposit some amount of money at a London bank. In these days it does not require my personal presence in Calcutta if I wish to deposit any money in a bank there. I can do it through my bankers over here. Transfer of funds is not at the moment a physical transfer of bullion. It is done through the banks. Secondly, Sir, the fact that he had taken a house for the winter in Switzerland—is that a sufficient excuse for a man of his position, a head of a department, which is subjected to a judicial inquiry of which there is no example in India? When we read the statement of the Agent of the E.I.R. in the papers at the time of the inquiry, we were shocked and Sir John Thom has very mildly stated this matter in his report by saying it is regrettable that he elected to desert his colleagues. And the remark which Sir John Thom makes on his excuse is that such considerations were in the circumstances small and petty. I go further, Sir, and say his absence amounts to contempt of court.

1 P. M.

Secondly, Sir, I would like to say a few words about the remarks of our Honourable colleague Mr. Pantulu about compensation to the sufferers and the relations of the victims. Sir, people have incurred the highest loss that they could suffer—loss of life. Are we at this moment to consider the petty matters of pounds, shillings and pence? Is not the existence of the State itself a method by which inequalities should be removed? And at such a juncture, after such a disaster, however generous you might be you cannot give adequate compensation for the loss of life. And is this a time for the Leader of the Congress Party to trot out the truism that it is the taxpayers' money and therefore it should not be spent? I think, Sir, it is going too far.

THE HONOURABLE MR. RAMADAS PANTULU : I want justice.

THE HONOURABLE MR. HOSSAIN IMAM : Justice, Sir, is based on the capitalistic principle that a rich man deserves a greater reward and a poor man a lesser reward. Human life is valuable and no amount of compensation is enough to pay for that.

Sir, before I sit down I should like to say that I hope that, as the Resolution is mostly based on the recommendations of Sir John Thom, the Government will see its way to accept it, and I entirely endorse Mr. Pantulu's request that the Honourable the Chief Commissioner should lay the report and let us discuss it.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways) : Sir, I have been asked by the Honourable Member for Railways to apologise to the Council for not being present here this morning to take part

[Sir Guthrie Russell.]

in this very important debate, but, as you know, Sir, he is engaged in piloting the Motor Vehicles Bill through the Assembly and it is quite impossible for him to be in two places at the same time.

Now, Sir, I am in rather a difficulty about this Resolution. To a certain extent my lips are sealed because many of the things that arise from Sir John Thom's report are at present *sub judice*. There are certain portions of the Honourable Mr. Sapru's Resolution which I can accept without the least hesitation, and there are others that I must oppose, mainly for the reasons I have given, that cases are *sub judice*. Certain officers have been accused or it has been suggested that they were negligent. These cases are *sub judice*.

My Honourable friend Mr. Pantulu has done me a service. He has put forward an amendment to the Resolution very much on the lines that I was thinking about myself. When considering Mr. Sapru's Resolution, I actually took his Resolution and scored out certain lines and said to myself: "As far as I can see, I can accept most of the rest". Well, apparently the Honourable Mr. Pantulu has done very much the same thing and we have got to very much the same result. But I think it is due to the Honourable Mr. Sapru that I should explain in a certain amount of detail why I cannot accept his Resolution in full. I, like my Honourable friend, deplore the loss of life occasioned by the Bihta disaster and offer my sympathy and the sympathy of every railwayman in India to the relatives of the dead and the injured. It is not within the power of Government to alleviate all the distress of mind that has been caused by this accident. All Government can do is to try in some material way to compensate the relatives of the dead and the injured. Unfortunately, that is all the Government can do. I think it was my Honourable friend Lala Ram Saran Das who stated that for assessing the compensation payable independent committees should be set up. I do not think he can have read the Honourable Mr. Clow's speech in the Assembly, when I think he explained more or less the composition of the committees we have set up. Five Governments—Bengal, Bihar, Orissa, the United Provinces, and the Punjab, have agreed to set up local advisory committees for assessing compensation. These committees comprise the district magistrate, a railway representative, and a gentleman of the district nominated by the district magistrate. Now, I can think of no more independent committee than that. The procedure is as follows. Claims are received. These claims are examined by the Railway authorities and offers are made and in certain cases accepted. Other cases are sent to the district committees. (*An Honourable Member*: "What about the many suits that have been filed in the Calcutta High Court?") I have not been informed of these. The cases I am dealing with at present are such as are being settled amicably. The Railway Company communicates to the man what compensation they are prepared to pay; if the claimant is not satisfied the case is sent to the appropriate district committee for consideration; the district committees call before them, it may be the injured man or it may be a legal representative or some other representative of one of the relatives of the killed and they state their case. These committees have authority to increase the amount of the compensation suggested by the Railway up to 20 per cent. or Rs. 300,

whichever is less. If they consider that even this is not generous enough, they refer the case back to the Railway and I may say that in certain cases the Railway have already accepted the recommendations of the committee for increased compensation, and up to the present, so far as I know, the Railway have not refused to accept any of the recommendations of the committees.

The actual state of the case on the 10th September was as follows :—136 claims have been received covering 97 killed and 99 injured. Offers of compensation have been made in 97 cases covering 53 killed and 80 injured, the total amount of compensation offered so far being Rs. 1,42,000 odd. Acceptances of offers of compensation have been received in 47 cases covering 19 killed and 44 injured. Pay orders in these cases have been issued to the extent of over half a lakh of rupees. 21 cases have been referred to district committees for settlement.

To go on with the Resolution. I also, like the Honourable Mr. Sapru, view with grave concern, the findings of the Honourable Sir John Thom. Up to this point there is no disagreement between us. But beyond that, there are a number of lines that I have scored out, and the reason I have done this is as follows. If we accept the Resolution as it stands it involves accepting the guilt of a certain number of Railway officers. Now, as the Council, I think, are aware, under British Indian jurisprudence every man has the right to be heard in his own defence before he is condemned. Sir John Thom himself in his report has made it quite clear that he was not there to assess personal responsibility. In fact, he says : "It is no part of my task to allocate responsibility". Before we condemn any officer, as I said, he has a right to be heard, he has a right to have his case reviewed by the Public Service Commission before the Government of India pass orders. Further, he has a right to produce fresh evidence if he can. The findings of the learned Chief Justice are based on the evidence that was laid before him. But, if in the course of further inquiry, an officer can produce further evidence which contradicts some of these findings, he has got a perfect right to do so. I will take one case, and then two or three cases raised by various Honourable Members. Take, for example, the strictures passed on Mr. D. M. Robertson in paragraph 174 where the learned Chief Justice says :

"On Mr. Turner's letter no action whatever was taken. This is, indeed, amazing, in view of the terms of that letter, etc."

Now, evidence which has come to light since the inquiry was held shows that immediate action was taken on the letter by Mr. Robertson.

THE HONOURABLE MR. HOSSAIN IMAM : Why was not that evidence placed before him ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The E.I.R. Administration should have placed that evidence before Sir John Thom.

THE HONOURABLE MR. HOSSAIN IMAM : Who was responsible for that mistake ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I do not know.

THE HONOURABLE THE PRESIDENT : Counsel, I suppose.

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir.

AN HONOURABLE MEMBER : Was he instructed ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Whether the action taken was adequate or not is a matter for investigation, but action was taken.

THE HONOURABLE MR. HOSSAIN IMAM : What was the action taken, may we know ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The time tables were gone into and the timings were reviewed. That was the action taken.

My Honourable friend Mr. Hossain Imam took the Agent to task for allowing Mr. Robertson to go on leave. To get a full appreciation of the case, you have got to read the report with the evidence. The learned Chief Justice on page 976 of the evidence states :

“ I do not take the matter as very serious except that it would have been better if he had been cross-examined ”.

The accusation is against the Agent. I may tell the Council that the Agent himself consulted the Railway Board and Mr. Robertson was allowed to go on leave with the cognizance and full approval of the Railway Board. So, if there is anybody to blame, it is the Railway Board. At the time when Mr. Robertson was allowed to go, there was no indication whatsoever that he was in any way personally responsible. Admittedly it was unfortunate that he was allowed to go, I agree that as things have turned out, he should have been kept behind.

(At this stage, the Honourable the President vacated the Chair which was taken by the Honourable Sir Ramunni Menon.)

My Honourable friend Mr. Sapru, I think it was, took the Chief Operating Superintendent of the Railway to task for making punctuality his watchword. Well, if he knows of a single Chief Operating Superintendent on any railway throughout the world who does not insist on punctuality, consistently of course with safety, I would like him to introduce me to that man. Presumably he bases his opinion on the demi-official letter of Mr. Robertson in paragraph 142 of the report. He also talked of Mr. Robertson's craze for speed. In that letter, as far as I can see, Mr. Robertson never mentioned the question of increasing speed. All he said was that the trains on the E.I.R. ran so slowly that there was no necessity for them losing time. I must admit that when I got the Honourable Sir John Thom's report, I was rather amazed at the table showing the time made up by drivers. I had the specific case mentioned at page 53 checked. It is said that the driver made up 23 minutes, but actually he made up only 18 minutes, because five minutes are allowed in the time table for restrictions. When making up that 18 minutes, he never needed to run over 56 miles an hour. Take the cases of the other drivers. So far as possible, the timings of the trips on which these drivers were engaged during October, 1936, have so far as possible been checked and so far as we can make

out in no case was it necessary to exceed the maximum permissible speed of 60 miles per hour.

The Honourable Mr. Sapru referred to Mr. Jones, the Deputy Mechanical Engineer, and accused him of tampering with witnesses. I think some Honourable Member said that in an ordinary court, he would have been prosecuted for contempt of court. The decision to have a court of inquiry was made on the 1st or 2nd of September. Before that, nobody outside the Government of India could have any knowledge that a court of inquiry was going to be held. The conversation referred to took place on the 12th August, that is, roughly three weeks before the decision to have a court of inquiry was made. A court of inquiry had never sat before on any Indian railway accident, in the history of Indian railways. I do not think even Mr. Sapru could claim, with that explanation, that Mr. Jones was deliberately attempting to tamper with witnesses. I think these examples will show how dangerous it would be for me to accept the whole of my Honourable friend's Resolution. I am quite certain that the learned Chief Justice would not accept it himself.

That is as regards officers. Now for XB engines. Sir John Thom has said that

"The evidence placed before me during the course of the inquiry leaves me in no doubt whatever that XB engines, so far as the E.I.R. is concerned have proved a failure".

He also stated to Counsel :

"I have indicated again and again that I intend to pass no judgment on the type of XB engine".

Now, it is a fact that on certain Railways in India XB engines have been running successfully. Till recently on the M. and S. M. Ry., XB engines were subject to a speed restriction of 70 miles an hour without any cause for anxiety. This speed has been reduced awaiting the report of the Pacific Locomotive Committee, not because the Administration considered it necessary but merely as a safeguard. Are there any special conditions on the E. I. R. which affect the running of these locomotives or are there special reasons for the difficulties which they have experienced in their use or is the cause negligence on the part of the Administration. If the latter, a number of officers are involved and we cannot pass judgment, as I have already explained, till all these officers have had a chance of stating their cases. If it has something to do with some special features of the E.I.R. track, or special features of the soil, we shall hear what the Pacific Locomotive Committee has to say about it.

My Honourable friend Mr. Pantulu's amendment omits certain words from the original Resolution. These are roughly the words that I myself had thought of asking my Honourable friend Mr. Sapru to delete and are as follows :—"Responsible for the accident" and "against those officers who have adversely commented upon by Sir John Thom".

As regards the last part of the Resolution, as the Council are aware, Government have already accepted this portion of the Resolution and the Pacific Locomotive Committee is at present functioning. Actually today,

[Sir Guthrie Russell.]

I understand, it is at Jamalpur. It has completed its inquiries on the S.I.R., the Nizam's State Railway and the G.I.P.R. and it is now on the E.I.R. So there is no difficulty about accepting that part of the Resolution.

Certain Honourable Members raised questions about the suitability of the personnel of this Committee. One Honourable Member stuck to his opinion that Indian experts would have been better. Now, if the Committee had been composed of Indian experts they would have been drawn from the Railways ; there is no other source of supply. What would this Council have said if we had appointed Railway Officers and they had cleared the XB locomotive ? The Council would certainly never have accepted the opinions of officers connected with our Railways if they had given XB engines a clear bill of health. I do think the composition of the present Committee is a reasonable one. We have got three experts from Britain and one from France, and we have an eminent Indian civil engineer. Somebody pointed out, that we have not an Indian mechanical engineer. There is no Indian mechanical engineer of the same eminence, and after all civil engineers do know something about mechanical engineering.

I cannot prophesy what the recommendations of that Committee are going to be, except for one thing. I can prophesy they are not going to impute dishonesty to the Members of the Railway Board, the Consulting Engineers and those responsible for building these engines. That is the only thing I can prophesy. I understand that that was my Honourable friend Mr. Hossain Imam's allegation, though when I tried to get him to come out into the open he went back into his burrow !

I can assure the Council that any recommendation made by that Committee will receive the fullest consideration of the Railway Board and we shall endeavour to do our best to avoid similar accidents in the future and to maintain, or perhaps Honourable Members would prefer that I should say to re-establish the reputation for safety which Indian railways have had for so many years. I accept therefore the amendment to the Resolution put forward by my Honourable friend Mr. Pantulu.

I do not think I need say very much more. The Council might be interested in what action has been taken by the Railway Board as a result of the Honourable Sir John Thom's report. Immediately on receipt of that report the Railway Board sent a telegram to every first class railway administration in India convening a meeting to discuss the situation. At that meeting were Agents, Chief Engineers, Chief Operating Superintendents, Chief Mechanical Engineers. Each Railway had I think about two representatives, and the Senior Government Inspectors were also present. At the same time we advised Railways with X class locomotives, not only XB class, to reduce the speed to an absolute maximum of 45 miles an hour where there had been any signs of distortion accompanied by hunting during the previous year. Many things were discussed at this meeting but the main item and the one which I think should interest the Council most was as follows :—

“ The adequacy of existing safeguards from the point of view of the public, including—

- (i) the necessity, if any, for serious changes in operating technique, e.g., speed restrictions, prohibition of certain types of engines on certain sections ;

- (ii) the question of the margin between booked speeds and the maximum permissible speed of engines ;
- (iii) the necessity, if any, for works not at present contemplated, e.g., relaying or re-sleepering ;
- (iv) the question of standing instructions to subordinate authorities for guidance in emergent situations (paragraphs 153-155 of Sir John Thom's report) ;
- (v) the present arrangements for bringing to the notice of Railway Headquarters or the Central Standards Office and/or the Railway Board abnormal occurrences such as track distortion and hunting ”.

In opening the meeting I remarked as follows :—

“ Our present operating technique has grown up after very many years and has been altered from time to time. I think I am correct in saying that it is based on the operating technique in Great Britain but there may be loopholes and weak links. If there are, it is for us to fill up the loopholes and strengthen the links ”.

And that, I can assure the Council is what every Railway in India is doing today.

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.

THE HONOURABLE THE PRESIDENT : I understand that Sir Guthrie Russell has accepted the amendment of the Honourable Mr. Ramadas Pantulu. As this is the last non-official day, I am very anxious to finish all the work on today's agenda paper. I would like to know if other Honourable Members are desirous of speaking on this Motion. Unless there is something new which they have to state, I would like to call upon the Honourable Mr. Sapru to reply.

THE HONOURABLE MR. HOSSAIN IMAM : Some of us are very anxious to speak. The agenda is not very heavy ; many of the items down below will not be moved.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I have just two or three small points which have not been mentioned. It does not follow that because this particular locomotive is a failure that all locomotives of that type are failures. I have myself known a bad Rolls Royce. Further, apart from this technical inquiry which naturally ought to take place and which is taking place, I presume there will be full investigation into the responsibility of any railway official concerned and I think we gathered that from what the Honourable the Chief Commissioner for Railways said. I do not want to make any reference to any individuals except one, one gentleman who was accused by Mr. Hossain Imam and who was accused also in another place of running away. I think that is rather unfair because he is not here to reply. I think we must accept the explanation given by the Honourable Mr. Clow and the Chief Commissioner—that he volunteered to stay, the Agent referred to the Railway Board, and the Railway Board thought he might go. We must leave it at that. I have nothing more to add.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, I have a very few words to say, When

[Haji Syed Muhammad Husain.]

I saw the Resolution on the agenda I wondered why this Resolution was put, because I always believed that the recommendations contained in the report of Sir John Thom would necessarily be looked into and the inquiry or investigation would be held, but then I thought that it was the usual suspicion which most of us have against the bureaucracy of whitewashing their mistakes that this Resolution was tabled to get an assurance that the recommendations will be acted upon and I am really very glad that the Chief Commissioner for Railways got up and dispelled that suspicion of ours. When an inquiry is made, it is made with a certain object. It is made to elicit the facts and to obtain a considered opinion with a view to act upon it ; and when the Government appointed a person of such integrity and impartiality as Sir John Thom I expected that his opinion will be given due weight ; and, as I said, the Chief Commissioner for Railways has already taken some actions and is prepared to take others. When the Honourable the President asked whether there were other speakers and my friend Mr. Hossain Imam answered in the affirmative, it was because I wanted to say that the Honourable Mr. Hossain Imam did not mean to attribute any motive when he said that there must be some motive in maintaining and also in acquiring these dangerous white elephants, *i.e.*, the XB engines. What he meant was that according to the report of Sir John Thom, a searching investigation was recommended to be made into the continued purchase of these engines. He meant that there is something extraordinary about it—when, in spite of the experience gained of these XB engines and their naughty behaviour, the authorities still persisted in purchasing and maintaining them. It is extraordinary and it certainly requires explanation. That is why the Chief Justice recommended an inquiry in his report and my colleague the Honourable Mr. Hossain Iman wanted that it should be made, and the reason why favour to XB engines was being shown should be given to the House.

So far as the amended Resolution is concerned, it is absolutely non-controversial and I do not think that it is possible for anyone to oppose it. It may be that the remarks made by Honourable Members in the course of the debate might require some refuting, but so far as the Resolution is concerned, it is absolutely sound and necessary and I am glad that the Chief Commissioner has accepted it.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official) : Sir, I take the hint which you have given, namely, that the debate may not be prolonged ; but there are a few facts which I wish to place before the House. This Resolution has brought out two prominent facts, strange facts. One is that the Congress and the Government do join hands together in the matter of amending the Resolution and it is strange that so suddenly the Government should have accepted the amendment suggested by the Congress Party. Secondly, it is also strange that one who feels very great sympathy for the suffering millions in this country and who wants justice to be done to the poor people, to give them adequate compensation for any damage in the matter of crops or failure of crops, water supply, etc., even in this case where a tragedy like this has occurred and lives were lost, people had been mutilated and their

life had become a misery, yet the great sympathy of the Congressman does not give them generous compensation, but only just compensation. That is the kind of sympathy which the Congressman has disclosed in the debate on this Resolution. These two strange facts, namely, Government and Congress joining hands—(*An Honourable Member* : “That shows that Government is so fair”.) Yes. Therefore, my point is this, that there is no difference then between the views and policies entertained by the Government officials and by the Congress side and all the agitation that is made and all the criticism that is offered and all that has been said here or elsewhere against the Government is only show, is not real. That is the point that I want to submit to the House. That this Resolution has disclosed these two strange facts.

Sir, there is another matter which I wish to bring to the notice of the House, namely, that the report of the Chief Justice has dealt with the matter very well and exhaustively; it is a very learned report based on the evidence that was placed before him, which he sifted on all sides before he came to conclusions. There are two matters on which he came to conclusions,—that this grave disaster—the derailment of the 18-Down train near Bihta resulted from distortion of the track which was caused by XB class engine No. 1916 running at excessive speed and hunting; secondly, that the accident is directly attributable to negligence on the part of the Railway Company, and the Railway Company are accordingly liable in damages to those who were injured and the dependants of those who were killed in the accident. That is the conclusion arrived at by the learned Chief Justice who had gone into the matter. Ultimately says the report that the physical cause is attributable to the negligence of the Company. The Company had noticed that this particular engine had not been behaving properly, that on three preceding trips it had shown a marked tendency to hunt violently and was hunting very violently when the engine reached the new bank over the submerged opening when the track gave way. Therefore, Sir, the officials who were responsible for this trip of this engine were aware of the defects in the engine and knowing that they nevertheless allowed it to go in this way. Now, the railway officials wanted to make out that it was all due to the bad track, that the track was not at all sound and gave way. But the evidence of the mechanical engineers is discounted by the learned Judge who finds that that was not the cause. The track was good. The Company was not responsible so far as the track is concerned. Where their responsibility comes in is that, in all the circumstances which they had before them of the previous working of this engine, they should have taken no care to see that this engine should not have been used. Therefore, Sir, with their eyes wide open they allowed this disaster to take place. Apart from the reports of track defects and bookings for hunting, the learned Judge says the Railway Company was most definitely and pointedly warned of the danger that attended the use of these XB engines, but the warning was not heeded. What was wrong was that the caution order was not properly communicated. But the point that I wish to emphasise is this, that the investigation will have to be, for the purpose of compensation, by the district magistrate, a nominee of the district magistrate and a representative official. I have no quarrel with the composition of this committee and I am sure that the committee will do justice to all those who have suffered in the disaster. But the matter

[Sir A. P. Patro.]

to be remembered is that they should not omit to take evidence of the status of those who have suffered by this. It is that the estimate of damages should be in accordance with the position of the people who have suffered in the disaster. As I said, it is not merely a question of dealing justice according to a standard which some people may have. My Honourable friend would like that capitalists and others who suffered damages should be awarded full and generous compensation, but in the case of these poor people the compensation should be just and not generous. What is the standard of just compensation? My friend has no idea. Nor could the Congress people set up an ideal by which this just compensation could be judged. Therefore, it is very vague. But I am sure that the committee will have before them all the evidence relating to the economic and social position of the parties and generous compensation will be given so that these people may be properly compensated for loss of life. In some cases, where the only person who was the earning member of the family has been cut off, what is to become of the family? Therefore, in such cases, not only compensation but generous compensation is needed. It is not merely a compensation which will satisfy the representatives of the capitalists, but one which will satisfy the man in the street. (*An Honourable Member*: "What is your idea of a generous compensation?") Wait and see.

Sir, in the matter of placing the report before this House for the purposes of discussion, I would like to support the right of this House for the purposes of discussion. Certainly the Government will give an opportunity for discussion. But the discussion cannot be more than what we have had today nor can anyone improve on the discussion we have had today. No useful purpose will be served by further discussion, unless it is only for making a point that we have been able to force the Government to place the report before the House. The report has been exhaustively debated in the other House and here today. What else are you going to discuss? Therefore, I say that such demands and such requests can only come from persons who are not real advocates of the people but only opportunists for the time being and for the purpose of demonstration.

Now, Sir, you also had a demand from one Honourable Member that these experts must be from India. But look at the points which the experts have to discuss. They can only be discussed by men with engineering experience, by men who are acquainted with the working and the mechanism of these engines and who have seen varieties of these engines and can give an opinion on such matters and say whether these engines should continue to be purchased or should be dispensed with. It is not for lawyers and landholders like ourselves to say whether these engines are particularly suited to the track. It is an absurd argument to say that laymen can be of use on an expert committee. Therefore, I say it is not a real request. These contentions are only for the purpose of advertisement. (*An Honourable Member*: "What are you doing?") I do it because it is my duty. But I feel that it is my duty to expose the hypocrisy of these people.

THE HONOURABLE MR. G. S. MOTILAL: Sir, are these expressions—"advertisement" and "hypocrisy" parliamentary language?

THE HONOURABLE THE PRESIDENT: Well, he is advertising himself!

THE HONOURABLE SIR A. P. PATRO: I cannot yield to my friend's opinions in the matter of politics or in the matter of legislation. I accept him as a good companion for the purpose of making money but I cannot accept him for the purpose of legislation. Therefore, I say I am rather surprised that out of ignorance my friend may stand up—

THE HONOURABLE MR. G. S. MOTILAL: I rise to a point of order, Sir. Is it Parliamentary to say "out of ignorance"? Otherwise, it should be withdrawn.

THE HONOURABLE THE PRESIDENT: I agree with you. It is not a question of Parliamentary expression but a question of good taste.

THE HONOURABLE MR. RAMADAS PANTULU: Decency.

THE HONOURABLE THE PRESIDENT: I hope the Honourable Member will not proceed to cast further reflections on his colleagues.

THE HONOURABLE SIR A. P. PATRO: I did not mean any reflection on my Honourable friend whom I know too well. What I do say is, whatever the form of the Resolution or the amendment, they point to the same conclusion. The Resolution wants that there should be an investigation and compensation. The amendment wants that there should be just compensation. Therefore, the Resolution and the amendment amount to the same thing, and therefore, there is no objection to having either the Resolution or the amendment.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. P. N. Sapru): I understand you accept the amendment?

THE HONOURABLE MR. P. N. SAPRU: Yes, Sir. But I will just explain my position. I shall come at once to the speech of my Honourable friend Sir Guthrie Russell. I was rather disappointed with his speech in one respect, and that was his attitude towards Sir John Thom. He did not thank him for the thoroughness of the inquiry. He did not say a word of thanks for the able report that he has submitted to the Government of India. It is quite clear that he does not like the report. But I think, Sir, that the thanks of the Government of India should have been conveyed to him and if the Government of India are not prepared to thank him—

THE HONOURABLE THE PRESIDENT: It is his concern, not your concern, whether they want to thank him or not.

THE HONOURABLE MR. P. N. SAPRU: I shall then come to the questions that have been raised by the Honourable Sir Guthrie Russell. I find that there is agreement between the Honourable Mr. Ramadas Pantulu and the Honourable Sir Guthrie Russell in regard to the character of the Resolution that this House should pass. Mr. Pantulu represents the Madras Government and Sir Guthrie Russell represents the Government of India and both of them can appreciate each other's point of view. We, Sir, represent neither the Government of India nor the Madras Government—

THE HONOURABLE SIR DAVID DEVADOSS : Mr. Pantulu does not represent the Madras Government.

THE HONOURABLE MR. P. N. SAPRU : Unofficially. Every Congressman, particularly a Congressman of his status, looks upon himself as the Government of the day.

THE HONOURABLE MR. RAMADAS PANTULU : I do not.

THE HONOURABLE MR. P. N. SAPRU : So, it is quite natural that there should be agreement between the two Governments, the Government of India and the Madras Government. So far as the amendment is concerned, I have no objection to it. It is substantially the same as the Resolution. He records his concern at the findings of Sir John Thom. My Resolution also expresses its concern at the findings of Sir John Thom. I went into greater detail. The amendment does not go into quite the same details. That is the only difference. Therefore, I have no objection to the amendment, and as there is no substantial difference between the amendment and the Resolution, I will not press my Resolution. But I would like to say a word about this compensation business. I think, Sir, compensation ought to be on a generous scale, and I endorse every word on this question of Sir A. P. Patro. I was rather sorry that Mr. Pantulu suggested that the compensation given should take into consideration the financial position of the Government—

THE HONOURABLE MR. RAMADAS PANTULU : I did not say that.

AH HONOURABLE MEMBER : He said it should be just not generous.

THE HONOURABLE MR. P. N. SAPRU : I would go further and say that it should be generous and not only just. Justice is a very difficult word to define. I think there are lots of people who have been hit by this disaster and our compensation should be on a generous scale. I have no objection to the machinery that Government have devised for settling this question of compensation.

I would now like to say one or two words about the conduct of the Railway authorities towards this inquiry. Sir Guthrie Russell did not actually justify the Chief Mechanical Engineer but he rather seemed to suggest that Sir John Thom had overlooked certain extenuating circumstances. I think he has not overlooked those extenuating circumstances. What Sir John Thom says is that when the Senior Government Inspector came to hold an inquiry, then the Senior Government Inspector was not given proper facilities for holding that inquiry because some of the railway officials were interfering at that time with the evidence which was being given by drivers and others—

THE HONOURABLE SIR GUTHRIE RUSSELL : How does the Honourable Member get that from the report that during the time of the inquiry, any railway officer was interfering with the evidence ?

THE HONOURABLE MR. P. N. SAPRU : I will just read from page 21, paragraph 61 :—

“ It is clear from the questions which were put to the drivers on the 12th August by the Deputy Chief Mechanical Engineer—a very senior officer—that he was trying to persuade them to

say that, despite the fact that they had booked the engine for hunting, the engine in fact did not hunt. He failed, but as one of the witnesses stated at the inquiry he gave the drivers the impression that he did not believe them. This may to a certain extent have accounted for the fact that during the inquiry the drivers J. and T. L. Martin were inclined to minimize the importance of the bookings. In view of the fact that these drivers were almost certain to be called upon to give evidence at an inquiry, judicial or otherwise, it is most unfortunate that the Deputy Chief Mechanical Engineer should have interviewed them and adopted towards them the over-bearing attitude, which his questions to them clearly indicate he assumed".

What would you say, Sir, if a Sub-Inspector—

THE HONOURABLE SIR GUTHRIE RUSSELL: What the Honourable Member indicated was that during the Senior Government Inspector's inquiry there has been tampering with evidence. The Senior Government Inspector's inquiry was finished long before the 12th August.

THE HONOURABLE MR. P. N. SAPRU: Then this refers to the inquiry before Sir John Thom?

THE HONOURABLE SIR GUTHRIE RUSSELL: Yes.

THE HONOURABLE MR. P. N. SAPRU: That is much worse. During the time that the inquiry was going on, a high officer of the status of a Deputy Mechanical Engineer was trying to influence the witnesses to say things in which they did not believe. Nothing could be worse than that.

THE HONOURABLE SIR GUTHRIE RUSSELL: Sir, this conversation between Mr. Jones and the witness took place on the 12th August. Sir John Thom's inquiry started in the middle of October, to the best of my recollection. No orders were issued for that inquiry till September. How could this conversation have taken place during any inquiry?

THE HONOURABLE MR. P. N. SAPRU: When was the inquiry announced?

THE HONOURABLE SIR GUTHRIE RUSSELL: I think the inquiry was announced some time about the first or second week of September. The orders of the Government of India were I think dated the 1st September but I have already explained that in my reply.

THE HONOURABLE MR. P. N. SAPRU: Am I to take it that this statement of Sir John Thom is wrong?

THE HONOURABLE SIR GUTHRIE RUSSELL: The statement on the evidence he has before him is perfectly correct.

THE HONOURABLE THE PRESIDENT: You know as a lawyer that a Judge sometimes makes statements on matters not within their knowledge. What bearing has this on the Resolution?

THE HONOURABLE MR. P. N. SAPRU: It has a great bearing. Take the case of a sub-inspector who knows that a certain case is going to come before the court—

THE HONOURABLE SIR GUTHRIE RUSSELL: Surely the Deputy Chief Mechanical Engineer—

THE HONOURABLE THE PRESIDENT: What useful purpose will be served in this debate by your alluding to this so vigorously? Government have accepted the amendment of Mr. Ramadas Pantulu which means the Government have agreed to make an investigation into the responsibility of certain officers.

THE HONOURABLE MR. P. N. SAPRU: I have no desire to go into these questions, but I would like to say, Sir, that the inquiry into the individual responsibility of officers should be a thorough and searching one and no officer however high he may be should be spared. It must not be the drivers and foremen who should be dealt with but the bigger guns also, men like the Chief Operating Superintendent and the Deputy Mechanical Engineer and the other officials also who have gone in for criticism. It should be an impartial departmental inquiry. Do not catch only the small fry but also the big fry.

THE HONOURABLE THE PRESIDENT: You have no reason to assume that the Honourable the Chief Commissioner is not going to take notice of the big fry.

THE HONOURABLE MR. P. N. SAPRU: That is quite true. I have no reason to assume that, only the speech of the Honourable the Chief Commissioner left on my mind the impression that he was in a sort of way apologising for these big guns, and that is why I considered it necessary to refer to certain passages from Sir John Thom's report. Otherwise I should have made no reference to this matter.

Well, Sir, that is all I have to say about this Resolution and in view of the fact that my Resolution is not substantially different from the amendment proposed by Mr. Ramadas Pantulu, I take leave of the Council to withdraw my Resolution.

THE HONOURABLE THE PRESIDENT: There is no question of withdrawing your Resolution. If the amendment is first put and if it is passed, then the Resolution automatically drops.

Sir Guthrie Russell, would you like to say anything more?

THE HONOURABLE SIR GUTHRIE RUSSELL: Just one or two words, Sir. I think in justice to my Honourable friend Mr. Pantulu and myself I should say that there was no unholy alliance, on this occasion we merely happen to agree.

There is one other thing I have to mention. One Honourable Member asked if the report of this Committee now functioning would be laid on the table. I can give the House that assurance. The report will be laid on the table, but I can give no assurance of an opportunity for discussion, that will depend on the course of business but I shall not oppose such a proposal. I also want to make it quite clear Government cannot commit themselves not to take any action on the report before its discussion. We cannot hand over the executive to the Council of State.

THE HONOURABLE THE PRESIDENT: The Question is that for the original Resolution the following Resolution be substituted and adopted:—

"This Council deplores the loss of life occasioned by the Bihta railway disaster, offers sympathy to the relatives of the dead and the injured, records its grave concern at the findings of the

Honourable Sir John Thom and recommends to the Governor General in Council that he should make full investigation into the individual responsibility of officers and after such independent investigation, take suitable action, and further that the design, purchase and continued purchase of XB engines should be the subject of a thorough, searching and independent inquiry and that action should be taken and all measures adopted for avoiding similar accidents in future."

The Motion was adopted.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West: Muhammadan): Sir, in view of the discussion which took place in the Assembly and in view of the statement made by the Leader of this House the other day about the Burma riots and the representation made by the Burma deputation, I would not like to move my Resolution at the present stage and wait for further developments.

THE HONOURABLE THE PRESIDENT: If you do not wish to move your Resolution, it is the practice here not to make any speech and you don't have to ask the leave of the Council to withdraw.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Sir, I do not move the Resolution standing in my name.

CIVIL PROCEDURE AMENDMENT BILL.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal: Non-Muhammadan): Sir, I move for leave to introduce:—

"A Bill to amend the Code of Civil Procedure for certain purposes (section 104)."

The aims and objects are given in the Statement of Objects and Reasons. I do not want to say anything further now. I move for leave.

The Motion was adopted.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY: Sir, I introduce the Bill.

RESOLUTION *RE* EXCAVATIONS ON THE SITE OF KORKAI, ETC., TINNEVELLY DISTRICT.

*THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official): Sir, I move the Resolution which stands in my name, namely:—

"This Council recommends to the Governor General in Council that in the interests of archaeology and Dravidian history orders be passed directing excavations—

- (i) on the site of Korkai (Kolkai of Periplus) in the Tinnevelly District, Madras Presidency; and
- (ii) on the site of pre-historic burials in a hillock near Tinnevelly town, Madras Presidency, which was recently brought to the notice of the revenue authorities."

The Dravidian civilization is a very ancient one. The Dravidians were highly civilized people with languages and literatures of their own long before the Aryans came down south. There are four Dravidian languages,

* Not corrected by the Honourable Member.

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namely, Tamil, Telugu, Malayalam and Canarese. Tamil is the eldest sister of the group and its literature goes back to the second millenium before Christ, if not earlier. Modern investigations and excavations go to show that the Dravidians came originally from Mesopotamia and built Mohenjo Daro and Harappa and other cities in the north and finally settled in South India, leaving traces of their progress, for instance, in the languages of the Bhils and Gonds of Central India. The excavations in Mohenjo Daro go to show that it must have been built at least three milleniums before Christ and attained a state of very high civilization. In fact their sewage system found in it has excited the admiration of modern engineers. That the Dravidian languages have a close affinity to the language of Ur of the Chaldees is proved by the fact that Ur is the same as *Oor* in Tamil meaning a town. It is the termination of so many cities and towns in India. Woolley's book on the Ur of the Chaldees is worth perusal. Though the history of the settlement of the Dravidians in South India is shrouded in obscurity yet the Tamil literature contains the narration of many events which can be said to be historic. One of the most important cities during the first millenium before Christ was Korkai. The following passages from Dr. Caldwell's History of Tinnevely will show how ancient and of what great importance Korkai was. On page 9 this is what the learned author says :—

“The early Hindus must have been acquainted with the mouth of the Tamraparni long before they knew anything of its inland course or of the falls in the mountains, so that I conclude that it was near its mouth, and probably at the place where its junction with the sea took place, that people bathed and performed austerities, as the gods are represented to have done, in the time of the Mahabharata. It would seem probable that there also, at Korkai, was formed the first settlement of civilized men in Tinnevely, and it was there that the name of Tamraparni, by which the river became known, was first given to it”.

Let me quote another passage. On page 14 this is what Dr. Caldwell says :—

“This at least seems certain from these statements that it was the belief of the earliest Singhalese that the Pandya Kingdom was in existence before the arrival in Ceylon of Vijaya and his colony of adventurers, that is, before the introduction into Ceylon of Aryan civilization, which can hardly have been later than 550 B. C. This seems to carry up the era of the first introduction of Aryan civilization into the Pandya country, probably at Korkai, to a very early period; shall we say about 700 B. C.? Ceylon was often invaded in early times by Tamilians from the mainland, but the invaders seem generally to have been, not Pandyas, but Cholas”.

Then, Sir, let me read one or two passages from Maclean's Manual of the Administration of the Presidency.

“The most ancient capital of the Pandya country was Korkay at the mouth of the Tamraparny river. Korkay was the seat of Government at the time of Vijaya. It was esteemed even by the Greeks, several centuries later as the first port in Southern India, and they named it from Coletur or Gulf of Munnar. As the point where the more modern Aryan and Grecian civilizations, each in turn met the ancient Dravidian civilization, it is a place second in interest to none in India. It is now represented in name by an insignificant village five miles from the coast, but excavations in the neighbourhood show the remains of a once extensive area of human habitation. Even when Korkay being left inland owing to the deposits of the Tamraparny river gave place to Cauyal, the latter port nearly monopolized the trade between Southern India and China and Arabia. Under the influence of modern coast changes the centre of commerce has again shifted, but only slightly more north to Tuticorin. The chief industry of Korkay was probably the pearl fishery, and its chief commerce export of rice; two causes sufficient to collect an important oriental population. The migratory habits of the pearl oyster

have rendered the South Indian fisheries precarious, and the failure of these may have led to the abandonment of the coast as the seat of the Pandyan Government. After Korkai, there is some evidence that a place called in Sanskrit Calyanpoora was made the capital; if so its site cannot be identified. After this at any rate Madura became the chief city, having been founded possibly about the end of the 4th century B.C."

Then at page 421 he gives the latitude, etc., and says:—

"It is an ancient sea port well known to early European geographers. It was formerly at the mouth of the Tamraparny river, but the silt of the river has spread seawards; succeeded as a port by Cauyal, this in its turn left inland. Capital of the early Pandyas and one of the most important trading marts in India. Megasthenes mentions it B. C. 302. The author of the Periplus mentions it as a celebrated place for pearl fishery. In the Peutinger Tables, it is called Colchis Indorum to distinguish it from the Colchis in the Black Sea. The Greeks named the Gulf of Manaar from this place Colchic Gulf. It was the first port visited by the Greeks after rounding Cape Comorin and the first place on the Tinnevelly Coast whose name was recorded by them. Excavations have been made and quantities of remains discovered in the shape of ruined houses, sepulchral urns, pottery of all kinds, Chinese and Arabian included, and coins. The remains extend for many miles round. At the great Shiva Pagoda at Tinnevelly, the earth used in the ceremonies at the annual festivals is brought from Korkai as having been the habitation of Vamsha Coolashekhar Paundyan, who built the temple".

After the sea at Korkai became silted up owing to natural causes, a sea-port was formed two miles to the south called Koyal. Koyal means a back-water—a lagoon opening into the sea. I will read one passage from Marco Polo. It is quoted in Caldwell's History at page 38:

"Cail is a great and noble city, and belongs to Ashar (Ishwara?), the eldest of the five brother-kings. It is at this city that all the ships touch that come from the west, as from Hormus (Hormuz), and from Kis (an island in the Persian Gulf), and from Aden, and all Arabia laden with horses and with other things for sale. And this brings a great concourse of people from the country round about, and so there is great business done in this city of Cail. The king possesses vast treasures, and wears upon his person great store of rich jewels. He maintains great state and administers his kingdom with great equity, and extends great favour to merchants and foreigners, so that they are very glad to visit his city. The king has some 300 wives, for in those parts the man who has most wives is most thought of".

No systematic excursions were carried out in Korkai. Dr. Caldwell, the celebrated missionary and savant did what he could as a private individual interested in history and archæology. That labour and expense of extensive excavations will be fruitful of good results can be asserted from the fact that when there is a flood owing to heavy rain old coins are washed up which are picked up by the inhabitants of modern Korkai. When I visited the place in July, 1936 the postmaster there who has a collection of them gave me a few old coins. The history of Korkai goes back to more than three thousand years and it was the seat of ancient Dravidian civilization and it is for this reason that I make an earnest request to the Government of India to order excavations on a large scale, so that knowledge of Dravidian culture and civilization may become known. It is a common idea that all civilization in India is Aryan. It is not so as Mohenjo Daro and Harappa have shown and Korkai will confirm it. No doubt the Aryans have assimilated a good deal of it and make out that everything came from them. A few months ago in the course of digging gravel and metal for roads, a number of sepulchral urns were discovered at a small hillock near the town of Tinnevelly which have been taken possession of by the revenue authorities and further digging was stopped. There seem to be more of such urns and they belong to the prehistoric or paleolithic period. They are of great archæological and scientific importance. If extensive excavations are made our knowledge of the past will be greatly increased. As the Government of India have the necessary means

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at their disposal not merely funds but also experts, I appeal to them earnestly to undertake the excavation of the site where the urns were found as well as in the vicinity.

With these few words, Sir, I commend my Resolution for the acceptance of the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I am sure that the House has been duly impressed with the antiquity of Korkai by the very extensive quotations from authorities which my Honourable friend Sir David Devadoss has placed before this House. He has described the glories of Kolkai and also of the somewhat extensive polygamous habits of one of its ancient kings! He has told us that it was a great place for pearl fisheries in ancient times. Sir, with your permission, as on this Resolution quotation seems to be in order, I too will quote from a Tamil author about the glories of Kolkai. I think one quotation will certainly add to our knowledge of the habits of these people. Here is the quotation:

“In the hamlets of this beautiful city of Kolkai, there dwelt those who drank toddy and who dived into the sea to procure rich pearls and shells”.

I do not know whether the toddy drinking habit still continues from ancient times but certainly the pearl fisheries have disappeared.

I am at one with my Honourable friend in thinking that both archæological finds and references in ancient literature establish the great antiquity of Kolkai. There is no question that it was a flourishing city, one of the biggest trade marts of those days, that it was on the sea coast, that it had extensive trade connections. There is no doubt about the antiquity of this town. But the real question is—and there I am afraid I have to differ from my Honourable friend—whether we can with our present resources start excavation work immediately? My Honourable friend, in concluding his interesting speech, said that the Government of India had all the resources both in men and in money. I wish I could echo those views. I am afraid the resources of the Government of India, so far as the Archæological Department is concerned, are extremely limited. Therefore, while we recognize the antiquity of this town, I can at this stage say no more to my Honourable friend than that, if and when resources are available, we shall not lose sight of the suggestion that he has made that excavation should take place in this town. I may inform him that, in regard to the site of the prehistoric burial grounds, which are situated on the Kunnathur hillock, the Government have already taken steps to preserve a hundred acres. I believe this hillock is used for quarrying purposes and we are now protecting 100 acres where these prehistoric burial places are likely to be found on excavation.

I hope that, in view of what I have said, that is to say, that we recognize the antiquity of the town and that we quite sympathise with the object of my Honourable friend that more light should be thrown on ancient Dravidian history, he will agree with me that the time when excavations should take place must depend on the funds available to the department. We have a

large number of sites which can be excavated throughout India and the order in which the work of excavation should take place must, I am afraid, be determined by the Government of India in consultation with its expert advisers. I hope, in view of the remarks which I have already made, my Honourable friend will withdraw his Resolution. I am sure the House has learned something new. I am sure a good many Members had never heard the name of this ancient town of Korkai and the information which my Honourable friend has given today during the course of his speech will rouse the interest of many Honourable Members in ancient Dravidian history.

THE HONOURABLE SIR DAVID DEVADOSS: Sir, in view of what the Leader of the House has just said, I beg leave to withdraw my Resolution.

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

CHARITABLE DISPOSITIONS BILL.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan): Sir, I beg to apply for leave to introduce :

“ A Bill to provide for Charitable and other Dispositions of Property. ”

Sir, the object of the Bill is to provide for validating trusts made for charity and for purposes of public utility without specifying a particular charity or a definite object of public utility. Sir, I have explained in the Statement of Objects and Reasons what the scope of the Bill is.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, on a point of information. I do not quite know what the procedure is but I am advised that this Bill is *ultra vires* under the constitution.

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official): No, Sir, we have no objection to the introduction of the Bill.

THE HONOURABLE THE PRESIDENT: Before I read the Motion for the introduction of this Bill, I may point out that, so far as I am concerned, this Bill stands almost on the same footing as the Bill of the Honourable Mr. Susil Kumar Roy Chowdhury which was moved the other day, and I asked him then, when he made the Motion for circulation, to adjourn the Motion till the next Delhi session when I shall give my ruling on the subject. I have no objection to this Bill being introduced at this stage but I shall issue instructions to the Office that both this and Mr. Susil Kumar Roy Chowdhury's Bill be placed on the list of business the same day in the Delhi session, when my decision will be given.

The Motion was adopted.

THE HONOURABLE MR. G. S. MOTILAL: Sir, I introduce the Bill.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, in view of the fact that Government are prepared to give time for consideration of Mr. Kazmi's Bill *re* suits by married Muslim women, I do not wish to make the Motion against my name.

DIVIDENDS AND INTEREST RETURNS BILL.

THE HONOURABLE THE PRESIDENT : The Honourable Mr. Motilal.

THE HONOURABLE MR. R. H. PARKER : On a point of order, Sir.

THE HONOURABLE THE PRESIDENT : Let him move his Motion first.

THE HONOURABLE MR. R. H. PARKER : I do not think he can move, Sir. That is my submission.

THE HONOURABLE THE PRESIDENT : On the question of notice ?

THE HONOURABLE MR. R. H. PARKER : Yes, Sir. It has not been before us for three days. I am referring to the proviso to Standing Order 37 (1).

THE HONOURABLE THE PRESIDENT : You take objection under the proviso to Standing Order 37 (1) ?

THE HONOURABLE MR. R. H. PARKER : Yes, Sir.

THE HONOURABLE THE PRESIDENT : This is a very important matter. I would therefore advise the Honourable Member (Honourable Mr. Motilal) not to move this Motion today. He can move it in the Delhi session.

THE HONOURABLE MR. G. S. MOTILAL : I am prepared to move it on the 20th instant, Sir.

THE HONOURABLE THE PRESIDENT : This is the last non-official day. There is no other non-official business left in this session.

THE HONOURABLE M. G. S. MOTILAL : Then I will move it in the Delhi session.

STATEMENT OF BUSINESS

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I wish to make a Statement of Business. We hope that by Monday the 19th, some small Bills, including the Indian Emigration Amendment Bill will be passed by the Legislative Assembly. I would, therefore, request you, Sir, to direct the Council to sit on Tuesday, the 20th instant. Opportunity will also be taken to lay the Motor Vehicles Bill on the table of this House on that day if it is passed, but no further discussion will take place on it during this session. If, however, by any chance the Bills are not passed by the Assembly on the 19th, then no useful purpose will be served by our meeting on the 20th, and we may have to meet on the 21st or possibly even on the 22nd, but I hope not. I will let Honourable Members know if it will not be possible to meet on the 20th, and in that case, with your permission, we may meet on the 21st.

THE HONOURABLE THE PRESIDENT : At present I will decide that the meeting should be on the 20th.

The Council then adjourned till Eleven of the Clock on Tuesday, the 20th September, 1938.