

Friday, 9th September, 1938

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1938

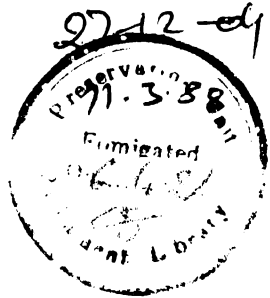
(5th September to 22nd September, 1938)

FOURTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1938

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



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COUNCIL OF STATE.

Friday, 9th 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.

RELEASE OF HANSRAJ WIRELESS.

90. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether the question of the release of Hansraj Wireless has been referred to the Government of India by the Sind Government or any other authority ? If so, what is the decision arrived at in the matter ?

THE HONOURABLE MR. J. A. THORNE : The Government of India were not consulted, but I understand that the prisoner has been released by the Government of Sind.

RAM CHAND BAPAT, CONVICTED IN AJMER FOR ATTEMPT ON THE LIFE OF
MR. GIBSON.

91. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Was one Ram Chand Bapat convicted by the Administration of Ajmer-Merwara and classified as a " C " class prisoner ?

(b) Have the Bombay Government addressed the authorities of Ajmer-Merwara to take back this prisoner, who is undergoing imprisonment in the Sabarmati Jail ? If so, has this prisoner been taken back to Ajmer-Merwara, and if so where is he confined at present ?

(c) Of what offence was this prisoner found guilty, and when will he be released ?

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

(b) The prisoner is at present confined in the Central Jail, Ajmer, to which he was transferred on the 5th July, 1938 at the request of the Bombay Government.

(c) He was sentenced under section 307, I. P. C., on 21st May, 1932. His sentence, excluding remissions, will expire on 20th May, 1942.

REJECTION BY ALL-INDIA RADIO TO INCLUDE THE SONG " BANDE MATARAM " IN INDIAN PROGRAMMES.

92. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether the All-India Radio authorities have rejected the suggestion of a number of radio licence holders to include the " Bande Mataram " song in the Indian programme? If so, why was the suggestion rejected (vide the *Amrita Bazar Patrika*, dated the 20th April, 1938, page 18) ?

THE HONOURABLE MR. S. N. ROY : Yes. As the Honourable Member is perhaps aware, there has been some controversy about this song in which it was considered undesirable that All-India Radio should be involved.

REPATRIATION OF INDIAN LABOURERS FROM MALAYA.

93. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) In consequence of the recent cut in the rubber quota in Malaya, are the local authorities there resorting to repatriation of Indian labourers ?

(b) What approximately is the number of Indian labourers in Malaya, and how many of them have been repatriated ; and to what places ? What facilities have been given to them ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Indian labourers are repatriated from Malaya to India for various reasons ; the reduction in the rubber quota is one of them. I would add that only those Indians are repatriated who wish to come back.

(b) The number of adult Indian labourers in Malaya on the 31st December, 1937 was 243,999 on rubber estates and 62,760 in other places. Repatriates from January to June, 1938, were 9,441 adults and 3,806 minors. They were repatriated to the Madras Presidency. The usual facilities of feed and keep at the immigration depots or camps both in Malaya and Madras or Negapatam, as well as free transportation to their houses, were provided.

MAULVI OBEIDULLAH SINDHI.

94. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Have Government received any representation from M. Obeidullah, an Indian exile in Mecca, for permission to return to India ?

THE HONOURABLE MR. J. A. THORNE : Yes. Government have decided that they will raise no objection to his return to India, and have taken steps to inform him of this decision.

SCHEME OF COLONIZATION AT KOLUR FOR SOUTH AFRICAN REPATRIATES.

95. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Is it proposed to form an agricultural colony for South African repatriates in Kolur, about 40 miles from Madras ? If so, how

many of the repatriates will be thus accommodated, and what arrangements have been made, or are proposed to be made in the matter ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Government understand that the scheme, which was sponsored by a private individual, was considered by the Government of Madras but has been dropped as being unsuitable for South African repatriates.

MESSRS. MAHOMED ALI AND SONS, ABYSSINIA.

96. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Will Government state whether the firm of Mahomad Ali and Sons, who are winding up their affairs at Addis Ababa (Abyssinia) have not yet received payment of the balance of money promised by the Italian authorities ?

(b) If so, what amount of money is due, and what steps have Government taken to protect the interests of this Indian firm ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The firm in question have received in full the balance of money due to them by the Italian authorities.

(b) Does not arise.

INDIAN TRADERS IN SINKIANG, CHINA.

97. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Will Government state whether there are Indian traders in Sinkiang, China ? And if so, how many ? Have the traders there been experiencing difficulty owing to the Provincial Government's policy of devaluation of the internal currency ; and have many persons of importance among them been forced to leave the territory ?

(b) Have Government enquired into the matter, or do they propose to make an enquiry ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Up to the 16th June, 388 persons had registered themselves as British subjects at His Majesty's Consulate General, Kashgar ; of these, 138 registered themselves as traders.

The devaluation of the 3½ tael notes to 2 tael has caused some difficulty not only to Indian but to all traders in Sinkiang.

Only one important Indian trader has left Sinkiang. His departure, though it was probably due to the attitude of the Sinkiang authorities to Indian traders generally, was voluntary and in his own interests.

(b) Representations have been made to the Sinkiang Provincial Government through His Majesty's Consul General at Kashgar and every effort is being made to induce them to adopt a more reasonable attitude towards Indian merchants.

THE HONOURABLE MR. HOSSAIN IMAM : Is this an independent Government or is it under China?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I think it is under the Chinese Central Government, but if my Honourable friend wants further information I shall have to ask for notice.

INDIANS IN KASHGAR AND YARKAND.

98. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government make a statement regarding the steps taken by them recently in connection with the position and status of Indians in Kashgar and Yarkand area, indicating the hardships to which they were subjected by reason of political disturbances, and the steps taken to improve their conditions?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I would draw the attention of the Honourable Member to my answer to parts (a) and (b) of his question No. 77 in Final List on the 8th September, 1938.

TRADE AGREEMENT WITH EGYPT.

99. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether they contemplate entering into any trade agreement with Egypt with regard to cotton and other goods?

THE HONOURABLE MR. M. SLADE : No, Sir.

THE HONOURABLE MR. HOSSAIN IMAM : Will the Government explain the reason?

THE HONOURABLE MR. M. SLADE : There is no proposal for a trade agreement at present before Government.

INDIAN STATES AND FEDERATION.

100. THE HONOURABLE MR. B. N. BIYANI : Will Government state—
(a) What Indian States have submitted their Instruments of Accession in order to join the Federation?

(b) What are the reasons for other Indian States in not submitting their Instruments of Accession to join the Federation?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The attention of the Honourable Member is invited to the statement made in the other House by the Honourable Sir James Grigg on the 10th March, 1938, in reply to Mr. T. S. Avinashilingam Chettiar's starred question No. 737 to which I have nothing to add.

SHORT NOTICE QUESTION AND ANSWER.

BURMA RIOTS.

101. THE HONOURABLE SIR PHIROZE SETHNA : Will the Honourable the Leader of the House be pleased to make a statement on the rioting in Burma which commenced on 26th July and is still continuing and the steps

either already taken or contemplated to be taken by the Government of India to safeguard Indian interests in regard to their personal safety in the future and also in regard to compensation for the losses sustained by them ?

THE HONOURABLE KUNWAR SIE JAGDISH PRASAD : 1. As Honourable Members are probably aware already, the rioting in Burma falls chronologically into two parts, namely, from the 26th of July till the 2nd of August approximately, and the recent revival. As regards the first stage, Honourable Members must already be familiar with the course of events and I need not go into that. The events of the second stage, to the extent of our information, may conveniently be grouped into (a) events in Rangoon and (b) events in the districts.

(a) *In Rangoon.*—Fresh disturbances first broke out on the afternoon of the 2nd September following an assault by Burmans on three Indians in a suburb of Rangoon. There was rioting in the centre of the town by Indians who stoned buses and assaulted Burmans. Apart from a few isolated assaults, the night was quiet. The 3rd of September passed without any disturbance, but on the afternoon of the 4th trouble broke out again in Rangoon and there were a number of cases of assault both by Burmans and Indians, but little looting is reported. On the 6th it was stated that conditions had considerably improved. The night of the 5th was quiet but on the morning of the 6th one Burman hermit was assaulted by Indians and two Indians were attacked by Pongyis. Reports received on the 7th indicate that conditions were quiet on the night of the 6th and on the morning of the 7th. Since the rioting re-started, the police opened fire on one occasion and have captured a number of *dahs* and other weapons.

(b) *In the districts.*—On the 29th of August sporadic cases of incendiarism, looting and assault were reported from Mandalay and the Indians there closed their shops for three days. The local police force was reinforced on the morning of August the 29th. On the 31st August the Commissioner there convened a Conference as a result of which all the shops were re-opened on the 1st of September. According to the latest information from the Government of Burma, the disturbance in Mandalay is now under control and conditions have returned to normal except for two isolated assaults on Indians reported on the 4th September. Other districts where tension still exists are Henzada and Shwebo, but in these too the situation is reported to be much easier. The extra reinforcements have not yet, with three exceptions, been withdrawn from the districts to which they had been sent.

2. Accurate figures of casualties among Burmans and non-Burmans for the whole country during the earlier part of rioting are not yet available owing to the wide area affected. The Government of India have requested the Government of Burma to furnish particulars of these as soon as possible. The total number of casualties from September 2nd until the morning of the 6th was 19 killed and 103 wounded.

3. As regards refugees, the Government of Burma informed us on the 19th August that the total number was estimated by the Indian community at 6,000, 4,000 from Rangoon and suburbs and 2,000 from the districts. It

was stated at the time that 300 had been sent back to their homes in India and 600 more were to be sent back during the following week. Exact figures of the numbers that have so far returned to India are not available. It has been suggested to the Government of India that, owing to the revival of rioting, the situation as regards refugees must have considerably worsened. The Government of Burma have been asked by telegraph to let us know the present position. The question as to what assistance the Government of India can render in dealing with this problem is under active consideration.

4. I would now state briefly the action which the Government of India have already taken or contemplate—

- (1) The immediate need is the restoration of peace. Strong representations have been made that firm and effective action should be taken to this end.
- (2) The Government of Burma proposed originally to appoint a tribunal to inquire into the origin of the affray on the 26th July, 1938, and the conduct of the police in the course of that affray. The Government of India are pressing that the scope of the inquiry should be widened to cover the whole course of the riots and the question of the adequacy or otherwise of the steps taken to cope with them. They have also recommended that the inquiry should be entrusted to a strong and impartial tribunal so as to inspire confidence.
- (3) Government have now taken up the question of the payment of compensation to Indians for loss of life or property caused by the riots and the establishment of an independent agency for the purpose of assessing the claims.
- (4) In view of the revival of rioting, they are taking steps to send immediately to Burma their Agent so as to keep them in touch with developments. The Government of India share with Honourable Members and the people of this country the sense of horror that these riots have aroused and the sympathy which every one must feel with the sufferers. They are doing and will continue to do their best to safeguard the legitimate interests of their nationals abroad.

THE HONOURABLE MR. P. N. SAPRU : A supplementary question, Sir. Will the Government of India be represented before this tribunal by any counsel? Are they proposing to send any one to represent the Indian case before this tribunal.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I am not in a position to answer that question. First, the question of a tribunal has to be settled. As to what further steps the Government of India will take will depend on circumstances.

THE HONOURABLE SIR PHIROZE SETHNA : How soon is the Agent expected to be in Burma?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: We are taking steps that he should get there as quickly as possible.

THE HONOURABLE MR. HOSSAIN IMAM: When is that tribunal to be appointed which is to assess the damages?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I am afraid I cannot add anything more to the very full statement that I have already made.

THE HONOURABLE MR. HOSSAIN IMAM: What I wanted to know was whether we have represented to the Secretary of State or to the Burma Government for this purpose.

THE HONOURABLE SIR JAGDISH PRASAD: The normal channel of communication of the Government of India is the Secretary of State for India who is also the Secretary of State for Burma.

CENTRAL ADVISORY BOARD OF EDUCATION.

THE HONOURABLE THE PRESIDENT: With reference to the announcement made by me on the 5th September, 1938, regarding nomination to the Central Advisory Board of Education in India, I have to announce that the Honourable Sir Ramunni Menon has been nominated to it. As there is only one candidate for one vacancy I declare him duly elected.

RESOLUTION *RE* SCHEME FOR INCREASING THE PAY, ETC., OF THE BRITISH ARMY IN INDIA.

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

"This Council recommends to the Governor General in Council that the scheme for increasing the pay and other conditions of service of the British Army in India should not be given effect to."

Sir, the general arguments in favour of a reduction of military expenditure and a more adequate contribution towards the cost of the British troops are well known and I do not propose to tire the Council by repeating them over again. I shall therefore at once come to the Resolution which protests against the proposal to saddle India with further additional defence expenditure. Sir, it will be within the recollection of the Council that on the 10th of March, 1938 Mr. Hore Belisha, who is Defence Minister, made a statement indicating that certain concessions would be hereafter available for British troops. It is proposed to give various allowances, like colonial allowances, marriage allowance, and rations for the British rank and file of the army. Honourable Members will find details in the Hansard Report of the 10th of March, 1938. The total cost of the proposals amounts to 1,600,000 apart from the building programme in 1938. Sir, it must be said to the credit of the Government of India—and I do not grudge them this credit—it must be said to the credit of the Government of India and its Finance and Defence Departments that they represented

[Mr. P. N. Sapro.]

to His Majesty's Government that this increase would have a serious effect upon the Indian budgetary position and increase the cost of British troops stationed in India. We do not exactly know the extent of the burden which is going to be cast upon us, but I rather gather from a question which I put to the Honourable Mr. Williams the other day that the cost of improvement in the conditions of the rank and file will be for next year Rs. 133 lakhs and for this year Rs. 122 lakhs. The full cost of improvements in the case of officers of the British service has not been fully worked out, but from a statement which was made in the other place by Mr. Ogilvie it is likely to be something like Rs. 20 or Rs. 21 lakhs. In addition we must be prepared for an increase in the cost of officers who are mainly affected as regards non-effective charges. This increase will not come into effect immediately, but will ultimately involve the Indian taxpayer in an increase of Rs. 14 lakhs of expenditure. These measures costing extra expenditure are going to be given effect to immediately in India as will be evident from Mr. Hore Belisha's statement. I will just read that statement out, Sir, to the House :

"In general, these measures, including the new time-scale of promotion and incremental stages, will apply as from the ruling date to the officers of the British Army on the Indian establishment. The consequential adjustments of Indian rates of pay issuable to the officers on the Indian establishment will be decided shortly".

Now, Sir, we would like to know what is the attitude of the Government of India towards the imposition of this burden. At one stage, they did protest. That too is evident from certain remarks which Mr. Hore Belisha made in the House of Commons. Now, are they continuing to make any representations to His Majesty's Government, and, if so, what is the nature of those representations? I know, Sir, that the Government of India is a subordinate branch of His Majesty's Government. The Central Government, at all events, still continues to be a subordinate branch of His Majesty's Government. And as a subordinate branch of His Majesty's Government they are not in an effective position to negotiate on equal terms with His Majesty's Government. But this very fact, that His Majesty's Government is dealing with a subordinate branch ought to make His Majesty's Government more considerate towards the Government of India and the Indian taxpayer. Sir, His Majesty's Government claim to be trustees. Then they should execute their self-imposed trust in an honest, just and conscientious manner. Sir, it will be criminal to add a single pie to our already bloated military expenditure. If we take the revenues of the Provincial and the Central Governments into consideration, our proportion of expenditure on defence to the total revenues is in the neighbourhood of 30 per cent. No country except perhaps Fascist Japan spends in normal times as much as we do on Defence. It has been emphasized by us over and over again that the expenditure is so high because the army has certain Imperial purposes also. That there is an Imperial purpose in the Army in India will be evident to those who have read carefully the very excellent Minute of the two very distinguished members of the Capitation Tribunal, one of whom is a member of the Judicial Committee of the Privy Council and the other is an honoured member of the first Federal Court of India. I will not, therefore, labour this point further, Sir. I will not quote. The quotations

are with me but I think the House is familiar with the report of the Capitation Tribunal and I will not trouble it by reading out extracts from it. Sir, social services are starving in the provinces and we desire to have contributions from the Centre in order to give relief to the poverty-stricken masses of India. Have some consideration for these hungry masses, for the Provincial Governments who will be responsible for the development of these social services to a hunger-stricken electorate. If you wish to secure the co-operation of India, if you wish to secure her whole-hearted co-operation, you must act justly by her.

There is another point that I would like to be made clear. I suppose that these concessions will apply to the British officers serving in Indian regiments. Does the figures Rs. 130 lakhs include these officers also?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir.

THE HONOURABLE MR. P. N. SAPRU: Thank you, Sir. I am very glad that the Honourable Mr. Williams has made that point clear because that point was not very clear to me from the answer that was given in the House the other day.

A further point that I would like to emphasise is that I apprehend that these concessions are likely to lead to a similar demand from the King's Indian commissioned officers and the rank and file in the Indian Army. How can you with justice reject this demand? What will be the cost of any increase in emoluments, etc., of these Indian commissioned officers and the rank and file of the Indian Army if increases are to be given to them on the lines indicated by Mr. Hore Belisha in regard to the British troops in India? Sir, my point will become clear if I just indicate the nature of the concessions which it is proposed to give to the officers:

"In future, every subaltern will become a captain in eight years, and every captain will become major in a further nine years".

Now, Sir, if you are to have every subaltern a captain in eight years, then you cannot obviously deny this promotion to the King's Indian commissioned officers also. The same thing applies to a major also.

"Every officer entering at the normal age will be sure of approximately 10 years' service in the rank of major, if not previously promoted. . . . The ages of retirement for each particular rank will be lowered. Generals and lieutenant-generals from 67 to 60, major-generals from 62 to 57, colonels from 57 to 55, lieutenant-colonels from 55 to 50, and majors from 50 to 47".

The effect of these proposals is to considerably accelerate promotion and you cannot accelerate promotion in the case of the King's commissioned officers and not in the case of the King's Indian commissioned officers.

"The effect of these proposals is considerably to accelerate promotion and thereby to give increased pay at lower ages. In the subaltern ranks, however, in the years before the advantages of this acceleration begin to operate, there will be a substantive increase of pay in the case of second-lieutenants by 1s. a day, and of lieutenants by 1s. 2d. a day".

Now, Sir, I have never stood for equal pay as between the Britisher and the Indian. But you cannot give these increases in promotion, etc., and then justly deny to the Indian the same chance.

[Mr. P. N. Saprú.]

Then, Sir, I will give another quotation relating to the officers:

"Retired pay of £407 10s. per annum will be earned by a major at the age of 46, having 33 years' service, whereas an officer of the same age and similar service might have had to retire as a captain on retired pay of £271 10s. under the present regulations. These measures apply to all the combatant corps of the army and will come into effect on 1st August."

So far as retirement and promotion are concerned, you cannot make any distinction between your British officers and your Indian officers. If the cost which will be incurred if these proposals are given effect to if Indian officers has been considered, we should like to have a statement on that point also.

Sir, as I said, the Indian military budget is already a bloated one. We cannot allow it to be increased. We happen to be an enormously poor country and we have to approach these problems from the point of view of the tiller of the soil, not from the point of view of British or Indian vested interests. You must, therefore, stop this mean and melancholy business. It is for these reasons that I would say that the Government of India should not give effect to the proposals made by His Majesty's Government. If His Majesty's Government want to force these proposals on us, let them pay also for any similar concessions that we may have to give to our Indian officers.

With these words, Sir, I commend this Resolution to the unanimous acceptance of the House.

THE HONOURABLE MR. A. DEC. WILLIAMS (Nominated Official): Sir, the terms of this Resolution, as indicated in the concluding words of the Honourable Mover's speech, indicate a certain amount of misunderstanding as to the actual position. I would remind the Council of the answer given by His Excellency the Commander-in-Chief to question Nos. 265—267 on the 4th April this year. I will summarize that answer. His Excellency stated that the Secretary of State for War, in making his announcement of the proposed reorganization of the British Army and the measures proposed to improve its conditions of service recognized the difficulties which the fact that a portion of the Army is stationed in India presented not only to His Majesty's Government but also to the Government of India. The Government of India, on receipt of this announcement, made representations to the Secretary of State for India on the subject and emphasized the serious effect upon the Indian budget which the increased cost of British troops in India would necessarily bring about, and as a result the Prime Minister authorized the opening of discussions in April last between the Secretary of State for India and the Secretary of State for War on certain aspects of Indian defence in relation to the problem of Imperial defence as a whole. The Government of India accordingly have sent an expert deputation to England to participate in these discussions and to place their views on all aspects of the question before His Majesty's Government. Government hope that an announcement on the progress so far achieved in these discussions can shortly be made. I may, however, inform the Council that these discussions are by no means concluded, and that we hope thereby to obtain what may be briefly described as a new deal as a set off against the increased cost to India of the improved conditions

of service of British officers and other ranks which, as already announced may amount to about Rs. 1½ crores a year. It follows that any discussion of the Resolution now before the Council is premature, as Government are not yet in a position to say what advantages may eventually accrue to us, and such discussion is for obvious reasons undesirable during the continuance of these negotiations. The conditions of service for all ranks of the British Army must necessarily be approximately the same in whatever part of the world they may be serving. His Majesty's Government, who alone have the right to determine those conditions, have found that certain improvements were necessary in order to secure adequate recruitment, and these improvements automatically apply in India as well as in England. The only method by which India can avoid such application is by the removal of the British forces from India, a step which cannot, I think Honourable Members will admit, be contemplated as an immediate measure. It follows that the Resolution certainly cannot be accepted in the form in which it stands. The burden which Indian revenues have consequently to bear has been very largely increased. But, as I have already stated, detailed negotiations are still in progress with a view to securing substantially a new deal in relation to defence questions in this country and I trust that the Council will refrain at this stage from further discussions which might prejudice the course of these negotiations. We hope that when they are concluded India will find herself amply compensated for the additional cost of the British portion of the Army in India. At all events, I can assure Honourable Members that the Government is striving to secure the best possible terms for India, and I trust that in the circumstances the Honourable Mover will see his way to withdrawing his Resolution. After the conclusion of the negotiations the Council will be in a position to express its considered opinion on the results.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Mr. President, we can now understand the reason why you thought it advisable to call upon the Honourable Mr. Williams to address the House at this early stage. The explanation he has given will, I am sure, appeal to the House. We were not aware that an expert deputation was sent by the Government of India to discuss matters with the authorities in England. This is as it should be, and we hope that this expert deputation will be able to present facts and figures to the authorities at home which will result in this extra burden of Rs. 1½ crores not being imposed upon India. As the Honourable Mover has already pointed out, and as I had occasion to remark yesterday, 30 per cent. of the total revenue of the Central and Provincial Governments of this country are absorbed in military expenditure, which is a larger percentage than anywhere else in normal times except in Japan, as pointed out by the Honourable Mr. Sapru. We realize that the Home Government have waived the cost of the mechanization of the British units in this country, the exact figure of which I forget. We also realize that they have waived the amount of £100,000 for naval defence, which both amount to a fairly large sum. But, Sir, if the British Government give these sums with one hand and they propose to take away ten times that amount with the other hand as was proposed by the Secretary of State for War, and which would come to nearly Rs. 1½ crores—surely a grave injustice would be done to India. It is not only that we

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Indians feel that the amount of our military expenditure is very excessive, but even Europeans in this country feel the same. I cannot do better than quote a sentence from a leader in the *Times of India* of the 3rd August, wherein it is said :

“ There are definite limits to what our budget can stand and in the present circumstances a sum of 45 crores of rupees is regarded as the maximum available for any defence programme ”.

I hope our expert deputation will be able to convince the authorities on this score and as a result of that we shall be saved this extra taxation. After hearing the Honourable Mr. Williams I would certainly recommend my friend Mr. Sapru to withdraw his Resolution at the present moment because we shall certainly have an opportunity after we have heard the decision of His Majesty's Government to bring it forward once again if needs be.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhamadan) : Sir, we listened very carefully to the sympathetic speech made by the Defence Secretary. But, Sir, there are two facts which cannot be controverted and which will not be solved by any further discussion between the Government of India and His Majesty's Government. Those two facts are these. Firstly, that the expenditure on the Army in India is already very heavy and cannot bear any addition. The second point is that the British Government having admitted that a portion of the Army in India at least is maintained for purposes of Imperial defence and not for internal security and aggression on the Indian frontiers the British Government must pay for that part of the army and not India. We have not found an adequate reason for the British scheme of Indian Army reorganization saddling this country with any further expenditure. These are the two facts for which we have received no satisfactory answer. Why add to our military burdens and why should not the additional burdens, if necessary, be borne by the British Government ? To say that the Indian Government has made representations to the British Government does not satisfy us. I for one do not make any distinction between the two Governments, for all practical purposes they are one and the same the one being subordinate to the other. Therefore, Sir, I do not think this House will be in a much better position to discuss this matter when the final conclusions are reached. I would remind this House that the explanation given by Mr. Ogilvie in the other House, which was precisely the same as that given by Mr. Williams in this House, did not induce that body to withdraw the Motion for adjournment, and the Government was badly defeated. That is another reason why this House should also express its opinion and show that it is not behind the Legislative Assembly in voicing the true feelings of the people of the country. This kind of explanation by the Indian Government that we have put our case before the British Government and we are helpless as a subordinate Government and therefore India must accept the burden as an accomplished fact is not the sort of thing which the people of the country will accept. I do not however propose to stand in the way of my friend withdrawing his Resolution and I am not going to oppose his request for leave to withdraw. All the same I feel very dissatisfied with the Mover accepting the

appeal made to him to withdraw and his accepting the explanation offered by the Defence Secretary.

THE HONOURABLE MR. P. N. SAPRU : The House will be grateful to the Honourable Mr. Williams for the lucid statement that he has made in regard to this matter. Negotiations, as he has pointed out, are going on between His Majesty's Government and the Government of India and an expert deputation has placed our case before the authorities.

As regards what was done in the Legislative Assembly in regard to this question, I think there is a difference between the Assembly and the Council. The composition of this House is not the same as that of the Assembly and I do not think I will be serving any useful purpose if I were to press this Resolution to a vote. I therefore beg leave of the Council to withdraw it.

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

RESOLUTION *RE* REPRESENTATION OF THE GOVERNMENT OF INDIA ON THE WEST INDIES ROYAL COMMISSION.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, I beg to move :

" This Council recommends to the Governor General in Council that he may be pleased to ask the Secretary of State for the Colonies and the British Government (a) to include a nominee of the Government of India in the personnel of the Royal Commission on the West Indies which the Secretary of State for the Colonies has recently announced and (b) to consult the Government of India in framing the terms of reference to that Commission for the reason that large Indian interests are involved."

Recently the Secretary of State for the Colonies announced that the British Government intended to appoint a Royal Commission to investigate into the Labour and other problems in the West Indies. Since this Resolution was tabled, the Commission has already been appointed. Now, what I propose in this Resolution is this. The Indian Government should represent to the British Government that a nominee of the former Government should be included in the personnel of the Royal Commission and that they should be consulted in framing the terms of reference to that Commission. Honourable Members must have noticed that I have stated in the Resolution that large Indian interests are involved. This circumstance makes it necessary that the Commission should include a representative of the Government of India preferably an Indian and that whatever the terms of reference to the Commission may ultimately be decided, the Government of India should be consulted in settling them. A Reuter's telegram informed us yesterday that the Commission sails on October 13th. There is therefore yet time for the inclusion of an Indian representative.

The genesis of this Commission lies in the disturbances that have taken place in the British West Indies during the last few years. There have been a series of labour strikes in several of these Colonies, in particular British Guiana, Trinidad and Jamaica. Last year another Commission was appointed to inquire into the disturbances in Trinidad and recently there was a debate

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in the House of Commons on the Report submitted by that Commission. In the course of the debate, the whole Colonial administration came under review and there was a general feeling in the House of Commons that the British Colonial Administration called for a thorough overhaul. Mr. Malcolm Macdonald, the Secretary of State for Colonies, has responded to this general sense in the House of Commons and appointed a Royal Commission to investigate the situation, not in any particular Colony or Colonies, but in all the West Indian Colonies. It is a matter of regret however that no one has been appointed who may be regarded as a representative of the Government of India, and who may therefore be trusted to represent and safeguard the interests of the Indian settlers in these Colonies. I therefore urge in this Resolution that the Government of India should take immediate steps in order that the Colonial Secretary might yet be induced to include an Indian in the personnel of the Commission and that the terms of reference might be so framed that a thorough inquiry in the condition of Indian settlers would also be made.

What is, Sir, the position of our countrymen in the West Indies? It is no exaggeration to say that it is extremely unsatisfactory. According to the Census Reports for 1931, the total Indian population in Trinidad is 138,667 out of a total population of 331,084 or 42 per cent.; in British Guiana it is 130,540 out of a total population of 310,933 also 42 per cent. In the neighbouring Colony of Dutch Guiana at Surinam, the Indian population numbers 39,300 out of a total population of 144,385 or 27 per cent. This is by the way but I may state that the Indian population in those Colonies, British or Dutch, consists of a majority of Hindus, besides Muslims and Christians. The Indian immigrants were brought into these Colonies as "indentured" labourers and they were allotted to sugar estates. Most of them were from the poorest labouring classes, mostly from the so-called depressed classes. The recruiting agents, of deliberate and set purpose, recruited such persons, thereby hoping that the owners of sugar estates would find in them a class of labourers who would submit without complaint to the hardest labour and who would be content to receive even the lowest wages. Though these estates are thriving on labour recruited from this country, little attempt is made to improve their condition economically, socially or educationally.

A good deal of light is thrown on the condition of the Indian labourers in these Colonies in the report of the Commission appointed in regard to the Trinidad Disturbances of 1937. In June of that year there were serious disturbances in the oilfields and on sugar estates in Trinidad. The report of this Commission was unanimous. In the same way, there were strikes continuously for some years on the sugar plantations in British Guiana, strikes in which both the Indian and the negro labourers took part, the British Guiana Government appointed a Commission to inquire into these strikes and the disturbances that resulted in consequence. Both the report of this Commission and that of the Commission on the Trinidad disturbances are highly illuminating and they leave no doubt whatever as regards the necessity of improving the condition of the Indian immigrants in both these Colonies. In British Guiana, nearly 50,000 Indians reside on the sugar plantations, and they form

over 90 per cent. of the resident labour employed on the sugar estates, besides a fair population of Indians who work on the estates, though they do not reside there. The point to be noticed is that the prosperity of the sugar plantation in British Guiana is largely due to Indian settlers.

For the limited purpose of my Resolution, it is not necessary to go into details as regards the grievances of the Indian labourers in these Colonies. I may however state a few particulars in order to bear out the contention that large taxation interests are involved. Strange as it may appear their condition has deteriorated since the discontinuance of the indenture system. That system was terminated in 1921 and though the Office of the Immigration Agent General was continued for some years longer, it was also abolished in 1932. Since then, the interests of the Indian immigrants have practically been neglected. The Commission itself has thus described the worsening of the position of the Indian labourers as a result of the discontinuance of the indenture system and the Office of the Immigration Agent General. They observe :—

“ What the indenture labourer was to the employer under the ‘ indenture system ’ the resident estates’ labourer is today under the ‘ plantation system ’. But he is without the Associations, safeguards and means of ventilating grievances which indentured and unindentured East Indians alike had enjoyed from 1846 to 1932, for though provisions of the Immigration Ordinance became inoperative with the cancellation of indenture in 1921, the Immigration Department continued to function as Protector of East Indian labourers until the year 1932 when the post of Immigration Agent General was abolished and the duties of Immigration Agents distributed among offices of the District Administration Scheme ”.

The principal grievance of the Indian labourers is that employers refuse to let the labourer know before he began to do some work as to the rate of wages to be paid to him. It may be mentioned in this connection that work on the sugar estates is done largely on the piece-work system and not on the daily wage system. Again deductions from the wages of labourers are made without adequate justification. With regard to these grievances the Commission says :—

“ The main grievance, neglect or refusal of employers to inform labourers of the rates to be paid before commencement of work to be performed by task, and deduction from the earnings of labourers were offences under the Immigration Ordinances. With the discontinuance of supervision provided by Government, irregularities have crept in and as accumulation of minor grievances without easy means of ventilation has been responsible to a great extent for recent labour troubles on estates ”.

Other grievances of the labourers relate to housing, grants of land, hours of work and also the rate of wages. Formerly, under the Immigration Ordinance, they were entitled to free housing, and frequently had free grants of land made to them for growing cereals or vegetables for domestic use. But during the last four or five years these concessions have been discontinued, with the result that discontent grew among them. In fact it appears as is pointed out by the Commission itself for years past the labourers have been more or less dissatisfied with certain conditions, economic and otherwise, prevailing on sugar estates. All these facts and circumstances point to the conclusion that steps must be taken to stem the tides of discontent among the labourers so that there may be no recurrence of strikes and disturbances in future and that the labourers may be content with their lot. The Commission itself has recommended that Government should create some authority invested with such powers as may be necessary for the efficient safeguarding of the interests

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of the employed no less than the employer. My own view is that a responsible Agent of the Government of India should be appointed to protect the interests of our countrymen in these Colonies.

In February last my Honourable friend Pandit Kunzru moved a Resolution urging that active steps should be taken to facilitate the settlement of Indians on land in British Guiana and to discourage their repatriation to India. That Resolution was accepted by the Government on whose behalf my Honourable friend Sir Jagdish Prasad stated that he would do his best to take up the matter with the Colonial Office. I shall feel extremely grateful if he will be so good as to enlighten this House with regard to the measures which have been adopted at his instance with a view to the general improvement of the condition of our countrymen in these British Colonies.

The position of Indians in Trinidad is also far from satisfactory. Trinidad does not contain, even predominantly a British population.

12 NOON. The vast bulk of the Trinidadian population of European extraction is of Spanish or of French origin, and the British are small in number. I have already cited that there are 138,667 Indians in Trinidad. There are also negroes whose population is about one lakh. This Colony is famous for its oilfield which is the largest in the British Empire. There is also the sugar industry which is subsidized by Government. Indian labourers are employed in the sugar industry and they suffer practically from the same grievance as those in British Guiana. In the disturbances that took place in 1937, the lead was taken by a negro leader, one Mr. Butler and those who took part in them were mostly non-Indians. Nevertheless they have suffered the same hardships as negro labourers. Most of the Indian labourers are, as I have already stated, employed in the sugar industry. But the conditions of employment are very unsatisfactory. Recently, even the Colonial Secretary spoke of the sugar industry in terms which amount to an indictment of the industry. He said: "Not only must the people be kept employed but must be employed under decent conditions and not under conditions of economic slavery".

I have said enough I think to show that we in this country are vitally interested in the position of our countrymen in these Colonies. One thing is certain and no one can honestly dispute it. Both these Colonies are important for the economic prosperity of the British Empire. The oilfields in Trinidad are a vital element in the organization of the defence of the British Empire. The sugar industry also both in Trinidad and British Guiana forms a highly important economic asset of the British Empire. And in both these industries Indian labour is largely employed. I submit that it is the duty of the British and the Indian Governments to take every step to safeguard the interests of the Indian labourers. What is wanted is not that they should be regarded as mere hewers of wood and drawers of water, but as decent citizens who enjoy a fair standard of existence. Mr. Malcolm Macdonald, who presides at present over the Colonial Office, has shown a high statesmanlike spirit in deciding to appoint a Commission which will go thoroughly into the entire

question of Colonial administration. These Colonies are Crown Colonies, not Dominions enjoying full responsible government. Indeed, in Trinidad the Legislative Council has not even an elective majority, and whatever franchise there is, is very high. The Indian labourers contribute to their economic prosperity, but they do not seem to enjoy any of the rights of citizenship. I do not know whether any of them enjoys the franchise. It is no exaggeration at all to say that they are virtually exploited by the owners of those industries in which they are employed. Sir, as I consider the wretched condition of these countrymen of ours, I cannot but have a feeling that the principle of equality and of equal citizenship is yet conspicuous by its absence in these and in some other parts of the British Empire. In our own country, we have been working with steady progress and advancing with fair rapidity on the path of self-government. But the condition of our countrymen in these Colonies presents a contrast which cannot but excite our feelings to a high state of resentment. Some one has recently said that the British Empire or Commonwealth would ultimately be wrecked on the rock of the ill-treatment given to Indians in the British Dominions and Colonies. The Colonial administration of Great Britain is yet in a very backward condition, it is too wooden, too antediluvian. The present Colonial Secretary inherits noble traditions of advanced political thought and action. It is to be hoped that he will take every care to see to it that the Commission he has appointed will make a thorough enquiry into the condition of the Indian labourers in these Colonies, and make recommendations which will leave no cause of dissatisfaction in future. Be that as it may, it is the plain duty of the Indian Government to do all that they can to protect the interests of the Indian immigrants in these Colonies. In the first place they must strongly represent to the Colonial Government that no Commission would be considered satisfactory which does not contain an Indian representative of the Government of India. And secondly, they must urge that the terms of reference to the Commission must include all questions affecting the life, the status and the future prospects of the Indian labourers. They must also urge that the time is come when in all these important Colonies British India must be represented by an Agent appointed by the Indian Government. Sir, I have every hope that my Resolution will be accepted by both Government and the Council.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, not many words are needed to support the Resolution which has been so ably moved by our honoured Leader, Sir Phiroze Sethna. Sir Phiroze Sethna, Sir, has gone very exhaustively into this question. Large Indian interests are involved. He has told us that in Trinidad the Indian population is 42 per cent. of the total population and in British Guiana also the Indian population is 42 per cent. of the total population. The Government of India and the people of India have a special responsibility in regard to the Indian population in Trinidad and British Guiana. This Indian population went as indentured labourers. It was a very inhuman system of labour. It was abolished at the instance of Mr. Gokhale and we have, therefore, as we are responsible for this system, a special responsibility. He has also told us that little effort has been made in the past to improve the economic and educational conditions of the Indian labourers there. Sir, it is desirable that there

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should be an Indian on the Royal Commission which has been appointed by His Majesty's Government, and that the terms of reference should include an investigation into the conditions of Indian labour. In both these Colonies there have been many strikes and a Labour Commission which was appointed in British Guiana reported that the grievance of the labourers was genuine. Sir, I hope the Government of India will make strong representations in the matter. It is still possible for His Majesty's Government to appoint an Indian to this Commission and I hope, Sir, that the Government of India will also press for the appointment of an Indian Agent in Trinidad and British Guiana.

With these words, Sir, I give my strong support to the Resolution of the Honourable Sir Phiroze Sethna.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so ably moved by the Honourable Sir Phiroze Sethna. Sir, there is a Sabha, called the Punjab Sanatan Dharam Pratinidhi Sabha, a religious institution, which has sent some time back a missionary for religious work to Trinidad, Tobago, and British Guiana. This Sabha, of which I have the privilege to be the President, receives fortnightly information from this religious preacher, Dr. Pandit Parsaram, who reports from time to time that the conditions of Indians there is not at all good and that their representations to the Government do not get any response. Under the circumstances, Sir, it is the duty of the Government of India to safeguard the interests of the large number of Indians who are there and the sooner they appoint the Agent the better because without him those poor Indians cannot successfully approach the Colonial authorities there.

With these few words, I support the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, my Honourable friend Sir Phiroze Sethna, in moving this Resolution, has surveyed the conditions under which Indians live in the group of islands known as the West Indies. He has quoted extensively from the reports of the Commissions which were appointed to inquire into the disturbances which had occurred there, and he has pointed out that Indians in certain of these islands, especially Trinidad and British Guiana, form a very considerable proportion of the population and that, having regard to the circumstances in which they went to these Colonies it is incumbent on the Government of India to safeguard their interests and to see that the conditions under which they live are decent and proper. He has pointed out that since the system of indentured labour was abolished, there has been a deterioration in the machinery to look after these ex-indentured labourers. He is fortified in this assertion by the reports of the Commissions which were appointed. The Commissioners found that after the system was abolished, while there was a Protector of these indentured labourers before, no machinery which could take

the place of the Protector was set up in order to look after the interests of these ex-indentured labourers. I think it is unnecessary, in discussing the terms of this Resolution to go into the many detailed problems that concern so vitally Indians in the West Indies. These problems are largely economic and social. But my Honourable friend also mentioned in the course of his speech that there were political disabilities also. I should like to point out to my Honourable friend that in reply to a question in the House of Commons, when the terms of reference and the personnel of the Commission were announced, Mr. Malcolm Macdonald made it quite clear that these terms also included political questions. I might, with your permission, Sir, read out the question and answer in the House of Commons on the 28th of July. Mr. Creech Jones asked :

“ Under the terms of reference, is consideration of the political disabilities of the inhabitants of the colonies excluded from the inquiry ? ”

Mr. Macdonald replied :

“ No, Sir. Those questions are covered by the terms of reference so far as they are connected with the economic and social conditions ”.

I need hardly repeat in this House what I have said so often before that the Government of India fully realize their responsibility in regard to the welfare of their nationals abroad. We fully recognize that we cannot dissociate ourselves from the welfare of these men, who went with our consent from here. It has been, and it continues to be, the policy of the Government of India to watch anxiously over the disabilities, the needs and aspirations of their nationals abroad. In this connection this House has pressed for the appointment of an Agent. I may inform the House that the question is still under discussion with the authorities in England. The Government of India adhere to the policy which I announced when this question was last discussed in this House. We hope that some satisfactory solution will soon be found.

Now, Sir, as regards the actual terms of the Resolution, my Honourable friend has made two suggestions, *viz.*, (1) that in the personnel of the Royal Commission there should be a representative of the Government of India, and (2) that the Government of India should be consulted in regard to the terms of reference. As my Honourable friend already knows, the terms of reference and the personnel were announced as far back as the end of June, and as he has already mentioned a few minutes ago the itinerary of the Commission has also been announced. If he will kindly refer to the terms of reference he will find that apart from the Colonies in which we are primarily concerned, there are a number of other islands which come within the purview of the Royal Commission. The Royal Commission will deal with the social and economic conditions in Barbados, British Guiana, British Honduras, Jamaica, Leeward Islands, Trinidad and Tobago and Windward Islands. I have here a statement showing the Indian population in these islands. As my Honourable friend said, in British Guiana the percentage of the Indian population to the total population is a little over 42. Out of a total population in British Guiana of 332,898, 140,000 odd are Indians. In Trinidad and Tobago, there are about 151,000 Indians, making a proportion of 33·7 per cent. of the total population.

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But when we come to Jamaica, the percentage is only 1·6 of the total population, and the number of Indians involved is about 19,000. In British Honduras, there are only about 500 Indians and the numbers are also insignificant in the case of Barbados and Windward Islands. Having regard to the territorial jurisdiction of the Royal Commission and the insignificance of the Indian population in four out of the seven Colonies which the Commission will visit it would have been rather difficult to insist on an Indian being appointed on the Commission. But we felt that it was extremely important that the Indian case should be properly put before this Commission by a representative of the Government of India. I cannot say anything more at this stage than that we are in active correspondence with the authorities in England in regard to this matter and I hope that a decision will soon be reached. All that I can assure the House is that we are fully alive to the very great importance of the Indian case being properly presented before the Royal Commission.

Also with regard to the terms of reference, as I have pointed out before, they are fairly wide. They now include the social and economic conditions and also political questions so far as they are connected with those conditions. In these circumstances and in view of the statement that I have made to the House, I hope my Honourable friend will withdraw his Resolution. I should also like to say that we are indebted to my Honourable friend for the moderation and knowledge with which he has moved this Resolution. The subject is undoubtedly of very great importance. The findings of the Royal Commission will affect, I hope for good, the lives of over 300,000 Indians in those distant Colonies, and it is only right and proper that the House should insist that the case for these people should be properly put forward by the Government of India before the Royal Commission.

THE HONOURABLE SIR PHIROZE SETHNA: Mr. President, it is a matter of gratification that the Government of India of late years, if I may be precise, from the time of the Viceroyalty of Lord Hardinge, are manifesting an interest in the welfare of our nationals overseas. This is as it should be and it is gratifying to hear from the last sentences of the Honourable the Leader's speech that he regards it as a paramount duty of the Government of India to look after the interests of Indians abroad.

My Resolution asks for a representative of the Government of India and preferably an Indian to serve on the Commission. The Honourable Sir Jagdish Prasad has explained to us his difficulties in this matter. The personnel of the Commission was announced some weeks back. At the same time it was not possible for us to bring forward this Resolution at an earlier date because the Council did not commence its work till last Monday. We are therefore pleased to know from him that, anticipating the Resolution, the Government of India have already moved in the matter. They have not moved in the matter in the manner contemplated in my Resolution, but they have done the next best thing, namely, they are trying to prevail upon the authorities in England to have a representative of the Government to explain to the Commission the entire situation as it affects the Indian

population in the West Indies. The Honourable the Leader of the House has not told us in what capacity his representative will be serving. He will, I take it, not be a member of the Commission. Will he be a sort of liaison officer between the Commission and the Indian population? For no matter what great importance the Commission may place in the advice this representative gives to it, we would certainly have preferred it if he could have been on a footing of equality with the other members of the Commission. I would appeal to the Honourable Leader that, whilst there is yet time because the Commission sails on October 13th, if he could yet manage to get his representative appointed a member of the Commission, I think such a move will be appreciated very much in the country. If, however, he thinks it is too late or if he meets with a refusal, then we must thank him for the course he has adopted. But we do hope that the representative he selects will be one whose name will inspire confidence in the minds of the general public and who may be trusted to plead the Indian cause before the Commission with ability and success.

The Honourable the Leader read out the terms of reference. They are to investigate social and economic conditions in the islands he named and matters connected therewith and to make recommendations. Does the Honourable the Leader think that this is wide enough to meet all our requirements? I have nothing to say, but if there is anything left out which, because of the wider knowledge he himself and his Department possess, he thinks would help the authorities in England, I hope he will inform the authorities. While thanking him for the action he has already taken, I would ask the leave of the House to allow me to withdraw the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I should like to say a word in regard to the specific questions that were put by Sir Phiroze Sethna as to the position of our representative. I think it will be within the recollection of my Honourable friend that we have in the past sent representatives from the Government of India to present our views before previous Commissions. For instance, when the Hilton Young Commission went to East Africa in 1927, we sent Kunwar Sir Maharaj Singh and Mr. Ewbank as our representatives. Again, in 1929, when Sir Samuel Wilson went to East Africa Mr. Sastri was deputed to help the local Indian communities to present their case. It will also be within the recollection of my Honourable friend that before the Joint Parliamentary Committee which had to consider the Hilton Young and Wilson reports, Mr. Sastri again went as our spokesman. It is our hope that our representative in this case will be in the same position as the representatives whom we have sent in the past, by whatever name he may be known, Observer, or whatever it may be. I am afraid, for the reasons I have already stated, it is now difficult, in view of precedents, to ask for the inclusion of an Indian on a Commission whose jurisdiction extends to territories where the Indian community has no dominating interest. But I can assure my Honourable friend that in the choice of our representative we shall certainly see that he is competent, that he will inspire confidence and that he will be able to plead the cause of the Indians with ability and vigour.

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

INDIAN PENAL CODE (AMENDMENT) BILL.

*THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan): Sir, I beg to move for leave to introduce :

" A Bill to amend certain provisions of the Indian Penal Code (sections 124A and 153A)."

THE HONOURABLE THE PRESIDENT: Do you wish to say anything in support of your Motion ?

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: So far as the aims and objects are concerned, they are there. I have not got very much to say at this stage. I think the two amendments are very essential considering the political crisis that we are going through and they would meet the requirements of today. I do not wish to add anything at this stage.

The Motion was adopted.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Sir, I introduce the Bill.

RESOLUTION *RE* CONSTRUCTION OF A RAILWAY LINE BETWEEN ISHURDI, E. B. R., AND SADHUGANG.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I beg to move the following Resolution :—

" This Council recommends to the Governor General in Council to take steps for the construction of a railway line between Ishurdi, a railway station on the E. B. R., and Sadhuganj, or some place near it on the Brahmaputra *via* Pabna City, at an early date."

Sir, the project of a line over this part of the country is an old one. It has been hanging in the air ever since 1910. It is a very short route which not only opens up the tract through which it passes, but serves with a little extension across the Jumna to link up Lower Assam and Chittagong division with the United Provinces and Bihar by the shortest possible route. The line is thus an important one from the railway point of view as a whole.

It was surveyed at first in 1910. In 1914-15 a reconnaissance survey was made from Ishurdi *via* Pabna to Sadhuganj and a detailed survey was made over the same route in 1916, and it was considered from the first to be a very paying line. This report was endorsed by Mr. Van Someren, the present Traffic Manager of the E. B. R., and the construction of the line was recommended to be taken up at once. But owing to the continuance of the great European war the project had to be dropped for the time being.

On the 6th February, 1922, the Chairman of the Pabna District Board who happened to be then a Member of the Bengal Council moved a Resolution in that Council urging the Local Government to move the Government of India

* Not corrected by the Honourable Member.

to take up the construction of the line without delay and the Local Government accepted the Resolution with a slight modification of the words "at an early date" for the words "without delay". So in 1924 the Railway Board directed the Agent, E. B. R., to arrange for a detailed investigation of the traffic prospects of the project observing that the line had promised to be remunerative.

In accordance to that direction Mr. Bhandarkar, District Traffic Superintendent, who held the investigation submitted his report in 1925 by which he reversed the previous report of Messrs. Staunton and Yeld about the approximate estimates of earnings prepared in 1914-15 and said that the line would not be a remunerative one because the tract was well served with roads, boat and steamer traffic.

This, I submit was his opinion based on local conditions merely for he had to admit in his report that—

"country boats from as far away as Monghyr and Gorakhpur find their way into the interior and a regular business goes on in paddy and rice from Dinajpur and Maldah districts"

which are likely to be diverted to the railway line proposed to be constructed by the Natore-Nachoul and Dinajpur-Ruhia railway projects and he advocated that the Pabna line may be constructed after the construction of the above two lines so as to be able to tap the down trade from the United Provinces and Bihar to Eastern Bengal and Lower Assam just as the Katihar line was doing in the case of North Bengal and Upper Assam. And the Agent, E. B. R., in submitting this revised traffic report by his letter No. 216-C./W., dated the 6th July, 1926, to the Secretary, Railway Board, expressed his intention to take up the detailed investigation of the project after the construction of Dinajpur-Ruhia and Natore-Nachoul railways.

Though these two railway lines have been constructed about a decade ago, the detailed investigation of the Ishurdi-Pabna-Sadhuganj project as proposed by the Agent in 1926 has not yet been taken up.

Since the submission of Mr. Bhandarkar's report in 1925 the river Ganges has receded far off from the town of Pabna so that the Kustia-Pabna, the Panba-Paksey, the Bera-Bhangora and Sadhuganj-Ullapara steamer routes have been closed, the Calcutta-Patna steamer service on the Ganges no longer passes by Pabna town, the Calcutta Assam steamer route passing by the Jumna is constantly shifting its course causing constant dislocation of trade and traffic and the rivers Ichhamati and Barnoi flowing within this tract have dried up.

Even Mr. Bhandarkar had to admit in his report that merchants from Bera, a very important trade centre next to Pabna in the district—

"prefer sending goods by boat to Goalundo and then rail it, as steamer companies discourage combined booking".

This boat traffic from Bera to Goalundo is also now impossible because the river from Bera to Junnua has dried up and boat traffic over the mighty rivers Jumna and Padma is liable to risk of considerable loss to life and property.

[Mr. Kumarsankar Ray Chaudhury.]

Of the four main roads serving the locality, the Pabna-Ishurdi road no doubt is in good condition, but the other roads being unmetalled are fast deteriorating and traffic over them during the rains is almost impossible. Moreover, the rivers which served these roads as outlets having dried up, they no longer serve the people of the locality as trade routes.

As Mr. Bhandarkar observed :—

“ The position of the district through which the railway will pass is thickly populated and is rich in agriculture, it will tap a fairly big jute area as also seed, sugarcane and turmeric for the first fifteen miles the country is high Beyond Pabna as far as Barnai Khal is again high From Dulai to Kashinathpur the country is higher The drainage of the country is from west to east and the rivers flow mostly in that direction and the alignment will cross only one river Ichhamati There are a number of *bats* along the line ”.

The intervening low lands as stated by Mr. Bhandarkar near Ichhamati a few miles and near Barnai Khal up to Dulai six miles and from Kashinathpur for seven miles have also since risen by process of siltation and the price of land and labour and other materials having fallen much below what they were in 1925 the cost of construction is expected to be much less than the estimate prepared in 1925. The income of the projected line is expected to be much higher, on the other hand, than the expected income in 1925 on account of the depreciation of the road and the closing up of the river traffic and the construction of the Natore-Nachoul and Dinajpur-Ruhia railway lines and the rapid industrial development of the locality by the starting of ten rice, oil, flour and cotton mills in Pabna and the project of the construction of a sugar factory there and the rise of the textile home industry and establishment of 150 hosiery factories which consume yarns worth Rs. 70 lakhs a year as given out in the reports published by the Director of Industries, Bengal, and the Director General of Statistics of the Government of India.

Sir, before the railway project was first entertained by the railway authorities in 1910 Messrs. Martin & Co. agreed to construct a light railway to Pabna and a guarantee of 4 per cent. interest was given by the District Board ; but the project was abandoned as the Government took up the railway project themselves.

In 1924 again a petition was submitted to Government for financial assistance and a guarantee of 5 per cent. on the capital outlay for the purpose of forming a public limited company by private enterprise and this was strongly recommended by the District Magistrate and forwarded by the Commissioner to the Government of Bengal but this scheme also was dropped on account of the publication of the Ackworth Committee Report which recommended that no further permission should be granted for construction of railway lines by private enterprise.

From 1924 onwards the District Board and Municipal Commissioners of Pabna have adopted a series of resolutions pointing out the necessity and urgency of this railway project and pressed the Government of India for it.

Since then various representations have been made to the railway authorities which have also been supported by the District Magistrate of Pabna

and the Commissioner, Rajshahi Division. Only one of the representations has been against the scheme and that from an interested quarter, viz., the Pabna Motor Association, which cannot be expected to serve the needs of the locality so far as its heavy goods traffic is concerned.

A new alignment has been suggested up to Pabna town by the District Board which will not only avoid competition with the Ishurdi-Pabna motor road, but will pass through a densely populated area with almost no means of communication. The proposed new alignment will tap many additional marts and bring in considerably increased earnings, both from coachings and goods. The Ishurdi-Pabna motor road extends only up to Pabna town, and is only 18 miles in length out of a total length of 48 miles to be covered by this project. The communication of this part of the district is not only extremely difficult but risky. With the commencement of the rains, the people of this area are practically locked up in their houses and trade also suffers a great deal owing to defective communication.

The journey by motor buses is not only risky and inconvenient but far more costly. Motor accidents frequently occur on the Ishurdi-Pabna road.

As this line generally passes through high lands and as there are no rivers worth the name, big channels and other waterways to span, this line will not damage the crops of the agriculturists or overflow the homesteads of the people or injuriously affect the health of the localities through which it will pass. On the other hand, the proposed railway line will further the interest of trade and agriculture and give marketing facilities to traders and agriculturists and benefit them in other ways.

It was pointed out to the Commissioner of the Rajshahi Division by a deputation of the people of Pabna which waited on him on 23rd August last—

“ that motor buses and trucks can never replace the need for railways the town of Pabna would never grow and expand. Large scale industries would never be established and the question of the communication of the area would never be satisfactorily solved except by the construction of a railway line in the area ”.

All sections of the people and all statutory bodies, other associations, and the local press, except a few motor transport companies, have appreciated the urgent need of and are insistent on the construction of this railway line. People have to purchase their necessaries of life at high prices in comparison with the prices prevailing at the places connected by railways.

Out of the eight district headquarters in the Rajshahi Division, all the seven district towns, except the town of Pabna are connected by railway.

In normal times passenger traffic up to Pabna town may be served by the buses to same extent, but not the ever-increasing volume of goods traffic, which cannot bear expensive rates charged by the trucks as at present. These excessive rates are greatly hampering the development of industries in Pabna.

The advantages of this line can be summarized as follows :—

- (i) Present bad condition of the ryots in the area and surrounding localities, due to low prices of agricultural crops, on account of want of proper facilities of transport, will improve.

[Mr. Kumarsankar Ray Chaudhury.]

- (ii) General deterioration of the financial position of the merchants and traders in the area mostly due to defective communication will improve considerably.
- (iii) Large scale industries would grow up in the town of Pabna.
- (iv) It will afford considerable relief to poor passengers by reducing the fares by almost half. As has been pointed out by the Pabna District Muslim League, the district of Pabna, of which 75 per cent. population are Muslims will remain cut off from the centre of civilization by the non-construction of this line.

In view of the almost unanimous and pressing demand for this railway line, Government should examine its present position and have the revised traffic report prepared in 1925 reviewed in view of altered circumstances during the last 14 years. The review would not be at all expensive and can easily be undertaken and finished within a short time by the Research Officer of the E. B. R. The detailed investigation into this project, which was promised by the Agent, E. B. R., in his letter No. 216-C.W., dated the 6th July, 1926, to the Secretary, Railway Board, should now be carried out. The people and public bodies of Pabna are of definite opinion that the total cost of the construction of this project will be much less than the previous estimates and consequently the profit would be much more and it will in view of subsequent improved conditions be a commercial proposition, and in this view they are supported by the opinion of Mr. Van Somoren, the present Traffic Manager of the E. B. R.

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

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I rise to support this Resolution. (*Cries of "Shame".*) I see nothing wrong in the Resolution asking for a railway though at the same time, Sir, I confess I am not competent to speak on the merits of this Resolution because I am not familiar with the subject nor have I given any thought to the question as to how the proposed railway is going to affect motor transport. However, Sir, I wish to put before this House two important telegraphic communications which have been sent to me asking me to support this Bill. They may have some effect on Sir Guthrie Russell when replying to this Resolution. My support to the Resolution is mainly based on these communications.

The first communication is from the Pabna Mahajan Samiti and runs :

" Pray pass Ishurdi-Pabna-Sadhuganj Railway resolution ; line urgently necessary for economical transport with immense possibilities for development of large areas ; financial prospects quite good ; will be remunerative ; no unhealthy rail motor competition likely ; questions regarding flood, sanitation, health, agriculture not arise, as present policy of railway constructions with proper waterways after studying river physics by experts safeguards all these interests "

I have also received a telegram from the Pabna District Congress Committee which runs :—

" Ishurdi-Sadhuganj Railway line urgently necessary for development industries and other business. Please carry out Resolution through Council "

I commend these telegrams to the consideration of the Honourable Sir Guthrie Russell.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I congratulate the Honourable the Mover and also my Honourable friend Mr. Ramadas Pantulu on their championship of the cause of railway transport in Eastern Bengal. I entirely sympathise with the Honourable Mr. Kumarsankar Ray Chaudhury in his endeavours to improve communications in his part of the country and I entirely agree with him that adequate transport facilities are necessary for a country to develop. But what are adequate transport facilities? This depends entirely on the nature of the country to be served, the amount of produce it produces and the amount of goods it can consume. In certain cases a railway may be essential; in other cases the needs of the district may be met by road or possibly water transport. When is a railway essential? It seems to me that there is a fairly simple answer to that question. The answer is, when the traffic offering is likely to give a reasonable return on the capital expenditure. I do not mean necessarily in the first year of opening, but say within five or six years of opening, and this is generally the criterion that we adopt when considering the financial prospects of any railway project. It should also be remembered that Government in the Railway Board are the custodians of the public purse so far as Railways are concerned, and if Railways are not to be a burden on the general revenues, I do not think we are justified in acting in any way except as a prudent business man would act if he was investing his own money. What are the chances of the line advocated by the Honourable Member being a paying proposition? In my opinion frankly, none. The Honourable Mover has given us the history of this project—a fairly detailed history. But I do not think he has been quite fair to the Government of India or the Railway Board. It is perfectly true that in 1914-15, as the result of then investigations, the E. B. R. recommended that this line should be constructed and were of opinion that it would be profitable, and but for the intervention of the Great War, shortage of funds and the impossibility of obtaining material, the line would probably have been constructed. To that extent the Honourable Mover has been unfortunate. As far as we are concerned, I think we have been remarkably fortunate, because, I am almost certain that had the line been constructed then, it would have been one of the lines which we would now be considering closing down. The Honourable Member mentioned the reports made in 1926. There were actually two reports in that year. He quoted a letter from the Agent, but he entirely omitted to state that the Agent, in sending forward the report, said that the line was hopelessly unremunerative. Despite that, further investigations were carried out in 1928 and 1930. These gave much the same results. By that time the possibility of motor competition had to be considered. The line has always been subject to a certain amount of river transport competition. As the result of these final investigations, the Railway Board wrote to the Government of Bengal and said that there was no hope of the line ever paying and they proposed to shelve it indefinitely. It appears that this decision was accepted by the Government of Bengal, because I am informed that His Excellency Sir John Anderson, then Governor of Bengal, in replying to an address presented to him by the Pabna Municipality

[Sir Guthrie Russell.]

in 1936 said that he was not prepared to re-open this question as the line must be definitely unremunerative. This is 1937. I understand a good metalled road has been opened between Ishurdi and Pabna, if there was no chance of the line paying in 1930 when there was no such road, what chance has it of paying now? But if the Honourable Mover can persuade the Bengal Government to pay for the cost of an investigation we will certainly carry that investigation out. We have already paid for four and I do not think we can be asked to pay for any more. It seems to me that this project has had a fair run for its money and that now it might be decently buried.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Sir, I beg leave to withdraw this Resolution.

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

HINDU WOMEN'S RIGHTS TO PROPERTY (FURTHER AMENDMENT) BILL.

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

" A Bill to amend the Hindu Women's Rights to Property Act, 1937, and to make certain other provisions."

Sir, the objects of this Bill are mentioned in the Statement of Objects and Reasons. Briefly, the objects are these. Under the Hindu Law as it stands at present Hindu women are given certain rights in property, but those are limited rights, and are known as a woman's estate. The object of this Bill is mainly to enlarge the limited interests of Hindu women to absolute ownership and to provide for succession to such property. The objects have been explained in greater detail in the Statement of Objects and Reasons. So, I will not take up much time of the House. I apply for leave.

The Motion was adopted.

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

SHEBAITY BILL.

***THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal : Non-Muhammadan) :** Sir, I move :

" That the Bill relating to the Shebaity right and the office of Shebaitis and the devolution of such right or office in Hindu Debutter Endowments in favour of family deities be circulated for the purpose of eliciting opinion thereon."

Sir, the Bill was introduced by me in September last and as this is a very important piece of legislation concerning properties dedicated by Hindus to family deities and over which there has been numberless litigation and conflicting decisions, it is right and proper that the Bill should be circulated for eliciting public opinion thereon.

* Not corrected by the Honourable Member.

Sir, with these words, I move that the Bill be circulated for eliciting public opinion.

THE HONOURABLE MR. J. A. THORNE : (Home Secretary) : Sir, I do not propose to go into the meaning and merits of this Bill at any length. My Honourable friend opposite has set a good example of brevity. But I have to explain why Government must oppose this Motion. I am not a lawyer ; I have not studied the subject and I am not qualified to express an opinion on the merits of the main provisions of this Bill. In fact, I may say that until recently I was wholly ignorant of the meaning of the terms which are used in the Bill.

1 P.M. Coming as I do from the South I find these terms both mysterious and in the literal sense outlandish. But, Sir, I invite the attention of the House to that part of clause 1 which says, " It extends to the whole of British India ". Now, Sir, I submit as grounds for my opposition to this Motion and grounds on which I ask the House to reject it, that the Bill is not within the competence of this House and the Central Legislature. I do not think my Honourable friend will deny that the subject-matter of the Bill falls within the expression " charities and charitable institutions, charitable and religious endowments " which is item 34 in List II in Schedule VII to the Government of India Act.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadan) : On a point of order, Sir, is it open to a Member of this House to oppose the jurisdiction of this House to entertain a Bill of this sort after leave has been given to introduce ?

THE HONOURABLE THE PRESIDENT : I was just going to ask why objection was not taken at the time the Bill was introduced ? When the Member has finished I will deal with that question myself.

THE HONOURABLE MR. J. A. THORNE : Well, Sir, I was not a Member of this House when the Bill was introduced —

THE HONOURABLE THE PRESIDENT : But somebody must have represented Government ?

THE HONOURABLE MR. J. A. THORNE : Yes, Sir, but I suggest that if objection was not taken it was possibly in accordance with the well-established convention that the Government do not oppose at the introduction stage a Bill brought by a private Member.

However, Sir, what I was saying is that this Bill is not within the competence of the Central Legislature. It is not of course denied that the Central Legislature has a limited power of legislation as regard subjects included in the Provincial List, but that power is specifically restricted by the provisions of section 100 of the Act. I will read in particular sub-sections (3) and (4). Sub-section (3) says :—

" Subject to the two preceding sub-sections the Provincial Legislature has, and the Federal has not, power to make laws for a province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule (hereinafter called the " Provincial Legislative List)."

[Mr. J. A. Thorne.]

Sub-section (4) is as follows :—

“ The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a province or any part thereof.”

And the context shows, Sir, that “ province ” there undoubtedly means a Governor’s province. Thus, in respect of charitable and religious endowments the Central Legislature has not power to legislate for the whole of British India, and that is the term used in clause 1 of this Bill. I suggest to the House that “ to circulate ” in this Motion means to circulate throughout British India, and to circulate a Bill which on the face of it this House and the Central Legislature has not power to pass would be a most unreasonable course and one which would damage the repute of this Chamber. I must, Sir, on this ground alone oppose the circulation Motion. I would suggest to my Honourable friend that the best course for him is to withdraw this Bill in its present form and, if he is so advised, bring in another Bill which is within the scope of the Central Legislature. But if he is not prepared to adopt that course, Government have no alternative but to oppose the Motion.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY : I submit, Sir, that under section 100, sub-section (4) my Bill is quite *intra vires* as it does not relate to any particular province but to the whole of British India. Sub-section (4) of section 100 says that

“ The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a province or any part thereof ”.

My legislation does not relate to any particular province : it relates to the whole of British India, including the centrally administered areas. So I submit my Bill is quite *intra vires* and I ask your ruling on this point.

THE HONOURABLE MR. RAMADAS PANTULU : I do not wish to say anything on the merits of the objection taken by Mr. Thorne because it is a question of law which I have not yet looked into. But I would submit that the present occasion is not the proper time for taking an objection on the ground of jurisdiction. When the Bill is to be considered by this House it will be open to the Member opposite to say that this Council cannot consider it for certain reasons but not on a Motion for circulation. Therefore, I think this objection should have been taken at the time when leave to introduce was asked for. I beg to submit this is not the proper time for this objection.

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official) : I would just like to make one point clear. The Honourable Member who has just spoken seems to be under a misapprehension. This is not a point of order. This is an objection to the Bill on merits.

THE HONOURABLE THE PRESIDENT : I did not attach any importance to it as a point of order. I only heard him as a Member.

THE HONOURABLE MR. SHAVAX A. LAL : There is no question of a ruling now. We are just arguing against the Bill on merits and we say that it will be entirely futile for this House to consider this Bill when, even if we were to pass it, it would not be treated as valid by any court of law.

As for the legal argument put forward by the Honourable Mover, I have only to say that if his argument were valid then the Central Legislature can legislate on any matter in the Provincial List on the simple ground that it is purporting to legislate for the whole of British India and not for a province. If the Bill had been restricted to the centrally administered areas it would be a different thing, but he says that it purports to apply to the whole of British India, and that is our objection on the merits.

We could not take the objection at the time when the Bill was introduced because, Sir, it would not be in the fitness of things to ask for a ruling of the Chair on a constitutional issue, because the constitutional question has ultimately to be decided by the Federal Court. It is as an objection on the merits of the Bill that we are putting forward on this argument of the Bill being *ultra vires* of this Legislature.

AN HONOURABLE MEMBER: Could you not confine the administration of the Bill to the centrally administered areas ?

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Seeing that this point has been taken and evidently the other side are not prepared to meet it, would you consider having it some other day ? Because if this is beyond our competence, as Mr. Thorne said, it won't look well for us to circulate a Bill which we have not jurisdiction to pass. I would suggest, with your permission, that this question may be discussed at some length, because the other side is not prepared to meet it now. On the face of it, as Mr. Thorne said, the question of Shebaitis concerns only one or two provinces. For instance, in Madras, though as lawyers we know what the law is, and in the Bombay Presidency and in one or two other provinces there are no such things as Shebaitis. We have no doubt religious trusts and temple trusts, and so on, but Shebaity or private trust is not known in the South and in Bombay I think. It is only a question which concerns Bengal and probably Bihar. I do not know whether it prevails even in the United Provinces. I do not want to take up the time of the House, but my suggestion is, if you agree, this question might be discussed at some length some other day.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, we do not want to trouble you for a ruling on a legal point. As my Honourable friend the Home Secretary said in the course of his speech, he took this as one of the grounds of objection to the Motion made by my Honourable friend and whatever may be the legal merits of the case, I think the issue might be put to the vote of the House whether the Bill should or should not be circulated for eliciting public opinion.

THE HONOURABLE THE PRESIDENT: Am I to understand that there are a large number of Members who would like to study this question in view of the fact that it would affect their provinces and similar Bills might be brought forward in the future. If that is the general sense of the Council I am quite prepared to permit the Honourable Member to have the discussion on the Motion adjourned to a later date. But I want to be convinced on that point

[Mr. President.]

first, whether it is the intention of the Council. I myself personally feel that the question which has been raised by the Honourable Mr. Thorne is a very important and a very intricate question. I personally would like to give some thought to the matter.

THE HONOURABLE SIR DAVID DEVADOSS: It is entirely in your discretion, Sir, to adjourn the discussion.

THE HONOURABLE THE PRESIDENT: Will you accept my suggestion to postpone the discussion of the Motion?

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY: Yes, Sir.

THE HONOURABLE THE PRESIDENT: And bring it up at a later stage to allow Honourable Members to have an opportunity of studying this very important and intricate question?

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY: Yes, Sir. The Motion was, by leave of the Council, adjourned.

THE HONOURABLE THE PRESIDENT: Honourable Mr. Motilal, you do not wish to move your Motion about amendment of the Standing Orders?

THE HONOURABLE MR. G. S. MOTILAL: No, Sir, I do not wish to move.

POLYGAMOUS MARRIAGE REGULATING BILL.

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

"That the Bill to regulate (restrain) polygamy in British India be circulated for the purpose of eliciting opinion thereon."

It was introduced only the other day. As this is a very important piece of social legislation it is right and proper that this should be circulated to receive the seal of approval of the general public before it becomes the law of the land.

With these words, Sir, I move that this be circulated for eliciting public opinion.

THE HONOURABLE MR. J. A. THORNE (Home Secretary): I have something to say on this Bill, Sir. It may take some little time.

THE HONOURABLE THE PRESIDENT: You are entitled to as much time as you want.

THE HONOURABLE MR. G. S. MOTILAL: Are we sitting late, Sir?

THE HONOURABLE THE PRESIDENT: That is for me to decide later.

THE HONOURABLE MR. J. A. THORNE: Sir, I am sorry to have to criticise the Bills begotten by my Honourable friend opposite, but I must express the opinion that this Bill in its present form is certainly unacceptable. If I may say so, it reads more like a rough draft of a Bill than one duly framed for the consideration of this House. Government will not oppose the Motion,

that is to say, if it is the wish of the elected Members of this House that this Motion for circulation should be adopted Government will not oppose it, because on matters affecting social and religious customs it is the policy of Government to leave it to elected Members. But the Government cannot support circulation; and I must say that my own opinion is that it would be a mistake to circulate a Bill framed in these terms. Circulation is a process which involves a certain cost and labour at this end; it involves a great deal of labour at the other end—all over British India. I suggest that the only result of circulation would be to collect a large number of opinions which would make plain the obvious defects of this Bill. Now, Sir, some of those defects are as follows—

THE HONOURABLE THE PRESIDENT: Is it necessary at this stage to go into those defects, because if the Motion is accepted and the Bill is circulated for opinion, when the opinions are received and when the Motion is next made it will be open to any Member to ask for a Select Committee and all those defects will be considered by the Select Committee and decided. My personal opinion is that at this stage to recapitulate all those objections will not serve any useful purpose. Bills are hurriedly drafted in many cases. After circulation Bills are referred to Select Committee and then they emerge from the Select Committee much improved. If you wish to argue any further I have no objection.

THE HONOURABLE MR. J. A. THORNE: I have so often been at the other end and have received as District Magistrate Bills which have been circulated both by the Provincial and Central Legislatures and I should myself have received great assistance if at the earliest possible stage in the Legislature the defects had been brought to notice.

THE HONOURABLE THE PRESIDENT: We cannot improve the defects here.

THE HONOURABLE MR. J. A. THORNE: I am entirely in your hands, Sir. If the view of the House is, as I think it must be on their reading this Bill, that the defects are so manifest that no words of mine are required, then the course open to the House appears to me obvious.

THE HONOURABLE THE PRESIDENT: When a Motion has been admitted, there are two courses open at a subsequent stage for any Honourable Member, first, to move that the Bill be circulated for eliciting public opinion or secondly that it be taken into consideration. One of the two courses must be adopted, and that is what the Standing Order says. I have no power therefore to hold that the Motion is out of order when the Honourable Member has asked that it be circulated for eliciting opinion. As regards defects, there may be many; it is not my concern at this stage. When the Bill comes back, it will be open to the Mover or any Honourable Member at that stage to move as an amendment that it be referred to a Select Committee. I therefore hold that the Motion is in perfect order at this stage.

Motion made :

“That the Bill to regulate (restrain) polygamy in British India be circulated for the purpose of eliciting opinion thereon.”

Question put and Motion adopted.

HINDU POLYGAMOUS MARRIAGE RESTRAINT BILL.

THE HONOURABLE MR. G. S. MOTILAL (Bombay : Non-Muhammadan) :
Sir, I beg to move :

“That the Bill to declare illegal polygamous marriages among Hindus be circulated for the purpose of eliciting opinion thereon.”

Sir, Hindu law has no doubt given liberty to men to marry any number of wives in the lifetime of their first wives. But the Hindu jurists have not approved of this practice nor does Hindu society approve of it. The restraints which used to operate and prevent such marriages do not now work in the same effective way as they did before. For these reasons, Sir, it is necessary that we should provide such restraints by legislation. And we know it is the policy of the Government not to bring in social legislation but to leave it to the non-official Members to do so. I therefore, Sir, request that public opinion may be elicited on this Bill so that the House may be in possession of the opinion of the public and Government may also be in possession of that opinion and form their policy and their attitude having regard to the opinion of the country.

Sir, I move.

The Motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 13th September, 1938.