

Friday, 22nd September, 1939

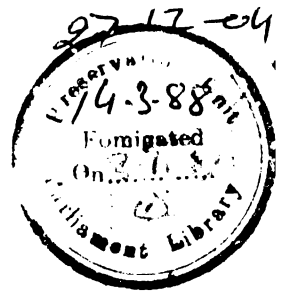
THE  
COUNCIL OF STATE DEBATES

VOLUME II, 1939

*(11th September to 27th September, 1939)*

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SIXTH SESSION  
OF THE  
FOURTH COUNCIL OF STATE, 1939



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## CORRIGENDA

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Date.	Page.	Question No.	Corrections.
18-9-39	51	3	In line 5 from the bottom, <i>for</i> "granted" <i>read</i> "recruited for".
18-9-39	51	3	In line 4 from the bottom, <i>deletes</i> the semi-colon and the words "have been recruited".
18-9-39	51	3	In line 3 from the bottom, <i>deletes</i> "yet".
18-9-39	51	3	In last line of the page, <i>for</i> "s" <i>read</i> "is".
18-9-39	112	..	In line 18 from the top, <i>for</i> "thought" <i>read</i> "though".
20-9-39	138	..	In line 14 from the bottom, <i>for</i> "rom" <i>read</i> "from".
20-9-39	141	..	In line 19 from the top, <i>insert</i> "of" <i>after</i> "both".
20-9-39	149	..	In line 15 from the top, <i>for</i> "carreer" <i>read</i> "career".
20-9-39	155	..	In line 12 from the top, <i>for</i> "them" <i>read</i> "then".

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# COUNCIL OF STATE.

*Friday, 22nd September, 1939.*

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

## MEMBER SWORN :

The Honourable Mr. Arthur deCoetlogan Williams (Nominated Official).

## STATEMENT LAID ON THE TABLE.

**THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) :** Sir, I lay on the table a copy of the Notification of the Government of India in the Home Department No. 21/68/39-I-Political (W.), dated the 31st August, 1939, making certain amendment in the declaration of exemption under section 6 of the Registration of Foreigners Act, 1939, as published with the Notification of the Government of India in the Home Department No. 21/32/39-Political, dated the 21st June, 1939.

### REGISTRATION OF FOREIGNERS (EXEMPTION) ORDER, 1939.

*No. 21/68/39-I-Political (W), dated the 31st August, 1939,*—In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to make the following amendment in the Declarations published with the Notification of the Government of India in the Home Department, No. 21/32/39-Political, dated the 21st June, 1939, namely :—

In the said Declarations—

1. In Declaration 4 for the words " or Portuguese India " the words " Portuguese India, the Straits Settlements or the Federated Malay States " shall be substituted ;
2. After Declaration 4 the following Declaration shall be inserted, namely,—  
" 4A. That the provisions of rules 4, 15 and 16 of the Rules shall not apply to, or in relation to, any British subject who enters, or departs from, British India on board any vessel travelling solely between a port in British India and a port in the Persian Gulf, Makran, or Saudi Arabia ".

(Sd.) H. J. FRAMPTON,

*Deputy Secretary to the Government of India.*

## BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

**SECRETARY OF THE COUNCIL :** Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the following Bills which were passed by the Legislative Assembly at its meetings held on the 20th and 21st September, 1939, namely :

1. A Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

[Secretary of the Council.]

2. A Bill further to amend the Indian Aircraft Act, 1934, for certain purposes.
3. A Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose.
4. A Bill further to amend the Indian Oaths Act, 1873, for a certain purpose.
5. A Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty.
6. A Bill to amend the Motor Vehicles Act, 1939, for certain purposes.
7. A Bill further to amend the Insurance Act, 1938, for a certain purpose.

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### RESOLUTION *RE* AMALGAMATION OF BRITISH AND INDIAN MILITARY HOSPITALS.

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

“That this Council recommends to the Governor General in Council that the system of maintaining separate hospitals for British and Indian troops in military stations in India be discontinued.”

Sir, the Military Medical Services are organized mainly into (1) British military hospitals, (2) Indian military hospitals, (3) the Indian Hospital Corps and (4) military food laboratory. The British military hospitals are entrusted with the medical and sanitary care of British officers, British other ranks and their families including children, while the Indian military hospitals are generally responsible for the treatment of Indian officers, Indian other ranks and all classes of followers whose pay and allowances are paid from the Defence estimates. Recently, Sir, the Government, in order to effect economies, have arranged at certain military stations that Indian military hospitals should have small British sections attached to them, and also that British military hospitals should have small Indian sections attached to them. I find, Sir, that there are 29 hospitals of the first class, 20 of the second class, 33 of the third class, 35 of the fourth class, and 21 of the fifth class, which are open throughout the year except at certain hill stations where they are only open for a portion of the year, the period varying from six to eight months. In the majority of military stations, I find, Sir, that separate hospitals are maintained for British and Indian troops. The principle underlying my Resolution is to do away with this obnoxious thing and that is the racial discrimination. Sir, in 1931, the Retrenchment Committee appointed by the Central Government reported that in most of the hospitals the accommodation was very considerably in excess of the average daily number of sick and also usually well in advance of the highest number of sick on any day in the preceding years. I urge the amalgamation of these two kinds of hospitals on

grounds of economy as well as to do away with the principle of racial discrimination. I am not habituated to tell stories in this House, Sir, but my personal experience in my province goes to show that the civil British population at least in my province have no objection to be treated in the same hospital where the Indians are also treated. I find, Sir, in my own province that in one particular hospital the civil surgeon there, though a European, wanted the best Indian surgeon to be in charge of that hospital and he got him transferred from another district to that district and I found him very popular not only with Indians but also with the Britishers, their wives and children. We had some time ago this obnoxious principle followed in various departments of the Government. Fortunately, Sir, times have changed and, for instance, in the Railways and other departments, that principle has been given up. Now, Sir, I find that for the maintenance of these military medical services, we require about Rs. 1,38,42,000. That is the budget estimate for the year 1939-40. If my proposal is put into effect, a lot of expenditure that is incurred on this account will be saved and the feeling that exists amongst Indians, not only politicians but even Indian military officers and Indian other ranks that they are not being treated on the same footing as their colleagues, the Britishers, will eventually disappear. Sir, I do not think that my British friends will complain, or that they have any reason to complain, that they will not get the same treatment that they are obtaining now in the British hospitals if they are treated in the Indian hospitals. I do not want to reduce the efficiency of the hospitals. But there is a great deal to be done in this matter and if this Resolution is accepted we shall be able to save a large amount of expenditure and also to remove this feeling of racial discrimination. Indian officers and British officers have got a common mess. Nobody has complained up till now that because there is a common mess, the British officers have certain grievances against the Indian officers. We have been told by the British officers as well as the Indian officers that all of them must have a common mess. I know that in these hospitals members of the R.A.M.C. are probably appointed to be in charge of these hospitals which look after the treatment of British officers and British other ranks and their wives and children. Indian public opinion is very vocal on this point. The point is that India does not want the services of the R.A.M.C. There are two grounds why we do not want their services. One is that the R.A.M.C. is not under the control of the Government of India but is under the control of the War Office and the Imperial Government. Another is that Indians are denied any jobs in that Corps. On these two grounds we object to that kind of Service. If, however, we have not been successful in our demands to do away with that Service, at least on the ground of economy and in order to remove this heartburning, I submit that Government should accept the principle underlying this Resolution and should take serious steps to amalgamate these two kinds of hospitals in military stations, so that Indians and the Indian taxpayers may not have any reason to say that they have to spend more money for special treatment of their British colleagues. I submit, Sir, that the principle underlying this Resolution is a very sound one and I hope Government will accept it.

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

**THE HONOURABLE MR. A. DEC. WILLIAMS (Nominated Official):** Sir, I trust that the Honourable Mover, when he has heard what I have to say, will not consider it necessary to press his Resolution. Government have already, some years ago, accepted the principle underlying it. In reply to a question in this House on the 13th of September, 1933, His Excellency the Defence Member said :

“ Government have accepted the recommendations of the Army Retrenchment Sub-Committee regarding the amalgamation of British and Indian military hospitals. About a dozen hospitals have already been so amalgamated ; at 25 other stations, where the number of British or Indian troops is small, the patients are treated in British or Indian wings of the same hospital : at two others, the hospitals will be amalgamated as funds are available for the reconstruction of buildings. This policy will be continued and put into force as funds and circumstances permit ”.

Since then, this policy has been pursued to the extent of the establishment of combined hospitals at Bombay, Risalpur and Dinapore, and if combined hospitals have not been everywhere introduced, it is for one of two reasons. It is not always as the Honourable Mover suggested economical to combine hospitals. Where there are two hospitals in operation, both of them in a suitable position and housed in suitable buildings, it is clearly uneconomical to scrap one building and to enlarge the other. And subject to one other consideration that I will shortly mention, it is solely for reasons of economy that all stations do not contain combined hospitals. That other consideration is that in certain very large military stations in the direction of the Frontier, we have to provide the nucleus for expansion in time of war—two good examples are Rawalpindi and Peshawar—and nothing less than two hospitals form a sufficient nucleus for the amount of expansion that is envisaged in those stations in the event of war. There is one assurance I can give the Honourable Mover, and that is that whatever considerations may originally have dictated the institution of separate hospitals in cantonments, no racial considerations obtain now. I can give him that assurance, and subject to those two considerations which I have just mentioned—economy and the necessity for expansion in a small number of large military stations in the direction of the Frontier—Government fully accept the principle underlying this Resolution, and I hope the Honourable Mover will not find it necessary to press it in the form in which it is expressed, which is so definite that Government cannot accept it.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan):** Mr. President, I should like to take this occasion to say a word or two about the necessity of equalising the amenities provided for both British and Indian soldiers in the hospitals. It is not enough merely to amalgamate the hospitals and provide the same building and staff. It is also necessary that the standard of amenities fixed for British and Indian patients should be the same. For instance, there should be no difference in the bedding of the two classes of patients. Again, the same quality and kind of rations ought to be given to them. The same remark would apply in regard to the nursing arrangements made for British and Indian patients. That is the reason why I am principally interested in the Resolution moved by my Honourable friend Mr. Kalikar. It is possible to have amalgamation, to have British and Indian patients treated in the same



hospital, and yet to continue the differentiation which I have just spoken of. I hope that my Honourable friend Mr. Williams will be able to say something as reassuring on this point as he has said in connection with the question of amalgamation.

**THE HONOURABLE MR. V. V. KALIKAR :** Sir, the assurance given by my Honourable friend Mr. Williams makes me think whether this Resolution should be pressed or not. He said that the Government has accepted the principle and in certain military stations hospitals have been amalgamated. I fully agree with my Honourable friend Mr. Kunzru that there ought not to be any discrimination in the treatment given to Britishers and Indians within these amalgamated hospitals.

**THE HONOURABLE THE PRESIDENT :** His speech referred to the equalization of the amenities ; your Resolution refers to the amalgamation of the two branches.

**THE HONOURABLE MR. V. V. KALIKAR :** I do want amalgamation. At the same time I want equal treatment, as Mr. Kunzru has raised that point. I hope my Honourable friend Mr. Williams will give us also an assurance on that point, that there will be equal treatment for Indians and Britishers in the same hospital, and if that assurance is given I will certainly beg the leave of the House to withdraw the Resolution.

**THE HONOURABLE MR. A. DEC. WILLIAMS :** I am afraid, Sir, it is quite impossible for me to give any assurance on the part of the Government as regards a matter which is not included in the Resolution before the Council. I should be very sorry if this Resolution is pressed to a division and Government have to oppose it. Government have accepted the principle underlying it with two reservations which I think are reasonable.

**AN HONOURABLE MEMBER :** But he wants an assurance about equal treatment.

**THE HONOURABLE THE PRESIDENT :** The matter referred to by the Honourable Mr. Kunzru is not included in your Resolution and it is difficult for a Government Member to give any assurance in that connection. So I would advise you to withdraw your Resolution.

**THE HONOURABLE MR. V. V. KALIKAR :** Sir, I beg the leave of the House to withdraw the Resolution.

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

#### INDIAN CARRIAGE BY AIR (AMENDMENT) BILL.

**THE HONOURABLE MR. J. D. TYSON (Communications Secretary) :** Sir, I beg to move :

“That the Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.”

Sir, as Honourable Members will see this is a simple one-clause Bill. It aims at clearing up the meaning to be ascribed to the French word “*préposés*” used in the official version of the Warsaw Convention of 1929. That was a Convention for the unification of certain rules relating to international carriage by air. In the official English translation the word “*préposés*” was translated

[Mr. J. D. Tyson.]

as "agents". Now there was a subsequent Convention on the unification of rules on a different subject, signed at Rome four years later, and the official Convention was in French and the same term "préposés" was used; but in the English translation it was agreed that a better rendering would be "servants or agents" instead of "agents". Now the Warsaw Convention in its English form, with the word "préposés" translated as "agents", has been embodied in Indian legislation. It forms the First Schedule to the Indian Carriage by Air Act, 1934. To show the sort of context in which the word is used—it occurs some five or six times in the Convention and therefore in our Act implementing the Convention—I may quote Article 20:

"The carrier is not liable if he has proved that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures".

If this Bill is adopted, that will read in future as "his servants or agents". That is an article in favour of the carrier. Here is one against him:

"The carrier shall not be entitled to avail himself of certain provisions in his favour if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment".

That is the kind of context in which this word occurs. His Majesty's Government have amended their own Act of 1932, which ratified the Warsaw Convention, to bring the wording into consonance, in this matter, with their further Act of 1936 which ratifies the Rome Convention; and in the Bill before the House a similar interpretation is proposed for adoption. I do not think, Sir, I need take the time of the House with any further explanation.

Sir, I move that the Bill be taken into consideration.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. D. TYSON: Sir, I move:

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

The Motion was adopted.

#### INDIAN RUBBER CONTROL (AMENDMENT) BILL.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary): Sir, I move:

"That the Bill further to amend the Indian Rubber Control Act, 1934, as passed by the Legislative Assembly, be taken into consideration."

I am afraid I cannot like my Honourable colleague claim that this is a simple Bill in the sense that it consists of one clause, because it consists of no less than 31 clauses. At the same time I feel sure that it is not necessary to detain the House much longer than he did for this reason that the fundamental principle underlying this Bill was accepted by the Legislature in 1934 when the Indian Rubber Control Act was passed and all that really we have

to consider now is certain amendments to that Act which are proposed in circumstances fully explained, I think, in the Statement of Objects and Reasons. A perusal of the Notes on Clauses will satisfy Honourable Members of the Council that practically all the amendments may be described as falling within the last sentence of the Statement of Objects and Reasons, that is to say, the removal of minor administrative defects which experience has brought to light. There is one clause which has real substance in it and that is clause 20 which gives a certain amount of latitude to the rubber industry which was not allowed under the Act in the matter of new planting and replanting. Under the Act as it stands replanting is subject to somewhat severe restrictions; it will now be unrestricted. New planting was to all intents and purposes prohibited altogether; it will now be permitted during the years 1939 and 1940 to the extent of 5 per cent. of the total area planted at the end of the year 1938. In that connection I might mention that the revised Inter-Governmental Agreement itself has appreciably increased the basic quota allotted to India from 13,000 tons in 1938 to 17,500 tons in 1939. I think, Sir, that is all that I need say in commending this Bill to the consideration of the House.

Sir, I move.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Sir, I should like to put a question to the Honourable Mover in regard to this matter. It is stated in the Statement of Objects and Reasons that the Government of India decided to accept the revised Inter-Governmental Rubber Agreement as the Provincial Governments, the Indian States and the other interests concerned were unanimously of opinion that the rubber control scheme had been beneficial to the country. Could he tell us in what respects the old scheme had been beneficial to the country and whether in assessing the benefits of the scheme the position of Indian workers on the rubber plantations outside India was also taken into consideration? The Honourable Member knows that Indian workers are employed in rubber plantations both in Malaya and Ceylon and I should like to know whether the Government of India paid any attention to the condition of these people before arriving at a decision on this subject.

THE HONOURABLE SIR ALAN LLOYD: Sir, I think it would have been outside the whole purpose of the International Rubber Regulation Agreement to go into details as to conditions of labour employed in any particular country which adhered to that Agreement. The benefit to this country may, I think, be assessed by the fact that the price of rubber has more than doubled since the control was introduced. That presumably has also been beneficial to countries such as Malaya and it certainly seems to me to be obvious that conditions like that give labour far greater security of employment and an opportunity for better remuneration than would have obtained if the price of rubber had remained at the ruinously low price which prevailed before the Convention was entered into, which would almost certainly, I think, have meant the closing down of a good many estates and the discharge of workers regardless of the conditions under which they had been working. I am afraid I cannot give any further assurance to my Honourable friend that the interests of workers of any class or of all classes was specifically dealt with in the Agreement. As I have indicated, they were certainly bound to benefit indirectly from its operation.

**THE HONOURABLE THE PRESIDENT :** Motion made :

“That the Bill further to amend the Indian Rubber Control Act, 1934, as passed by the Legislative Assembly, be taken into consideration.”

Question put and Motion adopted.

The Schedule was added to the Bill.

Clauses 2 to 15 were added to the Bill.

Clauses 16 to 31 were added to the Bill.

Clauses 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE SIR ALAN LLOYD :** Sir, I move :

“That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

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### INDIAN RAILWAYS (AMENDMENT) BILL.

**THE HONOURABLE SIR GUTHRIE RUSSELL** (Chief Commissioner for Railways): Sir, I move :

“That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be passed.”

This is a simple Bill the necessity of which is fully explained in the Statement of Objects and Reasons. Put shortly, the Bill is necessary to remove an anomaly. At present Government possess all the powers required for the operation of Railways with one important exception, the fixation of maximum and minimum rates and fares. The Bill is designed to remove this omission.

**\*THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan): I do not for a moment deny the necessity of giving this power to the Central Government, but I expected the Honourable Railway Member to enlighten us as to how he reconciles the Federal Railway Authority with the Objects and Reasons of this Bill? There the power is supposed to be given to the Central Government; here we are giving power to a non-existing entity, the Federal Railway Authority. It is not in a critical spirit that I am questioning it. I am simply putting it for my own information. Has the Bill undergone some changes since its introduction? I suppose the Bill must have gone through some delays because it was introduced on the 17th July, 1937, and we are considering it on the 22nd September, 1939. It means that it has been for two years on the Assembly table. Perhaps it might have been circulated for public opinion. Or what happened that it was delayed so long? And who will be regarded as the Federal Railway Authority pending the introduction of Federation which has been suspended indefinitely by His Excellency the Viceroy?

**THE HONOURABLE SIR GUTHRIE RUSSELL :** Sir, I can explain the delay. Actually it is perfectly correct that the Bill was introduced in 1937,

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\*Not corrected by the Honourable Member.

it then went for circulation but it was not possible to proceed with it in the Legislative Assembly last session on account of pressure of business. For that reason the Honourable the Railway Member moved a Motion of continuance in this session. That was accepted and later on he moved for reference to a Select Committee and the Bill is the result of the deliberations of that Committee.

Now, as regards the question about the Central Government. I think my Honourable friend's idea was that, instead of the Federal Railway Authority, the Central Government should be given these powers, but as I understand the position it is this. The Federal Railway Authority is the executive authority of the Central Government and, even if you put the Central Government in the Bill, the Federal Railway Authority would exercise the powers.

Then as regards the question of its being inappropriate for the Federal Railway to be named in the Bill when it does not exist. Actually the Governor General in Council will exercise the powers of the Federal Railway Authority till such time as the Federal Railway Authority comes into being.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR GUTHRIE RUSSELL: Sir, I move:

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

The Motion was adopted.

#### REPEALING AND AMENDING BILL.

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official): Sir, I move:

"That the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration."

Sir, this is a formal Bill, the necessity for which has been fully explained in the Statement of Objects and Reasons and the Notes on Clauses.

Sir, I move.

The Motion was adopted.

The First and Second Schedules were added to the Bill.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. SHAVAX A. LAL: Sir, I move:

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

The Motion was adopted.

## STATEMENT OF BUSINESS.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** (Leader of the House): Sir, I understand that the general feeling in the House is to discuss the Defence of India Bill not earlier than Monday and I therefore suggest that we meet on Monday at the ordinary time. The first item on the agenda that day will be the Defence of India Bill. Tuesday has been allotted for non-official business but, with your permission, I suggest that, after the business has been disposed of, the remainder of the day may be devoted to Government business. To facilitate this I suggest we meet half an hour earlier on Tuesday, at 10-30 A.M. The Government business on that day will, of course, be not the Defence of India Bill but other Bills which have been placed on the table today. Then, if any Government business is left undisposed of, we shall have to meet on Wednesday, the 27th.

**THE HONOURABLE MR. P. N. SAPRU**: Sir, if Government business is disposed of on Tuesday, shall we take up the Defence of India Bill?

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD**: Certainly, if it will suit the convenience of Honourable Members we can take up that Bill too if there is time. If any Government business remains over, we will meet on Wednesday. I am entirely in the hands of the House. We will put the Defence of India Bill on the agenda on Tuesday and if there is time we will finish it.

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The Council then adjourned till Eleven of the Clock on Monday, the 25th September, 1939.

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