

Saturday, 3rd April, 1943

COUNCIL OF STATE DEBATES

(OFFICIAL REPORT)

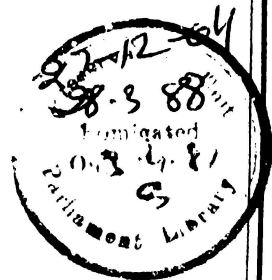
VOLUME I, 1943

(15th February to 3rd April, 1943)

THIRTEENTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1943



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COUNCIL OF STATE

Saturday, 3rd April, 1943.

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

MEMBERS SWORN :

The Honourable Mr. W. H. J. Christie (Nominated Official).
The Honourable Mr. G. S. Bozman (Indians Overseas Secretary).

QUESTIONS AND ANSWERS.

CONFERENCE OF THE UNITED NATIONS TO CONSIDER POST-WAR FOOD SUPPLIES.

148. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH : Are Government in possession of any information to indicate that it is proposed to hold a conference between the United Nations to consider post-war world food supplies ? In view of the fact that India is predominantly an agricultural country, occupying a strategic place of importance in the war, do Government propose to press her claim to be suitably represented in the proposed conference ?

THE HONOURABLE MR. N. R. PILLAI : Yes ; it is proposed to hold a conference of the United Nations to examine, among other things, the purely technical problems relating to the development of agriculture and the orderly disposal of agricultural products during the post-war period. The Government of India have been invited to send technical and expert representatives to this Conference.

THE HONOURABLE MR. HOSSAIN IMAM : When was this invitation received ?

THE HONOURABLE MR. N. R. PILLAI : A day or two ago.

THE HONOURABLE MR. V. V. KALIKAR : Will non-officials be represented on this Conference ?

THE HONOURABLE MR. N. R. PILLAI : This is going to be a purely technical Conference.

THE HONOURABLE MR. V. V. KALIKAR : I mean non-official experts.

THE HONOURABLE MR. N. R. PILLAI : The composition of the Indian delegation has not been settled.

THE HONOURABLE MR. HOSSAIN IMAM : When do Government propose to send the delegation ?

THE HONOURABLE MR. N. R. PILLAI : As soon as possible.

APPOINTMENT OF GRAIN PURCHASING AGENT.

149. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Will Government state whether Messrs. Owen Roberts & Co., Ltd., Lahore, have been appointed their sole agents for the purchase of rice and other foodgrains for both civil and military purposes in the Punjab ? If so, why have Indian firms been excluded ?

(b) Is it a fact that formerly more than thirty Indian firms of rice contractors had been supplying rice to Government ? If so, why have their claims been disregarded ?

(c) Are Government contemplating the employment of European Agency only in other provinces also to purchase foodgrains on their behalf ?

THE HONOURABLE MR. W. H. J. CHRISTIE : (a) The Government of India have made no such appointment recently. Under arrangements existing for many years, Messrs. Owen Roberts & Co. purchase all foodgrains other than rice in the Punjab for the Government of India to meet the requirements of the Defence Services. For civil requirements three Indian firms were appointed Purchasing Agents in the Punjab during the last few months. The appointment of agents for both civil and Military requirement will shortly become the responsibility of the Provincial Governments.

(b) Thirty-six Indian firms are registered for the supply of rice from the Punjab for the Defence Services, and of this number 21 firms can be described as regular suppliers.

(c) As has been indicated the appointment of Purchasing Agents for foodgrains will in future be the responsibility of the Provincial and States Governments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : With reference to the reply to part (a) of the question, have the three Indian firms that have been employed for the supply of certain foodgrains been employed directly by the Government or by Messrs. Owen Roberts & Co. ?

THE HONOURABLE MR. W. H. J. CHRISTIE : They have been appointed directly by the Government of India.

THE HONOURABLE MR. HOSSAIN IMAM : Could we know the names of those three firms ?

THE HONOURABLE MR. W. H. J. CHRISTIE : So far as I can remember, Benarsidas & Co., Gopal Singh Hira Singh, and a Delhi firm, Gerimal Jethanand.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can the Honourable Member tell us what precisely is the position of Messrs. Owen Roberts & Co. now with regard to the supply of wheat and other foodgrains to the Government of India ?

THE HONOURABLE MR. W. H. J. CHRISTIE : Messrs. Owen Roberts & Co. were appointed purchasing agents for military requirements of foodgrains other than rice.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is that all ? Do they purchase foodgrains on behalf of the Government of India for civil purposes also or not ?

THE HONOURABLE MR. W. H. J. CHRISTIE : Not at the present moment.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are the Government of India contemplating asking them to purchase supplies for them for civil purposes also ?

THE HONOURABLE MR. W. H. J. CHRISTIE : No, Sir. The purchase of foodgrains for civil purposes will shortly become the responsibility of the Provincial Governments and they will appoint their agents.

THE HONOURABLE MR. HOSSAIN IMAM : But what has been the position up till now ? Who buys for the Government of India for civil purposes ?

THE HONOURABLE MR. W. H. J. CHRISTIE : In the Punjab, three Indian firms as I have said.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are there any firms buying for the Government of India in the United Provinces ?

THE HONOURABLE MR. W. H. J. CHRISTIE : Not directly for the Government of India.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Or for the Provincial Government ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I believe there is one firm appointed by the Provincial Government in the last few days to purchase wheat for them. I have no precise information.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What is the name of that firm ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I have no precise information.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can you give us any information with regard to the other Provinces where the Government of India propose to buy wheat or rice or other foodgrains ?

THE HONOURABLE MR. W. H. J. CHRISTIE : No, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May I ask one more question ? How does the Honourable Member know that the United Provinces Government have already appointed an agency to purchase wheat ?

THE HONOURABLE MR. W. H. J. CHRISTIE : From information available to the Food Department in the last few days. But as I said, I have no precise information.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Have the Food Department not been informed of the name of the agency that has been appointed by the Local Government ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I do not recollect the name of the agent.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can the Honourable Member write to me the name of this agency after consulting his reports ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I am quite prepared to provide that information.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA : Will these provincial agents buy only civil supplies, or military supplies also ?

THE HONOURABLE MR. W. H. J. CHRISTIE : They will buy for both civil and military requirements.

APPOINTMENT OF AN AGENT IN THE PUNJAB FOR PURCHASING WHEAT.

150. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH : Is it a fact that the Government of India have appointed a European firm to purchase wheat in the Punjab ? If so, what is the name of the firm, and to what extent has this firm been asked to purchase wheat ?

THE HONOURABLE MR. W. H. J. CHRISTIE : The firm of Owen Roberts & Co. is one of the several firms under contract with the Government of India at the present time to purchase wheat on behalf of the Government of India in the Punjab. The contracts with all these firms lapse on the 15th of April, 1943, after which it is the responsibility of the Provincial Government to appoint the necessary Agent or Agents.

It is regretted that it is against the public interest to disclose the quantities of wheat any Agent is called upon to procure from time to time.

CONTRACT FOR SUPPLY OF RICE.

151. THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA : (a) Will Government state whether it is a fact—

(i) that the Supply Department (Foodstuffs) placed an order for 15,000 tons of military type rice of the approximate value of Rs. 55 lakhs with the Northern India Zamindara Syndicate Ltd., of the Punjab ;

(ii) that this firm is a new limited concern with a paid up capital of about one lakh of rupees only, keeps no stocks and has no previous business experience to its credit ;

(iii) that this firm failed to supply even a ton of rice to the Supply Department within the stipulated period ; and

(iv) that the cancellation of the order placed with the firm involved considerable loss to Government considering the market rate prevailing at the time of the cancellation ?

(b) Will Government state whether in accordance with the usual practice, any security or deposit was taken from the firm, whether any penalty has been imposed on it for failure to fulfil the contract, and whether the firm has been asked to pay any damages to Government ; if not, why not ?

THE HONOURABLE MR. W. H. J. CHRISTIE : (a) (i) A contract was made with the Northern India Zamindara Syndicate, Ltd., for the supply of 10,000 tons of rice by the 31st March, 1943 and additional quantities up to a further 5,000 tons on or before the 15th April, 1943.

(ii) It was known that this Syndicate is a new concern, but the extent of its resources was not accurately known.

(iii) No, Sir. By the 31st March the Syndicate had tendered 4,500 tons of rice.

(iv) Does not arise as there has been no cancellation of the contract.

(b) Security deposit was not levied in this case. The Syndicate has not been called on to pay damages to Government as Government has not so far suffered any loss.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can the Honourable Member tell us who are the directors of this Zamindara Syndicate, Ltd. ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I am afraid I have not that information.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Can he tell us who the managing director is ?

THE HONOURABLE MR. W. H. J. CHRISTIE : I am afraid I have not that information either.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : If this was quite a new firm, how is it that the Government of India did not take that care, which they usually do in placing orders for foodgrains in this case ?

THE HONOURABLE MR. W. H. J. CHRISTIE : The Government of India took the usual precautions before entering into a contract with any firm.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Do the Government of India expect this firm to supply the stipulated quantities of foodgrains by the 31st March or by the 15th April ?

THE HONOURABLE MR. W. H. J. CHRISTIE : By the 31st March the stipulated quantity had not been supplied.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is there any reason to hope that the total quantity stipulated for will be supplied by the 15th April ?

THE HONOURABLE MR. W. H. J. CHRISTIE : That I cannot say, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What action have Government taken in respect of the failure of the Sundicate to supply the stipulated quantity of foodgrains by the 31st March ?

THE HONOURABLE MR. W. H. J. CHRISTIE ? The term of the contract does not finally expire until 15th April.

THE HONOURABLE MR. HOSSAIN IMAM : Is it the practice of Government to time for fulfilment of contracts ?

THE HONOURABLE MR. W. H. J. CHRISTIE : In certain cases, Sir.

STEPS TO INCREASE RECRUITMENT OF INDIAN ORDNANCE MECHANICAL ENGINEERS.

152. **THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** With reference to the reply given to question No. 88 on the 29th September, 1942, will Government state what steps have been taken by them to increase the recruitment of Indian Ordnance Mechanical Engineers ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : On the 1st December 1942, General Headquarters wrote to the Principals of Engineering Colleges asking for their help in persuading suitable candidates to apply for commissions in the Indian Ordnance Mechanical Engineers. No reply has yet been received from 10 of the colleges addressed, and some 50 names have been received from the remainder ; out of them 30 persons were selected for final interview and 14 of them were found suitable. Arrangements have been made to send them to an Officer's Cadet Training Unit.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is it a fact that the M. G. O. was considering some time ago the formulation of a new scheme for the recruitment of Indians in the I. A. O. C. ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : The M. G. O. is deeply concerned about the lack of these potential officers, and for that reason the Government of India wrote to these Engineering Colleges and asked them to do their best, with the result I have given.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Has the M. G. O. issued any new rules on the subject ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : Not as far as I am aware.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Will Government look into the matter and see that new rules are issued and that the old rules are not maintained ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : I should like to have notice of the question : I am not quite sure what the Honourable Member is meaning.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Surely the Honourable Member is aware that it was contemplated to change the rules in force, and that a scheme was under preparation ; all that I wanted to know was whether that scheme was ready.

GENERAL THE HONOURABLE SIR ALAN HARTLEY : I am afraid I can give the Honourable Member no further information.

THE HONOURABLE SIR DAVID DEVADOSS : Was there any response from the Madras Engineering College, Guindy ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : I cannot tell you specifically from which colleges we got these 50 names.

NUMBER OF CIVILIAN STOREKEEPERS APPOINTED UP TO 28TH FEBRUARY, 1943.

153. **THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** (1) Will Government state the total number of—

(a) Civilian Store Keepers up to the 28th February, 1943 ; and

(b) Civilian Store Keepers appointed as (i) I. C. Os., (ii) E. C. Os. and (iii) Civil gazetted officers, up to the same date ?

(2) Have any civilian Assistant Storekeepers been made E. C. Os. ? If so, how many ?

(3) What is the percentage, if any, fixed by Government for the appointment of Civilian Storekeepers as Commissioned officers or civil gazetted officers ?

(4) Will the promoted Civilian Storekeepers be treated on the same footing as British soldiers appointed as departmental officers ?

GENERAL THE HONOURABLE SIR ALAN HARTLEY : (1) (a) The total number of Civilian Storekeepers on the 28th February, 1943 was 38.

(b) The number of Civilian Storekeepers appointed as I. C. Os. E. C. Os. and Civil Gazetted Officers up to 28th February, 1943 was 14, nil and 7, respectively. In addition, 5 Civilian Storekeepers have been selected for commissions in the Indian Land Forces, and one for appointment as Civil Gazetted Officer.

(2) No civilian Assistant Storekeepers have yet been given Emergency Commissions, but 3 are at present undergoing training at an O. C. T. U. and 2 more have been selected for training.

(3) No percentage has been fixed. Civilian storekeepers are selected for promotion to I. C. Os. and M. G. Os. according to their qualifications and recommendations.

(4) Yes ; they are being treated on the same footing.

NUMBER OF GAZETTED OFFICERS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS, GRANTED EXTENSION OF SERVICE.

154. THE HONOURABLE MR. ABDUOL RAZAK HAJEE ABDUOL SUTTAR :

(1) Will Government state—

(a) the number of gazetted officers in the Office of the Director General, Posts and Telegraphs who have been given extension of service in 1942-43 with their names and community ; and

(b) the names of the gazetted officers whose term of office is about to expire ?

(2) Has Government taken into consideration that the grant of extension of service to the gazetted officers is detrimental to the interest of the gazetted officers below them ?

(3) Do Government propose to change this practice of granting extension ?

THE HONOURABLE SIR MAHOMED USMAN : (1) (a) No gazetted officer in the Office of the Director-General of Posts and Telegraphs has been given an extension of service during 1942-43, but Mr. A. R. Augier who was Senior Deputy Director General was given one year's extension of service which took effect from the 2nd October, 1942 when he was Postmaster General, Bombay and Colonel Naidu, who was formerly in the Directorate, was given one year's extension from the 9th October, 1942 while he was on deputation to the War Department and continues in that Department.

(b) There is no officer whose term of office is about to expire but there is one officer, Khan Bahadur Kothavala, who will reach the age of superannuation in the month of May.

(2) Yes.

(3) Extensions are granted in exceptional circumstances only when justified in the public interest.

ADDITIONAL LABOUR FOR CEYLON.

155. THE HONOURABLE RAJA YUVERAJ DUTTA SINGH : (a) Is it a fact that the Government of India banned emigration of unskilled labour to Ceylon in 1939 ?

(b) Is it a fact that prior to the despatch of a telegram on 6th December, 1942 to the Government of India, asking for twenty-thousand Indian labourers, the Government of India sent a telegram to the Government of Ceylon that the Government of India " were prepared to assist the Ceylon Government should they need assistance at this time of emergency with regard to labour for war effort " ? If so, will Government state why they themselves made this offer ?

(c) Will Government make a statement relating to the proposed resumption of emigration of indentured labour to Ceylon, inspite of the anti-Indian, and humiliating laws and regulations existing in Ceylon ?

THE HONOURABLE MR. G. S. BOZMAN : (a) Yes.

(b) The attention of the Honourable Member is invited to the Government of India's telegram to the Government of Ceylon No. 1493, dated the 26th February, 1942, a copy of which is included in the correspondence laid on the table of the House

on the 22nd February, 1943. The reasons for the statement made in that telegram which is not as quoted by the Honourable Member, are given in the telegram itself.

(c) There is no proposal to resume indentured emigration. The Ceylon Government have now informed us that they hope to obtain sufficient labour locally to achieve the maximum output of rubber and the negotiations arising from the Government telegram No. 16, dated the 8th December are therefore now at an end.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May I understand that point a little more fully? Have the Government of India dropped the offer they made to the Ceylon Government?

THE HONOURABLE MR. G. S. BOZMAN : Yes, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is it understood on both sides that the offer has been cancelled?

THE HONOURABLE MR. G. S. BOZMAN : It is understood on this side: it was stated as clearly as can be stated.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Has that fact been stated to the Ceylon Government? Have the Ceylon Government been informed of it?

THE HONOURABLE MR. G. S. BOZMAN : Yes, Sir: the Ceylon Government have been informed.

POST-WAR MONETARY PROBLEMS.

156. **THE HONOURABLE RAJA YUVERAJ DUTTA SINGH :** (a) Will Government make a statement relating to the outcome and purport of the London discussions on post-war monetary problems, with special reference to the nature of the problems discussed, and the part played by Sir Ramaswami Mudaliar, and Sir Theodore Gregory, who represented India?

(b) Are Government in a position to give a categorical assurance that no settlement will be reached, and no decision taken, without previous consultation with the people of India?

THE HONOURABLE MR. C. E. JONES : (a) Government are not in a position to add to the information which has already been given in recently published press messages, in the broadcast to the world of the Right Honourable Mr. Winston Churchill and in the remarks on this subject made by the Honourable the Finance Member in the course of his reply to the general discussion on the Finance Bill in the Legislative Assembly on the 17th March, 1943.

(b) Government hope to be in a position to provide an opportunity for the expression of the views of the Indian public before any final decisions affecting India are taken.

THE HONOURABLE MR. HOSSAIN IMAM : What is the procedure which the Government of India propose to adopt to ascertain the public opinion of India?

THE HONOURABLE MR. C. E. JONES : That will be decided when the circumstances arise, Sir.

SECURITY PRISONER LALA SHANKAR LAL.

157. **THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** (a) Was Lala Shankar Lal of Delhi who has been in custody since 1941, transferred some time ago from the Punjab to Coorg? Where is he now?

(b) Is it a fact that his wife is unable to see him as she is an invalid and cannot therefore undertake a long journey? Has she sent several representations to Government asking that he should be transferred to some place which is not very far from Delhi? Will Government be pleased to accede to her request?

THE HONOURABLE MR. E. CONRAN-SMITH : (a) Yes. He is now in Coonoor.

(b) Representations to the effect mentioned have been received from Mrs. Shankar Lal. She has been informed that Government cannot accede to her requests. She has, however, since applied for permission to interview her husband at Coonoor and has been asked to apply to the Madras Government, who have been informed that the Central Government have no objection.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is there any special reason for not transferring him to some place nearer the United Provinces?

THE HONOURABLE MR. E. CONRAN-SMITH : Yes, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Do the Government of India consider that proper arrangements for his incarceration cannot be made

elsewhere than in the Madras Province or in any other place nearer the United Provinces than Madras is ?

THE HONOURABLE MR. E. CONRAN-SMITH : The reasons why other arrangements cannot be made, Sir, are reasons of State and I regret I cannot give them to the Honourable Member.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May I put the question differently to the Honourable Member ? Suppose Lala Shankar Lal were transferred from Madras to Bombay. Will the Government of India lose anything thereby ?

THE HONOURABLE MR. E. CONRAN-SMITH : I am not quite clear why the Honourable Member has selected Bombay for the transfer or what particular advantage would be gained by moving him to Bombay. The Government of India, after due consideration, have located Mr. Shankar Lal in Coonoor and they are satisfied that that is the proper arrangement.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : The Honourable Member said he was in Coonoor now, is it not ?

THE HONOURABLE MR. E. CONRAN-SMITH : Yes.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I mentioned Bombay because Bombay would be nearer to the United Provinces than Madras. There was no other reason for it, and as Government have kept other security prisoners whom presumably they consider equally dangerous in the Bombay Presidency, why should they not find it possible to send Mr. Shankar Lal to the Bombay Presidency ?

THE HONOURABLE THE PRESIDENT : That is argument.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I am merely pointing out that the Government of India have themselves kept some security prisoners in Bombay Presidency.

THE HONOURABLE THE PRESIDENT : That question is not admissible.

INDIAN ARMY AND AIR FORCE (MILITARY PRISONS AND DETENTION BARRACKS) BILL.

GENERAL THE HONOURABLE SIR ALAN HARTLEY (Deputy Commander-in-Chief) : Sir, I move :—

“ That the Bill further to amend the Indian Army Act, 1911, and the Indian Air Force Act, 1932, as passed by the Legislative Assembly, be taken into consideration.”

Sir, the necessity for this measure can be explained in a few words. The Indian Army Act and the Indian Air Force Act, unlike the corresponding British Acts, contain no provision for military or air force prisons. Consequently, offenders sentenced by courts martial to periods of imprisonment not exceeding three months serve out their sentences in unit custody, while those who are sentenced to terms exceeding three months are transferred to civil prisons and have to be discharged from the service. Now, there are certain types of offences against military discipline which may involve little or no moral turpitude, but may nevertheless call for relatively severe sentences, particularly in time of war. Under the law as it stands at present, a man convicted of such an offence is compelled to undergo a prolonged period of imprisonment in a civil jail in association with criminals of the lowest type, with the result that in nine cases out of ten, he becomes totally unfitted for retention in the forces. Hence, he must inevitably be discharged. The Bill now before the House seeks to provide for the establishment of military prisons in which persons convicted by courts martial of offences such as I have described will undergo their sentence under conditions no less deterrent than those of civil prisons, but accompanied at the same time by military supervision and discipline. By this means we hope to retain in service an appreciable number of men who, in spite of temporary lapses of conduct, still appear to have the makings of good soldiers or airmen. It is not intended to send to these military prisons persons convicted by courts martial of offences, either civil or military, involving moral turpitude or serious violence to person or property. Such persons will continue to undergo their sentence in civil prisons and to be discharged automatically from the service. Nor is it intended that persons who undergo their sentence in a military prison should be retained in the army as a matter of course. Their retention will depend largely upon their behaviour while in prison.

This Bill, Sir, is non-controversial in character and introduces a reform which will bring Indian military and air force law into line with the law governing the

[Pandit Hirday Nath Kunzru.]

British services. We propose to establish two prisons with a capacity of 300 prisoners each and to employ these prisons also for men who are undergoing sentences of three months or under, but for whom accommodation in unit cells may not be available.

Sir, I move.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces, Northern: Non-Muhammadan): Mr. President, the Honourable Member in charge of this Bill has clearly explained the reasons for the proposed amendments to the Indian Army Act, 1911, and the Indian Air Force Act, 1932, but there is a difference in the amendments proposed to the two Acts. In the case of the Indian Army Act, 1911, it is proposed, in consequence of the change made in section 107 of the Act that section 109 should be amended so as to provide that—

“Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined”.

At the present time the reference in section 109 is only to a civil prison. In consequence of the alteration made in section 107 it was necessary to amend section 109 also and to make it clear that whenever any sentence or order or warrant is varied or set aside, the new order would be applicable not merely to a man confined in a civil prison but also to a man confined in a military prison. The same procedure, however, has not been followed in the case of the Indian Air Force Act, 1932. In section 113 of the Act as proposed now, it is stated that the sentence passed may be carried out by confinement in a civil prison or by confinement in a military or air force prison. Yet, no amendment to the Act is suggested which would enable the authorities to communicate an order setting aside a previous order or sentence or warrant to the officer in charge of the military or air force prison. I should like to point out that it appears from the language used in the proposed section 113 that the military and air force prisons would be different from one another. Even if it were not so and air force prisons could be regarded as military prisons, it has to be remembered that section 109 of the Army Act applies only to orders setting aside a previous order or sentence made under that Act. It is clear, therefore, that it will not apply to any variation of previous sentences or orders in the case of men belonging to the Indian Air Force. I should like to know the reason for this omission? It is merely an oversight or is there any special reason for not making that provision in the case of the Air Force which has been made in the case of the Indian Army owing to the change proposed in section 107 of the Indian Army Act? That is the first point, Sir, on which I want information.

The second point on which I should like more information than has been given by General Hartley is whether the authorities are thinking of making rules for the appointment of non-official visitors to military prisons. In several provinces, even at the present time, non-officials have been appointed as visitors to civil jails. If military prisons are established and people who would formerly have been confined in civil prisons are to be confined in these military prisons, surely it is desirable that there should be some means by which their grievances can be ascertained in the same way as those of prisoners in civil jails. I do not know whether the military authorities have thought of this matter, but it is a question of great importance. I have been asked several times whether the Council cannot press Government to appoint non-official visitors to jails or camps where military prisoners may be detained for any reason whatsoever. I hope therefore that my Honourable friend General Hartley will be able to give us a satisfactory assurance on this point.

GENERAL THE HONOURABLE SIR ALAN HARTLEY: Sir, as regards the last point raised by the Honourable Pandit about non-official visitors to military prisons, as far as I am aware, no such suggestion has ever occurred to us and I cannot say that we should view that with any great favour. As regards British military prisons in this country, there are military visitors who are responsible for visiting these prisons and hearing complaints and seeing that the prisoners are properly treated and so on and the same will of course take place as regards Indian prisoners. They will be military and/or air force officers.

As regards the first point made by the Honourable Member, I must apologise to the House. I am afraid I am not a lawyer and I am not absolutely clear as to exactly

what point the Honourable Member is making. Revised section 109 says :—

“Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined”.

Revised section 113 says :—

“Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the confirming officer, or, in the case of a sentence which does not require confirmation, the Court or in either case such officer as may be prescribed may direct either that the sentence shall be carried out by confinement in a civil prison or by confinement in a military or air force prison, and the commanding officer of the person under sentence or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the prison in which the person under sentence is to be confined and shall forward him to such prison with the warrant”.

If I may, Sir, I would like to inform the Honourable Member afterwards on this question, because I am not absolutely certain as to what his question is and what my answer will be.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, I shall make my point clearer than perhaps I have succeeded in doing so far. If the Honourable Member will look at section 190 of the Indian Army Act, 1911, he will find that an order duly made under that Act, that is, under the Indian Army Act, setting aside or varying any sentence, order or warrant under which any person is confined applies only to a civil prison. As, however, Government propose to set up military prisons also, the words “or military” have been added after the word “civil” in section 109, so that the authority which may be empowered in this behalf may communicate an order setting aside or varying any previous sentence, order or warrant to the jail authorities in charge of military prisons also. Obviously a similar change ought to have been made in the corresponding section of the Indian Air Force Act, 1932. But as a matter of fact, although it is proposed to amend the Indian Air Force Act so as to enable the authorities to set up military or air force prisons, yet it has not been provided in the section relating to the communication of an order setting aside a previous sentence or order to the officer in charge of a civil prison that such an order can be communicated also to an officer in charge of a military or air force prison. I have no doubt that the intention of the Government in this case is the same as in the case of military prisons under the Indian Army Act, 1911, but unless the Indian Air Force Act, 1932, is suitably amended, Government will not be able to put their intentions into effect. The change proposed in the Indian Army Act, 1911, will not suffice because it is expressly stated in section 109 that any order to be communicated to the jail authorities must have been duly made under that Act. It is therefore obviously necessary to amend the Indian Air Force Act, 1932, also suitably. The authorities have omitted to do this—I have no doubt that it is due to oversight—but the omission should be rectified as early as possible.

GENERAL THE HONOURABLE SIR ALAN HARTLEY : Well, Sir, I have made a note of everything that the Honourable Member has said and will certainly take it into consideration, but I am afraid I cannot give the Honourable Member a satisfactory answer—quite frankly I do not know—but I cannot believe that this has been overlooked.

THE HONOURABLE THE PRESIDENT : Will you make an inquiry? There might be some reason for not making a similar alteration in the Act.

GENERAL THE HONOURABLE SIR ALAN HARTLEY : Yes, I will.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : I find some drafting defect in sub-clause (I) of new section 107, which reads—

“Whenever any sentence of transportation is passed under this Act or whenever any sentence so passed is commuted to transportation . . .”

I think the wording ought to be “Whenever any sentence of *death* is commuted”.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Only a capital sentence can be commuted.

THE HONOURABLE MR. S. A. LAL (Nominated Official) : “Whenever any sentence of transportation is passed under this Act or whenever any sentence so passed is commuted to transportation” “So passed” means passed under this Act. I think the drafting is all right.

THE HONOURABLE MR. HOSSAIN IMAM : But no commutation of any sentence can be made into transportation except that of capital sentence. The wording ought to be "Whenever a capital sentence is commuted....."

THE HONOURABLE THE PRESIDENT : Order, order. Motion moved :—

"That the Bill further to amend the Indian Army Act, 1911, and the Indian Air Force Act, 1932, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4, 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

GENERAL THE HONOURABLE SIR ALAN HARTLEY : Sir, I move :—

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

The Motion was adopted.

TRADE MARKS (AMENDMENT) BILL.

THE HONOURABLE MR. N. R. PILLAI (Commerce Secretary) : Sir, I beg to move :—

"That the Bill further to amend the Trade Marks Act, 1940, as passed by the Legislative Assembly, be taken into consideration."

The purpose of this Bill is fully explained in the Statement of Objects and Reasons. The present position is that there are two Trade Marks offices in this country, one located in Bombay and one in Calcutta. The existence of two independent offices of this nature has led to a good deal of administrative inconvenience and even confusion, and it is proposed, therefore, to centralise this work in one single office to be located in Bombay. Bombay has been selected for this purpose because the majority of applications for Trade Marks originate in areas now allotted to the Bombay office.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4, 5, 6 and 7 were added to the Bill.

Clauses 8, 9, 10, 11, 12, 13, 14, 15 and 16 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. N. R. PILLAI : Sir, I move :—

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

The Motion was adopted.

MUSLIM PERSONAL LAW (*SHARIAT*) APPLICATION (AMENDMENT) BILL.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan)
Sir, I rise to move :—

"That the Bill further to amend the Muslim Personal Law (*Shariat*) Application Act, 1937 as passed by the Legislative Assembly, be taken into consideration."

Mr. President, this Bill went through the Legislative Assembly last year and it was only due to an oversight that we could not get this Act before this House early in the last session. This Act is a very simple one. The intention of the Act was that the *Shariat* law should apply in all matters, except in the case of adoption, wills and legacies, in which it was necessary for a man to make a declaration and then this law could have been applied in three specific cases. In drafting a mistake was made, inasmuch as the words used were "Any person who satisfies the prescribed authority may by a declaration declare that he desires to obtain the benefit of *this Act*". Instead of the words "*this section*" the word "*this Act*" were used which resulted in many courts of law questioning the applicability of the Act itself without declaration. So the whole object was frustrated. In order to remove this difficulty this Bill has been brought forward. I hope, Sir, that the House will accept this Motion and pass the Bill.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I move:—

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

The Motion was adopted.

THE HONOURABLE SIR MAHOMED USMAN (Leader of the House): Sir, in view of the statement made in the other House, it may be assumed that there will be a session of the Legislative Assembly some time in July or August. If that materialises, it may further be assumed that a session of this House will also be held at approximately the same time.

THE HONOURABLE THE PRESIDENT: The Council will now adjourn *sine die*