

Tuesday, 30th March, 1943

COUNCIL OF STATE DEBATES

(OFFICIAL REPORT)

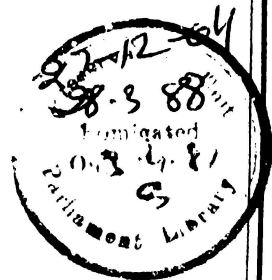
VOLUME I, 1943

(15th February to 3rd April, 1943)

THIRTEENTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1943



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI
1943

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COUNCIL OF STATE

Tuesday, 30th March, 1943.

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

STATEMENT LAID ON THE TABLE.

COMMERCIAL TREATIES AND NOTES.

THE HONOURABLE MR. N. R. PILLAI (Commerce Secretary): Sir, I lay on the table a Statement of Commercial Treaties and Notes affecting India.

DRAFT STATEMENT.

List of Commercial Treaties and Notes affecting India.

PART I.

Agreement under which the products of India receive most-favoured-nation treatment on terms of reciprocity.

Countries which are parties to the Agreement.	Nature and date of Agreement.	Description.	Remarks.
U. K. and Egypt	Exchange of Notes dated 31st January and 28th February 1942.	Commerce.	These notes provided for the prolongation until 16th February 1943 of the provisional commercial Agreement concluded between these Governments by the exchange of Notes dated the 5th and 7th June 1930.

PART II.

Agreements to which India is a party.

Nil.

PART III.

Denunciation of Agreements. Countries which are parties to the Agreement.	Nature and date of Agreement.	Description.	Remarks.
Union of South Africa, Australia, Brazil, Belgium, the United Kingdom, Cuba, Czechoslovakia, the Dominion Republic France, Germany, Haiti, Hungary, India, the Netherlands, Peru, Poland, Portugal, U. S. S. R., U. S. A., and Yugoslavia.	Convention May 6, 1937.	International Agreement regarding the regulation of production and marketing of sugar.	The normal term of the Agreement expired on 31st August 1942 but the International Sugar Committee recommended to the Governments of the participating countries for its continuance during the period of hostilities and two years thereafter. India did not join in any continuance of the Agreement and her obligations thereunder have ceased to be operative from 1st September, 1942.

INDIAN TEA CONTROL (AMENDMENT) BILL.

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

“That the Bill further to amend the Indian Tea Control Act, 1938, as passed by the Legislative Assembly, be taken into consideration.”

This Bill seeks to extend for a further period the Indian Tea Control Act, which in one form or other has been in existence for ten years. The extension of the control scheme to which legislative sanction is given by this Act has been recommended by the International Tea Committee and by Provincial Governments, and has received the active support of 92 per cent. of the tea industry, the passivity of the remaining 8 per cent. being an indication of indolence rather than of disapproval.

What is the justification for extending this Act? It seems to me, Sir, that the justification is this: whatever may be the position of Indian tea in the international market today, it is very possible that in the immediate post-war period

[Mr. N. R. Pillai.]

the conditions of world supply and demand may again become uncertain and unsettled and at that time it may become necessary to reintroduce control if it is taken off now. The need for such control during the interval before that stage is reached may be less apparent, but a moment's reflection will convince one that if this Act were allowed to lapse tomorrow then the Government of India would be compelled in wartime conditions to institute some form of control under the Defence of India Rules in regard to tea, as they have done in the case of many other essential commodities. Rather than proceed in that manner, the Government of India would prefer to continue, with such changes as experience has shown to be necessary, the existing machinery and system of control, which have stood the test of time and on which the Legislature has, on two previous occasions, set its seal of approval.

The Motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 17 were added to the Bill.

Clauses 18 to 23 were added to the Bill.

Clause 24 was added to the Bill.

Clause 25 was 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.

RESOLUTION *RE* LABOUR CONDITIONS ON TEA ESTATES IN ASSAM

—*contd.*

THE HONOURABLE THE PRESIDENT: Now we will discuss the first Resolution on the List of Business—the Resolution of the Honourable Mr. Sapru:—

“This Council recommends to the Governor General in Council to appoint a mixed committee of officials and non-officials, with adequate representation of labour therein, to investigate the conditions of work and living, rates of wages and methods of recruitment, of workers in the Assam tea gardens.”

THE HONOURABLE MR. N. K. DAS (Orissa: Non-Muhammadan): Sir, I rise to support the Resolution so ably moved by my Honourable friend Mr. Sapru the other day. The only point I want to make is that there is quite a large proportion of labourers from Orissa in these tea gardens in Assam, and the conditions under which they live and the wages that they receive are very far from satisfactory. I would request Government that with a view to improving the conditions of the labourers concerned, a committee composed of officials and non-officials should be constituted. It is in the fitness of things that they should go into the question now without further loss of time.

THE HONOURABLE MR. H. C. PRIOR (Labour Secretary): Sir, when I saw that the Honourable Mr. Sapru had tabled this Resolution, I welcomed the fact; and, despite some of the things that he has said in moving this Resolution, I still welcome the fact, because I believe that he, like the Government of India, is actuated by the motive of ensuring to labour in all industrial concerns fair conditions of work, and, when there is doubt whether such fair conditions of work exist, of making an inquiry to elicit the facts. I welcome the Motion for two or three reasons. The first reason is more or less similar to that which my Honourable friend Mr. Das has just mentioned in respect of labourers from Orissa. Throughout my service in India I have had special regard for labour in Assam. I was first stationed in the district of Ranchi; and, as is well known, many emigrant labourers go from the district of Ranchi to Assam. Later I took part, when in the Government of Bihar, in the discussions relating to the passing of the Tea Garden Emigrant Labour Act, and now here, in the Central Government's Department of Labour, we are considering what can be done in connection with tea plantation labour.

My second reason for welcoming this Resolution is that it gives me an opportunity of telling the House matters which, from the speech of the Honourable Mover, seem perhaps not to have come to their notice to any great extent; and that is, the extent to which the recommendations made by the Royal Commission on Labour

have been implemented. It has rather surprised me to find that we have never officially laid on the table of this House a Report as to the extent to which those recommendations have been implemented. But the reports that we have prepared will be found in the Library of this House by those who wish to look at them. The recommendations of the Royal Commission fell into three main parts. First, there was Chapter XX—the recommendations regarding recruitment. I am glad to say that the Honourable the Mover recognised that the recommendations regarding recruitment had been largely implemented. But I do not think he made sufficiently clear the extent to which the implementation of those recommendations has benefited tea garden labour in Assam. When I was first in Ranchi, and a labourer went to Assam, it was commonly said that he had severed his relations with his home district. It was unlikely that he would ever come back. There was no particular means of enabling him to do so. He was not likely to have the money himself with which to buy a ticket and it was a long way to go except by train. But now all that has changed. The Tea District Emigrant Labour Act gives to emigrant labourers the right of repatriation. They have the right of repatriation after three years in Assam. They have the right of repatriation if at any time during their first year they can satisfy the Controller of Emigrant Labour that they have been recruited under false pretences. They are entitled to be repatriated if their health fails. They are entitled to repatriation if the Controller is satisfied that with due diligence they cannot still continue to earn in Assam a normal wage. Twenty thousand or 21,000 labourers were repatriated from Assam in the last year for which we have a report. About 15,000 to 20,000 are repatriated from year to year.

But what is the result of that repatriation? The result is that the conditions of labour on tea gardens are getting better known in the recruiting districts. There is an ebb and flow of labour to and from those districts; publicity is becoming greater, and that publicity must eventually lead to better conditions on the gardens. This right of repatriation was referred to by the Commission as its main proposal in this respect, and its implementation has satisfied a very large part of the recommendations of the Commission. The Tea District Emigrant Labour Act also has another result in that it gives to the emigrant labourer the Controller of Emigrant Labour to look after his interests. That officer is an officer of the Government of India, responsible to the Government of India; and he does a good deal for the emigrant labour in Assam.

Chapter XX was the one with which the Central Government are mainly concerned. But there is one recommendation in that chapter which mainly concerns Provincial Governments, and to which the Honourable the Mover specifically referred. I refer to the recommendation that arrangements should be made to secure better contact between the public and the Assam labourer. Well, Sir, when the Royal Commission sat I do not know exactly how conditions were. But now Assam labour is perfectly free to go into the neighbouring villages; it can go to the neighbouring markets; it can go to the law courts; it can move freely to and from its gardens. It can go out to meet labour leaders—though labour leaders are still not allowed to come into the private grounds of gardens and factories. I do not know the extent to which Assam labour is making use of that freedom. The Honourable the Mover seemed to think that there was some rule prohibiting the formation of trade unions in Assam. That cannot be the case. The last Report of the Registrar of Trade Unions shows one registered union called the Sylhet-Cachar Chabagan Majdoor Union, with a membership of over 600. And it was only a few days ago that I saw in *The Times of Assam* a reference to a general meeting of the Assam Tea Labourers' Association held on the 2nd of March, at which labour representatives from all the sub-divisions of the district in which it was held and from two outside sub-divisions were present; questions relating to social and economic rights and rights of citizenship were discussed, and various resolutions on labour matters were passed at the meeting. Trade unionism is beginning. I do not say that it is yet fully established, and I would welcome a fuller establishment.

THE HONOURABLE PANDIT HIRDAY-NATH KUNZRU (United Provinces Northern : Non-Muhammadan) :— Are Government taking any steps in that direction?

THE HONOURABLE MR. H. C. PRIOR : We are continually taking steps to try and encourage the growth of trade unions. We have not taken specific steps with regard to them in Assam. But our general policy is to encourage the growth of trade unionism.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Do you let the labourers know in any way that it is your wish that they should form trade unions ?

THE HONOURABLE MR. H. C. PRIOR : We have not done so. We have, however, informed employers that we would welcome the recognition by them of trade unions.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : That has not proved enough so far.

THE HONOURABLE MR. H. C. PRIOR : Even so, though trade unionism is growing the position still is that the employers' organisations in Assam are better organised than the employees' organisations. The employees are still largely illiterate, and it is still, therefore, the responsibility of Government to do what they can to ensure that their conditions of service are improved. The other two chapters—Chapter XXI dealing with Wages on Plantations and Chapter XXII dealing with Health and Welfare, dealt with matters which more concerned, at any rate initially, the Provincial Governments, and in the case of some of the recommendations, they included recommendations which were to be brought to the notice of the employers. So far as we know, little has been done in regard to wage fixation. I believe that the Assam Government sent at one time an officer to Ceylon to report on conditions there, but they have not introduced any legislation. Forms of wage returns have, however, been standardised. That was one of the recommendations. Wage Boards are still to be established and plantations have still not been brought within the scope of the Payment of Wages Act though the matter is again under consideration. In Chapter XXII the recommendations that have been implemented relate to the opening of birth and death registers, the power of inspection by Directors of Health and the provision of adequate latrines. Standard types of houses have been prepared and have been tried on many gardens, and in many gardens good housing exists. In others it is not so. In other gardens experiments have been made with giving money or material to labour to build their own houses and they have achieved something in this direction. Another recommendation that has been implemented is in connection with maternity benefit. A Bill has been passed by the Assam Legislative Assembly. On the other hand, no progress has been made, so far as I know, with the important recommendation regarding Boards of Health and Welfare, nor has any progress been made at any rate in Assam in the preparation of plans for bathing and washing places ; nor, I think, has anything been done to prohibit the employment of children under ten years of age though there is a prohibition on recruitment from outside the province of children under 15 years. Except, then, for the passing of the Tea District Emigrant Labour Act, the record of progress is perhaps not very convincing. The passing of that Act was essentially a Central affair. The rest of the matters could have been dealt with by the provinces. But I do not propose to take shelter behind the constitutional position. The Centre had the power, as the matters are included in the Concurrent List, to pass legislation though, as is known, where concurrent legislation is passed, the executive authority will ordinarily rest with the provinces.

Well, Sir, after the passing of the Tea District Emigrant Labour Act, we were waiting for some time. It was in 1938 that we again took up matters concerning emigrant labour in Assam. We were just examining the position and we were consulting the industry and seeing what could be done when the Provincial Governments themselves set up their own Labour Enquiry Committee which unfortunately proved infructuous and was unable to submit any report. Again in 1941, on the Report of our Controller of Emigrant Labour, we were considering what action could be taken when Japan came into the war and conditions in Eastern India became unsuitable for an inquiry. That is what has been done.

My third reason for welcoming this Resolution is that it gives me an opportunity of showing what the Government of India hope to be able to do when a suitable opportunity occurs. We agree with the Honourable Mover that the tea industry is now in a prosperous condition. We agree with him that a share in that prosperity

must be passed on by them to their labour. We also agree that Government have a responsibility. The Honourable Mr. Kunzru was afraid that I might contest his figures for Ceylon. I do not in any way wish to do that. I accept them fully, though I would just point out that the 37 cents dearness allowance, to which he referred, was, so far as my information goes, the dearness allowance granted in February, 1943, whereas the rates of wage with which he is comparing in Assam were the rates in the year ending September, 1941.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : This is so, but the dearness allowance had been between 27 and 30 cents for a long time. I understand that it is 37 cents now.

THE HONOURABLE MR. H. C. PRIOR : I have the figures here, Sir. There is, however, one matter in connection with this to which I would like to refer. The first recent comparison that I saw between rates of wages in Ceylon and in Assam was in a leading article in the *Hindu*. There, quite correctly, the comparison was made between the family income of about Rs. 31 in Ceylon and the wages earned in Assam by a man, woman and child, given separately. That is quite a correct comparison. But in other newspapers (whether they took the facts from that leading article or not, I do not know), the comparison was made between the family income in Ceylon and wages of a man labourer in Assam. The matter could have been really better put by a comparison between the male labour rates in Ceylon and the male labour rates in Assam. So far as I know, those rates are Rs. 13-12-0 in Ceylon as compared to Rs. 9-2-0 in Assam for a man ; Rs. 10 in Ceylon compared to Rs. 8-2-0 in Assam for a woman ; and Rs. 9 in Ceylon compared to Rs. 5-10-0 in Assam for a child. Even so, those figures are not *prima facie* very flattering to conditions in Assam. There is ground for people to say that because there is minimum wage legislation in Ceylon, wages are better there than in Assam. Those average figures do seem to me to give ground for thinking that an inquiry may be necessary. An inquiry is necessary to find out exactly what those figures mean, and why wages are apparently so low and whether it is necessary to make arrangements for Wage Boards or a minimum wage. The Commission pointed out the difficulties in connection with wage legislation though it held that after an inquiry they saw no reason why they should not be able to do something, and with this view the Government of India agree. Our latest figures—and the figures have been quoted in this House—are for 1941. Since then affairs have developed in Assam in a manner which must affect the general wage structure. Payments are being made on Defence works at a rupee a day to labourers and in one report of a work being done by the Central P. W. D., not I think in Assam but in Bengal, I was told that the average labourer's earnings in the tea gardens during the busy plucking season are only slightly lower than those paid on Defence works. These Defence works wages cannot but have their result on general wage rates. I do not mean from this to suggest that I am satisfied that the wage rates paid even now in Assam are fair or that there is no ground for holding an inquiry. The Government of India accept in principle the necessity for an inquiry. But they feel that when that inquiry is held it should be held not only in relation to conditions in Assam but also in regard to conditions in the other plantation areas in India. I do not quite know why the Honourable Mover confined his Resolution to Assam. It may be that he has done so because in the Controller's Report he has some figures regarding Assam. He referred to that Report as published under the authority of the Government of Assam. I would, however, like to point out that this is a Government of India Report published and written by a Government of India officer. That Government of India officer gives the figures in the appendices to this report ; he gives us only average figures. But we believe that the figures vary very much from garden to garden. I have made some inquiries and I find that the average monthly wages on eight gardens selected at random vary between Rs. 7-10-0 and Rs. 11-8-0. There is a variation of more than 25 per cent. Even if we consider the wages to be sufficient the fact that that variation exists seems clearly to indicate the necessity of an inquiry with a view to devising means for securing adequate minimum wages. Similarly we know that in many gardens concessions are given, but I have no detailed figures evaluating those concessions. I have some figures from the Controller regarding the land given free or at concessional rates to labour. These figures are for eight

[Mr. H. C. Prior.]

gardens and they show a variation of between half an acre and 1½ acres. Again an inquiry is necessary to evaluate such concessions to make sure that labour is receiving fair treatment. Again in matters of education, to which both the Honourable Mover and the Honourable Mr. Kunzru specifically referred, I find that the Assam Government accepted a recommendation of a Committee that there should be consultations between employers and Government in regard to education. I find that recently there has been an improvement. I agree with Mr. Kunzru that there is room for a considerably greater improvement. But some improvement has taken place as I find from my Controller's Report that the number of schools in gardens has risen in the last three years from 109 to 547. The number is still not satisfactory; but there has been some improvement and there is still need for an inquiry to ascertain what more is necessary and what more must be done, because we all agree that education takes a very important place in any welfare organisation. Again on matters of health it is necessary that we should know the accurate position. I know in many gardens considerable work has been done on anti-malarial measures and that those measures have reduced the incidence of sickness, improved the health and condition of the workers. But I still know that the incidence of sickness is high and that whatever is possible must be done to reduce that incidence. I know that the incidence varies from garden to garden. I do not know the reason for it. I want an inquiry to establish what that reason may be and find out what can be done to prevent that condition remaining. The Government of India therefore think that an inquiry into plantation conditions is necessary and that such inquiry should deal not only with Assam but with Bengal and Madras. They consider that the inquiry should be undertaken under the authority of the Government of India. But they consider also that that inquiry can only be taken up when the time is opportune. And those last few words are the main reason why I find myself unable to accept the Honourable Mover's Resolution. He has asked for the inquiry to be held at once. The Government of India who are equally desirous with him of holding an inquiry consider that the present time cannot be regarded as opportune for holding an inquiry and that any inquiry held at the present time must be considered as wholly mistimed. I am afraid in saying this I disappoint my Honourable friend Mr. Kunzru. I think I owe it to him to try and explain the reasons why we regard this time as inopportune. I think there are two main reasons. The first reason is one with which I would have expected that the Honourable Mr. Kunzru who I believe has recently visited Assam would agree. Conditions in Assam are I believe wholly abnormal. The war is, as elsewhere, very much in everyone's thought; but in Assam it is in their actions to a larger extent than elsewhere. Labour from the tea gardens is being largely employed in relays on Defence works at high rates of wages and work at the gardens is interspersed with Defence works. Every one is fully occupied and most engaged on war work. An inquiry when we hold it must be a detailed inquiry. It must go into details; it must be a long business; it must take time and time for it can only be found by taking persons off that matter which should be occupying them to the greatest extent at the moment, the due prosecution of the war. The second reason why I consider the time inopportune for an inquiry is one more closely concerned with labour itself. Can it be said that the present time is the most suitable time for an inquiry in Assam in the interest of labour itself? I am doubtful. Conditions are abnormal. Employment is easy to come by. There is much more employment than usual. Workers on tea gardens are probably getting greater regularity of employment than they ordinarily have and that regularity must mean improvement in family income. Is there not a risk that an inquiry held now may show some regularity of employment which is abnormal and may show that the rates which in the normal case may be too low are because of that regularity of employment now adequate? Can we be certain that we shall get a fair picture. Again as regards medical conditions, with Defence works all over Assam, medical conditions are probably better than usual. Can we be certain that if we hold an inquiry now we will get a fair picture of what the plantations medical conditions are like? I very much doubt.

THE HONOURABLE RAI BAHADUR SRI, NARAIN MAETHA (Bihar: Non Muhammadan): What has been the increase in wages during the last four years?

THE HONOURABLE MR. H. C. PRIOR : I am afraid I have no figures to show the increase in wages since 1941 to the present day. Sir, as I have said, I welcome the moving of this Resolution. It has enabled me to show that the Government of India accept in principle the desirability of holding an inquiry under their direction at an opportune time, and, though we must hold that the present time is inopportune and therefore oppose this Resolution, I hope that the sympathy we have shown to the object underlying it will enable the Mover to withdraw his Resolution.

THE HONOURABLE THE PRESIDENT : Unfortunately, the Mover is not here today.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : He explained the other day that he had to go to Allahabad and would therefore not be able to return here in time for this discussion and that the House should not regard his absence as discourteous.

THE HONOURABLE THE PRESIDENT : But unfortunately, except the Mover, nobody can withdraw the Resolution.

THE HONOURABLE MR. N. K. DAS : On a point of information, Sir. May I know from the Honourable Member if the Labour Welfare Officers appointed by the Government of India are required to go to these places and inquire into the conditions of labour in Assam?

THE HONOURABLE MR. H. C. PRIOR : Not for the present.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Do Government propose to do so in view of their acceptance of the principle?

THE HONOURABLE MR. H. C. PRIOR : They have not so far considered it.

THE HONOURABLE THE PRESIDENT : I am afraid I have no other alternative but to put this Motion to the vote. Resolution moved :—

“ This Council recommends to the Governor General in Council to appoint a mixed committee of officials and non-officials, with adequate representation of labour therein to investigate the conditions of work and living, rates of wages and methods of recruitment, of workers in the Assam tea gardens.”

The Motion was negatived.

RESOLUTION *RE* APPOINTMENT OF MEMBERS OF THE INDIAN LEGISLATURE AS NON-OFFICIAL VISITORS TO JAILS.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Mr. President, I beg to move that :—

“ This Council recommends to the Governor General in Council to suggest to the Provincial Governments that members of both Houses of the Central Legislature should be treated as visitors to jails and non-officials, with adequate representation of labour therein to investigate the conditions of work and living, rates of wages and methods of recruitment, of workers in the Assam tea gardens.”

Sir, I have no doubt that the House is well aware that the principle underlying my Resolution has been accepted in regard to ordinary prisoners by every Provincial Government. There are non-official visitors to jails appointed, I believe, in every province and in addition to this members of the Provincial Legislature, who represent urban or rural constituencies, are treated as *ex-officio* non-official visitors during their term of membership. In asking therefore that the members of the Central Legislature should be allowed to visit security prisoners, I am not asking for the recognition of a principle which the different Governments in this country have not already laid down. Apart from this, Sir, my Honourable friend Mr. Sapru, moved a Resolution in November, 1941, to the following effect :—

“ This Council recommends to the Governor General in Council to institute a system by which non-official visitors selected from among members of the Central Legislature may be able to visit and report on jails and prisons in which political prisoners are kept in centres which are under the control of the Government of India.”

This Resolution was modified at the instance of my Honourable friend the Home Secretary and was passed in the following form :—

“ This Council recommends to the Governor General in Council to consider the proposal to appoint non-official visitors chosen from the Central Legislature to visit security prisoners in the Deoli detention camp.”

[Pandit Hirday Nath Kunzru.]

Now two things are clear, Sir, from this : one is that the Government of India themselves regard it as desirable that members of the Central Legislature should be allowed to visit prisoners of a special character. I will not use the term " political " because my Honourable friend Mr. Conran-Smith will at once object to it and say that the Government of India do not recognise any prisoner as political under the system of classification that they have adopted, but my Honourable friend, by agreeing at any rate provisionally to the appointment of members chosen from the Central Legislature as visitors to the Deoli detention camp, implicitly admitted the desirability of prisoners of a special character detained at least under the authority of the Government of India being visited by members of the Central Legislature chosen by them. The other thing that the Resolution, as passed, brings out is the unwillingness of the Central Government to allow members of the Central Legislature to visit such prisoners in the ordinary jails and camps as the system of non-official visitors is already in operation there. I shall deal with this point later but for the time being it is enough for me to point out that when the matter of appointing non-official visitors to the Deoli detention camp was, according to my Honourable friend opposite, under the consideration of the Government of India. The idea of allowing members of the Central Legislature to visit at least a camp, for which no non-official visitors had been appointed, was not *prima facie* unacceptable to the Central authorities.

Sir, the principle of allowing some outsider to inquire into the condition of prisoners detained in special circumstances has been internationally recognised. Under the international convention relating to the treatment of prisoners of war, the representative of the neutral country charged with the protection of the interests of enemy belligerents is also charged with the protection of the interests of prisoners of war. I here use the words of my Honourable friend Mr. Conran-Smith in reply to my question No. 174 which was answered on the 17th November, 1941. My Honourable friend added that the representative of the neutral country was entitled to visit the camps where prisoners of war were detained at all times and at his sole discretion. This representative of the protecting Power reports directly to his own Government. But that question, of course, does not arise in the case of political prisoners detained in India. I have troubled the House with the provisions relating to prisoners of war in order to emphasise that the safeguards provided for the proper treatment of special prisoners in this country should not be less than those accepted in the case of prisoners of war by public opinion all over the world, and in fact by the Governments of the countries who have agreed to the convention that I have just referred to.

The facts being what they are, it seems to me that on principle there can be no ground for objecting to my Resolution, which is of a very modest character. I shall be told, as the mover of a Resolution with wider terms in another place was told by the Home Member, that there are non-official visitors in every province, and that, consequently, it is not desirable to allow members of the Central Legislature to visit jails for which non-official visitors have already been appointed. I have two remarks to make in this connection. One is that there are many provinces in which no legislatures are functioning, and consequently no members of those legislatures can visit the jails in their own provinces. The Home Member said in the other House that it was not the fault of the Government that the legislatures in certain provinces had ceased to function. Whatever the view of Government in that connection may be, if they take a human view of the present situation they will see it is desirable that some other persons should be appointed who can take the place of visitors drawn from the Provincial Legislatures. Whether the Provincial Legislatures in six provinces have ceased to function on account of the fault of the people or that of Government is beside the point. We are concerned at present with the proper protection of the interests of prisoners, and I think it is incumbent on Government to see that special arrangements are made for this purpose where the normal arrangements are not in operation.

Secondly, Sir, my Resolution asks that the Governor General should only recommend to the Provincial Governments that members of the Central Legislature

should be treated as visitors to jails and camps in their constituencies where security prisoners are detained. Now, these members will not be given a sort of roving commission; they will not be entitled to visit any jail they like; they will be entitled, if my Resolution is accepted by the Provincial Governments, to visit only those jails and camps which are situated within the limits of their constituencies. In the second place, the rules under which these prisoners are detained have been, broadly speaking, made under the authority of the Central Government. The Government of India have laid down rules for the detention and treatment of security prisoners, and the Provincial Governments may copy those rules, or may make such modifications in them as they like. It is obvious, therefore, that non-official visitors belonging to a Provincial Legislature will not be able to take that comprehensive view of the rules applying to security prisoners that members of the Central Legislature, who know what the rules framed by the Central Government and by the other provinces are, can. Suppose a man belonging to the United Provinces who is not a member of this Legislature is allowed to visit a jail in which security prisoners are detained. All that he can see is whether the rules framed by his Government are being properly applied: he is not in a position to know what the rules made by the Central Government and by the other provinces are. If he knew them, he might find, on a comparison of the rules made by his Government with those made by the Central Government and by other Governments, that there was room for improvement both in the rules and the treatment of the prisoners.

Now, Sir, I am aware that where any suggestions have to be made in regard to the rules relating to the treatment of prisoners, no recommendation on the point can be recorded in the jail visitors' book. Separate proposals have to be submitted to the Provincial Government. But it will not be possible for any person who knows only the rules framed by his own Government to be able either to suggest adequate improvements in the treatment of prisoners or to make recommendations to his Government for the improvement of the rules. It is, in my opinion, therefore, necessary that members of the Central Legislature should be allowed to act as visitors to jails and camps in their constituencies where security prisoners are under detention. Even if those provinces where legislatures are functioning do not accept my Resolution, there is at least no reason why the Central Government, through the head of the Government, viz., His Excellency the Viceroy, should not induce those Provincial Governments where the constitutional machinery has broken down to accept the suggestion that I have made. If the Central Government merely take a formal view of their responsibility and say that their only business is to detain prisoners and not to see how they are treated in the provinces, it is a different thing. If they take up such an attitude, they will deserve the severest condemnation by enlightened public opinion. But if they realise that their responsibilities are not of a formal kind, but of a higher order, particularly as some persons are in detention under their orders, then I do not see how they can decline to intervene and ask the Provincial Governments to accept the suggestion made in this Resolution, so that public opinion might be satisfied that political prisoners were not being ill-treated by Government on political grounds.

Sir, the second part of my Resolution relates to the Chief Commissioners' provinces. In respect of these provinces the Central Government are in a position to issue any instructions they like. Even though there may be non-official visitors in these provinces, as my Honourable friend Mr. Conran-Smith pointed out in November, 1941, it is still desirable, on the ground that I have already mentioned, that members of the Central Legislature should be allowed to visit the detention camps in these provinces.

I may be asked at this stage whether there is any reason to suppose that the rules made by the Provincial Governments are different from those made by the Central Government or whether, whatever the rules may be, they are not being properly administered? Sir, it was not the purpose of my Resolution to bring charges against any Provincial Government. I am concerned with the system which ought to be in operation at the present time.

Sir, I hope I have succeeded in showing that the object that I have in view is one that ought to receive the favourable consideration of a civilised Government

[Pandit Hirday Nath Kunzru.]

and is based on a principle which has been accepted by them in this country and outside it. I will, however, deal very briefly with the question whether there is any reason to suppose that the rules made by the Provincial Governments are not sufficiently liberal or that they are not being properly administered. I shall first inform the House of the rules made by the Central Government—

THE HONOURABLE THE PRESIDENT : Please be very brief. This is outside the scope of your Resolution.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, I am trying to point out that there are, in my opinion, differences between the rules as laid down by the Central Government and at least the practice that prevails in some provinces, and that is why I am referring to the rules. My object is not to discuss the rules as such but only to point out certain considerations which arise from them. The rules made by the Central Government relate to many matters the most important of which are the classification of the prisoners, permission to receive money from outside to enable them to supplement the amenities of life in the jail, interviews, correspondence and the supply of newspapers and books. These rules, which relate to ordinary security prisoners, do not seem to me to be open to any serious objection. But these rules have been modified in their application to the security prisoners detained, as Government put it, in connection with the Congress movement. All these security prisoners are kept in one class which is called the "Q" class. This, Sir, is significant. I believe the letter "Q" stands for "Quisling", and although Mahatma Gandhi has protested that the Congress Working Committee is not responsible for the violent disturbances that occurred in August last and is in no way in favour of violence or sabotage, Government nevertheless call these prisoners Quislings. However, the only modification made in the ordinary rules relating to security prisoners in their application to the Congress prisoners is that the provisions of rule 11 shall not apply to such prisoners. Rule 11 relates to interviews. It is laid down in this rule that the Superintendent shall fix two days in the week on which interviews with persons other than a police officer may take place. Why Government do not allow interviews to persons arrested in connection with the recent disturbances I do not know, because the same rule provides that interviews shall take place in the presence of an officer deputed by the Superintendent. There is, therefore, no reason to suppose that people detained in connection with the Congress movement will be able to abuse the right of being interviewed by their relatives or friends. It has, however, pleased the Central Government to lay down that no interviews shall be allowed in their case. I should like to draw the attention of the Government forcibly to this point, because of the safeguard that a jail officer is always present when interviews take place there is no reason why Government should be particularly severe on the people with whose case I am dealing and treat them in this matter almost in an inhuman way. Except with regard to interviews, so far as I can judge from the special rules made in connection with the persons arrested in August last and subsequently, these prisoners are treated in the same manner as the other security prisoners. I suppose, therefore, that they are allowed to receive money from outside for supplementing the amenities of life available in the jail, to receive newspapers and books and to write and receive letters. Let us see now whether the same principle is followed in the Provinces. I shall give only one instance on this point in order to show that some Provincial Governments in any case have not followed the lead given by the Government of India and have gone far beyond the requirements of the situation. I refer, Sir, to the case of Pandit Jawaharlal Nehru. His daughter was unable to communicate with him, nor I think was his sister allowed to correspond with him. She therefore wrote to the United Provinces Government and received the following reply :—

"With reference to your letter, dated March 2nd, I am desired to say there appears to have been some misunderstanding. There has been no general relaxation of the rule in force in the United Provinces that security prisoners are not allowed correspondence. The Government of India permitted certain security prisoners under their control to write letters to members of their families on purely domestic matters and to receive letters from them. The Government of

India pointed out that this privilege meant nothing if such letters were not delivered to addressees who may be security prisoners detained in the Provinces and the Governor accordingly relaxed the rules to permit receipt of such letters by security prisoners in the United Provinces and the sending of a reply thereto. No permission has therefore been given to Mrs. Indira Gandhi to write to her relatives except in reply to a letter received from her relative who is also a security prisoner—”

THE HONOURABLE MR. E. CONRAN-SMITH : I do not want to object to my Honourable friend travelling rather far outside the scope of the Resolution, but I would suggest, with all respect, that raising questions about correspondence is very wide of the substance of his Resolution.

THE HONOURABLE THE PRESIDENT : The Honourable Member will remember that his time is already exceeded.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I will merely make one or two remarks with reference to what has fallen from my Honourable friend Mr. Conran-Smith. He must have realised that I am not trying to deal at length with the rules. I am merely trying to give an illustration showing that there is need for the appointment of non-official visitors of the kind that I have asked for when there are such variations both in theory and practice between the Central Government and the other Governments, or at least one other Government. I ask him in all fairness to tell me whether without giving any illustration I could point out in any other way that the recommendation made in my Resolution deserves to be carried out at least in those provinces where no Legislatures are functioning.

Sir, it appears from the letter that I have just quoted that the Central Government have only allowed some security prisoners to write letters to their families on purely domestic matters ; but it appears from the special rules that have been made with regard to the Congress prisoners that the Government of India have placed no special restrictions on their correspondence. I should like to know from my Honourable friend opposite whether I am right or whether the interpretation placed by the United Provinces Government on their rules is correct. Sir, I do not want to give any further details, but if any were necessary I would point out that Mr. Kalilkar who is popularly known as Kaka Kalilkar began a fast in the Vellore jail where he was detained after coming to know that Mahatma Gandhi was fasting. He wrote to his son on the 19th of February and his son who is a Professor in the Hindu University got the letter on the 1st March only. An earlier letter written by his father reached him even later. Now, if there were non-official visitors they might have discovered these things, spoken to the authorities concerned and brought about a healthy change which would have prevented unnecessary agitation and anxiety.

I shall refer, Sir, to only one more point, and that is in connection with what the Central Government themselves are doing. They were asked in the Legislative Assembly whether it was a fact that certain persons were detained in underground cells in the Red Fort. The Home Member replied that the question probably referred to certain detention cells constructed in an old *baoli* in the Red Fort in which two prisoners are at present confined. It seems very strange that the Central Government after having made rules to which, with one exception, no serious objection can be taken should have departed from the spirit underlying them to such an extent as to detain some prisoners in cells constructed in an old *baoli*. Under the rules relating to prisoners of war they can be detained only in places that can be kept warm and are properly lighted. Is there any reason why the Government of India, whatever their charges against the Congress might be, should not treat the political prisoners in a better way ?

Sir, I shall now bring my remarks to a close. I hope that the illustrations that I have given have been sufficient to enable the House and the Government to understand what was the necessity that compelled me to bring forward my Resolution, notwithstanding my knowledge of the fact that under the rules laid down in several provinces non-official visitors to jails can be appointed. The subject, as I have said already, was discussed along with other matters in the Legislative Assembly on the 25th instant. The reply of the Home Member was, I am sorry to say, exceedingly unsympathetic. Indeed reading the report of the speech, it seemed to me that he had hardened his heart against all human considerations.

THE HONOURABLE THE PRESIDENT : Do not read from the report.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I am not reading from it ; I have not read a word from it. I have it before me only to be certain that I am saying nothing that is not strictly in accordance with the facts. He was asked, for instance, whether he would make proper provision for the maintenance of the families of the security prisoners and his reply was that the rules relating to allowances to be granted to the families of detenus had been liberalised in accordance with the recommendations made by Mr. Joshi after visiting the Deoli detention camp, but that the Central Government proposed to apply a stricter standard to people who were out to overthrow the Government and who had therefore little claim on the authorities. Sir, the opinion expressed by the Honourable Home Member seems to me to indicate an entirely wrong and reprehensible point of view. In certain provinces—I know at least that in my own province—it is almost impossible to give relief to those people who have suffered during the recent disturbances. Even granting that the disturbances were due to their activities is there any reason why they and their families should be allowed to starve when even prisoners of war are being treated in a humane way ? I hoped that such an attitude in the provinces would not have the support of the Central Government but it seems that the Central Government themselves regard the prisoners recently arrested not merely as their enemies but as persons who should be subjected to hardships of a serious character. They think that the misdeeds of these people are such as to justify them in allowing their families to starve.

Sir, this is not a point of view that will commend itself to any non-official Member in this House. I am sure it is not one that will be approved by public opinion and if the Central Government wish to be regarded as a civilised Government and to carry on their administration of jails in accordance with internationally recognised standards it is their duty to revise these rules, to treat the prisoners and their families better and to use their authority to persuade the Provincial Governments to follow the rules which they themselves have laid down for the treatment of security prisoners generally and the Congress prisoners in particular.

Sir, I move.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA (Bihar : Non-Muhammadan) : Mr. President, Sir, Dr. Kunzru has worded his Resolution with extreme modesty and I should think he has been very modest in putting forward his reasons in support of the Resolution. I understand, Sir, that security prisoners are mostly detained in the jails on the authority of the Government of India. Am I correct ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Some of them are.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA : If that is a fact, then I should think Dr. Kunzru has been extremely modest in suggesting that the Government of India should merely suggest to the Provincial Governments that members of both Houses of the Central Legislature should be treated as visitors to the security prisoners. If these prisoners are detained on the authority of the Government of India Dr. Kunzru could as well have asked the Government of India to direct the Provincial Governments to do so. That is one of the points on which, Sir, I think he has shown extreme consideration and, secondly, Dr. Kunzru has shown that the principle underlying this Resolution was accepted by the Government of India so far as the desirability of allowing the members of the Central Legislature to visit jails is concerned in a previous Resolution that was moved by Mr. Sapru. The security prisoners in India in respect of receiving visitors are being more scantily treated than even the prisoners of war. Dr. Kunzru perhaps read out the International Convention, according to which prisoners of war could be visited at any hour of the day or night by a certain class of persons who are mentioned in that International Convention and, therefore, if this Resolution asks the Government merely to permit members of the Central Legislature to visit the security prisoners I think it does not ask for very much, remembering the fact that these visits will take place in the presence of Superintendents of jails.

Sir, I have been a visitor to a jail for many many years and I have been fairly regular in my visits and although I would not say here many things in regard to the observance of the rules in the jails ; I will refer to one or two recent deficiencies.

In the jail of Muzaffarpur—it is a District Central Jail—I think the accommodation is for about 375 or 380 prisoners. When I left my town there were already about 800 prisoners, all huddled up together, in which there were security prisoners too, and I was told at one of the jail meetings, which I attend being a member of the Jail Visiting Committee, that although there were about 800 prisoners there were blankets for only about 500. I was also told that there were not utensils for all of them and that they had to be fed in various shifts. I am not sure of the figures I have given but there was a definite shortage. Now conditions like these, where blankets cannot be provided to prisoners and where they cannot be given utensils to eat from, are very serious indeed and if I had not been a member of the Central Legislature I should have had no means to bring it to the notice of Government because there is no normal Government in my province, the Legislature there is not working. Therefore, particularly in the circumstances that prevail at present this Resolution comes as a very opportune one.

If I may, I will try to correct, what I may say is a misapprehension in the mind of Dr. Kunzru, with regard to the classification of a certain class of prisoners as “ Q ” prisoners. Dr. Kunzru said that from his inquiries he has come to know that some prisoners are classified as “ Q ” prisoners because they are considered to be Quislings. I cannot question the thoroughness with which he can make an inquiry but from the inquiries that I have made I have been told that these prisoners are called “ Q ” prisoners because they question the authority of the British Government to exist in this country. I have also been told that they are also called “ Q ” prisoners, because they stand for the present slogan of the Congress—“ Quit India ”.

THE HONOURABLE MR. HOSSAIN IMAM : Government is giving them publicity !

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA : That is what it would naturally seem to be, and that is the impression in the minds of the people.

Sir, I wholeheartedly support the Resolution that has been moved by the Honourable Pandit Kunzru for the acceptance of the House.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, I wholeheartedly support the Resolution so ably moved by my Honourable friend Pandit Kunzru. I understand that in the provinces there are security prisoners detained in jail who are under the control of the Provincial Government concerned, as well as security prisoners who are under the control of the Central Government. The Honourable Pandit Kunzru has made out a very good case in support of the Resolution. He has shown that the rules framed by the Central Government are not followed strictly by some Provincial Governments. I therefore submit that if the Government accept this Resolution of the Honourable Pandit Kunzru, all the troubles and the complaints that have been made against the jail administration in the provinces will be removed, through the members of the Central Legislature being allowed to visit the jails and bringing the grievances to the notice of the Central Government.

Government know that complaints have been made on the floor of this House as well as on the floor of the other House about the treatment meted out to the prisoners, especially the security prisoners, by the Jail Department. In my opinion, a very strong case has been made out for removing the grievances of those prisoners. We know that there was a lot of trouble about the Deoli prisoners. Mr. Joshi was asked by the Central Government to visit Deoli. Some of the grievances were removed after his visit.

Further, Sir, we are told that in certain jails in the provinces the treatment that is meted out to the prisoners is not humane. If this information is correct, I think Government would be acting wisely and humanely if they accept the Resolution which is before the House. We have heard that the treatment that is meted out to the prisoners of war is better than the treatment that is meted out to these security prisoners. I have not visited any camp ; I cannot say from personal knowledge whether there is any real difference between the treatment meted out to the security prisoners and that meted out to the prisoners of war. But if the complaint about differentiation in treatment is true, it is rather unfortunate, and it is very disgusting that the treatment meted out to our nationals, whatever view they may hold, however we may disagree with them, should in any way be different from that meted

[Mr. V. V. Kalikar.]

out to prisoners of war. Sir, the position is rather curious, if this information is correct. After all, the Italians who came to invade—I do not know personally, but from the reports that I have heard—have been treated as guests in the prisoners' camp, while our security prisoners, as in the case referred to by the Honourable Pandit Kunzru about the Delhi *baoli*, are not given even ordinary humane treatment. I think, Sir, that Government should not feel shy of accepting the Resolution. They should allow the members to see things for themselves and to approach the proper authorities if the complaints are true and see that they are removed.

It is not my habit to tell stories in this House, but as I am on my legs I may tell a story about a case that happened in Nagpur some three months ago. There was some disturbance in Nagpur Jail. The labour leader, Mr. Ruikar, was put in jail. After that, rumour was afloat in the market, in clubs, in the colleges, in the Bar, in the Courts, everywhere, that there had been firing in the jail and that Mr. Ruikar had received bullet wounds as the result of the firing. Many people came and inquired of me. I said, "Let us await the press communique of the Government on this subject". The Provincial Government did not issue any communique. A jail visitor, a friend of mine, happened to meet me the next day. I asked him about this rumour. He said that nothing of the sort had happened; only a *lathi* charge had been made on some prisoners; Mr. Ruikar had not been wounded at all. So my point is that if you do not allow visitors to go there and make inquiries, you give a handle for this false propaganda. Therefore, I submit that the demand made by the Mover is very modest. There are some security prisoners under the Central Government who are stationed in provinces and therefore the proper persons who can approach the Central Government are the members of the Central Legislature. I therefore, Sir, heartily support the Resolution moved by my Honourable friend.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I do not wish to inflict a long speech or to discuss the Resolution in detail. I wish to approach it from an objective point of view. The first thing which strikes me is, that the security prisoners stand in a class by themselves, because of the fact that their guilt has not been proved in a court of law. That entitles them to special treatment, treatment better than that meted out to ordinary criminals. Secondly, Sir, according to the present practice in the civilised world, a political prisoner is placed on a higher footing than an ordinary prisoner due to the fact that a man who has committed a political crime has committed it not for his personal benefit but for the higher advantage and benefit of the community or of the country in which he lives. That also entitles him to receive a better deal than his other namesake, the ordinary prisoner. There is this thing which might be said in defence of the present practice of the Government, that these people are very dangerous. They might, through jail visitors, carry on their propaganda in the outside world. To rebut that, I think Dr. Kunzru has pointed out the jail rules, which lay down that a jail official shall remain all the time that the interview takes place. That is a safeguard. I think it is petty-mindedness on the part of Government to stop these visitors. I should like to point out that what I am saying, I am saying from an objective point of view. It should neither be regarded as a support for the Congress or a support for the Government. I hold a neutral attitude in this matter. I do not commend or condemn either. I have to look at the matter from a possible personal point of view as well. The way in which the Government are disregarding the Muslim opinion and Muslim rights makes it quite possible that we may also come in under the mischief of the present Act. Today your people might be in jail, though tomorrow my people might be in jail. That may make it a personal affair too. I would have more confidence while I am in jail if I know that my colleague from Bihar, the Honourable Rai Bahadur Sri Narain Mahtha, will be visiting me and will bring my complaints to the Government. This might also be a personal element in my support for this Resolution. I do wish, Sir, that the Government would be big-hearted and statesmanlike enough to consider the implications of a small concession. Small concessions do not harm you but they go a long way in healing the wounds that might have been inflicted.

Sir, I support the Resolution.

THE HONOURABLE MR. N. K. DAS (Orissa : Non-Muhammadan) : Sir, I want to draw the pointed attention of Government to the difference in treatment that is being meted out to the prisoners in the different provinces. Even in the same province where these security prisoners have been detained under the Defence of India Rules, there is a difference in the treatment meted out in one jail or the other. I could say from my personal knowledge, Sir, that whereas in some jails the Superintendents have been kind and good to the prisoners and have allowed them to indulge in smoking cigarettes, in other jails the bare necessities of food, for example, ata and milk, are denied to the prisoners. I speak from personal knowledge, Sir. This is in Berhampore in Orissa where security prisoners have been denied ata and milk from the menu of their diet. I think it is incumbent on the Government of India, at whose instance under the Defence of India Rules these security prisoners have been put in jail, to see that a uniform treatment is meted out to these prisoners and it should be the care and concern of the Government of India to look to these difficulties that the prisoners feel.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) : Sir, the Resolution moved by my Honourable friend Dr. Kunzru seeks to secure the *ex-officio* appointment of members of both Houses of the Central Legislature as non-official visitors to jails in which security prisoners are detained, both in Governors' provinces and in Chief Commissioners' provinces. Now, the objects for which this *ex-officio* appointment is commended to Government are the same objects as those for which non-official visitors are appointed to visit ordinary prisoners in jails, and those objects are, I think, well known to the Honourable Mover and this House. They are, in brief, to inspect buildings and prisoners, hear any complaints which they prefer, inspect the prisoners' food and examine the punishment book, etc. I would ask the House, in considering this Resolution, to bear those objects in mind. The main question raised by my Honourable friend is really this : " Are Honourable Members of the Central Legislature possessors of any special qualifications, special powers or special privileges that render them particularly suitable to perform the functions normally assigned to non-official visitors to jails ? " I shall return to this point later. It is, as I say, the main point of the Resolution.

I would like first to say a few words, very briefly, regarding the present position, although I think it is a matter on which Honourable Members are fully informed. The present position is that Honourable Members of the Central Legislature are not debarred from appointment by Government as non-official visitors, but they are not given any special preference in this matter. On the other hand, as the Honourable Mover has said, in some provinces, if not all, members of the Provincial Legislature are already, under the existing rules, *ex-officio* non-official visitors to jails.

I have listened very carefully to the arguments adduced by the Honourable the Mover and those other Honourable Members who supported his Resolution to find out why Government should bind themselves to make Honourable Members of the Central Legislature *ex-officio* visitors and I regret I have not been convinced. My Honourable friend was careful to distinguish between those provinces where the constitution is functioning normally and those provinces where it is not and he has anticipated the objection which I think he knew I must take on constitutional grounds ; that is to say, that there is no good reason to superimpose a member of the Central Legislature upon the member representing the constituency in the Provincial Legislature, nor of course to substitute such member for the Provincial member. The Honourable Mover has endeavoured to make out a case on the ground that he as a member of the Central Legislature can ventilate grievances up here.

I must go back for a moment to what I said about the objects for which non-official visitors are appointed to visit ordinary prisoners, because those objects are relevant to the arguments adduced by my Honourable friend who moved the Resolution. He suggested that if members of the Central Legislature were permitted to visit jails where security prisoners are detained they could move Provincial Governments, possibly through the Centre, for an amendment of the rules. That I suspect from what the Honourable Member said and from what fell from the lips of those who supported him is the real object he has in mind, or the main object. I suggest to the Honourable Mover that as a member of the Central Legislature he has really no status to make recommendations to Provincial Governments in regard to

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their jail administration which is strictly a Provincial Subject. A good deal was said about the Provincial rules the amendment of which appears as I have said to be one of the objects for which non-official visitors should be appointed from the Legislature. The Honourable Member set up an "Aunt Sally" in the shape of a suggestion that Provincial Governments did not altogether realise their responsibility for the care, welfare and humane treatment of prisoners in their charge; but he himself knocked down his "Aunt Sally" by saying that he did not in fact suggest that. It is not incumbent on me therefore to deal with the suggestion at all. On the subject of the rules there were one or two other references which were made. I was diverted by the discussion on the meaning of "Q" class. There seems to be a good deal of mystery in the minds of my Honourable friends opposite as regards the meaning of that class. In the last war there were mystery ships called "Q" Ships and I think much the same character is attributed in the minds of Honourable friends opposite to the particular letter selected for describing these prisoners. I leave my Honourable friends to be mystified.

I am afraid I have wandered rather from the subject-matter of this Resolution. I would go back again to the main point, the main point at issue between us, which is whether any case has been made out for giving preference to members of the Central Legislature as non-official visitors. I pointed out that in Governors' provinces it would not be proper, where the Legislature is still functioning, to superimpose M. L. As. from the Centre on Provincial M. L. As. As regards the general proposition, I think I made it clear that the Honourable Member himself in his Resolution has only proposed that these visitors should deal with the matters for which non-official visitors are normally appointed. But he has in effect gone further than that in suggesting that they might move for the amendment of the Security Prisoners' Rules. Apart from that, I say without intending any reflection at all,—since Honourable Members are, very naturally perhaps, deeply interested in politics and since discussion of politics is not one of the objects for which non-official visitors are appointed,—I do venture to suggest that, taking a purely detached point of view, the Honourable the Mover might agree with me that that is not a reason for giving preferential treatment to Honourable Members in this question of appointment as non-official visitors. The position in Chief Commissioners' provinces is that there is no prohibition on the appointment of Honourable Members as non-official visitors and in point of fact one member of the Central Legislature is a non-official visitor for jails in Ajmer. The Honourable Mr. Kalikar, I think, suggested that the treatment in some of the provincial jails was not humane. I confess I was not impressed by the evidence which he put forward. He was, I thought, rather vague and did not suggest that there was really any inhumanity in the treatment accorded to security prisoners, which Government do not believe there is. A good deal was made of the Prisoners of War Convention. I suggest that the analogy drawn with the Prisoners of War Convention is not really relevant or apposite. Prisoners of war are in a foreign country; they are not under their own Government. It is for that reason that a protecting Power is appointed and there is a representative of that Power in the country in which there are prisoners of war to look after their welfare. Security prisoners are not in a foreign country; they are in their own country and the necessity for a protecting Power does not therefore arise.

My Honourable friend Rai Bahadur Sri Narain Mahtha suggested that in one of the jails he visited there was a shortage of blankets and utensils and suggested that it is necessary to be a member of the Central Legislature to enable non-official visitors to point out to the authorities concerned that there are not enough blankets or not enough utensils.

This seems to me a duty which someone who is not a member of the Legislature could equally well perform.

My Honourable friend Mr. Hossain Imam painted a gloomy picture of the time when he may himself join the security prisoners—

THE HONOURABLE MR. HOSSAIN IMAM: Enjoy the hospitality of His Majesty!

THE HONOURABLE MR. E. CONRAN-SMITH:—and gave the only strong reason that—with all respect—I heard today for accepting this Resolution and that

was that he would be enabled to see the personal friend now sitting behind him. I suggest that it may be a very convincing reason from my Honourable friend's point of view but not convincing to Government.

Well, Sir, I hope I have said enough to show that for reasons I have stated the Government do not see any particular reason for making special provision for the appointment of Honourable Members of the Central Legislature to visit security prisoners in jails. To convince Government Honourable Members should, I think, have shown us that there are other qualifications possessed by members of the Central Legislature which are not possessed by the many persons who have rendered excellent service as non-official visitors, people who have taken interest in prisoners' welfare and kindred subjects and who are, as I say, discharging these duties in provinces today.

Finally, Sir, I must refer to the fact that my Honourable friend at the commencement of his speech referred to the debate that took place in 1941 and suggested that Government's attitude on that occasion showed "implicit approval"—I think his words were—of the principle underlying this Resolution. I can only say in that regard that I did promise consideration and I meant it but to promise consideration does not mean so far as I can see that one implicitly approves. Secondly, that Resolution, in the terms in which it was moved, referred only to Deoli, which was a central camp and in regard to which there were certain special considerations. I do not think my Honourable friend was very fair in deducing that I had in any way on that occasion committed Government to the acceptance of the general principle that non-official visitors should be drawn from the members of the Legislature both in Chief Commissioners' provinces and in the Governors' provinces.

I regret, therefore, for the reasons I have given Government cannot accept my Honourable friend's Resolution.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Mr. President, I was not unprepared for the reply that my Honourable friend Mr. Conran-Smith gave, but it appeared to me from the apologetic manner in which he was speaking that if the matter had been left to him personally he would have taken a different view of it than he has had to take as Secretary to the Government of India in the Home Department.

THE HONOURABLE MR. E. CONRAN-SMITH : Sir, may I say that I have not been apologetic in my reply at all. I was not in the least apologetic.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, the House is well aware of the nature of the reasons which he gave for not accepting my Resolution. Those reasons were so weak that it was difficult to understand that Government had any substantial ground for declining to allow the members of the Central Legislature to visit those places where security prisoners were detained. In my speech in moving the Resolution I thought I gave sufficient reasons to justify the proposal that I made. Since they have not proved sufficient I shall bring two or three more considerations which might weigh with my Honourable friend.

THE HONOURABLE THE PRESIDENT : Not in your reply.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I mean merely to deal with his reply in dealing with these points.

The Honourable Member said that as the members of the Provincial Legislature, at any rate in those provinces where the constitution was functioning, were acting as non-official jail visitors, there was no good reason to superimpose members of the Central Legislature on them or to substitute such members for them. He even went so far as to say that as in all probability the members of this House desired an amendment of the rules more than anything else, it was necessary for him to remind them that they had no special status which would entitle them to deal with a provincial matter. I was rather sorry that my Honourable friend should have made such observations about the members of the Central Legislature. We all, after all, come from the Provinces and I think I succeeded in showing that the members of the Central Legislature were in a better position to compare the rules in the different Provinces with those laid down by the Central Government and then ask their own Governments to make suitable modifications, but apart from this, when my Honourable friend lays stress on the fact that there are non-official visitors in those Provinces

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where there are Ministries and Legislatures, I should like to ask whether these non-official visitors are allowed to visit security prisoners? In some places they may be allowed to do so but I doubt whether that is the rule and if my information on this point is correct then the argument which he has urged falls to the ground. There ought to be some non-official agency to visit the jails where security prisoners are lodged and if the provincial non-official visitors are not allowed to visit them there is no reason why members of this Legislature should not be appointed as non-official visitors in their case. I have been authorised—

THE HONOURABLE MR. E. CONRAN-SMITH: I should just like to be clear about this point. Was the Honourable Member referring to visits of non-official visitors to all security prisoners?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Yes, including the Congress prisoners.

THE HONOURABLE MR. E. CONRAN-SMITH: I shall be pleased to refer to that when I am given an opportunity.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I have been authorised by my Honourable friend Mr. Sapru who is a non-official visitor for jails to say that in the United Provinces the functions of jail visitors had been suspended and that they were not allowed to visit jails. Sir, I have no reason to doubt the accuracy of what he said to me. If I correctly remember what he said, this is the position in the United Provinces. Now, is there any reason why in such provinces members of the Central Legislature should not be allowed to function in the manner I have indicated in my Resolution?

Again, there are detenus or security prisoners detained under the orders of the Central Government. I do not know whether they are allowed to be visited by any non-official visitor. A question was put in the Punjab Assembly in regard to one such prisoner in the Punjab, Sardar Sardul Singh Caveeshar. I think the Premier answered that he was detained under the orders of the Government of India. The complaint in the Punjab Assembly was that he was not allowed to be seen by anybody. This is what I gathered from the report published in *The Tribune*. I do not know whether it is quite correct; but if it is, I am on stronger ground in asking for the acceptance of my Resolution.

My Honourable friend Mr. Conran-Smith said that he had no reason to suppose that the rules in the provinces were not what they should be or that they were not being properly administered. I hope I understood him correctly on that point. I should have thought that the illustrations that I had given would have sufficed to show to him that there was some need for supervision on the part of the Government of India, and that they would be in a better position to discharge their responsibility if they had the assistance of the members of the Legislature in their task. In the United Provinces, according to the letter that I have read out—letter sent by the United Provinces Government to Pandit Jawaharlal Nehru's younger sister—it appears that while the authorities allow their security prisoners to reply to letters received by them from their relatives who are security prisoners outside the United Provinces, they do not allow them to write letters on their own initiative. Now, is not this matter one which requires looking into, and which would have been remedied, and I think remedied very soon, had there been non-official visitors of the kind that I have asked for?

If my Honourable friend needs any further illustration, I shall tell him that, in the case of the Vellore Jail, according to my information, no newspapers and books that are not of a religious character are allowed to security prisoners. So far as I understand, the Central Government have laid down no such restriction. Under the rules made for prisoners of war, it is laid down that "belligerents shall encourage as much as possible the organisation of intellectual and sporting pursuits by the prisoners of war". Yet there are Provincial Governments which are not allowing newspapers and books to reach the security prisoners. In the United Provinces too, I understand, the security prisoners arrested since August last are not allowed to receive newspapers. I am not sure about books: but I believe that the information that I have received with regard to newspapers is correct. These

illustrations further strengthen my position and imp-1 me to urge the Central Government once more to reconsider their decision.

My Honourable friend Mr. Conran-Smith, urging his objections to the acceptance of my Resolution, said that we were primarily interested in politics, and that it was not the function of non-official visitors to discuss politics when they visited jails. I do not know whether my Honourable friend was speaking seriously. If he was, I have good reason to complain of the remark that he made. He should have known that my suggestion was not made in order to enable members of this House to carry on political discussions with the security prisoners. Even if we wanted to do so, the superintendent or any official who might be present at the interview would not permit such a discussion.

THE HONOURABLE THE PRESIDENT: You said so at the commencement of your speech.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Yes, Sir. But when my Honourable friend said that perhaps we wanted to discuss political matters with the prisoners, I thought it my duty to protest against the remark that he made, and to point out that it was taking a very unfair view of our Resolution to suggest that we were actuated by purely political motives in asking for the better treatment of security prisoners and for the appointment of members of this Legislature as jail visitors.

Sir, I can give one more illustration in support of my proposal, and that refers to the Delhi Fort, where some prisoners are detained in cells in an old *baoli*. I do not know whether any non-official visitor is allowed to visit the security prisoners in that Fort. But I am quite certain that, had any member of the Central Legislature been allowed to visit the Fort, this grievance would have been brought to the notice of the Central Government long ago.

I hope, Sir, that the further illustrations that I have given and the considerations that I have placed before the House show convincingly the need for the appointment of members of this House as non-official jail visitors. It is, of course, in the power of Government not to accept this Resolution. But I think they are morally bound to give reasons for adhering to the unwise and unjust course that they are pursuing. I hope, therefore, that they will yet revise their opinions and not deal with security prisoners as they like because they have proved troublesome, or even because, according to Government, they have hampered them in the prosecution of the war. Whatever their fault might have been, it is the duty of Government to act as a civilised Government to do all that they can to treat these prisoners in a proper way and to make such arrangements as would enable them to receive complaints about their legitimate grievances. So long as such arrangements are not made, the public will remain suspicious, and rumours, even of a wholly unfounded character, are bound to obtain credence with the public. Government will themselves be to blame if no one contradicts them and the impression generally prevails that it is the policy of the authorities to deal with the security prisoners so harshly as to terrorise them and to make the public in general feel that those who oppose the Government at the present time on political grounds will receive treatment which would make them feel the strong arm, not of the law, but of the executive administration.

(At this stage, the Honourable Chaudhri Atullah Khan Tarar wanted to say a few words in order to effect a compromise.)

THE HONOURABLE THE PRESIDENT: The Honourable Mover has already replied and you cannot speak now. There is no question of compromise. It is for the Government to say the last word.

THE HONOURABLE MR. E. CONRAN-SMITH: Sir, I do not wish to detain the House very long. There are only two or three points with which I would like to deal, points that were taken by the Honourable Mover in his last speech. Without being in the least apologetic I am glad to be able to be, at any rate, accommodating in regard to what my Honourable friend has said on the subject of non-official visitors, other than members of the Legislature, *ex-officio*, visiting security prisoners who are in jail in connection with the Congress movement. In the Chief Commissioners' provinces of Delhi and Ajmer there is no prohibition on non-official visitors visiting

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security prisoners detained in connection with the Congress movement. As will appear, therefore, from the Central Government's attitude in this matter in Chief Commissioners' provinces, they are not themselves antagonistic to the proposal that non-official visitors should visit Congress security prisoners for the purposes for which non-official visitors are appointed to visit ordinary prisoners. I would add that the Central Government propose to address Provincial Governments in regard to this matter. I hope that will show that the difference between my Honourable friend and myself is really only in regard to the personnel who should constitute the visitors—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May I ask my Honourable friend to make himself a little clearer? I did not quite understand what he said.

THE HONOURABLE MR. E. CONRAN-SMITH: I am sorry. I thought I had been crystal clear. I said that in the Chief Commissioners' provinces of Delhi and Ajmer, there is no prohibition on non-official visitors visiting security prisoners detained in connection with the Congress movement. That shows that the Central Government themselves are not antagonistic to the idea of non-official visitors visiting the Congress security prisoners and I concluded my remarks by saying that the Central Government propose to address Provincial Governments on that subject. I added that, that being so, the difference between the Honourable Mover of this Resolution and myself was really only a difference in regard to the personnel who should be the visitors, and that we were in effect in agreement on the principle that these security prisoners should be visited by non-official visitors.

I am sorry that my Honourable friend has taken exception to my remarks about politics. What I had in mind was this. I had asked myself, and asked the House to consider, what particular qualifications a member of the Central Legislature would have to entitle him to preferential treatment over some other person who was experienced in jail visiting and who was fully qualified to achieve the objects for which non-official visitors were appointed, and I then said that the only reason I can think of was that Honourable Members might wish to discuss politics,—I do not think there is any great reflection in that,—but I pointed out that discussion of politics was not one of the objects for which non-official visitors are appointed.

One other point before I sit down. A good deal has been made of the fact that the superintendent of the jail is present when an interview takes place. I would remind Honourable Members that there have been occasions—notably one occasion—when instructions were passed by hand from a security prisoner to a relation for communication outside the jail. The presence of the superintendent is not therefore an absolute protection against such communications being sent outside the jail.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I am not going to make another speech but I am asking the Honourable Member for elucidation. Is he prepared kindly to forward to the Provincial Governments that the members of the Central Legislature desire that they should be appointed as non-official visitors? Without any comment from the Central Government, merely this fact should be conveyed to the provinces.

AN HONOURABLE MEMBER: Or the proceedings might be sent to the Provincial Governments.

THE HONOURABLE MR. E. CONRAN-SMITH: I think the Honourable Member's point will be adequately met since these proceedings are published in the press. Provincial Governments will no doubt read the proceedings.

THE HONOURABLE THE PRESIDENT (to the Honourable Pandit Hirday Nath Kunzru): Do you wish to press the Resolution?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: My Honourable friend has given a conciliatory reply. I am glad to see that the Central Government are prepared to consider the suggestion that I have made. I only hope that when they address the Provincial Governments, they will recommend to them the appointment of members of the Central Legislature also amongst the non-official visitors whom they may select. I should like, before I sit down, to ask him again whether any non-official visitor is allowed to visit the security prisoners detained in the Delhi Fort.

THE HONOURABLE THE PRESIDENT: He said there is no objection.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: That is not the question. They are responsible for the administration here and they should be able to say whether anybody in actual fact is allowed to visit the prisoners in the Fort.

Sir, in view of the reply given by my Honourable friend I consider it prudent to withdraw my Resolution.

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

STANDING COMMITTEE FOR THE CIVIL DEFENCE DEPARTMENT.

THE HONOURABLE THE PRESIDENT: The following Honourable Members have been nominated for election to the Standing Committee to advise on subjects with which the Department of Civil Defence is concerned :—

1. The Honourable Mr. Khurshid Ali Khan.
2. The Honourable Mr. M. N. Dalal.
3. The Honourable Haji Syed Muhammad Husain.

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

CENTRAL COMMITTEE OF THE TUBERCULOSIS ASSOCIATION OF INDIA.

THE HONOURABLE THE PRESIDENT: With reference to the announcement made by me on the 29th March, 1943 regarding nominations to the Committee, I have to announce that the Honourable Rai Bahadar Sir Satya Charan Mukherjee has been nominated for election to the Central Committee of the Tuberculosis Association of India.

There is one candidate for one seat and I declare him duly elected.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR MAHOMED USMAN (Leader of the House): Sir, I suggest that we meet on Thursday the 1st April. It is expected that on that day this House will be asked to concur in the motion for reference of the Hindu Intestate Succession Bill to a Joint Select Committee, which is being debated in the other House at present.

The Council then adjourned till Eleven of the Clock on Thursday, the 1st April, 1943.