

*Wednesday,
21st February, 1917*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. LV

February 1917

PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

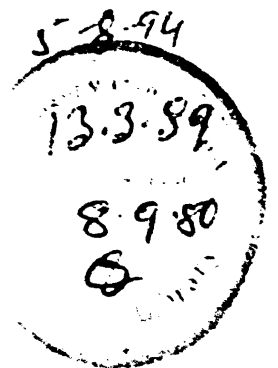
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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915:
(5 & 6 Geo. V, Ch. 61).

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on
Wednesday, the 21st February, 1917.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.L.E., G.O.M.G., Viceroy
and Governor General, *presiding*, and 63 Members, of whom 58 were
Additional Members. 55

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Bhupendra Nath Basu asked:—

1. " Will the Government be pleased to lay on the table the resolution and other official papers connected with the system of Secretariat clerkship examinations beginning from its inception to its abolition? "

The Hon'ble Sir Reginald Craddock replied:—

" The papers^a asked for by the Hon'ble Member are laid on the table."

The Hon'ble Mr. Bhupendra Nath Basu asked:—

2. " Will the Government be pleased to make a statement in regard to the present state of affairs of the Indian Institute of Science at Bangalore, and to lay on the table information on the following points:—

- (a) The constitution of the Indian Institute of Science.
- (b) The relation of the Government of India and the Provincial Governments to the Institute.

^aNot included in these Proceedings.

[*Mr. Bhupendra Nath Basu ; Sir C. Sankaran Nair ; Sir Reginald Craddock.*] [21ST FEBRUARY, 1917.]

- (c) The powers possessed by the Government of India or the Governor General over the decision of the Council of the Institute,
- (d) The present staff of Professors and the number of students studying at the Institute, and
- (e) Its financial condition ? ”

The Hon'ble Sir C. Sankaran Nair replied :—

“ Most of the information asked for by the Hon'ble Member will be found in the Calendars of the Institute for 1915-16 and 1916-17, copies* of which are placed on the table.

“ The constitution of the Indian Institute of Science, its relation with the Government of India and the Provincial Governments, the powers possessed by the Government of India or the Governor General over the decision of the Council of the Institute are explained on pages 19—32 of the Calendar for 1915-16. Attention is also directed to the Government of India Notification No. 168, dated the 23rd of February, 1916, a copy* of which is placed on the table. A list of the staff of Professors will be found on pages 26—30 of the Calendar for 1916-17. The present number of students is 30. The financial position of the Institute is described in the seventh Annual Report of the Institute, a copy* of which is also placed on the table. ”

The Hon'ble Mr. Bhupendra Nath Basu asked :—

Treatment
of interned
youths.

3. “ (a) Is it the fact that many of the persons interned under the Defence of India Act, or confined under Bengal Regulation III of 1818, are mere youths ? If so, will the Government be pleased so to regulate their treatment while under detention as to reform their mental attitude towards Government and society ?

“ (b) Do the Government consider how confinement under Bengal Regulation III of 1818 may affect the future career of the persons confined, and have any steps been taken to ensure that such career may not be injuriously affected by reason of such confinement ?

“ (c) Are school boys and college students, if any, who are interned under the Defence of India Act, or confined under Bengal Regulation III of 1818, given any facility to continue their studies or sit at the examinations for which they were preparing ? If not, will the Government be pleased to consider whether and how the injury thus caused may be avoided or repaired ? ”

The Hon'ble Sir Reginald Craddock replied :—

“ (a) A considerable number of those whose movements have been restricted under the Defence of India Act are students between the ages of 18 and 21 ; the ages of those who have been dealt with under Regulation III average higher. Where it has been safe to do so the culprits have been domiciled at home, and Government trust that the influence of their parents and guardians may help to reform their mental attitude. In other cases this improvement must be left to the conviction of the futility of their movement and the operation of a healthy public opinion.

“ (b) Only those have been confined under Regulation III who are found to be dangerous criminals or an active menace to Government and society, and in their case considerations of their future career cannot weigh against the necessity of protecting the public weal.

“ (c) Those confined under Regulation III are allowed any suitable books for study that they may desire.

“ There is nothing to prevent those who have been dealt with under the Defence of India Act from studying privately at their place of domicile—they cannot be allowed to mix with other students who are still untainted, and though a few have been allowed to sit for examinations for which they had prepared, no great advantage is secured owing to the difficulty that arises in connection with the production of a certificate of character. The question of

* Not included in these Proceedings.

[21ST FEBRUARY, 1917.] [*Sir Reginald Craddock; Mr. Bhupendra Nath Basu; Pandit Madan Mohan Malaviya; Sir George Barnes.*]

injury to their future careers must give way to the supreme necessity of safeguarding the untainted youth of Bengal."

The Hon'ble Mr. Bhupendra Nath Basu asked :—

" May I put a supplementary question ? As regards the number of boys domiciled in their homes, may I ask what is the number in proportion to the total number of boys interned ? "

The Hon'ble Sir Reginald Craddock replied :—

" The number of boys interned in their homes is, I believe, according to the latest figures, 173, and there are a little over 500 who are interned in villages other than their homes."

The Hon'ble Mr. Bhupendra Nath Basu asked :—

4. " (a) Is ' suitable provision ' made for the support of each State prisoner under Bengal Regulation III of 1818 ' according to his rank in life and to his own wants and those of his family ' as provided in the preamble to the Regulation ? Allowances granted to State prisoners.

" (b) Will the Government be pleased to furnish a statement containing the names of State prisoners, if any, now under detention and their respective ranks and income at the time they were put under restraint, and the allowances now granted to them to meet their own wants and those of their families ? "

The Hon'ble Sir Reginald Craddock replied :—

" The attention of the Local Government is invariably drawn to the requirements of the Law.

" Information so far as is available is contained in the statement^a laid on the table, and similar information regarding the remaining prisoners is being called for."

The Hon'ble Mr. Bhupendra Nath Basu asked :—

5. " Will the Government be pleased to lay on the table a comparative statement showing the annual expenditure incurred on account of the Simla exodus for three years prior to January 1912 and for the three subsequent years ? " Cost of the Simla exodus.

The Hon'ble Sir Reginald Craddock replied :—

" A statement[†] giving the information required by the Hon'ble Member is placed on the table."

The Hon'ble Pandit Madan Mohan Malaviya asked :—

6. " (a) Did the Government of India send a Despatch No. 41 (Emigration), dated 15th October, 1915, to the Secretary of State for India, and, if so, has any Despatch been received in reply ? Indian indentured emigration.

" (b) If the answer to (a) is in the affirmative, will the Government be pleased to lay on the table the Despatch from the Secretary of State and the correspondence, if any, relating thereto between the India Office and the Colonial Office ? "

The Hon'ble Sir George Barnes replied :—

" A Despatch from the Secretary of State was received in reply to the letter from the Government of India, dated the 15th October 1915. This Government's letter has already been published. The sanction of the Secretary of

^a Not included in these Proceedings.

[†] Vide Appendix A.

[*Sir George Barnes; Khan Bahadur Mian Muhammad Shafi; His Excellency the Commander-in-Chief in India; Mir Asad Ali, Khan Bahadur; Mr. J. B. Wood; Sir Reginald Craddock; Sir C. Sankaran Nair.*] [21st FEBRUARY, 1917.]

State has now been obtained to the publication of his reply, and this will be published at once. It is not thought necessary to publish the correspondence on the subject between the Colonial and India Offices in its present incomplete form. It is understood, however, that the complete papers will be presented to Parliament after the coming Conference, and they will then be published in India."

The Hon'ble Khan Bahadur Mian Muhammad Shafi asked:—

Recruits for the Indian Army from the Punjab.

7. "What proportion do recruits for the Indian Army drawn from the Punjab since the outbreak of the present war bear to the total number of recruits drawn from the whole of British India during the same period?"

His Excellency the Commander-in-Chief in India replied:—

"The proportion of recruits for the Indian Army drawn from the Punjab since the outbreak of the present war up to 31st December to the total number of recruits drawn from the whole of British India during the same period is 61 per cent."

The Hon'ble Mir Asad Ali, Khan Bahadur asked:—

Hindus and Mussalmans employed in the Political and Foreign Departments.

8. "What is the total number of Indians, Hindus and Mussalmans, employed in the Political and Foreign Departments, who are drawing a salary of Rs. 250 or more per mensem?"

The Hon'ble Mr. J. B. Wood replied:—

"In the Secretariat of the Foreign and Political Department of the Government of India, to which it is understood the question refers, the total number of Indians, Hindus and Mussalmans, employed, who are drawing salaries of Rs. 250 or more per mensem, is five, namely, four Hindus and one Mussalman."

The Hon'ble Mir Asad Ali, Khan Bahadur asked:—

Indigenous systems of medicine.

9. "With reference to my resolution regarding the investigation of the ancient indigenous systems of medicine which was accepted by Government after discussion in this Council on the 15th March, 1916, will Government be pleased to state the result of their investigation in the matter so far?"

The Hon'ble Sir Reginald Craddock replied:—

"The opinions of all Local Governments have not yet been received, but it is expected that the outstanding replies will shortly be sent in. The Government of India are unwilling to form any conclusions until they have considered the views of all Local Governments."

The Hon'ble Mir Asad Ali, Khan Bahadur asked:—

Government of India scholarships.

10. "Will Government be pleased to state—

- (a) the total number of Government of India scholarships tenable abroad for Indians; and
- (b) the number of Mussalman candidates to whom such scholarships have hitherto been granted?"

The Hon'ble Sir C. Sankaran Nair replied:—

"The number of Government of India scholarships tenable abroad by Indians which are available for annual allotment are—

- (a) Two Government of India scholarships awarded through the Universities, each tenable for three years.

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[*Sir C. Sankaran Nair; His Excellency the President.*]

- (b) *Ten* technical scholarships, each tenable for two years and, in special cases, for three years.
- (c) *Two* language or Oriental scholarships, each tenable for two years.
- (d) *One* scholarship for Indian women graduates, tenable from three to five years.

Hence the aggregate number of these scholarships which may be held in any one year, when the total annual number is awarded, may amount to not less than 33. Anglo-Indians and domiciled Europeans are also eligible for the technical scholarships.

The number of Muhammadans who have been awarded such scholarships since their inception is 26, excluding two who resigned the scholarships awarded them."

HIS EXCELLENCY THE VICEROY'S SPEECH.

His Excellency the President:—"Hon'ble Members will, I think, have realised that I am always most anxious to take them into the confidence of the Government, and on this occasion I think they will expect me to say a few words on the subject of the Bill which His Excellency the Commander-in-Chief is about to introduce.

"As Hon'ble Members are aware, the moment has arrived when the Empire must make a united and concerted effort to finish this war. We have been asked, and we have agreed, to send every available man to the decisive spheres of action. This will involve the sending away from India of certain British units.

"The Army in India has always been composed of a blend in certain proportions of British and Indian troops, and military experience has shown that this blend constitutes the very best fighting force which we can supply.

"This principle of blend is no new thing in military history. Historically there are parallels and precedents wherever Armies have been composed of different races. And now, to preserve the proportions of this blend, we find it necessary to replace these British units which are required for the decisive theatres of the war. To do this effectively and equitably, it is obviously imperative to introduce compulsion.

"In time of war volunteering is a broken reed. The Government must have power to give orders and enforce them. This was impossible as the law stood, and we propose therefore the provisions of the Bill which will be placed before you. Moreover, as things stood on the basis of volunteering, some men were offering their services, while others were getting off scot-free. This was clearly inequitable; there must be equality of sacrifice. To secure this, we propose compulsion for all coming under the definition of European British subject.

"I have seen it suggested that industries will suffer as a consequence of this measure. You cannot have legislation of this nature without concomitant inconveniences, but the Government of India hope that, under the provisions of the Bill, and the regulations drawn up under it, no needless hardship will be imposed. Both the Commander-in-Chief and I had many discussions on this subject with leading business-men in Calcutta. We recognise that in India there is no reserve of elderly men or ineffectives on which to draw for the replacement of those called up, and we hope that, under the machinery of the Bill, the least possible disturbance of industry or hardship will take place.

"I turn now to our invitation to Indians to offer their services. As I pointed out in my opening speech to the Council, compulsion in this case is out of the question on practical grounds, but we will endeavour to deal with those who apply to be enrolled.

[*His Excellency the President; His Excellency the Commander-in-Chief in India.*] [21st FEBRUARY, 1917.]

“Hon'ble Members will have realised from my previous remarks that volunteering, as we have known it under the Volunteer Act, 1869, is dead. It is useless to spend money on a military force, which is bound to be ineffective under the conditions and nature of its existence. So this new force will come under the provisions of the Indian Army Act. It is intended to be an effective military organisation. As the British element under this Act is to be dealt with on the same lines as those of the British Regulars, so the Indian element will come under the same military conditions which apply to the Indian Regular forces, saving the fact, in both cases, that service is to be within India. I do not think it necessary for me to labour this point. We cannot play at soldiers in these times, nor, I hope, shall we play at soldiers at any future time. Military efficiency must be the sole criterion of our policy.

“One last word. This is an urgent measure, but we feel that time lost may be time gained if Hon'ble Members will co-operate with us in making this Bill a useful and practical measure. We did not enact it as an Ordinance, for we felt that, with the Council sitting, it should be brought before Council for its consideration. We have not put it before you as a war measure to be passed in all its stages at one sitting, for we looked forward to your help, advice and co-operation in the passing of this important measure. We recognise that your special knowledge may prove of invaluable assistance, and so I commend our proposals to you in the sure and certain confidence that your minds are at one with ours at this present juncture, namely, to do all within our power to secure the victory of the allied arms. So let us run, then, that we may obtain.

“Hon'ble Members have before them the agenda of the legislative business. His Excellency the Commander-in-Chief has two motions down:—the first to move for leave to introduce a Bill to constitute an Indian Defence Force and for other purposes, and the other to move that the Bill be referred to a Select Committee. I think it will be for the convenience of all of us if we have one debate on the principles of this Bill, and therefore I would ask Hon'ble Members not to discuss this question on the motion for leave to introduce, but to discuss it when His Excellency moves to refer it to a Select Committee. I will now call on His Excellency to move his first motion.”

INDIAN DEFENCE FORCE BILL.

His Excellency the Commander-in-Chief in India:—“I beg to move for leave to introduce a Bill to constitute an Indian Defence Force and for other purposes.”

The motion was put and agreed to.

His Excellency the Commander-in-Chief in India:—“I beg leave to introduce the Indian Defence Bill, and before giving some account of the object and scope of the Bill, it will, I think, help to a clear understanding of the case if I preface my remarks by a few observations as to the circumstances which have necessitated this legislation.

“It is a matter of general anticipation that the Central Powers will make a great effort to resume the offensive in the ensuing spring. With this object in view, they are straining every nerve to increase their man-power and augment their output of munitions. The Allied Powers, on their side, are doubtless doing the same, and to ensure for our armies in the field that superiority in men and munitions which is the surest guarantee of victory, it is essential that His Majesty's Government should have the support of every portion of the Empire, and that all should unite in developing their resources in men, munitions and money to the utmost, so as to put forth their fullest strength in what we all hope will be the last phase of this war.

“India has rendered great service in the struggle of the last three years, and her armies have gained distinction in many fields. She has not,

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however, felt the burden of the war to the same extent as other portions of the Empire, and the past two years have, as a matter of fact, been years of great material prosperity. The virile population of the Punjab has filled the ranks of our regiments and given us thousands of gallant soldiers, but there are several provinces which so far have not yielded a single recruit, so that the man-power of India, as a whole, can hardly be said to have been touched. In the same way, the resources of the country have not been drawn upon to anything like their full capacity, and, given a suitable organization, I believe that much more could be done to utilize her productions and develop her manufactures for military purposes.

“ The Secretary of State has indicated to the Government of India the lines on which India can render the greatest assistance to His Majesty's Government during the war. They are—

Firstly, the release, for service in the field, of some of the units now employed in India on garrison duty, and their replacement by units locally recruited.

Secondly, the development of local resources and industries with a view to rendering India more self-supporting as regards articles required by the troops in the field, thereby reducing demands from home and consequently releasing shipping urgently required elsewhere.

“ The first of these objects will, we hope, be secured by the creation of an Indian Defence Force as provided for in this Bill. The second will be stimulated and developed by the creation of the Munitions Board, which, under the able direction of Sir Thomas Holland, will, we hope, rapidly apply to war purposes all the information in regard to Indian manufactures which has been gathered together by the Industries Commission.

“ The Volunteer Force in India is now some 40,000 strong, and a large proportion of its members have the makings of excellent soldiers. The potential military value of the Force is thus considerable. It suffers, however, from lack of organization and insufficient training, while its local character detracts from its military utility by restricting the range and scope of its employment. To derive full value from the fine material of which it is composed, it is necessary to organize it as a second line force, ready to take the place of a portion of the Regular Army for local defence. In other words, building up on the basis of the existing Volunteer Force, we want to improve and expand the latter into an Indian Defence Force. As this Defence Force will serve as an auxiliary to the Regular Army, we consider that it should, like the latter, be composed partly of British and partly of Indian units. In this way all classes of His Majesty's subjects in India will be afforded opportunities of rendering personal service during the war.

“ Recruitment for this Defence Force will be by compulsory enrolment in the case of European British subjects, and by voluntary enrolment in the case of non-European British subjects. Apart from the fact that it has been adopted at Home and in many portions of the Empire, our reason for adopting the compulsory principle in the case of Europeans in India is, that it would not be possible to obtain the numbers we require at this juncture in any other way. The sources to be drawn upon are limited, and must therefore be utilized to the fullest extent. In the case of Indians, on the other hand, the sources of recruitment are practically illimitable. The application of compulsory service in their case would be open to many objections, and we could not possibly officer, equip, train and find suitable employment for the enormous numbers that compulsion would place at our disposal. Owing to the martial spirit of the classes from which we recruit our Indian regiments, we have had no great difficulty so far in obtaining all the men we require. In the case of Indians, therefore, there is no reason for departing from the voluntary principle of recruitment, whether as regards Regulars or as regards units of the Defence Force. We have, of course, no previous experience to guide us, but there appears to be a widespread desire among His Majesty's Indian subjects to assist in the defence of the Empire, and we have, therefore,

[*His Excellency the Commander-in-Chief in India.*] [21ST FEBRUARY, 1917.]

no reason to suppose that there will be any difficulty in obtaining by voluntary enrolment the numbers we shall want to complete Indian units of the Defence Force. As we do not want recruitment for the Defence Force to interfere with recruitment for the Regular Army, the enrolment of Indian subjects in the former will be restricted, as a rule, to classes or individuals who, in ordinary circumstances, would not be available for enlistment in the latter.

“ It may be argued that the combination of voluntary service with compulsion is somewhat of an anachronism. Our answer to this is, that this Bill is essentially a war measure, designed to meet our immediate military requirements. Defence must be active if it is to be of any value, and this demands power to move troops wherever they are wanted. By obtaining that power, as we will under this Bill, we shall remove one of the main defects of the Volunteer Force as at present constituted, and at the same time give the new Defence Force the great advantage of starting operations with an organization which is in full working order, and which only needs expansion and adaptation to render it efficient.

“ With these introductory remarks, I will now proceed to give an outline of the more important provisions of the Act. I may explain that, as a preliminary to organising any force recruited on a compulsory basis, it is necessary to take stock of the population from which its ranks are to be filled. This preliminary action is essential, so as to enable the Military authorities to group men of different ages, and of different categories of physical fitness, into suitable classes, varying their military obligations according to the particular circumstances of each case. It was for this reason that this Bill was preceded by a Registration Ordinance. This preliminary measure will expedite the collection of the statistical information we require, and so enable us to proceed without delay with the organization of the Defence Force as soon as this Bill becomes law.

“ The Indian Defence Force will then come into being. It will consist of certain units composed of European British subjects between the ages of 16 and 50 who have been required to enrol under the compulsory provisions of the Bill, and of a certain number of other units composed of non-European British subjects between the ages of 18 and 41 who have enrolled themselves voluntarily. It is the intention of Government to retain the existing Volunteer organization, but all existing corps, as well as any new corps or units that may be raised or constituted, will become corps or units of the Indian Defence Force.

“ Corps of the Indian Defence Force will normally consist of active companies, reserve companies and cadet companies. Active companies will be composed of men of the general service class, namely, between the ages of 18 and 41; reserve companies, of men of the local service class, namely, between the ages of 41 and 50; and cadet companies of youths between the ages of 16 and 18. Active companies will be liable for service anywhere in India. Reserve companies will be liable only to local service, while cadet companies will be liable to military training only.

“ All persons enrolled will be classified according to their physical fitness. There will be several categories. One will consist of men fit for work in active companies, another of men fit for work in reserve companies, another, again, of those who are unfit for either of these categories owing to temporary causes, but who may become eligible later. Lastly, there will be a category which will consist of those whose physical incapacity is permanent, and who are therefore of no military value.

“ The Military authorities will have the power to employ the active companies of corps wherever they are required within Indian limits. These companies will, however, serve as a rule in their own districts, and it will, we hope, be rarely necessary to embody a whole corps, or even portions of a corps, for continuous military service. Such an arrangement might no doubt be convenient in particular cases; but the creation of service companies, to

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which I shall presently refer, should avoid the necessity for such action except on rare occasions, or in circumstances of exceptional urgency.

"I now come to the service companies. These will, for all intents and purposes, be Regular units for the time being, and will be clothed, equipped, rationed and paid as Regulars. They will relieve Regular units on garrison duty, and will be stationed anywhere in India where they may be required. As this will be the form of service most disturbing to civil avocations, special care and consideration will be exercised in the selection of individuals. It will be arranged, as far as possible, to have a system of reliefs, so that the incidence of this service will not be borne by a few individuals for a prolonged period, but will extend to a large number who will take their turn of duty for a varying and, as a rule, comparatively short period. It is hoped, in this way, to minimise the inconvenience that must necessarily be caused to business and professional interests whenever men are wholly withdrawn from their civil occupations. This arrangement will have the advantage of increasing the number of men who have been put through a course of continuous training, and this should go far to increase the general efficiency of the Force. I may add that the number of men required for the service companies is not large, so demands under this head will not be burdensome.

"The arrangements I have indicated will apply to Indian members of the Force equally with Europeans. There is no intention of discriminating between the two classes. As corps composed of Indians will consist of active companies only, no persons will be accepted for enrolment unless they are fit for general service. These corps will thus consist of men between the ages of 18 and 41 and, in selecting candidates, preference will be shown for the younger and more active men. It may, in fact, be desirable to restrict enrolments at first to men between the ages of 18 and 31. This, however, will be determined by military considerations and by the number of men who offer themselves for enrolment. Indian service companies will be formed, as required, by drawing men from the active companies, and these will have to serve at any place within Indian limits where they may be needed.

"I now come to the question of non-liability. The grounds on which non-liability (which is a different thing to exemption) can be claimed, are few and are fully explained in sections 3 and 4 of the Act. They will be decided by District Magistrates or other European Civil officers appointed by Local Governments. Claims for exemption will be decided by the local Exemption Authority which will usually consist of a District Magistrate, a Military Officer detailed by the General Officer Commanding the Division, and a selected non-official European.

"The grounds on which exemption certificates may be granted are—

Firstly, that it is expedient in the national interests that a man should continue in his civil work instead of being employed in military service.

Secondly, that owing to the importance of the work in which he is being educated or trained, it is in the national interests that he should continue such training.

Thirdly, ill-health or infirmity.

Full exemption should be granted only in very exceptional circumstances. Exemption may be partial, conditional or temporary. For instance, a man in the general service class might be given an exemption provided he performed the work and duties of a man of the local service class. Again, a man belonging to a firm might be given a temporary exemption so as to give his employers time to make satisfactory arrangements for carrying on his work. It is the intention of Government to consider such cases in a reasonable and sympathetic spirit, with due regard to public, commercial, and private interests.

"A man will ordinarily submit his own claim to exemption. But if he is in the service of Government, or of a public authority, railway administration, or firm, his application would ordinarily be submitted through the head

[His Excellency the Commander-in-Chief in [21st FEBRUARY, 1917.]
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of his department or firm. In this way there will be proper co-ordination between the interests of the individual and the interests of his department or employer.

"I may here remark that special arrangements will be made for the selection of men of the general service class for duty with Service units. As this is the class of employment which, as I explained before, will cause most inconvenience to individuals, the men to be selected in any given area will be chosen by a Selection Authority, which will usually consist of a European Civil Officer, a Military Officer, and two or three non-official Europeans. Their business will be to select the quota of general service men required from the active companies of corps belonging to the area, with due regard to the varying interests of the State, employers and individuals, in a manner which will be fair to all.

"The present Volunteer Act is out of date and unsatisfactory, one of its chief defects being that it makes no adequate provision for the maintenance of discipline. This will be rectified by the rules and regulations which will be framed under the Indian Defence Force Act. The powers of Commanding Officers will be strengthened. Two classes of Courts-martial will be instituted, and these will be empowered not only to award fines, but also imprisonment, for non-attendance on parade and other acts and neglects to the prejudice of good order and military discipline when not on actual duty. When on actual duty, officers and men of all ranks of the Defence Force will be subject to Military Law, under exactly the same conditions as Regular troops. Provision is also made for the arrest, under an order of a District or Chief Presidency Magistrate, of members of the Defence Force when not on actual military duty, so as to allow of their being brought up before their Commanding Officers or before a Court-martial, for the disposal of military offences with which they may be charged.

"Concurrently with the tightening up of discipline, a much higher standard of military efficiency will be demanded. Every member of the Force will have to undergo a course of preliminary drill and musketry. This will vary according to the attainments of the individual. If the latter has shown his patriotism and sense of duty in the past by service as a volunteer, he will, if an 'extra efficient,' have to put in only 30 hours' drill in a period of two consecutive months. If he is only an 'efficient' volunteer, he will have to do 40 drills in the same period. If, on the other hand, he has either failed to attain the 'efficiency' standard or has had no previous military training, he will be required to put in 90 drills and fire a recruit's course of musketry. Besides the preliminary drills referred to, all members of the Defence Force will have to put in periodical drills which will consist of—

| | |
|-------------------------------------|--|
| For men of Active Companies . . . | 4 hours' drill a week, 6 days' continuous attendance at a training camp, and an annual course of musketry. |
| For men of Reserve Companies . . . | 1 hour's drill a week and an annual course of musketry. |
| For youths of Cadet Companies . . . | the same training as for Active Companies, but attendance at camp may be dispensed with. |

"It is intended that officers now holding commissions in the Volunteers should retain the same on the inclusion of their units in the Defence Force, provided that the General Officers Commanding Divisions are satisfied as to their professional efficiency. To allow of the higher standard of training which will be demanded, special facilities will be afforded for the training of officers, and a sufficient staff of drill instructors will be allotted to corps. Provision for the various expenses incidental to these changes will be made by increasing the capitation grants now admissible to corps under Army Regulations. Suitable arrangements will also be made for the provision of clothing and equipment, and no individual will be enrolled in a mounted corps unless he can produce a suitable horse.

[21ST FEBRUARY, 1917.] [*His Excellency the Commander-in-Chief in India; His Excellency the President; Khan Bahadur Mian Muhammad Shafi.*]

"I will not weary the Council with further details. As explained in the Statement of Objects and Reasons, we shall have to provide for details in the rules and regulations which will be framed under the Act. This Act has been drafted after consultation with Chambers of Commerce and other representative bodies, and it is, I believe, strongly supported by public opinion. I feel sure that a large majority of His Majesty's subjects in India, whether European or Indian, are keenly desirous of participating in the defence of the Empire, and I believe that the additional opportunities of rendering personal service which the creation of this Defence Force will afford, will be generally appreciated. As the field of employment of the Force is restricted to India, it is doubtful whether many of its members will be actively employed in the field. I hope, however, that work in the Service units, at any rate, will be reckoned officially as 'war service.'

"An Advisory Committee of Volunteer officers, nominated by Local Governments, has been formed and will be assembled shortly to assist the authorities at Army Headquarters in drafting the regulations governing the Force. This Committee has been selected with care, so as to represent different interests in an adequate manner, and I am confident that the advice they will give will prove of the greatest value.

"I will conclude my remarks by observing that, though the Indian Defence Force will be a second line force, it will be in no sense a second rate force, for we mean to make it a model of its kind. Its members must realise that we are dealing now with serious soldiering, and that personal convenience and other considerations must yield to military efficiency and to the creation of the spirit of discipline upon which that efficiency so largely depends. The old Volunteer Force has become an anachronism. It has been replaced at Home by the Territorial Force, and will now be replaced in India by a Defence Force, designed to suit local requirements, whose development and progress will be watched with the keenest interest."

"My Lord, I beg to move for the suspension of the Rules of Business to admit of the Bill being referred to a Select Committee."

His Excellency the President :—"I suspend the Rules of Business."

His Excellency the Commander-in-Chief in India :—"My Lord, I move that the Bill be referred to a Select Committee, consisting of the Hon'ble Mr. Lowndes, the Hon'ble Mr. W. M. Hailey, the Hon'ble Major-General A. H. Bingley, the Hon'ble Babu Bhupendra Nath Basu, the Hon'ble Mr. J. S. Wardlaw Milne, the Hon'ble Subadar-Major and Honorary Captain Ajab Khan, Sardar Bahadur, the Hon'ble Sir James DuBoulay, the Hon'ble Mr. E. H. Bray and myself. With Your Excellency's permission, I would ask that the following names be added :—The Hon'ble Lieutenant-Colonel S. L. Aplin and the Hon'ble Sardar Bahadur Sardar Sundar Singh Majithia."

The Hon'ble Khan Bahadur Mian Muhammad Shafi :—"On behalf of the Mussalman community in the Punjab, whom I have the honour to represent in this Council, I offer my most cordial support to the measure which has been introduced by His Excellency the Commander-in-Chief. By the distinguished part taken by it in the past in the military history of the Indian Empire, the Punjab had already won an honourable name of the 'sword-arm of India' and the more distinguished part it has played in this terrible war has strengthened its claim to that honourable distinction. More than one-half of His Majesty's Indian soldiers who have shed their life blood in the defence of the Empire on the battle-fields of three Continents since the outbreak of this war have been soldiers drawn from the Punjab. One district of that province—Jhelum—alone furnishes to the Indian

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Army a larger number of soldiers than the whole of the Presidency of Madras or of Bombay. And, to-day, in reply to a question which I put this morning, Hon'ble Members have already learnt that, since the outbreak of this war, the Punjab has furnished in recruits to the Indian Army 61 per cent of the entire number drawn from British India. Under those circumstances, it is not surprising that our Province heartily approves of a measure such as the one which is now before the Council, affording as it does to the people of this country in these terrible times the welcome opportunity of furnishing an adequate defence force for the defence of the country while the active Indian Army is called upon to proceed to the battle-fields in order to defend the honour and the glory of the Empire. My Lord, Your Excellency's Government may rest fully assured that a community which has furnished to the British forces men like Khodad, Mir Dhost and my Hon'ble friend, Subadar Major and Honorary Captain Ajab Khan, will not be wanting in coming forward readily and willingly to take its part in the defence of the country, which this measure enables our people to do.

"There is one observation which I should like, with Your Excellency's permission, to make in connection with the provisions of this Bill. Hon'ble Members will have noticed that the earlier portion of the Bill divides the military service which the various units will have to render into two kinds, general military service and local military service. For general military service persons who have completed the age of 18 years and have not attained the age of 41 years will be enlisted in this Indian Defence Force, while, under section 4, for local military service persons who have attained the age of 41 years and have not attained the age of 50 years will be liable. And under section 5 youths of the age of 16 to 18 will be liable for local military service, as well as for military training. I wish that Your Excellency's Government had thought fit to extend the provisions relating to local military service and military training, as embodied in sections 4 and 5, also to the Indian portion of the Indian Defence Force which will be raised under this Act so as to enable Indians of the age of 41 to 50 years, as well as Indian youths of the age of 16 to 18 years also to have the privilege as well as the pride of taking their active share in the Indian Defence Force which is to be raised under this Act. I am perfectly certain that, if such an additional provision had been made in this Bill, Your Excellency's Government would have had a sufficiently large Indian Defence Force, not only to release all the regiments of the Indian Army for active duty on the battle-fields, but possibly, in a few months, to furnish thousands of well-trained soldiers, from the Punjab at any rate, for active service hereafter, if necessary, on the various battle-fields.

"With these few words, I have much pleasure in supporting the measure which is now before the Council."

11 48 A.M.

The Hon'ble Mr. M. B. Dadabhoy :—"I rise to cordially welcome the introduction of this Bill in Council. Here, in India, we are so remote from the scenes of horror of this devastating war that it is not possible for people to realise the full import of the present phase of this war. As the Prime Minister remarked the other day, this war can only be brought to a triumphant close by the supreme and entire concentration and mobilisation of the whole resources of this Empire. In view of that statement, it is a matter of supreme satisfaction to find that Your Excellency, with your statesmanlike insight into things, and charged as you are with so great responsibility, has devised and formulated two schemes of India's contribution to this great war. Your Excellency had foreshadowed both the schemes in the speech which Your Excellency delivered to this Council at the opening of the Session, the first of which was the Imperial Indian War Loan, the details and conditions of which will be laid before this Council by the Hon'ble Sir William Meyer next month, and which this Council will have another opportunity of discussing, and, secondly, this Bill to constitute an Indian Defence

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Force, which His Excellency the Commander-in-Chief has just introduced. My Lord, I am confident that both these measures will be regarded by the people as necessary and obligatory instalments towards the full utilisation of the resources of this Empire in furtherance of the great victory which is now in sight.

“ My Lord, the enrolment of Indians for general military service for the duration of the war is a step in the right direction. I congratulate Your Excellency and your Government on this wise decision. There has been a general desire in the country for military service, and this final decision to enrol Indians in special units for general military service will be welcomed all over India and will be received with the greatest enthusiasm.

“ My Lord, it is in harmony with the cherished wishes and deep sentiments of the people of this country, and if it is carried out in a spirit of trust, it will lead to the consolidation and the solidarity of the great Indian Empire.

“ My Lord, I will now ask your Excellency's permission to make a few observations on the merits of this Bill. In the first instance, as regards the definition of ‘ European British subject ’, it has been borrowed from the Code of Criminal Procedure, but it has not been embodied in the Act. My Lord, I think that, as this Act will be published broadcast, and will be in the hands of every person in every station, it is necessary that that definition should be embodied in the Act. The Act should be self-contained.

“ Then, as regards the people who fall within the purview of ‘ European British subjects ’. My Lord, I propose to make one observation. ‘ European British subject ’ has been defined in the Code of Criminal Procedure as—

(c) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;

(ii) ‘ any child or grand-child of any such person by legitimate descent.’

“ It is clear, that the intention is to exempt aliens who have been naturalised in India from the operation of this Act. My Lord, under Act XXX of 1852, the Indian Naturalisation Act, section 4, the Government has power to issue a certificate of naturalization incorporating all the rights, privileges, capacities of naturalisation under the Act to any alien subject. I do not know whether this exclusion of the aliens naturalised in India has any significance. I presume it is not accidental, but made for some obvious reason. His Excellency the Commander-in-Chief has not thrown any light on the subject. My Lord, if the exclusion is made on account of any political reasons, I have nothing to say ; but as Your Excellency wisely remarked this morning that there should be an equality of sacrifices, I do not see any reason why these alien foreigners who are in this country should be exempted from the operation of this Act. My Lord, there is one special reason why they should not be excluded. I do not of course refer to enemy aliens. I am referring to people like the French, Italians, Swiss and other aliens who are in the country—in large numbers in Bombay and Calcutta—and who, I think, should certainly be brought under the operation of the Act. My Lord, there is one other matter. There should be, as Your Lordship remarked, equality of sacrifice. These people will be carrying on an extensive business in places like Bombay and Calcutta to the detriment of the British and Indian firms whose men will be taken away from their occupations ; and therefore my submission is that, unless there are special political reasons, they should be included in the operation of this Act. It is far better that they should be within the pale of the Act than that the trade of India should go from British subjects into the hands of foreigners.

“ My Lord, I have to make only one observation with reference to section 3 of this Act. I was looking forward in the luminous speech of His Excellency the Commander-in-Chief to have some light thrown on the subject ; but no explanation was forthcoming. In Great Britain, the age-limit of

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compulsion is fixed at 41, while in India it has been thought necessary to extend the age-limit from 41 to 50. My Lord, as you are fully aware, the conditions in this country—I mean climatic conditions—the conditions under which Europeans work in this country are more strenuous, more arduous, and there seems to be no apparent reason why this extension should be made from 41 to 50. In a cold country like Great Britain, expert soldier brains have thought it necessary to limit the age to 41. My Lord, I put this submission before His Excellency the Commander-in-Chief with the greatest possible respect. I do not profess to speak with any authority on the subject. I am only a layman. But unless there are some exceptionally strong reasons for this course, I submit that the Select Committee should reconsider this matter. My Lord, there is another aspect of the case from which this point should be looked at. According to the last census report there are, roughly, about 5,000 people engaged in the commerce of Calcutta. In Bombay and Madras, the number is much smaller. If you keep the limit of age at 50, you will have only 700 people to look after the commerce of Calcutta. It is for Your Excellency and for His Excellency the Commander-in-Chief to consider whether this extension of age-limit would be in the interests of the country.

“ My Lord, I am glad that clause 11 has been inserted in the Bill. This is in entire accord with the assurance that your Excellency gave to this Council at the opening of the Session, that the Government will endeavour to introduce the system of compulsion with as little hitch or immediate inconvenience as possible. Your Lordship has further made the matter perfectly clear and intelligible this morning. I have no doubt public interests will not suffer in any way, nor will Government allow public interests to be in any way impaired. But the words which have been used in clause 11 (1) (a) ‘in the national interests’ are extremely wide, and I submit that any rules that will be made by Government under clause 13 (1) (b) should also be very comprehensive and elastic so as to include all cases of difficulty, inconvenience and business trouble. My Lord, this war, as Your Lordship knows, cannot be carried on without jute sacks, without coal, without manganese, and without many other articles, including of course wheat. These are the chief and primary requirements of our armies at the front, and it is necessary that every possible endeavour should be made so that these industries are strenuously kept up to meet the strenuous demands of these articles which are at present made on the country. It is for these reasons, I trust that the Committee which will be appointed to frame rules should see that every possible latitude is given, and every possible allowance is made for exempting such persons who cannot be spared and who are in responsible and sole charge of their departments. My Lord, in India, as your Lordship is well aware, there is no spare margin of European labour; there is no reserve of skilled employees. All the offices and commercial firms are worked at high pressure; and most offices in a place like Bombay or Calcutta, are run by a few Europeans. Most of the collieries in Bengal and mines in other parts of the country are run by only one or two Europeans in charge. It is necessary that these people should be allowed to remain in charge of their works, because it is to them that we look for supplying our armies with the necessary equipment to carry on to a successful conclusion this great and trying war.

“ My Lord, there is one other matter in connection with clause 15, which provides for compensation in certain cases, to which I should like to refer. Clause 15 (2) (c) provides for the payment of any remuneration, allowances, gratuities or compensation (if any) to any person or class of persons undergoing military service or training under the Act or to their dependants. This is an extremely comprehensive clause, and I congratulate His Excellency the Commander-in-Chief in having listened to the public opinion on this matter and inserted this clause. But I think it will be advisable if this clause is further extended to include other hard cases also. Your Excellency is probably not aware that in commercial houses many people have to be got out from England to serve for a certain number of years, and under the agreements made the firms are responsible for their passage money and fixed salaries, and it would cause pecuniary loss, apart from serious inconvenience to employers of

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such men, if they are summoned for outside military service. I, therefore, submit that this matter should be taken by His Excellency the Commander-in-Chief into consideration.

" My Lord, I have one more word to say, and that is with reference to the Schedule. I find that the members of the holy order are excluded from military service. I suppose this provision is made in conformity with the English law which excludes them in England. I have nothing to say against them, they are very estimable people, but they have plenty of time to spare and plenty of opportunities, and I think myself they would prefer to do military service instead of spending their evenings in clubs and on tennis courts. I think these people can be spared more easily than those at the mines and others whose services are indispensable. Unless there are State reasons of exceptional importance, my submission is, that they should also be allowed an opportunity to render service to their country.

" My Lord, I have nothing more to say. I commend the Bill to the acceptance of this Council, and I trust my non-official colleagues will heartily support it. I am sorry I have no sons to offer for the country's service, but I know and I feel confident that the call which is contained in this Bill will be most enthusiastically responded to all over the Indian Empire."

The Hon'ble Mr. Bhupendra Nath Basu :—" My Lord, we welcome the measure as affording, for the first time, definite opportunities for military training and service to the Indian population. If such a measure was desirable in the past from the Indian standpoint of view, it has become an absolute necessity in the present from every point of view. The great war now going on in Europe and Asia has shown that occasions may arise when the resources of the whole Empire must be combined and co-ordinated, when every part of the Empire must be ready to serve and to sacrifice. In view of the implacable hostility which the extent and character of the British Empire has provoked, of the combination of nations, that such hostility may at any time give rise to, it is no longer possible, no longer safe, to rely for the safety and protection of that Empire upon any one of its single and component parts. From this general proposition, the validity of which recent experience in the war zones of Europe and Asia has demonstrated beyond question, we come at once to the situation in India. That situation has been summed up by Your Excellency in your opening speech at this Session of the Council. Your Lordship has reminded the country not only of the indebtedness of India for its peace and security to the military and naval resources of the Empire, but also of our great obligations to neighbouring States for the maintenance of that peace and security, due to their benevolent neutrality. 12-3 P.M.

" My Lord, from the time from which the memory of man runneth not to the contrary, India has attracted the cupidity of powerful rulers and states; from time immemorial her eternal mountains have witnessed the march of invading hordes and her mighty rivers have flowed past the battle fields of contending armies. The peace and prosperity of the country has been interrupted by long periods of rapine and plunder, and the soil of India has seen the rise and decay of great and powerful Empires. The crumbling stones of this Imperial city bear testimony to the vicissitudes through which India has passed: if the spirits that haunt the silent ruins around us would give up the secrets that they so zealously guard, we may yet know something of how the fruits of the pagoda tree have turned into dead sea apples both for us and those who have sought them: but though human memory is short the lust of wealth and power is great. The legend of the farfamed wealth of India still remains and we become aware now and again of greedy eyes turned towards us.

" In times past the people paid no heed: warfare was the business of Kings and Armies; they came and they went, but the people remained, the peasant cultivating his little patch undisturbed and the artisan plying his humble trade without molestation, by the Hun, the Scythian, the Macedonian, the

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Pathan, the Tartar or the Moghul; but that state of blissful ignorance, of Arcadian simplicity is gone, a broader stream of life has swept past, gathering into its growing expanse the quiet havens, in which the life of the country lay in isolated stillness, and a new spirit is abroad. For the first time the veil of ignorance from the mass of the people has lifted, for the first time knowledge has ceased to be the heritage of the few: after the lapse of many slumbering centuries, since Buddha preached his great doctrine of emancipation, people are beginning to realize the dignity of manhood and the futility of artificial human barriers. Prometheus has brought the lamp and placed it in the hands of the intellectuals who are carrying its light into the darkest corners of ignorance and prejudice. This has been the great mission of England in India. More than the peace and security which India enjoys under British rule, more than the glamour that it is a part of the fabric of a mighty Empire, it is this mission of England, giving to the people the inspiration and impetus of a mind set free from the trammels of ages, giving them the sense of a growing solidarity in their national life, and developing self-consciousness, and an aspiration after a higher life that has secured for England the willing allegiance and enthusiastic adhesion of India. And it is this new spirit born in India, the highest product of British statesmanship, that has made the people realize their powerlessness to defend what they have got, to stand as a part of the Empire which means to them much more than security and peace, which means to them ordered progress and a fuller realization of their national life, that has made them desire to cease to be a burden and to become a comrade, and has made them anxious to be trained in the use of arms as a civil population, to be able to lay down the pen and the ploughshare when the hour of need arises. This desire of the people has hitherto remained unheeded. In the plenitude of his power the white man in India forgot the responsibility of his burden. We welcome in our rulers the realization of this responsibility, the better recognition of the obligation which this responsibility casts on them.

"My Lord, delayed as this recognition has been, it was a great mistake if I may say so without impertinence not to have brought it in, when the great war came upon us, when our youths moved by the generous impulses which are characteristic of youth, came forward in their hundreds to enlist, that was the psychological time to strike: for enthusiasm even of youth chills with neglect and delay, and those who have studied the springs of human action, know that a rejected offer is hard to renew. In Bengal, thousands of young men and others who had ceased to be young, came forward offering to be enrolled for military service; after some hope had been held out great enthusiasm naturally evoked, came the orders of a Government which unhappily for us is far removed from the busy concourse of men and glories in its splendid detachment, to stop the movement. But the youth of Bengal still persevered and they went out to Mesopotamia in the early days of difficulty and unpreparedness as an ambulance corps, in which capacity they have rendered good and meritorious service, winning the appreciation of their officers. Recently we have tried the experiment of a tiny little company. It is a very small concern and far be it from me to boast of it. The other day I put a question in reference to it in your Lordship's Council, not with the object of advertizing our humble efforts as some may have supposed, but to elicit information with reference to another question not yet allowed regarding the voluntary non-military contribution in men by the different parts of India to the war. And in Bengal, My Lord, much has happened since the war began. There is gloom over the land and dismay. I do not for a moment doubt the good faith and the honesty of purpose of our Government. I do not for a moment doubt that extreme care is taken in sanctioning internments by Lord Carmichael, whose well known and well tried sympathy for the people has to a great extent softened the blow. I do not for a moment doubt that he takes every possible care to prevent any hardship or oppression. But, My Lord, the arrests of hundreds of our young men, some of them of unblemished life and of unimpeachable character, the searches of houses of innocent citizens in many

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instances leading to nothing, absolute ignorance of the public of the causes that lead to these arrests and subsequent internments have cast a shadow over my province and chilled the ardour of its youth. Lord Carmichael has appealed to us to trust him; we trust him indeed, more than we have ever trusted any other ruler of Bengal; it is owing to that trust that tranquillity still prevails in my unhappy province.

"But, My Lord, what of the parents, the relatives and friends of the youths interned? What of the mother crying for her young and who would dare to comfort her for the loss of a son deprived of his liberty for an unknown and practically unknowable offence.

"My Lord, I have no mind and no heart to refer to these incidents. I have referred to them to show the difficulties in our way. It is a great opportunity which Your Lordship is giving to us, the greatest since British rule began in India. We wish it were greater. It might have been greater if we had been given a larger view of the vista, if we had the assurance that our youths would be ranged under our own officers and they would rise to the full height of what is in them, if every private felt that he carried the marshal's baton in his knapsack, if we had been assured that the experience of the Indian Cadet Corps was as ancient as the experience of life in pre-war days, that the area of commissioned ranks in the army had ceased to be a charmed enclosure into which we might not step and that irritating distinctions of colour and race had ceased to be; but if the assurance has not come, I do not despair. I again quote your Lordship 'It is the first step that counts'.

"Your Lordship has taken the first step, and though I do not overlook the difficulties I have ventured to point out, I have every faith that the country will follow your Lordship's lead. I have every hope that the difficulties such as they are will soon disappear, and the youth of my country will appreciate that now if ever it lies with them to realize the future after which we have been so strenuously striving. My Lord, may I be forgiven if I conclude with a reference to my own province unjustly maligned and unfairly condemned, if I say not in any spirit of boastfulness, but in all sincerity for I know that the Bengali youth will yet show that he is not depressed by adversity nor disheartened by calumny, and that when the call of the motherland comes as now it has, nothing, nothing, nothing will hold him back. With these few words, I support the motion of His Excellency the Commander-in-Chief."

The Hon'ble Mr. J. S. Wardlaw Milne:—"My Lord, I desire on behalf of the commercial and unofficial community in India heartily to support the measure which has been introduced to-day, and to say in a very few words how much I feel sure it will be welcomed. More than two years ago, My Lord, the question of the expansion of the Volunteer forces, or, as an alternative, the introduction of a system of compulsion, was brought prominently before the Government of India by the various Chambers of Commerce, and although the actual date of that communication was after the outbreak of the war, the proposals were the natural sequel to discussions which had taken place among various commercial bodies for some time before. On the last occasion when the matter was brought forward by these bodies, the attention of Government was particularly drawn to the necessity for considering the question of compulsory service, and I think I may say that to-day the only feeling which will be prominent in the minds of those whom I represent will be one of regret that this measure was not introduced earlier. 12-16 P.M.

"When owing to the deliberate action of Germany, the British Empire was drawn into war 2½ years ago, the British army faced a terrible responsibility. At that time our professional army (I use the term for want of a better, and in the highest and most complimentary sense), our professional army performed deeds which will go down in history for all time as wonderful examples of heroism and devotion to duty. The heaviest losses, however, fell upon that army, and in many cases the greatest sacrifice of all was made. I think I may

[*Mr. J. S. Wardlaw Milne ; Subadar-Major* [21ST FEBRUARY, 1917.]
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say that the British army of to-day is largely a voluntary army, even bearing in mind of the Compulsion Bill and other measures introduced in England. It is a matter for congratulation that the voluntary forces of India in spite of, I will not say opposition (although possibly from their own non-military class, rather than from the military authorities, there almost was opposition sometimes) but with little recognition or support, the Volunteers carried on with the feeling that some day they would be of use and their patience and patriotism rewarded. To them as to others to whom the call does not appear to have been hitherto made, there can be no doubt that this measure will be greatly welcome. I think I may say also, on behalf of the commercial community, that the introduction of the measure by which Indians will have an opportunity of joining in the defence of their country will also be heartily welcome. In spite therefore of the fact, which I fully realise, that this measure will mean grave inconvenience to trade, in spite of the fact that it will undoubtedly entail personal loss, in spite of the fact that a great deal, though little known, has already been done by the non-official community in India in allowing men who can barely be spared to join the ranks of the Indian Army Reserve of Officers and in other ways; in spite of these things, I heartily welcome the introduction of the Bill, and I think I may safely say that it will receive the full support and sympathy of the European commercial community."

12-30 P.M.

The Hon'ble Subadar-Major and Honorary Captain Ajab Khan :—" My Lord, I rise to welcome and heartily support the Bill introduced by His Excellency the Commander-in-Chief.

"The Indian public, in the past, in the press and on the platform, have constantly asked for a military career, and it is gratifying to see that Government are going to meet the widely expressed desire of the Indian public by making provision for their enrolment, as an integral part of the general military service, which is being formed for India.

"My Lord, the announcement of this measure has been cordially responded to, and has been hailed with enthusiasm throughout the country. Meetings have already been convened in several important towns to consider means of effectively carrying out the scheme.

"India occupies an important and responsible position in the British Empire, and it is only right and just that her people should equally share the trials and ordeals of the present struggle.

"My Lord, in the various theatres of war, Indian sepoys are fighting the common foe, shoulder to shoulder with their British brethren and are cheerfully sharing the hardships of the moment with their comrades-in-arms. Similarly, it is in the fitness of things that the Indian Civilian too should take his share, along with his European British colleagues in the general defence force of India.

"My Lord, at the present moment, the speedy and victorious termination of the war is the only object that looms foremost in the minds of every member of the British Empire, and it is a golden opportunity for every patriotic and loyal Indian to rise to the call of the hour and avail himself of the chance offered to him to achieve the end so dear to his heart. It is high time for them to translate their words into real and earnest action.

"My Lord, wars, even the longest, last for years only, but the history of wars lasts for many centuries, and it is passed from generation to generation as a sacred trophy of the ancestors. It is hoped that the worthy sons of India, soldiers and civilians alike, will do their utmost to further the cause of justice and serve their beloved King-Emperor and his Empire in such a manner as to leave an imperishable record of their gallant deeds and glorious achievements for posterity.

"With these few remarks, My Lord, I heartily and strongly support the Bill."

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[*Rai Bahadur Bishan Dutt Shukul; Sir Fazulbhoy Currimbhoy; Mir Asad Ali, Khan Bahadur.*]

The Hon'ble Rai Bahadur Bishan Dutt Shukul:—"My Lord, on behalf of the landholders of the Central Provinces, I beg to associate myself with all my Hon'ble Colleagues in according a hearty welcome to this measure, which, I am sure, My Lord, will afford a further stimulus for Indians to unite themselves whole-heartedly with the Government in the defence of the country. 12-23 P.M.

"In this hour of present tribulations and orisis when the safety of the Empire must greatly depend upon the extensive utilization of the vast resources of the Indian Empire, I hail, with no small satisfaction and pride, that a clause has been inserted in this Bill, which would enable persons other than European British subjects to offer themselves for enlistment in the army. This welcome departure from the hitherto existing military policy of the Government is mainly due to the kind initiative taken by Your Lordship, for which you have earned the gratitude and esteem of the whole Indian Nation. The announcement as to the introduction of this measure has been received with immense satisfaction by all of us and the whole country at large, and we welcome this measure as a prelude to the recognition of the claims of Indians for higher ranks and services in His Majesty's Indian Army of the Empire, and I may be permitted to assure Your Excellency that Indians will not be found wanting in responding to the call of duty for the safety and defence of the Empire at this momentous crisis.

"I am quite aware, My Lord, of your sincere desire to take us, the non-official Indians, into your confidence as just announced by Your Lordship, and I think I am giving expression to the grateful feelings not only of my Province, but that of the whole of India, when I say that we are all deeply indebted to Your Excellency for this broadminded policy of Your Lordship's Government. I do not intend to detain the Council any longer by making any detailed observations as to the principles of the Bill. I shall content myself by saying, at this stage, that all of us quite realize our responsibilities at this critical juncture, and Your Lordship may rest assured that we would always be prepared to co-operate with the Government in their efforts to bring about the glorious termination of this world-war, and secure the final victory of which we are not in the least doubtful.

"We are glad that the Bill has been referred to the Select Committee, whereby Your Excellency has given the non-official Members an opportunity to suggest such changes in the Bill, as will help to make it a practical success, by modifying it in a manner so as to make the military service sufficiently popular and attractive, which might induce right class of persons to join the colours in the defence of the Empire which to us, the Hindus, is the most sacred duty, as enjoined by our holy Shastras.

"With these few remarks, I beg to support the motion."

The Hon'ble Sir Fazulbhoy Currimbhoy:—"My Lord, on behalf of the Indian commercial community, I beg most heartily to support the Bill which has been introduced by His Excellency the Commander-in-Chief, and I take this opportunity of assuring Your Lordship's Government that the Indian commercial community are always willing and ready to co-operate with the Government in any measure, whether military or financial, they may adopt for the successful termination of this war. 12-36 P.M.

"With these few words, My Lord, I support the Bill."

The Hon'ble Mir Asad Ali, Khan Bahadur:—"My Lord, the European war has cast a deep gloom all over the Indian Empire. We are still under the shadow of a great and terrible war, and England and the Allies are fighting for the liberties of Europe. Two years and seven months have elapsed since the war broke out, and the prospect seems to be favourable to the Allies, who have yet a hard time before the enemy is beaten. It may not, however, be long before the Allies and England obtain a glorious victory. 12-37 P.M.

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England's victory is India's victory, and England's loss is India's loss. With England we are bound to rise or fall. For the fortunes of this country are providentially interwoven with those of England. At the present crisis, India does not lag behind the other Dominions in her loyal devotion and attachment to the British Throne and the Government. Her heroic part in the present world-struggle is not only fully recognised in high and responsible quarters, but warmly appreciated by the British public and the press. I may be permitted to say that loyalty is often expressed better by deeds than by words. The Indian soldiers are fighting shoulder to shoulder with their British and Colonial comrades. India continues to give assistance materially in the mighty defence of the Empire which is ample evidence of her genuine and obedient loyalty to the British Throne. Both in their own interests and in the larger interests of the Empire Indians are prepared to uphold and maintain the best traditions of the Empire.

"By the introduction of this Bill, an opportune moment has arrived for the educated and responsible Indians to enrol themselves in their own units for the defence of their own country. I am sure the people will whole-heartedly respond to this call. While the objective results may not be far-reaching, the moral victory would be great and while Indians are anxious to play a bigger part, are equally prepared to sacrifice for the new and additional privileges they wish to enjoy. I heartily congratulate His Excellency the Commander-in-Chief and the Government of India upon their broad-minded policy by introducing a timely Bill. At the same time, My Lord, I trust that the enrolment will be without distinction, and that the status and privileges for the Indian units will be the same as in the case of European British subjects in India. With these few remarks, I beg to support the Bill."

12-30 P.M.

The Hon'ble Mr. Mazharul Haque :—"My Lord, on behalf of the community which I represent in this Council, I offer a hearty welcome to this Bill. This Bill provides for the conscription of European British subjects and for the enlistment of Indians on a voluntary basis in the Indian Defence Force. I personally, My Lord, would have liked not to have this distinction between the European community and the Indian community, and I would have liked my own countrymen to have had the same conscription as is being applied to European British subjects. Further, I have long been of opinion that this measure should have been introduced in the Council at the beginning of the war. I feel—and this is one of the chief reasons why I welcome this measure—that it would end in the realisation of one of the greatest hopes of the Indians which they have year after year urged on the attention of the British Government from the press and from the platform. The Indian National Congress, My Lord, has urged for a series of years that in military matters India wants that her children should take part in the defence of the Empire. They have felt that it is impossible that at a time of storm and stress such as the present English forces, without the help of the Indians, could protect the frontiers of India. Now at last the time has come when the eyes of the Government have been opened, and they see for themselves that it is necessary to enlist the Indians for the defence of their own country. My Lord, I feel proud that we have been asked by Your Excellency to protect the frontiers of our motherland from outside attacks and foreign aggression. I would have liked to see in this Bill some provisions which would ensure equality of treatment both to Europeans and Indians, and though I do not find anything here, I hope that His Excellency the Commander-in-Chief and Your Excellency's Government will assure us that both the units, European and Indian, will work under the terms of perfect equality, and that Indians will not feel in any way any sense of inferiority to their European brethren. I should also like that a clause be added in this Bill so that the Indian youths of good family, intelligence and education be trained and then appointed as Commissioned Officers. My Lord, it is a war measure, and I do not think I can press for those claims that we have been advancing for a number of years with any force, but still some attention should be paid to our long-standing claims and demands. However, this is not

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the time—and I feel it very strongly—for urging these things upon Your Excellency's Government. It is a time when every loyal Indian subject of His Imperial Majesty should rally to the standard and come with whatever he has for the defence of his motherland. We ought to eschew all carping criticisms at this time and must be united amongst ourselves, and show a united front in the defence of the Empire."

The Hon'ble Mr. Muhammad Ali Jinnah:—“My Lord, 12-30 P.M.
I welcome this Bill, and I do so for two or three principal reasons. The first reason, My Lord, that strikes me is this, that after the Mutiny the policy of the Government, as has been pointed out over and over again, was regulated (I am not going into the reasons for it) to a certain extent on grounds of distrust of the people, and this Bill is an indication that that policy, rightly or wrongly pursued, has from this day disappeared from this country. The second ground is, that it opens the door to a service, which was closed to the people of this country except sepoy for all these years under British rule. My Lord, this Bill, I understand, is a first step. We have not got very clear indications as to how these units are going to be formed, but I understand that the object of this Bill is to give an opportunity to the educated people of this country for the defence of their own country. I can assure you, My Lord, knowing as I do know, and I can say that I am in touch with the opinion of young India particularly, that this measure is welcome. But although as a first step this measure is welcome, just as Your Lordship said and you were good enough to take us into your confidence, I think, I ought to tell the Council also in straight language and without mincing matters, that if you want young Indians, if you want educated Indians to come forward and enlist themselves in the defence of their country, one fact must not be forgotten, and that is the status and the privileges which should be given to them. It might be said, ‘How is it possible just now for us to give you the commissioned ranks?’ I grant it is not possible to do so at once. But there must be a clear indication; that in course of time it will be granted. I see that this is a war measure, but, My Lord, there is no doubt, I hope so at least, that this measure, which is going to be a war measure, will not be done away with after the war, but it will grow, it will develop, and it will develop into what we have been asking for, namely, a national army.

“My Lord, it has been said that the people of India have not felt the realities of the war. Why have they not felt the realities of the war? I grant the people of India have not suffered. The blood of the people of India has not been moved, although there is no doubt that India has done a great deal—a fact which has been very kindly recognised by Your Excellency, by His Excellency the Commander-in-Chief and the great Ministers in England. But why has India not felt it or not felt it as England feels it? My Lord, the reason is very obvious, and that reason is this, that to-day in England there is not a family that has not lost a son or a brother or a husband. We the educated gentry in India have not had the opportunity given to us of losing a son or a husband or a brother. It is for that reason that India has not felt, has not suffered as England has suffered. Who is responsible for this?

“My Lord, speaking to Your Excellency and to the Government of India, in this Council, I venture to say that it has been now fully realised that India is loyal to the core to the Empire. If India had those opportunities given to it, India would have been a source of great strength to the Empire at this moment; but, unfortunately, we have not had those opportunities.

“My Lord, this war has shown clearly that the time has come for a policy of trust in the people of India, and this Bill is a precursor of this policy. I assure you, My Lord, that whatever dissatisfaction, whatever discontent, you may observe, that dissatisfaction and that discontent is not due to disloyalty, but it is due to grievances which ought to be attended to and removed. My Lord, with these few remarks, I welcome this Bill, and I sincerely trust that, in framing these rules and regulations, some indication will be given to

[*Mr. Muhammad Ali Jinnah; Rai Sita Nath Ray Bahadur.*] [21st FEBRUARY, 1917.]

the people of this country that the character, the tone and the organisation, the status and privileges will be secured to the people of this country which are now secured to European British subjects.

"There is one more thing, My Lord, that I should like to impress upon His Excellency the Commander-in-Chief—and I entirely endorse the remarks of the Hon'ble Mr. Shafi—and that is, that it is absolutely necessary that similar opportunities to those given to European British youths should be given to Indian boys between the ages of 16 and 18 for local service. My reasons are that service, rendered during the period of the war, will prepare these young men for the future army. There is not the slightest doubt that our frontiers have to be guarded; conditions are changing; events are moving rapidly. I do not wish to enter into details at this juncture; but suffice it to say that if anything untoward happens, it would be impossible in the present condition of our army to make an adequate defence of this country. What I call a national army, I venture to say, must come, and the sooner it comes the better—a national army not in the sense that it will be entirely a paid army; there must be a reserve and militia behind it.

"My Lord, we know from the experience of this war how essential it is to have an adequate number of officers. It is a well known fact that, in the Indian army, we have got just enough officers, and if any calamity comes there will be such a paucity of officers that it will be very difficult to manage our affairs. Therefore, I strongly urge that Indian boys between the ages of 16 and 18 should be given an opportunity of local military service during the period of the war, and, when the bigger question comes to be considered, this will be the material ready to a certain extent having undergone a certain amount of training already, and therefore fit for the future formation of a national army."

12-16 P.M.

The Hon'ble Rai Sita Nath Ray Bahadur:—"My Lord, I desire to express my warm and enthusiastic approval of the Bill. The British Empire is now engaged in a life-and-death struggle, and it is the duty of each one of its component parts to exert itself to the utmost in supporting the Empire. India has already contributed largely, both in men and treasure, to the cost of the war. And if she has not done the utmost she is capable of, it is not her fault. The military policy of the Government of India is largely responsible for the present unpreparedness of the people, and for the decline in the martial spirit and ardour for military glory which once characterised the race. If the Government had given proper facilities for military training to the people, India in this war might have raised and sent to the battle-fields a gigantic army against which the few millions of the Central Powers could not have contended for long. The papers publish an extract from an observation of Bernhardt to the effect that the possession of Turkey would secure to Germany two millions of soldiers, but the British Empire could, if it was so minded, easily put on the field from India alone, not two but twenty millions of fine fighting men. Our countrymen have since the beginning of the war, urged the greater utilisation of India's man-power, but their voice has so far been a cry in the wilderness. It is not much use, however, indulging in regrets over past mistakes, and I heartily welcome the change in the attitude of the Government which the present Bill indicates. Our countrymen are glad that the old policy of suspicion is at last giving place to a policy of trust and confidence in the people. There never was any justification for suspecting the loyalty of the people, and there is none to-day. The splendid response which India has made to the call for assistance in this war is a complete answer to those who asserted that India's loyalty was only lip-deep. If there are a few hundred anarchists who are hostile to the British connection, there are many millions who are deeply loyal. The people of India are intelligent enough to appreciate the benefits of British rule, and it would be sheer insanity on their part to agree to any change which should bring in its train internal disorder and risk of external

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external aggression. My honest belief is that Indians, if fully trusted and properly trained, can be made to play a great part in the defence of the British Empire.

" My Lord, in welcoming this Bill, I crave Your Excellency's permission to make one or two suggestions which, in my opinion, will go very far towards making the measure a great success. The Bill empowers His Excellency the Governor General in Council and His Excellency the Commander-in-Chief to make rules for the organization and equipment of the Indian Defence Force. I desire to express the hope that the rules will be so framed as to provide for the admission of Indian youths to the commissioned ranks of the army. This will open new careers for our young men, and attract to the service of the Government and the country those who might otherwise swell the ranks of the malcontents. And it will not only allay discontent in the country, but by drawing the more ardent spirits among the young men off the wrong tracks, will deprive the anarchists of their chief recruiting ground.

" There is only one other suggestion I should like to make, and it is this. The Bill provides for a local service for certain descriptions of Europeans. In my opinion, it would be a good thing to create a local service in addition to the general service for such Indians as are unable to join the general service, on such terms and conditions as may be deemed suitable.

" With these remarks, I beg to accord my whole-hearted support to the Bill."

The Hon'ble Sardar Bahadur Sardar Sundar Singh Majithia 12-51 P.M. :—" My Lord, I need hardly say that I welcome the measure introduced by His Excellency the Commander-in-Chief on behalf of the Punjab. As the sword hand of India the Punjab has from time immemorial borne the brunt of fighting for the country, and it is a matter of pride that the Punjab has not lagged behind in this respect at the present juncture. The Punjab has done its duty, and I can assure Your Excellency that it may be fully expected to respond to the call to duty made by Your Excellency. As for the community to which I have the honour to belong, we, Sikhs, have never lagged behind, and have never yielded to anyone in our efforts in the service of the Empire. A Sikh is always at home whether he be in the battle-field or behind the plough-share, and as such I welcome this measure. For a Sikh to die on the battle-field is one of the great boons that he craves from the Gurus. True Sikhs, imbued with the spirit of the sacred teachings of the Gurus, will never be found wanting in this respect. They are ever ready to do their duty to the Government and their country.

" What my Hon'ble friend Mr. Jinnah says about the people of India not yet having had an opportunity of shedding their blood in the defence of the Empire may be true about Bombay, but cannot apply to the Punjab. In some of our villages, where live Sikhs, Rajputs or Jats, there are many homes which have lost their finest and their best. The tribes which have shown any effective desire to serve have been allowed to do so; and had the people of whom the Hon'ble Mr. Jinnah was thinking shown any desire to enrol themselves, they would have been welcomed. Let me hope that the present opportunity will be welcomed by them, and that they will show by taking advantage of the provisions of the present Bill that they also are prepared to do their part of service to the Empire.

" On behalf of the Sikhs and my province, I offer the measure, which has been introduced by His Excellency the Commander-in-Chief, my hearty support."

The Hon'ble Rai Bahadur Krishna Sahay 12-53 P.M. :—" My Lord, the announcement made by Your Excellency the other day in this Council that it was proposed to enrol Indians for general military service in India for the duration of the war, has already been cordially welcomed throughout the

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country. The Bill which His Excellency the Commander-in-Chief has just introduced giving effect to that announcement, will, I am sure, be a source of great satisfaction to our countrymen in all parts of the Empire. The policy underlying the provision in the Bill for the enrolment of Indians as a constituent part of the Defence of India Force is, I take it, a policy based on trust in them—and will not fail to touch a responsive cord in the hearts of the people of India. It opens up unlimited possibilities for them for a military career in the service of their King and their country—which we have so long cherished and claimed. We must seize the opportunity now offered to us and answer enthusiastically to the call of duty made on us as citizens of the British Empire. We must show by our action that the civilian population of India fully realise their responsibilities, and are prepared to serve the cause of the Empire—be the sacrifice what it may.

“The Indian soldiers have done their parts right manfully on the battlefields of Europe and elsewhere side by side with their British comrades-in-arm. They have covered themselves with undying glory. The Empire in which our best hopes are centred is, for the moment, threatened with danger, and it seems to me that our *one* aim at the present juncture should be how best to contribute towards the achievement of victory for it—all other thoughts should be subordinated for the present to that aim. I have no doubt, My Lord, that we will have earned the privileges in the army of India which we seek, if we prove ourselves worthy of them in the present great crisis

“As a representative of the people of Bihar and Orissa, I associate myself whole-heartedly with the expression of India's high appreciation of the measure before the Council, and offer my sincere congratulation to Your Excellency's Government on its introduction.”

12-55 P.M.

The Hon'ble Mr. E. H. Bray :—“My Lord, it might naturally be expected that, as the representative of the Bengal Chamber of Commerce, I might have something at least to say on the subject of this Bill; but it is proposed that I shall have the honour of serving on the Select Committee to consider the Bill, and I think that most of what I have to say may be more suitably and more conveniently said in Committee. But there are one or two things which I should like to say now, if I may take up a few more minutes of the Council's time.

“Firstly, from an unsentimental and cold-blooded business point of view. The cause of many of the Empire's difficulties in this war has been that too much has been left to the discretion of the individual, resulting too often in the employment of that individual's services in the direction of his inclination rather than in the direction which would really have been in the best interests of the Empire. Calcutta has been no exception to this state of things, but I think the evil has been perhaps less accentuated there than in some places, because less has been left to individual discretion. Very few of us are our own masters, and where we appear to be employers we are—most of us—in turn again employed by those at Home who are the owners or directors of the concerns, as the case may be. The great majority of Europeans are all bound by agreements. Those in authority considered that it was for a time at any rate of greater importance to the Empire that the trade of that Empire's second city should continue to furnish its important quota of the sinews of war rather than that a somewhat limited number of men should be added to the army, resulting in such disorganization of the trade not only of Bengal, but of a considerable part of India as would probably have caused such a loss of revenue, such cessation of employment for such large numbers of Indians, as might have had very far reaching consequences. Unfortunately the men necessary to keep this trade machine going are, for the most part, young or comparatively young. They do work which in Europe would be done by very much older men, and in this country there are no older men available to take their places, nor is the work they do such as can be done by women, if women were available, which I am afraid they are not, or by Indian clerks. It remained therefore for those employing these young men to decide how many they

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could allow to follow their inclinations and join the army; and I think, taking it all round, that these employers have discharged their not very easy and certainly unpleasant duty fairly well. I say unpleasant, for surely there can be no more unpleasant duty than to have to tell a young man that his business is to stay where he is and not to go and fight. To illustrate the difference between the position in India and at Home, My Lord, I will give an instance of one firm I know which has its office in Calcutta and in London. Its London office sent 100 per cent of its staff of military age, and replaced it without much inconvenience with unfit or old men and women. Its Calcutta office parted with 30 per cent of its entire European staff, and that 30 per cent could not be replaced. I think it will be found that most firms have let about 30 per cent of their staff go; and that 30 per cent means 30 per cent of the whole European staff; the percentage of men of military age would be higher. I believe if a comparison could be made between the total European male population of India and other parts of the Empire, and a percentage taken of the men out of those populations that have gone to fight, the figures would by no means show India in an unfavourable light. I think it probable there are still some young men in Calcutta who could, be spared without serious harm being done, but not a very large number, and it may be that compulsion will be necessary to bring them out.

"That, My Lord, is roughly the position as I see it up to to-day. We now know that the time has arrived when additions to the fighting forces have become of the supremest importance, and that further disorganisation of trade and its consequences must be faced, and you will find us ready, and more than ready, to do all that you will require of us. That decision and the decision as to the best means of attaining the desired end do not rest with us. To attain that end, My Lord, you will have all the assistance it is in the power of the community I represent to give. Voluntary effort has accomplished a good deal, but it is not enough as we have realised at Home and in the Colonies, and as our enemies realised at a very early date. Equality of sacrifice and co-ordination of effort are what we need, My Lord, and human nature being what it is, I do not see any way of making further progress to those ends without further Government intervention. Legislation, therefore, that will bring us nearer the desired end will be welcome, and we have every confidence that such consideration as may be possible after the satisfaction of the urgent military needs and necessities of the Empire will be given to Bengal's commerce, in order that it may remain one of the Empire's valuable assets, without being disorganised more than is absolutely necessary and without being allowed to pass into the hands of foreigners.

"And now, My Lord, just one word more apart from business, as an ordinary man on behalf of ordinary men. We have been asking for some time for compulsory training, and should have liked to have had it before. But we are none the less grateful now, and we thank you for the gift. What exactly the Bill means or will mean for us I suppose it is not easy to say. It will depend on the rules made under it and the progress of the war. But the services of every one of us have been and are entirely at your disposal, and the more directly they can best be utilised for the Empire's needs the more satisfactory to each individual will it be. Does anybody suppose that those young men who have had so far to stay behind are happy? Does anybody think that the older men, who have not only had to stay behind but have had to keep younger men back, are happy? My Lord, I can assure you that anything that Your Lordship does that will lighten in any way that feeling of uselessness and that feeling of unhappiness which must, I think, lie heavy on all, both old and young, who have so far been condemned to stay and look on while others have undergone untold hardships, have given their health, their limbs and their lives, will be very sincerely welcomed, will demand and will be responded to by all that is best in us."

The Hon'ble Mr. Srinivasa Sastri:—"My Lord, Your Excellency's Government may justly feel gratified at the reception that has

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been accorded to this Bill in Council. I have no doubt Your Excellency is aware that in the country at large the public is according to the Bill a reception no less enthusiastic. The *Times of India* received this morning contains an account of a great public meeting at which this Bill was welcomed as a great war measure, having in it promises of redress of long-standing grievances, and calling upon the people to do everything in their power to make it a success. I feel, small man as I am, it is but proper that I should add my voice of congratulation to Your Excellency's Government, as well as to the country at large, that a disability of long-standing is at last being removed by the introduction of this Bill.

"I wish, Your Excellency, it were not necessary to qualify one's expression of pleasure at this juncture. There are one or two matters on which the country was expecting, but has not yet heard, satisfactory announcements. I expect that in the very near future these expectations will be amply fulfilled, but for the moment unless I were to stifle my real feelings on this occasion, I think I ought to state that it would certainly have made our pleasure complete if Your Excellency or His Excellency the Commander-in-Chief had found it possible to include in the statement an assurance that, so far as may be possible, this Indian Defence Force would in the near future be commanded by officers chosen from their own countrymen. I know it would be a very difficult thing to arrange in this army which is raised solely for the purposes of the war, but I am advised that it should not have been impossible to draft some young men who have been serving in the Imperial Cadet Corps and make them commanders of the new Defence Force.

"We also expected, My Lord, some statement to the effect that the Indians enrolled under this Bill would be on terms of perfect equality with the British force. That assurance I thought I heard in a part of His Excellency the Commander-in-Chief's speech, but I rather fancy now that it referred to the age rather than to the status and prospects and training. However, My Lord, it is worth while remembering that an experiment of this kind has greater chances of success, the more complete and less hesitating it is, the more liberal and less mistrustful it is. I hope the Regulations that will be soon issued will fulfil the just expectations of my countrymen, and I have only to conclude with the hope that whatever may be our feelings on this occasion—and they are more, as I have said, feelings of gratification than otherwise—it is our bounden duty to remember that our progress in military matters is only too apt to be a little slower than our progress in other matters, and I would therefore exhort my Hon'ble Colleagues in this Council, as well as my friends outside, to do all in their power to make this first experiment a success."

1-3 P.M.

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, it were an act of superfluity to add my congratulations to those which have already been offered to the Government on the introduction of this measure. I rather feel, My Lord, that in view of the colossal sacrifices which England has made since the war broke out, it is to be deplored that the necessity should have arisen to resort to a measure of this character. My Lord, Englishmen had won the admiration of the civilised world in the past by their sense of duty and of their patriotism. But never did the patriotism of England show itself better than since the war broke out, and history will record to the honour of the English nation for all time that not having been prepared for this great war, England without resorting to conscription or compulsory service raised an army which baffled the efforts of the Central Powers, for which they had prepared themselves for decades past. In view of that fact, I sincerely wish, My Lord, that England came to the end of the war and emerged triumphant out of it without having recourse to compulsory service. But if that has not been possible, our very admiration for the sacrifices which England has made, should make us all the more willing to offer her what little further assistance we can in the great struggle in which she is engaged. From that point of view alone, My Lord, though other

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considerations are not wanting, we welcome the opportunity that the Government gives to the civilian population of this country to offer further services in the war. Those classes of our fellow-men of the Punjab and Bombay and Madras and the United Provinces from among whom the Indian Army is ordinarily recruited, have long been fighting under the flag of England, and have rendered services which have been well appreciated.

“ It is a matter of sincere satisfaction that the opportunity for service has been extended to other sections and classes who had no such opportunities before. My Lord, it is difficult to say what the response will be; but it is permissible to hope—and I do earnestly hope—that it will be such as will gratify both the Government and the public. My Lord, having said this, I think it at the same time my duty, in view of what has been said by several of my Hon'ble Colleagues, to draw the attention of Government to a few points relating to the measure that is now before us. Three years ago few people would have imagined that a time would ever arise when England, mighty England, would require to have her forces supplemented by those of the Dominions or of India, but events have proved otherwise. We are now face to face with the knowledge that a combination of powers may at any time arise, as it has arisen at present dominated by motives and considerations which had better not be described, which it may not be possible for any single nation, however strong, to meet without the assistance and co-operation of other nations. It is undeniable that England has been fighting not only her own battles, but the battles of many other nations, small and great,—fighting not only for the freedom of her own neighbours, but also for that of distant countries whom she was under no obligation to support. She has found colossal sums of money not only to meet her own expenditure on the war, but also to finance her allies, Russia and France and several others. It is no wonder, therefore, that great though her resources in men and material are, they require to be supplemented to meet a crisis like the one that has arisen. But that very circumstance opens our eyes to what we may have to face in the future so far as the defence of India is concerned. India not only possesses a vulnerable land frontier, as Your Excellency was pleased to say the other day, but also has an extensive sea-board open to attack from many points. My Lord, we admire our English fellow-subjects for the response they have made to the call of the Empire, but we feel that it would be wrong to them and demoralising to us that the burden of the defence of India should be borne too heavily by them and too little by us. We feel that, in view of the sacrifices which Englishmen have already made in this terrible war in Europe, we Indians ought to be prepared to bear our fair burden in the defence of our country and in the cause of the Empire. For this purpose the one thing that is needed is that in the future, Indians should be prepared by military training in the way that people in other countries are prepared, to do their duty by their country and by the Empire. There are two provisions in the Bill which require to be extended from that point of view; firstly, there is a clause providing for the training of youths between the ages of 16 and 18. I submit, My Lord, that it is regrettable that the opinion expressed many years ago by Sir Norman Lockyer that military training should be a part of the education of every youth was not heeded in England. Events have proved that he was right, and I hope that every Government will now recognise the wisdom of the suggestion, and consider it its duty to put every youth, for whose welfare it is responsible, through a compulsory military training in order that, if occasion should arise, he may be fit and ready to defend his hearth and home and to stand up for the right. It is not fair to expect that those who have not been put through such a training should come forward to expose themselves to the exigencies of modern warfare. Therefore, while I welcome the provisions for the training of the youth of the European British community between the ages of 16 and 18, I earnestly hope that in response to the many appeals that have been made to Your Excellency to-day, Your Excellency's Government and His Excellency the Commander-in-Chief will be pleased to consider whether this provision for the training of youths should not be extended to Indians also. My Lord, this is not the time, nor is it necessary for me to dwell upon the

many advantages, moral as well as physical, of a military training at this formative and impressionable period. It will not only improve the physique of our youth, but will build up his moral character and help him to play the man through life, making him an honourable member of society and a useful citizen of the Empire.

“ The next thing to which I should like to call attention is the provision for local service in the case of men from the ages of 41 to 50. I think it is not fair to our European British fellow subjects in India to ask them to bear a larger burden in the defence of India than is their proper share. I have heard with much interest and sympathy the observations which have fallen from the Hon'ble Mr. Bray. I feel that, while we must admire the determination of the commercial community as voiced by him, to bear their part in bringing the war to a successful conclusion, it is not fair to them to make a heavier call upon their energies and resources and upon their spirit of self sacrifice than what is just and proper. The responsibility of protecting our hearths and homes and of keeping order in our districts when an opportunity should arise for doing so, should be fairly shared by Indians and Europeans residing in this country. My Lord, if I may express myself in one sentence, justice and expediency both demand that Your Lordship's Government, and His Majesty's Government, should once and for all obliterate all distinctions between Europeans and Indians in all matters relating to the military policy of the Empire. I submit that justice demands that, in the matter of military service, there should be no distinction between the European and Indian. Her Majesty's Proclamation of 1858 repeated that promise. Speaking in the House of Commons on the 13th of June 1861, Sir Charles Wood said :—

‘ It had been said in the course of that discussion that their great object ought to be to obliterate the distinctions between the conquerors and the conquered in India. Now, that was precisely the policy which he (Sir Charles Wood) wished to carry into effect. Those Bills distinctly provided that the Natives should be employed in the Legislative Councils as well as in the highest judicial courts, and in the most important executive offices. The same spirit ran through the whole of them—the spirit which animated that policy which Lord Canning had been most successfully carrying out, and which, he believed, with his Hon'ble Friend, would afford the best security for the permanence of our rule, for it would make the highest class of Natives, as well as those of lower degree, feel that their own good was bound up in the continuance of our sway. He believed that was the best mode of consolidating and perpetuating our dominion in that country. * * * * *

* * * * * He held the perfect equality before the law of all Her Majesty's subjects, without distinction of race, birth or religion, and he would not do anything which could lead to the supposition that he doubted for a moment the existence of that principle. He had never admitted that there was any distinction between any of the subjects of the Queen, whatever might be their differences of birth, or race, or religion. That was the spirit of the Proclamation of Her Majesty on the occasion of her assuming the direct government of India, and that was the principle which would continue to actuate him in all his administrative measures.’

That was in 1861. Indians have repeatedly prayed that distinction between Indians and Europeans in a matter of military policy should be abolished. I do not wish to dwell on the past. I submit that it is high time that that distinction was abolished. The moment is opportune. Your Lordship's Government should not regard the present measure merely as a measure which will effect the objects immediately before us, namely, of rendering such assistance and support as it is our duty to render to the Empire in the present war. It is well to look ahead. My Lord, who can say that the Allies of to-day may not turn out to be our enemies of to-morrow; military officers cannot be trained in a day; nor can military training be imparted to the people in a moment, so as to ensure them to hardihood, and to fill them with a spirit of sacrifice, necessary to enable them to successfully meet those who have been trained for generations in military discipline. I submit, therefore, that it is necessary, in the best interests of the country and the Government, that it should look ahead and open commissions in the Indian Army to Indians in the same way as they are open to Europeans.

“ My Lord, my friend the Hon'ble Mr. Sastri has already referred in this connection to the Resolutions that were passed at a great meeting held the

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other day in Bombay. I should also like to invite Your Lordship's attention to one of those resolutions. It ran as follows :—

‘That this public meeting of the citizens of Bombay expresses its great satisfaction at the announcement made by His Excellency the Viceroy proposing to enrol Indians in their own units for general military service in India for the duration of the war; and trusts that in respect of commissioned rank, status, prospects and training, the Indians will be placed on a footing of perfect equality with the European British subjects of the Crown, and in that belief urges upon the people to respond whole-heartedly to the call for the defence of the Empire.’

“Now, My Lord, I submit that the occasion demands that the Government should make up its mind to make a declaration which, I have no doubt, will commend itself to it—as just and proper—that Indians will be placed on a footing of equality with their European fellow-subjects in all ranks of the army which they are invited to join. I am not blind, I am not insensible, to the needs of military training. I do not suggest that commissioned officers can be created by a stroke of the pen or can be manufactured in a day. I know that it requires time to train them. But that is exactly my reason for submitting that the Government should now, in view of the situation, both present and that in the near future, make up its mind to give military training to Indian youths in military colleges, such as the one established in Quetta as is given to European youths. My Lord, it is an anomaly and an injustice that a College established in India for providing military training to those who want to join the Indian Army should be closed against Indians. It also seems an anomaly, My Lord, that an Indian Defence Force should not admit Indians to its highest ranks if they give proof of their physical and moral competence to gain such admission. I, therefore, submit that justice demands—and expediency also demands—that the commissioned ranks of the army should be thrown open to Indians. I shall not take up the time of the Council any more. I will only say that, in view of the blood which Indians have shed along with their European fellow-subjects; in view of the comradeship in arms which has been established between Indians and Europeans on the battle-fields of Europe; in view of the large number of Indian lives which have been sacrificed in the pursuit of a common aim, the distinctions in the army between Europeans and Indians should be obliterated, and that we should in future put in ‘one splendid spirit, your soul and mine,’ in the defence of India and the Empire.”

The Hon'ble Khan Zulfikar Ali Khan :—“My Lord, I rise to welcome this Bill on behalf of the land-owners of the Punjab whom I have the honour to represent in this Council. My Lord, in answer to my question at the Simla Session, I was told that the land-owners of the Punjab contributed more than 90 per cent to the Indian Army, and from this proportion it is quite clear that the Punjab has taken a share which is most honourable. 1-24 P.M.

“My Lord, this Bill, which His Excellency the Commander-in-Chief has moved, will send a thrill of enthusiasm through my province, and I have no doubt that the response which it will receive will be commensurate with the services already rendered. The people of the Punjab have not acted under any artificial enthusiasm or under the stress of transitory necessities, but their enthusiasm and their services have been spontaneous, actuated by a loyal feeling and by the sense of indissoluble ties which bind India to the British Empire. My Lord, we see the spectacle of the Central Powers exerting themselves to their utmost to achieve their end in this war—which is the German domination and the dream of world-empire in future. My Lord, to fight a brave, enterprising and resourceful enemy, we must ourselves do all we can to maintain the freedom and integrity of this great Empire, and at this juncture when both sides are straining themselves to achieve the one object in view, it is not right, and I do not think it would be honourable to put any conditions for the

[*Khan Zulfiqar Ali Khan ; Mr. Kamini Kumar Chanda ; Dr. Tej Bahadur Sapru.*] [21ST FEBRUARY, 1917.]

services which India might render. I do not think that England will ever forget the creditable and honourable services which India has ungrudgingly offered in the past, and will offer in the future whenever there is any necessity, and I therefore deprecate any spirit of wrangling over conditions or bargaining for service.

“ My Lord, this is not the first occasion when India has rendered such services. In the past on every occasion when any portion of the Empire was menaced with disaster or with war, India always rushed to the threatened point and rendered services which, I am glad to repeat, have not been forgotten by our rulers and by our King-Emperor. Under these circumstances, I think the times are such that to propose any conditions would connote ungraceful barter of these services. With these few words, I support the Bill most enthusiastically.”

1-30 P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—“ My Lord, on behalf of the people of Assam whom I have the honour to represent in this Council, I beg to give my humble support to the Bill which has been introduced by His Excellency the Commander-in-Chief, and I also beg to express my gratification for the great justice which has been done to us. My Lord, we have been praying for some time past to bear our share in the burden of the Empire, but it seems it was impossible before now for Your Excellency's Government to accede to our prayer. To-day for the first time it has been found possible for Your Excellency's Government to invite Indians to bear their share in the great world struggle, and this has aroused immense enthusiasm in the country. Your Excellency's Government must be aware that, even before the introduction of the Bill the mere announcement that this Bill was going to be introduced, has already sent a thrill of enthusiasm throughout the country, and we see that public meetings are being held in many parts of India to congratulate the Government. In this connection, I may be permitted to invite Your Excellency's attention to what is happening in the country. Of course, this is not the time to ask for any favours, but I am sure that Your Excellency's Government will be pleased to know that throughout the country it has been taken for granted that Your Excellency is going to give us what we have been asking for several years past, that the Indian Defence Force will be a real Defence of Indian force manned and officered by Indians, and that there will be commissioned ranks open to Indians, and there will be no irritating distinction between Indians enrolled under this Bill and His Majesty's European British subjects as regards commissioned rank, prospects, status and training. I beg Your Excellency and the Government to consider whether it would not be possible to admit a number of selected Indian candidates to the Military School at Quetta. My Lord, as I said this is not the time to go into these conditions, but they are just some suggestions for His Excellency the Commander-in-Chief.

“ My Lord, I entirely associate myself with the suggestion that it should be permitted for Indians to join in this local service, and that our boys between the ages of 16 and 18 may be given some military training. My Lord, I would go further and urge for Your Excellency's consideration whether it would not be possible to introduce some sort of military training into the curriculum of our Indian educational institutions.

“ With these remarks, My Lord, I beg to give my support to this Bill.”

1-33 P.M.

The Hon'ble Dr. Tej Bahadur Sapru :—“ My Lord, I do not think I shall be justified in detaining the Council at this stage by a long speech. The reception which this measure has met to-day can be by no means surprising to any one of us. His Excellency the Commander-in-Chief in introducing this measure said that it was a war measure. If for no other reason, at least for that reason alone, it would be entitled to the unanimous support of this Council, but there are additional reasons why we feel called upon to support this

[21ST FEBRUARY, 1917.] [*Dr. Tej Bahadur Sapru; Raja Rajendra Narayan Bhanj Deo of Kanika; Rao Bahadur B. N. Sarma.*]

measure. We read in it the promise of a new era in the policy of the Government so far as the people of this country are concerned. The policy of distrust, of want of confidence in regard to military matters which has hitherto been characteristic, is apparently going to be replaced by a policy of confidence and trust in the people. My Lord, so far as the sentiments of young India are concerned, they cannot be better expressed than they were by my Hon'ble friend Mr. Jinnah and also by Pandit Madan Mohan Malaviya. My Lord, I do not think that any one of the previous speakers who invited Your Lordship's attention to the absolute necessity and desirability of equality of rank and position and opportunities in the army invited it in a spirit of bargaining. That I do not think was the intention of any one who spoke before me.

"My Lord, we owe it to Your Lordship's Government and to Your Lordship that as Members of your Council we should express our views honestly and openly without mincing matters, and it will not do for any one of us to tell Your Lordship that the provisions of this Bill will satisfy our ambitions for all time to come. We do not need to be under any delusion ourselves, nor do we think it is right and fair that we should allow the Government to be under any delusion in this matter. Therefore, I protest against the notion that any demands made by Mr. Jinnah or by Mr. Malaviya in this connection were made in a spirit of bargaining. My Lord, we have not bargained for anything in the past, and we are not going to bargain for anything in the future. We take our stand on our birth-right, and we say, as His Majesty's subjects, it is our right, our privilege that we shall be admitted to the same position as Europeans are in the army, and more particularly when we are going to be enrolled for the defence of our country, let us not smart under a sense of inferiority in any matter. My Lord, I fully appreciate the gravity of the situation, I realise that you cannot have commissioned officers within 24 hours; you cannot create them to order. That will take some time, but let it be understood that this Bill is to be read by the country as a promise of a new era which will mark the policy of the Government in this matter. It is more particularly because I read in it the hope of a different future, of a brighter future for the country, that I feel called upon to support it whole-heartedly."

The Hon'ble Raja Rajendra Narayan Bhanj Deo of Kanika :—1-36 P.M. My Lord, I heartily welcome this motion of His Excellency the Commander-in-Chief for the creation of the Indian Defence Force to meet the emergencies of the war. My Lord, as the representative of the landed interests of Bihar and Orissa in this Council, I will at once say that the proposal to create this new army at this juncture must meet with the fullest approval of those whom I represent. It is well known to all those who have followed the course of events in the immediate past how this laudable demand of the people of this country to serve their King as soldiers has made itself insistent throughout the length and breadth of this land. This concession to the popular demand which was graciously announced in this Council the other day by Your Excellency, by virtue of which the children of the soil will have the proud privilege of serving their King as soldiers, which though one of the results of the exigencies of the war, yet will prove no less acceptable to the people. And we must say we are truly thankful to Your Excellency's Government for having decided upon such a course which, henceforth, throws open a military career to the youths of India.

"With these few remarks, My Lord, I support the motion."

The Hon'ble Rao Bahadur B. N. Sarma :—1-38 P.M. My Lord, I have always felt that Great Britain and India, firmly united, can defy the world; that the combined wisdom of the East and the West would assure the dawn of a new civilization, and that Great Britain's armies and India's armies working in unison would be invincible. Having regard to the poverty of

[*Rao Bahadur B. N. Sarma.*] [21ST FEBRUARY, 1917.]

India, I was wondering as to why Great Britain had not drawn upon the great man-power of India to a larger extent than has been the case during the past two years. We realised that it would be impossible in our present economic state to contribute largely in money towards the expenses of the war, but men, men of the fighting classes, men of the right sort, men that have earned the approval of the best soldiers in the field, will be forthcoming in abundance, and never more so than when they are told that they are necessary in the interests of the defence of India, of their hearths and homes, and that is the contingency which we are asked to face, and for which we are asked to provide. It is needless to say, therefore, that any measure which invokes the loyalty, that appeals to the patriotic spirit of every Indian, of every loyal citizen of the Empire, must evoke an outburst of enthusiasm which has been manifested on the platform, as well as in the press and in the speeches of the Members to-day.

“ I am glad that the Hon'ble Mr. Shafi and Mr. Sundar Singh have brought to the special notice of the Council to-day the heroic deeds of their countrymen in the Punjab. We rejoice with them that opportunity was given to them to show the valour of Indians. We are not jealous of the Punjab; we are proud of the deeds of the Punjab; they are Indians, bone of our bone, and consequently we do not grudge any praise that has been bestowed upon them. But may I also remind the Hon'ble Members that it was we, our Madras Army, that won the Empire for the British; that until British officers found new favourites, we were considered brave soldiers. I remember that in 1886, when a British officer in charge of the Volunteer corps of Vizagapatam, a small town with a population of 40,000, gave permission to Indians to volunteer, 40 or 50 educated young men were forthcoming, and I can also assure the Council that some of these educated Indians were the best shots in the regiment. Therefore, it would be wrong to suppose that from peaceful Madras and Bombay—although the easy conditions of life in those places tended to sap the vigour of their young men—such men would not be forthcoming in numbers sufficiently large to earn the esteem of the whole world.

“ There are one or two points to which I invite Your Lordship's and the Council's attention. Your Lordship justly spoke of the blending of the East by and the West as calculated to promote the efficiency of the army. We heartily appreciate that sentiment. But, My Lord, may I be permitted to point out that if that sentiment, that principle, be pushed a little logically to its conclusions, it may land us in danger. The proportion test which has hitherto prevailed, *i.e.*, 70,000 British troops to 160,000 Indian troops, if rigorously enforced in the composition of the new Indian Defence Force, may land us in disaster. It may not enable the Indian Army to be mustered in sufficiently large numbers in the hour of trial, if, unfortunately, that hour of trial should be near, to cope with the situation for which we ought to be prepared, and I hope, therefore, that, for the sake of India, for the sake of her defence, this proportion test, this mistrust which I most respectfully submit was at the bottom of the whole idea, will be cast to the winds and the new policy ushered in by this new Bill will employ the full force of the Empire.

“ Then, My Lord, I associate myself fully with the remarks which have fallen from several Hon'ble Members as to the expediency and justice of the policy of intimating, in however shadowy and vague a manner it may be, that it would be open to Indians to aspire to the same rank and status as their British brethren. There was one passage which was peculiarly cold, namely, that the Indian Defence Force, so far as the Indian composition goes, would be entirely governed by the Indian Army rules, and the British force by the British rules. That would mean clearly that, under present conditions, it would not be possible for members of the Indian force to aspire to the commissioned ranks. I know, My Lord, as has been already well put, that it is impossible to manufacture efficient officers in a day. It is impossible no doubt, and, we do not ask for a single moment to allow efficiency to be sacrificed to any other consideration. But may I ask whether young men at school are not being trained in Europe as officers because it has been felt that the wastage of officers is enormously large, and it would be impossible to obtain

[21ST FEBRUARY, 1917.] [*Rao Bahadur B. N. Sarma; Nawab Saiyed Nawab Ali Chaudhri, Khan Bahadur.*]

educated men in sufficiently large numbers unless adequate provision is made beforehand? The same unfortunate paucity may face us here in the future, and I therefore hope that a beginning will be made immediately to secure for this Indian force the same advantages and the same privileges as obtain in other parts of the world.

"My Lord, there is only one other subject which was troubling me until this morning, and that was the financial question. I do realise that if we have to raise a million men or even more for the sake of the defence of India, India may not, should not, will not, grudge the cost; but it has not been made manifest to us that such heroic measures would be necessary at present. I, therefore, was very glad to see that such burdens were not going to be thrown on India; and I also rejoiced when I read the Resolution of the House of Commons in 1914 in accepting the services of the Indian forces, wherein they distinctly laid down that, although they would accept the offer of the Indian community, that there would be no savings effected, that those troops who were replaced or who had to be replaced would not cost the Indian Exchequer anything. Well then, if we had to send out after training these young men, I am quite sure that the Finance Minister, who has been loyally fighting for the Indian Exchequer for the last two years in a way in which it would be impossible to describe in sufficiently appreciative terms, and for which the whole country is deeply thankful to him, would champion our cause and successfully too. Therefore, with this Parliamentary assurance, with this certainty, that our interests are safe in the Finance Minister's hands, with the certainty that the measure will not require the imposition of any fresh burden on us, we are all the more glad to welcome it as indicating the possibility of giving the Indians a chance of retrieving their position, and of justifying their position as equal subjects of His Majesty, the King-Emperor. I do not want that any words of any of us should damp or chill the spirits of any one. We hope that young men, especially educated men, will come in larger numbers than the military authorities can find equipment for; that they will be able to justify their claims to an equal place by their ardour and valour, and I sincerely trust that the Government will be able to evoke that enthusiasm which is latent in the community by offering just terms, terms of perfect equality, because educated India cannot tolerate, will not tolerate, unequal treatment and may not rise equal to the occasion, unless equal treatment is accorded. I cordially welcome the measure."

The Hon'ble Nawab Saiyed Nawab Ali Chaudhri, Khan Bahadur :—**1-49 P.M.** "My Lord, on behalf of the community I have the honour to represent, I most heartily welcome the measure. Nothing could be more desirable at the present moment than the introduction into the Council of a Bill to constitute an Indian Defence Force for the defence of the Empire. The Empire is still under the throes of war. It is the bounden and solemn duty of every part of it to do its utmost to render her assistance in the hour of her need. India, with an almost unlimited man-power, is capable of invaluable help and self-sacrifice in the cause of the Empire. To have openly taken her into confidence and undertaken to constitute an Indian Defence Force, is the boldest and most statesmanlike departure in the military policy of the British rule in India, for which Your Excellency's name will be ever held in grateful remembrance. I have every hope and confidence that the Indian people will rise equal to the occasion and avail themselves of this great opportunity to be of active usefulness to the Empire. My Lord, though fully alive to the kind solicitude of Your Excellency to do honour to the people committed to your charge, a growing sense of uneasiness is felt throughout the country that the Indian units in the contemplated Indian Defence Force will in no way be different from the regular Indian Army existing at present. My Lord, I hope that this uneasiness is not well-founded. The new kind of army will, it is my belief, carry with it new

[*Nawab Saiyed Nawab Ali Chaudhri, Khan Bahadur; Mr. Abdur Rahim; His Excellency the Commander-in-Chief in India; Pandit Madan Mohan Malaviya.*] [21st FEBRUARY, 1917.]

privileges. A word to that effect from your Excellency will clear the atmosphere. In order that the scheme should appear attractive and that the more educated sections of the people might find some incentive, it is earnestly hoped that the Indian Units in the Indian Defence Force will be given equal privileges with the British Units."

1-51 P.M. **The Hon'ble Mr. Abdur Rahim** :—" My Lord, I beg to associate myself with all that has fallen from many of my learned colleagues in support of the measure introduced by His Excellency the Commander-in-Chief, and on behalf of the Muhammadans of Bengal, whom I have the honour to represent in this Council, I heartily support the Bill."

1-52 P.M. **His Excellency the Commander-in-Chief in India** :—" My Lord, we have every reason to be gratified with the reception this Bill has received at the hands of Hon'ble Members. As regards the suggestions that some of them have made, I can assure them I am quite prepared to consider them all in so far as they relate to the provisions of the Bill in the Committee which is being formed, and on which our worthy friend, the Hon'ble Mr. Bhupendranath Basu, has taught us to practise the doctrine of sweet reasonableness. We shall endeavour to follow in his foot-steps, and as he is with us, he will be there to guide us.

"The Bill was announced as a War measure, a purely temporary measure. We have had some very large issues put before us to-day, and I am afraid that on this occasion I cannot follow my worthy friend Pandit Malaviya into the larger issues that he has raised as to what is to be the composition of the officers of the future armies of India. That we must leave to the future. I am not a prophet. I am not an astrologer. I have only got to deal with the situation as it is. If I endeavoured to do anything else, I should be restricted by the large financial issues which are involved. On that account I have refrained from indulging in replying further to him (the Hon'ble Pandit Malaviya). But I will say this, that as far as the conduct of the war is concerned, we want from India regular soldiers in abundance, so that they will undertake the duties not only in India but in Mesopotamia, in East Africa and in other climes. We want them from all parts of India. I do not want to introduce any element of comparison, such as I had to do in replying to a question to-day. But from all parts of India we expect, after the assurances we have received from Hon'ble Members to-day, that these young men of education will come forward and by virtue of their superior education and their superior birth be all the more ready to accept all the hardships that are incidental to war, and to set an example to those who have been less fortunate than themselves. The more they come forward, the better the country will be pleased, and I feel certain that the greater the sacrifices they make, the more certain will be the sympathy which is shown when those larger issues which have been expressed to us to-day come up for general settlement."

The motion was put and agreed to.

THE TRANSFER OF PROPERTY BILL.

1-55 P.M. **The Hon'ble Pandit Madan Mohan Malaviya** :—" My Lord, I beg to present the Report of the Select Committee on the Bill further to amend the Transfer of Property Act, 1882.

" My Lord, after considering the opinions received on the Bill, it was decided to confine its scope to a validating Act extending, in the first instance,

THE TRANSFER OF PROPERTY BILL; RESOLUTION *RE* 349
AMENDMENT OF THE RULES UNDER THE DEFENCE OF
INDIA ACT, 1915.

[21ST FEBRUARY, 1917.] - [*Pandit Madan Mohan Malaviya; The President; Mr. M. B. Dadabhoy.*]

to the United Provinces of Agra and Oudh, with power to extend it by notification to other parts of British India. This decision not to change the existing law has been explained in”

His Excellency the President :—“ I would draw the Hon'ble Member's attention to the fact that he does not make a speech on this occasion : he merely presents his Report.”

The Hon'ble Pandit Madan Mohan Malaviya :—“ I thank Your Excellency. I was just going to say that the decision arrived at is explained in the report, and that I need not go into it at any length here. I beg to present the report.”

The Council then adjourned for Lunch.

(After Lunch the Hon'ble the Vice-President took the Chair.)

**RESOLUTION *RE* AMENDMENT OF THE RULES
UNDER THE DEFENCE OF INDIA ACT, 1915.**

The Hon'ble Mr. M. B. Dadabhoy :—“ Sir, I beg to move the following Resolution :— 31 P.M.

‘ That this Council recommends to the Governor General in Council that the rules made under section 2 (f) of the Defence of India (Criminal Law Amendment) Act, 1916, be revised so as to provide for the constitution in each province of special machinery to consider the cases of persons whose movements or actions it is proposed to control under those rules.’

“ I may draw the attention of Hon'ble Members to clause (f) of the Defence of India Act, which says—

‘ (f) to empower any civil or military authority where, in the opinion of such authority, there are reasonable grounds for suspecting that any person has acted, is acting or is about to act in a manner prejudicial to the public safety, to direct that such person shall not enter, reside or remain in any area specified in writing by such authority, or that such person shall reside and remain in any area so specified, or that he shall conduct himself in such manner or abstain from such acts, or take such order with any property in his possession or under his control, as such authority may direct.’

“ I may also remind Hon'ble Members that the Defence of India Act is essentially a war measure. It is to remain in force during the continuance of the war, and for six months thereafter. Therefore, if we find that the rules framed under the Act work in any way harshly, a discussion or debate on the subject at this stage is inevitable. That is my apology for introducing this Resolution at this stage.

“ Sir, the Resolution I beg to place before Honourable Members deals with a subject on which there is considerable feeling both among officials and the non-official public. The Defence of India Act and the operations under it have been defended on more than one occasion by Government, and the warmth displayed in the speeches indicates the existence in the official mind of a strong conviction of its necessity. The public, on the other hand, are emphatic in their disapproval of the action taken by the executive in the exercise of the extraordinary powers secured by the Act, especially by the rules framed under it. But where sentiment is strong reason is apt to be clouded. The question is thus somewhat difficult and ticklish. All the same the interests of the whole community as also of Government demand that the executive action should be scrutinized; and at least proper safeguards provided for the protection of innocent citizens. It is the incumbent duty of

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this Council to see that the liberty of the subject is not unnecessarily curtailed.

“Sir, the attitude of the community must not be misunderstood. No body views anarchy with anything but genuine hatred and alarm. Any other feeling would be suicidal. It is not necessary to invoke loyalty to the Empire in support of this feeling of hatred. The people hate anarchism from self-interest and under the pressure of the law of self-conservation. It is the people who have suffered most from anarchical crime; it is mostly Indian lives that have been taken; it is the property of the Indians that has been looted. It would therefore be unnatural for the people to entertain for anarchism any feeling but that of the most uncompromising hatred and abhorrence. But, curiously, in some parts of the country the executive has missed this simple truth, and in certain areas the Act has been put in operation on the assumption that whole classes and for the matter of that, the whole community, are more or less infected. In one of the provinces, Bengal, it is regrettable that even the highest officials have publicly charged the whole people, not only with apathy and indifference, if not with sympathy with anarchists, but with not being above suspicion. A distinguished officer of the Bengal Government, speaking in July last on the occasion of the death anniversary of a great citizen observed :—

‘Bengal is suspect, her loyalty is distrusted, her judgment is found wanting, and she is condemned because she cannot secure in her midst the peace and order which are essential to true progress.’

“His Excellency the Governor of Bengal plainly said at the Calcutta Durbar last December that there was ‘a wide spread, well organised conspiracy’; and the previous July at Dacca, he had observed that many people suspected the genuineness of the hatred of their countrymen for anarchical crime. This unfortunate mental attitude, Hon’ble Members will agree with me, must often unconsciously result in a harsh application of the Defence of India Act. And the complaint is general that the emergency powers *are* being used with uncompromising rigour and often with little discrimination.

“Sir, the President of the last Indian National Congress pointed out with great force that ‘a general crusade against a community in the name of anarchism is justified neither by reason nor logic, nor considerations of expediency.’ This was perhaps very strongly put. But even if there be no general crusade against the community, the procedure adopted by the executive; at least in Bengal, is somewhat surprising and subversive of the wholesome principles underlying British Criminal Law as applied in India. Lord Carmichael’s last Durbar Speech contains significant admissions. His Excellency stated :—‘ Knowledge slowly and gradually gained through the use of the Defence of India Act has given us a sure foundation for our action’. What action? It must be action under the Defence of India Act. And how is this knowledge gained through the use of the Act except by making arrests? Evidently before these arrests under the Act, Government had not the requisite knowledge justifying such action! Speaking of the evidence upon which the official theory of a widespread, organised conspiracy is founded and the arrests and internments have been made, Lord Carmichael regretfully pointed out that, though ‘in some respects overwhelming’, it was ‘not evidence which we can put forward in a Court of Law.’ ‘It is not only, or chiefly, the evidence of Police Officers or of ordinary informers. Far the greater part of it is that of men who admit that they themselves have taken a share in the crimes or in helping others to commit the crime . . . The law, or at any rate the practice of the Courts, would prevent its even being tendered.’ And yet Government do not infrequently act on such evidence. Those who are arrested under the Defence of India Act cannot be placed on their trial because of the absence of *legal* evidence, but they are deprived of their liberty, if not actually imprisoned, on that very evidence! It is like taking departmental action against public servants in the alternative of a prosecution for want of evidence. Government in Bengal at least, would appear

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to be engaged in a sort of fishing campaign with no better, no surer foundation for their action than doubtful police reports and the scant information supplied by mercenary spies and interested informers. A man is arrested first, and then comes the attempt to gather evidence against him such as would justify his detention. Can this course command the approval of this Council or of this Government? In certain districts at any rate indiscriminate house searches have been followed by equally indiscriminate arrests. Those that are arrested are required to prove their innocence. We are told that in the eastern districts of Bengal this is especially the case. It is said that only a few weeks ago 'the whole town of Mymensingh was put into turmoil by indiscriminate house searches and arrests — number of houses of respectable men were searched, but not a single incriminating article was recovered from a single house'. About 33 arrests were then made, but the majority of them were discharged shortly afterwards on the ground that they had been arrested under mistaken identity. It is often said that the local authorities follow the stereotyped procedure of issuing warrants against a number of boys under section 396 of the Indian Penal Code on their alleged complicity in some dacoities, and as soon as bail applications are made, arrested boys are promptly discharged, only to be re-arrested then and there under the Defence of India Act. Sir, a policy of such wholesale arrests, promiscuous house searches, indiscriminate internments, is hardly calculated to inspire public confidence in the administration of the Act. I do not propose to detain the Council by multiplying instances, or recalling to mind the many cases of alleged transgressions or undue severity. That will serve no useful purpose. The public complaint may be true or groundless, but it is insistent and general, and therefore it is necessary for us to see that the operation of the Act does not cause any injustice, serious inconvenience or unduly violate any established practice or canon of law. It is incumbent on us to ensure, as far as possible, that the Act is worked with a minimum of friction and harshness. Could such a procedure stated above appeal to any one of us as a satisfactory means for stamping out disaffection? Could it be productive of any but the most serious results upon the whole Indian public? It may succeed in striking terror into the hearts of the people for the moment, but it is bound to cause re-action and to drive deep underground the seeds of discontent.

" The Hon'ble Home Member, in replying to a question of mine last autumn, stated that 'in the Punjab, explanations are recorded before internments, but legal consultations are not authorised'. He also stated that 'in the remaining Provinces in which the number of internments under the Act is small, the practice followed is not uniform, but generally speaking no obstacle is placed in the way of submission of such representations'. It is clear from this that, except in Bengal, no other opportunity is given, unless of course the privilege of submitting Memorials to Government is regarded as such an opportunity. The soundness of such a contention would, however, be open to criticism. It was also stated on behalf of Government that the arrested persons could submit explanations 'with legal consultation.' When, may we know? Can they consult lawyers before cross-examination by police-officers? That is the point. It may be pointed out that subsequent legal advice cannot be as effective.

" Sir, Lord Carmichael emphasised :—

' A Government, though it might be powerful and successful, can never from the British point of view be a good Government, unless it is trusted by the people.'

" This was certainly well said, and it is time that the executive throughout the country should bear this in mind. But I would put it to the Council, I would most respectfully put it to Government, is the present executive action in some Provinces likely to inspire absolute confidence or to make the Government wholly trusted by the people? And the gravity of the thing will be clear from the fact that about 6,000 young men, according to a responsible statement, have been arrested in this wrong haphazard way. The basic principle of British Criminal Law is, that an accused must be presumed to be innocent

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until he is proved to be guilty by evidence of a satisfactory and conclusive nature. In the United Kingdom, notwithstanding the fact that it is so near the seat of the war, and notwithstanding the Defence of the Realm Act upon which our Defence of India Act is said to be modelled, that wholesome principle has not been abandoned or in any important particular modified. Even in the extreme case of Roger Casement there was an open trial; the usual procedure was followed; the conviction was appealed against. But here in India people are hurried into an ignominious detention admittedly in the absence of evidence which could be tendered in a court-of-law, on the off chance of getting something from them to found, if not a prosecution, an order for internment or deportation, upon. If Government is satisfied with the result, it must be wholly ignorant of the undesirable public feeling it has helped to create and in some respects to accentuate.

“Sir, His Excellency the Viceroy replying to the address of the Indian Association of Calcutta last December, observed :—

‘In the interests of the peace and quiet of India it has been necessary to deprive a number of the conspirators of their liberty, but you may feel sure that this action has not been taken on mere suspicion but on a firm assurance of their guilty participation. Your Governor, His Excellency Lord Carmichael, has personally investigated each case, and in those rare cases which have come to me, I have myself always examined the papers with great care.’

“Sir, the people have every faith in His Excellency the Viceroy and His Excellency the Governor of Bengal. They have no doubt that both of them give the most anxious consideration to the cases before final orders for internment are passed by Government; but in deciding the question whether this provides a sufficient protection to the community against unlawful detention, I crave permission to state most respectfully the fact that when each case comes up for His Excellency the Governor's or His Excellency the Viceroy's consideration the papers are complete from the departmental point of view, with the notes of the Police and the Officer-in-Charge of the operations, but presumably without the most important facts as to how and under what circumstances the statement of the arrested person first came to be recorded. For a correct appreciation of the value of the materials produced, it is imperatively necessary that all the circumstances, however trivial, should be known. And this one fact, His Excellency with his legal training will at once see, detracts a good deal from the value and weight of the conclusions to be drawn. It is evident, besides,—Lord Carmichael admits that—that the principal foundation for an order of internment or deportation is the statement of the accused. Now apart from the circumstances connected with the recording that go to discredit that statement, to treat it as a sound basis for decision adverse to the party is a procedure subversive of the underlying principles of the criminal law of the country. The statement is after all a confession recorded by a police-officer of a man cut off from the outer world when he can hardly be expected to have recovered from the first shock of arrest, and when his sole anxiety must be to get discharged anyhow.

“And yet such are the statements upon the strength of which these internments and deportations are mostly made. Quite recently, Honourable Members will remember, there was some agitation about confession, and Lord Crew, as Secretary of State for India, in consultation with this Government, issued elaborate instructions about the way in which they should be recorded, the central point being that every precaution must be taken to see that the confessing accused is under no fear and no coercive influence. I need not be reminded that these are statements recorded under the Defence of India Act, and are not confessions under the Criminal Procedure Code. I am also not unmindful of the official contention that the sole object of the Act is to invest the executive with extraordinary powers to take speedy and summary action in cases of imminent trouble or public danger. Sir, I concede at once that the Defence of India Act has indeed given large emergency powers to the Executive, but it will hardly be contended that it involves an abrogation of all the principles of Criminal Law. Government can proceed, it is true, under the

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Act against suspected persons, but it is not a justifiable stretch of the meaning of the law to base that suspicion upon answers to questions put by police-officers to them after arrest. The answers recorded by the police-officer are hardly statements. Then when the statements, such as they are, are sought to be used against the arrested persons, the distinction between them and confessions vanishes, and it is only fair that the ordinary safeguards against coercion and undue influence should be provided and insisted upon in the case of these statements also.

“ Sir, a review of the facts would suggest three important modifications of the rules relating to internments. In the first place, a person against whom proceedings under the Defence of India Act are in contemplation should have, as of right, a copy of the charge, with details about the evidence upon which it is based, *before* he is called upon to make any statement. The fairness of this procedure is beyond question. The charge must *precede* a statement by the accused, and *not follow it*. That is the main principle I want to impress upon Hon'ble Members and Government. Without a charge previously reduced to writing no proceeding under the Act ought to be, and shall be, initiated. It is likewise necessary that the accused should know the nature of the evidence against him. It is enough that he is denied the opportunity of exposing by open cross-examination in a court-of-law the weakness of that evidence; to deny him further the opportunity of placing before the executive authorities, facts that would go to discredit the information and the other evidence would amount to a denial of justice.

“ In the second place, nobody should be compelled to make a statement by way of defence or explanation. It must be discretionary with the party to make one or not. If he chooses to make a verbal statement, it should be recorded by a Magistrate, in the same way and with the same precaution against coercion and undue influence as confessions. It is not suggested that this must always be in open court in the presence of the public. The Magistrate may record the statement in camera, provided only he is not allowed in any case to cross-examine the party, except for the purpose of ascertaining that he is under no sort of undue influence at the time. Where the accused prefers to submit a statement in writing, he should be free to do that in consultation with lawyers.

“ In the next place, the charge with the evidence upon which it is based as also the statement of the accused, if any, and all other papers relevant to the proceeding, should be placed before an Advisory Committee, on which the profession and the bench must be strongly represented, for opinion. Sir, the necessity of a thorough examination of the materials is not denied by Government. On the contrary, Government have been at pains to assure the public that this is already being done. The only question then is, whether the suggested Advisory Committee would not be a better machinery for the examination of the materials, and would not conduce to more smooth working of the extraordinary Act. The Committee would be in composition a quasi-judicial body, and their findings would certainly carry greater weight than the decisions of the executive, however high the personnel. It is conceded by the Hon'ble the Home Member that the opinion of a judicial officer is even now taken in Bengal and the Punjab. He also promised last September to suggest to other Local Governments the desirability of adopting the practice of taking a judicial opinion on each case. What possible objection could there be then to put in charge of proceedings under the Defence of India Act an Advisory Committee, composed of at least one judicial officer of high standing, and one practising lawyer and one high executive officer? In the United Kingdom, an Advisory Committee has the oversight of operations under the Defence of the Realm Act, and there is nothing, I submit, in Indian conditions to justify a radical departure in policy in working the Indian Act.

“ Sir, Hon'ble Members will believe me, the Resolution has not been conceived in a spirit of opposition to Government. There is no conflict of interests. I fully appreciate the enormous difficulty of Government; I

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unhesitatingly and unreservedly acknowledge the good intentions of the executive; I, likewise, readily admit the stupendous and almost inconceivable difficulties of the police and the thanklessness of their unhappy task. At the same time, we, non-official Members of this Council, would be false to the people, would be false to our benign Government were we not to make an earnest endeavour to render the working of the Act just and least irritating. Hon'ble Members will please consider that the present procedure, however successful, is bound to create for Government future trouble, and to add to the difficulties of future administration as shown above. Not the least of these difficulties will arise from the fact that the economic trouble will become aggravated; the problem of middle class unemployment will become acuter. The future of the detenu is blasted. He cannot find service anywhere; he cannot take to trade and industry for lack of capital, as also from the absence of reasonable hopes of success with the executive looking askance at him, and a community determined to keep him at arm's length if only through fear of the police. And these persons do not stand alone; they are the breadwinners of whole families and large numbers of dependants. If we unwittingly make wrecks of them, we starve a large body of innocent people and store up trouble for the whole community. This is an aspect of the question I would humbly impress upon the earnest attention of the Council and Government. I now ask Hon'ble Members to accept my Resolution."

3-27, P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—" Sir, the Council will observe that there are two amendments to this Resolution on the agenda paper which stand in my name. Subject to your ruling, Sir, I propose to take them up together and deal with them, in one speech requesting at the same time that the two amendments be put to the Council separately. Sir, the amendments are in these words :—

"That after the words 'special machinery' the following words be added 'in the shape of an Advisory Committee consisting of a High Court Judge, preferably an Indian, a practising Indian lawyer, other than a Public Prosecutor, and a Sessions Judge', and that the following clause be added at the end of the Resolution. 'And further to provide that after arrest definite charges on which arrest is made or an order of internment is intended to be passed, specifying as far as practicable the acts complained of, and such particulars as to the time and place of the alleged acts are as sufficient to give the party reasonable notice of the matters he is accused of, be given to the party and his written answer to the same, if he wishes to make any, be taken by a Magistrate before final orders are passed; and that reasonable opportunities for taking legal advice be given to the party'.

"Sir, I think the object of these amendments is obvious. There are two things. In the first place, I submit, if you wish to proceed against a man under the Defence of India Act, you ought to let the party know what is the charge that is made against him; whether you charge him to be an emissary of the Kaiser or charge him with plotting to loot a treasury, or with the murder of a police-man. The charge ought to be definitely put down in writing specifying the time and place, as far as possible, of the alleged acts, so that he may know reasonably what he is accused of. This, as I shall show presently, is not done at present.

"Secondly, after giving him this statement, if he wishes to consult a lawyer, let him have reasonable facilities therefor, and after that, if he has to make a statement, it must be taken down by a Magistrate. In the second place I submit that the whole case, including the charge so framed and his explanation, if any, ought to be placed before an independent tribunal whose decision will command the confidence of the public and it should be disposed of in accordance with their decision. These are the two things, Sir, which my amendments ask for. Are they an extravagant or unreasonable demand, or something very revolutionary that ought to be opposed, or is it not on the other hand when you have withdrawn the ordinary safeguards

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which an open judicial trial provides, is it not very necessary that everything should be done to prevent mistakes being made, to minimise the chances of committing mistakes, so that the confidence of the public will be insured, and this, I submit, is the irreducible minimum that ought to be done by the Government by providing these things in the rules under the Defence of India Act. Is it unreasonable to commend these things to the acceptance of the Council? If any arguments are needed, I submit, Sir, they have amply been supplied in forcible language in the eloquent words of my Hon'ble friend whose speech we have just now listened to. All I need do is to ask the Council to accept those portions of the speech which deal with the matters under discussion; to ask that those portions be incorporated in the Resolution, that is all my demand. I associate myself fully with his speech, and before placing my propositions before the Council shall only add a few words.

"Sir, the Defence of India Act was passed, as we all know, on the 18th March 1915, 8 months after war was declared, as a War measure and was expressly based on the model of the English law. In fact, the Hon'ble the Home Member, Sir Reginald Craddock, when introducing the Bill, claimed that this Indian Act was much milder than the regulations on which it was based, and he paid at the same time a tribute to the loyalty and good behaviour of the vast mass of the people of this country, in that while England had to pass the Defence of the Realm Act on the very day that war broke out, we in India had been 8 months before it was thought necessary to have a similar Act, for it was stated that it was really a Defence of the Realm Act although in another name. Sir, in view of this fact and in spite of the somewhat wide scope of the latter portion of the preamble which provoked some controversy among the non-official Members at the time the Bill was passed, who otherwise supported the principle unanimously, in spite of the wide scope of the latter part, I submit, regard being had to the fact that the contingency which led to the enactment of the law is the same in both countries, and the one Act is a copy of the other, it would be profitable to compare the two to see how far the Indian Act, which was said to be a copy of the English regulations, conforms to the English model. I shall do so very briefly by referring to those provisions in the English law which bear on the questions applicable to India. Sir, on the very day the war broke out, on the 4th of August 1914, His Majesty issued a Proclamation commanding the people to obey the regulations that might be passed for the safety of the realm. Three days later, on the 7th August, the Bill was introduced and passed through all its stages in the House of Commons the same day, and became the law as the first Defence of the Realm Act and provided for the trial of offences under the Act by court-martial. An amendment of the Act was passed a few days later, but we are not concerned with it. Regulations were framed thereunder from time to time, and a consolidating Act was passed on the 27th November 1914 which provided, among other things, for the trial of minor offences by courts of summary jurisdiction, with an appeal in England to Quarter Sessions. On the re-opening of Parliament, a debate took place in February 1915 in the House of Lords, and questions were asked in the House of Commons as to the steps proposed to be taken as to amending the courts-martial provision of the 1914 Act. On February 17th the Government introduced a Bill, which on March 16th, 1915 became the Defence of the Realm Act, 1915. This was exactly two days before the Indian Act was passed, and it conferred on a British subject (including a woman who before marriage with an alien was such a subject), not a person subject to naval or military law, alleged to be guilty of an offence against the regulations, the right to claim to be tried by a civil court with a jury instead of by court-martial. We need not follow the further amendments such as those relating to the production of war material, and control of liquor. Coming to the Regulations, the first Regulation is as follows:—'The ordinary avocations of life and the enjoyment of property will be interfered with as little as may be permitted by the exigencies of the measures required to be taken for securing the public safety and the defence of the Realm, and ordinary civil offences will be dealt with by the civil tribunals in the ordinary course of law.'

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“The next Regulation I shall trouble the Council with is Regulation No. 14-B. I shall not read the whole of it but only the proviso. The regulation provides that restrictions may be placed on persons of hostile origin or associations, ‘provided that any such order (as internment, etc.), shall in the case of any person who is not a subject of a State at war with His Majesty, include express provision for the due consideration by one of such advisory committees, of any representations he may make against the order. The advisory committees for the purpose of this regulation shall be such advisory committees as are appointed for the purpose of advising the Secretary of State with respect to the internment and deportation of aliens, each of such committees being presided over by a person who holds or has held high judicial office.’

“I do not need to trouble the Council with the other Regulations because they do not bear on this question. This is how the matter was dealt with in England which, as we know, is in dangerous proximity to the war zone, there lives and property were constantly in danger of cowardly enemy attacks by bombs thrown from zeppelins, where the coast was off and on exposed to bombardment by enemy vessels which escaped from the strict guard which was put on the whole enemy fleet, and the country was literally honeycombed with enemy spies, male and female, at the time the war broke out. But in spite of these things, how do they deal with these matters? In the first place, ordinary offences amounting to offences under the ordinary law are dealt with by the ordinary tribunals. They do not usurp the functions of these Courts, whose jurisdiction is intact in regard to the trial of offences under the ordinary law. In the second place, no matter how strong the suspicion may be against any man that he is really endangering the safety of the Realm, he has the right to have the whole matter investigated by an independent tribunal, and thirdly, in the case of offences triable under that law, the man could claim to be tried by a jury. These are the main provisions of the law in England, which, as I say, is in dangerous proximity to the war zone. Now, how do you proceed in India which is thousands of miles away from the scene of the conflict? In the first place, acts which are really infractions of the ordinary civil law and which would be excluded from the operation of the Defence of the Realm Act in England, are dealt with under the Defence of India Act. This is not all; the more serious part is that we do not require any proof, mere suspicion is enough. Sir, I am not drawing on my imagination. This is the plain interpretation of the language used by His Excellency Lord Carmichael in his Darbar speech.

“What he said was that the evidence which was available was such that it could not be placed before the Court. The Court would not accept such evidence as sufficient; nevertheless the executive thought it was enough for the purpose of taking action against a man under the Defence of India Act. Although there may not be any direct information to show that there is anything against a man, still the moment the police suspect him he is done for. He is treated not only as a man who has been convicted, but as one whose appeal has been dismissed by the highest authority, and he has no other means whatsoever of challenging the action of the police. What follows in these circumstances? A man can never be safe, and a feeling of alarm has been aroused throughout the country; more especially in Eastern Bengal with which part I am well acquainted. What usually happens is this. A young man who is prosecuting his studies in a school or college or is working for his livelihood, not only for himself but for his family, finds his house besieged one fine morning by a posse of policemen or constables. A police-officer quietly pounces upon him and marches him off to the thana to his utter bewilderment. His family lose all clue as to his whereabouts, and he is as ignorant as they as to the cause of this. This may go on for some days or even weeks. His relations do not know what he has done, and, so far as he is concerned, nothing is communicated to him except that a policeman asks him some questions regarding his associates and his antecedents. Perhaps a few days after he may be discharged as a case of mistaken identity, or because there is not a sufficient case against him, but more frequently what happens

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is that he is ordered to banish himself from that part of the country and take himself off to a distant village or town, no matter whether the conditions of climate suit him or not, and he may be given an allowance which is bound to be inadequate for his own maintenance, not to speak of the maintenance of his family. That is what happens in dozens, if not in scores, of cases almost every week. In another set of cases you will find— . . . ”

The Hon'ble the Vice-President :—“ I must remind the Hon'ble Member that the time allowed for his speech has already expired.”

The Hon'ble Mr. Kamini Kumar Chanda :—“ I am very sorry. I only want a few minutes more.”

The Hon'ble the Vice-President :—“ Very well, but you must be as short as you can.”

The Hon'ble Mr. Kamini Kumar Chanda :—“ Sir, in some cases a man is sent up by the police in a criminal trial before a magistrate. He is arrested and sent to *hajut*. An application is made for bail on his behalf, but is opposed by the police who, however, produce no evidence to justify their detention of the man. There is no evidence and he is therefore discharged, but it is a melancholy satisfaction to him, for the moment he walks out of the Court-room, he is re-arrested and interned. Even if the Commissioner of a division or the Magistrate of a district believes him to be innocent, that is not enough. They cannot help him for they do not seem to be above the Criminal Intelligence Department. I wish in this connection to refer to the case of a man like Babu Nagendra Kumar Guha, a teacher of Noakhali, who was arrested on the 29th of August last. Now a month before his arrest this is what the Commissioner of the Division wrote to him :—

‘ My dear Nagendra Bahu,

I have received your letter of the 20th instant. I am convinced that you are not an anarchist and not inimically disposed towards the British Government. But your freedom from police surveillance is not a matter I can put before the Governor. I can only hope that your conduct will convince the police of your innocence in the same way as it has convinced Mr. Adie and myself ’.

“ This letter was from the Commissioner of the Division and a month before that the Magistrate of the district writes :—

‘ This is to certify that I have known Babu Nagendra Kumar Guha Roy for the last three years personally, and I am of opinion that his character is very good. He has been a very useful member of our society and has been specially helpful in nursing cholera patients and doing other works of public utility. On one occasion he organised a theatrical performance and realised some hundred and seventy—five rupees (Rs. 175) for the Lady Carmichael War Fund and the Bengal Ambulance Corps. I have found him to be a satisfactory teacher in the Jubilee School, and I think he has a good influence on the boys.’

And this was a man who was interned. He submitted a petition to the Additional Political Secretary to the Government of Bengal on the 25th of December last in which, among other things, he said :—

‘ That Your Honour's humble memorialist has read with keen interest the interpellations made in the last meeting of the Bengal Legislative Council by some Hon'ble Members concerning his internment, and his attention has been drawn to a reply made on behalf of the Government by the Hon'ble Mr. Kerr to a question put by the Hon'ble Babu Akhil Chandra Datta. That the Hon'ble Mr. Kerr, in reply to the question as to Your Honour's petitioner submitting an explanation, said that an opportunity was given to Your Honour's memorialist to submit an explanation and he took advantage of that opportunity. Your Honour's humble memorialist is at a loss to know when and how and to whom he was given such opportunity of submitting an explanation. The memorial which he submitted on the 3rd October 1916 to Your Honour and in which he prayed for giving an explanation before the Judicial Officer has not been responded to by Your Honour till to-day.’

“ In this connection I will just mention one other case in my experience . . . ”

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The Hon'ble the Vice-President :—"I think I must ask the Hon'ble Member to bring his remarks to a close. I have given him five minutes beyond his time."

8-48 P.M.

The Hon'ble Rai Bahadur Bishan Dutt Shukul :—"This Resolution has my cordial support. The Hon'ble Mover as well as my friend the Hon'ble Mr. Chanda have urged all that could be said to justify the acceptance of the resolution.

"While I yield to none in my desire to see lawlessness and crimes strongly suppressed and absolutely stamped out, and guilty persons adequately punished, while I regard the considerations of the maintenance of internal peace and order and the safety of the British Empire as most supreme, and while I admit that exceptional circumstances do justify extraordinary measures, I am afraid that the way in which the Defence of India Act has been administered in the Indian Empire has given rise to serious misgivings in the minds of the people, and not only this, but it has, in fact, spread a sort of consternation throughout the country. At the time, when the exigencies of the situation brought about by this world-wide struggle necessitated the introduction of this measure, assurances were given that the Bill was to be a purely precautionary measure, and that no loyal and peaceful citizen need feel any alarm at the introduction of this legislation, and it was then hoped that the proposed law would be enforced when such enforcement became unavoidable, and that in actual practice, it would be administered with due moderation, sufficient care and within a limited area.

"Sir, thus it was that the principle of the Act received the unanimous support of the whole country. But it causes one a pang to think that the matter should have come to such a sad pass, that there should be such a widespread complaint about the indiscriminate and extensive application of this Act, which has almost become a source of perpetual menace, and which, so far as I can judge, has not been productive of such good results as were then anticipated. It is indeed, as I say, very sad, Sir, sad because, in the first place, the people have no means to ascertain as to how far these complaints are well founded, every one is in the dark about them; and secondly, because the so-called anarchism has not been nipped in the bud, and, instead, a feeling of insecurity and alarm prevails. What could be more sad than this? The people have no means of knowing the character of the evidence upon which internments on such a large scale are taking place, and the interned persons themselves, so far as we learn, are seldom afforded opportunities to know and meet the charges brought against them. When a man's own liberty, which is his birth right, is at stake, and is threatened to be seriously restrained, would it not be reasonable, I say, to expect, in all fairness, that every opportunity should be allowed to him to exculpate himself, and have his case considered by a properly constituted machinery on the lines suggested by the Hon'ble Mover?

"After all, these persons, Sir, are mostly hauled up for reasons based—to use the Hon'ble Mover's own words—'on no surer foundation than doubtful Police reports and the scant information supplied by mercenary spies and interested informers.' Previous speakers have just shown how errors have been committed under these circumstances. Is it not likely that under a system so defective, innocent persons may not come to share a fate similar to that of persons actually guilty? Is it unnatural, then, that there should be growing so much uneasiness about it everywhere? In my humble opinion the system of investigation, which, in practice, has been found to be so oppressive and as one likely to lead to so many abuses and errors, should be radically modified.

"I admit, Sir, the situation is rather delicate, and, therefore, deserves a careful and cautious handling. The people of the East are sentimental. The very enactment of such a drastic legislation is regarded as a slur upon the

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loyalty of India, specially at the time, when her people, from Prince to peasant, are doing their utmost in their own humble way, to help the benign Government, in this deadly struggle, and are rendering assistance in the cause of the British Empire, with whose solidarity and greatness, the fortune of India is indissolubly linked. Nobody can say that we Indians are not at heart with our rulers, in their efforts to check and suppress every form of crime and misdemeanour.

"But, I repeat, Sir, and I do so with all the earnestness and emphasis I can command, that any policy calculated to lead to errors and abuses, could hardly be deemed expedient and fair, in the best interests of the Empire. Due weight, Sir, ought to be given to these considerations.

"There was no greater occasion than now for close co-operation and a fuller understanding between the Government and the people, and it is our sincere desire that no efforts should be spared to check the misdeeds of the wicked, but not in a manner, Sir, so as to prejudice the safety of those who are innocent.

"The Hon'ble Mover requests for nothing more than the constitution of a special machinery in each Province, composed of such non-official element as would inspire general confidence, and which, if granted, would not leave much room for either doubt or despair."

The Hon'ble Mr. Bhupendra Nath Basu :—"Sir, this is a 2-59 P.M.
debate which must be very painful to me coming, as I do, from Bengal; painful not only because of the extraordinary nature of the proceedings which we are considering, but painful also because many bright and brilliant young men I know, many bright and brilliant young men whose parents I know, many bright and brilliant young men who have come to me from time to time in connection with various matters, educational, social and charitable,—young men in whom I placed great trust and great confidence, who I fondly hoped and believed would at some time or other add to the honour, the prestige and dignity of my province; because I find them arrested and interned for causes which I cannot know, which nobody knows, which are never given out. This is a procedure so totally un-English, un-British, that I had thought that, except in cases which could be justified only for purposes of defence of the Realm in this extraordinary time of war, proceedings such as these would never be resorted to. If I could, if I had the power and the ability of placing before the Members of this Council the scenes of desolation and sadness that pervade in the country homes of Bengal; if I could place before you the agony, the despair of sorrowful and bereft families; if I could place before you the discontent spreading from home to home, from hamlet to hamlet, from village to village, and from city to city in Bengal; if I could place before you what the future impression will be if things like these are allowed to go on from day to day; then I am sure we should find a ready response in support of the Resolution so ably moved by my friend the Hon'ble Mr. Dadabhoy. I myself shrank from the task of putting this Resolution before the Council for, Sir, I must confess I feel deeply moved over the facts and circumstances to which this Resolution refers. My Hon'ble friend, Mr. Chanda, has placed before this Council some instances. What is the use of putting instances? You take away my son, the promise of my family, the gladness of my heart—a bright boy with a distinguished University career, a boy who has devoted himself to charitable work, a boy who has laboured for the poor and suffered for the sick and the suffering; him you take away and you do not tell me why, because, forsooth, some young man, some criminal somewhere has said that so-and-so has given me shelter on a particular day. You do not care to investigate, you cannot investigate, whether my boy when he gave shelter knew that the man to whom he was giving shelter was really a guilty man. I do not for a moment, as I have said on a previous occasion, doubt the good faith of my Government. I have the high privilege of knowing personally and intimately some of the officials entrusted with this difficult and dangerous work. Of them I can honestly say that not a single

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act of theirs has been undertaken without due and deliberate consideration. That credit I must give them. But, Sir, in a matter like this, in a matter affecting the liberty of the people, their happiness, their attitude towards yourselves and the future relations between you and us, is it too much to ask that an Executive Officer in the Province, however high he may be, however high-minded he may be, should not be entrusted with this dangerous power of shutting up a young man somewhere, in some remote jail; that he should not have this power and that this power, if it is to be exercised in the interests of society, must be so safeguarded as to make it as little possible as may be that that power is improperly exercised. Only a few minutes ago His Excellency the Commander-in-Chief quoted an expression which I have used in this Council—'sweet reasonableness'. Would it be an unreasonable proposal to make to the Government that if they must wield this power, if they must give the go-bye to every principle of justice and humanity, if they think that for the safety of the Empire these young lads in Bengal must be incarcerated and deprived of their liberty without trial, if you think so, can't you have a select chamber, an advisory committee in which there shall be a Judge of the High Court—a man accustomed to sift evidence; in which there shall be a practising lawyer—a man accustomed to test evidence; to see whether the facts placed before them by the police are facts upon which, on an *ex parte* statement, the liberty of a subject may be taken away. Is that too much to ask? The Defence of the Realm Act was passed to meet a particular class of emergencies. Is it not—I will not use the expression that comes to my mind—pressing that Act beyond its legitimate scope to apply it, not for purposes of the war, but for purposes of civil administration? And is it too much to ask, if you must take shelter for your general incompetence in dealing with criminals behind special legislation, that we should be guarded against the effects and consequences of that incompetence by a tribunal whom you may constitute but which should consist of men who command the confidence of the people? Is it too much to ask that? In the name of the desolate homes, in the name of the stricken people of Bengal, may I not put that before the Council? My Hon'ble friend, the Home Member, has depicted in answer to my questions the solitary confinement to which these young men are subjected as a state of quiet blissfulness. There they are in their solitary cells; that is not denied; but they are allowed the privilege of reading books; they are allowed the privilege of taking exercise; sometimes they are allowed the privilege of taking exercise in the presence of other men. What was the punishment of Tantalus? He was allowed the privilege of being immersed in water without being able to drink it; and here you allow these young men the privilege of walking at a distance and seeing people at a distance. I do not know . . . "

The Hon'ble Sir Reginald Craddock:—"I rise to a point of order, if I may, Sir. A great deal of what the Hon'ble Mr. Basu is referring to is in connection with persons who have been placed in prison, and the whole of this Resolution and the amendments relate to the Defence of India Act and action taken under that."

The Hon'ble the Vice-President:—"The Hon'ble the Home Member is perfectly correct; we are not dealing with imprisonment, we are dealing with persons whose movements or actions are restrained under the Rules made under the Defence of India Act."

The Hon'ble Mr. Bhupendra Nath Basu:—"I am grateful to the Hon'ble the Home Member for the euphuism that he has introduced because it did not strike me that persons whose movements are restricted are different from persons who are interned. And for the sake of brevity, I shall refer to persons whose movements are restricted

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as interned persons. Well, Sir, I do not wish to raise on this occasion, an occasion of great seriousness to our national life and to the life of the Empire, the cardinal issues involved in this question. Let them be. Let sleeping dogs lie. But this is an ordinary matter. What do we want? We want that before or after you have arrested a man under the Defence of India Act, you should place evidence before an Advisory Committee, that Advisory Committee to consist of a High Court Judge, of a practising Barrister, and, if you please, either of a high executive officer or another judicial officer. I have suggested this course to my own Government, and I was told that the Members who were serving on these Committees might be exposed to great danger. I suggested to my Government and I suggest to the Hon'ble the Home Member that a panel can be easily framed, a panel of 20, and from that panel you may take one man for each particular Committee without letting the public know as to who is the man who decided the case as regards a particular individual. That certainly is not a proposal which is wild; that certainly is not a proposal which will take away from these extraordinary powers of the police, and it certainly will secure the results which the Home Government wishes to secure, namely, the arrest of men who cannot be prosecuted or brought to trial. Sir, in the Durbar speech of His Excellency the Governor of Bengal, to which attention has been called by previous speakers, the character of this evidence was exposed. Well, whatever may be the character of that evidence, certainly we are entitled to say that the evidence shall be placed before men accustomed to sift and weigh evidence, with whom may be associated an executive officer of Government. Why should the Government shrink from that course? Why should they refuse to Bengal and to the other provinces of India, who happily are not as much affected as we are, this ordinary safeguard for the protection of the liberties of our youth, for the satisfaction of the families of these young men, and for the satisfaction of the people? I appeal again to the Government; I appeal with all the emphasis that I can command, and I appeal in the name of the people from whom I come that this proposal of ours should receive careful consideration. His Excellency the Viceroy, in his answer to the deputation which waited upon him in Calcutta, said that every case was carefully considered either by the Governor of Bengal or by himself. I accept that fully. But I say that if His Excellency is so anxious that injustice should be avoided, why not delegate this power of inquiry to men who have spent all their lives in sifting evidence? What is the harm? I therefore earnestly appeal to this Council and I earnestly appeal to Members of Government that they will take this question into their consideration and not throw it out. Throw it out you may; you have got the power, you have got the authority; our liberties and our lives are at your disposal; but little do you know what will be the result of your action down below in that north-east corner of India, which, I still believe, is one of the most important parts of the British Indian Empire.

The Hon'ble Mr. Masharul Haque:—"Sir, in supporting the Resolution of my Hon'ble friend, Mr. Dadabhoy, I desire to make just a few observations. Before I enter into particulars, I should like to make my position clear. I have said it elsewhere, and I say so in this Council, that I am convinced that no responsible Government can be carried on in this country or anywhere else during an abnormal period without a measure like the Defence of India Act. Outside this Council I have always given my support to it, but I strongly object to the methods which have been adopted by some of the Local Governments in the administration of this Act. What happens is this. People of influence, men who are looked upon with affection and regard by entire communities, are pounced upon by the police one fine morning and are at once interned. Nobody knows what is their fault. If people knew the fault of these men, perhaps they would be satisfied; if people knew that some responsible officers of Government had looked into their cases carefully, officers

4-7 P.M.

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in whom the public have confidence, then the people would not resent these internments. Sir, my own community, I mean the Muhammadans, have suffered most in this respect. Men of great influence, men who are looked upon by the entire community with the greatest regard and affection have been interned, and the entire community is absolutely ignorant why they have been interned, and what is their fault. If we knew their fault, and if we knew that their cases were examined by responsible officers, perhaps we would not object. We would be sorry all the same, but we would not object. Now, what is the case? I say—and I feel my responsibility when I say it—that the vast majority of my community is entirely disaffected in this country as regards these internments. I have no hesitation in giving to the Government the names of some Musalman leaders, and I hope the Hon'ble the Home Member will note these names, who have been interned and about whom the community feels so much. They are Mr. Muhammad Ali, Mr. Shaukat Ali, Mr. Zafar Ali Khan and Moulana Abul Kalam Azad. All these men are looked upon with great veneration and respect by the Muhammadans throughout India, and unfortunately their fault is not known.

“If they are at fault let them be interned by all means; we shall all side with the Government; but for Heaven's sake let us know their fault, and the cause of their being interned. If there was any Advisory Committees such as proposed by my Hon'ble friend Mr. Dadabhoy and my Hon'ble friend Mr. Ohanda, and this Committee gave its opinion, I think the whole community would be satisfied; at least, they would know that there was strong suspicion or evidence against the people, who were interned. They would see that as these people cannot be brought to trial the Government have interned them. I very much fear that the Government by their methods are laying up a great harvest of future discontent. It is to the interests of everybody concerned, Indians and Europeans alike, that this discontent should not prevail in the country, and I think that the proposal contained in the Resolution, together with the amendments will meet the situation. With these few words, I support the Resolution.”

4-13 P.M.

The Hon'ble Mr. Rangaswamy Ayyangar :—“Sir, fortunately this Act does not extend to Madras. At the time the Act was introduced in the Council, we had an assurance that it would not be used except in a case of emergency, and even then not often, and thus the Bill secured our unanimous assent. Now in the Provincial Councils as well as in the Imperial assembly not one meeting passes without an Hon'ble Member bringing in one grievance or another. When we see from one instance in Madras—I refer to Mrs. Besant's case,—we are led to believe that the Act is being used for such a purpose as suppressing party politicians. I personally know Mrs. Besant, and I say that no one can impeach her loyalty, and no exception can be taken to her conduct. But we see that no less than three Provinces have taken shelter.....”

The Hon'ble the Vice-President :—“I must ask the Hon'ble Member to confine his remarks to the subject before the Council.”

The Hon'ble Mr. Rangaswamy Ayyangar :—“In a word Sir, I may say that any hesitancy by the Government to accept the Resolution, would only go to show how people are dealt with under this martial law with meagre evidence that cannot carry conviction to the constitution proposed by this Resolution.”

4-16 P.M.

The Hon'ble “Sir Reginald Craddock :—“Sir, I am afraid the Government of India is not able to accept either the Resolution or the amendment, or to bind itself in any way by a modification of its rules, to provide for the appointment of a Committee or any other similar limitation. I should like to emphasize two points with reference to the general tenour of the remarks that

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have been made. As to the first, I should like to emphasize the fact that non-official Members of this Council have no monopoly of objection to the curtailment of the liberty of any one in any way. There is no Member of this Council, whether official or non-official, British or Indian, who likes to see the liberty of a British subject improperly controlled. I may say that to confine a man without trial is absolutely repugnant to British instincts, and Government officers do not lose their British instincts merely because their lives have been spent in India. It is not only men whose lives have been cast in India by whom the present action of Government in dealing with these men has been approved or recognised as a stern necessity. Our late Viceroy, Lord Hardinge, His Excellency the present Viceroy and His Excellency Lord Carmichael have all felt it necessary to approve of the course that has been taken. Is there any body who is bold enough to say that these men have lost their British instincts or their natural repugnance to the curtailment of anyone's liberty, unless the circumstances were such as left them no option ?

“ The second point on which I wish to lay stress is, one in which I feel sure that I shall have the agreement of every Member of the Council. At this time of supreme crisis we all would wish that nothing should be done, and no action taken, which would in any way impede the Government, however, so little, in measures required to defeat and check the activities of the King's enemies. Sir, we have heard both to-day and on previous occasions orations from Hon'ble Members in which they say that they realise the gravity of the crisis in which the Empire is now placed. They have reiterated time after time that Indians are all determined to do nothing which is inconsistent with this desire to assist the Government in every way, or which is likely to impede it. Sir, the surface may appear entirely tranquil, but there are currents and eddies which it may be they do not realise, or that action such as they recommend would cause impediments of the kind to which I have referred. I feel sure that if I could convince the Council that the course they recommend in this Resolution is likely to be prejudicial to our means for combating the plots and conspiracies which are aimed at the subversion of constituted authority at a time of crisis like the present, they would not be anxious to press on the Government action which may impede its power to repress all such dangerous movements.

“ Now, Sir, I will proceed to make some observations upon the general disposition of the speeches that we have heard to-day. That general disposition has been to take for granted that a large number at least of those whose liberty has been restricted are innocent, and to take it for granted that action has been taken merely on the information of police spies, or on other unchecked and entirely untested information. I will refer them to the Lahore trials. The Lahore trial showed exactly what has been taking place in the Punjab, and it is in the Punjab that a good number of such restrictions on liberty and internments in the villages, and so forth, have taken place. I will refer them also to the Benares Conspiracy case, which shows that in other parts of India also there were ramifications of these conspiracies, and I will refer them to the speeches of His Excellency the Governor of Bengal. Now I do not think that there is any man in this country, any Provincial Governor, who has made more honest endeavours to take the public into confidence than His Excellency Lord Carmichael. He assured them that he had himself scrutinised the information that he had available from sources on which he could rely ; that he had entered upon the action that he had taken with the greatest hesitation and reluctance ; he asked for their trust, he asked for their confidence, and, yet, after he had expressed his trust, and had given, I say, all the information, the utmost information that was possible for a man to give in such circumstances, the next day you find newspapers saying that the whole thing is a figment of the brain, and that a mole-hill has been made into a mountain. Is that, Sir, any encouragement for a Provincial Governor to take his people into confidence, and to ask them to sympathise with his difficulties and to believe him that he has done nothing that is not absolutely necessary for the safety of the country ?

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"I do not wish to use any language of exaggeration. I do not say that these conspiracies are as yet extraordinarily large. If you could visualise the population of India depicted on a map, I say that the conspirators will be found to be a small speck among the millions that inhabit this land. But small though that speck may be—I will not say one word to minimise its blackness—it is a black speck, a dark spot, it is most contagious and already its poisonous spores have been spread over the country in various places, and if the sternest steps are not taken, it will spread and extend like a cancer until these small black spots become large diffused stains upon our map of the population. Sir, I would ask the Hon'ble Members of this Council to reflect, before they throw all these doubts upon the nature of the inquiries, or jump to conclusions that the majority of these men must necessarily be innocent. Statements of that kind, to my mind, reflect upon the honesty of high and trustworthy police-officers, both European and Indian, whose duty it is to handle these cases. And, Sir, more than that, they throw most cruel aspersions upon the memories of those gallant Indian Officers who have lost their lives in tracking down these conspirators, and bringing them to justice.

"Then, Sir, the point has been taken by some Hon'ble Members that the Defence of India Act is being used for purposes of civil administration and for purposes that are not connected with the war. Now, I have before me certain statements which have been obtained under circumstances which cannot be disclosed. If I could read the whole of these statements to the Council, I feel sure that Hon'ble Members would all be amazed. I cannot read them, but I can read a few extracts to indicate generally what is the nature of these conspiracies that have been going on. The paper that I hold in my hands, Sir, is a statement which extends to some thirty pages of print, and is the tale told by a young man who became an anarchist at the age of 16, and contains all the chief incidents of his career during the last ten years. You will observe that it bears out what I have said about the close association of the Bengal conspirators with the enemies of the King-Emperor. He has described arrangements for causing a rising in this country in communication with the enemy. I will read an extract. After having given long details of the various negotiations and all the various arrangements that had been made, he says :—

"We were extremely anxious to keep our plans as secret as possible upto the last moment, as our success depended solely upon taking the Government unawares. Numerically we thought we were sufficiently strong enough to deal with the troops in Calcutta and Bengal. The only thing we feared was reinforcements from the other parts of India before we were sufficiently strong. We had expectations of about fifty thousand men joining in the first rising, they were to join us from all parts of Bengal. We had counted upon about five thousand men in Calcutta itself to start the rebellion, and we had every hope of nearly 20,000 youths, mainly students, joining hands with us immediately afterwards. It was planned that the Hatia force was to march down to Calcutta after obtaining control of the Eastern Bengal districts where we expected no difficulties at all. The idea was that the Calcutta party was first to take possession of all the arms and arsenals round about Calcutta, and only when we were able to equip the whole of our number with arms we were to attack Fort William and sack the town of Calcutta. The German officers were to be kept in Eastern Bengal to train and raise armies. All the fighting was to be confined to Western Bengal, whilst the three frontier parties hindered reinforcements. We had decided to reinforce these outposts from time to time, though we knew that they would not be able to hold off the Government troops for an indefinite period, all that we wished for was time to get together sufficient men. That is the extract. The statement proceeds to go into many details; and many of the details and information that he gives have been confirmed from many other sources, both in India and abroad."

The Hon'ble Pandit Madan Mohan Malaviya:—"May I ask the Hon'ble Member where that statement was made?"

The Hon'ble Sir Reginald Craddock:—"I am not at liberty to disclose where this statement was made. I have told the Council that the information was confirmed by outside sources both in India and abroad."

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The Hon'ble Pandit Madan Mohan Malaviya :—“ I wanted to know if the statement was made in a Court of Justice. Am I right in thinking that it was not made in a Court of Justice ? ”

The Hon'ble Sir Reginald Craddock :—“ If it had been made in a Court of Justice, it would have been made public by this time.

“ I will now read another statement which was found in possession of a man not very long ago, which you may judge from its intrinsic evidence is that of a man who had some experience, held some position in the counsels of the conspirators, and was addressing somebody who held perhaps even a higher position. I cannot read the whole letter, which extends to 22 pages, but I will read this extract :—

‘ The first thing is—we do not like ‘ decisive victory ’ on one side or the other in the ‘ European War.’ It will be good if the war is prolonged and we guide our ‘ foreign affairs ’ in accordance with that. It is true that the result will be an increase of oppression and *zulm* on us, but we do not take it as a bad omen. In spite of all the losses we have suffered during these two years, we have advanced far as a nation. We could not think of attaining our aim so soon had it not been for the war. We need not be afraid of ‘ internment.’ We have been able to rectify our mistakes and omissions on account of this. Of course it will take time to make good our losses, but those among us who will be able to escape by throwing dust will be our ‘ Brain ’ and our main hope. We should not select organisers of our mission those who expose themselves. Of course we will get them all in the end (last day) they won't be able to get them out of our way by ‘ internment.’ We have only got to decide the best way in which to get them on the final day.’

“ I may explain, Sir, that the ‘ final day,’ as shown by a previous reference in the letter is the great day on which they are to have a rising to expel the British Government.’

‘ As some persons have absconded from their ‘ domicile ’ they *i.e.*, the interned persons are being lodged in the jail. I hope we will be able to control the jails in the long run. We should now see that none of them escape from the jail for in that case they might perhaps be ‘ transferred ’ to ‘ The Fort or Military Camps,’ in which case our work will be a little harder. Therefore, we should be careful even now, and even if they are removed to the ‘ Fort,’ we must consider how we should ‘ proceed ’ because we cannot afford to lose them on the last day ; we will require them all.

I have now had my say about ‘ internments.’ Let me discuss now about the ‘ internal ’ condition of the country. The Muhammadans also have been awakened but considering their movements (I do not know why) they are inclined to preach Pan-Islamism, which is ruinous to our cause. They would bring here ‘ Turkey and Afghanistan. X told us to keep an eye always on Y, because he was eager to invoke the help of the Amir, but I do not know where Y is now. I understand that he is now in Egypt where he is pushing on the ‘ movement ’. It would be effective if we could ‘ organise a simultaneous rising ’ in Egypt. Please think it over. Now the ‘ Muhammadan world ’ has taken another ‘ turn ’. After the Balkan affair the Muhammadans are trying to bring in Turkey. After this the Muhammadans are showing a tendency to side with Germany on account of the Turko-German Alliance in the present war. The Germans understand that half the population of India (Muhammadans) are on their side and the other half are not so powerful, and that they would gain a ‘ footing ’ if one party in this country is on their side. With this end in view probably they have entered into a treaty with Turkey to the effect that they would give India to Turkey. Germany has changed her ‘ attitude ’ very likely for this reason ; and for this reason only she is not sticking to her terms. I believe that the number of ‘ Turkish spies ’ is very great among the Muhammadans. The editor of the Urdu paper ‘ *Al Hissal* ’ was deported from Calcutta. I heard that he organised a party in which there are many Muhammadan youths, and that their object is to bring Turkey (here). I tried to win over that party and to get to know their internal affairs, but failed. Now if we intend to look after our internal affairs, we must firstly think over the ‘ Muhammadan problem ’. We must judge whether both the parties could by any means stand on a common basis of ‘ Indian Nationalism ’. If that is not possible, it is necessary to deceive the Muhammadan with tact. On the other hand, we should let the Germans know (if necessary, false evidence is to be adduced) that both the parties have united in order to bring about a revolution in our country. That everything regarding the ‘ Provisional Government ’ has been settled ; that it will be a ‘ Republic ’ and that the majority would be Muhammadans, etc. We must also be on the lookout to see that Germany does not play off one party against the other. It will not be possible to place very much reliance on the Muhammadan organisation though it is working jointly with us. (I am speaking in a general way as I have no accurate knowledge). They can spoil everything in the long

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run. We must sketch out our plan of operations excluding them. If we can get their help, so much the better, but we must not depend too much on them; and if they are against our plans, they should be tactfully deceived.'

Those extracts, Sir, that I have read out are, of course, merely two extracts out of statements innumerable which have been made by all sorts of men of the class who have been interned. But I would like to draw attention to the fact that our friend who wrote that second letter is evidently not seriously alarmed by the internments. He was looking to gain useful assistance even from those who were interned, and we do not see in his letter any evidence or suggestion that the foolish Government is locking up a lot of innocent persons, and that the guilty conspirators are escaping under their noses.

"An appeal was made to us by some Hon'ble Members, notably by the Hon'ble Mr. Basu, to follow the lines that were followed in England under such circumstances. Well, I will just explain for a moment what does go on in England. We have obtained the information by direct reference. The Order of internment by the Secretary of State issues before reference is made at all to the Advisory Committee. No reference is made to the Advisory Committee except when any individual interned has made a representation. No definite charge is made against a man beyond a statement in general terms of what it is understood he has done. He is not allowed the assistance of any Counsel; the proceedings are *in camera*. Their recommendations are entirely unknown to the public, and the Government is not bound by the recommendations that they choose to make. As Lord Newton remarked....."

The Hon'ble Mr. Bhupendra Nath Basu :—" May I ask if this is in reference to British subjects or aliens ? "

The Hon'ble Sir Reginald Craddock :—" I will explain presently. As Lord Newton remarked in the House of Lords: ' I think it is perfectly obvious that in a state of war, the decision of the War Office or the Admiralty must be paramount.' There are other features in the cases we are dealing with in India and these dealt with under the English regulations which show what great differences there are in their character. The vast majority of persons dealt with in England are persons of alien birth or hereditary alien sympathies. They are living among a hostile population who are only too ready to denounce them, to bring up hearsay allegations, to place a sinister significance on what may be quite innocent actions; in fact they were and are possible victims of spy mania by their neighbours. Secondly, when they are interned—I am referring now to the difference between the English Act and the Defence of India Act—when these aliens are interned, (and they are not all aliens, some of them may be men born in England who have got German names, or some German history about them, and who have been suspected of making signals, or supplying information to the enemy), when they are interned, it is an internment within the four walls of a workhouse, which has been converted into a prison, or sometimes in a prison, and they are really interned in the fullest sense of the term.

" Now what is the position in India? The persons with whom we are concerned in India and with whom we have to deal under the Defence of India Act are not denounced, not likely to be denounced by suspicious and unfriendly neighbours, they are not of alien birth, there is no prejudice against them among the population among whom they live, and no one particularly suspects them of enemy sympathies. They really fall into two classes—I would specially refer to the remarks made by the Honourable Mr. Mazharul Haque—they fall into two classes.

" One class is that of persons who are openly and avowedly preaching or publishing ill-will among His Majesty's subjects, or producing excitement or inquietude or arousing, it may be, dangerous fanaticism, and acting to the constant inconvenience of the King's Government and his officers and to

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the benefit of the King's enemies. In cases where persons are publicly making speeches or writing articles, and it is known what they are so doing, no one can deny that the only question to be decided is whether what they are doing is likely to be dangerous or prejudicial to the public safety or to excite the populace. You do not require Advisory Committees to tell you that. The executive Government has to decide that upon the information before it, upon the knowledge and experience of its officers, and upon considerations of public welfare. The responsibility is theirs, and they cannot delegate it to outside persons, whether lawyers or laymen. The responsibility is theirs alone, and they must take that responsibility.

“The second class, and that is the class with which most of the speakers who have spoken this afternoon have been dealing, is the class of secret conspirators. In their case, as I have said, the neighbours are not likely to denounce them. Their acts, even if they arouse some suspicion, would probably not be made the subject of report. Apathy, fear or sympathy with the men—I do not necessarily say sympathy with their objects, but sympathy with the men—will always check such disclosures. I have already deprecated the suggestions which have been made that these men are interned merely on the information of stray spies and informers. Many of these men have records going back for many years. Some of them have been wandering about the country in disguise and under various *aliases*; other cases have been brought to light, as inquiries have proceeded and as clues were furnished by men who were deep in the conspiracy. Such clues, in many cases, led to the discovery of concealed arms and incriminating documents. Most of the statements have been made under the seal of secrecy, and most of them, although in England they would be admissible as evidence before a court-of-law, in India are not admissible under the provisions of the Indian Evidence Act. In all cases the information in the possession of the police has been thoroughly scrutinised by high executive officers, and in Bengal, by a selected judicial officer. The conclusions at which they have arrived have been formed when the converging lines of many sources of information alike meet upon that individual and show that he is the only man who could have fitted into that particular part which is assigned to him.

“We have heard a very eloquent speech from the Hon'ble Mr. Basu. He has dwelt in moving terms upon the despair and desolation of the Indian home from which one of these promising young men may have been taken and interned. I feel myself, Sir, and I think probably many of the Council will feel also, that harrowing scenes such as these, the truth of which I do not dispute, make it all the more imperative and necessary that all of us should do our best to check young men of this kind being misguided and led astray. I do not for a moment wish to minimise the sorrow that falls upon their household, but it is all the more imperative that no Member of this Council, no educated person throughout this country, and no one who has any influence, should leave anything undone to check the growth of this conspiracy which, as the Hon'ble Mr. Basu has very truly said, brings ruin and sorrow to so many homes. But, although I admit all this, I should like to say a word of caution. It is that, although we may sympathise with young men who are deluded, yet there is always a danger that, if you sympathise with the motive of the young man because you think it was good, you pass from sympathy of that kind to sympathy for the man himself, and, finally, your feelings are apt to be blunted as to the nature of what he is doing. I have enlarged at some length on the nature of what these young men are doing, and I say, however sorry we may feel for them and their parents, it is still our duty to discourage most sternly any secret conspiracies of this kind which are likely to prejudice the State and ruin the career of so many promising men. But perhaps I may be told by some that although they thoroughly recognise the *bona fides* of Government, and although they wish to assist it, all they ask for is, that the information obtained against these men should be laid before some sort of outside authority as a check on the executive. The

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Hon'ble Mr. Basu suggested that a panel of non-officials might perhaps be formed from whom men might be selected for these cases. Well, Sir, His Excellency the Governor of Bengal said that that is not a safe proceeding, and it is not one to which the Government can accede. It cannot undertake to lay documents of the kind from which I have just read a few extracts before people who are not responsible officers of the Government. It cannot place before outsiders secret information that it may have of the enemy's plots whether these be in the Far East, in Germany or across the Frontier. These things cannot be stated; they cannot be made public. It is quite true no doubt that the non-official Member or Members on such a panel would not willingly wish to reveal anything that he had learned; but you know that the more the men you share these secrets among, the more difficult it is to keep them secret, and any information that did get about, however unguardedly it might be given, might be dangerous to the lives of many men and prejudicial to the interests of the country. I am afraid, Sir, therefore, that we cannot consent in any way to bind ourselves by a rule such as that suggested by my Hon'ble friends. But I am willing to undertake this much, *i.e.*, to instruct Local Governments that in every case which belongs to the second category that I have referred to, namely, that category in which you have first to ascertain the facts against a man before you can make a deduction as to whether his liberty is good or bad for the country, in that case—though even in that case not necessarily before—but before or after the order of internment, the proceedings should be examined by a judge or judges of some weight and experience in order that the Government may not act rashly or take action on information which admits of any considerable doubt. I must remind the Council that the wording of the Act itself is not that a man to be interned must necessarily be a criminal or have committed a criminal offence, but that it should be believed that he has acted, is acting, or is about to act, in a manner prejudicial to the safety of the country.

"And lastly, Sir, I would like to point out to this Council that many of them have been wringing their hands, perhaps unnecessarily, over pictures of interned men who are subjected to restrictions which affect their health and entirely cut short their studies. Well, Sir, all I can say about this is, that we are not dealing with men who are confined under the Regulations, but with men whose movements have been restricted under the Defence of India Act. In these cases, the internment is far less severe. As I stated in answer to a question to-day by the Hon'ble Mr. Basu, a large number of them—173—are living in their own homes where they have every chance of home influence affecting them; but I would like to point out that in many cases home influence had already failed to protect them from the evils to which they are likely to succumb.

"I would add, Sir, one more point. I have no doubt whatever, as has been done in the past, that if from time to time more information is received, or if the interned person shows promise of penitence, or if he is not a very important person or persons not so dangerous as might have been thought, his liberty will be gradually restored to him. This action has been taken in the case of several men in the Punjab and of a few in Bengal, and I have no doubt that Local Governments will continue to take it as occasion arises.

"Therefore, although I am not without sympathy entirely, as I have shown by my speech, for the feelings that actuate Hon'ble Members, yet I must oppose the Resolution and the amendments in so far as they in any way restrict the power of Government to administer the Defence of India Act in such a manner as to secure the safety of the Realm."

The Hon'ble Mr. Bhupendra Nath Basu:—"May I ask the Hon'ble the Home Member that in the second class of cases, in which he says he is willing to make a recommendation to Local Governments to take advice from high judicial officers, he would suggest that these judicial officers should be Barristers, Vakils or Judges of the High Court?"

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The Hon'ble Sir Reginald Craddock :—" I am not willing to suggest any limitation upon this discretion. I leave it to Local Governments to take their judicial advice from any judicial officer that may be at their disposal."

The Hon'ble Pandit Madan Mohan Malaviya :—" Sir, we have listened with great attention to the important statement which has been made by the Hon'ble the Home Member on this Resolution, and it must give a feeling of satisfaction to those of us who support the Resolution that Government do contemplate taking some action. 4-54 P.M.

" But, Sir, the unwillingness of the Government to fetter the discretion of the executive by accepting the recommendation contained in the Resolution itself creates a feeling of suspicion that the Hon'ble the Home Member apprehends that if some kind of judicial procedure is prescribed for dealing with the cases to which the Resolution relates, the results will be somewhat different from what they are at present. The Hon'ble the Home Member has said that the Government cannot take anyone except high officers of Government into confidence in dealing with such cases. I submit, Sir, that that is a very unfortunate attitude to take up. There is no such indelible distinction between a non-official and an official Member. A man who is a non-official to-day may be sitting on the Government bench as a colleague of the Hon'ble the Home Member to-morrow. There are some who are serving the public as regular Government servants. There are many who are serving them as unsalaried servants. The Government from time to time take men from the ranks of non-official Members into their regular service: and they are then at once admitted into the confidence of Government; there is no document which cannot be placed before them. I understood the Hon'ble the Home Member to say that he would have no hesitation in placing any paper, of howsoever confidential a nature it might be, before a man who had become an officer of Government. The recommendation contained in the Resolution is that the Advisory Committee should consist of a High Court Judge, who would of course be a Government servant; a Sessions Judge who also would be a Government servant; and one Indian practising barrister or vakil. The latter would be the only person who would not be a Government servant. But I claim, Sir, on behalf of the non-official Members of the proposed Committee, who would be drawn from the profession to which I have the honour to belong, that as they keep the confidence of Government when they accept Government service on a salary, they will equally honourably keep the confidence of Government when they offer their services without remuneration. I do not see that there is any insuperable bar to taking some men in every Province into the confidence of Government. As several of us know, there are non-official gentlemen who are often consulted by Government on matters of great importance and of a confidential nature. I do not see why such gentlemen should not be put on a Committee, such as the one that is recommended, to consider the case of persons against whom it is proposed to take action under the rules framed under the Defence of India Act.

" As regards the general drift of the remarks which the Hon'ble the Home Member has made, I wish to say that not one Member of Council on the non-official side yields to the Hon'ble the Home Member in his desire to see that those who are real delinquents, those who really want to disturb the public peace, those who really want to take action prejudicial to public order and safety, or to tamper with His Majesty's Army or forces, should be punished. We all desire that such men should be punished. It is for the good of society that they should be punished, and that their action should be controlled. The proposals before us will not militate against that view. All that the Resolution asks for is, that in every case reasonable care should be taken that injustice is not done to the person concerned. My Hon'ble friend, the Home Member, read to us two extracts from two statements. I asked him if those

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statements had been made in a Court of justice. He said they had not. I do not think, Sir, that it is right to ask us to form a general conclusion on the basis of a few extracts from statements like those in question, made in conditions of which we have no knowledge. I do not doubt the Hon'ble the Home Member is satisfied that those statements are true. I am not sure that every one else would be so satisfied without examining the conditions under which those statements were made. Without such examination it is difficult to say what weight should be attached to them. No one denies that there have unfortunately been some cases in which some of our young men have been misled into the wrong path, in which some of our young men, and may be some older men too, have been possessed with the idea of upsetting the Government of His Majesty. It was perfectly right that these men should be interned; it would be right in future also if anybody should be shown to have a similar tendency, to deal with him in a similar way. All that the Resolution seeks is, that every such case must be examined, not merely by executive officers as at present, but by an Advisory Committee on which the judicial element shall predominate, the whole object being that as action is being taken under a very special measure, as the ordinary safeguards for the protection of a man's liberty have in the general interests of the community been for the time taken away by the rules which have been framed under the Act, there should be some judicial authority substituted for the executive to guarantee that the rights of the unfortunate man who may be dealt with under the Act, shall receive due consideration, while there can be no justification for any apprehension that the interests of the public will in any way be jeopardised by the course suggested being adopted. I do not think that my Hon'ble friend the Hon'ble Member would suggest that a Committee consisting of a High Court Judge, a Sessions Judge and a practising Indian lawyer who will be selected with great care, will not weigh with a full sense of responsibility every circumstance that will be brought to their notice. Therefore there is no ground for any apprehension that any person who deserves to be dealt with under the Defence of India Act would escape being properly dealt with if his case was submitted to the consideration of such a Committee as is recommended.

" My friend, the Home Member urged that it was wrong to assume that the mere fact of a person becoming an officer of Government in this country would deprive him of his British instincts. Nobody suggests that it would. But there is such a thing as an executive officer not being able to bring a judicial mind to bear upon the facts of a case which he has himself been investigating, and to that danger an executive officer is not less exposed because he happened to possess British instincts than he would be if he did not. The whole question is, whether, having regard to the special circumstances in which this Act is often applied, it is safe for the person affected or even for an executive officer that he should be left to deal with the matter entirely by himself. I submit, it is not. I submit that these special enactments which place arbitrary power in the hands of executive officers are not merely dangerous to the individuals whose cases may be dealt with under them, but are also dangerous to the individual who may have to exercise such arbitrary powers. He is extremely liable to be misled, absolutely honestly to be misled by circumstances. He has not the ordinary judicial means of testing the truth of the evidence that is placed before him. I need hardly say that there have been many such cases. Many of us are aware of cases where evidence which was believed by one Court and sometimes even by a second Court was upon examination found to be absolutely unreliable by the highest Court of appeal. I have in my mind the criminal case which went up to the Privy Council from Madras, and in which a man's life was saved because the Privy Council did not believe the evidence which had been believed by the lower Courts. Therefore, I submit that it is in the interests of justice and in the interests of the public, which means the same thing as the interests of the Government, that provision should be made for an examination of every case in which it is proposed to take action under the Defence of India Act and the rules made

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thereunder, by a Committee on which as I say the judicial element should predominate.

"This much with regard to the question of internments under the Act. I had expected that we should hear something about the use which has been made of the Defence of India Act in another class of cases. So far as the cases dealt with by the Hon'ble the Home Member are concerned, I am not in a position to offer any opinion as to whether the order was or was not justified in those cases. But, Sir, section 2 (f) of the Act has been applied to direct certain well-known persons not to enter, reside or remain in certain areas specified by the authority that issued the order, because there were reasonable grounds in the opinion of that authority for suspecting that those persons were about to act in a manner prejudicial to the public safety. It has been applied, as the Council is aware, against Mrs. Annie Besant. It has also been applied, as the Council is aware, recently against Mr. Tilak. It is not for me here to enter upon a defence of any opinions held by Mrs. Besant or Mr. Tilak; they are strong enough to take care of themselves. What I ask is—Was it meant that the Defence of India Act should be applied to the case of persons of the position of Mrs. Besant or Mr. Tilak, for restraining them from entering any area on a mere suspicion that they were about to act in a manner prejudicial to the public safety? And I answer unhesitatingly, it was not. I submit, Sir, with due respect, that in my opinion there has been a clear abuse of the powers given under the Defence of India Act in the action which has been taken under it against the said persons. Every one can understand that if Mrs. Besant did anything in any part of the country which was likely to prejudice the public safety, there are provisions in the existing law under which she could be proceeded against. Similarly, if Mr. Tilak did anything which was likely to prejudice the public safety, he could be at once proceeded against under the existing law. With those provisions existing in the ordinary law of the land and without anything substantial to satisfy the public that there was such a danger of the public safety being prejudiced as would justify an order of prohibition being issued, I submit it is not at all justified. It has been stated in the press (I have no personal knowledge of it) that Mr. Tilak...."

The Hon'ble the Vice-President:—"I must ask the Hon'ble Member to confine his remarks to the resolution. The Resolution asks that certain measures should be adopted in the future. It has nothing to do with particular cases that have been dealt with in the past under the Act."

The Hon'ble Pandit Madan Mohan Malaviya:—"I must bow to your ruling, Sir, but I was referring to these cases to show that the powers given under the Act had been abused. I have no wish to go further into the details of those cases. My point is that the power given under the Act has been abused, and that if there was such an Advisory Committee as is recommended, this would probably have been avoided. The Committee would look into the facts of each case in which it is proposed to proceed under the Act, and would help Government with an opinion as to whether there are grounds which will justify Government in taking action under the Act. In the absence of such a Committee, it is left entirely to the discretion of the executive officers of the Governments of the different provinces to decide when to take action under the Act, and they have evidently succumbed in some cases to the temptation of exercising the arbitrary power where they should not have done so. For these reasons, I submit that the recommendation contained in the Resolution of my friend, Mr. Dadabhoy, and in the amendment proposed by Mr. Chanda, should be considered and accepted by Government. I hope, Sir, that in spite of what the Hon'ble the Home Member has said, the considerations which have been submitted to Council, will induce the Government of India to reconsider its decision in the matter. We are not at all anxious—none of us wants—that any delinquent should go unpunished. We

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want that every body who holds himself out for punishment, should be punished. We are only anxious that, as far as possible, justice should be done and injustice avoided. In that view I hope that the matter will still receive the consideration from the Government of India which it deserves."

6-8 P.M.

The Hon'ble Dr. Tej Bahadur Saprū:—"Sir, I think neither my friend Mr. Dadabhoy nor my friend Mr. Chanda wanted a repeal of the Defence of India Act. Much of the discussion on the official side that has followed the Resolution and the amendment seems to me to be based on the assumption that what was being done in Council to-day was indirectly to get that Act amended or repealed. What Mr. Dadabhoy and Mr. Chanda really want is that, having regard to the crisis that undoubtedly exists in the country, the Act may continue in force, but that its administration may be conducted on more satisfactory lines. Now it has been admitted by the Hon'ble Sir Reginald Craddock to-day that the evidence in each particular case is sifted and scrutinised by a high executive officer. We, however, know that executive officers are not, as a rule, in the habit of sifting and examining evidence, and even, if in some cases they have to do that, I submit, Sir, that the examination of evidence by a judicial officer always leads to greater satisfaction in the public mind than the examination of that very evidence by an executive officer. Well, if it be a fact, as undoubtedly it must be, that the evidence in each individual case is examined and analysed by an executive officer, what possible objection can there be against the suggestions which have been made by Mr. Chanda and Mr. Dadabhoy that a special Advisory Committee should be composed in a particular manner for this purpose? It has been said that the Government are not prepared to place such documents as those, from which extracts were read by the Hon'ble Sir Reginald Craddock this afternoon, before outsiders or before persons who are not actually responsible for the actual administration of the country. Now, I shall assume for the sake of argument that it is undesirable or inexpedient to place documents of this character before a non-official Member of an Advisory Committee; but is that any reason for refusing to accept the rest of the suggestion, namely, that the Advisory Committee should consist of a highly trained judicial officer of the status and rank of a High Court Judge and of a Sessions Judge? As regards the inclusion of a non-official Member, I will only remind the Government that an argument of that character is rather a weak reed to rely upon, because in conspiracy cases started under this very Act, what do we find? A non-official has been appointed in almost every province on special tribunals, and I venture to think that evidence of a very confidential nature has been placed before such tribunals. Therefore, if you can find men among the non-officials to preside over, or to take part as judicial officers in these tribunals, where is the case for maintaining that you cannot trust these very men as members of Advisory Committees when they have to discharge their functions otherwise than in their judicial capacity? Everyone of the non-official Members who has spoken this afternoon has suggested that each individual case should be submitted to these Advisory Committees consisting of two judicial officers. You may reject the proposal so far as it includes non-officials? but what is wanted in place of the judgment of executive officers in matters of this kind, is the judgment of at least two trained judicial officers. If you bear in mind the scope of the Resolution, and the amendment, it is so eminently reasonable and so eminently moderate that one feels a sense of wonder that it should be rejected by the Government. It does not seem to weaken the hands of the Government, and it does not ask for the repeal of the Act. If you have to deal with these delinquents, deal with them in such a manner that you may have the confidence of the people to support you. Deal with them severely but justly, and above all let there be no suspicion against the Government. Having regard to the manner in which the Defence of India Act has been worked in all parts of the country, the Government cannot say that they have not laid themselves open to serious misconstruction in regard to its administra-

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tion in many cases. Sir, we only want to strengthen the hands of the Government, but we also want that the administration of the Defence of India Act may be placed above suspicion."

The Hon'ble Mr. M. A. Jinnah:—"Sir, I do not wish to keep the Council for any length of time at the stage which we have reached in the discussion, but I must say that there is not the slightest doubt that every non-official Member who has spoken has emphatically declared that he is most anxious that those who are a danger to the public safety in the country should be dealt with rigorously and shown no mercy whatever. It is not that we seek that the Defence of India Act should be repealed. All we want is, that while the guilty should be punished, the innocent one safeguarded; not only that, Sir, but the way in which this Act has been worked is causing a feeling of great uneasiness in the country, the very thing that you want to avoid. Therefore, Sir, I was really disappointed because I fully expected to get a sympathetic reply from Government. I was disappointed and regret that the Hon'ble the Home Member refused to accept this Resolution or the spirit of the resolution, and I regret all the more to note his ground for it. Now, what is the ground that the Home Member gave? The only ground given was, that if you have a Committee of this kind, and if confidential documents are placed before it, the secret will not remain with it, but leak out. All I can say is, that it is a serious reflection to say that secret is not going to remain with high officers like Judges of the High Court for which there is no warrant—omit the non-official lawyer if you like and if you have a distaste for him from the Committee, although I venture to say that there are men amongst the non-official lawyers in every province who can as honourably keep and maintain secrets as the Hon'ble the Home Member himself can. But I do insist and I want the Government carefully to consider the point. I can assure the Council that the working of this Act is having a most disastrous effect on public feeling. Therefore I urge, whatever may be the fate of this Resolution, may I earnestly urge upon the attention of the Government that for the very cause for which this Act has come into force and in the name of everything sacred, they should appoint a judicial committee which will give the requisite assurance to, and have the confidence of, the public if these persons are dealt with by such a Committee the public cannot surely have a grievance or make a complaint. I strongly urge the Government to consider the position still." 5-14 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"Sir, we in Madras are not touched very much by the working of this Act, and therefore are in a position to bring to the Resolution a dispassionate consideration which need not be guided by sentiment or feeling in the matter. After hearing both sides I must say that I think the Hon'ble the Home Member might have gone further and given us some emphatic assurance that except in cases of an emergent nature, where the disclosure of particular secrets would be absolutely dangerous to the safety of the country, by such secrets being disseminated among the public, a Committee would be recommended. I must say that throughout the country there seems to be a feeling that the executive government are jealous of the expressions of public opinion and utilises the provisions of this Act to prevent the discussion of questions which are distasteful to them. I am not going to say whether that is a correct impression or not; recent events have emphasized the necessity for safeguarding Government against accusations or beliefs of that kind. I put it to the Council and to the Government whether if they really wish to promote harmony between themselves and the people and to inspire confidence in the administration of the Act, they should not place between themselves and the people the barrier of a judicial tribunal. Luckily the people have confidence in the judicial tribunals of the country; they think they can get redress by an appeal to judicial tribunals against the high-handed actions of the executive government. If they have any sympathy with 5-17 P.M.

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these misguided men who are dangerous to the safety of the country, if their sympathy is to be converted into hatred, it is absolutely necessary that they should have a belief in the justice of the acts of the Government; if they have confidence in the judiciary it is only right that the Government should invoke the assistance of the judiciary for the purpose. I, therefore, think that, in the interests of the Government as well as of the people, it would be necessary to invoke the assistance of some such tribunals as are recommended here, in all cases except perhaps a very few of an urgent nature. With these words, I commend the Resolution to the Council."

5-20 P.M.

The Hon'ble Sir James DuBoulay :—“ Sir, there are just two points on which I should like to make a few remarks. The Hon'ble Pandit Madan Mohan Malaviya rather assumed, I thought, that in all these cases the decision has been made by executive officers without judicial advice. He gave me that impression, and I think he gave the Council that impression too; but in Bengal we know as a matter of fact from His Excellency the Governor that in every single case the whole of the facts against interned suspects are placed before a judicial officer of some seniority, either before or after an order is passed.

“ There is only one other point which I want to mention, and that is, regarding the question of secrecy. I think it has been made clear to the Council that there are certain facts which concern conspiracies against the country, against the King, where it is absolutely undesirable that anybody outside the most restricted circle should know exactly what lines have been followed. But there is another aspect which I do not think has been quite clear to the Council, and that is, that there are included in the evidence upon which the orders are passed a large number of statements by men who have taken part in these conspiracies, and those men know that if it were known that they have told what they know, their lives would be in danger. These men have told us their story in many cases under promise of secrecy. Government are under a bond of honour. They are bound not to disclose this evidence to a larger circle than they can possibly help. For if through any failure in this respect such a statement became public property, the man who made it would be able to turn round upon Government and say you have taken my life. ”

5-23 P.M.

The Hon'ble Mr. A. S. A. Westropp :—“ Sir, having had some practical experience of the working of these provisions, may I venture a few remarks in the light of such actual experience. Some Hon'ble Members seem apprehensive that the sources of information open to Government may be incomplete or even contaminated, but I can assure them that it takes a great many factors to make up an indictment on which the Local Government would be prepared to take action. Caution accompanies every step. The cases dealt with under these rules in the province of India from which I come have not been numerous, and have mainly related to trans-frontier matters which should and must remain as little commented on as possible. To disclose the whole of the information in the hands of the Government to the individuals themselves or to any non-official whatever would, in such cases, be against the true interests of public safety.

“ I do not occupy a very exalted position in the service of Government, but it strikes me as inconceivable that the schemes and affairs of any person intriguing with the King-Emperor's enemies should at this moment of national anxiety be divulged to any but those who are primarily responsible for the safety and defence of the Realm. To demand that this should be done would, I submit, indicate a failure to appreciate the earnestness of the authorities concerned and the dangers to the public safety which such precautionary measures undoubtedly obviate.

RESOLUTION *RE* AMENDMENT OF THE RULES UNDER 375
THE DEFENCE OF INDIA ACT, 1916.

[21ST FEBRUARY, 1917.] [Mr. A. S. A. Westropp; Mr. M. B. Dadabhoj.]

"Within my personal experience as District Magistrate of Karachi during two and a half years of the war nobody has been interned, or has had his movements or actions controlled, without knowing sufficiently well why such action has been taken against him, in spite of possible protestations to the contrary. It is always open to the individuals to state their cases in full and in writing, but experience goes to show that they usually prefer to draw a veil over their past careers.

"I would lay stress on the fact that every action which restricts the liberties of a subject is very carefully weighed. Nobody who has to deal with these provisions can do otherwise than recognise the need for the greatest caution, and I feel sure that all officials, from the highest to the lowest, who have duties to perform under these rules fully sympathise with the Hon'ble Member's ardent desire that no hasty ill-considered act should needlessly endanger the liberties of citizens.

"In support of my statement I could quote cases in which persons arrested by the local authorities under rule 12-A, against whom in the first instance suspicion seemed well-directed, have obtained a speedy release by a full and complete explanation of their actions. Every effort is made in such cases to verify statements, and I can assure the Hon'ble Mover that the sense of responsibility which all officers feel and the sympathy displayed over doubtful cases is real, however, much may be urged to the contrary."

The Hon'ble Mr. M. B. Dadabhoj :—"Sir it is now past five ^{5.20} P.M. and after the full day's debate that we had to-day, I feel that I shall not be justified in detaining the Council for one moment longer than it is absolutely necessary. I have heard with great interest the debate that has followed on my motion, and I have followed with the closest attention and with the greatest interest the statements made by the Hon'ble Sir James DuBoulay and by the Hon'ble Mr. Westropp. Sir, I have been a great deal anticipated by my honourable friends Dr. Sapru and Mr. Jinnah, and I have thus been relieved of the responsibility, and therefore at this stage I do not propose to make any elaborate statement.

"Sir, we are extremely grateful to the Hon'ble the Home Member for giving to this Council in a luminous manner the history of some black specks of anarchism in this country. He has asked the Council to believe that the state of affairs in this country is such that strong and urgent measures are necessary, and that the action of Government has been justified by the facts placed before them. As my Hon'ble friends Dr. Sapru and Mr. Jinnah have rightly pointed out, we non-official Members do not for a moment deny the existence of anarchism in this country, and we do not say that all the internments that are made are sanctioned without due and proper consideration. In fact, I firmly believe in the existence of anarchism, and it might be due to economic and various other causes. It was with that object that I introduced a Resolution in this Council the other day to have an open investigation into this matter so that the public may be informed of what is going on, and they may know the situation exactly as it stands. Unfortunately that Resolution did not meet with favourable acceptance either at the hands of my Hon'ble colleagues or the Government. Sir, no body for a moment contends that Government acts without sufficient information, and we know that every possible attention is devoted to the cases that come up for orders, and that final orders are passed on a careful consideration of all the facts. I have already indicated in my opening speech in what direction great caution is needed in the disposal of these cases.

"Sir, we have also heard the remarks of the Hon'ble Member to the effect that some non-official Members do not consider the great responsibility of Government in this matter, and that their remarks in this connection denote either a reflection on the police or on official action. I made it perfectly and sufficiently clear in my speech to the Council that nobody disputes the

376 RESOLUTION *RE* AMENDMENT OF THE RULES UNDER
THE DEFENCE OF INDIA ACT, 1915.

[*Mr. M. B. Dadabhoy.*] [21st FEBRUARY, 1917.]

bona fide intentions of Government. Every one of us realises the enormous difficulty of the Government, and I also made it clear that Hon'ble Members of this Council were not unmindful of the arduous and delicate duties which the police were called upon to perform in this connection. The difficulties of the police are undoubtedly enormous; we all agree and unhesitatingly endorse everything the Hon'ble the Home Member has said, but all this is not sufficient to explain the case I have endeavoured to make out. I must mention that the request which I made to this Council is an extremely modest one. I only asked for the institution of a special machinery in each Province. In delivering my speech I spoke with a note of restraint and distinctly stated that I did not ask for a High Court Judge or an Indian barrister. I said a judicial officer of long service, and a practising lawyer of long standing, together with an executive officer would answer the purpose. Now nobody can possibly urge that such a request of mine is an unreasonable one. The Hon'ble Sir James DuBoulay has reminded the Council that, so far as Bengal is concerned, the Governor personally takes considerable pains in this matter, and consults in almost every case a judicial officer of some distinction. The Hon'ble the Home Member was also pleased to make some concession, and stated that in the second category of cases he was prepared to advise local Administrations to consult judges, or some judicial officer of experience before final orders were passed. Sir, my humble submission is, that the Hon'ble the Home Member has practically and tacitly admitted the force and propriety of my Resolution. Though he has not gone so far as to agree to the institution of an advisory judicial board which is demanded, he has virtually agreed to advise the Provincial Governments so far as cases falling under the second category are concerned, that judicial opinion should be taken. Sir, I have followed with considerable interest the long speech of the Hon'ble the Home Member, but he did not throw any light on the inadvisability of granting the machinery that I asked for. He gave the Council no reason why a machinery of the nature and character requested by me would either be unworkable or would not fulfil the expectations of Government. Sir, if one official of Government could be trusted to dispose of all important work falling under the scope of the Defence of India Act, does it stand to reason that three officers of Government who have had judicial training and experience would not be in a position to deal with any case in a better and more practical manner? With the greatest respect to the Hon'ble the Home Member, I am bound to state that I altogether fail to see why a committee of the nature demanded by me would be either prejudicial to the public interest or would not answer the purpose for which the Defence of India Act has been passed. In my Resolution, I only asked for a special machinery of the nature of an advisory board because I was confident it would be provided by Government. When constituting special tribunals for the disposal of serious cases under the Act, Government has selected judicial officers of high training and experience, and invariably an Indian judge or lawyer of some standing. I only wanted Government to proceed on similar lines.

"In view of what I have stated, I trust my Hon'ble friend Mr. Chanda will see his way to withdraw his amendment. I am not at present prepared to go to the extent he wishes me to go. We may leave wholly the composition of boards to the good sense and judgment of the Provincial Governments. Let them select their local machinery in each case as they deem proper. Sir, I must state that the reasons which have been urged by Government for not accepting such a modest request are felt to be unsatisfactory. I am extremely sorry the Council is disappointed, the country will be disappointed that such a modest request has been rejected by Government, especially when the Government has conceded in substance that hereafter in cases falling under the second category, the opinion of experienced judicial officers will be taken.

"Sir, I have no further remarks to make. I only request you now to put my motion before the Council."

The Resolution was read and the Hon'ble Mr. Chanda's first amendment thereon was put to the Council and lost. The Hon'ble Mr. Chanda's second

RESOLUTION *RE* AMENDMENT OF THE RULES UNDER 577
THE DEFENCE OF INDIA ACT, 1915.

[21ST FEBRUARY, 1917.] [*Mr. M. B. Dadabhoy.*]

amendment was then put to the Council and also lost. The Hon'ble Mr. Dadabhoy's Resolution was then put to the meeting, and, at the request of the Hon'ble Mr. Basu, the Council divided as follows :—

| AYES—14. | NOES—39. |
|--------------------------------|--|
| The Hon'ble Sir P. D. Pattani. | His Excellency the Commander-in-Chief. |
| „ Dr. T. P. Sapru. | The Hon'ble Sir Reginald Craaddock. |
| „ Pandit Madan Mohan Malaviya. | „ Sir William Meyer. |
| „ Mr. S. Sastri. | „ Sir Claude Hill. |
| „ Mr. R. Ayyangar. | „ Mr. G. R. Lowades. |
| „ Rao Bahadur B. N. Sarma. | „ Sir George Barnes. |
| „ Mir Asad Ali, Khan Bahadur. | „ Sir Pardey Lukis. |
| „ Khan Bahadur Allahando Shab. | „ Sir Robert Gillan. |
| „ Mr. M. A. Jinnah. | „ Sir R. A. Gamble. |
| „ Mr. B. N. Basu. | „ Mr. E. H. Bray. |
| „ Mr. Mezharul Haque. | „ Sir Verney Lovett. |
| „ Mr. M. B. Dadabhoy. | „ Mr. J. B. Wood |
| „ Rai B. D. Shukul Bahadur. | „ Mr. H. P. Howard. |
| „ Mr. K. K. Chanda. | „ Mr. H. Sharp. |
| | „ Sir Edward MacLagan. |
| | „ Mr. R. A. Mant. |
| | „ Mr. J. B. Brunyate. |
| | „ Sir James DuBoulay, |
| | „ Major-General A. H. Bingley. |
| | „ Mr. G. B. H. Fell. |
| | „ Mr. W. M. Hailey. |
| | „ Sir William Maxwell. |
| | „ Mr. F. C. Rose. |
| | „ Mr. A. H. Grant. |
| | „ Mr. J. G. Jennings. |
| | „ Mr. C. H. Kesteven. |
| | „ Mr. A. P. Muddiman. |
| | „ Mr. L. Davidson. |
| | „ Mr. J. S. Wardlaw Milne. |
| | „ Mr. F. J. Monahan. |
| | „ Mr. E. H. C. Walsh. |
| | „ Mr. A. S. A. Westropp. |
| | „ Sir J. S. Donald. |
| | „ Sardar Sundar Singh. |
| | „ Mr. C. H. Atkins. |
| | „ Mr. J. Walker. |
| | „ Mr. W. J. Reid. |
| | „ Lieut.-Col. S. L. Aplin. |
| | „ Maung Bah Too. |

The Resolution was accordingly negatived.

378 RESOLUTION *RE* INSERTION OF TIME-TABLE CONSCIENCE
CLAUSE IN THE EDUCATION CODES OF THE DIFFERENT
PROVINCES.

[*Mr. Srinivasa Sastri.*] [21ST FEBRUARY, 1917.]

**RESOLUTION *RE* INSERTION OF TIME-TABLE CON-
SCIENCE CLAUSE IN THE EDUCATION CODES
OF THE DIFFERENT PROVINCES.**

5-18 P.M.

The Hon'ble Mr. Srinivasa Sastri to move the following
Resolution :—

' This Council recommends to the Governor General in Council that in the Education Codes of the different Provinces of India, a time-table Conscience Clause be inserted providing that no pupil in any school or college aided out of public funds shall be required to remain in attendance during the time of any prayer, worship or religious instruction unless the parent or guardian of such pupil shall have expressly consented to such attendance.'

" Sir, with reference to the Resolution marked 1 A on the Conscience Clause which stands in my name, I have been informed that the Government of India are in correspondence with Local Governments on the subject. The replies of all the Local Governments have not come in, and they are unable at the present moment to discuss this subject. Therefore, no useful purpose will be served by my beginning a discussion on the matter, and I beg your leave to withdraw the Resolution in the hope that, when the replies have come in, an opportunity will be afforded to the Council to discuss it."

The Resolution was by leave withdrawn.

The Council adjourned to Thursday, the 22nd instant, at 11 A.M.

A. P. MUDDIMAN,

Secretary to the Government of India,

Legislative Department.

DELHI :

The 28th February, 1917.

APPENDIX A.

(Referred to in answer to question No. 5.)
Expenditure due to Simla Broodus for 6 years from 1908-10 to 1914-15.

| | HALL JOBBERY ALLOWANCE. | | | | | | FEEL ALLOWANCE. | | | | | | HALL JOBBERY CHARGE. | | | | | | | | | | |
|--|-------------------------|----------|----------|----------------|----------|----------|-----------------|----------------|----------|----------|----------|----------------|----------------------|----------|----------|----------------|----------|----------|----------|----------------|--------------|----------|----------|
| | 1908-10. | 1910-11. | 1911-12. | Total 3 years. | 1912-13. | 1913-14. | 1914-15. | Total 3 years. | 1915-16. | 1916-17. | 1917-18. | Total 3 years. | 1918-19. | 1919-20. | 1920-21. | Total 3 years. | 1921-22. | 1922-23. | 1923-24. | Total 3 years. | Grand Total. | | |
| Major and Minor heads. | | | | | | | | | | | | | | | | | | | | | | | |
| 18 General Administration Staff and Household of the Government. | 14,325 | 14,840 | 9,535 | 38,699 | 11,635 | 12,312 | 12,323 | 40,270 | 79,600 | 449 | 1,200 | 207 | 446 | 51,629 | 69,374 | --- | 1,20,000 | --- | --- | --- | --- | 1,20,000 | |
| Civil Secretariat | 4,59,253 | 3,09,796 | 3,09,663 | 10,78,712 | 1,90,969 | 1,49,987 | 1,79,698 | 4,20,657 | 1,25,914 | 1,267 | 30,287 | 30,685 | 29,056 | 43,179 | 47,004 | --- | 46,347 | 1,25,825 | 29,385 | 29,793 | 29,793 | 75,094 | 3,08,489 |
| Military Secretariat (Army Department). | 81,508 | 28,500 | 24,954 | 1,45,062 | 19,715 | 27,000 | 54,440 | 81,081 | 2,68,179 | 47 | 5,700 | 7,100 | 7,378 | 20,244 | 29,229 | --- | 4,488 | 30,713 | 3,191 | 5,276 | 4,786 | 11,269 | 27,285 |
| Public Works Secretariat | 23,104 | 46,840 | 10,244 | 1,16,088 | 12,113 | 14,696 | 19,229 | 45,927 | 1,01,810 | 246 | 5,750 | 5,046 | 3,477 | 14,275 | 16,265 | --- | 4,020 | 9,221 | 1,195 | 538 | 798 | 1,464 | 10,750 |
| Total | 6,09,081 | 4,09,980 | 3,50,513 | 14,11,655 | 1,67,286 | 1,93,148 | 2,54,099 | 6,01,292 | 2,18,317 | 1,081 | 29,286 | 49,469 | 59,273 | 1,19,196 | 1,29,767 | --- | 63,725 | 2,01,207 | 29,729 | 24,857 | 25,105 | 88,679 | 3,97,463 |