CHAPTER 8.
(1) Bills Passed or Vetoed.
(2) Resolutions.
(3) Total time spent on Bills, Resolutions.
   (Private and Government)
(4) Rulings given.
(5) Division of the Council.
(6) Deadlocks between the two Houses.
(7) Reference to the other House.
(8) Committee work.
(9) Quality of Debates.
(10) Adjournment Motions.
(11) Attitude of the House in controversial issues.
(12) Atmosphere in the House
(13) Attitude of the House regarding its privileges.
I SESSION OF THE COUNCIL OF STATE.

LIST OF BILLS PASSED DURING THE FIRST SESSION OF THE
COUNCIL OF STATE.

5 Official Bills.
No Private Bills.

The following legislation was initiated in the Council
of State itself.

2. Maintenance orders Enforcement Bill.
3. Code of Criminal Procedure (Amendment) Bill.
4. Enemy Missions Bill.
5. Land Acquisition (Amendment) Bill.

BILLS REFERRED FROM THE LEGISLATIVE ASSEMBLY.

1. Indian Tea Cess (Amendment) Bill.
2. Legislative Assembly (Deputy President's salary) Bill.
3. Import and Export of goods (Amendment) Bill.
4. Indigo Cess (Amendment) Bill
5. Finance Bill.
6. Hindu Transfers and bequests (City of Madras) Bill.
7. Calcutta University Bill.

* * *

All the bills received from the Legislative Assembly
except the Finance Bill were passed by the Council of State without
any amendments. Many useful amendments were made to the Finance
Bill as detailed elsewhere.
BILLS WHICH ORIGINATED IN THE COUNCIL OF STATE.

FIRST SESSION

No bill was introduced into the Council of State by any non-official member but 5 government bills were introduced, of which four were passed without amendment or reference to Select committee.

BILLS INTRODUCED.

1) Code of Civil Procedure (Amendment) Bill.
   (moved by Hon. Sir William Vincent on 14th Feb '21.)

   The bill was really a small amendment consequential on the modifications in the Provincial Insolvency Act which were completed during the life-time of the old council. The Select committee which sat on the Provincial Insolvency Act which was consolidated during the previous session of the Imperial legislative Council had recommended an amendment of a portion of S. 55 of the Code of Civil procedure. The Government thereupon consulted the local governments and the High Courts and wanted to make suitable changes in the existing rules to enable the courts, where they thought fit, to release the judgement debtor under certain circumstances and this proposal was intended for effecting it.

   No criticism or amendments were suggested since the introduction of the bill on 14th February and the measure was finally passed on 28th of the same month.

2) Maintenance Orders Enforcement Bill.

   Introduced on 14th February 1921 by Sir William Vincent. The bill intended to facilitate the enforcement in British India of maintenance orders made in other parts of His Majesty's dominions and protectorates and vice-versa. The legislation arose out of a decision of the Imperial Conference of 1911 that wives and other dependents deserted by their husbands
or other persons liable for their maintenance and left destitute should be afforded additional protection by the Courts. In accordance with that decision an Act of Parliament was passed in 1920 which enabled the maintenance orders made in U.K. to be transmitted to other parts of H.M.'s dominions for enforcement and also provided for the enforcement of orders made in other parts of H.M.'s dominions in British India. This Act was purely an enabling Act in that Parliament wisely insisted that before they gave effect to it, there should be reciprocity of treatment. This bill sought to provide similar facilities for enforcing maintenance orders made in other parts of H.M.'s dominions in British India. Speaking on the necessity of the Bill the Lord Chancellor had said in the House of Lords in 1919 that "it was a small but long overdue instalment of a debt which society owed to women who had been deserted by their husbands." It was passed on 28th February 1921.

3) Code of Criminal Procedure (Amendment) Bill:-

This bill was introduced by Honourable Sir William Vincent on 21st February 1921. The bill was designed to remedy defects found to exist in the law and involved no new principles of importance. The revision of the criminal code was overdue, the last revision having taken place over two decades ago. A motion was moved on 28th February 1921 to refer the measure to a joint committee of the Legislative Assembly and the Council of State and was passed by the Council of State. The committee was to consist of twelve members. Unfortunately the Legislative assembly did not agree to the invitation of the Council to serve on the Joint Committee. After the Assembly's refusal to serve on the Committee sponsored by the Council of State, the latter
body at its meeting of 6th September 1921 withdrew this bill and another motion was adopted on 19th September referring the bill again to the Assembly for the appointment of a Joint committee, as it was learnt that the Assembly had refused its consent previously not on any principle or essential objection except that it had not been given adequate notice of the same. The Legislative Assembly considered the matter at its meeting of 20th and agreed to nominate six persons to serve on the joint committee. The Council of State on 27th also adopted a motion of the Government to nominate six members on the Joint Committee.

4) **Enemy Missions Bill:**

Introduced in the Council of State by Sir William Vincent on 28th February 1921, to validate certain indentures transferring properties formerly held by certain enemy missions in Trustees and for the incorporation of such Trustees and for other purposes. This was a supplementary to the Basel Mission Trading Companies Act which was passed in the previous year and this bill validates action by Government in respect of certain Missions which were either wholly German or trained with German influence.

The bill was passed on 17th March, 1921. The bill was sent to the Legislative Assembly thereafter, where certain verbal amendments were effected to the bill on 23rd, to which the Assembly requested the concurrence of the Council. The amendment made by the Assembly, however, accepted by the Council at its meeting of 26th, March 1921.
5) *Land Acquisition (Amendment) Bill*:

Introduced by Honourable Mr. B.N. Sarma on 28th February 1921. The object of the legislation was two-fold: firstly, to provide that in all cases from the award of a Court an appeal shall lie only to the High Court and secondly, that subject to certain limitations, an appeal shall lie from the award of a High Court to the Privy Council. The bill aimed at bringing into uniformity the practice throughout India and to provide that in all cases from the award of a court an appeal shall lie only to the High Court.

The Bill was passed by the Council on 17th March 1921. On 26th March a message was received that the legislative assembly at its meeting on 26th September had passed the Act with some modifications and requested the concurrence of the Council for the same. The bill in the amended form was taken up by the Council on 29th. Three amendments had been made by the Assembly, of which two were of a very formal character but one was of a substantial nature. The third amendment was one to which exception was taken by the Government in the Lower House both on the grounds of convenience and principle (Vide Hon'ble Mr. B.N. Sarma's speech in the Council of State, Vol. II. Page 517) In the Act as passed by the original Council of State it was decided that appeals to the Privy Council should lie only where there is a substantial question of law involved and not a question of fact. For over 17 years in the past appeals lay substantially, on the same terms in land acquisitions cases as in others. The lower house had decided that the same privilege might be continued. The
Government were of the view that it would be better if appeals were limited to questions of law, but the assembly had taken a different decision. Honourable Mr. B.N. Sarma speaking on behalf of Government suggested that the House may agree to the amendments made by the Assembly, in view of the very limited number of appeals to the Privy Council in the past. The amendments were accepted by the Council.
Ist SESSION OF THE COUNCIL OF STATE.
(From 3rd February 1921 - 29th March 1921)

RESOLUTIONS CONSIDERED IN THE 1ST SESSION.

57 Resolutions were moved in the 1st Session of the
Council of State out of which 17 were passed, 10 negatived and
10 withdrawn after consideration of the House.

(a) Resolutions Passed.

1. Resolution regarding circulation of speeches of His
Royal Highness the Duke of Connaught and H.E. The
Viceroy in the vernaculars.

2. Resolution regarding the repeal of certain Repressive laws.

3. Re, Washington Conference of the I.L.O. of the League
of Nations ---Hours of work in the Industrial undertakings.

4. -Do- re Creation of Employment agencies.

5. -do- recommendations concerning employment,

6. -do- Disinfection of Wool.


10. Resolution recommending the appointment of a committee to
explore the possibility of improving the position of the
existing Government Stocks and to advise the Government
on the question of future loans.


Recommending the grant of full Fiscal autonomy to the
Government of India under the direction of the Indian
Legislature.
1st SESSION OF THE COUNCIL OF STATE.

RESOLUTIONS NEGATIVE BY THE HOUSE:

1. Resolution recommending to all the Provincial Governments to establish Ayurvedic and Tibbi Medical Colleges in their provinces.

2. Be Slaughter of cows for food except for sacrifices on Bakrid.


4. Be amendment of certain enactments in regard to use of fire-arms was passed partially. Only 2 out of 8 parts of the resolution were adopted by the Council and the rest negatived. (Resolution of Rt. Hon'ble V.S. Sastry)

5. Be power of issuing licenses for the export of rice to be kept in the hands of local governments.

6. Be advisory Board for the High Commissioner of India in London.

7. Be leave to members of the Provincial Services.

8. Be Exchange Situation - urgent inquiry by a Special Committee.


11. Resolution recommending to the Governor General in Council to extend amnesty to Savarkar Brothers.

(11-45 hours. Total (Eleven Hours and forty-five minutes))
1ST SESSION OF THE COUNCIL OF STATE.

Resolutions considered and withdrawn:

1. Re export of Rice from India to Ceylon--Resolution withdrawn after satisfactory explanation by Government.

2. Re introduction of legislation to place the Universities of India on a more democratic basis.

3. Re the establishment of a separate department of Government to watch the interests of Indians abroad.


5. Release of Martial Law prisoners.

6. Re Codification of the Hindu Law.


8. Establishment of Peace and Vigilance Committees in all towns.

9. Severance of Judicial from Executive functions.

7-15 hours. Total (Seven Hours and fifteen minutes)

During the first session of the Council of State:

For Private Members

Resolutions: 30 hours and 9 minutes.

For Government

Resolutions: 4 hours.

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Total: 34 hours and 9 minutes.
COUNCIL OF STATE—1st SESSION.

TIME SPENT.

DIVISION OF TIME.

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<th>Bills</th>
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<tr>
<td>Government</td>
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<tr>
<td>5 Official Bills.</td>
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<tr>
<td>(original)</td>
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<tr>
<td>(About 2 hours in all)</td>
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<tr>
<td>7 Refused Bills by the</td>
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<td>Assembly.</td>
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<td>(About 5 hours spent in all)</td>
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<tr>
<td>Private Bills.</td>
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<td>Nil.</td>
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<tr>
<td>Government</td>
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<td>(?</td>
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<tr>
<td>(About 4 hours spent in all)</td>
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<tr>
<td>Private resolutions.</td>
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<tr>
<td>(30)</td>
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<tr>
<td>(Nearly 30 hours and ten minutes)</td>
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It is noticeable from the above figures that adequate time was provided for the discussion of private members resolutions and bills. The number of private resolutions during this session was 30 as against 7 official resolutions. All the 6 bills which originated in the chamber were sponsored by Government and no non-official bill was brought up.
53 rulings were given by the President during the 1st session of the Council of State, relating to various aspects of the procedure to be adopted during the discussions in the House. Rulings related to the underlisted matters.

1. Discussion of irrelevant matter.
2. Reference to individuals by name in speeches when not necessary to arguments.
3. Right of reply if Closure is carried.
4. Prohibition of arguments when making a personal explanation.
5. The reading of speeches made in the Assembly during the same session.
6. The points raised in the debates to be adhered to when replying.
7. Questions at the time of divisions.
8. Reference to matters in the other Chamber.
9. Form of address of Members.
10. Speaking on Amendments.
11. Procedure to be adopted for amendments.
12. Procedure to be adopted in the manner of asking questions.
14. Consent of members to their names being mentioned in Resolutions.
15. Support for a motion adjournment.
17. Diversion from subject under discussion.
18. Additions or alterations to the wording of resolutions.
20. Rising to a point of order.
22. Time for discussing on a motion for adjournment.
23. Rising in places as an indication of a wish to speak.
24. Diversion from resolution.
26. Time for explaining alleged misstatements.
27. References to debates in the other House.
28. Time for claiming divisions.
29. Consent of member to serve on Joint Committee.
30. Period of notice for amendments when the period of not notice for a bill has been abrogated.
31. Rec Holidays.
32. Class of amendments permissible to Finance Bill.
33. Right of Reply by mover of an amendment.
34. Form of motion for reference to joint committee.
35. Quotation of acts under which cases cited have been decided.
36. Procedure re reference to a Joint committee.
37. Right of reply after a Closure is carried.
38. An amendment handed into the Secretary at the table is not an amendment with notice.
39. Departure from subject under discussion.
40. Withdrawal of amendments before resolutions can be withdrawn.
41. The citing of cases of personal application.
42. Strangers in the division lobbies at the time of divisions.
43. Asking of supplementary questions not arising out of the answer.
44. Resuming seat for purposes of obtaining information.
45. Reference to action taken in the other chamber.
46. Reference to side issues.
47. Choice of adjectives.
48. Reference to matter in the discussion of a resolution which is substantially the same as what has already been discussed in another resolution.
49. Interruptions to consist of simple statements only.
50. Procedure for answering questions in absence of member.
51. Interruptions.
52. Disability to move amendments.
53. Right of reply to original motion after amendment.
RULINGS GIVEN:

Very many important rulings were given by the first President of the Council of State Hon'ble Mr. Alexander Muddiman, C.S.I., C.I.E., during his term of office. The rulings were significant as the Council of State was the first of its kind to be established in India and the procedures to be laid and followed by the House would be of great consequence to the future development of Parliamentary form of Government with a bicameral system. The House, had fortunately a very able and experienced man in the person of Muddiman, who was the first presiding deity of the Council of State. His experience as a parliamentarian was profound and as such his guidance was very valuable to the first session of the Council of State the member of which were mostly inexperienced. The President had in fact the difficult job of initiating the House to the rules of procedure in Resolutions, Bills, amendments etc. and establish good conventions and high standards to be emulated by posterity. In all he gave ruling on 53 occasions and some of them were very important.

REFERENCE TO MATTERS IN THE OTHER CHAMBER:

On a very early occasion the President ruled that the Hon'ble members must not refer matters that were going on in the other chamber.

(Vide p. 68 of the Council of State, I Volume)

READING OF SPEECHES MADE IN THE ASSEMBLY DURING THE SAME SESSION:

A ruling was given that no member shall have a right of reply if closure was carried.

While discussing a resolution recommending amnesty to Savarkar brothers a member wanted to quote of the speech of His
Royal Highness the Duke of Connaught who inaugurated the reformed legislatures, and the President of the Council drew the attention of the House to the well-known rule that 'the Honorable member must not read from the speech of a member of the Legislative Assembly delivered in the same session' and pointed that 'this well-known rule must be followed'. (P. 651 Ibid)

Members were often pulled up whenever rule was a tendency to deviate from the main path of discussion and were told that the points raised in the debates should be adhered to when replying. (p. 659 Ibid.)

During a division the only question that can be raised is on a matter arising out of the division. (p. 665 Ibid.)

Regarding the procedure for the introduction of resolutions it was established that a member should begin by formulating a motion and then read his resolution. (P. 107 Ibid.)

Addition or alterations to the wording of resolutions could be made out after due notice is given therefor.

(p. 107 Ibid.)

Regarding the method of replying it was stated that the member replying must confine himself to the criticisms which have been made on his resolution and that he should not 're-argue his case', as he has already spoken once. (p. 129 Ibid)

During the discussion on the resolution on Exchange situation, the President made an important observation that references to debates in the other House should not be made, as such a practice must lead to inharmonious relation between the two chambers and added that it might result in fruitless arguments between members of two distinct bodies who were unable to reply to each other and one of whom must be discussed in his absence.

(p. 507 of the Council of State, Volume I)
Consent of the members is to be ascertained before they are nominated to the Joint Committee. (p. 524 Ibid.)

Regarding the class of amendments permissible to Finance Bill the President ruled thus:

"an amendment, except by a member speaking on behalf of the Government, which has the effect of increasing taxation proposed by the Bill is out of order, unless it proposes taxation by way of equivalent to a tax brought by the Bill under the consideration of the Council ...........

............But it is open to members who desire to vary what I may call the incidence of taxation imposed by the provisions of the bill to propose an increase in one item compensated by a corresponding reduction in some other item."

(p. 526 Ibid.)

Re right of reply by mover of an amendment it was established that the mover of amendment (which is not a motion) does not have the right of reply. (p. 294 Ibid.)

PROCEDURE IN REFERENCE TO A JOINT COMMITTEE.

On 3rd March 1921 a message was received from the legislative assembly that message from the Council of State to the legislative assembly desiring its concurrence in a resolution to the effect, "that the Bill further to amend the Code of Criminal Procedure, 1898 and the Court Fees Act 1870 be referred to a joint committee of Council of State and of the Legislative Assembly and that the Joint Committee do consist of twelve members" was considered by the Legislative Assembly at its meeting of the 1st March 1921 and the resolution was not concurred by the Assembly.
A Government member enquired as to the procedure to be adopted in regard to that bill in view of the refusal of the Legislative Assembly to serve on a joint committee with the Council of State and the President of the Council said:

"Procedure by reference to a Joint Committee is a new one to this Council and arises out of the double chamber constitution.

A reference to a joint committee is a device which enables the chamber, in which a bill does not originate to take part by its representatives, in a discussion bill at a very early stage of its progress.

In the parliamentary practice procedure by a joint committee is most frequently resorted to in cases where the bill has a peculiarly technical or legal importance, or where-as in the case of a bill, which is familiar to all the members of this Council the GOI Bill the subject matter of the bill is rather outside the ordinary sphere of politics. It may be as well to say a word as to the case in which a motion for a joint committee has been carried in both houses and the bill duly committed, for I have ascertained that there is misapprehension on this point. When the Joint Committee has completed its deliberation a copy of the report is laid in both houses, but if a bill emerges from the joint committee, that bill is moved on and dealt with in the chamber in which that bill originated as if it had been committed to an ordinary Select committee. The bill as passed in the chamber then goes up or down to the other chamber as the case may be, and is passed, amended or rejected in the usual way by that chamber.
That chamber has the same power of discussing the principles of the bill and amending or rejecting any and every clause as if the bill was any other bill passed by the other chamber.

It is not unusual for a chamber to which a resolution proposing to a joint committee is referred and which is unwilling to accept. The recommendation, to avoid a direct negative and by a dilatory motion to allow the question to lapse.

In the present instance, however a direct disagreement has been intimated. The message must have been moved on with a very little notice in the Assembly and disposed of very promptly, for the resolution of this chamber was passed on 28th February, that is last Monday. I have been a question also as to the procedure also to be followed when a message of the kind now under consideration is received. I do not wish to commit myself to a definite ruling on the point, but I would say that it is desirable that message of that kind should be accompanied by a copy of the bill referred to in the message, and that, speaking generally, in the absence of urgency, the motion of the consideration of the message should not be put down till Honourable members have had an opportunity of considering the bill. I have been further asked as to what is nature of the speech that should be made on that motion.

That of course, is a matter primarily for the consideration of the mover but, as I have been asked my opinion, I will state it in this form, that, speaking generally, it should be much the speech that would be made on the introduction of the bill in the
originating chamber. We are now faced with the position that the Assembly had given a directive negative to a recommendation of this chamber, and the Honourable the Home member asked me to state my opinion as to the courses available. We are still new to the rules and therefore, I propose to do so. It is clear that the course contemplated by rules 36 and 39 of the Indian legislative rules is not open, for this is not a case of the amendment of a bill. On the other hand this Council had, of course, full session of the bill and it is open to the Hon'ble member in charge subject to the rules as to notice, to make any other motion in regard to the bill that he could have made after introduction. I shall have to rule, I think, that he will not be entitled to repeat in this session, the motion for a reference to a joint committee, for standing order 30 stands in his way. It runs as follows:

"A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session."

Even if I came to another conclusion, I think it would have to be so ruled in another place. Rule 40 contemplates conferences by agreement by both chambers to discuss a difference of opinion; but even if the prohibition of identical motions in the same session did not operate as a bar to any practical result during this session, I can find no parliamentary precedent for a conference on a matter of procedure of this kind when alternative action in this council is available.

The sum and substance of my remarks come to this that, even if the Hon'ble member moves and this house were willing in all the circumstances of the case to consider the question of a fresh motion for a reference to a Joint Committee, that motion cannot be made in the session..."

(pp. 347-349, Council of State debates, Vol. I)
The President of the Council of State Hon'ble Mr. Alexander Philips Huddiman gave an important ruling on this occasion. He said that then remarks were an extremely dangerous precedent if the harmony was to be maintained between the two chambers. It was neither desirable nor proper that the action taken or the words spoken in the other assembly should be discussed save in so far as they come before the Council for review. He humorously added, "On the present occasion, the Hon'ble member is speaking words of honey. In the future he might use words of vinegar."

(p. 580, Vol. I., Council of State Debates, 1921.)

Reference to matter in the discussion of a resolution which is substantially the same as what had already been discussed in another resolution.

"We should not rediscuss what we have already discussed!"

(pp. 454-455 Ibid.)

He the procedure for answering questions in the absence of a member the President said that where a member who has put down a question on the question paper is absent when the question is called, the proper course is for the answer to be sent to the member and printed in the proceedings of the day, unless the member of the Government desired to exercise his right under standing order 18.

(p. 213 Ibid.)
DIVISION OF THE COUNCIL.
(1 Session)

The Council divided on as many as 9 times during the first session.

1) The first occasion was after the debate on the resolution by a non-official Hon'ble Lala Sukhbir Sinha recommending to every Provincial Government the desirability of having an Ayurvedic and Tibbi Medical College in their province, taking measures to develop Indian drugs and appointing Wāidyas and Hakims in every dispensary.

The debate was interesting and eloquent speeches were made in support of efficacy of indigenous system of medical treatment. Ultimately the resolution was however lost, 11 voting for and 32 against. It was unfortunate that many members took the view that there was nothing scientific in these two systems of medicine and took a negative attitude.

2) The Second and third occasions were in connection with Government resolutions, one about the creation of employment agencies in India in pursuance of the draft convention adopted by the I.L.O. of the League of Nations and the other was about fixing minimum age of admission children in Industrial employment. In both cases amendments were suggested and however they were negatived and the resolutions carried. On the former resolution the Council divided twice once on the amendment and later on the resolution itself. The amendment suggested was that employment agencies could be established only after preliminary investigation as to their necessity and the same was not accepted by the House.
which decided that the Governor General might make such investigation as he thought fit re unemployment in India. In the second instance also the division was on the amendment suggested by Sir Alexander Murray that the age limit proposed in the resolution must be lowered from 12 to 11 in view of the indigenous conditions in the country. The arguments on both sides were quite interesting and well informed but the House ultimately rejected the amendment. The division list (13 for the amendment and 24 against it) indicated that the majority of members were against children below 12 (and even 14 as suggested by some members) being employed in factories in view of the exhausting conditions in factories.

It is interesting to note that in the stand taken by the different members they were fully alive to the dignity and individuality of the House they belonged and would not like the idea of the Second chamber becoming a secondary chamber by merely toeing the line of the Assembly. The Assembly had earlier approved of the 12 years age minimum suggested in the resolution. Those who were jealous of the rights and privileges of the Council like the Hon'ble Diwan Bahadur Ramabhadra Naidu, said "It will be retrograde step for us to go behind the decision arrived at by the Legislative Assembly to fix the age at 11." (Council of States Debates, Vol. I p. 188). Those who wanted the age to be lowered to 11 insisted that they should not be influenced by what had been decided in the Assembly. Sir Alexander Murray who made an eloquent plea for the 11 years age limit, asserted that 'they (the Council of State) should not be influenced by what happened in another place (legislative assembly) on Saturday and posed the
question whether the Council of State was not a Senate whose functions will be to exercise a revising but not an over-riding influence, for caution and moderation and to review and adjust the acts of the larger chamber?'. (Council of State Debates, Vol. I, Page 183.)

The Council proved to be a stable institution in that it was not swept off its feet by certain emotional speeches made and hasty attempts on the part of certain members. Earlier the Government member had drawn the attention of the House to the fact that the world was watching the conduct of the House eagerly and any wrong step taken by the body in this respect might contribute to the infamy of the institution. In his memorable words the Hon'ble Mr. A.C. Chatterjee had said "We have just entered upon a new constitutional era in this country. The eyes of the world, of the democracies of every country in the world are at the moment on us. Our decisions on the resolutions that is now before the Council are eagerly awaited and will be carefully scanned as soon as the cables convey the news. I am confident that the Council has a full sense of its responsibility for the good name, the dignity of India in international counsels. We do not want to be considered a backward nation always and for ever.

3) The Council again divided on a resolution of a private member recommending that the power of issuing licenses for the export of rice from India to Ceylon and Straits settlements should be kept in the hands of local governments instead of being surrendered to foreign governments only 11 voted for the resolution while 26 voted against it.
4) A fifth time the council divided in the resolution of Hon'ble Lala Sukhbir Sinha recommending the prohibition of the slaughter of cows in India for food except for sacrifice on Bakrid and for the appointment of an all-india Commission that may inquire and report on the measures which should be taken to improve the breed of milch and agricultural cattle. Both the parts of the resolution were negated and the Council divided 15 for and 27 against the resolution.

5) The Council once again divided and this time twice on two parts of the resolution by Hon'ble Mr. V. Srinivasa Sastry re amendment of certain enactments in regard to use of fire-arms. The resolution consisted of 8 parts, 6 clauses out of the 8 were negated in consequence of the opposition of the Government. The Council divided on the third and seventh parts, 15 and 12 voting for and 26 and 23 voting against respectively.

6) The Council was divided on an amendment submitted to the finance Bill, 13 voting for and 21 against.

7) The last occasion the Council divided during the first session of the first Council of State was on a resolution moved by Hon'ble Lala Sukhbir Sinha recommending that all magistrates may be exempted from the operation of the prohibitions and restrictions contained in the Indian Arms Act, 1878. 16 voted for and 14 against the resolution.
CONFLICTS BETWEEN THE TWO HOUSES.

Practically there was no occasion for a conflict between the two Houses during the Session.
REFERENCES TO THE OTHER HOUSE.

(1st SESSION)

The Council of State often referred to the Assembly during its discussion of various matters.

1) A first reference was made by the Council of State to the Legislative Assembly when during the discussion of the resolution on the repeal of certain repressive laws, Hon'ble Mr. K.V. Rangaswamy Ayyangar referred to the fact that in the legislative assembly a member (Hon'ble Mr. Seshagiri Ayyar, M.I.A.,) had given notice of bill on a similar matter and added that the Government should have brought up that motion actually before the resolution under consideration of the Council of State was taken up. The President of the Council of course, immediately ruled that no reference should be made to matters that were going on in the other chamber. (Council of State debates, Vol. I. 1921 page 68)

2) Reference to the Legislative Assembly was made for a second time during the debate on a resolution of the Government fixing the age limit of the factory-going children at 12 years. The Assembly had agreed to the recommendation of the Government fixing the age limit at 12 years but an amendment was moved in the Council of State for its reduction to 11 years of age. Sir Alexander Murray pleading for the acceptance of his amendment exhorted to the House not to be influenced by what had happened in the other house. (Council of State Debates.1921, Vol.I. p.183)

3) On another occasion, Hon'ble Mr. E.M. Cook speaking on the resolution of Hon'ble Mr. Kale urging an immediate enquiry into the Exchange situation and a modification of the currency
system so as to place it on a gold standard basis, said that there was no need for intervention of the State in a matter of that sort. In support of his view, he quoted the legislative assembly and said, "There is in the other House a representative of the Piece-Goods Dealers' Association in India and an expert on these questions. I refer to Mr. Man Mohan Das Ramji and I remember the other day, during the debate on the Budget, he repudiated most emphatically any idea that Government should appoint a committee to intervene in that way........."

The Hon'ble President of the Council immediately pulled up the speaker and warned him of the fact that reference to a debate which took place in the other House during the present session was undesirable as such a practice would lead to inharmonious relations between the two Houses.


4) Hon'ble Sir Maneckji Dadabhoy was speaking on the Finance Bill and incidentally ventured to pay a tribute of admiration to the legislative assembly "for the conscientious and masterly manner in which the difficult bill had been settled by them and sent to the Council." The Hon'ble President however remarked that the remarks of the kind were an extremely dangerous precedent if harmony was to be maintained between the Chambers and added humorously that on that occasion the member was speaking words of honey and probably in future he might use words of vinegar and as such it was neither desirable nor proper that the action taken by or words spoken in the other assembly should be discussed save in so far they came before the council for review.
QUALITY OF DEBATES.

LEARNED DISCUSSIONS:

There was also a sense of humour in the debates of the elder Statesmen.

On one occasion while discussing a resolution the establishment of an Ayurvedic College, a member of the Council of State, Sir Umar Hayat Khan began his speech thus:

"I will begin with persian poetry, which, if translated runs as follows:--

The Angel of Death went to God. He said, "Either tell me to do something else or tell the Hakim to do some other job, because whenever I go to take the life of a man, I find that the Hakim has killed him before I reach."

The Hakim was asked 'Have you ever treated a man?' He said, "Well, go and see the graveyards," all these new additions are mine."

(Page 126. Ibid.)
Only two Adjournment Motions were brought forward during the first session of the Council of State.

(1) The adjournment motion on the first occasion sought to draw the attention of the Government to the closing of the shops in Delhi on the occasion of the opening of the Indian Legislature and the necessity of steps being taken to appease popular dissatisfaction of which such manifestations are a symptom. Leave was refused for the discussion of the motion as it did not have the support of the House.

(2) On a Second occasion another adjournment motion sponsored by Hon'ble Mr. Bhurgti called the attention of the Government to the statements in the public press that representatives of Muhammadan opinion were being sent to London almost immediately to represent the views of that community to the British Government in a matter of vital importance.

The President of the Council of State after ascertaining the will of the House granted leave for the discussion of the motion. The motion, however, was withdrawn, after the Hon'ble Home member explained the attitude of the Government of India on the matter.
ATTITUDE OF THE HOUSE IN CONTROVERSIAL ISSUES

NATURE OF THE COUNCIL OF STATE:

The view that a Second chamber must always be cautious and restrained in its acts was often stressed by the members themselves.

On the occasion of a discussion on a resolution of the Government fixing the minimum age of employment of children in factories and industrial organisations, as 12 years, an amendment was moved in the Council trying to effect the reduction of the age-limit to 11, while already the Assembly had agreed to 12 years limit. Hon'ble Mr. E.S. Llyod supporting the amendment said that the attitude of the House in such matters should be one of considerable caution. "I do not say that we should be reactionary or ultra conservative. But I presume we are a somewhat conservative House. I do not say that we should resist new proposals simply because they are new but I think we should......be satisfied that the advance suggested for our acceptance is either imperatively urgent, or important......but also that there is a real effective demand for the change proposed from amongst those directly concerned."

Another member Sir Alexander Murray said:-

During the discussion on the same resolution he suggested that the house should not be influenced by what happened in the other house and posed the question whether the Council of State was not in the words of His Royal Highness, a Senate whose functions would be exercising a revising but not an over-riding influence, for caution and moderation and to review and adjust the acts of the larger chamber.
"The deliberations of both Houses had none of that unreality which too often characterised the proceedings of the Old Imperial legislative Council with its solid official majority. The elected representatives preponderating effectively were brought face to face with responsibility, since the results of the debates depended primarily upon themselves. Under the wise guidance of their Presidents both Houses proceeded to formulate for themselves good traditions of Parliamentary procedure. The conduct of members was marked by a commendable sobriety. While the utmost freedom of speech was exercised as their unquestioned right, members soon came to favour wise, informed, pointed contributions to the solution of questions at issue, manifesting a steadily increasing impatience of the banal, the verbose and the offender against the canons of good taste. When all allowances are made for inexperience and for the imperfect appreciation of powers wielded for the first time it is impossible to escape the conclusion that India's new Parliament passed through the ordeal of the I st Session with very remarkable success.

**ITS WORK:** Of this the best demonstration was the extent and the solidarity of the work accomplished which depended for its completion upon that harmonious co-operation between officials and non-officials.

*(From India 1921-22. pp.51,52.)*
Any doubts as to the powers of the Council to discuss the budget were sought to be set at rest by Mr. Kale who moved to amend Standing order 70 so as to enable that body to, discuss the general features of the budget and proposed that the question be referred to a select committee. The Council was generally in favour of the proposal and it was carried, the Government members abstaining from voting. Later, as recommended by the Select committee, an amendment of the Standing order enabling the Council to discuss the general principles of the budget was accepted.

(Page XIII of India's Parliament Vol. II.)
The work during the Simla session in September 1921 was quite comparable in importance with that which had already been performed in Delhi. The number of questions received in the Council of State showed a slight decline standing at 266 as against 273 for the Delhi Session: while the number actually replied for was 203 as against 233. The number of resolutions of which notice received was exactly the same as had been the case at Delhi. But the number actually moved fell from 36 to 22. No bill was introduced into the Council by any non-official member, but (Figures given in official record--7. But actually 7 bills were considered and passed during the session.) bills put forward by Government were passed by the Council without amendment or reference to Select Committee.

Amongst the most interesting of the resolutions moved during the Simla session in the Council of State were those inviting the co-operation of the Legislative Assembly in drafting an address of welcome to H.R.H. the Prince of Wales and moving a resolution of welcome to H.E. Lord Reading. Certain questions of considerably constitutional importance were also discussed in resolutions. Among them may be mentioned a recommendation by Sri Maneckji Dadabhoy that the Council of State be authorised to receive from the public petitions relating to public wrongs, grievances or disabilities and a proposal by the Hon'ble Sayyid Raza Ali recommending the removal of the highly centralized administrative system in India under which many classes of officials have great powers. The first was withdrawn on the offer of the
Government to appoint a committee to examine the constitutional position; while the second was rejected. Economic matters continued to receive a large share of attention of Council of State. A resolution of the Hon'ble Lala Sukhbir Sinha recommending the stoppage of export of wheat or flour till the next harvest was carried. A resolution on the standardisation of weights and measures throughout India was adopted in a modified form. A resolution calling on Government to declare its policy to exercise, in concert with the Indian Legislature, the fiscal powers conferred upon it was withdrawn when the Secretary in the Commerce department pointed out that the Government had every intention of exercising its powers in the matter to the full. Overseas questions also occupied a considerable proportion of the Council's time. A resolution recommending that the administration of Aden should be continued under GOI and should not be transferred to the Colonial office was discussed at some length and eventually adopted by the Council. Another resolution recommending that steps be taken to secure equality of status for Indians in South Africa proved similarly acceptable.

CONCLUSION: On the whole it may be said that the record of the work of the Council of the State during the year 1921 has been of a high quality. The time spent in debating resolutions has been great, but the positive achievements in the way of legislation and of adjustment in views between the Legislature and the Executive constitute a harvest of no mean or negligible proportions.
II SESSION OF THE COUNCIL OF STATE.

BILLS CONSIDERED DURING THE IIInd SESSION.

Official Bills . . . . . 10 (3 original bills and 7 referred from the lower House)

Non-Official bills . . . . Nil.

ORIGINAL:

1) Cattle Trespass (Amendment) Bill:—

The bill was of a considerable practical value. It intended to enable the Local Government to increase the fine on impounded cattle and work the Act more satisfactorily. The bill was passed.

2) Code of Criminal Procedure (Amendment) Bill:—

It was a bill to provide that, when fire-arms were used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given. This bill was the result of a motion moved by the Right Honourable Srinivasa Sastry in the previous session of the Council. The bill was passed.

3) Code of Criminal Procedure (Amendment) Bill:—

This was a bill to further amend the Code of Criminal Procedure 1898 by providing for the issue by Courts in British India of commissions for the examination of witnesses to such courts of Princes and Chiefs in India as may be notified in that behalf and for the execution of commissions issued by such courts. The bill was passed.

REFERRED FROM THE ASSEMBLY:

The following bills sent up from the lower House were passed by the Council of State without any changes.

1. Indian Marine (Amendment) Bill.

2. Indian Works of Defence (Amendment) Bill.
3. Negotiable Instruments (Amendment) Bill.
4. Carriers (Amendment) Bill.
5. Indian Lac Cess Bill.
6. Indian Post Office (Amendment) Bill.
7. Indian Penal Code (Amendment) Bill.
II SESSION OF THE COUNCIL OF STATE.

(From 1st September 1921—29th September 1921.)

Total number of days: 13 days

<table>
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<tr>
<th>RESOLUTIONS:</th>
<th>Total number Considered by the House during the Session</th>
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<td>Resolutions adopted</td>
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<td>Resolutions negated</td>
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<td>Resolutions Withdrawn</td>
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RESOLUTIONS PASSED BY THE HOUSE:

1. Resolution re Address of Welcome to H.R.H. The Prince of Wales.
2. Re Welcome to Lord Reading on His assumption of office as Viceroy and Governor-General.
3. Re Cecil Rhodes Scholarship.
4. Requesting Stoppage of export of wheat out of India.
5. Re Report of Sugar Committee.
6. Re Equality of Status for Indians in East Africa.
7. Re Uniform system of weights and measures.
9. Re Appointment of Indians to posts of Secretary, Joint Secretary etc. in important departments of Government of India.
12. Re Limitation of Hours of work in fishing industries.
15. Re Minimum age of children for employment at Sea.
16. Re Indemnity in case of loss or foundering of Ships.
17. Re facilities for finding employment for Seamen.
II SESSION OF THE COUNCIL OF STATE.

RESOLUTIONS WITHDRAWN:

1. Resolution re Religious and moral Education in all aided and Government Schools and Colleges.

2. Resolution authorising the Council of State to receive from the Public petitions on all wrongs done and inquire into their grievances.


* * * * *

RESOLUTION NEGATIVED:

1. Resolution re removal of Centralized system of Administration.

* * * * *
12 rulings were given by the President of the Council of State during the second session. Some of them were very important and related to matters of rules of procedure and constituted a great contribution of the House for the future institutions to be followed.

(p. 122 Council of Debates, Vol. II. 1921)

1) At the time for moving for an adjournment of the Council, the President said that if any member wanted to move for adjournment under rule 11, he should move at the earliest opportunity. He added that the power to move for an adjournment under rule 11 was not a substituted power for the power to bring in a Resolution. It was a power which enabled a member of the Council to bring in a matter of urgent public importance. This was very useful as many members did not understand the correct procedure in the matter.

2) On another important occasion, the President ruled that a motion for adjournment was not to anticipate a matter previously appointed for consideration. While reiterating the ruling given on a previous occasion that the right to move an adjournment motion under rule 11 was not a substitute for procedure by Resolution, the President said that a member could not obtain priority over another member who had given notice for adjournment and added, still less could he not obtain priority over himself. The right to move an adjournment was, by rule 12, subject to five restrictions and restriction (iv) which was relevant for the occasion read that "the motion must not anticipate a matter which has been
previously appointed for consideration, or with reference to which a notice of motion has been previously given."

That was what was called the rule against anticipation and it was common-sense rule, as the President said, for, if there was no rule of that kind the House might discuss somewhat infructuously on a motion for adjournment a matter which they would subsequently rediscuss which they would subsequently rediscuss on a formal motion. A motion for adjournment ought to be restricted to a definite urgent matter of public interest, when it was desirable that the Government should have an opportunity of making its position clear.

(Vide p. 186. Council of State debates, Vol. II. 1921)

3) The undesirability of alluding to officers by name in the course of debate was also pointed out on one occasion.

(Ibid. 394)

4) An interesting doubt arose when a member enquired as to whether in the event of a resolution of a general character being brought before the Council and the Council giving assent to that resolution and if subsequently a bill was introduced giving effect to that resolution, whether any member would be debarred from his normal rights. The President explained that in such a case the position would not be different and every Honourable member retains the right he retains in regard to all other bills that were introduced.  

(Ibid. 463.)
During the Second Session of the Council of State 1921, the two adjournment motions were submitted to discuss matters of immediate importance.

(1) The first occasion was when the Hon'ble Sir Maneckji Dadabhoy moved a motion for the 'adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance, namely, the State of affairs in Malabar and the details of the Koplah outbreak.' The matter was debated at length but however, the motion was at last withdrawn as the member was satisfied with the explanations which were given by the Home member.

(p. 110 - Council of State Debates. Vol. II. 1921)

(2) Another motion was given notice of on 19th September 1921 by the same member 'to discuss a definite matter of urgent public importance, namely, the arrest of the Ali brothers and others and the policy of the Government in the matter of political arrests of this nature.' Permission was refused for discussing the same as the matter was pending before a Court of Law.

(p. 248. Ibid)
During this session reference was made only to the other house in a resolution proposed to be moved by Sir Maneckji Dadabhoy, but the President ruled out of order any reference to the Legislative Assembly and added that the assembly were a body perfectly competent to make their own demands felt and that it would be constitutionally wrong for the Council of State to endeavour to speak in their name.

II SESSION OF THE COUNCIL OF STATE.

PRIVILEGES OF THE HOUSE:

Members were anxious to protect and safeguard the interests and privileges of the body.

During a debate on the Code of Criminal Procedure (Amendment) Bill, the Honourable Sir Maneckji Dadabhoy asserted that "the Council will always" most jealously watch its privileges, and would not allow or suffer to be done anything which would be incompatible with its dignity.

(p. 143, Council of State Debates, Vol. II. 1921)
II SESSION OF THE COUNCIL OF STATE.

CONFLICTS BETWEEN THE TWO HOUSES:

There was no disagreement or conflict between the two Houses during this Session.

DIVISIONS:

The House divided only once during this session on a resolution moved by Hon'ble Lala Sukhbi Sinha re stoppage of Export of Wheat out of India. 20 voted for and 11 against the motion.

(p. 238. Council of State Debates, Vol. II. 1921)
II SESSION OF THE COUNCIL OF STATE.

GOVERNOR-GENERAL'S CERTIFICATION OF A BILL.

Assembly's refusal and Governor-General's Certification.

The Assembly refused to allow the introduction of a measure to which the Government attached great importance—The Indian States (Protection against Disaffection) Bill. Consequently the Governor-General in Council certified that the Bill was essential for the interests of British India and a constitutional issue of some importance was thus resolved.

* * * * *

INCREASED SALT DUTY: Agreed to by the Council of State but refused by the Assembly. Later certified by the Governor-General.

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III SESSION OF THE COUNCIL OF STATE.

The III session of the Council of State commenced on 17th January 1922.

Mutual good-will and fellowship which had characterised the relations between the members, official and non-official, ever since the inauguration of the new Legislature continued to be the dominating note of this session. And it was a happy augury that the proceedings began in an atmosphere of friendliness. Both Houses extended their cordial congratulations to their respective Presidents on whom His Majesty the King has been pleased to confer the honour of Knighthood—an honour appreciated not only as a fitting recognition of the manner in which Sir Alexander Muddiman and Sir Frederick Whyte had helped in the development of the Reforms, but also as a manifestation of the great interest and sympathy His Majesty felt in the new constitution. Ample testimony was borne to this feeling and to India's attachment to the British throne in both Houses in the speeches that were made when they came to adopt the joint address of welcome to His Royal Highness the Prince of Wales on the occasion of his visit to the imperial capital.

It was the same spirit which inspired a resolution unanimously carried in the Council of State, conveying to Her Royal Highness Princess Mary their congratulations on the occasion of her marriage and their heart felt desire for her future happiness.
At the commencement of the Budget session of the year 1922 current topics excited a large share of the attention of both Houses of Legislature and occupied a proportionate amount of time. There was a motion in the Council of State for the introduction of the constitutional practice of voting an address of the "Speech from the Throne", that is to say, after the Viceroy's speech at the opening of each Session of the Indian legislature. The Government members pointed out that the Viceroy's speech was a statutory right. It expressed his personal views and was made largely on his individual responsibility. Hence, they urged, it would be neither fair nor proper for members of Government to be called upon to defend such a speech on the floor of the House. The resolution was lost.

Yet another right which the elected members sought to secure for the Legislature was that of choosing India's representatives to the Imperial and other such conference Government, however, pointed out that there was no precedent for any country sending a representatives elected by its Parliament to a Conference where various powers entered into negotiations and resolutions in these terms were lost both in the Council of State and the Legislative Assembly. Financial matters naturally attracted great attention in the course of the Session. Resolutions were moved in both Houses, dealing with the question of Currency and Exchange with Reverse Councils and with the contributions from the province to the Central Government. In both Houses also much stress was laid upon the necessity for retrenchment: and largely, as a result of some forceful expression of the non-official view the Government
announced later in the Session that a Retrenchment Committee was to be appointed.

Great weight was attached by non-official members of the Legislature to the increasing association of Indians in the administration. Resolutions were carried for the appointment of Standing Committees in connection with various departments of Government to enable non-officials to familiarise themselves with the working of the administrative machine. Several resolutions were also moved on the position of the Indians in the Services: On the recruitment of Indians for the Royal Marine: On the training of Indians abroad in technical subjects: on the increased appointment of Indians to Railways and Port Trusts: and to the posts in the Foreign and Political department.

The Legislature displayed itself intensely interested in the encouragement of Railways. The position of Indians abroad excited great anxiety and in the debate raised upon the position of the Indians in East Africa, strong protests were voiced at the disadvantages under which in Indian nationals suffered in this part of the Empire.

LEGISLATION: - A bill consolidating the law relating to Income-Tax and Super-Tax was passed by the Assembly after a disagreement between the Assembly and the Council of State that resulted in a compromise.

ECONOMIC MATTERS: - Considerable share of the attention of the House was devoted to economic subjects.
III SESSION OF THE COUNCIL OF STATE

WORK OF THE HOUSE:

Resolutions: The resolutions which came up in the Council of State covered a very wide field indeed. The most important of these naturally dealt with the political situation. A comparatively full House and crowded galleries listened to the debate on the Repressive policy of the Government. Those who demanded the abandonment of the policy based their plea on the ground that repression would lead nowhere. It had, according to them, only aggravated the evil, and if persisted in, would precipitate disaster. Non-cooperation they contended, was only a symptom and not a disease and the fact that the country had taken to it must be seriously faced. The causes that fed the movement should be examined at a conference and a solution should if possible, be found. Mr. Gandhi, they added, was agreeable to a conference and it would be a sad mistake to ignore him. What they wanted was not only law and order, but peace, happiness and contentment.

The Council of State discussed for more than four hours and eventually threw out, by 23 votes to 10. Mr. Sethna's motion for an informal general sitting on what lines a Round Table Conference should be held to consider the political situation. Two amendments were moved, one by Mr. Khaparde, confining the conference to the members of both Houses and the other by Lala Sukhbir Singh urging that instead of the conference demanded in the resolution, a Round Table Conference should be held consisting of representatives of all shades of opinion, both Indian and European, including members of the Indian Legislature. The resolution and the amendment were opposed on behalf of the Government by the Hon'ble Mian Sir Muhammad Shafi and Mr. O'Donnell on the ground that it was impracticable and useless to have any
conference with Mr. Gandhi or his followers so long as they did not suspend their non-cooperation activities including the enlistment of volunteers and so long as they put forward as a preliminary to holding a conference conditions which were impossible of acceptance and humiliating to the Government. Messrs Bhurgri and Raza Ali criticized the Government policy and observed that Mr. Gandhi was a cooperator at heart and was very anxious for a conference, by agreeing to which the Government would have everything to gain and nothing to lose. They pointed out the enormous influence of Gandhi over a large portion of the population and warned the Government against the grave responsibility of refusing to take the golden opportunity for a Round Table Conference the door for which was kept open not by Lord Reading but also by Mr. Gandhi. Mr. Khaparde objected to the inclusion of the extremists and the non-cooperators who did not recognize the council and who desired its extinction unless their demands were conceded. Sir Alexander Murray and Sir Arthur Froom strongly opposed the motion opinioning that the attitude of Mr. Gandhi and his followers clearly indicated that a conference with him would serve no useful purpose.

.....

In the Council of State Mr. Khaparde moved for the introduction of the constitutional practice of voting an address after the speech from the Throne, i.e., after the Viceroy's speech in opening the session of the Indian Legislature. Sir Arthur Froom, by way of amendment, demanded a general discussion on the topics raised by the Governor-General's speech in so far as these topics were open to discussion by the council. The Home Member in opposing the resolution showed how the position of the two Houses of Indian
Legislature was different from that of Parliament which had unfettered powers and he characterised as false the analogy on which it had been sought to argue that in his power to address the two Houses the Viceroy occupied the position of the representative of His Majesty. For the purpose of the King's speech His Majesty was really only a figure head representing His Majesty's Government and any reply to that speech did not affect His Majesty but His Majesty's Government. In India the position was different and the Government vested in the Governor-General-in-Council. The Governor-General had two functions, one arising out of his position as the head of that body, the other out of his position as representative of His Majesty by virtue of which he exercised certain statutory right which fell in the latter category: it expresses his personal views and was delivered on his individual responsibility. In placing these views before the Indian Legislature the Viceroy performed a duty the responsibility for which he could not share with the Executive Government. In these circumstances, Sir William claimed that it would not be fair or proper that the members of the Government should be called upon to defend the Viceroy's speech on the floor of the House. No member could be called upon to defend his speech, if attacked and the Viceroy himself could not come to the House for the purpose. If the motion were accepted the result would be that it would render His Majesty's representative open to censure and criticism in a forum where he could not defend himself and this could never have been the intention of the Statute. Indeed, Sir William observed, that the standing order 65 prohibited any personal reflection on the Viceroy. Moreover, though the resolution under discussion touched only one...
of the Viceroy's many statutory functions, if it was accepted, it would lead to other efforts which would seek to fetter his discretion to influence him and to control his authority in regard to other matters which had been placed not under the Government of India but under his sole control. The resolution sought to interfere with the exercise by His Excellency personally of a statutory power with which the Government of India, the Legislature and not even the Secretary of State or Parliament could interfere except by exercising a right which was always vested in His Majesty's Government. Sir William next criticized, the amendment and showed how the "general discussion" it proposed was not free from the objections he had urged against Mr. Khaparde's motion. He added that Sir Arthur Froom's object could be secured by a debate on the resolution properly framed on all subjects mentioned in His excellency's speech which were open to discussion. Eventually both the resolution and the amendment were lost by a majority.

ELECTION OF INDIA'S REPRESENTATIVES:

Yet another right which it was sought to secure for the legislature was the one enabling it to elect India's representatives to the Imperial and other international conferences. Mr. Sethna moved in the Council of State that the representative for India for the forthcoming Genoa Conference should be elected by the Indian legislature and be given definite instructions and such election be approved by Government. He said that though Government nominations in the past had satisfied the great majority in the country it did not follow that in the future they would always be so satisfactory. Mr. O. Donnell in opposing the motion pointed out that there was no precedent of any country sending a
representative elected by its Parliament to a conference where various powers entered into negotiations. The carrying on of these negotiations was essentially the task of the Executive in India the responsibility to the Legislature had not yet been extended in the Central Government. It would be anomalous, Mr. O'Donnell contended, that the legislature should seek to give instructions to the representatives on matters affecting the relations of His Majesty's Government with other States because these were at present excluded from the purview of discussion. Mr. O'Donnell assured the House that Government would always select men of integrity and capacity in whom the Legislature had confidence. The resolution was lost.

TREATY OBLIGATIONS:

Sir Maneckji moved a resolution in the Council of State that the Legislature should have the opportunity of pronouncing on any treaty arrangements involving fiscal obligations and international trade relations. Mr. Lindsay in opposing the resolution, pointed out that such discussions of treaty proposals before ratification was not allowed by the British Government or by any of the Dominion Governments. It was purely a matter for the Executive Council, though it was open after ratification, within the statutory period, for the Legislature to pass criticism on the action of the Government. Mr. Lindsay undertook in future to place on the table copies of treaty arrangements. The resolution was then withdrawn.

CURRENCY AND EXCHANGE:

The economic and financial policy of the country also
received a great deal of attention from the Council of State. Mr. Lalubhai Samaldas moved a resolution recommending to the Governor-General-in-Council to convey to the Secretary of State in Council the opinion that the conversion rates offered for the last 7 per cent. Sterling loans were unnecessary and that they had needlessly increased the permanent debt of this country: that in all future loan issues the Secretary of State should consult and act on the advice and recommendations of the Government of India: and that all such issues should be simultaneously offered for subscription in this country on the same terms. Mr. Cook deprecated the attempt at passing a resolution which in effect meant a vote of censure when there ought to have been a vote of appreciation for the Secretary of State having raised India's credit by the success of the Loan. The resolution was carried by 14 votes to 13.
While making suggestions in connection with the finances of the country the legislature was not slow to recommend active steps with a view to making retrenchments and securing economy in the National Expenditure. Mr. Kale moved a resolution in the Council of State for the appointment of a committee consisting of members of the two Houses to explore all possibilities of retrenchment and economy in the national expenditure and to make concrete proposals. The discussion lasted three hours and eight non-official members supported the resolution pointing out that it was an offer of genuine assistance to the Finance department in an extremely difficult period of stringency which it was passing and the object was to infuse confidence in the country that there was no culpable wastage. Mr. Cook announced that the Viceroy, had for some time past, had this subject under consideration and had decided to issue an order calling on all departments to point out the directions in which retrenchment could be effected and making it clear that it was the intention of the Government to effect retrenchment in every possible direction excepting where it could be shown that a really vital service would be hampered thereby or that there would be consequent loss of revenue. An experienced Finance officer, Mr. Cook stated, would simultaneously and independently review the organisation of the various departments in order to report where there was a PRIMA FACIE case for retrenchment. Mr. Kale was not satisfied with this announcement and pressed for a committee. The motion was lost by 19 votes to 13.

Both out of regard for economy and for the purpose of giving Indians greater opportunities of serving their own country,
the Legislature naturally attached considerable weight to the increasing association of Indians in the administration.

**RECRUITMENT TO THE SERVICE:** Several non-official members maintained that if the principle of Indianisation of Services was carried into effect it would allay the discontent among the educated classes, reduce the heavy cost of the administration, check the drain of experienced administrators which then resulted from the retirement of British Officers and prevent the money, these officers took with them from going out of the country.

**INDIAN MARINE:** Sir Sivaswamy Ayyar moved a resolution for the recruitment of Indians in the Indian Marine. Mr. Neogy moved an amendment which was opposed by the Government asking for an assurance that Indian apprentices would be entertained for training in ships by the shipping firms which enjoyed Government subsidy or other benefits. The resolution of Sir Sivaswamy Ayyar, as finally adopted recommended that a committee including experts and non-official Indians be appointed to consider what measures could be usefully taken for a liberal recruitment of Indians as Deck or Executive Officers and engineers in the Royal Indian Marine, for the establishment of a Nautical College in Indian waters for ensuing the entertainment of Indian apprentices for training in ships owned by shipping firms enjoying government subsidy or other benefits, for the creation of State scholarships in England pending the formation of National College in India, for the encouragement of ship-building and of the growth of the Indian Mercantile Marine by a system of bounties and subsidies on the lines of Japan, for the acquisition of training ships by gifts from the Imperial Government or otherwise and for the construction
of necessary dock-yards and engineering work shops in one or more ports. The Government view was that the whole scheme as contemplated in the resolution had their sympathy but it was a question of time and money.

* * * *

**INDIAN JUDGES:** Mr. Sethna moved a resolution recommending that the number of the Indian Judges in the High Courts and chief courts and also in the courts of judicial commissioners be increased to at least 50 percent, of the total number of such appointments. On Mr. O'Donnell undertaking to consult local governments and High Courts before the Government made any change in the existing procedure, the resolution was withdrawn.

**RAILWAYS:** Mr. Khale moved a resolution for the Indianization of the higher grades of services under state-managed railways and for devising means of securing the adoption of a similar policy by the companies managing State-Railways. This resolution was accepted on behalf of Government by Mr. Innes who promised to look into the matter himself with the aid of the Central Advisory Council.

**PORT TRUSTS:** Mr. Sethna moved another resolution for an increase in the number of Indians in the higher grades in the service of the port trust. Sir Arthur Froome opposed the motion on the ground that it would usurp the duties of the Trustees. Mr. Lindsay, on behalf of the Government, accepted the spirit of the resolution as it was in harmony with the avowed policy of increasing the number of Indians in the public services. He pointed out that the reform must come from within the Port Trust themselves. The Resolution was carried.
Nor did the Legislature restrict its efforts to obtaining greater facilities for Indians in the public services. It also devoted its attention to improving their position abroad. Regarding the treatment of the Indians in East Africa the Assembly had moved a resolution demanding equality of status to Indians in East Africa and also expressed indignation at Mr. Churchill's Speech. One member characterized the colonial Secretary's pronouncement as a reckless and irresponsible utterance which if endorsed by the British Cabinet would be regarded in history as an act of melancholy meanness. Speaker after speaker among the Indian members spoke in the same strain pointing out that Kenya was the acid test as to whether the talk about equal partnership was a camouflage of reality. The Council of State unanimously resolved to recommend to the Government to communicate to the Secretary of State the strong feeling of resentment aroused in the council and in the country generally by Mr. Churchill's speech.

RECI PROCAL LEGISLATION: Mr. Khaparde moved a resolution asking for reciprocal legislation in British India on the lines of colonial measures imposing disabilities on Indians. The resolution was later withdrawn on the advice of Mr. Sarma.

Industries also received handsome consideration in the Council of State. Mr. Lalubhai Samaldas moved for the appointment of a committee on the improvement of the ship-building industry. Mr. Lindsay in accepting this resolution on behalf of the Government pointed out that the financial difficulties might prevent them from immediately appointing the committee.

SEPARATE REVENUE AND EXPENDITURE ACCOUNT: Lala Ram Saran Das moved a resolution in the Council of State recommending that
in future separate revenue and expenditure accounts should be kept of the working of military and strategic railway lines. The resolution was carried.

Mr. Sethna moved a resolution urging that notices be given to the East Indian and the Great Indian Peninsula Railway Companies that on the expiry of their contracts in 1924 and 1925 respectively the same would not be renewed and that arrangements be taken in hand for the management of these railways directly by State after the expiry of the existing contracts. The resolution was withdrawn on the assurance of the Government to refer the matter to the Central Advisory Committee. In the survey of the railways and the suggestions for their improvement the Legislature displayed much anxiety on behalf of the Public.

**HUMAN BEINGS IN CATTLE TRUCKS OR GOODS WAGONS:**

Mr. Lalubhai Samaldas moved a Resolution which was carried, with a view to stopping as far as possible, the practice of Railways carrying human beings in cattle trucks or goods wagons.

**BUDGET DISCUSSION IN THE COUNCIL OF STATE:**

The Council of State took up the general discussion of the Budget on the 8th of March and concluded it the same day. Both the official and non-official speeches more or less reflected the views which had previously been expressed in the Legislative Assembly except for difference in the alternative proposals for taxation. Sir Maneckji Dadabhoy suggested a Corporation Tax in place of the duty on cotton, excise and machinery and Sir Edgar Holberton proposed to reduce the customs duty to 7½ percent and to impose a consumption tax as in Japan.
The Income-Tax and Super Tax Bill came up before the Council of State after being passed by the Legislative Assembly on the 23rd February, 1922 when on the motion of Sir Arthur Froom an important amendment was made to the effect that exemption of assessment in the case of Life Insurances should apply only to adults instead of to all members of a joint Hindu family. With this amendment and a few verbal changes the Bill was passed by the Council. The result was that it had to be sent back for reconsideration to the Legislative Assembly which rejected Sir Arthur Froom's amendment by 36 votes to 33. When the Bill came up again before the Council, Mr. Cook asked the House to agree to it pointing out that although the Government still thought that Sir Arthur Froom's amendment was reasonable, right and proper, expediency demanded that the council should agree to the decision of the Assembly because, after all, the question of exemption in the case of Life Assurance was not so important as to necessitate disagreement between the two Houses. The bill was thereupon passed in the form sent up by the Assembly. The decision of the Council helped to avoid a conflict between the two Houses.

**NOTE:** In this instance the Council of State yielded to the Legislative Assembly.
CONCLUSION: In this session the House achieved no mean record of work. The wide range of subjects discussed the interests taken in various questions, the tone of debates, the sense of responsibility which characterised them and the manner in which the Government and the non-official members took their triumphs and defeats, alike tend to justify the optimism of those who believed in the eventual success of the Parliamentary Government in India.

The fierce independence and grasp of the subject, as disclosed during the discussion of the Budget leave one in no doubt as to the influence the House was fast acquiring. With increasing experience in the working of the reforms and growing familiarity with various questions, political, financial and administrative the members in the Assembly as well as in the Council of State have also been acquiring mastery over Parliamentary tactics etc. which have gone to make parliamentary life in other countries a success.

There has been greater unanimity between non-official Europeans and Indians than was at one time anticipated, and a common basis has apparently been reached between the two where it had been proclaimed by the opponents of the Reforms that none was possible. The speed with which the committees appointed by the Two Houses of Legislature have made their reports and accelerated action on the part of the Government which has either already carried out in that direction has already belied what had come to be political creed with some people, viz, that when it was desired to shelve a question it was referred to a committee.
Statement showing the various stages reached during the Simla Session, 1922, by Bills which have not yet passed into Law.

IV SESSION OF I COUNCIL OF STATE.

OFFICIAL BILLS:

1. Bill further to amend the Code of Criminal Procedure, 1898 and the Court Fee Act, 1870.
   Passed by the Council of State. Motion for consideration in the Legislative Assembly deferred till Delhi Session.

2. Code of Criminal Procedure (Amendment) Bill (Chapter XI)
   Passed by the Council of State. Referred to the Select Committee by Legislative Assembly in January '22.

3. Indian Merchant Shipping Bill
   Passed by the Council of State. Taken into consideration by the Assembly but not finally passed.

NON-OFFICIAL BILL:

1. Registration of Chelas Bill
   Circulated for opinion.
IV Session of the Council of State.

The 1922 Simla Session of the Indian Legislature began on the 5th September.

PERSONS CONVICTED OF OFFENCES IN CONNECTION WITH POLITICAL MOVEMENTS:

As in previous sessions, resolutions played a very important part in the debates of the Simla session. A variety of subjects came up for discussion in the Council of State. Mr. Lalubhai Samaldas moved a resolution recommending to the Governor-General-in-Council that political prisoners who are not convicted of violence to person or of destruction of property or of incitement thereto should be treated as in England as first class misdemeanants. A lively debate followed in the course of which non-official members generally urged that preferential treatment be accorded to non-cooperating prisoners in order to turn them into good members of society rather than into permanent enemies of the Government. Mr. Hammond while agreeing on the need for special treatment, pointed out that there was no reciprocity on the part of the prisoners and he expressed the hope that nothing would be done to make Jail administration impossible. The Secretary in the Home department referred to the misrepresentations in regard to the treatment of persons convicted of offences in connection with political movements which had been sedulously circulated by the non-cooperators: and pointed out that it was far from being the case, as commonly supposed in India, that all such prisoners were in England treated as first class misdemeanants. He said it was impossible to accord special treatment to all prisoners convicted of such offences. Certain classes of offenders were
entitled to no consideration. Each case had to be considered on its merits and on the basis of suitable criteria.

After the debate lasted nearly two hours the resolution was withdrawn.

**BRITISH PREMIER'S SPEECH:**

Perhaps the most important debates of the session concerned the premier’s speech on the 7th September 1922. Mr. Kale moved in the Council of State the following resolution:—

"This council recommends to the Governor-General-in-Council that he may be pleased to convey to the Secretary of State for India and through him, to the Government of His Imperial Majesty an expression of the keen sense of apprehension and disappointment created in the public mind in India by the pronouncement of the Prime-Minister in the House of Commons, regarding the present situation and the political future of this country."

The non-official objection to the premier’s utterance was based on the outlook it exemplified and the spirit in which it was delivered. Non-Officials contended that though dyarchy might be an experiment, the reforms were not. Referring to Mr. Lloyd George’s observations regarding non-cooperators it was remarked that he might as well have threatened that he would not dissolve Parliament because there was a fear of the Labour Party and the Socialists coming into power. But what really perturbed Indian opinion, was the Prime Minister’s definition of the "Steel Frame" of the British civil service which, he said, must be maintained for all time to come with its existing rights, functions and privileges. It was argued that responsible government
and a civil service with autocratic functions could not exist. Every step towards responsible government would mean a corresponding reduction in the powers and the rights of the civil service. This was, it was urged, what India had all along demanded. But for the Prime Minister to state that India would remain under the perpetual rule of a nucleus of British officials was tantamount to denying India all title to future responsible government.

The resolution was however lost without being pressed to a division. A significant feature of the debate in the Upper House was the opposition with which the resolution met from non-official members like Sir Maneckji Dadabhoy, Sir Benode Mitter and Mr. G.S. Khararde, who, in an interesting speech poured ridicule on Mr. Kale’s motion.

**EXECUTIVE COUNCILLORS AND MINISTERS:**

Another resolution of no small political importance was moved in the Council of State by Mr. Sethna. He demanded that in view of the serious financial condition of India the number of executive councillors and ministers in the provinces should not exceed two. He urged that the reformed constitution had not entailed such an addition of work as to necessitate the appointment of as many as eight members in the Executive government of Bombay, Bengal and Madras and as many as six in Bihar and Orissa. It was contended that there was no justification for this top-heavy administration. An interesting debate followed in the course of which several non-official members urged the consideration of the case of each province on its own merits. Mr. Raza Ali opined that the proposal to reduce the number of
ministers was contrary to the spirit of the Reform Act and the principle of responsible government. The Home Secretary replied that the matter was already in correspondence with the local governments but however it was impossible for the Central Government to take any action as to do so would be in conflict with the principle, subjects, had been introduced by the Governments in provinces. The resolution was withdrawn.

SALEM OF SALT: Lala Rama Saran Das moved a resolution in the Council of State recommending that the system of monopolies given to government contractors in the districts of Punjab for the sale of salt, having proved injurious to the general public, should be abolished and that the old system for the sale of salt should be adopted. The resolution however was withdrawn after the Government explained the measures that they proposed to enforce to rectify the mistakes and improve the situation.

AGRICULTURAL CATTLE: Lala Sukhbir Sinha moved a resolution in the Council of State for the appointment of a Commission to report on the best means of improving the breed and the number of milch and agricultural cattle. Mr. Sarma in the course of a sympathetic reply pointed out that the Government had done everything they could in the desired direction and would continue to urge Local governments to exert themselves in the matter. The resolution was thereupon withdrawn.

REPORT OF THE RAILWAY COMMITTEE:

Sardar Jogendra Singh moved the recommendations of the Railway committee be given effect to and that the Railway Board be reconstituted provision being made for a strong Indian
representation upon it. Mr. Lindsay pointed out that Government attached highest regard to the recommendations of the Asworth Committee which had received very careful consideration ever since the report was published. However, he said, Government could not commit themselves to any definite view in the matter until the Inchcape Committee had reported.

**Colony Returned Indians:**

The interest of the Legislature in public welfare was, as on previous occasions, amply manifest. Sir Maneckji Dadabhoy proposed that measures be taken in consultation and co-operation with philanthropic and religious bodies for the re-admission into the society of colony-returned Indians and for the creation of settlements for those who were not admitted. Certain members objected to it on the ground that the Government should not interfere in religious and social matters and the problem must be left to the people themselves to be solved.

Mr. Sarma explained the attitude of the Government and the detailed measures the Government had taken to find employment for colony returned Indians and other arrangements designed to afford them relief. The Resolution was withdrawn.

**Postal Department:** Mr. Kale proposed that the revenue and expenditure accounts for postal combined offices in relation to telegraphic messages transmitted and those of the departmental Telegraph Officers be separately maintained and the profits be utilised for the improvement of the conditions of employees.

Mr. Sarma referred to the various enquiries held in the past and observed that the proposal would lead to additional expenditure. The motion was pressed to a division and lost by 21 votes to 9.
**POLICE (INCITEMENT TO DISAFFECTION) BILL:**

The bill came up before the Council of State on the 23rd September and was passed, with two important attempts which had been made in fulfilment of the promise Sir William Vincent had given in the Assembly. A few attempts were made in this House to amend the Bill, but they were defeated. It should be noticed that one member, Sir Maneckji Dadabhoy considered that the penalty proposed in the Bill was inadequate.

**I. INSTANCE OF CERTIFICATION OF A BILL**

**BY GOVERNOR-GENERAL.**

**INDIAN STATES (Protection against Disaffection) Bill.**

The Government measure which excited the greatest opposition was a Bill to prevent the dissemination, by means of books, newspapers and other documents, of matter calculated to bring into hatred or contempt, or to excite disaffection against, Princes or Chiefs of States in India or the governments or administrations established in such state. This Bill was at first introduced in the Assembly on 23rd September. Sir William Vincent remarked that the Press Act committee had not negatived the idea that such legislation might be necessary in future, but had only stated that adequate material had not been brought before the members to justify their recommending such legislation at the then junction. The Government of India as a whole had not asserted that view particularly in the light of recent circumstances. After referring to the relevant portion of H.E. the Viceroy's inaugural address earlier in the session he observed that the Government
had come to the conclusion that this legislation was necessary under the terms of the treaties and in accordance with royal pronouncement re the protection of the princes and the chiefs. "The Government of India are pledged to accord to the princes and States in India the full protection of their honour rank and dignity, and to maintain unimpaired their privileges and their rights". Another reason for this measure was that it had been found on examination to be necessary. There had been a number of cases in which protection of this character had been justly required and demanded. Then, there are States in which the preaching of disaffection against the Government in British India was penalized. "Can we," he enquired, in justice withhold from those states that protection against the preaching of disaffection against them in British India which they afford to us?" Further in any case, was it possible to allow Indian States to be centres of disaffection against the Government of India? "If the answer is in the negative ought we not, in all fairness and in all justice, to prevent British India from being a centre for movements of disaffection against them?" In defence of the measure Sir William further urged that he did not expect that the bill would stifle legitimate criticism, and that all possible safeguards in this respect had been inserted in the measure, which followed closely the proposal affirming that in his opinion no case had been made out for it. He based his opposition principally on the report of the press act Committee and he contended that there was no reason why Indian princes should not avail themselves of the ordinary provisions of the law.

"Introduce, if you like," he remarked, "a measure in this House which would give protection to the subjects as well as to the Indian princes; place such a measure before us, and we shall then be inclined to consider it, but a one-sided measure like
this in which you try to do nothing for the subjects of the Indian princes is one, I submit, which cannot be acceptable to this House".

By 45 votes to 41, leave to introduce the bill was refused in the Legislative Assembly.

On the 25th September a message was read from H.R. the Governor-General-in-Council of state announcing that he had, in exercise of the powers conferred by sub-section (1) of Section 67-B of the GOI Act, certified that the Bill was essential for the interests of British India and recommending that it be passed in the form in which it was presented. The constitutional aspect of the case was explained by Sir Alexander Muddiman, who pointed out that the certificate having been given by the Governor-General the Bill could without introduction, be taken into consideration and passed by the Council. He pointed out that the Bill was not merely a certified bill but also a recommended bill, and, therefore, if the bill was passed by the Council in a form not recommended by the Governor-General it would still, on signature by the Governor-General, become an Act in the form in which it had been presented. Sir Alexander added that if the bill was passed into law it must be laid before the Houses of Parliament and any observations the Council made must inevitably, therefore, come under the consideration of the Mother of parliaments. Mr. Thompson in moving that the Bill be taken into consideration, stated that the Government felt that various apprehensions might be created in the minds of Indian rulers of Indian States if immediate action was not taken. It was eventually agreed that the Bill should be taken into consideration on 26th. In the Assembly the question
of the bill was again raised when Mr. Rangachariar sought the adjournment of the House to consider the situation created by the certification of the press Bill by the Viceroy, but his motion was ruled out of order as the House could discuss only those subjects which concerned the Governor-General-in-Council and could not invade the province of the Governor-General. The House member that the only way in which the bill could come again before the House was if the Viceroy removed his certification; and if the House wanted its removal it should give a guarantee of its attitude so that he might go and advise the Viceroy on the desire of the House. Mr. Rangachariar and Sir Deva Prasad Sarabhadhikary promised to reconsider the bill if sufficient material was supplied to them to justify its enactment. On the morning of the 26th Sir William Vincent announced, with regret, that despite the utmost endeavours of Government members and some non-officials who had conferred with them they had failed, on account of circumstances beyond their control to come to any satisfactory solution regarding the impasse on the Press Bill.

The Press Bill came up before the Council of State on the 26th and, after nearly five hours discussion was passed with only one disentient voice. Prof. Kale moved that the consideration of the Bill be postponed till early next year as they had neither had sufficient time to consider the bill nor had sufficient material been supplied to them. The motion was supported by Sir Benode Mitter., Sirdar Jogendra Singh, Lalabhai Samaldas and Mr. G.S. Khaparde. It was opposed both by Government and a few non-official members and was rejected. In view of recurring attacks on Indian Princes of which there had been no less than 170 in the year ending May 1922, Mr. Thompson
urged the Council to pass the bill and thereby avoid antagonising
the rulers of 1/3 of this country, who had given their unfailing
support during the great War. The Bill was supported among
others, by Sir Arthur Froom, Sir Edgar Holberton and the Raja of
Kollangode. Several amendments were moved by Prof. Kale and
Mr. Khaparde which were either lost or withdrawn. But the Home
member promised that the Government would consider very carefully
the suggestion of non-officials that no Court other than a
Session: Court should be competent to try cases under this Act
and also to examine any defect that might be disclosed and then
to bring forward amendments. The Bill was passed, without any
amendments by the Council of State.

Criminal Procedure Code Amendment Bill:
A Bill containing about 160 clauses to amend the
Criminal Procedure Code, as it had emerged from the Joint
Committee appointed in September 1921 was introduced in the
Council of State on the 13th September to introduce was in respect
of prosecutions for offences committed before or in relation
to the proceedings of courts by providing that in cases of certain
offences prosecutions can ordinarily be instituted on the
complaint of the court concerned. When this bill came up for
the consideration of the House on the 14th, Mr. Khaparde moved
eight amendments: six of these were rejected and two withdrawn
and the Bill was passed.

HINDU PRIESTS:
Mr. Kale in the Council of State moved for the consi-
Deration of the Bill which had been passed in the Delhi session
of the Assembly to amend the law relating to the right of hereditary Hindu priests and purporting to take away from them the right to sue in the Courts for remuneration from people who did not want their services. The motion was opposed by several members, notably by Mr. Khaparde who urged that the Bill had been passed under a misconception of the law and the facts bearing on the subjects and that the Provincial legislatures concerned furnished a better field for its discussion. Further consideration of the bill was postponed.