

1st September, 1921

**THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)**

VOLUME II

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OF THE

LEGISLATIVE ASSEMBLY, 1921



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LEGISLATIVE ASSEMBLY DEBATES
(OFFICIAL REPORT OF THE SECOND SESSION)

VOLUME II.
SECOND SESSION, 1921.

LEGISLATIVE ASSEMBLY.

Thursday, 1st September, 1921.

The Assembly met in the Assembly Chamber at Twelve of the Clock, being the first day of the second Session of this Assembly, pursuant to S. 63D (2) of the Government of India Act, and the President (the Honourable Mr. ALEXANDER FREDERICK WHYTE) took the Chair.

MEMBERS SWORN :

The Honourable Sir William Vincent, K.C.S.I.; Mr. Geoffrey Rothe Clarke, C.S.I., O.B.E., M.L.A.; Mr. Harold Clayton, C.I.E., M.L.A.; Mr. Rustomji Faridoonji, M.L.A.; Sir Vithaldas Damodher Thackersey, Kt., M.L.A.; Mr. David Ranken Lyle, M.L.A.; Babu Ambica Prasad Sinha, M.L.A.; Mr. Campbell Ward Rhodes, C.B.E., M.L.A.; Mr. Atul Chandra Chatterjee, C.I.E., M.L.A.; Mr. Francis Bradley Bradley-Birt, M.L.A.; Mr. George Gall Sim, C.I.E., M.L.A.

PRESIDENT'S SPEECH.

THE NEW CHAMBER :

The Honourable the President : Before we proceed to the formal business set down for this sitting, the circumstances of our meeting in new surroundings call for some notice from the Chair.

This is the first occasion on which the Legislative Assembly meets in the new Council Chamber in Simla and I think the thanks of the Assembly are due to those whose devoted labours have enabled us to meet in what, considering the circumstances, are remarkably commodious surroundings. I wish, on behalf of the Legislative Assembly, to convey to the architect, to the engineer and to the contractor the appreciation of this House for the manner in which they have overcome the unquestionably vast difficulties of this undertaking. Whether we consider the vagaries of the Himalayan geology or the perplexing variety of the Himalayan climate or the not less serious vagaries of the different forms of transport leading to Simla : whichever way we look upon the task which these gentlemen have accomplished, I

[The President.]

think we must convey our congratulations to them on the way in which they have discharged it. (Hear, hear.) Had there been a less formal occasion on which these words might have been spoken and perhaps simplified; no doubt others as well as the President would have taken part in conveying the thanks and the appreciation of the Legislative Assembly to those who have co-operated in constructing this commodious Chamber. But seeing that that opportunity may perhaps not be given, I do not wish the occasion to pass without the due acknowledgment of all those concerned and to all those concerned. (Hear, hear.)

MESSAGE FROM THE GOVERNOR GENERAL :

I have a Message from His Excellency the Governor General :

' In pursuance of sub-section (3) of section 63B of the Government of India Act, I, Rufus Daniel, Earl of Reading, hereby require the attendance of Members of the Legislative Assembly in the Assembly Chamber at 11 O'Clock on the morning of Saturday, the 3rd September 1921.

(Sd.) READING,

Viceroy and Governor General.'

ALLOTTED DAYS : NON-OFFICIAL BUSINESS :

I announce, for the information of Members, that meetings for non-official business will be held on the 20th and 21st September. Ballot Lists for those days are now open. The Ballot itself will be held on Saturday, the 3rd September, after the conclusion of the formal meeting and the holding of the Council of State Ballot. Other days for the transaction of non-official business will, no doubt, be allotted by the Governor General in due course.

MR. SACHCHIDANANDA SINHA'S RESIGNATION :

Since the Assembly last met, one of our colleagues, Mr. Sachchidananda Sinha, has resigned his seat on his appointment to high office elsewhere. Mr. Sinha is now a Member of the Executive Council of His Excellency the Governor of Bihar and Orissa and has also been appointed to the position of President of the Legislative Council of that province. What this Assembly loses, Mr. Sachchidananda Sinha's native province gains. Few figures in contemporary constitutional and political movements in India are better known than that of the Honourable Mr. Sachchidananda Sinha. This Assembly has already signified its appreciation of his eminent qualities by electing him in Delhi to the post of Deputy President. It would be superfluous on my part to add anything indeed to that signal mark of the appreciation of his fellow countrymen, but, I think, I may now convey to him the congratulations and good wishes of those who were his colleagues in the public work of India in this Chamber. (Hear, hear.)

VACANCY IN DEPUTY PRESIDENCY :

Mr. Sinha's resignation creates a vacancy in the post of Deputy President of the Legislative Assembly. That position, therefore, must be filled in accordance with the provisions of our procedure. Nomination of candidates for the position of Deputy President will be received on the 10th September.

and the election will be held on the 23rd. I may say that for the moment these are provisional dates which I have substituted at the last moment in order to meet the convenience of our Muhammadan colleagues in this Assembly.

THE FUNCTION OF THE DEPUTY PRESIDENT :

With regard to the announcement, which I have just made, I have received intimation from several quarters that the position of the Deputy President is not yet clearly defined. At the beginning of the first Session of the Assembly in Delhi, I received similar communications, chiefly in the form of requests for information regarding the freedom of this officer in debate. I declined at that time to give a peremptory ruling and to that decision I still adhere. But I may repeat here what I then said in private to several enquirers :

‘That the Assembly must create its own precedents and traditions to establish and to protect the impartiality of the Chair and that pending the evolution of these traditions we can rely upon the individual discretion of the Deputy President himself.’

I am revealing no inviolable secret when I say that such was the unwritten understanding on which our first Deputy President acted. I take this opportunity, while regretting his absence from this Chamber and while congratulating him on his accession to high office, of bearing my witness to his unfailing observance of it.

I should not, however, do justice to the requests which I have received if I were to leave the matter there. It has been suggested to me, from more sources than one, that the analogy of the House of Commons—if properly followed—would compel the Assembly to forbid the Deputy President to take part in ordinary debate and thus preserve the impartiality of his official character.

In point of fact, the House of Commons has no Rule nor Standing Order which forbids the Deputy Speaker,—better known as the Chairman of Committees or the Chairman of Ways and Means,—to take part in debate ; but the conditions of his office and the established tradition of the House effectively preclude him from doing so.

This Assembly has hitherto shown a desire to create sound traditions of its own, to follow the House of Commons wherever possible and desirable, but to refuse slavishly to imitate British Parliamentary tradition where it does not conform to Indian needs. This is a wholesome *swadeshi* in Parliamentary procedure.

In the matter of the analogy between the Deputy Speaker and the Deputy President, I would suggest to the Assembly the desirability of following faithfully the *spirit* of Westminster but of modifying to its own needs the *letter* of House of Commons practice,

[The President.]

To illustrate the contrast between the two positions, I must enter upon a description of the office of the Deputy Speaker in the House of Commons which is somewhat long in form. For its length I apologise in advance.

At Westminster, the Chairman of Committees, that is to say, the Deputy Speaker, is selected by the Government : here he is the choice of the Chamber itself. At Westminster, he actually presides over the House, in a busy session, for at least as many hours as the Speaker himself : here he can never be called upon, except in very exceptional circumstances, to eclipse the President in the number of hours during which he occupies the Chair. At Westminster, when not presiding over the deliberations of the House (in Committee), he is fully engaged in supervising Private Bill Legislation, for which he is responsible as Chairman of the Committee on Unopposed Bills : here no such function can be assigned to the Deputy President, for the procedure known as Private Bill Legislation does not exist. At Westminster, finally, as Chairman of the Court of Referees, the Deputy Speaker discharges another important function for which there is no Indian parallel. The Assembly will thus realise that the position of the Deputy Speaker in England is very onerous. He, indeed, is the hardest-worked functionary in the House of Commons ; and, even if he wished, and even if tradition permitted, he would be precluded from any active share in current controversy by the weight of his official duties.

The contrast between Westminster and Simla is now, I hope, clear.

It is for this Assembly to evolve its own practice, and to establish its own institutions for the discharge of its duties as a legislative body. Your Deputy President carries upon his shoulders the obligation to uphold the even-handed impartiality of the Chair even when he himself is not the occupant of it. That obligation is laid upon him by the will of his colleagues when they elect him ; and it should ever be his first care to observe it. It must be obvious to those who survey his position that he does not, and cannot, enjoy perfect freedom to take part in debate, and in accepting election to the office, he also accepts the sacrifice of many otherwise tempting Parliamentary opportunities. The fact of his election singles him out from the ranks of the Assembly as one—one among many perhaps—whose qualities inevitably give him eminence. In some sense, therefore, he is to be regarded as a leading personality, whose voice the Assembly would not willingly silence. Hence my reluctance to shackle his discretion by any iron rule ; and as I do not propose to anticipate the remote and improbable occasion of indiscreet action on his part, I will not even adumbrate the appropriate action of the Chair or of the Assembly in that event,

At the same time I will not conceal from this House the conviction which is growing in my mind, that in the not very distant future, it may be found desirable to augment the actual duties of the Deputy President, and to place in his charge some of the functions which naturally fall to officers directly responsible to a Legislative Chamber. By this means his office would grow in importance, and the Assembly will gain by securing greater control over the whole field of his work.

To those—and I have direct evidence that they are not a few—who are somewhat perplexed by the contrast between the intrinsic importance of the Deputy's office and of its present appearance as that of a sinecure, I would say that many great results have emerged from lesser origins, and that in any case, *Solvitur Ambulando*.

APPOINTMENTS TO THE PANEL OF CHAIRMEN :

In pursuance of the powers vested in the Chair by Rule Three, I appoint
 Mr. T. V. Seshagiri Ayyar,
 Mr. Frank McCarthy,

to the Panel of Chairmen for this Session.

Further appointments, if they be necessary, will be made after the result of the election to the office of Deputy President is made known.

MEETINGS OF THE ASSEMBLY :

The following dates have been provisionally fixed for the meetings of this Assembly, after the formal meeting on Saturday, September the 3rd :

September 5th, 15th, 19th, 22nd and 26th.

This programme, as Members will realise, is by no means exhaustive, and other dates will be included in it as time goes on. The gap between the dates, September 5th and 15th, is made, as Members will realise, to meet the convenience of our Muhammadan colleagues who wish to celebrate the Muhurram festival.

HOOR OF MEETING :

In view of the circumstances in Simla, I think it may perhaps meet the convenience of all concerned if we endeavour to have each daily meeting of the Assembly conducted as a whole without adjournment. As provisionally arranged and already announced, therefore, this Assembly will meet on the days on which business is fixed for it, at 10-30 in the morning.

ANNOUNCEMENT OF GOVERNMENT BUSINESS :

I wish to ask the Leader of the House whether he is in a position to state the programme of Government Business for the early meetings of this House.

The Honourable Sir William Vincent : In the course of this Session, Government hope to introduce in this Assembly Bills to amend the Income-tax and Super-tax Acts, the Negotiable Instruments Act, the Indian Carriers Act, the Indian Post Office Act, the Indian Marine Act, the Indian Works

[Sir William Vincent.]

of Defence Act, also Bills to constitute the Indian War Relief Trust, and to impose a Cess on the Export of Lac. We also hope to bring before the Assembly a Bill to give effect to the recommendations of the Committee on the Repeal of the Press Law, and should leave be given in another place to withdraw the Criminal Procedure Code Amendment Bill, it is hoped that that Bill will be introduced in this Assembly. Several Bills which are already before the Assembly will be carried to further stages, and it is hoped that several will be passed. Further, if the Report of the Committee appointed by Government to examine Repressive Legislation is received in time, and its recommendations are accepted in whole or part by Government, the necessary legislation to give effect to the decisions of Government on those recommendations may be introduced during the present Session.

On Monday, the 5th September, at the next business meeting, several small Bills will be introduced, and there will be motions for the re-constitution of the Joint Select Committees already nominated. It is hoped on that day also to refer to Select Committee the Bill to amend the Code of Civil Procedure in certain particulars.

The Honourable the President: This House now stands adjourned to 11 A.M. on Saturday, September the 3rd, and, thereafter, to 10-30 A.M. on Monday, September the 5th.