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COUNCIL OF STATE, 1923.



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COUNCIL OF STATE.

Tuesday, the 27th February, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: A Message has been received.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: "*Sir, I am directed to inform you that the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, which was passed by the Council of State at their meeting on the 14th September, 1922, was passed by the Legislative Assembly at their meeting on the 26th February, 1923, with the amendments indicated in the attached statement. The Legislative Assembly request the concurrence of the Council of State in the amendments.*"

BILLS LAID ON THE TABLE.

The SECRETARY OF THE COUNCIL: Sir, in accordance with Rules 25 and 33 of the Indian Legislative Rules, I lay on the table the following Bills which were passed by the Legislative Assembly at their meeting held on the 26th February, 1923:

- (1) A Bill further to amend the Government Savings Banks Act, 1873;
 - (2) A Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.
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THE INDIAN PAPER CURRENCY BILL.

The HONOURABLE MR. E. M. COOK (Finance Secretary): Sir, I beg to move:

"That the Bill to consolidate the law relating to Government Paper Currency, as passed by the Legislative Assembly, be taken into consideration."

This Bill, Sir, is purely a consolidation measure and does not effect any amendment whatever in the existing law. I feel sure that it will have the hearty support of those Honourable Members who have been rash enough to endeavour to discover what the Currency law is at the present moment from the large number of Acts, amending Acts and correction slips—if they are so fortunate as to have the slips in their copies of the law. The Bill brings together the various legal provisions at present in existence and places them in one self-contained measure without, as I have said, effecting any change in the substantive law. I beg to move.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, as one who has to deal with this question of exchange and currency, if not on the money market, at least in the college classes, I welcome this measure which will consolidate the law in relation to exchange and currency into one enactment. I should, however, have liked the Government of India to have taken this opportunity in consolidating the existing law, to amend that law. So many suggestions have been already made to Government, and I felt that the time had arrived when such a thing was absolutely necessary. The public might have suffered the inconvenience of the absence of a consolidated Act for a little time longer, but they would certainly have preferred that the Government should have made up their minds on some of the most important questions concerning exchange and currency. For example, in clause 18

The HONOURABLE THE PRESIDENT: I do not think I can let the Honourable Member raise the question of amendment on a consolidation Bill.

The HONOURABLE MR. V. G. KALE: I was only referring to one of the clauses to point out how some amendments which are very necessary have not been taken up. However, I do not wish to go into the details of the Bill but will only support the motion with this remark that Government have already delayed that important measure and it would have conduced to the convenience of the public if the two questions had been taken up together.

The motion was adopted.

The HONOURABLE THE PRESIDENT: As this is purely a consolidation Bill I do not propose to put it clause by clause to the Council, but if any Honourable Member desires that I should adopt that course, I will do so. (After a pause.) I take it that no Honourable Member does desire it. I will then call on the Honourable Mr. Cook to make the next motion.

The HONOURABLE MR. E. M. COOK: I beg to move:

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

The motion was adopted.

THE PRISONERS (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

“That the Bill to amend section 29 of the Prisoners Act, 1900, be taken into consideration.”

Two days ago in moving the introduction of this Bill I explained briefly its purpose and I do not think it is necessary for me to recapitulate that brief statement. I make the motion standing in my name.

The motion was adopted.

Clauses 1 and 2 and the Preamble were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.

The motion was adopted.

THE REPEALING AND AMENDING BILL.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, I beg to move:

“ That the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration.”

In the case of a large body of statutory law such as we have in this country, periodical revisions of this kind become necessary owing to changed circumstances. Enactments become obsolete, modifications in the provisions of individual enactments become necessary, and in consequence it is necessary to introduce an omnibus measure of this description. In the Bill as originally printed and presented to the other House there was a column of explanations which in the Bill now presented to this House has been omitted as the Bill must be placed before the House in its final shape to be passed to-day. But a copy, I believe, of the original Bill has been attached to the copy which has been finally presented and which is now before every Honourable Member. Subsequent to the introduction of the Bill in the lower House it was discovered that a provincial Act had been passed in Burma which introduced certain modifications in the law in that Province. It therefore became necessary subsequent to introduction for Government to propose certain amendments in the present Bill as originally introduced. All these modifications, repeals and amendments are more or less formal; they do not involve any questions of principle; and it is therefore unnecessary for me to take up the time of the House by going through the various clauses of the Bill.

The motion was adopted.

Clauses 1 to 4 were added to the Bill.

Schedules I and II were added to the Bill.

The Preamble was added to the Bill.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, I move that the Bill, as passed by the Legislative Assembly, be now passed.

The motion was adopted.

THE HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE THE PRESIDENT: The Council will now resume the detailed consideration of the Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, as passed by the Legislative Assembly.

Clause 1.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadian): Will it not be more convenient, Sir, if this clause 1, which relates to the short title, is taken afterwards?

The HONOURABLE THE PRESIDENT: I did not quite catch the Honourable Member's remarks. If he was speaking about taking up clause 1, it is now open to discussion. Sub-clause (2) of clause 1 is apparently contentious. I see amendments on the paper, but if it is not desired to move them, I will put the question that the clause do stand part of the Bill.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): Is it sub-clause (2), Sir?

The HONOURABLE THE PRESIDENT: I called " Clause 1 ", and any Honourable Member is entitled to speak on any part of clause 1 [sub-clauses (1) and (2).]

The HONOURABLE MR. G. S. KHAPARDE: There are two amendments on this clause that stand in my name. The one is No. 8 on the agenda and the other is No. 9. No. 8 is more general and No. 9 is more specific, and I understand that according to the rules of debate, the more specific amendment is taken up first and the general one taken up afterwards.

The HONOURABLE THE PRESIDENT: Is the first amendment the one which necessitated the adjournment the other day?

The HONOURABLE MR. G. S. KHAPARDE: No, Sir. The first amendment merely refers to omission and the other is a more specific amendment, No. 9 on the agenda.

The HONOURABLE THE PRESIDENT: What I asked the Honourable Member was whether the amendment which stands first in his name in regard to this clause is the amendment on account of which this Council was adjourned on the last occasion or was it some other amendment. The Honourable Member will remember that when we last took up this matter, he made it a matter of complaint that certain amendments of his had not appeared on the paper. I am now asking whether this first amendment is the amendment in question.

The HONOURABLE MR. G. S. KHAPARDE: Yes, Sir.

The HONOURABLE THE PRESIDENT: Then I ask the Honourable Member to explain the difference between his two amendments.

The HONOURABLE MR. G. S. KHAPARDE: I will explain the position. The first amendment says merely omit so many words, whereas the other amendment (Amendment No. 9) introduces the specific terms in which I would like the clause to appear. In that way the first is merely for omission and the second is more specific and makes the clause what it ought to be.

The HONOURABLE THE PRESIDENT: I think the Honourable Member has made it clear that the second amendment is the amendment which he wishes to move. It was unnecessary to have adjourned this Council in order that the first amendment might be put on the paper if he does not wish to move it.

The HONOURABLE MR. G. S. KHAPARDE: I will explain, Sir, that it was not merely for the sake of obstruction that I put in the first amendment. It is possible in the course of the debate that if there are many amendments on paper, one or the other of those might be passed. So I have retained the first amendment as a last resort.

The HONOURABLE THE PRESIDENT: I put it to the Honourable Member that there was a somewhat unnecessary adjournment. Let him move his second amendment.

The HONOURABLE MR. G. S. KHAPARDE: I move my second amendment, Sir, which reads thus:

"That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely:

'(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft.'

It will be seen, Sir, that this amendment naturally divides itself into two parts; the first part makes reference to the local Legislative Councils necessary and the second part mentions how that reference is to be carried out—the procedure that would have to be followed. The first part from my point of view is very important. It will be seen from the opinions that have been circulated on this Bill that out of the nine provinces consulted, seven provinces say that they have no institution of the kind in their provinces and therefore they have no special recommendations to make. It is only two provinces—one Bombay and the other the Central Provinces—that have got these institutions. I may tell the Honourable House that neither the whole of the Bombay Presidency nor the whole of the Central Provinces is concerned, because this is an institution peculiar to Maharashtra by reason of historical causes which we need not go into. This has got divided between the Bombay Presidency and the Central Provinces. So, it happens that a part of the Bombay Presidency and a part of the Central Provinces are concerned directly with the subject matter of this particular Bill. It happens then that as the original Bill stood this House made it applicable in the first instance to the Bombay Presidency and to the Central Provinces and then to all the other provinces the option was given that if they liked to have it, they might have it with the consent of their Legislatures. My objection to this was that option was given to people who really had no institution of the kind among them and who were not directly concerned, and as Bombay and the Central Provinces were directly concerned and had institutions of that kind, to them no option was given whatever. For them we undertook to legislate here. I humbly submit that it was a wrong principle to take it that way. The proper principle is that people who are concerned should be consulted first and if at all a choice is to be given, they should have it and not those people who have nothing to do with the question. Self-determination has been much talked of now-a-days, but self-determination, I believe, means that legislation is undertaken or orders promulgated in consultation with those to whom they concern most. If that is so and if anybody was entitled to option, it was the Central Provinces and the Bombay Presidency. How comes it here? It is a most peculiar thing. Because of the Devolution Rules and because certain civil rights are affected and because it trenches very close upon religious matters, this was brought into the Central Legislature. But the measure, it appears to me, was rather ill-considered, or, if I may say so, was not properly mature. The framers of this Bill apparently thought that the whole matter concerned the village priest and nobody else. As we know ourselves and as I have come to know, it concerns not merely the priest, but also the barber. It also concerns the dhobi. It concerns the mahar. It concerns the village musician. It concerns a large number of other people

[Mr. G. S. Khaparde.]

in the same way. Apparently, the framers of the Bill forgot this or they did not know this. Then, as usual, the Bill went to a Select Committee. There also unhappily this matter does not appear to have attracted notice at all. It went on as if they were dealing only with the priest. Somehow or other by a great misfortune, it appears to me that they lost sight of the fact that there were others concerned in the Hindu ceremonial emoluments matter than the priest. In that state the Bill came to us here. On the last occasion when we considered this matter, I said it concerned a much larger number of people than was comprised or than appeared to be comprised by the Bill. I also pointed out that this was part of the village system that has been going on for centuries in Maharashtra as now distributed in the Bombay Presidency and the Central Provinces and that it is neither easy nor reasonable to take one part of it and leave the whole system alone. Then, I again pointed out why we should legislate for the priest when there are others who are entitled to the ceremonial emoluments and they actually get it. This took many people by surprise. It is not the village priest that has obtained the judgment, but it is a barber. A barber sued and said he was entitled to customary emoluments and so on, and the High Court of Bombay, as reported in 44 Bombay Law Reports, awarded the claim. A dhobi has not yet brought a suit, but I believe if the occasion arose for it, a dhobi would also bring a suit. The mahar is not denied his rights, but a mahar could also bring a suit. In that way there is a much larger class of people who have a share in the customary emoluments, and to legislate only in the interests of Brahmins or priests was not wise. I tried to bring out these facts the last time I spoke on this matter and I do not propose to repeat my arguments. But the point I wish to lay stress on in this first part of my amendment is that the matter affects strictly the village administration or the village autonomy, as we have called it, and which has obtained for centuries. Now to interfere with that village autonomy by dealing only with the priest and leaving the rest of these people to themselves is hardly expedient or even wise. If there is to be a rule it has to be a general rule that applies to all the people concerned. Why leave the non-Brahmins to enjoy their customary rights, and what sin has the Brahmin committed that he should be turned out, while the barber should have this right, that the mahar should have it, that the dhobi should have it, that the musician should have it, and only these unfortunate priests should be turned out? Priests may be much in disfavour in the 20th century, and it may be that religion has lost its hold on many people, but even then the civil doctrine remains that a man's rights once declared and acknowledged cannot be taken away, cannot be interfered with. So in this respect also I say if this matter is to be gone into at all, who can do it better than the Local Governments concerned? It is they that are primarily concerned. The rest of India has absolutely nothing to do with it, and reference to the Local Governments appears to me to be absolutely necessary if this law is to be workable and is not to be productive of greater evil than that which it seeks to remove. Personally I believe in liberty of conscience, and I do not say that my religion, or my customs, or anything should be forced upon anybody at all. They are quite at liberty to believe what they like, quite at liberty to do what they please, but subject to one limitation, and that limitation is that, where there are vested interests and rights, sanctioned by custom, as in this case, sanctioned both by Royal grants, by custom, by the judiciary and by all the other

surrounding circumstances, such grants and such rights ought not to be removed without first consulting the persons concerned, and secondly rendering them compensation, which I shall talk of more in my other amendment, under certain safeguards. So in the first part of my amendment, all that I wish to say is that it is necessary to consult the Local Governments and local Legislatures. If we do not consult them, this measure will be a very very mischievous one. This measure is, if I may be permitted to say so, like the leg of mutton described by Dr. Johnson, it is ill-cut, ill-cooked and ill-served. This measure was conceived wrongly. The framers of it conceived they were dealing with the Brahmin only when they were dealing with a large number of other people as well. It was ill-cooked because the different opinions on these matters were never gone into. And it has been served up to us here in this piecemeal fashion for us to swallow, but after all we are a revising Chamber and we do not swallow things as they are thrown at our heads and we shall consider it and make it reasonable before it is accepted. So my first proposition is that this Bill has got to go back, or has to be sent to the Local Legislatures. . . .

THE HONOURABLE THE PRESIDENT: The Honourable Member is moving an amendment. I have given him considerable liberty, but he must move his amendment and not make a general speech on the Bill.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, this is the amendment that it should be referred to Local Governments and not come into operation until the Local Government seeks to introduce it. Therefore I am justifying this clause of my amendment by saying that the measure must be considered by the Local Legislatures, by the Local Governments, where there are trained administrators, and between them they will bring out a notification and so forth. So that is the first part of my amendment, that the matter must go before the Local Governments, and this Bill ought not to come into force until they have done something with it, namely, that they direct that the Bill should be introduced. That direction is not to be given unless the second part of my amendment is taken into consideration, and that is that they lay their proposal for introducing the Bill in draft form before the local Legislatures, and the local Legislatures will consider that draft, and the local Legislatures will revise it, amend it, and do everything they like to that draft. If that draft is so passed, then and then alone will that notification introducing the Bill come up, and not otherwise. So the first part of my amendment makes reference to the Local Governments necessary and the second part gives the Local Governments and the local Legislatures power to consider that draft notification, and until that draft notification has been considered and passed by them, this Bill cannot be introduced. That is my point and that is what I seek to do. In other words I seek to put the Bombay Presidency and the Central Provinces Government on the same level as the other provinces are. The other provinces are not concerned, but we are concerned, and we have got a great deal to say about it, and the one great thing we have to say about it is that this matter appears to have been ill-conceived and none of these other people who are really concerned have been brought in under the present Bill. You have got not only the Brahmins, but some non-Brahmins, like the barber and the dhobi, and if the framers of the Bill realised that they were legislating for this large number, they would consider the subject better and perhaps frame it on more practicable lines. Therefore I submit my amendment and recommend it to the acceptance of this Honourable Council.

The HONOURABLE THE PRESIDENT: The amendment moved is:

"That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely:—

(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft."

That amendment is now open to the consideration of the Council.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in accordance with the statement made by the Honourable the Leader of this House with regard to the attitude of Government on this measure, I do not propose to follow the Honourable Mr. Khaparde in such part of his remarks as were devoted to the questions of principle arising in this Bill. The object of the amendment to my Honourable friend Mr. Khaparde's amendment which I now move is merely to define and regulate procedure without touching in any way on the principle of the Bill. My amendment is that for the second paragraph of the Honourable Mr. Khaparde's amendment the following be substituted, namely:

"Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft."

The Bill as passed by the Legislative Assembly provided that any Local Government desiring to proceed under the Bill should obtain the previous consent of the local Legislature, but it did not provide how that consent was to be obtained. The purpose of the second part of my Honourable friend's amendment is to make some such provision, and to that extent I certainly think it is an improvement upon the Bill as it came before this House. The object of my amendment is merely to effect what I venture to think is a slight further improvement upon my Honourable friend's proposal, and it follows the procedure commonly adopted by Parliament in similar cases. There are several English Statutes which provide that an act of the Crown or the Executive Government in the form, for example, of a Proclamation or of an Order in Council or of a draft of Statutory Rules shall be laid upon the table of the House of Commons before further action is taken, and it is in accordance with that Parliamentary precedent that I venture to ask the House to agree to this amendment rather than to my Honourable friend's amendment. The effect of it I think is quite clear. If the Local Government desire to apply the Act, they will first have to lay a notification extending it to such part of their jurisdiction as they consider proper before the local Legislative Council. During the course of the Session in which the notification has been so laid, during the recess after that Session and up till the end of the next Session, the Legislative Council will have an opportunity of considering the merits and the terms of the Local Government's notification. It will then be open to any Member of the local Legislative Council to move a Resolution on the subject, and, I take it, that, in the course of considering that Resolution, it will be open to the local Legislative Council to consider the notification in all its bearings, that is to say, to consider, as a matter of principle, whether

the Act ought or ought not to be applied in the areas to which the Local Government proposes to apply it. I think that makes the situation perfectly clear. I repeat once more that my object is merely to define and regulate the matter in a more precise manner and in stricter accordance with Parliamentary procedure than is provided for in my Honourable friend's amendment.

The HONOURABLE THE PRESIDENT: To the amendment under consideration a further amendment moved:

"That for the second paragraph of the amendment that I have just read to the House, the following be substituted, namely:

'Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft.'

This is an amendment which does not go further than procedure. The first amendment prescribes the affirmative approval of the Legislature and the second amendment prescribes that approval in what I may call a negative form. The amendments, therefore, are susceptible of discussion as alternatives and both the amendment and the amendment to the amendment are now open to discussion.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I do not wish to overthrow my Honourable friend Mr. Khaparde in his zealous and enthusiastic fight in the interests of the people of the Central Provinces, but I must say that the amendment moved by the Honourable the Home Secretary commends itself to me rather than the one proposed by the Honourable Mr. Khaparde. This Council, I understand, is very much divided on the general merits of this Bill, and the amendment which is now placed before it by the Honourable the Home Secretary to my mind offers a good compromise of the question in this Council. Moreover, it has the merit of following the precedent of the English Statutes and, as such, it will be generally more acceptable to lawyers. Both amendments are more or less of an identical character. They affect the procedure to be adopted, but the Honourable Mr. Crerar's amendment is a distinct improvement on the amendment of the Honourable Mr. Khaparde, and it will satisfactorily serve the purpose if it is adopted. It will give an ample opportunity to the local Provincial Councils for discussing the merits of the Bill and it also affords a simpler procedure and one that will be readily and clearly understood. It is for these reasons that I support the Honourable Mr. Crerar's amendment in preference to the Honourable Mr. Khaparde's.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the amendment.

The HONOURABLE THE PRESIDENT: Which amendment?

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Honourable Mr. Khaparde's amendment. I rise to support it because Bills of this character ought not to be passed by our Legislature, as they do affect our religion. There was a time when the Brahmins were considered very supreme and when, notwithstanding various efforts to induce them to receive anything in charity, they persistently refused. The time unfortunately has come when the Brahmins want to force their such rights by

[Rai Bahadur Lala Ram Saran Das]

going to courts of law. It is a very sad thing which shows the degradation in our society; but, as Brahmins were spiritual leaders, we ought not to allow them to become so degraded and fallen. My Honourable friend Mr. Khaparde has rightly said that the Bill is incomplete. The Bhatas and various other classes enjoy the same hereditary rights as the barbers and the Acharayyas. The *Vrittis*, as they are usually termed, are sometimes marketted, and these *Vrittis* are sometimes used as negotiable instrument for misconduct and for their luxurious living. When I was asked to express my own opinion on the Bill by the Deputy Commissioner of Lahore, I opposed its introduction on the ground that it affects our religion. As the Bill is incomplete, it ought to come before every Provincial Legislature before it becomes law, because there it will be very fully discussed and the Members of the Provincial Councils will have a chance to say what they wish on this important and rather ticklish subject which they know and can better deal with.

The HONOURABLE MR. V. G. KALE: Sir, as you have put it, the real difference between the two amendments is that one provides for a positive procedure while the other is negative. I should like to make it clear to the House that it is just possible that the opportunity which it is sought to give to the Local Councils may not prove sufficient under the amendment of the Honourable Mr. Crerar. Take a concrete case. A notification is placed upon the table of the Local Legislature by the Local Government, say at the end of a Session. There is nothing to prevent the Local Government from placing the notification before the Council at the end of the Session. Then, the only time that the Members of the Council have at their disposal will be the interval between the close of that Session and the next Session. The interval may be anything between one and two months, and then the next Session may be only a very short Session of a fortnight. There is nothing to prevent that also from happening; and then in that Session it may be just possible that Members may not have an opportunity of moving a Resolution. The Resolution may not come in the ballot. A hundred and one things might happen, and private Members may not have an opportunity of moving a Resolution at all, while the first amendment throws the responsibility upon the Local Government so that there is no apprehension, there is no chance of the object of the amendment being defeated. That being the difference between the two amendments, we have to remember that though the procedure proposed by the Honourable Mr. Crerar appears to be certainly a better procedure and is based upon the practice of the House of Commons, we are dealing with Indian Councils many of whose Members are new to their work, and our procedure is not exactly in other respects like the procedure of the House of Commons. On account of these differences I would prefer the original amendment.

The HONOURABLE THE PRESIDENT: The question is in the first place, that in the amendment moved by the Honourable Mr. Khaparde, for the second paragraph thereof the following be substituted, namely:

" Provided that before any such direction is made, a draft of the notification shall be laid before the local Legislative Council and if thereupon, at any time not later than the conclusion of the next session of that Council after the draft has been laid before it, a Resolution is passed against the draft or any part thereof, no further proceedings shall be taken on the draft or on such part thereof as the case may be, without prejudice however to the laying before the Council of any new draft."

The question I have to put is that that amendment be made.

The Council divided as follows :

AYES—12.

Barron, Mr. C. A.
 Crerar, Mr. J.
 Dadabhoy, Sir Maneckji.
 Forrest, Mr. H. T. S.
 Jha, Dr. G. N.
 MacWatt, Major-General R. C.

Muzammil-ullah Khan, Nawab.
 Ray, Raja P. N.
 Sarma, Mr. B. N.
 Shafi, Dr. Mian Sir Muhammad.
 Tek Chand, Mr.
 Zahir-ud-din, Mr.

NOES—15.

Akbar Khan, Major Nawab.
 Ayyangar, Mr. K. V. R.
 Kale, Mr. V. G.
 Khaparde, Mr. G. S.
 Lal Chand, Lieut.
 Lalubhai Samaldas, Mr.
 Miller, Sir Leslie.
 Moti Chand, Raja.

Ram Saran Das, Mr.
 Sethna, Mr. P. C.
 Sinha, Mr. Sukhbir.
 Srinivasa Sastri, Rt. Hon. V. S.
 Vasudeva Raja, Raja.
 Wacha, Sir Dinshaw.
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is that the original amendment moved by the Honourable Mr. Khaparde be adopted. It runs as follows :

“ That for sub-clause (2) of clause 1 of the Bill the following be substituted, namely :

(2) It extends to the whole of British India, but shall not come into force in any area unless the Local Government by notification in that behalf in the local Official Gazette so direct.

Every proposed notification under this sub-section shall be laid in draft before the Local Legislature of the Province affected, and no notification shall be issued unless that Local Legislature has by Resolution approved (either with or without modification or revision) the terms of the draft.”

The question is that that amendment be made.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The HONOURABLE THE PRESIDENT: Clause 2.

The HONOURABLE MR. V. G. KALE: Sir, I beg to move the following
 12 Noon. amendment to clause 2.

“ That in clause 2 of the Bill after the word ‘receptable’ the words ‘from a Hindu’ be inserted, and for the words ‘his being an hereditary Hindu priest’ the words ‘a claim based on custom or law to receive such emoluments’ be substituted.”

Sir, I have further to ask your permission to make a small drafting amendment. In line 5 of the definition, I want to prefix the words “ religious ceremony ” by the word “ Hindu ”.

The HONOURABLE THE PRESIDENT: The Honourable Member has the permission. He can proceed.

The HONOURABLE MR. V. G. KALE: In this Act “ ceremonial emoluments ” means any fees or other dues, whether in money or in kind, receivable by any person in respect of a religious ceremony by reason of his being an hereditary Hindu priest. If it is amended as I propose, it will read thus :

“ In this Act ‘ceremonial emoluments’ means any fees or other dues, whether in money or in kind receivable from a Hindu by any person in respect of a Hindu religious ceremony by reason of a claim based on custom or law to receive such emoluments.”

[Mr. V. G. Kale.]

Now, the object of this amendment is to make certain matters clear. In the clause as it stands, the words "hereditary Hindu priest" have been used. But the Bill does not contain any definition of an hereditary Hindu priest. I am told that very serious difficulty was encountered when the Bill was before the other House in defining an hereditary Hindu priest. Now, an hereditary Hindu priest may be of different kinds, and all hereditary Hindu priests might not come under this Bill; for example, there may be a hereditary priest and yet he may have no claim to emoluments in a particular village. For example, a man's grandfather has been a priest, his father has been a priest, he himself is a priest; in this way he is an hereditary priest, but at the same time on account of his being an hereditary priest he cannot claim emoluments in a particular village. What we want really to cover are priests who have any right either by custom or by law to claim and receive emoluments in connection with Hindu religious ceremonies. Inasmuch as there is no definition of hereditary Hindu priest, I have tried to define a priest in an indirect manner by amending the definition of "ceremonial emoluments". After all, what is of importance is the right to claim ceremonial emoluments. Who claims those ceremonial emoluments? A person whose right to claim is recognised by custom or by law. It is the right to receive emoluments in connection with religious ceremonies. So that idea I have tried to bring in by means of this definition. Had the clause been left as it was, it would have appeared incomplete. And this definition also covers an amendment of which notice has been given by my Honourable friend Dr. Ganga Nath Jha. He wants to define the word "priest." As I have said, the definition of the word "priest" is very difficult. The Honourable Mr. Khaparde pointed out that there were many people who also receive emoluments, and yet they will not be covered by the term "priest". All of them will be brought in here. He referred to the case of a barber which is quoted in 44 Bombay Law Reports, and the right of a barber to officiate at a thread ceremony and receiving emoluments has been looked upon by the Bombay High Court just like the right of a priest. This definition will cover all such cases where any claim is made to emoluments in Hindu ceremonies by a Hindu from a Hindu by reason of that being the custom or by reason of that custom being recognised by the Law Courts. All such cases will be covered by this definition. So, in my humble opinion this amendment will improve the clause as it stands, and I hope the House will accept the amendment.

THE HONOURABLE THE PRESIDENT: To Clause under consideration amendment moved:

"After the word 'receivable' the words 'from a Hindu' be inserted, before the words 'religious ceremony', the word 'Hindu' be inserted and that for the words 'his being an hereditary Hindu priest' the words 'a claim based on custom or law to receive such emoluments' be substituted."

That amendment is now under the consideration of the Council.

THE HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, if I gather the meaning of the Honourable Mr. Kale correctly, he intends to widen the scope of this Bill considerably. The preamble was intended to confine the Bill to hereditary Hindu priests. The ceremonial emoluments which were to be the subject matter of the suit and which had to be prevented hereafter from being recovered in a Court of Law are the ceremonial emoluments which can be collected only by Hindu priests, and the right of action which is proposed to be taken away under clause 8

is to be a right of action which at present exists only in favour of a Hindu priest. My Honourable friend Mr. Kale proposes here as well as in other amendments of which he has given notice and to which he has referred in the course of the discussion on this amendment that the emoluments which are to be covered by this Bill are to be emoluments not receivable at present only by Hindu priests but also by other village officers or village servants, who by custom or otherwise are entitled to perquisites at Hindu ceremonies and the right of action is to be taken away in their cases also, by the substitution of the words " a claim based on custom or law to receive such emoluments " for the words " his being an hereditary Hindu priest." The only observation that I would make is that Government had no such Bill before them. They never considered that aspect of the question at all, and this is entirely a new scope which is proposed to be given to this Bill. Whether it is wise or not is a matter entirely for the Council. But so far as the Government are concerned, I do not think they could treat this as a continuation of the Bill which has been proposed to be introduced into the local Council.

The HONOURABLE MR. PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, the Honourable Mr. Sarma has drawn the attention of the House to the fact that the amendment as moved by the Honourable Mr. Kale widens the scope very considerably. The Honourable Mr. Kale has apparently done so advisedly. In the course of his remarks, the Honourable Mr. Khaparde referred to barbers and others also performing religious ceremonies and also receiving emoluments. That being so, this is an improvement on the Bill as it has come from the Legislative Assembly. The Honourable Mr. Sarma observed that, so far as the Government are concerned, they do not know that they can accept the wider scope.

The HONOURABLE MR. B. N. SARMA: They reserve to themselves the liberty entirely.

The HONOURABLE MR. PHIROZE SETHNA: I hope the Government will waive any objection they have because, if anything, it goes to improve the Bill which was originally a restricted measure.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, the Honourable Mr. Sarma has just pointed out that this amendment will enlarge the Bill very considerably and it certainly seems to me that if that is to be done here now, we shall be doing a very dangerous and improper thing. The whole of the opinions on this Bill, so far as they have been received from Local Governments and persons consulted by Local Governments have been based on the assumption that we were dealing only with priestly offices, and the support that the Bill has got, I venture to say, was mostly on the ground of some kind of liberty of conscience that a person ought to have. We have never had anything to do so far with secular services, my Honourable friend Mr. Khaparde's barbers and dhobis, and if they are to be introduced in the Bill I believe we shall be doing something that ought not to be done without having circulated the whole thing again for consideration of the persons concerned. The amendment of my Honourable friend is of a most dangerous character.

The HONOURABLE MR. V. G. KALE: Shall I be given an opportunity to give a personal explanation?

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to reply to the argument, he certainly may not, but if he wishes to make an explanation it is open to him to do so.

The HONOURABLE MR. V. G. KALE: It seems to be assumed that when I suggested an extension of the Bill, I was concerned with dhobis, barbers and others. That was not my object. Only those who are concerned with religious ceremonies, not others dealing with secular things, they only would be brought into the Bill.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhamradan): Sir, as one who has given some thought to this question, I was very interested in the amendment moved by the Honourable Mr. Kale. Sir, I have looked at the Bill, as many Honourable Members I hope have, from the point of view of the man who, in spite of having utilized the services of a non-Brahmin priest, is dragged into a court of law and is made to indemnify not for any legal injury but for what I venture to call damage to the sentiment of the Brahmin priest who was not called upon to officiate at a certain ceremony. I am prepared, Sir, to express my opinion on this Bill from that point of view only, which, as has been pointed out by two previous speakers, forms the basic principle of the entire Bill, and on which opinions were invited from Local Governments and other bodies. In the course of the speech by the Honourable Mr. Khaparde I came to know for the first time that, not only are the customary rights enjoyed by the priestly class, but there are certain other classes who also are in enjoyment of those rights. My Honourable friend has referred, in fact, to a certain case decided by the Bombay High Court in which the exercise of such a right has been recognised by the Bombay High Court in the case of a barber. Now, I do not know, Sir, on what basis the High Court proceeded, but I do realise that if we accepted the amendment of the Honourable Mr. Kale, we would be very considerably widening the scope of this Bill. Whether it is advisable to do so or not is another point. But let there be no doubt on the question that, by accepting the amendment, we would be altering the Bill very considerably. I am afraid that the amendment has been sprung rather late by the Honourable Mover and the *sponsor* of the Bill in this Chamber

The HONOURABLE MR. V. G. KALE: How late? How has it been sprung upon the House?

The HONOURABLE SAIYID RAZA ALI: Namely, that the notice of this particular amendment by the Honourable Mr. Kale came to me not more than two days ago.

The HONOURABLE THE PRESIDENT: That is the ordinary period of notice.

The HONOURABLE SAIYID RAZA ALI: It is, Sir. The question is whether you are justified in moving an amendment and taking advantage of the two days' time limit when it alters almost the whole structure of the Bill.

The HONOURABLE MR. V. G. KALE: It is a question of opinion.

The HONOURABLE SAIYID RAZA ALI: To me it seems the alterations involved are very far-reaching. Any way, I am prepared to express my view on the question, whatever may be the attitude taken up by Government. I believe, in spite of the shortness of notice, non-official Members in this Council will have to make up their minds. To me it seems there is a considerable amount of soreness in Brahmin quarters and Joshi circles owing to the restrictions placed on their rights in this Bill, and I

have heard and read many complaints, as I am sure many Honourable Members of this Council must have, that the Brahmins have been chosen as the particular object of the assault by their unkindly friends. I do not know, Sir, whether this complaint is justified or not, and I do not propose to go into it, but surely, it seems to me that if the priestly Brahmin or Joshi is in enjoyment of any right or in enjoyment of any usage which he calls a right, and if he is going to be deprived of the emoluments which are attached to that right, there is no reason why a non-Brahmin, be he a barber or be he dhobi, should not be treated in a similar manner. I entirely fail to see on what basis we can distinguish the case of a non-Brahmin from that of a Brahmin. What is sauce for the goose is sauce for the gander too. I am not prepared, Sir, to distinguish between the two cases. I do not know, as I pointed out, on what basis the judgment of the High Court proceeded, but to me it seems that if we are going to do away with these rights, surely we should not make any distinction between a Brahmin and a non-Brahmin, and on that ground, though I must again say that the implications of the amendment introduced now seem to me to be very radical, I am prepared to support the amendment of Mr. Kale.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): Sir, I think the Honourable Mr. Sarma laid the point very clearly before the House that, if we accept the amendment of the Honourable Mr. Kale, the continuity of the Bill is broken. The original Bill, as brought before the Legislative Assembly, was for priests only. When the opinions of the Local Governments were invited, it was for hereditary priests only. Now, at this very late stage, when the Bill has been passed by the Legislative Assembly for hereditary priests, to apply it to all others, would be widening the scope of the Bill so much as to affect its whole shape. I therefore think this is an amendment that should be thrown out; or, if my Honourable friend Mr. Kale wants it, the whole question should be referred back to the Local Governments. Then only can we carry it in that form.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): With your permission I would like to raise one point. Considering the phraseology of the Preamble "Whereas it is expedient that the law in force in certain parts of British India should be amended in so far as it relates to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies," I should like a ruling from you, Sir, whether this amendment is within the scope of the Bill.

The HONOURABLE THE PRESIDENT: The point raised by the Honourable Member is not too easy for me to deal with on the spur of the moment. I have not got a copy of the Bill as it was introduced originally in the Legislative Assembly though I have sent for one. Personally, I thought that the Bill was intended to deal with Hindu hereditary priests. I had not gathered up till now that it was intended to extend this scope. If that is the effect, then I think I must rule that the amendment is too wide. I notice however that the Mover allows these words to be retained in clause 2: "in respect of religious ceremonies." I am not familiar with the part of the country to which this Bill relates and I am not aware whether anybody but a priest can perform a religious ceremony. If the Honourable the Leader of the House can answer that point, I may be able to give a ruling.

The HONOURABLE MR. LALUBHAI SAMALDAS: A barber has to attend and take part in some religious ceremonies.

The HONOURABLE THE PRESIDENT: What I wish to know is whether the words "religious ceremony" used in this clause absolutely connote the fact that it must be performed by a priest.

The HONOURABLE MR. LALUBHAI SAMALDAS: No, Sir.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Of course, not being a Hindu and not being familiar with these religious ceremonies, I am not in a position to answer the question. But I should have thought that, if the performance of religious ceremonies is confined to priests, there is no object in moving this amendment. My point is that in that case it is unnecessary for my Honourable friend to move the amendment and he should really let the clause stand as it originally stood in the Bill; but I am not in a position, I confess, to answer the question.

The HONOURABLE THE PRESIDENT: Then, I think my duty is clear. I cannot rule the amendment out on the ground that it is outside the scope of the Bill unless and until I am perfectly sure that this amendment does extend the persons to whom the Bill applies. As I am not at present sure on that point, I shall therefore let the amendment go to the House.

The HONOURABLE MR. V. G. KALE: May I be allowed to say one word.

The HONOURABLE THE PRESIDENT: The Honourable Member cannot speak again on the amendment.

The HONOURABLE MR. V. G. KALE: I am just pointing out that the Bill as it was originally drafted and circulated and sent to the other House was styled like this: "A Bill to amend the law relating to the emoluments claimable by Watandar Hindu priests". That word "Watandar" has now been changed to "hereditary".

The HONOURABLE THE PRESIDENT: As I have already pointed out to the House, it not being perfectly clear to me that the amendment is outside the scope of the Bill, I shall leave it to the decision of the House.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I rise to move that the further consideration of this Bill be adjourned till Government have had time to consider their attitude with regard to the widened scope, which the sponsor of the Bill, who is responsible for its conduct in this Council, seems to wish to give to it. That he is entitled to do so, I think is the significance of your ruling a moment ago. I also think, Sir, that, if we examine the real aim of the Bill, it is quite open to argue that the amendment suggested now and later on in the course of the agenda are perfectly legitimate. My friend behind said a little while ago that the object of the Bill has been universally understood hitherto to be the quashing of such claims of a legal character as the Hindu priest has had decided to his advantage in courts of law. However, it seems to me that there is another interpretation possible. The whole idea of this Bill may be looked at as a desire to restore the pristine purity and spirituality of religious ceremonies in this country. That certain people, entitled because they are the sons of their fathers to officiate at religious ceremonies, should make that circumstance

a ground of legal claim to emoluments is certainly inconsistent with modern notions on the subject. A religious ceremony, as thought of here, is not a single act. It is a whole series of ceremonies lasting, not an hour or two, but sometimes for three days and four days together. During these religious ceremonies it is the claim of certain people belonging to certain families to officiate. The Hindu priest claims such a right; the barber claims such a right. The duty of the barber is not altogether secular on this occasion. It is a religious ceremony at which he claims the right to officiate, of course, in the way in which he can officiate, namely, in the tonsorial way. Still, it is a religious ceremony at which he officiates. If it is considered inconsistent with modern notions that a priest should enforce his right or authority in a court of law, and that a certain money commutation should be arranged for in consequence, it is quite conceivable that it is equally against good policy and modern conditions to allow a barber to make his right of officiation the ground of a legal claim for money compensation. It is not therefore necessary to interpret the Bill as having been intended to do away with the right of a priest. It is quite conceivable, Sir, that the Bill was intended to release religious ceremonies altogether from being made a ground of legal claims to emoluments. And from that point of view I believe it was perfectly open to the Honourable Mr. Kale, as sponsor for the Bill, to seek to widen its scope. At the same time I am quite willing to understand the hesitation of Government at this particular juncture to find themselves faced with a vastly bigger Bill than they had originally pronounced their opinion upon. It is certainly placing Government in a position of difficulty and I therefore, for the benefit of Government as well as for the benefit of other persons who have only considered the much narrower view, I should like to move that the further consideration of this Bill be postponed until such time as it is considered necessary.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, it is undeniable that the amendment moved by my Honourable friend Mr. Kale does go beyond the scope of the Bill and in view of the fact that the Bill was circulated for opinion as it was originally introduced, the position created by the amendment is one of some difficulty. I am therefore prepared to accept the motion made by my Honourable friend Mr. Sastri for adjournment of the discussion of this amendment, so that Government may have time to consider their attitude with regard to it; if you, Sir, agree to this adjournment and the House accepts the suggestion.

The HONOURABLE THE PRESIDENT: It may shorten the matter if I say that I have now had an opportunity of perusing the original Bill. That Bill also refers to the "right of hereditary Hindu priests." In those circumstances I am prepared to rule out the Honourable Mr. Kale's amendment as beyond the scope of the Bill.

Clause 2 was added to the Bill.

The HONOURABLE THE PRESIDENT: Mr. Khaparde, before you move your amendment* to clause 3, I have a point to put to you. I see that it provides for compensation. Before you move your amendment, will you tell me by what authority this compensation is to be paid?

* "Provided that this section shall not operate in any area unless the Local Government has made rules applicable to that area providing for compensation for the disturbance of any vested rights now existing and until such period as may be prescribed by those rules for the claim of compensation has expired."

The HONOURABLE MR. G. S. KHAPARDE: The compensation will be met from general revenues, as when Government acquires land for public purposes or the rights of persons for public purposes. In the same way this compensation may be met.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, in that case I have a preliminary objection to this amendment which my Honourable friend Mr. Khaparde seeks to move. And in connection with that preliminary objection I beg permission to invite your attention and the attention of the House to section 67 of the Government of India Act. Sub-section (2) of this Act says:

"It shall not be lawful without the previous sanction of the Governor General to introduce at any meeting of either Chamber of the Indian Legislature any measure affecting (a) the public debt or public revenues of India, or imposing any charge on the revenues of India."

If Honourable Members will turn to section 20 of that Act, they will find that it enacts as follows:

"The revenues of India shall be received for and in the name of His Majesty and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone."

And by sub-section (3) of this section it is enacted that the expression "the revenues of India" in this Act shall include all the territorial and other revenues of or arising in British India. Let me in this connection invite your attention also to the provision embodied in section 45A. This is how that section runs:

"Provision may be made by rules under this Act for the devolution of authority in respect of provincial subjects to Local Governments and for the allocation of revenues or other monies to those Governments."

In accordance with this, rule 14 of the Devolution Rules has been framed under which some part of the revenues of India have been allocated to Local Government for purposes of meeting the usual expenditure in Provincial Governments. It will be clear from these provisions of the Act that the expression "revenues of India" includes all revenues derived by the Crown from any source whatsoever, whether they are derived in the Provinces or derived from Central subjects. As the House is aware, whenever any Local Government refuses any claim put forward by an individual and a suit is instituted against the Local Government, the suit has to be framed as against the Secretary of State for India in Council. Supposing that compensation was not awarded to a priest in an individual case, the priest, in order to obtain that compensation, would have to sue not the Provincial Government but the Secretary of State for India in Council. That also is based upon the principle that the revenues from which the Provincial Governments have to pay compensation are revenues of India. The expression "Provincial Revenues" is used merely as a result of the allocation. That is all.

May I in this connection, Sir, remind you that in connection with a question which arose sometime ago of an analogous character you expressed an opinion with regard to the term "revenues of India" in language, if I may venture to say so, clear and succinct, upon which it is difficult for me to improve, and therefore with your permission, Sir, I should like just to read that opinion. The question was as to the nature and extent

The HONOURABLE THE PRESIDENT: I should like to ask the Honourable Member before he proceeds if I expressed the opinion from the Chair.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: No, Sir.

The HONOURABLE THE PRESIDENT: Then it is not in point.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, I am only adopting your language, I am putting it to you as coming from myself but only in your language.

The HONOURABLE THE PRESIDENT: I suggest that the Honourable Member adopt his own more felicitous language.

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Well, Sir, to be very brief, what I would submit to you is that the general legal position is this. If the Local Government refuses to pay any compensation, the person to be sued is the Secretary of State and the proper charge are the revenues of India. What is the effect? It is an executive delegation of the power to create charges, but the ultimate legal responsibility is unchanged; so that, the revenues, although they may for the time being have been allocated to the Local Government, are the revenues of India. What is therefore charged is the revenue of India and the compensation payable, according to the object which my Honourable friend has in view, will be compensation payable out of the revenues of India; and therefore, I submit, under section 67 the previous sanction of the Governor General in Council is necessary for the amendment, for it seeks to introduce a provision falling under the purview of that section.

The HONOURABLE THE PRESIDENT: The objection taken raises two points. The first point is whether the Honourable Mr. Khaparde has the previous sanction of the Governor General. I ask him that question.

The HONOURABLE MR. G. S. KHAPARDE: I submit, Sir

The HONOURABLE THE PRESIDENT: I would ask the Honourable gentleman to reply. Has he the sanction of the Governor General?

The HONOURABLE MR. G. S. KHAPARDE: No, Sir. I never applied for it and naturally, therefore, have not heard from Government.

The HONOURABLE THE PRESIDENT: I should now like to hear the Honourable Member now on the merits.

The HONOURABLE MR. G. S. KHAPARDE: I submit, Sir, that the objection raised by my Honourable friend Mian Sir Muhammad Shafi appears to be premature. First of all, the Bill was before us and my argument in regard to compensation was urged at the last hearing at Simla. There my friend was present and he spoke and gave his personal view, but not the view of the Government. We know that he was impressed rather in favour of the Bill. That we know because he gave it out there. I spoke of compensation then and if he thought that compensation was an objection, he could have raised it then; he never raised it there, and he raised it to-day after the amendment to the definition in clause 2 has been moved. I humbly submit that if we decide to give compensation and if the Local Governments decide to give compensation, the Local Governments will apply to the Government of India for necessary permission to do it. It is too early now. We have not yet decided whether compensation should

[Mr. G. S. Khaparde.]

be given. It may be decided and I urge that it should be decided. If it is decided then the Local Governments can take steps to pay compensation by applying to the Imperial Government. The objection is too early, I think, and premature.

THE HONOURABLE THE PRESIDENT: This is a point of considerable constitutional importance. Section 67 (2) of the Government of India Act, as the Honourable the Law Member has pointed out, lays down that :

“ It shall not be lawful, without the previous sanction of the Governor General, to introduce at any meeting of either Chamber of the Indian Legislature any measure affecting the public debt or public revenues of India or imposing any charge on the revenues of India ”

If, as the Honourable Member suggests, compensation is to be paid by the general tax-payer, that must be a charge on the public revenues. The rule is the logical consequence of the constitutional principle that Demand for Supply must be vested in the Crown. For if you impose new charges you may practically render taxations necessary. In any case whatever the theory behind the rule, it is clear that the amendment is within the mischief of the section. I think I must hold that an amendment to a Bill is “ the introduction of a measure ” for the purposes of section 67 (2) for if I did not do so the provisions would clearly be useless. The Honourable Member has not got the necessary sanction and therefore I think the objection taken is sound. Then an equitable point arises. It is perfectly true that the Honourable Member when speaking on this Bill on the last occasion stated that he meant to move an amendment in regard to compensation, and I heard no word from the Government side throughout suggesting that this was in any way beyond the powers of a private member. I think the Honourable Member was taken by surprise by the objection. It may be that if he had applied to the Governor General, he might have got the permission. It does not seem unreasonable that he should be given an opportunity. What does the Honourable the Leader of the House say to that?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: Sir, I venture to submit that if during a discussion at the introduction stage of a Bill a Member when dealing with the principles of a Bill speaks of the forfeiture of vested rights and then goes on to talk of compensation, it does not necessarily convey to his hearers that he subsequently intends to move an amendment. That is an argument which can be put forward against the Bill itself, and in consequence, unless I had private notice from my Honourable friend that he intended actually to move an amendment of this description that he has actually moved, it cannot be said that I had any notice of his intention to move an amendment. He had ample time to apply to the Governor General, if I may say so, for his sanction to bring forward an amendment like this, for the House will remember that the Bill was introduced in the Simla Session several months ago and my Honourable and learned friend did not think fit to apply. Of course ignorance of law is no excuse. That is a well-known principle and I submit that I was entitled to take this objection to the amendment as soon as my learned friend stood up to move that amendment. That was the proper stage for me to put forward the objection. In these circumstances, I respectfully submit

THE HONOURABLE MR. G. S. KHAPARDE: The amendment was moved one month ago; so you could have

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI: It has been moved for the first time to-day.

The HONOURABLE THE PRESIDENT: I merely made a suggestion on the ground of surprise. I did not suggest that my Honourable friend the Leader of the House was required in any shape or form to give information to the Honourable Mr. Khaparde. He is perfectly right in putting forward his objection, which I have upheld. I have put it as a possible indulgence as the Honourable Member seemed really very surprised by the legal point. I have already ruled that without the necessary sanction the amendment cannot be moved.

The question is that clause 3 do stand part of the Bill.

The HONOURABLE SIR LESLIE MILLER (Madras: Nominated Non-Official): Sir, as it has been definitely ruled that it is now impossible to introduce into this Bill the question of compensation for disturbance of vested rights, it behoves me, I think, to ask the House to throw the whole thing out altogether. It has been my position throughout that this question of compensation is the real defect found in this Bill. I am not acquainted with, nor am I in any way concerned with, the question of religion, and it seems to me that religious questions have been dragged into this Bill unnecessarily. I am concerned only to see that the Indian Legislature does not in the early stages of its career introduce into the law a dangerous principle of expropriation without compensation. If I can prevent that, I shall do well. If I cannot prevent that, I must look forward to the time when this Bill will be cited as a precedent for the introduction probably of a much larger measure of spoliation. It is a small matter now, but it may be a larger matter then. It is a little seed which may grow into a spreading tree to which, Sir, I venture to think all the obscene fowls of the air, the vultures and carrion birds, and birds of prey of all kinds will flock to roost on its branches

The HONOURABLE MR. V. G. KALE: Sir, I rise to a point of order. I want to know what is the question before the House.

The HONOURABLE THE PRESIDENT: I understand the Honourable Member is moving the rejection of clause 3. If he succeeds it will kill the Bill.

The HONOURABLE SIR LESLIE MILLER: Now, Sir, it may seem that this is strong language, but the danger is undoubtedly there. On the motion for the introduction of this Bill at Simla, when the Leader of the House, the Honourable Mian Sir Muhammad Shafi, said that the Government had no objection to the Bill, I put away from my mind at once the thought that came into it, that perhaps they would rather like, in course of time, to have some precedent by way of justification for taking away a man's property without compensating him; but I preferred to think that they have overlooked that aspect of the Bill. Now, Sir, I hold here, by the courtesy of my Honourable friend Mr. Khaparde, a paper which purports to be explanatory of the necessity for and of the benefits to be gained by this Bill, and which purports also to meet the objections which have been levelled against it. It is a paper which, from its date, I judge to have been prepared for the benefit of the discussion in this House, and for that purpose I will with your permission use it. Now in the first place this paper says the Bill has nothing to do with the rights of property held by the priest. Sir, I venture to think that that remark is merely untrue;

[Sir Leslie Miller.]

indeed, the author of the paper says so himself. One of the reasons why this Bill has been introduced here and not before the Local Government is stated to be because it is a question affecting civil rights. Now it has nothing to do with property rights, but it has to do with civil rights. There seems to me to be inconsistency, and I believe it was admitted by the Honourable Mover of the Bill in this Chamber before that this measure has to do with rights of property declared by the High Court of Bombay to exist in law, in the case of the property of these particular village *joshis* in Bombay. If the Bill then has to do, and I contend that it clearly and certainly has, with the doing away with civil rights to property declared by the law, then I suggest that it will be wrong and dangerous to pass a Bill which will have that effect without providing any compensation to those whose rights are affected. Now the nature of the Bill is peculiar, designedly or otherwise I do not know. It disguises the fact that it is dealing with civil rights by the form in which it is framed. The form in which it is framed is simply a negation of the right to proceed to the civil court. That in itself, Sir, presents itself as rather astonishing. No suit shall lie for the recovery of ceremonial emoluments. As a way of putting it it is ingenious and also fertile of danger. Courts are established for the adjudication of all civil rights. This clause 3 proposes to take away one of the civil rights from the cognizance of the court. That in itself seems to me to be wrong. I am aware that in the Statutes in India there are many matters that are excluded from the jurisdiction of the courts, but I am not aware, though I am open to correction, that there is any matter so excluded for which some other tribunal is not somewhere provided. Now here there is no such tribunal. What is this *joshi* to do? The Bill does not declare that he has not any right. The effect of it may be that he is unable to protect his rights, but the Bill itself makes no declaration that he has no rights. It simply says the courts shall not listen to him. Where is he to go? He must go across the seas to present his petition to the King, in person? Is that all that is left to him? It is a remarkable Bill in that respect, and a bad Bill for that reason, a Bill which I venture to think this House will not allow to pass into law if it can avoid it. In this paper, Sir, to which I have already referred it is suggested that that is not so, at least that is how I understand the suggestion. The author says referring to the proposal to provide for compensation that it relates to "a claim for compensation which the Bill declares is invalid in law," and he characterises that as an absurdity. Sir, there may be absurdity in the statement, but it is not to be found I venture to think in the proposal of my Honourable friend Mr. Khaparde. The Bill is not in any sense a declaratory Bill, it proposes to change the law. It is framed as a Bill to amend the law, and the suggestion that it is a declaratory Bill is therefore not true. Now, Sir, the objections taken in this paper are those which have been put before us from time to time. "The Bill is put forward in the interests of liberty of conscience." "A man ought not to have to pay for services he does not want." That is all very well; I agree entirely. But if a man is declared by the law to have a right to be paid, then you have got to pay him one way or another. That right ought not to be taken away without provision for compensation. That is the only point on which I have to oppose the Bill: it makes no provision for that compensation. But the proposal, says the author of this paper, to tack on a provision to the Bill for awarding compensation is against the very principle of the Bill and ought not to be accepted by those who hold the right view. The right to sue for unperformed services, he says, is contrary to the Hindu *Shastras*. That is his

first objection; it is against the Hindu *Shastras*. Of course, I am not qualified to say whether it is or whether it is not, but the only statement in this paper which suggests anything contrary to the *Shastras* is that relying on an opinion in which some learned Judge, in Madras I think, has said that the recognition of hereditary rights in spiritual offices is contrary to the *Shastras*. It may be so, Sir, but I venture to think that this hereditary question which has been necessarily brought into the title of the Bill in order to restrict its application, this hereditary question, so far as it is dragged in on the merits of the Bill is merely in the nature of a red-herring drawn across the trail to distract the attention of Honourable Members.

1 P.M. It matters not one whit whether hereditary priests are or are not contrary to the Hindu *Shastras*; for my purpose, we have no question of heredity. If they are contrary to the Hindu *Shastras* then I suggest to my Honourable friend Mr. Kale that he should move a Bill for the abolition of hereditary priests. There are some people who are fond of stirring up wasps' nests, and I think it might be left to them to do that. But in this case what we are dealing with is not the right of persons unborn but the right of persons in existence, performing the duties and doing the services for which they have been appointed. They may have come into their offices by reason of the fact that they are the sons of their fathers; that is one way in which you can acquire property, it may be a good way or a bad way; but they have got that office and they have got the rights attached to that office. If you wish to sweep away the rights of grand-sons or sons yet unborn, I have no objection that can be done, if necessary, by other legislation.

Then he goes on to say that the present law necessitates tampering with traditional forms. How, Sir, does it necessitate tampering with traditional forms; because, if you do not want to pay fees to duly appointed priests, you must get your ceremony performed, according to the Bombay High Court, in some, what I may call, unorthodox manner. Now, Sir, if you want to evade the payment of your dues, you must do something to perform the ceremonies in a way which you know is not right. If your conscience is such that you prefer to do the priest out of his due rather than put your hand in your pocket and pay your half-rupee or whatever it is, if you prefer to do something irreligious, something unorthodox, that is your own look out; but it does not really affect the question as to whether the priest is entitled to his dues or whether he is not.

Then it is said that it entails no loss to the priest if his right is denied. Now, Sir, the argument upon which this is based is for cynical, unblushing immorality—one which the House will find it difficult to beat. It is this. The loss will amount to very little or to nothing practically. "If the priest prefers a claim to the civil court, which, under the proposed change of law, is the only thing he may not be able to do, what does he get? A sum of a rupee or two. And what is the cost of fighting such a case and adducing evidence? The answer is obvious." That is to say, this man, who is poor, who is wronged, cannot get his rights, and you can safely deny them to him because it will cost him more than he can afford to get them. Well, Sir, that is the kind of argument upon which this Bill is supported; I venture to think that no Member of this House would support that argument. Then there is a talk of the system creating bad blood among Brahmins and non-Brahmins. It may be so; I should deeply regret it, if it is so; but this is an argument which cuts both ways. If you deny to the Brahmin his right you are as likely to create bad blood as if in sweeping it away you compensate him his loss.

[Sir Leslie Miller.]

Sir, it is suggested that all that the supporters of the Bill are trying to do is to get back to the simplicity and purity of ancient rites. In the opinion of Mr. Rangachariar, I think, real Brahmins do not want to get unearned money; if nobody wants to pay them, they do not want it. My experience is that Brahmins are very much like other people; if they have rights, they will stand on those rights. I can quite conceive that they may have objections to pushing themselves forward into positions where they are not wanted; so have other people; but if they have a right, that seems to me to be no argument for taking it away from them. If they are too timid, too high-principled, to try to enforce their rights, is that a reason why we should take away those rights from them? I trow not. Is there any reason why we should take them away except this, that by doing so we save the pockets of a person who prefers not to employ a man whom, under the law as it stands, he is bound to employ or to pay. It does not seem to me to be a very good reason, so stated. Liberty, Sir, is a very fine thing, for which I have the highest regard, but I cannot help thinking that this Bill will have the effect of adding one more to those numerous crimes which we have high authority for saying have been committed in the name of liberty.

I have nothing more to say, Sir, except this, that in this paper a number of valuable opinions of very learned men have been thrown at us, the opinions of learned Judges and others, none of whom, I think, have examined the question from this point of view, that we are depriving a man of his rights without compensation. Anyhow, Sir, greatly as I respect many of those opinions, if I differ from them, I differ from them with the greater readiness, because the question is not a question of law, it is a question of simple honesty, of morality. It is not a question upon which Judges and lawyers have anything more to say than any Member of this House. I ask the Members of this House not to be misled by great judicial names dealing with things of which they have no more knowledge than anybody else. Dealing with questions of morality and with questions of public policy, every Member of this House is entitled to form his own opinion. If, then, Sir, I differ from any of the learned gentlemen in the opinion I have formed of this Bill, I am very sorry for them, I can only comfort myself with the hope that, if before enunciating their opinions they had had the inestimable advantage of hearing mine, they might have modified theirs. I venture also to hope that the House will pay a little more attention to my opinion, which is addressed to this particular point, than to those of learned gentlemen who did not consider it at all.

The HONOURABLE DR. GANGA NATH JHA (United Provinces: Nominated Official): Sir, I also rise to oppose the passing of clause 8. It has already been observed that, if the Council refuses to pass this clause, it kills the Bill. Well, Sir, the Bill deserves no better fate. Each time it has come before us new difficulties have cropped up. Even to-day, Sir, within an hour or so, what the sponsor of the Bill himself considered to be merely an implication of the Bill as it stands, or the intention of the Bill, was found by distinguished legal authorities to be an unwarranted widening of its scope. The difficult position in which the Council finds itself, Sir, is another proof, if proof were needed, of the danger we are incurring in interfering with purely local matters. The very fact, Sir, that the connotation of the term 'hereditary priest' varies

perhaps in the minds of the various Members of this House is in itself an argument against the acceptance of the Bill as it stands. It is true that the Bill has to go before the local Legislatures, but in the way in which it is worded it does not deserve to pass this House. It was remarked by one of the Honourable Members that the Bill owed its origin to the differences between Brahmins and non-Brahmins in the other House. I have a better opinion of the originators of this Bill. I cannot believe, Sir, that the originators of this Bill were moved by any such sectarian motives. They took their stand upon progressive reformed ideas and I am quite sure that what they were aiming against were not the rights of Brahmins alone, but all similar rights of all classes, non-Brahmins included. That was what they intended perhaps when they introduced the term "Watandar" as they did originally. That term, I understand, includes not only Brahmins but all persons who have similar rights in connection with religious ceremonies. The assertion that the authors of the Bill aimed it at a limited class of Brahmin priests alone passes my comprehension. I do not believe it was so. I say all this only to show that there is this danger in the Bill, as it stands, that it may be regarded as purely sectarian, aimed against a particular caste; it is quite possible that there may be other dangers which we do not see now and which have not been brought out in the discussion to-day. Under the circumstances I do not think it will be safe for this Council to lend its support to the measure.

The HONOURABLE MR. G. S. KHAPARDE: I also wish to oppose the passing of this clause 3 that is before the Council now. First of all, this clause puts the questions concerned, not to speak of the persons concerned, in a very awkward position, as has been pointed out. You deny the priest's right, or rather you profess not to deny his right, you profess not to injure him in his property, and yet you say "No Court will hear him." That is something like the game I used to play in my younger days. Children come and sit in your lap. You put your hand on them to hold them down, and then you say "Why don't you get up?", while all the time you are pressing them down. In this case you say you do not want to take their property, and yet you won't listen to him when he comes to you for justice.

Then there is the legal argument that you have no power to give him compensation. But the compensation question has not been discussed, so it does not matter. I say therefore that section 3 of the Bill should not be passed.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to support the Honourable Sir Leslie Miller and Pandit Dr. Ganganath Jha. My reason for supporting them is the same as I gave a short while ago, that we should not legislate on matters which appertain to any religion.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I would have felt considerable diffidence in taking part in the discussion of a domestic measure of this character but for the fact that the principle underlying the clause which is the subject-matter of discussion, namely, clause 3, is by no means one which is peculiar to Hindu society. Sir, it appears that the question has been approached from different viewpoints by the various speakers who have taken part in the discussion either here or in a different place. The opinion that has been expressed assumes that the passing of clause 3 involves a forfeiture of the proprietary rights of the priestly class of Joshis. Let us see whether that really involves that consequence.

[Saiyid Raza Ali.]

So far as I have been able to study this question, it appears that the priestly class have two classes of rights in certain portions of the Bombay Presidency and the Central Provinces. In the first place, they hold certain lands, revenue free, in respect of which they are known by the designation of Watandars. As such they have certain rights in land and it is not within the purview of this measure to deprive the priests of those lands. In the second place, being priests they have certain rights to receive fees if they are asked to officiate on certain occasions in the performance of certain religious ceremonies. It is with this and this alone that the Bill before the House deals. I as a non-Hindu and as a non-Brahmin would look at it, Sir, somewhat from this point of view. Have the priests really got such a right which, though no doubt recognized by the Bombay High Court for a number of years, should not be taken up for consideration on equitable grounds, and what is more, on moral grounds, as one of the previous speakers put it, by this Legislature? Sir, we all know that if a man does some work he is entitled to some remuneration; but I have yet to know of a case in which a man is entitled to get something because he does not do anything. And that exactly is the position of a Joshi in the Bombay Presidency. If he is called upon to officiate and perform certain ceremonies he is no doubt entitled to his customary dues. What is more, Sir, if he is not called upon—or rather if a man at whose instance a religious ceremony is going to be performed, has made up his mind not to have that priest—he still has to pay the priest's fees, who enjoys such a position of advantage and immunity that he is able to claim compensation for something which he never did and which he was never required to do. That, Sir, I submit, is the whole point at the root of clause 3. It has been pointed out, Sir, that the passing of this clause involves a measure of confiscation. Now, that, as I have pointed out, assumes that the priest or *joshi* has certain proprietary rights. They are no doubt rights which are capable of being enforced in law-courts. I do not propose to trace the history of the case law on this point in the Bombay Presidency. Suffice it to say that that was a legacy that came to the Bombay High Court from the Sadar Dewani Adalat which had held that *joshis* were entitled to be indemnified if others officiated at the performance of religious ceremonies. But assuming, Sir, that these are rights which are capable of being enforced, and are to-day enforced, we know that these rights are morally indefensible. I put it to this Chamber whether this Chamber would not be justified in reconsidering the whole position. Sir, the custom which has been enforced by the Bombay High Court, I would say, without any disrespect to that High Court, is a bad custom. Every good custom should be not only immemorial but it should also be reasonable. That is one of the essential elements of a valid custom. Is this custom, Sir, a reasonable custom? Can anybody say that a custom, which involves others in damages without any service whatsoever having been rendered to them, is a reasonable custom? If the custom is a reasonable custom, it should surely find support at the hands of this Council. One of the speakers, Sir, pointed out that the clause under discussion did not raise a question of law, but it raised a question of morality. I entirely agree with this view. If in the view of this Council it is moral for one man to demand a sum of money from another without doing anything for that other, then surely this custom can be founded on morality; otherwise it is a thoroughly immoral custom and one which should not be countenanced by this Council. Even if it subjects this class of priests to certain pecuniary disadvantages, and if the measure is one that promotes public weal, the measure is one

that should find acceptance at our hands. There are cases and there are times when legislation is undertaken even though it results in reducing the value of the property of others. The various Land Alienation Acts passed, notably in the Punjab and Bundelkhand, are cases in point. As is known to Honourable Members, the tendency of every Land Alienation Act which puts restrictions on transfers of land is to lower, to reduce, the value of land, and to that extent it subjects the owners of land to pecuniary loss; yet nobody has raised the cry that you are not entitled to pass Land Alienation Acts, unless you make compensation to the present holders of property. In the same way I am not aware whether the British Government paid any compensation to the owners of slaves in this country or in England, when it abolished the slave trade. (*The Honourable Mr. G. S. Khaparde*: "They did in America.") My learned friend is talking of America. I do not think that this measure has been introduced in the American Senate: it is before this Council. If the British Government did not make any compensation to the owners of slaves, I, for one, entirely fail to see, Sir, why we should not take away the fetters of this unfortunate class which consists not only of Non-Brahmins but both of Brahmins and Non-Brahmins in these two provinces, inasmuch as I know that in one district at least, namely, Ratnagiri, a number of cases have been brought by *joshis* against the Brahmins themselves. So the liability is not one which the Non-Brahmins alone are subject to. This Council should view it from a higher view-point and not consider it from a narrow point of view. I support the motion that clause 3 be passed.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): Sir, as a non-Hindu, I may not be expected to express any opinion on this subject, but most of the speeches which have been delivered to-day are from some of those who are non-Hindus. The Honourable Sir Leslie Miller in his long and eloquent speech advised the Government to throw out this measure, and some others also supported the Honourable Member in his view. I take a different standpoint, Sir. I think it is a question of emancipation of human conscience, and I do not think that we are here specially to enslave human conscience. It is a problem between compensating certain people who are supposed to possess untenable rights and the exercise of full liberty of action and conscience. I cannot imagine that Government would be blamed if this measure is passed, because there is such a proportion of non-official Members here that if it is passed, the outside public will naturally consider that it has been passed with the majority of the non-official Members. So, why should there be such misapprehension about the difficulties of Government? The Honourable Mr. Khaparde said that certain other Members of the village community, such as barbers, washers and others, are allowed to have their emoluments, and the priests are the only unfortunate people who are thrown out. I cannot understand that an Honourable Member of the Honourable Mr. Khaparde's position should say this. I cannot suppose that he imagines that human conscience has the same value as for example dirty linen which is washed by washermen or the razor of a barber. If those people, barbers and washers, are allowed their rights, they do service to society and to the man who pays him for it almost every day. The priest who officiates at certain ceremonies does some service occasionally and perhaps after so many years

The HONOURABLE MR. G. S. KHAPARDE: What is the analogy? How are they related to each other?

The HONOURABLE THE PRESIDENT: Order, order. Let the Honourable Member proceed with his speech.

The HONOURABLE SIR ZULFIQAR ALI KHAN: If a man refuses to have a priest on a certain occasion, are we to force that man to employ his services? I think no enlightened Member of this Council will endorse this view. Sir, with these few words, I support the Bill which has been introduced by my Honourable friend Mr. Kale.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, with your permission I would like to say a few words. When this Bill was introduced at the Simla Session I gave it my unqualified support on the ground that those persons who did not render any service were not entitled to get any emoluments through the courts, but since that time I find that the position is quite changed, and from to-day's proceedings I feel that the Bill is incomplete and defective. The notice of so many amendments and changes proposed to be made in the Bill show that it is incomplete and defective. The Honourable Sir Leslie Miller has clearly pointed out two defects, the first is that no provision is made for any compensation. If any civil rights are going to be taken away, there should be some provision made for compensation. The second point he raised very strongly is that, if a man has a civil right and is debarred from going to any civil court, what place will he have to go for redress? In the Bill nothing of that kind is provided, and therefore I think that the Bill as it stands is incomplete and defective and I would ask the Honourable Mover to withdraw it for the present and after making it more complete and effective, bring it again before this Council.

The HONOURABLE THE PRESIDENT: The question is that clause 3 stand part of the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, as it is ^{that the} rightly important point, I think I would be justified in asking for a division.

The House divided as follows:

AYES—6.

Akbar Khan, Major Nawab.
Kale, Mr. V. G.
Lal Chand, Lient.

Raza Ali, Mr.
Tek Chand, Mr.
Zulfiqar Ali Khan, Sir.

NOES—11.

Ayyangar, Mr. K. V. R.
Jha, Dr. G. N.
Khaparde, Mr. G. S.
Miller, Sir Leslie.
Moti Chand, Raja.
Ram Saran Das, Mr.

Ray, Raja P. N.
Sinha, Mr. Sukhbir.
Srinivasa Sastri, Rt. Hon. V. S.
Vasudeva Raja, Raja.
Zahir-ud-din, Mr.

The motion was negatived.

The HONOURABLE THE PRESIDENT: Clause 4. The proposed amendment* to be moved by the Honourable Dr. Ganganath Jah falls within my previous ruling and therefore cannot be moved. The question is that the Preamble stand part of the Bill.

The motion was adopted.

* "4. For the purpose of this Act, the expression 'hereditary Hindu Priest' includes every person who, by custom or religious practice, is entitled to claim or receive any gift or emolument on the ground of an hereditary right vested in him to officiate at or take part in or assist in the performance of a religious ceremony."

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire to move that the Bill be passed?

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Yes, Sir, I formally move that the Bill, as passed by the Legislative Assembly and amended by the Council, be passed.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): I do not think this House should stultify itself by agreeing to a motion of the kind that is proposed by the Honourable Mr. Kale, with the Bill as it stands amended.

The HONOURABLE MR. V. G. KALE: Sir, the Council was pleased to reject the third clause—the vital clause of the Bill, and I am only doing my duty in submitting to the Council the Bill as it has been amended so that it may do what it likes with it.

The HONOURABLE THE PRESIDENT: The question is that the Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, as passed by the Legislative Assembly, and as amended by this Council, be passed.

The motion was negatived.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Secretary of the Legislative Assembly.

The HONOURABLE THE PRESIDENT: Let it be read.

The SECRETARY OF THE COUNCIL: *“ In accordance with Rule 36 (1) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Workmen's Compensation Bill were taken into consideration by the Legislative Assembly at their meeting to-day, the 27th February 1923, and that the Assembly have agreed to the amendments.”*

The HONOURABLE THE PRESIDENT: That concludes the business for this morning.

The Council then adjourned till Eleven of the Clock on Wednesday, the 28th February, 1923.
