

*Wednesday,
18th September, 1912*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. LI

April 1912 - March 1913

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OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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VOL. LI



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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909 (24 & 25 Vict., c. 67, 55 & 56 Vict., c. 14, AND 9 Edw. VII, c. 4)

The Council met at Viceregal Lodge, Simla, on Wednesday, the 18th September, 1912.

PRESENT:

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O., G.M.S.I., G.M.I.E., Viceroy and Governor General, *presiding*, and 44 Members, of whom 37 were Additional Members.

OATH OF OFFICE.

The Hon'ble Mr. Walsh made the prescribed oath of allegiance to the Crown.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Bhurgri asked:—

- "(a) With reference to the replies given by the Government to my questions about the Sukkur Weir and Sind Irrigation Schemes in March last, will Government be pleased to state if they have come to any decision about the Sukkur Weir and Sind Irrigation Schemes?
- "(b) Will Government be pleased to state whether experts were consulted in the matter, and, if so, what experts were consulted and whether they are unanimous about the success of the schemes?
- "(c) Will Government be pleased to lay on the table the opinion of such experts and also the figures of the cost of the schemes, together with the revenue forecast?"

The Hon'ble Sir Robert Carlyle replied:—

"(a) The project has been favourably reviewed by the late Inspector-General of Irrigation, who has accepted the estimates submitted by the Bombay Government with certain modifications.

"It is now being considered by the Government of India, and it is hoped that it will be ready for despatch to the Secretary of State at an early date.

[*Sir Robert Carlyle; Mr. Sachchidananda Sinha; [18TH SEPTEMBER, 1912.]*
Sir A. H. McMahon.]

"(b) The officers chiefly connected with the preparation and criticism of the scheme are as follows :—

On the Engineering side.

"Dr. T. Summers, Superintending Engineer on Special Duty.

"Mr. Beale, Superintending Engineer, Indus left Bank.

"Mr. Hill, Chief Engineer, Bombay.

"Sir John Benton, Inspector General of Irrigation.

On the Revenue side.

"The Commissioner in Sind and various Revenue and Agricultural Officers specially selected for the purpose of framing the Revenue Estimates. It has not been deemed necessary to call in any other experts. The officers named are unanimous in their opinion that the scheme will prove productive, but the Engineers differ on certain points relating to the programme and methods of construction.

"These do not call for further reference at the present stage ; but they will be fully considered by competent authorities in due course before commencement of construction.

"(c) This request cannot be complied with at present, the case being still under consideration."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"With reference to the reply given by the Hon'ble Sir Arthur McMahon to the first part of the question asked by me on the 1st March last, regarding crimes in the North-West Frontier Province, will the Government be pleased to say whether they are in a position to supply the information there requested?"

The Hon'ble Sir A. H. McMahon replied :—

"In reply to the Hon'ble Member's question, a statement*, giving the required information as to the number of raids committed, persons murdered and kidnapped, and the value of property looted, during each of the ten years since the creation of the North-West Frontier Province, is placed on the table.

"As the Province was formed on the 9th November 1901, the totals given in the statement are for the 12 months ending in November each year, and not for the calendar year.

"A definition for statistical purposes of the term raid presents a little difficulty, and the local officers who report occurrences of this nature do not always discriminate between a raid proper and an ordinary *dakaiti*. The statement therefore includes all cases in which there is reason to believe that trans-frontier offenders were concerned.

"The figures given as the value of property stolen represent, for the most part, the complainants' estimate of their losses. There is a natural tendency to exaggerate the value of lost property, and it is impossible to secure anything like accuracy in such figures."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) With reference to the reply given to my question by the Hon'ble the Home Member, on 7th March last, will the Government be pleased to now state when the revised Regulations for election to the Imperial and Provincial Councils are likely to be promulgated ?

"(b) Have the Government already sent in their suggestions on the subject to the Secretary of State ?

"(c) If so, had the Government consulted any non-officials, individuals or public bodies before formulating their suggestions to the Secretary of State ? If not, why ?

* *Vide Appendix A.*

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"(d) Has the attention of the Government of India been drawn to the following observations of the Right Hon'ble the Earl of Minto made in the course of a speech at a meeting of the East India Association, London, and published on page 183 of the July number of the 'Journal' of that Society :—

'I readily admit that the Regulations of the new Councils Act are extremely puzzling and often very confusing ; some of them I confess that I have found difficult to understand myself ?'

"(e) Have the Government of India experienced any similar difficulty ? If so, have they done anything in revising the Regulations to remedy the defects referred to by Lord Minto ?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) and (b) The Government of India have forwarded to the Secretary of State their proposals for the amendment of the Regulations and Schedules relating to four Councils, and it is hoped that the amendments affecting the remainder will be submitted shortly. The revised Regulations will be published as soon as the Secretary of State's orders are received.

"(c) The proposals of the Government of India have been framed after consideration of the reports of Local Governments, and no specific reference by the Government of India to other sources of information was considered to be necessary.

"(d) and (e) The Government of India have seen the remark attributed to the Right Hon'ble the Earl of Minto. With the varying conditions and details characteristic of different provinces, it is inevitable that the Regulations should be somewhat complicated, but an attempt has been made to simplify and elucidate any points in which actual experience had demonstrated the existence of doubts or difficulties."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"With reference to the reply given to my question by the Hon'ble the Home Member, on the 18th March last, will the Government be pleased to now state the information (which was then said to have been called for) in regard to the case of the Khan of Hoti Mardan with special reference to the remarks of the Hon'ble Mr. Justice Davar and the Advocate-General, quoted in my previous questions ?"

The Hon'ble Sir Reginald Craddock replied :—

"The Hon'ble Member is referred to the papers* placed on the table."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"With reference to the reply given to my question by the Hon'ble the Home Member, on the 1st March last, will the Government be pleased to now state the result of the inquiries into the facts of the case referred to in Dr. Mann's letter in the 'Indian Social Reformer' (Bombay) of 5th November, 1911, and their intention as regards amending the law on the subject, if the passage quoted in my question from the judgment of the Poona Court be correct ?"

* Vide Appendix B.

[*Sir Reginald Craddock ; Mr. Sachchidananda Sinha ; Sir Robert Carlyle ; Sir Harcourt Butler.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Sir Reginald Craddock replied :—

" A report upon the case was received from the Government of Bombay and a statement as to the intention of Government in respect of legislation generally further to protect women and children will be made in connection with the private Bills to be introduced on the subject later on to-day."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" With reference to the reply given to my question, on the 18th September last, by the Hon'ble Mr. (now Sir Robert) Carlyle, that a representation of the Upper Subordinate Establishment of the Public Works Department was then under consideration, will the Government be pleased to now state their decision, if any, on the subject?"

The Hon'ble Sir Robert Carlyle replied :—

" It has been decided, in view of the larger financial powers which have been conferred or which it is proposed to confer on Local Governments, that the matter is one which should be dealt with by Local Governments themselves under their enhanced powers. The memorials will accordingly now be returned to Local Governments for disposal, and the Government of India will only be referred to in any case in which the expenditure involved exceeds the powers of the Local Government. The Upper Subordinate Establishments in minor administrations, which are very small, will be dealt with by the Government of India on the lines of reorganisation adopted by provinces to which they are adjacent."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" Will the Government be pleased to state the result of the correspondence with the Secretary of State on the subject of the Separation of the Judicial and the Executive functions?"

The Hon'ble Sir Reginald Craddock replied :—

" The Government of India are not at present in a position to make a statement on the subject."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" (a) Is it a fact that ten scholarships were recently offered by the Government of India to students for study in Foreign countries, and that not one of them has been allotted to a Mussalman?"

" (b) If so, do Government propose to take any such steps as will, in future, ensure some at least of these scholarships being awarded to Mussalman students? If not, why?"

" (c) Is it a fact that the absence of any Mussalman scholar this year has found expression of dissatisfaction in the Mussalman press of the country? If so, has the fact been brought to the notice of the Government?"

The Hon'ble Sir Harcourt Butler replied :—

" (a) Under standing orders Local Governments submitted this year, as usual, names of candidates for technical scholarships tenable abroad. No Muhammadan candidate was nominated by any Local Government,

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(b) The Government of India do not propose to take any special steps to ensure some of these scholarships being in future awarded to Muhammadans. They have no doubt that Local Governments considered the claims of Muhammadan candidates, if there were any. These scholarships are awarded without consideration of race distinction, and a certain number have been awarded to the Muhammadans in the past.

(c) The Government of India have noticed expressions of dissatisfaction in certain organs of the Muhammadan press regarding the non-selection of Muhammadan scholars."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Has the attention of the Government been drawn to the leading article headed 'The Punjab Hindus and the Police Service' in the *Tribune* (Lahore) of August 3rd last ?

"(b) Is it a fact—as stated in the last paragraph of the said article—that out of a total of 30 Deputy Superintendents of Police in the Punjab, North-West Frontier Province and British Baluchistan, there are 16 Mussalmans and only 2 Hindu and 3 Sikh officers of that rank ?

"(c) Is it also true—as stated therein—that in the Punjab there are 12 Muhammadan Deputy Superintendents and only 1 Hindu and 3 Sikh officers of that rank ?

"(d) Is it a fact that there is deep dissatisfaction amongst the Hindus of the Punjab with the manning of the higher Police ranks open to Indians in that Province, and that the Punjab Hindu Sabha submitted a memorial to Lord Minto on the subject in June, 1909, an extract from which is quoted in the *Tribune's* article referred to above ? If so, has the fact been brought to the notice of Government ?

"(e) If so, do Government propose to direct the Punjab Government to take steps to remove the causes of dissatisfaction (if any) ? If not, why ?"

The Hon'ble Sir Reginald Craddock replied :—

"(a). The Government of India have seen the article referred to.

"(b) and (c). The Punjab Civil List of 1st July, 1912, shows that there were on that date 29 officers on the combined Cadre of Deputy Superintendent for the Punjab, the North-West Frontier Province and Baluchistan, of whom 21 are Indians. The distribution and classification of these 21 was as follows (one who was employed in a Native State being excluded).

	Punjab.	North-West Frontier Province.	Baluchistan.
Muhammadans	10	6	0
Hindus	1	0	1
Sikhs	2	0	0
Total	13	6	1

[*Sir Reginald Cradock ; Mr. Sachchidananda Sinha ; Sir Harcourt Butler.*] [18TH SEPTEMBER, 1912.]

" (a) and (e). The Punjab Hindu Sabha submitted a memorial to Lord Minto's Government in 1909, to which a reply was given, and in that the matter of the manning of the Police Department was raised among other issues. Apart from this memorial the Government of India have received no other evidence of dissatisfaction; and since the matter is within the competence of the Local Government, it is not proposed to direct that any particular action should be taken."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" (a) Were the following remarks made by the Director of Public Instruction, Punjab, in the course of a speech in the Punjab Legislative Council, on the 13th March last :—' The provision of Rs. 45,000 for new schemes represented the initial cost of introducing improved scale of pay for the Provincial and Subordinate Educational Services. It was not known when the Government of India would accord sanction to either of these schemes, the former of which was originally submitted in 1908, and subsequently in revised form in 1910, but there could be no doubt that organisation and improvement in terms were urgently needed in both cases, and it was hoped that sanction would not be indefinitely delayed.' If so, has the attention of the Government been drawn to them ?

" (b) Will Government be pleased to state when their orders on these schemes are likely to be issued ?"

The Hon'ble Sir Harcourt Butler replied :—

" (a) The Government of India have seen the remarks quoted.

" (b) As regards the Provincial Educational Service, attention is invited to the following *Press Communiqué*, which was issued on the 6th August, 1912 :—

' The Government of India decided last year to address the Secretary of State regarding the pay and prospects of the Indian and Provincial Educational Services. In view of the probability of the formation of a Royal Commission on the Public Services in India, the communications were delayed. Pending the results of the Commission's inquiries, no further action is now possible.'

" As regards the Subordinate Educational Service, the Government of India have addressed the Secretary of State on the subject of the Punjab Government's proposals, and His Lordship's orders are awaited."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" (a) Has the attention of the Government been drawn to the statement reported in the papers to have been made by Mr. Montagu in the House of Commons (in reply to a question put to him) that there will be no separate building for the Imperial Legislative Council in the new capital of Delhi, but that it will be a part of the Government House ?

" (b) Is it a fact that the said announcement has evoked strong and emphatic protests from all sections of the Press in the country ? If so, has the fact been brought to the notice of Government ?

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- "(c) Will the Government be pleased to state whether the decision announced on the subject is absolutely final ?
- "(d) If so, whether it was arrived at after consulting the non-official members of this Council ?
- "(e) Will Government be further pleased to state if any final decision has now been arrived at as to the style in which the permanent buildings at Delhi are to be erected ? If so, what ?"

The Hon'ble Sir Reginald Craddock replied :—

- "(a) Government have seen the papers referred to.
- "(b) The attention of Government has been drawn to newspaper comments both disapproving and approving of the action proposed.
- "(c) Yes.
- "(d) No.
- "(e) No decision has yet been arrived at."

The Hon'ble Mr. Sachchidananda Sinha asked :—

- "(a) Is not the appointment of Colonel Beadon to a Judgeship of the Punjab Chief Court the first instance of a Military Civilian, being raised to the Bench of that Court ?
- "(b) Is it not a fact that the Secretary of State vetoed the appointment of Major-General Sir William Davis as a Judge of the Punjab Chief Court some forty years back ?
- "(c) If so, will the Government be pleased to state the special circumstances necessitating the departure from the practice which has prevailed hitherto ?
- "(d) Is it a fact that the appointment has not met with the approval of the Indian Press ? If so, are Government aware of it ?"

The Hon'ble Sir Reginald Craddock replied :—

"The answer to the first part of the question is in the affirmative, and to the second in the negative. Lieutenant-Colonel Beadon was recently selected for an appointment to the Punjab Chief Court because it was considered that he was conspicuously the best officer available. His connection with the Army lasted for rather less than four years, and he has been continuously in Civil employ since 1887. The Government of India have seen comments in certain papers criticising the appointment."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Will the Government be pleased to state the rules, if any, governing the association of public servants with political institutions ?

"(b) Is it true that the Hon'ble Mr. Justice Rattigan, Judge, Chief Court, Lahore, has recently accepted the office of the President of the Anglo-Indian Association in the Punjab ?

"(c) If there are any such rules as are referred to in paragraph (a) of this question, will the Government be pleased to say what are the characteristics of a political institution within the meaning of such rules, and whether the Anglo-Indian Association in the Punjab possesses those characteristics, and, if it does not, which of them are wanting in it ?

[*Mr. Sachchidananda Sinha; Sir Reginald Craddock; Sir A. H. McMahon.*] [18TH SEPTEMBER, 1912.]

"(d) If it be a political body, and if the association of public servants with such institutions be against the policy of the Government, will the Government be pleased to state what steps, if any, they propose to take to prevent the infringement of its rules on the subject?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) It is not altogether clear what the Hon'ble Member has in view by the expression ' political institutions ', but the general rule applicable to Government servants is that they shall not take part in political movements in, or having reference to the affairs of, this country.

"(b) The answer is in the affirmative.

"(c) The objects of the Association in question appear to be the amelioration of the condition and the fostering of the progress and development of the Domiciled European and Anglo-Indian community, while maintaining and extending its rights and interests. The question whether these objects are political, in the sense that it is undesirable that a servant of Government should be connected with them, depends upon the manner in which the Association conducts its activities. So far the aims of the Association are described as mainly social.

"(d) It has not yet been brought to the notice of Government that in this case there has been any infringement of the rules, and no further action is therefore contemplated.

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Has the attention of the Government been drawn to a paragraph headed ' Punjab and the North-West Frontier Province ' in the issue of the *Punjabee* (Lahore) of 9th May last ?

"(b) If so, what truth, if any, is there in the allegations made therein (in the extract quoted in that paragraph from a correspondent's communication) to the effect that the Deputy Commissioner of Kohat interfered with the presentation of a memorial to His Excellency the Viceroy two days before the latter's visit to that town ?

"(c) If the allegations be true, do Government propose to issue instructions to all District Officers directing them not to directly or indirectly interfere with the people in the matter of their laying grievances before their King-Emperor's representative or the head of their provincial Government ? If not, why ?"

The Hon'ble Sir A. H. McMahon replied :—

"(a) The Government of India have seen the paragraph in question.

"(b) It is not known what truth there is in the allegations contained in that paragraph ; nor is it deemed necessary to inquire into the matter. The Rules for the submission of petitions to the Government of India (which were published under Home Department Notification No. 147 (Public), dated the 19th January 1905) are well known. Under section 1, Rule 1 of those Rules, every petition must be forwarded through the Local Government concerned. The direct presentation of a petition to His Excellency the Viceroy would have been an infringement of this Rule. If, therefore, the Deputy Commissioner of Kohat took the steps ascribed to him, he acted within his powers.

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"(c) There seems to be no necessity to modify the Memorial Rules, and the Government of India do not therefore propose to issue to District Officers the instructions suggested by the Hon'ble Member."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Is there any truth in any of the statements made in the following paragraph which has appeared in many of the Calcutta papers :—
'We understand that it has been practically settled that the Sub-Divisions of Rajmehal and Jamtara in the Sonthal Parganahs will be incorporated with the Presidency of Bengal. The question of incorporating the Manbhumi District and the Sub-Division of Kishanganj in the Purnea District is under consideration'.
If so, to what extent?"

"(b) Is the question of territorial redistribution between Bengal and Bihar and Orissa still under consideration? If so, do Government propose to consult public opinion of the provinces concerned before coming to a final decision in the subject? If not, why?"

The Hon'ble Sir Reginald Craddock replied :—

"No proposals for the re-adjustment of the boundaries of the Provinces of Bengal and Bihar and Orissa are under the consideration of the Government of India."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"Have the Government received from the Government of Bihar and Orissa a reply to their letter on the subject of the establishment of a High Court for the new province? If not, can Government state when it may be expected?"

The Hon'ble Sir Reginald Craddock replied :—

"The Government of India are still awaiting an expression of the opinion of the Local Government on the proposal that a new High Court should be established for Bihar and Orissa, but it is stated that a report will be submitted shortly."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Have the Government received from the Government of Bihar and Orissa their scheme for the constitution of the Provincial Legislative Council? If so, is it now under the consideration of the Government, or has it been forwarded to the Secretary of State?"

"(b) Did the Local Government consult any non-officials, individuals or public bodies before forwarding their suggestions to the Government of India?"

"(c) If not, was it because of any direction to that effect of the Government of India?"

The Hon'ble Sir Reginald Craddock replied :—

"The proposals of the Local Government of Bihar and Orissa regarding the constitution of the Legislative Council in that province are at present under the consideration of the Secretary of State. The Local Government exercised its own discretion as to the procedure to be adopted by it in framing its

[*Sir Reginald Craddock; Mr. Sachchidananda Sinha.*] [18TH SEPTEMBER, 1912.]

proposals, and although no formal consultation of non-official opinion appears to have been held, it had at its disposal various other means of ascertaining the views of those likely to be interested."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"Will the Hon'ble Member be pleased to state some of the various means the Local Government had at its disposal?"

The Hon'ble Sir Reginald Craddock replied:—

"The Local Government is always able to consult as many non-officials as it chooses in an informal manner, and in addition to that it had of course all the comments that appeared in the Press on the subject."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"(a) Is there any truth in the statement that, except on the occasions of the meetings of the Legislative Council, the Government of Bihar and Orissa will continue to stay at Ranchi even during the cold weather?"

"(b) Have any summer head-quarters, other than Ranchi, been found for the Local Government of Bihar? If not, what steps, if any, are being taken to provide them with permanent summer head-quarters? Is Ranchi going to be the permanent summer head-quarters?"

"(c) What sum, if any, has been sanctioned by the Government of India for expenditure on temporary buildings at Ranchi?"

The Hon'ble Sir Reginald Craddock replied:—

"(a) There is no truth in the statement that, except on the occasion of the meetings of the Legislative Council, the Government of Bihar and Orissa will continue to remain at Ranchi during the cold weather. Until buildings have been constructed at Bankipore, the bulk of the Secretariat must necessarily be accommodated at Ranchi, but the Lieutenant-Governor, with such establishment as may be necessary, will proceed to Bankipore at the end of October, and Bankipore will be his head-quarters throughout the cold weather. The Board of Revenue will probably be permanently located at Bankipore from November."

"(b) No summer head-quarters other than Ranchi have yet been found for the Local Government, possible locations are being investigated and till a suitable place is found, Ranchi will continue to be the summer head-quarters though the Lieutenant-Governor proposes to spend a portion of the hot weather in Orissa."

"(c) No sum has been sanctioned by the Government of India for expenditure on temporary buildings at Ranchi, since the expenditure is within the power of the Local Government."

"Although the point does not directly arise out of the question, the Government of India desire to take this opportunity of stating that the rumours, which have found some currency in the Press, to the effect that the selection of Bankipore to be the capital of the Province may be reconsidered, are without foundation."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"(a) Has the attention of the Government been drawn to the proceedings of, and judgment in, the case which was lately tried by the Sessions Judge at Motihari in Bihar, and the proceedings of which are reported in the columns of the 'Beharee' (Bankipore) in its issues of July 18th, 27th, 28th and 30th last (commonly known as the Motihari Police Torture case)?"

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"(b) Have the Local Government taken any action in the matter ?

"(c) If not, do the Government propose to send for the record of the case and (after perusal of it) to issue such orders and instructions as they may deem necessary ? If not, why ?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) and (b). The Government of India have not seen the reports in the *Beharee* to which the Hon'ble Member refers, but they presume that the case alluded to is that in which a constable named Dost Muhammad of the Champaran District was convicted by the Sessions Judge of Motihari and sentenced to four years' rigorous imprisonment and a fine of Rs. 100. They have received reports of this case from the Local Government who have taken departmental action against a Sub-Inspector concerned with reporting the case. Of the result of this action the Government of India have not yet been informed.

"(c). In view of the above facts the last part of the question does not call for a separate answer."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Has the attention of the Government been drawn to the statement in the House of Lords of the Right Hon'ble the Marquis of Crewe, in reply to a speech of Lord Curzon's on the recent administrative changes, to the effect that the establishment of a University at Dacca was not a sop to Muhammadan feeling in Eastern Bengal but in furtherance of the deliberate policy of Government, in pursuance of which Universities would be established at Patna, Rangoon and other places ?

"(b) Is it a fact that all sections of the people in the new province of Bihar and Orissa are anxious to have a University of their own as early as possible ? If so, is Government aware of the fact ?

"(c) Will the Government be pleased to state when a University for the province is likely to be established ?"

The Hon'ble Sir Harcourt Butler replied :—

"The answer to (a) is in the affirmative.

"The answer to (b) and (c) is that the opinion of the Local Government is awaited."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Has the attention of the Government been drawn to the following statement of Dr. Spooner about Sher Shah's Mausoleum at Sasseram ?

'Stones have begun to drop from the interior of the great domeIts loss would be a national calamity as it is certainly one of the very finest buildings in North India..... Its surroundings are both worthy and capable of improvement.....The tank appears to have been neglected.....It requires cleaning and various repairs to its banks' (Annual Report of the Archæological Survey, Eastern Circle, 1910-11, page 50).

[*Mr. Sachchidananda Sinha ; Sir Harcourt Butler.*] [18TH SEPTEMBER, 1912.]

"(b) When was the report published from which the above passage is quoted ?

"(c) Will the Government be pleased to say what steps, if any, have been taken since the publication of the report about the matters referred to by Dr. Spooner ?

"(d) If no steps have been so far taken, do Government propose to take any now ? If not, why ?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) The answer to the first part of the question is in the affirmative.

"(b) The report in question reached the Government of India in September 1911.

"(c) and (d). On the strength of Dr. Spooner's recommendations, an estimate, amounting to Rs. 550, has been framed for the erection of a scaffolding in the interior of the dome, and the work has been included in the current year's programme. It will be carried out by the Superintending Engineer. Funds have now been allotted and the work has commenced. It will now be possible to examine the soffit of the dome and to decide precisely what repairs are required. The fears which appear to be entertained locally as to the structural safety and stability of the dome are, in the opinion of the Director-General of Archæology, unfounded.

"As to the improvement of the bank and surroundings of the tomb, Government are advised that, having due regard to more urgent demands in other parts of the Province, they cannot at present contemplate the expenditure of the archæological grant on a work which has more claims on local funds."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Has the attention of the Government been drawn to the following statements :—

1. 'The grant made from Imperial funds for the preservation of certain temples at Bhubaneshwar in Orissa was in large part withdrawn' (page 3 of Annual Report of Director-General of Archæology, 1910-11; part 1, Administrative).

2. 'Rs. 1,200 sanctioned for the work at Bhubaneshwar by the Director-General of Archæology was in large part withdrawn at the request of the Public Works officers in Orissa' (page 4 of the Annual Report of the Archæological Survey, Eastern Circle, 1910-11).

"(b) Are these statements correct ?

"(c) If so, will the Government be pleased to state the circumstances under which the Government grant was withdrawn, also the sum actually spent and the effect of the withdrawal ?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) and (b). The statements referred to are correct.

"(c) Among the grants-in-aid recommended by the Officiating Director-General of Archæology in 1910-11 was a sum of Rs. 1,200 for 'repairs to certain temples at Bhubaneshwar,' which were in the forefront of the Bengal Government's programme. The repairs in question consisted of the following items :—

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[*Sir Harcourt Butler ; Mr. Sachchidananda Sinha.*]

- (1) rebuilding some fallen shrines around the Sahasralinga tank ;
- (2) repairing an out-building attached to the Kalipesvara Temple ;
- (3) staining new stone work in the Parasuramesvara Temple ;
- (4) demolition of some ruined minor shrines in the courtyard of the Ananta Vasudeva Temple ;
- (5) other petty repairs.

"A sum of Rs. 173 was expended on the last mentioned item, but the other works were not executed for the following reasons :—

Item (1). The Officiating Director-General visited Bhubaneshwar after the grant had been made, and satisfied himself that the proposed re-constructions were not justified.

Item (2). This work had been carried out in the meantime by private agency.

Item (3). After making an unsuccessful experiment, the local Public Works Department declared that it was unable to carry out the work as desired, and there was therefore no course open but to cancel the estimate.

Item (4). Objections were raised by the Temple Committee to the proposed removal of debris.

"The balance of the grant which was unspent passed into Provincial Revenues, was regranted by the Local Government in 1911-12, and utilised for other archæological purposes."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Is there any Government publication in which information can be found about the present constitution and establishment of the Archæological Survey Department—the different circles in which it is divided, the lists of the names of the officers of the department, and the territorial jurisdiction of each circle ?

"(b) If no such information is accessible, will the Government be pleased to lay on the table a statement on the points mentioned above ?

"(c) Is any territorial re-distribution in the Survey circles in contemplation by reason of changes brought about by the constitution of the provinces of Assam, Bengal and Bihar and Orissa ?

"(d) If so, do Government propose to so alter the jurisdiction of the Survey circles as to have one officer for Bihar and Orissa, and another for Bengal and Assam ?

"(e) If they do not propose to do so, will Government be pleased to state their reasons for the same ?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) and (b) The constitution of the Archæological Department and the territorial distribution of the circles are described in the Home Department Resolution No. 134-146, dated 28th April, 1906, which was published in the Supplement to the *Gazette of India*. Lists of officers in the Department are published quarterly in the Civil List of the Home, Education and Legislative Departments, which is sold to the public.

[*Sir Harcourt Butler ; Mr. Sachchidananda Sinha ; Sir T. R. Wynne.*] [18TH SEPTEMBER, 1912.]

" A copy* of the Resolution and list is placed on the table.

" (c), (d) and (e). No territorial re-distribution in the Archæological Survey Circle is contemplated or considered necessary. Arrangements, however, are under consideration for transferring the head-quarters of the Archæological Superintendent from Bankipore to Calcutta, while retaining the head-quarters of the Assistant Superintendent at the former place. This change has been decided on, partly in order to utilise the services of the Superintendent at the Indian Museum, and partly in order that he may keep in close touch with the new Presidential Government, while the Assistant Superintendent will remain at the Capital of the new Province of Bihar and Orissa."

The Hon'ble Mr. Sachchidananda Sinha asked :—

" (a) With reference to the reply given to my question by the Hon'ble the President of the Railway Board, on the 25th February last, refusing to institute an inquiry so as to ascertain public opinion on the management of the Bengal and North-Western Railway, will the Government be pleased to state whether their attention has been drawn to a leading article in the 'Beharee' (Bankipore) of June 19th last and to the correspondence in its columns in its issues of 4th, 5th, 7th, 12th and 14th July and 3rd August, the 'Behar Notes' in the 'Indian Planters' Gazette' (Calcutta) of July 27th, and also to the following editorial comments of the "Leader" (Allahabad), in its issue of 26th February last, in the course of an article headed 'Monday's interpellations and replies :—' It is notorious that the public are utterly dissatisfied with the management of the Bengal and North-Western Railway, though, it may be, no formal representation has been addressed to the Government or the Railway Board. The Company has been earning dividends of 7½ per cent. and still grudges the necessary outlay on passengers' conveniences. That the Government have rendered no financial assistance to the Company will not, we hope, be considered as argument against their intervention on behalf of the people.'

" (b) Will the Government be pleased to state whether they now propose to hold the inquiry suggested in my previous question? If not, why?"

The Hon'ble Sir T. R. Wynne replied :—

" The complaints regarding the management of the Bengal and North-Western Railway made in the 'Beharee' and other newspapers have been seen by the Railway Board, and representations have also been received from the Local Government on the same subjects. In these circumstances, Government do not consider it necessary to institute any inquiry, as suggested by the Hon'ble Member, with a view to ascertaining public opinion on the matter.

" I may explain that broadly speaking the complaints made against the Railway Company divide themselves into two distinct classes. The first relates to the difficulties trade has experienced in securing the prompt despatch of its goods during the exceptional demand made on the Railway for transport during the last few months. The second relates to matters affecting the convenience of passenger traffic and the dealing with ordinary goods and parcels traffic generally.

" With regard to the first class of complaints, the Bengal and North-Western Railway Company have had to work under conditions which limited their capacity, and for which they were not responsible. The Company has to hand its traffic to the ports over to other Railways, and these other Railways have found

* Vide Appendix C, List not printed.

[18TH SEPTEMBER, 1912.] [*Sir T. R. Wynne ; Mr. Sachchidananda Sinha ; Sir Reginald Craddock.*]

themselves compelled to hamper the operations of the Bengal and North-Western Railway in a serious degree by restricting the amount of tonnage they would take, and at times stopping through-booking altogether. So as to be ready to meet the demands for the transport of a similar goods traffic in the future, assuming that the restrictions of the connecting Railway will, as there is reason to hope, be largely reduced, the Company has now on order 1,000 goods wagons, and intends adding a steady supply of new wagons annually.

"With regard to the second class of complaints, the Government Inspector has been directed to inquire and report on them to the Railway Board at his next official inspection of the line."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Will the Government be pleased to state what steps, if any, have already been taken towards establishing the capital of Bihar and Orissa at Patna ?

"(b) How much land has already been acquired for the purpose, and how much more is likely to be acquired ?

"(c) Is it a fact that orders have very recently been issued directing the contractors to stop all works in hand, and to the local authorities to return the lands already acquired to their original owners ? If so, why ?

"(d) Is it a fact that Government are contemplating to establish the provincial capital elsewhere than at Patna ? If so, where and for what reasons ?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) A declaration has been published by the Government of Bihar and Orissa under section 6 of the Land Acquisition Act, 1894. Possession was taken of 1,450 acres of land, but on the Local Government being informed that the project for the establishment of their head-quarters at Bankipore required the sanction of the Secretary of State, 1,410 acres were returned temporarily to their original owners, 40 acres being retained for service roads and similar purposes. An estimate of the cost of the buildings and other works which will be required at Bankipore has been prepared and is under the Government of India's consideration. Meanwhile, the Local Government has taken in hand the improvement of the roads, and is negotiating with contractors for the manufacture of bricks.

"(b) No land has been acquired, but, as stated in the answer to question (a), 1,450 acres were taken possession of, the bulk of which has since been temporarily restored to the owners. The total area of land likely to be required is 1,722 acres.

"(c) As no works other than the improvement of roads have been commenced, no orders have been issued directing the stoppage of works. The answer to the second part of this question is included in the answers to questions (a) and (b).

"(d) The answer is in the negative."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) With reference to the reply given to my question by the Hon'ble Mr. Enthoven, on the 27th February last, will the Government be pleased to now state the result of the negotiations with the Government of Canada in regard to the disabilities imposed in that country on His Majesty's Indian subjects ?

[*Mr. Sachchidananda Sinha ; Mr. Clark ; Mr. Subba Rao ; Sir Robert Carlyle.*] [18TH SEPTEMBER, 1912.]

"(b) If no reply has been so far received from the Government of Canada, do Government propose to take any further steps in the matter? If not, why?"

The Hon'ble Mr. Clark replied :—

"No further information on this subject has been received from the Secretary of State since the reply given to the Hon'ble Member on the 27th February last. The Government of India are addressing the Secretary of State again on the subject."

The Hon'ble Mr. Subba Rao asked :—

"Will Government be pleased to state :—

"(a) The policy adopted in different provinces with regard to the remission of the Government demand in ryotwari tracts on wet or dry lands, when there is a total or partial failure of crop on the whole or a portion of survey number?"

"(b) In connection with the granting of such remissions, how is the term 'total or partial failure of crops' defined and applied in practice in different provinces?"

"(c) Does the term 'failure of crops,' for purposes of such remissions, include not only failures due to excess or defect in the supply of water but also those due to any cause whatsoever beyond the control of the ryot?"

"(d) Whether, at the time of the settlement of the Government assessment, any provision is made in different provinces for the contingency of a total or partial loss of crop, and if not, whether remissions are granted as a matter of grace or of right?"

"(e) What proportion, if any, of the outturn estimated for purposes of the settlement is allowed towards cultivating expenses in different provinces?"

"(f) Whether remission is granted in any province where the value of the crop is not more than the assessment on the land or the cost of cultivating the same?"

The Hon'ble Sir Robert Carlyle replied :—

"(a) The policy adopted in the chief ryotwari provinces with regard to the remission of the Government demand, is contained in the Madras Board's Standing Orders Nos. 13 and 14 : in the Bombay Government rules of 13th March 1907 : in Chapter VII of the Burma Land Revenue Directions, 1911 : in the Eastern Bengal and Assam Government Notification No. 1875-C. of 13th December, 1905, and the Government of India Resolution No. 3 of 25th March, 1905.

"(b) The term 'total or partial failure of crops' is not of general use in the regulation of remissions. If, however, the Hon'ble Member wishes to ascertain the extent to which remissions are adjusted to varying degrees of crop failure, the abovementioned rules and orders will give him the information available on the subject.

"(c) Generally speaking remissions or suspensions of revenue are granted for unpreventable substantial failures of crops, but for the exact circumstances under which remissions are granted, I must refer the Hon'ble Member to the orders and directions quoted above.

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[*Sir Robert Carlyle ; Mr. Subba Rao ; Sir Reginald Craddock ; Raja of Kurupam.*]

- " (d) In calculating the assessment of a fixed land revenue, due provision is ordinarily made for the contingency mentioned by the Hon'ble Member. None the less the land revenue rates so determined are not as a rule rigidly applied in all contingencies. In the case for instance of irrigated lands under a consolidated fixed assessment, it is usually permissible that remissions should be given in certain circumstances, such as a deficiency or absence of water. In all cases, however, it rests entirely with the Government to decide what remissions, if any, should be granted.
- " (e) It is not the practice in settlements to fix any definite proportion of the value of the outturn as representing cultivating expenses.
- " (f) The criterion for remission is ordinarily the relation of the crop to the normal average of full crop, and not, except indirectly, either of those indicated by the Hon'ble Member."

The Hon'ble Mr. Subba Rao asked :—

" Is it a fact that it took full six years from the date of the appointment of the Public Service Commission of 1886 before final orders thereon were carried into effect ?"

The Hon'ble Sir Reginald Craddock replied :—

" It is the case that the Public Service Commission was appointed under orders of October, 1886, while orders upon the most important point raised by their report, namely the listing of certain posts as open to members of the Provincial Service, were passed in April, 1892."

The Hon'ble Mr. Subba Rao asked :—

" With reference to the statement of the Hon'ble Mr. Earle in reply to my question on the Public Service question at the meeting of the Council held on the 17th March, 1911, that ' no systematic inquiry has been made in order to ascertain whether more posts could be listed so as gradually to work up to the one-sixth proportion as proposed by the Public Service Commission. It must be admitted therefore that there is a *prima facie* case for inquiry, and such inquiry will most certainly be made', will the Government be pleased to state whether the inquiry has been made, and whether, pending the report of the Royal Public Service Commission and the final orders thereon, they would list more appointments to work up to the recommendation of the Public Service Commission of 1886 ?"

The Hon'ble Sir Reginald Craddock replied :—

" Since the statement made by Sir A. Earle on the 17th March, 1911, the question of increasing the number of ' listed ' posts has been examined in some detail by the Government of India, but no general reference has yet been made to Local Governments on the subject. In view of the approaching inquiries of the Public Service Commission, it is undesirable to raise the question in a general form, but the possibility of increasing the number of such appointments is habitually considered when additions are made from time to time to the different Provincial Cadres of the Indian Civil Service."

The Hon'ble the Raja of Kurupam asked :—

" (a) Will the Government be pleased to state—

- " (i) whether a petition has been received by the Government of India from Govindji Jatha and Co., and other merchants from Cawnpore

[*Raja of Kurupam ; Sir T. R. Wynne.*]

[18TH SEPTEMBER, 1912.]

in July, 1912, setting forth their grievances with regard to the alleged undue preference given by the Great Indian Peninsula Railway to Europeans and other firms like Messrs. Rally Brothers and Co. ?

- “(ii) whether a similar petition has been submitted to His Excellency the Viceroy by Mansy Lakhamsay and others from Kalpi in July, 1912, complaining of the alleged undue partiality shown by the Great Indian Peninsula Railway authorities to Messrs. Rally Brothers and Co. ?
- “(iii) whether a letter on the same subject has been addressed on the 8th July, 1912, by the Secretary, the Indian Merchants Chamber and Bureau, to the Hon'ble Mr. Clark, Member for Commerce and Industry, Simla ?
- “(b) Are the allegations mentioned in the above said petitions and letter substantially true ?
- “(c) Will the Government be pleased to appoint a Commission under section 28 of the Indian Railways Act, or take such other steps as the Government may deem expedient to make an investigation into the matter, with a view to redress the grievances of the petitioners, if any, and afford traders any reasonable relief to which in the circumstances they may be found to be entitled ?”

The Hon'ble Sir T. R. Wynne replied :—

“The answer to the first part of the question is in the affirmative.

“With regard to the second part of the question, I would refer the Hon'ble Member to the report which has appeared in the press of a meeting held in Cawnpore by the President of the Railway Board, at which the Indian Merchants' Chamber and the Great Indian Peninsula Railway Company were represented. The whole subject was there fully discussed, and new arrangements for the allotment of wagons were agreed upon, which, after trial, will be considered again at a further meeting to be held in December.

“As regards the third part of the question, the petitioners who invited Government to appoint a Commission have been asked whether, in view of the arrangements referred to above, they wish to press their request. Pending receipt of their reply, I cannot answer the Hon'ble Member's question.”

The Hon'ble the Raja of Kurupam asked :—

“Is it a fact that difficulties were experienced during the elections held in 1909 under Schedule IV annexed to the Regulations for the nomination and election of Additional Members of the Legislative Council of the Governor of Fort St. George because the provisions of that Schedule require that every elector shall attend at a particular place in his district and at a particular time before the Attesting Officer for the purpose of recording his vote ? Did any Zamindars in the Presidency of Madras express their unwillingness to leave their houses for the purpose of recording their votes during the said elections ?

“If so, will the Government be pleased to say whether they propose to amend the said Schedule so as to provide :—

- (1) that in any case in which an elector cannot, owing to ill-health or any other valid reason, attend before an Attesting Officer, the latter may be directed to go to the elector, on the payment by the elector of a fee to be fixed by the Government and the usual travelling allowances, as is done in the case of Registrars and Sub-Registrars ;

[18TH SEPTEMBER, 1912.] [*Raja of Kurupam ; Sir Reginald Craddock ; Sir G. M. Chitnavis ; Sir Robert Carlyle.*]

- (2) that an elector may record his vote before an Attesting Officer not only in the district under which his name appears, but at any place in the Presidency to which he belongs, at which he happens to be on the date fixed for voting, or at any rate, at the places fixed by the Government for the presentation of nomination papers for attestation, provided proper identification can be secured in such places ;
- (3) that an elector may send his votes to the Attesting Officer by registered post before any date that may be fixed for counting the votes, as is done in the case of the election of an Additional Member by the Corporation of Madras, or the University of Madras ;
- (4) that the voting may be allowed to take place not on one day only as at present, but in any period not less than a week that the Government may be pleased to fix ?”

The Hon'ble Sir Reginald Craddock replied :—

“ It is reported by the Local Government that some difficulty was experienced in connection with the presence of certain Zamindars in Madras city owing to the Viceroy's visit, and a special Notification was therefore issued appointing the Under-Secretary as Additional Attesting Officer, and permitting such Zamindars to vote at Madras. All Revenue Divisional Officers, Tahsildars and Deputy Tahsildars not at the Taluk head-quarters were appointed Attesting Officers in their districts, and each voter was at liberty to vote before any such officer in his district.

“ Representations were received in a few cases stating that certain Zamindars were unwilling to vote except at their own houses.

“ The Government of Madras considered the expediency of making the amendments suggested, but decided not to recommend the change chiefly because they involved a departure from the procedure of the English Ballot Act cited in paragraph 19 of the Government of India Resolution No. 4213, dated the 15th November, 1909. The difficulties were not regarded as serious, and objection was taken to any arrangement likely to detain Attesting Officers at their head-quarters for more than one day.

“ In view of these facts, the Government of India do not consider that the amendment of the Regulations on the lines indicated is necessary.”

The Hon'ble Sir G. M. Chitnavis asked :—

“ Is it a fact that the rates for grazing in Government forests in the Central Provinces have been increased ?

“ If so, are Government aware that the increased rates have created any great dissatisfaction ? If so, will Government be pleased to say whether they propose to consider the desirability of fixing rates after consulting representative landholders and tenants and reducing present rates ?

The Hon'ble Sir Robert Carlyle replied :—

“ The rates for grazing in Government forests have recently been increased, but care has been taken in revising the rates that only nominal rates should be charged for agricultural cattle proper. For additional milch cattle of agriculturists rates are still very low, while those for cattle kept for profit by non-agriculturists are considerably below actual value of grazing. Some dissatisfaction has been shown on account of the increased rates, but Government does not consider it necessary to suggest consultation with landholders and tenants with a view to their modification.”

[*Raja of Dighapatia; Sir T. R. Wynne; [18TH SEPTEMBER, 1912.]*
Mr. Clark.]

The Hon'ble the Raja of Dighapatia asked :—

"Has the attention of the Government been drawn to the report of an alleged recent case of an unprovoked assault on some respectable Indian ladies by a Eurasian Railway employee at Baidyanath Junction of the East Indian Railway in the 'Bengali' weekly, 'Sanjibani' of 29th August, 1912? If so, would the Government be pleased to state what steps it intends taking with regard to the matter?"

The Hon'ble Sir T. R. Wynne replied :—

"No report or complaint has been received by the Railway Board of any such occurrence as that referred to by the Hon'ble Member, but inquiries will be made."

The Hon'ble the Raja of Dighapatia asked :—

"Would the Government be pleased to state if a second class compartment specially reserved for ladies is provided in all the passenger trains? If not, would the Government be pleased to say whether they propose to consider the desirability of having at least one such compartment provided in every passenger train?"

The Hon'ble Sir T. R. Wynne replied :—

"Compartments in second class carriages are set apart and labelled for 'Ladies only' on all Mail trains, and in some cases on Express trains also."

"On all other trains carrying passengers, second class compartments for 'Ladies only' are provided whenever the previous notice required by the published railway rules is given."

"No complaints have been received by the Railway Board of difficulties occurring under these Rules, and, in these circumstances, the Government of India do not consider that any change in the existing arrangements is called for."

The Hon'ble the Raja of Dighapatia asked :—

"Are Government aware that Germany has any intention to oust Indian traders from her East African possessions? If so, do Government intend to take steps for stopping indentured Indian labour for German Colonies?"

The Hon'ble Mr. Clark replied :—

"The only information which the Government of India have on the subject, referred to in the first part of the question, is that a proposal to expel Indians from German East Africa was discussed at a recent debate on the German Colonial Estimates. The proposal did not receive support from the German Government. As regards the second part, indentured emigration does not take place to any of the German Colonies, and it would be unlawful under the Indian Emigration Act."

The Hon'ble the Raja of Dighapatia asked :—

"Is it a fact that a Bill has been introduced in the Legislative Council of British East Africa for imposing a poll-tax of Rs. 15 a year on all the non-native population? Is it also a fact that the burden of such a tax will weigh heavily on 25,000 British Indians, and that the majority of them are labourers and artisans earning not more than Rs. 20 or Rs. 25 a month? If so, do the Government propose to draw the attention of the Secretary of State to the matter with a view to protect the interests of His Majesty's Indian subjects?"

[18TH SEPTEMBER, 1912.] [*Mr. Clark; Raja of Dighapatia; Sir Reginald Craddock; Sir T. R. Wynne.*]

The Hon'ble Mr. Clark replied :—

"The Government of India have received no information in regard to the Bill referred to by the Hon'ble Member."

The Hon'ble the Raja of Dighapatia asked :—

"Would the Government consider the advisability of discouraging Government Officials and Government Pensioners from seeking election to the Local and Imperial Legislative Councils?"

The Hon'ble Sir Reginald Craddock replied :—

"The Government of India have recommended to the Secretary of State that the Regulations should be altered so as to debar Government officers from candidature. They see no reason to make a similar restriction in the case of persons who have retired from Government Service."

The Hon'ble the Raja of Dighapatia asked :—

"Would the Government be pleased to state if any further territorial redistribution is contemplated in the near future, and if so, would the Government be pleased to indicate the lines on which such redistributions will be made?"

The Hon'ble Sir Reginald Craddock replied :

"No proposals for further territorial distributions are under the consideration of the Government of India."

The Hon'ble the Raja of Dighapatia asked :—

"Is it a fact that the Up and Down Shillong Mails between Poradah and Santahar on the E. B. S. Railway have been abolished, and that such abolition is causing a good deal of inconvenience to the travelling public of North Bengal? If so, will the Government be pleased to issue orders for restoring these trains?"

The Hon'ble Sir T. R. Wynne replied :—

"It is a fact that the Up and Down Shillong Mails have been taken off; but in their place other suitable passenger trains have been put on."

"No complaints have been received by the Railway Board regarding this alteration in the train-service. In the circumstances, it is not proposed to issue orders restoring these trains."

The Hon'ble the Raja of Dighapatia asked :—

"Has the attention of the Government been drawn to the Stores Committee's report of 1906, as reviewed by the 'Statesman' of the 23rd July 1912, to the effect that 'orders to the value of £4,67,319 were sent home in the year 1904-05 for articles which could probably have been obtained of local manufacture', and also to the observations of the Chairman of the Indian Engineering Association in the 'Statesman' newspaper of the 21st July, to the effect that though since that time Indian Engineering Firms have largely increased and extended their producing capacity, they, to-day in 1912, 'can trace no increase of work' with the Government."

"Did the Government issue a Resolution in 1909 on the subject of the local purchase of Indian stores? If so, do the Government propose to inquire into the matter as to whether the rules contained in the Government Resolution of 1909 are duly followed?"

[*Mr. Clark; Raja Sir Mohamed Ali Mohamed Khan; Sir Robert Carlyle; Mr. Bhurgri; Sir T. R. Wynne.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Mr. Clark replied :—

"The answer to the first part of the question is in the affirmative. Government are also aware of the observations of the Chairman of the Indian Engineering Association referred to by the Hon'ble Member, and recently received a representation from that body on the subject. A copy of the *correspondence which has been published for general information is placed on the table.

"As regards the last part of the question Government issued a Resolution in 1907 on the subject of the local purchase of stores; and they have steadily endeavoured to secure the observance of the policy announced therein that preference should be given to locally manufactured articles. But it is obviously impossible for the Government of India to insist on such purchases unless and until the local officers requiring the articles are amply satisfied that the locally manufactured goods are of the requisite quality and obtainable at a satisfactory price. The Government of India recognise that difficulty may have been felt in giving full effect to their policy in certain cases, owing largely to the absence of adequate facilities for testing locally manufactured articles of iron and steel. These facilities have now been provided; and it is hoped that they will lead to an increase in local purchases in the future. Government do not consider that there are grounds at the present moment for holding a special inquiry into the matter, but I can assure the Hon'ble Member that it is one which will continue to receive their most careful attention."

The Hon'ble Raja Sir Mohamed Ali Mohamed Khan asked :—

"Have the Government of India now pending before them a scheme relating to the Sarda Canal project ?

"Are the Government aware that the British Indian Association have recently appointed a Select Committee to consider the scheme and to report the matter to the Government? If so, do Government propose to postpone the scheme and give the Association an opportunity to submit their representation on the subject?"

The Hon'ble Sir Robert Carlyle replied :—

"The answer to the first portion of the question is in the affirmative. The Government of India are not aware of any Select Committee having been appointed by the British Indian Association for the purpose of reporting on the Sarda Canal, but they are prepared to consider any representation that the Association may make on the subject."

The Hon'ble Mr. Bhurgri asked :—

"With reference to the reply given by Government to my question about the grant of local allowance to the establishment of the North-Western Railway at Karachi, will Government be pleased to say now if they have come to any decision?"

The Hon'ble Sir T. R. Wynne replied :—

"The Government of India, after carefully considering the claims of railway establishments at Karachi, have decided that there are no grounds for the extension to them of the local allowance sanctioned for other Government establishments stationed at Karachi."

[18TH SEPTEMBER, 1912.] [Mr. Ghuznavi; Sir Harcourt Butler; Sir T. R. Wynne.]

The Hon'ble Mr. Ghuznavi asked :—

"Will the Government be pleased to say whether they propose to consider the sufficiency of the grant made to Bengal for educational purposes and state if the grant may be supplemented?"

The Hon'ble Sir Harcourt Butler replied :—

"It was announced by command of His Most Gracious Majesty the King-Emperor at Delhi that the Government of India proposed to devote 50 lakhs to the promotion of truly popular education, and that it was their firm intention to add further grants in future years on a generous scale. The Bengal Government have received their share of the 50 lakhs grant, and will receive their share of the further grants which may be made in future."

The Hon'ble Mr. Ghuznavi asked :—

"(a) Is the Government aware that a feeling of uneasiness prevails among the Indian pilgrims to Mecca this year owing to the appearance of Italian warships in the Red Sea?"

"(b) If so, will the Government be pleased to say whether they propose to take such steps as to ensure the safety of the pilgrims during their voyage to Jedda and back?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) The Government have received no special information of the uneasiness among Indian pilgrims to Mecca owing to the appearance of Italian warships in the Red Sea.

"(b) In the interests of those pilgrims, however, representations were made to the Italian Government in June last. That Government has given assurances that all necessary dispositions will be adopted to reconcile the military exigencies of the position with every possible facility for the pilgrimage. Arrangements have been made by which British Consuls in the Red Sea convey information as to pilgrim ships to His Britannic Majesty's Ambassador at Rome."

The Hon'ble Mr. Ghuznavi asked :—

"(a) Has the attention of the Government of India been drawn to the question of improving Railway communications in the districts of Mymensingh and Dacca?"

"(b) Do the Government of India propose to consider the advisability of constructing a line from Mymensingh *via* Tangail to Aircha, a point opposite to Goalundo?"

The Hon'ble Sir T. R. Wynne replied :—

"The answer to the first part of the question is in the affirmative. Two lines are now under construction in the districts of Mymensingh and Dacca, namely, the Singhjani-Fulchari extension of the Eastern Bengal Railway in the former, and the Bhairab Bazar-Tangi extension of the Assam-Bengal Railway in the latter. Projects for other lines in the two districts have also been put forward, but their consideration has been deferred owing to want of funds.

"As regards the second part of the question, no official proposals have been received for constructing a railway from Mymensingh *via* Tangail to Aircha, and the advisability of constructing such a line is not therefore officially under consideration by the Government of India."

[*Mr. Ghusnavi ; Sir Harcourt Butler ; Sir Cecil Graham ; Mr. Clark.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Mr. Ghusnavi asked :—

" (a) Is the Government aware that the ten scholarships recently offered by the Government of India to students for study in foreign countries have all been allotted to students other than Mussalmans ?

" (b) If so, will the Government be pleased to say whether they propose to take such steps as will secure in future at least three of them exclusively to Mussalman students ?"

The Hon'ble Sir Harcourt Butler replied :—

"The Hon'ble Member is referred to the reply made to a similar question asked by the Hon'ble Mr. Sinha this morning."

The Hon'ble Sir Cecil Graham asked :—

" (a) Will Government be pleased to state what measures (if any) are being taken to improve the efficiency of Railway Systems in British India ?

" (b) Will Government be pleased to give particulars of the total sums required by the railways that are financed by the State in each of the next three years ?

" (c) Will Government be pleased to give particulars separately of the total sums required by the East Indian, North-Western, Great Indian Peninsula and Bombay, Baroda and Central India Railways in each of the next three years, and also separately the total sums actually spent on capital account by these four Railways in each of the last three years ?"

The Hon'ble Mr. Clark replied :—

"As regards the first part of the question, the immediate measures which have been taken are as follows: A large amount of rolling stock has been ordered in addition to that provided for, and already ordered, under this year's programme. An additional grant of Rs. 1½ crores has also been made over and above the amount sanctioned in the programme for this year, and this sum has already been allotted to the different Railway Companies. In its allocation special care has been taken to divide it mainly among those railways on which pressure has been most severe during the past months, and to secure that it should be spent so far as possible on works which will have a direct bearing on the expedition of traffic. The Government of India hope to be in a position to allot for the railway programme of 1913-14 a sum substantially larger than that provided during the current year:

"As regards the second and third parts of the question, I am laying on the table a statement* containing the information asked for by my Hon'ble friend."

The Hon'ble Sir Cecil Graham asked :—

"Will the Government be pleased to say whether any pictures have recently been removed from Government House, Calcutta? if so, will the Government be pleased to have a statement compiled and laid on the table giving a list of all such pictures, together with a detailed history of the circumstances, with the dates, under which they were originally acquired and placed in Government House?"

* *Fide* Appendix E.

[18TH SEPTEMBER, 1912.]

[*Sir Robert Carlyle; Sir Cecil Graham; Mr. Sachchidananda Sinha.*]

The Hon'ble Sir Robert Carlyle replied:—

"A list* of 42 pictures which have been removed from Government House, Calcutta, for repair and cleaning has been placed on the table. The Government of India have at present information relating to the dates and circumstances of the acquisition of only 19 of these pictures. This information has been entered in the list."

The Hon'ble Sir Cecil Graham asked:—

"Will the Government be pleased to state whether any articles, which were at one time handed over from Government House as permanent loans to the custody of the Trustees of the Victoria Memorial, were subsequently removed from the Memorial Collection and replaced in Government House during the Viceroyalty of the Earl of Minto, and, if so, have any of such articles been recently removed from Calcutta or otherwise disposed of? If such is the case, will Government be pleased to state if it is their present intention to have such articles returned to the custody of the Trustees and replaced in the Memorial Collection as soon as sufficient accommodation has been provided for that collection?"

"Is it a fact that the articles so loaned have special historical associations which would render their location in the Memorial Collection peculiarly fitting?"

The Hon'ble Sir Robert Carlyle replied:—

"On the 2nd March, 1912, the Secretary to the Trustees to the Victoria Memorial Hall had an interview with the Military Secretary to the Viceroy with reference to a letter, dated the 14th February, 1912, he had addressed to the Private Secretary in regard to the possibility of certain State pictures now in Government House being eventually housed in the Victoria Memorial Hall.

"The Secretary to the Trustees was informed that His Excellency the Viceroy considered himself as holding a fiduciary position towards the future Viceroys in regard to these State pictures. His Excellency found them housed in the Governor General's residence as belonging to the Governor General's residence, and he considered he was bound to retain the guardianship of them in the official residence of himself and his successors.

"In regard to the Statues of Lord Dalhousie and the Marquis of Wellesley which had been obtained by public subscription, orders were issued to the Superintendent, Viceregal Estates, Calcutta, to hand them over to the Secretary to the Trustees, whenever convenient, after His Excellency's departure."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"(a) Has the attention of the Government been drawn to a series of articles headed 'Dacoities in the Punjab and Frontier Provinces' in the *Punjabee* (Lahore) in its issues of June 20th, June 22nd, June 23rd and June 27th last, also to two communications headed 'Lawlessness in the Attock District' in its issues of June 20th, June 22nd and to the editorial comments of that paper in its issues of June 22nd, June 23rd, June 27th and August 6th on page 3 on each of these issues?"

"(b) Is it true as stated in these articles and comments that there were no less than 55 dacoities in various districts of the Punjab between January to April last, and 10 in those of the Frontier Provinces during the same period in almost all of which the sufferers were mainly Hindus?"

* *Vide Appendix F.*

[*Mr. Sachchidananda Sinha ; Sir A. H. McMahon.*] [18TH SEPTEMBER, 1912.]

“(c) Have any dacoities taken place in the Punjab and the Frontier Province since the beginning of May last? If so, how many in each of the two Provinces from May to August?”

“(d) Is it a fact that the Punjab Government submitted to the Government of India a scheme for arming the villagers to enable them to resist dacoities, but that the proposal was not accepted? If so, will the Government be pleased to state their reasons for their decision?”

“(e) Have any steps been already taken to check their recurrence in both the Punjab and the Frontier Province? If not, do Government propose to take any steps? If so, what? If not, why?”

The Hon'ble Sir A. H. McMahon replied:—

“(a) The attention of Government was drawn to the series of articles and communications regarding dakaitis in the Punjab and North-West Frontier Province, which appeared in the issues of the *Punjabee*, a Lahore newspaper, dated the 20th, 22nd, 25th and 27th June and 6th August, 1912.

“(b) The number of dakaitis reported in the *Punjab* during the four months, January to April, inclusive, was 69. A good many of these cases, however, were of little importance. Taking the return for the whole of the Punjab, Hindus were the sufferers in 53 cases, and Muhammadans and others in 16 cases. No significance can be attached to the fact that the majority of the victims were Hindus. It is well known that the Hindus are usually the richest men in a village; and are therefore a more tempting prey to robbers. The *Punjabee* reported 55 cases of dakaiti in the Punjab: the official records show 69 cases; but the *Punjabee* has apparently omitted the cases in which Muhammadans were the victims, and this accounts for the difference.

“In the *North-West Frontier Province*, during the same period, there were 22 cases of dakaiti, and Hindus were the sufferers in 11 of these cases, and Muhammadans in 11.

“(c) The number of dakaitis reported in the *Punjab* from May to August inclusive was 23.

“In the *North-West Frontier Province*, during the same period, there were 7 dakaitis.

“(d) In October, 1910, the Punjab Government applied to the Government of India for sanction to the supply of 200 guns, with 10,000 rounds of ammunition, for issue to the police thanas in the Mianwali district, with the object of enabling the thanas to be defended by villagers in an emergency, thus setting the police free to follow up raiders. The Punjab Government had taken other precautionary measures to guard against dakaitis, which appeared to the Government of India to be calculated to meet the requirements of the situation, and the proposal was, accordingly, not sanctioned. In October, 1911, the Punjab Government asked for a re-consideration of the matter, and also applied for the supply of 200 Martini-Henry rifles to re-arm the police of the district. Chiefly on military grounds, the Government of India did not consider it desirable to issue arms to the villagers, but they sanctioned the issue of 200 Martini-Henry rifles to the police.

“(e) As regards the *Punjab*, long before the articles appeared in the *Punjabee* which are referred to in (a) above, the increase of dakaitis had been reported by the District Magistrate and the police, and steps were taken to deal with the situation. Thus, in February 1912, under the special orders of the Inspector-General of Police, Punjab, a meeting of the Superintendents of Police of the districts concerned was convened by the Deputy Inspector-General of the Western Range, and concerted measures were adopted for the suppression of this form of crime. In March, an Assistant Superintendent of Police was specially deputed to the Attock district, accompanied by a Deputy Superintendent and other

[18TH SEPTEMBER, 1912.] [Sir A. H. McMahon; Mr. Sachchidananda Sinha; His Excellency the Commander-in-Chief; Mr. Mudholkar.]

officers of the Criminal Investigation Department, to take steps, in concert with the local police, for the suppression of dakaitis in that and neighbouring districts and for the capture of the robbers. The officers concerned are still on special duty; and, so far a good deal of success has attended their efforts. Some local gangs have been completely broken up, many arrests have been effected, and already convictions have been secured. Moreover, the depredations of a trans-border band of dakaitis known as 'Fazl Dad's gang' have ceased, and some of the leading members of the gang have been captured. In other parts of the Province also, district officers have been specially directing their efforts to the suppression of dakaiti, and a marked improvement in the state of affairs has already taken place. It has been stated above that the effectiveness of the Mianwali police has been increased by the issue to them of 200 Martini-Henry rifles.

"The measures taken in the North-West Frontier Province during the current year, to prevent the occurrence of dakaitis, have included, according to local exigencies, the establishment of a system of village patrols, the supervision of all Afghan immigrants, the enforcement of the responsibility of the leading men, the free issue of licenses for firearms to respectable shopkeepers, the organisation of tribal levies, and the extension of telegraphic communication. As a practical result of these and other preventive and repressive measures, 69 persons have been arrested and one killed in connection with the 29 cases of dakaiti mentioned in (b) and (c) above.

"The Government of India are considering, in consultation with the Local Governments, whether any further steps are necessary."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"Are the Government contemplating any measures for reducing the wealth of the Hindus so as to make them immune from dacoities?"

The Hon'ble Sir A. H. McMahon replied:—

"I should like notice of that question."

The Hon'ble Mr. Sachchidananda Sinha asked:—

"(a) Has the attention of the Government been drawn to the following passage in report of the trial of Private Peskett in the Mian Meer murder case before the Punjab Chief Court and published in the *Civil and Military Gazette* (Lahore) of the 29th June last?

'His Lordship asked whether the men engaged in shooting of dogs were shown the cantonment boundaries or whether they were just let loose. Witness (Inspector Beaty) replied that the men so employed were not shown the boundaries. After some further discussion His Lordship remarked that the unsatisfactory state of affairs in regard to the shooting of stray dogs in cantonment limits was apparently more the fault of the superior authority than of the dogshooter.'

"(b) If so, do Government propose to issue such instructions on the subject as will prevent such contingencies in future? If not, why?"

His Excellency the Commander-in-Chief replied:—

"The Government have now under consideration the issue of instructions on the subject."

The Hon'ble Rao Bahadur R. N. Mudholkar asked:—

"Will Government be pleased to give information in regard to the following matters for each year from 1907-08 to 1911-12?"

[Mr. Mudholkar ; Sir T. R. Wynne.]

[18TH SEPTEMBER, 1912.]

"(a) The total amount expended on the undermentioned railway stores contracted for in England through the agency of the India Office, namely, bridgework, engineering plant, workshop machinery, permanent way, locomotive and rolling stock, station materials and fencing, tools and other stores.

"(b) The total amount expended on all kinds of stores for railways purchased in India, exclusive of stores, bricks, mortar, earth and sand, specifying the different classes of stores and the amounts spent on each, and also specifying the amounts of such purchases for each railway.

"(c) The total cost of the establishments maintained for the purchase of stores in England and in the different provinces in India.

"(d) The number of vessels employed in bringing railway stores, the quantities of stores so brought, and the amount of freight paid on them for Bombay, Calcutta, Karachi, Madras and other parts of British India and Native States.

"(e) The total amount of capital locked up in railway stores during the last year and for the five years immediately preceding?"

The Hon'ble Sir T. R. Wynne replied:—

"The information, so far as it is available, is given below:—

(a) The total outlay on railways' stores obtained through the agency of the India Office was approximately:—

Year.	Amount.
	Rs.
1907-08	3,59,86,614
1908-09	4,96,25,920
1909-10	3,12,05,642
1910-11	2,78,46,759
1911-12	3,20,13,886

(b) The total outlay on stores purchased in India by State Railways financed by the State, exclusive of building materials and other stores purchased by Engineers and charged direct to works, was approximately:—

Year.	Amount.
	Rs.
1907-08	17,46,78,738
1908-09	19,50,33,942
1909-10	16,89,95,937
1910-11	15,53,96,660
1911-12	17,45,41,091

"(c) The cost of the Stores Department of the India Office is understood to be approximately £60,000 per annum. For details by Railways see statement* attached. That Department is employed on the supply of stores for all Government Departments and services in India, including Railways under construction and being worked, by State Agency.

"The cost of the Stores Establishment of the Railways financed by the State sanctioned in the budget for the current year is Rs. 20,55,288. This Establishment is engaged in the purchase, receipt, custody, issue and accounting of general stores. The proportion of cost assignable to purchasing stores cannot be determined.

"(d) The information is not available, but could be compiled by Railway Administrations if desired in the course of time, and

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[*Sir T. R. Wynne ; Raja of Dighapatia ; Sir Reginald Craddock ; Sir Harcourt Butler.*]

" (e) The capital debited to Stores by Railways financed by Government at the end of the past 6 financial years was :—

Year.					Amount.
					Rs.
1906-07 ... ..	...	...	...	...	10,16,04,483
1907-08 ... ..	...	...	...	...	12,73,42,594
1908-09 ... ..	...	...	...	...	13,53,26,380
1909-10 ... ..	...	...	...	...	12,34,58,546
1910-11 ... ..	...	...	...	...	12,30,61,872
1911-12 ... ..	...	...	...	...	13,07,86,609

" Without some explanation these figures might be misleading.

" The stores accounts of Railways include not only the stores required to be kept on Revenue account for the working of Railways, but also the whole of the English materials required for construction purposes both on open lines and on new lines and rolling stock of all kinds. The cost of all this material is passed through stores accounts as a matter of convenience on their way to be used for the particular purpose for which they were bought. The accounts also include all the reserve of coal kept by Railways."

The Hon'ble the Raja of Dighapatia asked :—

" (1) Do the Government propose to inquire if the Warrant of Precedence published with the Home Department Notification No. 328 of 10th February 1899 by the Government of India is strictly observed in the Provincial and District Durbars, and to issue circulars that in future the Warrant of Precedence referred to above should be strictly adhered to not only in Durbars but in all official functions where the question of precedence arises ?

" (2) Further, would the Government be pleased to state if Additional Members of the Imperial and Provincial Legislative Councils are entitled to take precedence over the titled noblemen who are not members of any Legislative Council ?"

The Hon'ble Sir Reginald Craddock replied :—

" The Government of India have no reason to suppose that the Warrant of Precedence is not generally observed to regulate the relative position of the persons to whom it relates.

" They do not propose, therefore, to make inquiries or issue orders on the subject. The Warrant does not profess to regulate the precedence of any persons other than the holders of the offices mentioned in it. Questions relating to relative precedence of persons mentioned in the Warrant and persons not mentioned in it can only be decided by the authority responsible for the arrangements at the particular Durbar or function at which the matter may arise."

The Hon'ble the Raja of Dighapatia asked :—

" Do Government propose to consider the desirability of making further provision for gratuitous distribution of quinine in districts in which malaria is prevalent ?"

The Hon'ble Sir Harcourt Butler replied :—

" Free distribution of quinine is already made in accordance with the requirements of each Province by Local Governments, and no separate action by the Government of India appears to be called for."

[*Babu Bhupendra Nath Basu ; Mr. Gillan.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Babu Bhupendra Nath Basu asked :—

" (1) Is it not the fact that the clerks in the Postal Audit Office, Calcutta, submitted various memorials to the Government of India since the year 1908 for the revision of their scale of pay and improvement of the status of their office having regard to the increased cost of living and other causes ?

" (2) Is it not the fact that the Government, while considering the grievances of the clerks, with great sympathy expressed its unwillingness to pass any orders until the report of the Committee of Messrs. Datta and Chard had been issued ?

" (3) Now that this report has been issued and the Government published its Resolution thereon on the 25th May last, will the Government be pleased to say whether they will deal with the memorials of the clerks in the Postal Audit Office, Calcutta, as regards their pay ?

" (4) Have the Government now under their consideration a scheme for the amalgamation of the accounts of the Postal and Telegraph Departments, and do they intend to put off the consideration of the memorials till the scheme of amalgamation has been carried out ?

" (5) If so, will the Government be pleased to say what time will elapse before the scheme above referred to is carried out, and whether they propose to make some temporary provision for these clerks till the scheme has been carried out ? "

The Hon'ble Mr. Gillan replied :—

" The replies to the Hon'ble Member's questions are as follows :—

(1) and (2) Yes.

(3). The matter is receiving attention.

(4) and (5). The scheme for the amalgamation of the Postal and Telegraph Accounts has practically been completed, and no temporary provision for the clerks appears, therefore, to be necessary."

The Hon'ble Babu Bhupendra Nath Basu asked :—

1. "Is it a fact that in the year 1907, the ministerial subordinates of the Calcutta Currency Office submitted memorials to the Government of India, praying for increase of wages on the ground of the enhanced cost of living in Calcutta ?

2. "Was the pay of the Calcutta Paper Currency clerks at that time at progressive rates starting from Rs. 30 with a maximum of Rs. 120 ? Did the Government, on receipt of the memorials, convert the progressive rates of pay into fixed pay, by which the starting pay was reduced from Rs. 30 to Rs. 25 and the maximum pay for clerks from Rs. 120 to Rs. 100 ?

3. "Did Mr. Barrow, the then Comptroller-General, recommend the payment of special allowances to these clerks ? Was the Government, while sanctioning the conversion mentioned above in October 1908, pleased to hold out an assurance that the question of special allowances would be considered as soon as the recommendations of the Government of Bengal in respect of their employes were received ?

4. "Is it not the fact that the recommendations of the Government of Bengal were received and sanctioned more than two years ago ?

5. "Will the Government be pleased now to take into consideration the prayer of the Currency Office clerks for special allowances owing to increased cost of living in Calcutta ?

[18TH SEPTEMBER, 1912.] [Babu Bhupendra Nath Basu ; Mr. Gillan.]

6. "Is it a fact that some time after 1908, a proposal was submitted to the Secretary of State and sanctioned by him under which the pay of the ministerial establishments of the Comptroller-General and Head Commissioner of Paper Currency, the Accountant-General, Bengal, and the Comptroller of India Treasuries was substantially increased, on the ground that the rates were fixed forty years ago, and that the cost of living had meanwhile very considerably risen? Is not the Calcutta Paper Currency office part and parcel of the Head Commissioner's office and included under the same budget head?"

7. "If so, will the Government be pleased to state whether the Calcutta Paper Currency office was excluded from the benefit of the sanction given by the Secretary of State? If so, why?"

8. "Has the Government received further memorials from the Calcutta Currency clerks. If so, will Government be pleased to state the dates of receipt of such memorials and the action taken thereon?"

9. "Is it a fact that the memorialists were informed about a year ago that the matter would be considered after certain proposed improvements in work were discussed? Would not that put off the giving effect to the assurance referred to in paragraph 3 if any such assurance was given by Government in 1908?"

The Hon'ble Mr. Gillan replied:—

"(1) Yes.

"(2) At that time the pay of certain of the clerks in the Calcutta Paper Currency Office was at progressive rates, while that of the remainder was fixed. The pay was converted into a fixed rate of pay throughout. I place on the table a statement* showing the exact grading. It will be seen that as a result of the change and of the improvement in grading, the average rate of pay remained practically unchanged, there being actually a slight increase from Rs. 39 to Rs. 39-8. Before the change the minimum was not Rs. 30, but Rs. 25, excluding one clerk on a pay of Rs. 20

"(3) The answer to the first portion of the question is in the affirmative. With regard to the second part of the question, the Government, in sanctioning the conversion mentioned in November, 1908, informed the Comptroller-General that the scheme of local allowances recommended by him would be considered as soon as the recommendation of the Government of Bengal in respect of its own Provincial establishments was received.

"(4) Yes.

"(5) A gazetted officer has recently been engaged on an inquiry into the working of the Currency Offices, and his report is now under the consideration of the Comptroller-General. It is the intention of Government that the question of revision of establishment and of the rates of pay should be taken up as soon as a final decision is arrived at on the proposals made.

"(6) The answer to the first portion of the question is in the affirmative. With regard to the second portion, the Calcutta Paper Currency Office is not part of the Head Commissioner's Office, although included under the same Budget head, *viz.*, 18. 'Administration,' and the duties and qualities of the staff are entirely different.

"(7) The sanction given by the Secretary of State did not cover the case of the clerks in the Calcutta Paper Currency Office.

"(8) Further memorials dated the 3rd April, 1912, have been received by the Comptroller-General. They are now under his consideration in connection with the report referred to in my answer to question 5.

* *Vide* Appendix H.

[*Mr. Gillan ; Babu Bhupendra Nath Basu ; Sir Reginald Craddock ; Mr. Subba Rao.*] [18TH SEPTEMBER, 1912.]

"(g) The memorialists were informed about a year ago that the matter would be considered after the completion of the special inquiry referred to in my answer to question 5.

"The consideration of the scheme of local allowances necessarily involves a thorough examination of the existing methods of work in the Currency Offices, and the whole question is, as I have already stated, now receiving attention."

The Hon'ble Babu Bhupendra Nath Basu asked :—

"(a) Has the attention of Government been called to an account published in the *Bengalee* newspaper of the 4th September, 1912 (Calcutta edition), under the heading 'Political prisoners in the Andamans'?"

"(b) Is it a fact that these prisoners are treated with greater severity than ordinary criminals, such as murderers? If so, have any orders been issued by Government to this effect?"

"(c) Will the Government be pleased to say whether they propose to inquire into the truth of the allegations made in the same account, and publish the report for general information?"

The Hon'ble Sir Reginald Craddock replied :—

"(a) The Government of India have seen the article referred to.

"(b) Subject to the rules governing the management of the settlement, the treatment of prisoners at Port Blair is left to the discretion of the Superintendent. There are no orders that these particular prisoners should be treated with special severity.

"(c) Government do not propose to call for a special report in connection with these allegations. They have previously, in connection with similar statements in the Press, satisfied themselves that the prisoners to whom reference is made are not being subjected to tasks of undue severity, nor to treatment which affords any reasonable ground for complaint. Writing on the 30th May last, Lieutenant-Colonel Browning remarked :—

'I personally frequently see these prisoners, and only from the few irreconcilables have I ever received any complaints; the majority of them are quite reasonable and well behaved.'

The Hon'ble Babu Bhupendra Nath Basu asked :—

"Is the Government aware that one of the prisoners named Ulaskar Dutt has since become insane?"

The Hon'ble Sir Reginald Craddock replied :—

"We have not yet received confirmation of this report from the Superintendent of Port Blair, but he has been asked to state whether it is true or not."

The Hon'ble Mr. Subba Rao asked :—

"Will the Government be pleased to lay on the table a statement showing the number of Indians and Europeans employed in the different Departments under the Government of India at their head-quarters receiving salaries between Rs. 500 and Rs. 1,000 a month and of Rs. 1,000 a month and upwards?"

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The Hon'ble Mr. Gillan replied:—

"The required statement* has been placed on the table. It is assumed that the Hon'ble Mr. Subba Rao desires that members of the Domiciled Community should be included in the term 'Europeans'."

The Hon'ble Mr. Ghuznavi asked:—

"(a) Is it a fact that none of the three Muhammadan festivals of the Id'uzzoha, Id'ul Fiter, Ashoora (tenth day of Mohurrum) is a public holiday under the Indian Negotiable Instruments Act in some of the Provinces of British India ?

"(b) If so, do Government propose to ask Local Governments of those Provinces to declare the said days to be public holidays under section 25 of the Negotiable Instruments Act, 1881 ?"

The Hon'ble Sir Reginald Craddock replied:—

"(a) The practice varies in different provinces, but it is correct that there are provinces in which none of the three days mentioned are observed as holidays under the Negotiable Instruments Act.

"(b) Discretion as to the notification of public holidays was deliberately vested in Local Governments in 1909, and the Government of India do not propose to interfere with its exercise. As the Hon'ble Member is doubtless aware, in addition to holidays notified under the Negotiable Instruments Act, local holidays are not infrequently given on the occasion of religious festivals to the followers of the particular creed concerned, and copies of the present question and answers will be circulated to all Local Governments in the ordinary course."

The Hon'ble Mr. Ghuznavi asked:—

"(a) Is there any rule entitling all Mussalman employés of Government to sufficient time between the hours of 12-30 and 2 P.M. on Fridays to enable them to say their Jumma prayers ?

"(b) If not, is it not a fact that such employés feel considerable inconvenience owing to the absence of such a rule ?

"(c) If so, will Government be pleased to say whether they propose to take the matter into their consideration ?"

The Hon'ble Sir Reginald Craddock replied:—

"(a) There is no rule on the subject.

"(b) A Resolution was passed early this year by the Provincial Muhammadan Association of Dacca advocating the grant of two hours' leave to Muhammadan Government employés, a copy of which was communicated to the Government of India. Beyond this the Government of India have no evidence that inconvenience is felt by Muhammadan Government servants owing to the absence of such a rule.

"(c) The Government of India will be ready to take the matter into their consideration when they have definite proof that there is a general demand for such a rule."

* Vide Appendix I.

[*Mr. Ghuznavi ; Sir Reginald Craddock ; Sir Harcourt Butler ; Sir Robert Carlyle ; Raja Sir Mohamed Ali Mohamed Khan.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Mr. Ghuznavi asked :—

"Will the Government be pleased to say whether they propose to consider and also put before the Public Service Commission the question of raising the pay of subordinate police officers from the rank of Sub-Inspectors downwards?"

The Hon'ble Sir Reginald Craddock replied :—

"It will be for the Public Service Commission to decide what questions they desire to take up as coming within the scope of the reference made to them."

The Hon'ble Mr. Ghuznavi asked :—

"(a) Is it a fact that there was a heavy mortality from cholera among the pilgrims in Puri during the last car festival? If so, has the attention of the Government been drawn to it?"

"(b) If so, was the Government aware that there were any special circumstances in connection with the festival that would cause an extraordinary influx of pilgrims on the last occasion?"

"(c) If so, will the Government be pleased to say whether they propose to direct sufficient safeguards being adopted in future specially as regards the provision for water-supply and wholesome food so that the ravages of cholera may to some extent be checked?"

The Hon'ble Sir Harcourt Butler replied :—

"The Government of India have no information with regard to clauses (a) and (b) of the Hon'ble Member's question. As regards (c) the Hon'ble Member is referred to the letter from the Department of Education to Local Governments No 1578-1588, dated the 24th August 1912, which has been published regarding the proposed inquiry into the possibility of improving the sanitary conditions of pilgrim centres. A copy of this letter* is laid on the table. In addition to these proposals, two officers of the Indian Medical Service have been placed on special duty under the auspices of the Indian Research Fund, to hold a special inquiry into the causes underlying the spread of cholera."

The Hon'ble Mr. Ghuznavi asked :—

"Will the Government be pleased to state the conditions of service of managers and employes under the Court of Wards as regards pension, leave and furlough? Do these conditions differ from those applicable to the case of persons in the regular service of Government? If so, what are the points of difference, and do Government propose to take steps for the removal of such points of difference?"

The Hon'ble Sir Robert Carlyle replied :—

"The information will be collected."

The Hon'ble Raja Sir Mohamed Ali Mohamed Khan asked :—

"(a) Will the Government be pleased to lay on the table a statement showing separately the existing number of Fellows, members of Senate and members of the Syndicate in each University in India, giving details of their nationality?"

"(b) Will the Government be pleased to state as to how many of the existing Fellows, members of the Senate and Syndicate are elected, and how many nominated in each University with details of their nationality?"

* Vide Appendix J.

[18TH SEPTEMBER, 1912.] [*Sir Harcourt Butler ; Raja Sir Mohamed Ali Mohamed Khan ; Mr. Syed Ali Imam ; His Excellency the Commander-in-Chief ; Sir Reginald Craddock.*]

The Hon'ble Sir Harcourt Butler replied :—

"The Government of India have information up to date only as regards the Calcutta University. A statement* regarding that University is laid on the table. Figures for the other Universities will be called for and laid on the table in due course."

The Hon'ble Raja Sir Mohamed Ali Mohamed Khan asked :—

"Will the Government be pleased to state how many members have been nominated or elected to represent the Central Provinces in the Imperial Legislative Council since its formation, and as to how many of these representatives were Muhammadans?"

The Hon'ble Mr. Syed Ali Imam replied :—

"I lay a statement † on the table giving the required information."

The Hon'ble Raja Sir Mohamed Ali Mohamed Khan asked :—

"Is it a fact that recruitment in the Army is no longer made from Oudh, and that the stoppage of such recruitment from Oudh has caused great disappointment in the families of retired Muhammadan Military pensioners?"

"If so, do Government propose to reconsider the question of recruitment?"

His Excellency the Commander-in-Chief replied :—

"Recruiting from Oudh for the Indian Army has not been discontinued. The following classes are recruited from amongst,

Brahmans.

Rajputs.

Hindustani Mussalmans."

WILD BIRDS AND ANIMALS PROTECTION BILL.

The Hon'ble Sir Reginald Craddock moved that the Report of the Select Committee on the Bill to make better provision for the protection and preservation of certain wild birds and animals be taken into consideration. He said— "My Lord, I have nothing to add to the statements previously made regarding this Bill."

The motion was put and agreed to.

The Hon'ble Sir Reginald Craddock moved that the Bill to make better provision for the protection and preservation of certain wild birds and animals, as amended, be passed.

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS (AMENDMENT) BILL.

The Hon'ble Sir Reginald Craddock moved that the Bill further to amend the Presidency Small Cause Courts Act, 1882, be taken into consideration.

The motion was put and agreed to.

* *Vide* Appendix K.

† " " L.

[*Sir Reginald Craddock ; Sir Vithaldas Thackersey.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Sir Reginald Craddock moved that the Bill further to amend the Presidency Small Cause Courts Act, 1882, be passed.

The motion was put and agreed to.

INDIAN EXTRADITION (AMENDMENT) BILL.

The Hon'ble Sir Reginald Craddock moved that the Bill to amend the Indian Extradition Act, 1903, be taken into consideration.

Sir Vithaldas Thackersey moved the following amendment :—

'That the consideration of this Bill be deferred until the Delhi Session, as the measure is a controversial one, and that the Bill be then referred to a Select Committee'

He said :—“ My Lord, this amending Bill appears to be a very small and innocent measure, and the fact that Government have been pleased to introduce it during the Simla Session when, as a rule, only non-controversial subjects are taken up, shows that Government have acted on that assumption. It proposes to extend to the Presidency Magistrates in Presidency-towns the obligation laid on District Magistrates in British India to receive and execute warrants, issued by Political Agents, in certain cases. In order to understand the nature of the obligation thus proposed to be extended, it is necessary to go into section VII of Act 1903 in some detail. That section provides that :—

- ' 1. Where an extradition offence has been committed or is supposed to have been committed by a person not being a European British subject, in the territories of any State not being a foreign State, and such person escapes into or is in British India, and the Political Agent in or for such State issues a warrant addressed to the District Magistrate of any District in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant; such Magistrate shall act in pursuance of such warrant and may give directions accordingly.
- ' 2. A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.'

“ In other words, except as regards European British subjects, a District Magistrate in British India is obliged to hand over any person living in his jurisdiction, whether the subject of the Native State or a British subject, to the State which asks for his extradition, on the warrant issued by the Political Agent for that State. I may here call attention to the fact that, under rule 4 of the Rules made by the Government of India under section 22 of the Act and dated Simla, the 13th May 1904, the Political Agent is not even required to make a 'preliminary inquiry' personally if he is able to satisfy himself 'otherwise' that there is a *prima facie* case against the person. My Lord, a preliminary inquiry by the Political Agent who is generally a Military officer without any judicial training, is itself a very inadequate protection against illegal attacks on the liberty of the subject; but, under rule 4 to which I have referred, even this formality of a preliminary inquiry may be made by anybody provided the Political Agent is pleased to certify that he is satisfied, and when a warrant is issued by a Political Agent under such circumstances, it must be executed by a District Magistrate to whom the law, as it stands, leaves no discretion in the matter.

“ I may mention here that the Bombay High Court has laid down that the Act of 1903 leaves absolutely no discretion either with the District Magistrates or even with the High Court to judge of the merits of the case on which a warrant has been issued.

[18TH SEPTEMBER, 1912.]

[Sir Vithaldas Thackersey.]

"The case that I refer to was in 1905. Aston J. in *Emperor versus Hussein Ali Niasally* said:—

'There is no provision in the Indian Extradition Act or in the Code of Criminal Procedure or in any other law, making an inquiry by a competent British Court in British India into the truth of the accusation, whether in the presence of the accused or otherwise, a condition precedent to the issue and execution of the warrant of a Political Agent under section 7 of the Indian Extradition Act.'

"This is the obligation which is now proposed to extend to the Presidency Magistrates in Presidency-towns. The Council will, I am sure, agree with me that the Act of 1903 requires revision not in the direction proposed, but rather in that of limiting this extraordinary power of Political Agents by proper safeguards calculated to secure a regular judicial trial to the accused person. I think, My Lord, that the Legislature did very wisely in omitting to provide for the extension to the Presidency-towns of this extravagant power of the Political Agents. It is bad enough as applying to the Districts, but in the Presidency-towns, it would be intolerable. In the Districts, generally speaking, few subjects of Native States of the respectable classes settle down to carry on any important business. On the other hand, in Presidency-towns, especially in Bombay, a very large section of the population come from the Native States, and there are often among them men, with great commercial interests, carrying on considerable and important business for generations, attracted no doubt by the absolute security of liberty, property, and contracts under the jurisdiction of His Majesty's High Courts. Whether the Legislature intended or not to mark its sense of this difference between the people in the Districts and in the Presidency-towns, by omitting to provide for the execution in the Presidency-towns of the Political Agent's warrants issued under the circumstances I have mentioned above, I can assure Government that the proposal to bring them in the same category as the mofussil districts is viewed, with grave misgivings by the inhabitants of the Presidency-towns who, rightly or wrongly, dread the substitution in their case of the rough and ready method of the Political Agent's warrant in place of the highly efficient judicial system to which they are accustomed. There is very good reason why this should be so. The proposed amendment means simply this: that a man of respectable position and perhaps, engaged in a large and long-standing business in the Presidency town can, practically on mere suspicion, be arrested and handed over to the tender mercies of a Native State without any chance of vindicating himself. I wish, My Lord, to speak with all respect, of the Native States. I am one of those who believe that the Native States of India play a very important part in our political system, and I am proud to say that I know several Chiefs of Native States who, for enlightenment and for high character, can compare with the most eminent Statesmen of any country in the world. But, My Lord, we all know that there are Native States and Native States. I am bound, in speaking on this Bill, to point out that, if passed, it will apply to all the Native States in the country without exception. It is impossible to discriminate a legislation of this kind between a badly governed State and an advanced State whose judicial institutions may be on a level of equal efficiency with those of British India. It is here that the danger of the proposed Bill, as indeed of the Act of 1903, lies. We must recognise, My Lord, that, especially in some of the smaller States, the judicial system, if a system it can be called, is of the most primitive character and, in fact, it may be said that the will of the Chief is the law of the land. It is obvious that to pass a law which subjects a respectable inhabitant of British India, accustomed to the jealous protection of his life, liberty and property, to the authority of a make-shift judicial tribunal in such a State, is a measure to which this Council will not assent except for very strong reasons. If this provision is hard in the case of the subjects of Native States, it is simply preposterous in the case of British subjects, because it really means that they can be arrested and deported from British India at the instance of a Native State much more lightly than they can in the case of England or any other British territory other than India, in which case a *prima facie* case must be made before the Judiciary in India.

[*Sir Vithaldas Thackersey; Sir Reginald Craddock*] [18TH SEPTEMBER, 1912.]

"From these remarks, it will be seen that I view with considerable apprehension the powers already conferred by the Act of 1903 on Political Agents, and that I cannot but contemplate without considerable anxiety the proposal embodied in the Bill to extend them to Presidency-towns. I think I have said enough to show that the proposed Bill is not a non-controversial one, and that it would be unjust to pass it in the summary manner in which it is intended to be passed. As I have said, a large and influential section of public opinion in Bombay is seriously exercised in mind about the consequences of the proposed extension of the Act to the Presidency-towns. I, therefore, strongly plead for the postponement of the Bill to the Delhi session when there will be fuller opportunities for discussion, and by which time those who are likely to be affected by it would be able to make their representations to Your Excellency's Government. And, after all, nothing is lost by so postponing the passing of the Bill. So far as I know, there has been only one instance, and that a very recent one, in which a Native State has found difficulty in getting a person whom it wished to get extradited, whether on sufficient or insufficient grounds it is, of course, not for me to say. However, even in this case, the alleged accused could have been proceeded against under sections 9 and 10 of the present Act. I earnestly trust that, as Government now know that the Bill is not non-controversial as they probably took it to be, they would be pleased to postpone the further stages of the Bill to the Delhi session."

The Hon'ble Sir Reginald Craddock :—"My Lord, if the Hon'ble Sir Vithaldas had not very courteously informed me yesterday of his intention to move this amendment to-day, I should have been struck down with surprise at this very harmless little Bill being found to carry with it such dire consequences as those which the Hon'ble Member has described. This legislation was undertaken at the request of the Madras Government in consequence of an opinion by the local Advocate-General to the effect that the Chief Presidency Magistrate in Madras was not a District Magistrate within the meaning of section 7 of the Act. The Local Governments of Bengal and Bombay were consulted, and in both instances they concurred with the local High Courts in thinking that the amendment was desirable. Neither the Local Government nor the High Court in Bombay made any remarks expressing any doubt as to the expediency of the policy underlying this amendment. The Calcutta High Court advised that there was something to be said in favour of the view that the Presidency Magistrate was already a District Magistrate for the purposes of the Act, but that opinion was obviously one in regard to which there was some reasonable doubt, and they therefore supported the suggestion that an amendment of this kind is desirable."

"In Calcutta, the provisions of section 7 do not appear to have been applied, but a case might arise at any time, and therefore the law upon the subject should be rendered clear. Well, My Lord, we have hitherto been unaware that Bombay enjoyed the privilege of being a sort of Alsatia for the criminals of Native States. Apparently the risks which the Hon'ble Sir Vithaldas Thackersey fears for Bombay have been run all these years in the whole of the rest of India without any case of hardship coming to notice. I cannot admit that there is any particular danger in this small extension. The extradition procedure differs according as the request for the delivery of an offender is made at the instance of the Durbar, or is made through the warrant of a Political Agent. Where the Political Agent himself certifies that the arrest is *prima facie* warranted, in that case his warrant is honoured by the District Magistrate, and, as we intended to enact, by the Chief Presidency Magistrate in the Presidency-towns, without any further question. It gives a guarantee that a British Officer of experience and honour has satisfied himself that the case had at all events such a *prima facie* basis as justifies the Magistrates in any part of India in issuing warrants. However, My Lord, as the good people in Bombay seem to be genuinely agitated about the dire misfortune that will happen to them if this Bill is passed, I have no objection to accepting the amendment, and allowing the Bill to be proceeded with in the Delhi session, with Your Excellency's permission."

The amendment was put and agreed to.

[18TH SEPTEMBER, 1912.] [*Sir Harcourt Butler ; Mr. Gillan ; Sir Reginald Craddock ; Mr. Syed Ali Imam.*]

DIVORCE BILL.

The Hon'ble Sir Harcourt Butler moved that the Bill further to amend the Indian Divorce Act be taken into consideration. He said :—“ My Lord, I have nothing to add to the statement which I made at the last meeting of this Council. The measure is a non-controversial one, and has received no opposition from any quarter.”

The motion was put and agreed to.

The Hon'ble Sir Harcourt Butler moved that the Bill further to amend the Indian Divorce Act be passed.

The motion was put and agreed to.

LOCAL AUTHORITIES (EMERGENCY) LOANS (AMENDMENT) BILL

The Hon'ble Mr. Gillan moved that the Bill to amend the Local Authorities (Emergency) Loans Act, 1897 (which he introduced in the Council with a short explanation at the last meeting), be taken into consideration.

The motion was put and agreed to

The Hon'ble Mr. Gillan moved that the Bill to amend the Local Authorities (Emergency) Loans Act, 1897, be passed.

The motion was put and agreed to.

MOTOR VEHICLE INTERNATIONAL CIRCULATION BILL.

The Hon'ble Sir Reginald Craddock moved that the Bill to facilitate the International Circulation of Motor Vehicles be taken into consideration.

The motion was put and agreed to.

The Hon'ble Sir Reginald Craddock moved that the Bill to facilitate the International Circulation of Motor Vehicles be passed.

The motion was put and agreed to.

DELHI LAWS BILL.

The Hon'ble Mr. Syed Ali Imam moved for leave to introduce a Bill to provide for the application of the law in force in the Province of Delhi and for the extension of other enactments thereto.

He said—“ My Lord, I move for leave to introduce a Bill which deals with the application and adaptation of the law in force to the territory which under the Proclamation issued in the Gazette of India Extraordinary of yesterday will be separated from the Punjab on the 1st of October next, and will be brought under the immediate authority and management of Your Excellency's Government under the designation of the Chief Commissionership of Delhi. This territory comprises the Tahsil of Delhi and the area in the jurisdiction of the Police-station of Mahrauli, and will be placed in charge of an Officer who will be the Chief Commissioner of the new Province. Some time mention has been made of the term *Enclave* in reference to this territorial re-distribution, but as our Indian Legislature is not familiar with this term, we have

[*Mr. Syed Ali Imam ; His Excellency the President ; Babu Bhupendra Nath Basu.*] [18TH SEPTEMBER, 1912.]

preferred to retain the expression 'Province' which has a known meaning in our legal phraseology. As effect is to be given to the new arrangements in the immediate future, it is a matter of urgent necessity that provisions should be made for the application and adaptation of the existing laws to the new conditions. Hon'ble Members may be aware that, under the provisions of the Indian Councils Acts, the existing laws remain in force unless repealed or altered, but some modification of form is necessary for their proper exercise by the authorities that the altered circumstances will bring into existence. The measure which I propose to place before the Council does not touch the substance of the laws in force, and may safely be regarded as no more than a draftsman's Bill. The alteration of form is provided for by clause 3 read with Schedule B and clauses 4 (2) and 5 (1) of the Bill. Clause 3 also enables the Governor General in Council to direct that any power conferred on the Local Government shall be exercised by him or any other authority that he may specify, and not by the Chief Commissioner of Delhi. Clause 7 of the Bill is also of considerable utility, inasmuch as it empowers the Governor General in Council to apply to the Province of Delhi enactments in force in other parts of British India. This provision saves unnecessary resort to legislation in cases where suitable laws are already in existence. I may mention that there is precedent in our Legislature for such a salutary provision as this. The Bill has been in the main cast on the lines of the Bengal, Bihar and Orissa and Assam Laws Act of 1912, and has all the features and characteristics of a mere formal legislative measure. As the Proclamation above referred to is to take effect on the 1st of October next, I shall, in the event of the present motion being carried, move for the Bill to be taken into consideration with a view to its being passed to-day. Before I close my remarks, I wish to point out that the Bill does not in any way affect the jurisdiction of the Chief Court of the Punjab in the territory covered by the Proclamation.

"My Lord, I move for leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam :—"My Lord, I introduce the Bill and pray Your Excellency to suspend the Rules of Business to admit of the Bill being taken into consideration."

His Excellency the President :—"I declare the Rules suspended."

The Hon'ble Mr. Syed Ali Imam moved that the Bill be taken into consideration.

The Hon'ble Babu Bhupendra Nath Basu :—"May I inquire as to what will be the pay and emoluments of the officer designated as the Chief Commissioner of Delhi? Will they be the same as those of a Commissioner of a Division, or the Chief Commissioner of Assam?"

The Hon'ble Mr. Syed Ali Imam :—"My Lord, this is hardly a question that a Law Member may answer, but I endeavour to answer it in this way, that the designation of Chief Commissioner has been made with a purpose. In our legal system, the term 'Chief Commissioner' has got a special meaning, and when I put the term 'Chief Commissioner' in that Bill and also in consonance with the Proclamation, I had no intention whatsoever of going into the question of the salary of the officer. I was more concerned with the technical meaning of that term in view of the particular system that prevails amongst us."

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam moved that the Bill be passed.

The motion was put and agreed to.

ADMINISTRATOR GENERAL'S BILL.

The Hon'ble Mr. Syed Ali Imam moved for leave to introduce a

[18TH SEPTEMBER, 1912.] [Mr. Syed Ali Imam.]

Bill to consolidate and amend the law relating to the office and duties of Administrator General.

He said :—"My Lord, the measures that fall to the lot of a Law Member to introduce seldom relate to subjects which are other than purely utilitarian and prosaic. They do not lend themselves to flights of fancy. It is not for the Law Member, like my Hon'ble Colleague the Home Member, to deal with æroplanes and descant upon the 'Nations' airy navies grappling in the central blue" or like my Hon'ble Colleague in the Commerce and Industry Department to tell of the fierce joys of company promoting. My subject to-day—the administration of the assets of deceased persons by State Officials—may be of great practical importance, but is not likely to excite more than a sustained interest outside legal circles. The Bill which I move for leave to introduce relates to the law governing the office and duties of Administrators-General. The existing law is principally embodied in Act 2 of 1874, and although amending measures have come up before this Council from time to time since then no comprehensive revision of the subject-matter of the law has been taken up. In a period of nearly forty years great changes in the conditions and constitution of the office to which this law applies have taken place. Society has advanced with rapid strides, and the necessity of a revision of the law has long been felt. It will, therefore, hardly be disputed that the time has come when a Consolidating and Amending Bill should be placed on the legislative anvil. The lapse of time which has made the general scheme of the Act of 1874 somewhat out of harmony with our modern Statute-book, and the fact that the present law is contained in no less than five different enactments will, I have no doubt, be admitted to be a sufficient plea for consolidation, and the justification for amendment is no less strong. The details of the various amendments which it is proposed to make are explained at some length in the Statement of Objects and Reasons and the Notes on Clauses annexed to the Bill, and this is hardly the stage at which I need detain the Council for their consideration in an exhaustive manner. I will, therefore, content myself with making a short reference to some of the more important changes that the Bill purports to carry out. But before doing so, however, I must premise that the Government of India have been assisted in the preparation of this measure by the views and the criticisms which were received from the Calcutta High Court and the various Local Governments and Administrations. The views of Mr. Hyde, the Administrator-General of Bengal, and Mr. Sanders-Slater, the Administrator-General of Bombay, have also received most careful consideration. We have not always been able to give effect to their recommendations, but much useful assistance has been obtained in this way. I may, therefore, safely say that there has been no poverty of material or lack of considered opinion as a basis for this measure. I will now refer very briefly to some of the more important changes made by the Bill. The Act of 1874 provided for the remuneration of Administrators-General by commission, but the Act of 1902 made it possible for them to be salaried officers of Government, and in fact as a result of an inquiry by a Committee presided over by the Hon'ble Mr. Justice Sale, the Administrator-General of Bengal was converted into a salaried officer in that year. A similar change was carried out in the Bombay Presidency in 1905. The responsibility attaching to the functions of an Administrator-General has been found to be so grave and onerous, that it has been felt to be a necessity to secure greater control by doing away with the system of remuneration by commission and fixing a salary, Government taking both the liabilities and the fees of the office. As to fees, the Bill aims at greater flexibility as it has been found that the defects in the present system have prevented large and remunerative estates coming under the management of the Administrator-General. But at the same time clear provision is made in that the Government is not permitted to make the fees a source of revenue, and all that is intended is that the income of the office should cover its expenditure.

"The Bill widens the field of selection for the appointment of an Administrator-General by throwing it open not only to Barristers, but also to Attorneys,

[Mr. Syed Ali Imam; Babu Bhupendra Nath Basu.] [18TH SEPTEMBER, 1912.]

Solicitors and Vakils in the Presidencies of Bombay, Madras and Calcutta. I venture to think that the extension is reasonable as the range of choice will not exclude talent and experience in the sister branches of the legal profession. It has not been considered desirable to carry the extension any further in the three major provinces as the volume of work is large enough to secure sufficiently high salary to attract men of ability from the profession which is best fitted to deal with the difficulties that attach to the satisfactory discharge of the duties of the Administrator-General. This point, however, is closely connected with another important departure which the Bill permits of. Experience has shown that the control of the Government of India over the Administrator-General of Bengal is open to the objections that are inseparable from too much centralisation, and it is possible that this may be so in other parts of India. It has to be remembered of course that Presidencies under this particular law have a very much wider extent than is ordinarily included in the expression. The Presidency of Bengal, for example, stretches from the North-Western Frontier Province to Burma. It has, therefore, been considered expedient to take power to constitute from the existing Presidencies provinces whenever necessary with a view to create provincial control over provincial Administrators-General. This will be a step in decentralisation which, it is hoped, will secure greater efficiency and more complete supervision. It is needless to say that such a step will always be taken with due regard to local conditions, sufficient care and watchful circumspection. Should however such a division be effected, selection for the post of provincial Administrator-General will not improbably be made from the legal profession as mentioned above, but it is not inconceivable that considerations of economy on the one hand and the lack of sufficient attraction on the other may make such a selection impracticable, and therefore the Bill renders it possible for an officer already in Government service to be appointed in such a case. I may add that it is improbable that selection will ordinarily be made outside the class from which recruitment is natural, and the provision of the Bill is intended to meet a contingency arising out of the conditions in places not so advanced as the three Presidency-towns.

"The Bill makes an important change in the status of the Administrator-General in so far that it makes him a Corporation Sole with perpetual succession and an official seal. This amendment makes it possible to dispense with many sections of the present law, and is, I think, a considerable improvement on the old Act. This change accords with the method adopted in the Public Trustee Act of 1906.

"There is just one matter to which I wish to draw attention. *vis.*, the provision in the draft Bill regarding audit and accounts and the new powers we have given to persons beneficially interested in estates for obtaining copies of the account. We consider it eminently desirable that the public should have the fullest confidence in the administration with which the Bill deals, and we think this can be best secured by a strict system of audit and inspection flexible enough to be adapted to local systems and by a ready means of giving publicity in instances of mal-administration. I have given a general outline of the changes we propose, reserving the consideration of details and technicalities to a future stage in the progress of the Bill in this Council.

"My Lord, I move for leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam introduced the Bill, and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Hon'ble Babu Bhupendra Nath Basu:—"My Lord, with reference to the observations made by the Hon'ble the Law Member, it is difficult for us, not having before us the text of the Bill which he has introduced, to offer

[18TH SEPTEMBER, 1912.] [Babu Bhupendra Nath Basu, Mr. Syed Ali Imam.]

any criticisms upon this very important measure. I can, however, assure my friend that he need not have apologised for not being able to take the same flight of fancy as the Hon'ble the Home Member had when he spoke of aerial navies grappling in the central blue. My Lord, I have some knowledge of the working of the Administrator General's office, and I may tell my friend that if the stones in the Council House Street of Calcutta had tongues to speak they would be able to unfold a tale which would move even the most stolid amongst us to compassion and pity for those for whom a benevolent ancestor has made *post mortem* provisions. I welcome the introduction of this measure as evincing a desire on the part of Government that things in the Administrator General's office should be so conducted in future that the benefits which that office was originally intended to secure for people should be secured.

"My Lord, my friend has referred to the remuneration being fixed for the office of the Administrator General. That reform has already been carried out in Calcutta under the advice of a Committee over which Mr. Justice Sale presided, and it has been a reform in the right direction. My friend has also referred to the question of fees. Not having the Bill before us, I am not in a position to say in what direction the fees have been modified, but I am sure that the fees have been or will be so modified as will make it possible for people who want to make over their estates to the custody of the Administrator General to do so. At present the initial fees which are based upon the corpus of the estate are prohibitive, and many people who otherwise would place their estates in the hands of the Administrator General are thereby deterred. I am glad to have the assurance of my Hon'ble and Learned friend that the scale of fees have been so framed in the future that they are not to be looked upon as supplying a source of income to the State, but simply to meet the cost of management of the estates in charge of the Administrator General's Office.

"My friend has also referred to the widening of the area of selection for the office of the Administrator General. I think that also is a move in the right direction. I do not wish to say a word about those estimable and distinguished gentlemen who have been from time to time appointed to the office of the Administrator General, but I can say this that some experience of office administration, some, experience of the management of estates, is absolutely essential to the proper discharge of the duties of an Administrator General, and I believe I shall not be wrong in saying that the members of the profession to which my learned friend belongs do not always possess the experience necessary for the proper management of large estates or big offices.

"My Lord, there is another provision which, I believe, is very wholesome, namely, allowing persons beneficially interested to have the right of looking into the accounts so far as they concern the estate in which they are interested and of getting copies of those accounts. That will place in the hands of the beneficiaries an instrument for their own protection as against extravagant management or maladministration of the estate.

"I do not know what the other provisions of the Bill are which my friend has to-day introduced, but I am quite sure that the Bill will be welcomed by a large section of the people who want to make secure the future of their offspring, and therefore I welcome the introduction of this measure."

The Hon'ble Mr. Syed Ali Imam:—"My Lord, the Hon'ble Babu Bhupendra Nath Basu has earned my thanks for the very sympathetic manner in which he has received this Bill. I only wish to assure him that when we have in various directions tried our humble best to improve matters, we have in no way at all neglected the question of fees, and I may assure my Hon'ble Colleague that the Hon'ble the Finance Member has absolutely no eye in the direction of these fees to increase the revenue of Government."

The motion was put and agreed to.

OFFICIAL TRUSTEE'S BILL.

The Hon'ble Mr. Syed Ali Imam moved for leave to introduce a Bill to consolidate and amend the law constituting the office of Official Trustee.

[*Mr. Syed Ali Imam.*]

[15TH SEPTEMBER, 1912.]

He said:—"My Lord, the Bill which I now move for leave to introduce can hardly claim to be more entertaining than the one I have just laid before the Council. In this as in the other details dry as dust and unattractive technicalities are the principal features. Fortunately the two Bills are so closely related that the family resemblance makes the task of introduction easy though uninteresting. This Bill also is a consolidating and amending Bill. The existing law governing the office and functions of the Official Trustee has, with occasional modifications, endured for half a century, and for that reason is in some respects more out of date even than the law relating to Administrators General. It was enacted no less than ten years before the other, and has since then appeared before this Council on five different occasions. These appearances have been somewhat fitful and flitting, leaving the bulk of the law itself in need of consolidation and amendment. This Bill is intended to meet that want and to harmonise the law with the present day methods of legislation."

"Most of the important amendments contained in this Bill are on the same lines as in the Administrator-General's Bill. The change from possible payment by commission to the absolute rule of payment by fixed salary, the taking of liabilities and fees by the State with like safeguards, the power to provincialise, the limits of the field of selection for appointment, the declaration of the Official Trustee to be a Corporation Sole, the provision for the audit of accounts of the Official Trustee by Government Auditors, the right of inspection of these accounts by beneficiaries of trusts, and many other minor amendments that I need not detail at this stage, are common ground in both the Bills."

"There are, on the other hand, some changes that relate to the special character of the duties of the Official Trustee. These are explained in the Table of Distribution annexed to the Bill and in the Notes on Clauses in the Statement of Objects and Reasons. Most of these are somewhat technical, but there are two to which I wish to make a brief reference. Under the present law the Official Trustee is under the dual control of the Government and the High Court. This division of authority has been found to be unsatisfactory, for divided responsibility not infrequently predicates weakness. The balance of opinion taken has been overwhelmingly in favour of the complete transfer of control to Government, and includes an opinion which is entitled to great weight and respect, that is, of the High Court of Calcutta, which favours this change."

"The other point which I wish to mention is rather more technical. We have given power under the Bill to enable the Official Trustee to be appointed as such by will. In this we follow the Public Trusts Act of 1906. A very distinguished luminary once said that the only use of Trustees was to commit judicious breaches of trust. That paradox aptly illustrates the difficulties of those who create and those who accept private trusts, and we think that the powers we have given may be acceptable to the harassed testators who are at a loss to find a suitable trustee. I need hardly detain the Council any further, but before I close my remarks, I wish to acknowledge, with thanks, the assistance given to the Government of India by Mr. Sanders Slater, the Administrator General and Official Trustee of the Bombay Presidency. His practical experience has placed at our disposal much valuable material which we have utilised in the preparation of the Bill."

"My Lord, I move for leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam introduced the Bill and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

[18TH SEPTEMBER, 1922.]

[*Babu Bhupendra Nath Basu.*]

The Hon'ble Babu Bhupendra Nath Basu:—"My Lord, I beg to offer a few observations on the Bill just now introduced. There was one matter to which I was looking forward with some degree of anticipation, but it has not been touched upon by my Hon'ble friend. Opinion has been entertained in many quarters that it would probably be advantageous if the offices of the Official Trustee and the Administrator General could be combined in the same person. I am not at present prepared to say whether that would be the best possible arrangement, or whether the present arrangement under which these offices are held by different persons should continue; but difficulties in the management of estates might probably be got over if an arrangement could be made for the combination of these two offices. It might be more economical in the end and better conducive to the interests of those for whom the estates are held by these officials.

"My friend has said nothing about the fees which the Official Trustee charges under the present Act. Those fees, I admit, are more moderate than the fees charged by the Administrator General. But there are the preliminary fees also, based upon the capital value of the estate, which are not inconsiderable in many cases. I know of cases in which very large sums are charged as a preliminary fee, besides the fees which are charged for management, in addition to the actual costs of management. These are matters which, I hope, will receive attention when the Bill is considered at the Committee stage.

"My friend has referred to another matter, namely, that the Official Trustee may now be, under the Bill that he has introduced, appointed by will. I do not at the present moment remember the provisions of the present Act, but I believe there is a provision under which, if certain formalities are gone through, an Official Trustee might be appointed even by will. But the question has arisen as to whether an Official Trustee might or might not be appointed an executor of an estate, and that question has been answered in the negative by the High Court of Calcutta, with very great hardship to several estates. At the present moment people feel that the administration of estates by the Official Trustees is less expensive than administration by the Administrator General, and some of the testators have appointed Official Trustees as executors of their wills. Their intentions have been frustrated by the technicalities of the law and by the defect in the present Act. I hope that this will be borne in mind when the Act is going to be amended. There is another matter of principle which is of importance. The Official Trustee under the present law cannot be appointed Trustee of any religious endowment, and many religious endowments have failed of their objects because there have not been any permanent trustees to take charge of the endowed estate. If it were possible to appoint the Official Trustee merely as a trustee, as the holder of the endowment without having anything to do with the distribution of the income of the endowment, which in the case of Hindus and Muhammadans the Official Trustee probably would not be competent to do, a great relief would be afforded to a large class of Trusts.

"These are observations which I have ventured to make, and I am sure that when the Bill is published, the public will make their suggestions as to how the Bill may be developed in order to suit the changed conditions of the times. With these few observations, I welcome the introduction of this Bill."

The Hon'ble Mr. Syed Ali Imam :—" My Lord, the rich wealth of knowledge on this particular subject that has been placed before the Council in the speech of the Hon'ble Mr. Basu, will, I trust, be considered as useful material which, we all hope, when this Bill goes to Select Committee, will be directly placed before us by him. The Select Committee, of course, will very likely, so far as this Bill goes, sit when the present Council will have ended its term, and I trust I shall be in a position at that time to receive all the assistance possible from my friend Mr. Basu.

" In regard to the question of the combination of the two offices, I may say, briefly, that as a matter of fact in practice an attempt has been made in that direction. In Bombay, one officer combines both the duties, and wherever it is possible, it is the intention, of course, to make that combination.

" The other matters that have been raised should properly come for consideration in the Select Committee, and therefore, I think, it is unnecessary for me at present to deal with them."

The motion was put and agreed to.

FEMALE SLAVE TRADE SUPPRESSION BILL.

The Hon'ble Mr. Madge moved for leave to introduce a Bill to suppress the importation of Foreign Women for Prostitution and to punish Importers and others profiting thereby.

He said :—" My Lord, I rise to ask for leave to introduce a Bill to suppress the importation of foreign women for prostitution and to punish importers and others profiting thereby. Notwithstanding, my Lord, the difficult and delicate nature of the subject, it is absolutely necessary that I should enter into some details in order to inform Hon'ble Members who may not be familiar with important facts, and also to enlist their interest and the interest of the larger audience outside to whom our proceedings will be reported.

" The subject divides itself into two branches, one relating to voluntary visitation and the other to fraudulent introduction. I am dealing chiefly with the latter ; but there is a common feature in both these classes of traders, and it is with the evil trade that this Bill is chiefly concerned. In dealing then with fraudulent introduction, I have no hesitation in saying—and there is no exaggeration either in my saying—that there is a vast organization, a criminal organization, by which a network is spread over a considerable part of the civilised world for the purpose of inveigling innocent persons into a slavery that is worse than death. I should best come to my practical purpose by referring to the methods of this traffic.

" The chief of these is to publish plausible advertisements offering a position of a governess or typewriter or a person in a shop on tempting salaries. The victims of this system are of the sex and usually of the inexperience and tender years that appeal to our manhood, our chivalry, and to that reverence for womanhood which all true men have in their best moods. The victim who once is inveigled by one of these agents has very little hope of ever recovering herself : as I have said, she is usually lost in a system of slavery that is actually worse than death. I have heard it said, my Lord, that this system has been brought under a certain amount of control, and later on I shall say, when referring to Calcutta, how thankful I am for what has been done in this direction ; but there could be no sadder delusion than that this system has been suppressed, for, on the contrary, it is increasing rapidly. Only last month, I had my last report of a young person who left a European city to come out to India on the strength of an advertisement in which it was said that she would be employed in a

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haberdashery firm out here. The distracted mother last heard of her, or last had a letter, from Colombo. Then, the mother got one more communication, a post-card, from Calcutta. Whether this was genuine or faked is open to question, but at any rate this post-card said that she was met by a very gentlemanly looking person who told her that she would have to go to Chandernagore; and from that date to this an impenetrable darkness has covered this unfortunate girl; since then nothing has been heard of her. This is an instance, an example, not of ten or of scores or even of hundreds, if my information is correct from several parts of the world, it is an instance that might be multiplied by thousands: and this is a thing that is going on as a flourishing trade. It employs comparatively humble agents here and there, but in the background are persons who are supposed to finance it, and who are believed to have taken sufficient legal precautions to safe-guard themselves, and it is one of the purposes of my Bill, my Lord, that a new weapon will be put into the hands of those Englishmen in India who wish to preserve the best traditions of our race in this country; and I am very hopeful that when this Bill is passed, it really will put a weapon into such hands. I do not wish to take up very much of the time of the Council in dwelling upon this matter, but I wish to refer briefly to Calcutta itself as a specimen of a large Indian city in which this kind of iniquity prevails. I think I owe it to myself, to this Council and to Your Excellency, to explain how it is that I have come to take up this Bill. I do not desire to advertise myself, but I must explain that for the past 25 years I have been interested, and for the earlier part of that period was practically interested, in trying to rescue the victims of this mystery of iniquity: and my only excuse for persisting in what I consider a sacred mission for so many years is that I have not been altogether unsuccessful in it. As regards Calcutta, I ought to say that the city owes a debt of gratitude, which it will be very difficult to repay, to Sir Frederick Halliday, who has done his best in all the time that he has been Commissioner of Police to put a stop to this traffic. But in the existing state of the law, though he has been partially successful, he has not been able to get at the persons whom it is most desirable to reach, and as far as possible to punish. I am interested in this matter very much on behalf of the domiciled community whom I represent here. Owing to a variety of causes, increased cost of living, rise of rents, and our being deprived for one reason or another (I do not enter now into the justice or otherwise of these reasons), for various reasons, the community has been deprived of appointments that it held in the past, and this has led to a very serious depression which I have found prevailing in the last quarter of a century. Self-respecting families, who could not be called wealthy in any sense of the word, have gradually gravitated from the more desirable residences in the south of Calcutta into lanes and alleys, where they come into contact with the phase of immorality to which I have alluded. Now, my Lord, what is a common and general sight does not appeal to either the eye or the imagination as something unusual generally does; and if I may make a distinction between local immorality and imported immorality, it is from no race feeling whatsoever, but for the sole reason of emphasizing the fact that our young people who are forced into lanes and alleys have their imagination appealed to as well as their eyes caught by the unusual sight of persons dressed in other than the usual local clothing, and the effect of this influence has not been good. Instances are on record in which some members of humbler families wanting in intellect and perhaps wanting also in character have been decoyed into places from which they would have been saved had they been further removed from them. That explains my particular interest on behalf of the community in the subject; though of course my larger sympathies are enlisted in this matter on the highest moral grounds. Now, my Lord, it has been said that a Bill of this kind involves certain serious risks. I wish to read out a statement recently made by the Archbishop of

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Canterbury who said 'they were told there was difficulty about this legislation. There was, and they were prepared to face it. The difficulty was that if they did not take care they would run an element of risk that an innocent man would be arrested. In God's name, were they not prepared to run the risk, if it were a risk? Might not each of them be prepared to run that risk to-morrow rather than allow it to go on?' I hope, my Lord, that I am not transgressing into high falutin when I say that I would not mind being in custody for a week, certain to be released in the long run, if it saved one single victim of this criminal fraud. Risks, my Lord? Why did that young English Magistrate five years ago leap into the surges above Hurdwar in order to save an old beggar woman at the risk of his life? He saved her, too, and secured the seal of God's approval on the running a noble risk; and I do not think any of us would be unwilling to expose ourselves to a mere abstract risk if we were certain that we would come out right in the long run, and save somebody else's daughter or sister. I have said already that this trade is on the increase and not on the decrease. I am happy to be able to refer to a very important letter from the Hon'ble Lieutenant-Colonel Sir George Roos-Keppel, dated the 22nd December, 1911, and to read out just this one passage. 'A ready market exists for European women in Afghanistan an independent territory.' That this kind of thing is going on, and that it is reflecting no honour and glory on the governing race in India, must be an axiom to everybody here.

"May I refer just very briefly before I sit down to the Bill itself. This Bill was drafted before the corresponding English Act which is much more severe in many of its provisions. I thought it advisable, in asking this Council to receive a new law, as it was in a certain sense experimental, that we should proceed cautiously. There is no risk about which anybody has complained in the Committee of the House of Commons, that is not, I think, fairly provided against in the terms of this Bill. It is extremely cautious both in the officer whom it proposes to provide to supervise all the arrangements and also in the rank of the policeman allowed to make arrests, in its provision for appeal, in the judicial trial that it provides in cases in which there has been any omission of any of the safeguards provided, and I have every reason to hope that, when this Bill is submitted to professional opinions for advice, it will be found to have provided every safeguard that any legal adviser would think necessary in a case of this kind. There is even an appeal provided in cases in which any injustice may be done. The Statement of Objects and Reasons very fully goes into the considerations that have influenced me in submitting this Bill to this Council, and I do not think after all that I have said, I need take up any more time in presenting the Bill."

The motion was put and agreed to.

The Hon'ble Mr. Madge introduced the Bill, and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

PROTECTION OF WOMEN AND GIRLS BILL.

The Hon'ble Mr. Dadabhoj moved for leave to introduce a Bill to make further provision for the protection of women and girls and other purposes.

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He said:—"My Lord, I beg leave to introduce the Bill for affording greater protection to minor girls under sixteen years of age and women and kindred purposes. The Statement of Objects and Reasons accompanying it explains in brief the necessity of some such legislative measure as also the various provisions. But both Hon'ble Members and the public will naturally expect a fuller statement on the subject when it is formally brought forward before the Council.

"My Lord, the whole subject of Indian prostitution has been considered by Government from time to time with a view to its prevention, and a reference to the previous literature will show that a fairly exhaustive discussion took place between the Government of India and the Local Governments between the years 1865 and 1873. As a result the Government came to conclusions which amounted to a plea of *non possumus*. The matter rested there, and things were allowed to drift for thirty years. The evil grew unchecked. Meanwhile, philanthropic societies for the protection of children came to be established in India; with more diffuse education and greater national activity the sufferings of minors, girls in particular, attracted the public attention. Of these associations, one of the most influential; the Calcutta Society for the Protection of Children in India, memorialised the Government of India in March 1903, and suggested an amendment of the law which obviously meant the law contained in sections 372 and 373 of the Indian Penal Code. A similar appeal came almost simultaneously from Western India. In April 1903 the Bombay Missionary Conference sent up a memorial to Government for making these sections of the Indian Penal Code more stringent by throwing the burden of proof of *bona fides* on the accused. The appeals did not go in vain. They elicited a sympathetic response in the Government of India. With characteristic energy Lord Curzon applied his masterful mind to the subject; early in August following a Circular Letter was issued, inviting the opinions of Provincial Governments regarding certain additions to the law which appeared desirable to the Government of India. Though the suggestion of the memorialists for providing in sections 372 and 373 of the Indian Penal Code for presumption of criminal intent was not entertained by Government, it looked as if something would be done to afford more effective protection to little girls. But apparently the difficulties of the undertaking (in my humble opinion more fancied than real) damped the ardour of Government, and early in 1905, by their Circular Letter they abandoned the idea of undertaking fresh legislation, went back to their original policy of *laissez-faire* as set forth in the Home Department Circular No. 27—1185-94 of 4th July 1873, and concluded 'that with a more searching and systematic surveillance of the persons engaged in immoral callings it would be possible to deal adequately, under the existing law, with the evil complained of'. For the time being, all hope of further legislation was lost. For six years things remained in the same unsatisfactory condition, without the Government of India doing anything in the way of reform. The executive vigilance upon which they relied for more effective control and prevention did not produce any tangible result; prostitution thrived as usual; minor girls remained as unprotected as before. There was no lack of vigilance. In Bengal the Provincial Government did not sit idle. In 1907, on the representation of the Society for the Protection of Children in India, a joint Committee of officials and non-officials, among whom my friend the Hon'ble Mr. Bhupendranath Basu was one, was appointed to investigate the matter, and to collect facts relating to minor prostitution. But nothing of any importance followed. In the Bombay Presidency too the Government was vigilant, and, thanks to the efforts of Dr. Harold Mann, Joint Secretary to the Poona Society for the Protection of Children, proclamations have from time to time been issued under Government orders, prohibiting dedication of minor girls to idols, etc. All this executive action, however, has proved abortive. As far as I am aware, on receipt of the Government of India Circular of 1905 all the Local Governments issued instructions to local officials, enjoining greater vigilance in regard to minor prostitution. We have no reason to suppose that these officials have been remiss in their duty. And yet it is a matter of common

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knowledge that the evil has shown no tendency to abate, and the traffic in minor girls is at least as vigorous now as before. The remedy suggested by the Government of India has failed. In view of these facts there is a case, not only for further inquiry, but for strong legislative action. The solution of the problem cannot be indefinitely postponed. In India, even more than in the West, Government has a clear duty to protect children who have not sufficient maturity of understanding to foresee the consequences of their acts, and who, as often as not, are prostituted under compulsion by either needy or depraved parents and guardians. It is true mere legislation, however stringent, cannot make men either Godfearing or moral. There will always be a certain amount of human depravity in spite of secular and religious laws. But it is one of the accepted canons of civilised administration that the Government should put down with a firm hand any abnormal development which destroys domestic happiness disturbs the social order and infects girl-life. This principle is recognised by the British Indian Government. The despatch of the Secretary of State of 3rd March 1911 has infused fresh hopes among reformers; Government appears earnestly desirous of making up leeway and of seriously tackling the question. Correspondence with local officials has followed, but Government has not formulated any policy yet. In reply to my question on the subject, the Hon'ble Home Member stated on the 26th February last that 'the matter is engaging the attention of the Government of India.'

"The question is thus being investigated. The formal introduction of a Bill on the subject can only prove helpful to the inquiry by attracting a larger measure of public attention. In my humble opinion, there is a distinct advantage from the Government point of view in a Bill of this nature being a private Member's Bill. In judging of the Government action in the past, the peculiar difficulties of a Government like ours must be borne in mind. In matters of social reform Government must perforce proceed cautiously, and their desire to carry the people with them cannot but be commendable. In such circumstances there is ample reason for hesitation. And when there is a bewildering diversity of opinion among local officials, prudence would seem to counsel inaction. But it is certainly open to a representative of the people to place before the Council a legislative measure which he believes is in consonance with advanced public opinion and with the current of judicial decisions, and regarding the provisions of which the country will have the amplest opportunity to express its views. It is only meet and proper that legislation for social reform should be undertaken on the initiative of an elected Member. These considerations have induced me to introduce the Bill at this time.

"My Lord, before I pass on to a consideration of other points I beg to disillusionise Hon'ble Members on one point. In the discussion of the question of minor prostitution, I regret to observe, the necessity of prostitution as an Indian condition has been assumed by some of the local officials, and since the class can be kept alive by recruitment from among girls not belonging to it, the idea seems to prevail that traffic in minor girls must follow as a corollary. I do not propose to take up the time of the Council by seeking to expose the unsoundness of the propositions. It is a calumny upon the nation to state that in India 'brothels are at present an unpleasant but real necessity'. The evil is no more endemic in India than in the West. Besides, this is not the standpoint from which Government should view the question. As Mr. Walker, Commissioner of the Nagpur Division, has forcibly pointed out in his letter No. C.-34 of 21st June 1911, 'in dealing with the subject, too much weight was attached to the so-called 'Eastern point of view'.....The fact remains that the life of a prostitute in this country is one of shame and degradation and also of considerable danger.....It is, therefore, a life which the law under British Administration should as far as possible prevent minors entering or being trained for'.

"My Lord, the necessity for fresh legislation for the suppression of minor prostitution is real. The evil is alarmingly extensive. The Government of Bengal, in forwarding to the Government of India the memorial of the Calcutta Society for the Protection of Children, stated in their letter No. 1937-J. of 23rd March 1903: 'The suggestion of the Committee.....deals with what the

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Lieutenant-Governor believes to be a *very* serious and widespread evil, and..... he would be glad to see well-considered steps taken to secure more effective protection to children in such cases'.

"In February 1905, the very month in which his Government came to the conclusion that resort must be had to greater 'surveillance' for the suppression of the evil, Lord Curzon, in the course of a letter to the Calcutta Society for the Protection of Children which was placed before a meeting of the Society, pointed out :

'Defenceless as are young children everywhere and exposed to danger which they neither realise nor understand, there are many features in the life of Indian cities and in the moral and social standards of Indian peoples that render the children in that country peculiarly helpless and create a strong case for protective measures.'

"My Lord, from 2,000 to 3,000 minor girls were calculated a few years ago to be in the brothels of Calcutta and the suburbs. The Calcutta Society compiled in 1905 a list of 104 such minors, with their names and other details, but they formed a small percentage of the total. The Allen Committee, at their meeting of 3rd September 1907, 'agreed that it was a notorious fact that Calcutta brothels contained many children.' Even at a small out-of-the-way station, like Kushtea in Bengal, so many as 41 children of both sexes were found in brothels in 1907. The case is worse at Dacca in East Bengal. The records of the 'Mother's Home' furnish interesting evidence. The agents of that institution 'found lots of young girls from the very babies to those who are in their teens in the keeping of professional women who obtain them by hook or by crook and train them up for the hellish profession.' 'The public notoriety of the town of Dacca as regards the traffic in minor girls' has been judicially found by Magistrates. Things are not better in Western India. In Poona, transfer in concubinage of minor girls is common. In a case tried by him in 1910 to which I shall have to refer again, Magistrate Mr. Cross remarked: 'Of the scores of Pathans in Poona City while there is not one with a legal wife of his own or other nationality, there is not one without at least one concubine of some other nationality.' What sort of girls are employed for the purpose and how they are secured, I will show later on. In a letter to the *Times of India* of 3rd November 1911, Dr. Harbld Manfi stated :

'Even to-day in Poona, and to a much greater extent, I am told, in Bombay, there is a regular traffic in such girls; children (girls) are bought when babies by women of bad character, are raised purely as a commercial speculation, and are sold when thirteen or fourteen years old or thereabouts at prices ranging from Rs. 9 to Rs. 2,000 to men who have only to call them concubines to escape any possibility of being prosecuted. For every statement here made, we have evidence in Poona.'

"The statement was repeated a few months ago. The Nasik case of Ananda Raju, decided by the High Court of Bombay in the third week of May last, gives point to it. The number of girls annually dedicated to idols as *dasis*, etc., would also appear to be large enough to attract Government attention. In one district, Dharwar, the Collector reported on 11th June 1908, by his letter to the Government of Bombay No. 4041, that during the five years ending 31st December 1906 'the number of minor girls dedicated to Hindu Gods' was 876! In Belgaum the number during the same period was 836; in Bijapur 911! The Collector of Poona, in his letter to Government No. R.-7450 of 19th October 1907, pointed out: 'It cannot be said the practice is decreasing'. In an influential memorial to the Governor of Bombay on 25th May 1906 it was stated that in one of the suburbs of Poona, in Wanowrie Bazar alone, there were so many as 40 *murlis*, 'while a very large number are to be found in Poona, Bombay and elsewhere'.

"In the Central Provinces official report confirms the general belief that prostitutes are recruited from 'minor girls by purchase from their guardians or by taking care of homeless waifs and strays'. In Nimar 'professional dancing-girls seldom have children and their ranks are recruited by purchase or theft of children'. The Hon'ble the Chief Commissioner, in his letter to this Government No. 10433 of 21st December 1903, reported: 'The children whom they adopt are obtained often by theft or by purchase from wandering tribes by whom the children have been stolen'. In 1911 Mr. Sly, Commissioner of Berar, by his letter No. 2156, reported :

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'Cases occur in which minor girls are adopted by prostitutes and are brought up to their adopted mother's profession, and general opinion believes that such cases have increased in number of recent years owing to the increase of wealth amongst the population. It is difficult to give any accurate idea of the extent of the evil, but it is estimated that anything between 10 and 20 of such cases occur annually in each district.'

'The Commissioner of the Jubbulpore Division, in his letter No. 2057 of 20th July 1911, pointed out:

'I know of only one caste in the Province, the *Waghys* and *Murlis* of the Marhatta districts, who dedicate girls to temples..... Adoption by a prostitute whose profession the child is brought up to follow exists in all the five districts. Orphans are adopted or children are bought or kidnapped.The Deputy Commissioner of Damoh reports in general terms that "in some parts of the Central Provinces there is traffic in girls to the Punjab; men come down from there and pay as much as Rs. 600 to Rs. 1,000 for them."The Deputy Commissioner of Jubbulpore reports more specifically that "it is also a not uncommon practice among the sepoy's of up-country regiments stationed in Jubbulpore before proceeding on their annual furlough to take women up-country ostensibly as wives but in reality for sale as concubines.'"

'Mr. Slocock, Inspector-General of Police of the Central Provinces, in 1911 reported:

'Some statistics were collected in 1905 as to the extent to which the practice of prostitutes adopting young girls for the purpose of training them up to their profession was prevalent in these Provinces....There can, however, be little doubt that the evil is greater than would appear from the statistics collected in 1905.'

'The District Superintendent of Police of Yeotmal pointed out:

'The adoption in such cases is generally a subterfuge to circumvent the law. This practice is very common and there is barely a dancing-girl of note who hasn't a couple of *Nauchies* or novices under training. These are generally girls who have been adopted, and as dancing and prostitution go hand in hand in India, there can be little doubt as to what the ultimate fate of these girls is.'

'The Hon'ble the Chief Commissioner, in his letter to this Government No. C-62 of 8th June 1912, after referring to the recent case of a young widow under sixteen years of age of Jubbulpore district, who had been sold to a person for the purpose of concubinage, in which the conviction of the offender was set aside by the Judicial Commissioner 'on the ground that the fact proved did not constitute an offence', remarked: 'There is reason to believe that cases of this kind are not uncommon, particularly in the north of the Provinces.'

'In the Punjab traffic in minor girls is equally vigorous. The Hindu Sabha of Lahore pointed out in June 1911:

'Though there is no regular institution of *Deva Dasis* in our provinces, yet the buying and selling of girls for immoral purposes is on the increase in all the important towns of the Punjab, where the number of prostitutes, it is feared, is growing'.

'The practices of *barda faroshi* and *chadar andasi*, prevalent throughout the Punjab, are only subterfuges to get recruits for the profession. The Deputy Commissioner of Dera Gazi Khan refers to 'the widespread traffic in women known as *barda faroshi* which is undoubtedly carried on in this province on a very large scale'. The Commissioner of the Jullunder Division reports: 'The adoption of girls by professional prostitutes to be brought up to follow the same calling is not uncommon'.

'Sirdar Bahadur Risaldar Partab Sing asserts:

'Many a girl are being sold and bought for illegal purposes without being detected. As they call such innocent girls *Dasis* (temple dancing-girls) in Bombay and Madras Provinces, they call them *Nauchies* in the Punjab'.

Rai Bahadur Pandit Sheo Narain, Pleader of the Chief Court, Punjab, says:

'A class of Mahomedan *Kanjars*..... are plying the trade of prostitution from generations. The victims are minor girls of their own family, as well as girls they buy from impecunious parents, or steal from the homes of peasants in hills in sub-montane tracts. Kashmir was formerly their chief exploiting country.....What is becoming more frequent is the practice of a lat bringing some woman from hills or from a Native State or from Central India and palming her off as one of high caste and marrying her in a dozen places for money'.

'The Servants of India Society of Triplicane, Madras, believes 'that the evilsare widely prevalent and imperatively call for early and effective measures to grapple with them.'

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"In the United Provinces the Government conclusion is that 'there is no general custom of dedication of minor girls to temples or idols. Cases of sale and transfer for purposes of concubinage and cases of adoption by brothel-keepers, prostitutes or dancing-girls occur occasionally.' According to the testimony of non-officials and of some of the local officers, this view would appear too optimistic, and minor prostitution would seem to be widely prevalent in the province.

The existence of the evil throughout India is thus clear. Now, is it desirable that it should grow unchecked? There could be only one answer to this question. The Government of India is firm on this point; enlightened Indians are universally desirous of speedy reform. The only question therefore remains about the *modus operandi*. Shall we depend upon the existing law for the necessary improvement, or shall we have more stringent legislation; in other words, is the law sufficient, or is an amendment necessary?

"My Lord, in my humble opinion a change in the law has become imperatively necessary. That even the Government of India are not satisfied with the working of the law as it stands, will appear from the repeated inquiries made by them on the point. In their Circular Letter of 1905 reference was made to 'a certain measure of success' which 'on the whole' had attended the attempts made in Bengal and the Punjab to secure convictions under sections 372 and 373 of the Penal Code. But the fact is there that successful prosecutions under these sections, unlike prosecutions for other offences, have had no deterrent effect, and have failed to check the evil, such prosecutions being rare and difficult. The Local Governments concerned are clear in their opinion that the law is ineffective.

"On 6th May 1904, in submitting to the Government of India the views of Bengal officials regarding the changes proposed, the Lieutenant-Governor observed: 'The law has been found inoperative and inadequate in suppressing the traffic in minors for immoral purposes'.

"Further down: 'The Lieutenant-Governor is satisfied that the evil is sufficiently widespread to render it desirable to interfere more than is done at present'.

"The Punjab Government, in their letter to this Government No. 724 of 7th October 1911, observed:

'There can, the Lieutenant-Governor thinks, be no doubt that the provisions of sections 372 and 373 of the Indian Penal Code, interpreted as they are interpreted by the Courts, are ineffectual to remedy the evil now under consideration. As the result of the examination of this question undertaken seven years ago the Government of India came to the conclusion that sections 372 and 373 would not be found efficacious, provided that rigorous executive action be taken to enforce the law together with vigilance in the surveillance of those engaged in immoral callings. But no such executive action or vigilance will overcome the difficulties which led Sir C. Rivaz to recommend an amendment of the sections under consideration'.

"In Bengal matters have not improved, as will appear from the Government reply to a recent interpellation in the Bengal Council on the subject, and it would be surprising if the opinion of the Provincial Government about the necessity of more rigorous laws expressed in 1904 underwent any material change. Only in June last the Calcutta Society for the Protection of Children reported: 'The traffic in minor girls is, without any exaggeration, immense'.

"In the Central Provinces, a tract of the country with but a few large towns and where the evil of minor prostitution is at least not so rampant as in Bombay and the other provinces, the Hon'ble Chief Commissioner thinks an amendment of the law is desirable. In his letter to this Government No. C-62 of the 8th June 1912, after reference to the previous report of 4th May 1911, it was pointed out:

'In that letter the Government of India were informed that the Chief Commissioner considered that sections 372 and 373 of the Indian Penal Code, if properly worked, afforded sufficient protection and that no amendment to the law was called for at present. Recently, however, a case has been brought to the notice of Mr. Fox-Strangways which in his opinion makes it desirable to re-examine the question of the sufficiency of sections 372 and 373 for the protection of minors in certain circumstances... The general public are being slowly educated to the point at which they will condemn the corruption of minors, but

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until public opinion is sufficiently advanced to afford them effective protection the helpless minors require the strong protection of the law. To this end it appears to Mr. Fox-Strangways to be desirable to amend the law so as to bring definitely within its purview the traffic in minor girls for the purposes of concubinage which too frequently leads to the common prostitution of the young woman later on.'

"Non-official opinion is equally strong on the subject, but I will satisfy myself with only an extract from the *Times of India* of 28th May 1912. In commenting on the case of the woman who was prosecuted for not delivering her minor daughter to Ananda Raju according to the terms of the contract set up, and whose conviction was set aside by the High Court on a reference from the Sessions Judge of Nasik, the *Times* observed :

'The law prescribes penalties for the employment of minors in factories and it is anomalous that minor girls can be practically sold into the most degraded form of slavery without the parties to such a nefarious contract being brought to book for their iniquity. The fact that the hirer of the unfortunate girl in this case did not shrink from courting publicity to his transaction, reveals a state of public feeling as also of the law such as no society should be satisfied with. It is a forcible reminder of the urgent need of legislation to protect young girls from being thrust into a life of shame by the cupidity of the parents or the callousness of vice. The case also justifies the contention of Indian social reformers that dancing is often simply a cloak to immorality and that the nautch, which is sometimes defended as an art, is really an institution for the promotion of licentiousness. For one case of this type which comes to light there must be scores of cases which do not attract public attention.'

"My Lord, as against this emphatic opinion, I admit, there is a body of opinion which would discourage fresh legislation until Indian public opinion had advanced far enough to make the working of the law more effective. The view is entertained by some, mostly officials, who are perhaps as zealous as any reformer, that, in the absence of a strong public opinion, greater stringency in the law will not effect any improvement in the situation. This view, I submit, is erroneous, and is opposed to experience. It ignores some of the glorious achievements of British Indian Administration. Government has more than once undertaken preventive legislation in the cause of humanity, and rightly, irrespective of public opinion. But for such interference many shocking practices would have still existed, and it is extremely doubtful if the recent advance in enlightenment of the people would have offered any effective check. But, public opinion or no public opinion, the Criminal Law of the country has successfully stopped them. Then there is a certain amount of Indian public opinion which views with abhorrence the evils the Bill seeks to check. If it has not been successful in mitigating them, it is because of the difficulties of the present law. When philanthropists and missionaries, men who have consecrated their lives to the service of humanity, with all their resources and knowledge and influence find it difficult to bring offenders to book, in consequence of the loopholes provided in the existing law, private individuals, engrossed in their respective avocations, could not be expected to take an active part in the work of suppression, however strongly they might feel for the poor girls. It is remarkable that in prosecutions for offences against girls the public sympathy, as expressed in the press, has always been for the prosecution. The failure of prosecutions cannot therefore be due to any absence of public opinion. The defects of the law provide the correct explanation. Moreover, preventive legislation in the absence of a strong public opinion becomes an administrative necessity when the evil is admittedly grave. It is because minor girls do not at present get sufficient protection from public opinion that the protective law requires stiffening. If public opinion had been powerful enough to afford the necessary protection, we could have left the law to itself. The absence of a strong public opinion, if true, far from being an obstructive condition, would thus provide a clear justification for new laws of a stringent character. And this proposition has received high official support, but I need not trouble the Council with quotations.

"My Lord, the anticipated difficulty of disposing of the minor girls after their rescue from brothels has inspired in some quarters opposition to any amendment of the law. Typical of this is the difficulty raised by the Punjab Government in their letter to the Government of India No. 355 of 12th March 1904 :

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'The main difficulty in working the proposed section will lie in making suitable provision for the minor, when removed from the custody of the procurer or prostitute.

"The Government of India, in their Home Department Circular of February 1905, also referred to the difficulty :

'No scheme would prove effectual which did not provide for the up-bringing of the rescued girls amid purer surroundings'.

"No doubt there is considerable force in the observations, but the solution of the difficulty is certainly not beyond the resources of a great Government like ours. Gradually orphanages and Rescue Homes are multiplying in the country, but it may be admitted that with the most satisfactory development in such institutions, they will by themselves be unable to absorb all the minors rescued. The same difficulty has been felt in the advanced countries of the West, and has been successfully solved. In England and on the Continent as also in the United States of America the system of 'boarding out' the minors with respectable families under State control and supervision has supplemented philanthropic efforts, and has proved eminently successful. It is feared, however, the caste prejudices of the people make any such experiment on a large scale impossible in India; but I am not sure that substantial help cannot be expected even in this line. As an alternative, Government will have to provide Penitentiaries for the unprovided minors at State expense, on the lines of the existing Reformatories, the cost of maintenance of which could be appreciably reduced by the profits from the sale of manufactures. The major portion of the cost must undoubtedly be a charge upon the general revenues. The expenditure could be justified both on moral and administrative grounds. The reclamation of the betrayed girls, I submit, is as much a State as a philanthropic concern. The cost too may not after all be very large. Charitable contributions might also be taken into account. This difficulty is thus not insuperable, and should not be allowed to interfere with a legislative programme dictated by the highest considerations of humanity, justice, fairness and administrative necessity.

"My Lord, the need for fresh legislation established, there is ample room for difference of opinion about the provisions. My late lamented friend Mr. B. M. Malabari, whose services in the cause of social reform and suffering humanity will be remembered with gratitude by posterity, thought that the raising of the age of consent to 16 or even 14 years as against strangers, would be a great step forward. This opinion, I have reason to believe, is shared by some earnest reformers. But, in my humble opinion, the suggested amendment, without other provisions more or less drastic, will fail to touch the main evil. An examination of the dangers to which minor girls are at present exposed and against which they require to be protected will show that the legislative prohibition of carnal knowledge of a girl under sixteen years leaves untouched many potent causes of minor prostitution.

"My Lord, dedication of minor girls to idols, temples or symbols; their seduction, purchase and sale by professional procurers and brothel-keepers; mock marriages; adoption or possession of girls by prostitutes; transfer of minors in concubinage; and their defilement at an immature age or at a moment of temporary mental obfuscation are powerful causes of female degradation in India. Girls must be protected against these. It will be too much to claim for the Penal Code that all these offences are sufficiently provided against in it. At least some of them are not. Probably the distinguished officers of Government who drafted it could not think of making some of these practices penal on account of the ignorance then prevailing in the country, and out of a scrupulous regard for the religious and the social susceptibilities of the people. The age of consent was also fixed too low. Possibly that did not cause much inconvenience in the social arrangement of the time. But times have changed, and social forces have become weak with the disruption of the old order. Offences of a novel nature or unimportant fifty years ago have become more frequent. Under the circumstances it is no disrespect to the framers of that admirable Code to suggest that additional laws for the protection of minor girls are now a necessity. And in the above list of offences it will at once be seen that intercourse with a girl under sixteen years, although important enough to justify legislative prohibition, is

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comparatively speaking, of minor importance. The wicked cunning of procurers and brothel-keepers will not lack devices to circumvent the law, if only the age of consent against strangers is raised to sixteen years, and to ensure the future ruin of the girl concerned. The danger lies, even more than in actual prostitution at an immature age, in the placing of the minor girl in circumstances and amid environments which make the adoption of prostitution as a profession after sixteen years a matter either of necessity or of natural sequence to her. Association in early life with professionals and strangers of doubtful character, in India more than in the West destroys for the subject the chances of respectable life. And this is what is not prevented by the present law. It is thus useless to amend only section 375 of the Penal Code. The traffic in minor girls and female degradation are the outstanding evils, and must be prevented. And this is the cardinal principle of the scheme of legislation of the Bill, now before Hon'ble Members.

" My Lord, a few concrete cases will illustrate the offences mentioned above, and will enable Hon'ble Members to realise both the gravity of the situation and the direction which fresh legislation should take. I have referred already to the recent case of Ananda Raju. The facts are important. A woman was prosecuted before a Magistrate of Nasik for cheating Ananda Raju of a sum of money alleged to have been paid to her by him as part of the hire agreed upon for letting her daughter to him for dancing. She was convicted and sentenced to undergo rigorous imprisonment for four months. The High Court, on a reference from the Sessions Judge, set aside the conviction and sentence, on the ground that the real object was concubinage. Here was a most impudent attempt made by a man of means to secure the person of a girl for immoral purposes, but the law was powerless to touch him, because concubinage is no offence. In fact, the law helped the culprit up to a certain stage!

" I have referred also to the Poona case of Emperor v. Nek Mahomedkhan Yusufkhan. I take the facts from the judgment of the trying Magistrate. The girl's name was Martha.

' Accused is a Pathan money-lender and is a creditor of the father of the girl, the debt being eight rupees. The father was unable to meet the debt and accused, being troublesome, eventually on the 16th December 1909 obtained possession of the girl..... She was taken by the accused from her father's house..... It is certain that the father was in debt to the accused for months and that he had not been able to pay the debt notwithstanding repeated demands by the accused for his money. Once a client falls into this position the Pathan money-lender, of all men of this class, is the foremost in taking advantage of his power to do anything. Hence possibly the second small loan before the first was repaid with the demand for repayment of the girl..... His seductive methods from the beginning were directed towards obtaining the girl as a concubine and he preyed upon the girl's parents for the accomplishment of his desire..... Concubinage is both unlawful and immoral; and between concubinage and prostitution there is but a thin veil made thinner in the case of a Pathan keeper whose home is not India and who is here for the purpose of trading only, with the probability of returning to his own country leaving his concubine with nothing but her profession to carry on, and if no one would have her as a concubine, to degenerate to prostitution. Martha has not attained maturity and has still two years to pass before she will be sixteen. That the Pathan would not wait till she was sixteen before he employed her or used her unlawfully and immorally might be taken for granted. It is not asserted by accused that he obtained possession of the girl for a single act of sexual intercourse..... On the contrary the accused says that the girl was given to him.'

" The Magistrate convicted the accused, but the Sessions Judge, following the Full Bench ruling of the Allahabad High Court reported in I. L. R. 2 All. 694, Emperor v. Srilal and ors., set aside the conviction. The point before the Full Bench, I may just point out in passing, did not directly relate to concubinage. Their Lordships were not therefore called upon to express an opinion about the validity or otherwise of the transfer of a girl as concubine, but Mr. Justice Straight laid down the proposition that such transfer was not illegal, inasmuch as, though immoral, it was not unlawful, and the section contemplated transactions which were both immoral and unlawful.

" Reference has likewise been made above to the recent case of the Jubbulpore widow in which the Judicial Commissioner of the Central Provinces held that the transfer of a girl for concubinage was no offence.

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"The story of the girl Basanta, as proved in the Dacca case of *Empress v. Kamini Peshagar*, illustrates the ways of the trade. She was decoyed by a procurer from Kalighat and sold to a prostitute of Dacca. The girl stated :

'From that time I am living with the accused all along. 15 or 16 days after I came to accused, she began to give men to me. The money which these men used to give were taken by accused. I have got.....(a loathsome disease). Now because I cannot keep men, accused abused and thrashed me by closing the door.'

"In the case of *Empress v. Sarat Peshagar and Gour Nitye* the Joint Magistrate found,

'that prostitutes, specially those somewhat advanced in age, can and do obtain possession of young girls, who live with them, and the proceeds of whose degradation are appropriated by the mistress. The girls are taught to sing, in some cases to play, in rarer cases to dance, to prepare hookah, drink liquor, etc., and provided such a girl is capable of.....intercourse at all, the higher is the fee demanded for the privilege of visiting her.'

"Susila, a girl rescued by the Superintendent of the 'Mother's Home' of Dacca, was 'compelled to go through the ceremony of a mock marriage' with a man who, according to the Police report and the subsequent finding of the Magistrate,

'was a homeless vagabond, who was addicted to all sorts of intoxication, and who made it a profession of making money by going through sham marriage ceremonies with minor girls under the keeping of women of ill-fame.'

"Sarada, another girl similarly circumstanced, was 'made to go through a ceremony of mock marriage with an upcountryman.'

"Sarojini, a rescued girl aged about eight years, had been sold by her mother, a *Vaisnavi*, to a Mahomedan prostitute.

"The Sessions Judge of Dacca, in a case in which the minor had been married to a sword, explained the import of the ceremony :

'Commonsense tells us that the results of marriage with a sword and marriage with an idol are the same as far as concerns the usual and legitimate intentions of marriage..... As far as I understand the matter, I do not think any respectable man would marry this girl knowing well enough the meaning of such a marriage to a sword.'

"I now take some cases from the records of the Calcutta Society for the Protection of Children :

1. 'An Uriya girl aged 12 or 13 years was a patient in a hospital... The girl alleged that she had been enticed from her home in Orissa by a woman who brought her to a brothel in Calcutta.....She further stated that this woman had recently obtained two more Uriya girls.'

This story was verified.

2. 'A second Uriya girl was found in the hospital who had been decoyed in the same way from Orissa and placed in a brothel in CalcuttaSome months later when crippled by rheumatism she was cast out on the roadside by her destroyer.'

3. 'A Bengali girl aged 11 or 12 years, a patient in a hospital, desired to get away from an evil life. On hearing that the girl had expressed such a wish the procurers at once removed her from the hospital.'

4. 'A woman sought to sell her married daughter aged 14 to a life of sin. The husband being an invalid was unable to maintain his wife.'

5. 'A widow of the South villages wished to dispose of her illegitimate daughter about a year old. Found that the infant had already been disposed of.'

6. 'Illegitimate female children born in the hospital are frequently disposed of as the mothers leave the hospital. At last.....met a woman leaving the hospital with an infant. Another woman accosted her and endeavoured to secure the infant. The mother was willing to part with it.'

7. 'A woman of ill-fame died in a hospital leaving a daughter aged 2½ years. After the mother's death a prostitute took possession of the child. This woman dying within a month another prostitute took the child. A man then appeared on the scene and claiming to be a relative of the mother forcibly removed the child. This man had endeavoured to sell the child in several places in the city. Eventually the child was found in a brothel in the suburbs. The woman in possession demanded Rs. 25 for the girl.'

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8. 'An upcountry cooly carried an infant. The mother of the child had deserted her home a few days previously, and the father unable to attend to the child had started out to give it to the first person he met willing to take it..... He was in the vicinity of one of the worst places for the traffic in children'.

9. 'A mother had deserted her illegitimate female infant aged 3 months. The mother had given her child to a prostitute who, to avoid the trouble of its upbringing, had placed the child with a family in the village. A fortnight later the child was found in the courtyard of a house in another village. For fear of trouble the infant had been passed on from village to village.'

10. 'A woman from the 24 Perganas had come to a suburban *hat* to sell her child, a girl aged 3 months. She gave up the child'.

11. 'A Bengali girl aged 11 years was found in hospital in a sadly diseased condition. It was found that her mother had died on the roadside some years before leaving two young daughters who passed into the possession of a prostitute. This woman kept them for some time and then sold them. The subject of this case was sold for Rs. 12 to a woman who prostituted her.'

12. 'From a mofasil station a child had been brought to hospital having been branded about the body with hot irons. Investigation showed that the child who was five or six years of age had been recently procured by a prostitute. The arrival of a new child had caused remark among the neighbours and the child had been strictly ordered to keep within doors. One day she ran outside to see some passing 'tamasha.' Enraged at this the prostitute branded the child with a hot iron.'

"My Lord, it is unnecessary to multiply cases. Those I have placed before Hon'ble Members are typical and throw a lurid light on the methods of procurers and brothel-keepers by which the stream of prostitution is kept up. They unfold a tale of cruelty and inhumanity which is enough to rouse the indignation of the nation. This state of things cannot be allowed to go on. And the only amendment of the law which will check traffic in minor girls must penalise the possession of a female minor by a procurer, prostitute or brothel-keeper. The Punjab Government was of that opinion in 1904. That Government submitted, in their letter no. 355 of 12th March 1904, that

'short of a radical alteration in the substantive law which would have the effect of entirely excluding a procurer or prostitute from being in possession of a minor, whether he or she is the lawful guardian or not, the Lieutenant-Governor is unable to suggest any amendment which adequately cover the conditions of Indian prostitution.'

"At the same time the amendment was thought impracticable:

'The only remedy which would in his opinion be adequate, ... is for obvious reasons impracticable.'

"But there need not, and as a matter of fact, will not, be any difficulty in the working of such law if its operation is limited to the case of minors who are not under the lawful guardianship of procurers and prostitutes. Special difficulty has been created in the Punjab by the decision of the Chief Court reported as No. 7 *Punjab Record* which lays down that a charge under section 373 of the Penal Code cannot be sustained without proof of possession (through purchase, hire, or other similar transaction involving an agreement, express or implied.) This proof it is extremely difficult to secure. Even without that sort of ruling, similar difficulty is experienced in Bengal. The Bengal Government, in reply to a question in Council on the subject in the nineties, remarked:

'Satisfactory evidence is not generally procurable in these cases, and it is difficult for the Police to deal successfully with them.'

"The Bill accordingly seeks to go to the root of the evil, and by making possession of female minors under sixteen years by procurers and brothel-keepers penal, except in the case of their daughters and other relations, to simplify the working of the law without causing undue hardship to the class concerned.

"The other offences, which the above cases show are common, are sham marriages and immoral transfers of girls. The Bill penalises both. Prohibition of the former injures none; penalisation of sale for concubinage will command the assent of all right-thinking people. These transfers are infamous, and have been universally condemned as immoral. There could not therefore be any serious objection to the provision in the Bill prohibiting them. Besides, judicial

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opinion is not all in favour of the view that such transfers are not punishable. In one Madras case at least, App. No. 215 of 1885 (Ponrangam Appellant), reported in Weir's Reports, Mr. Justice Mathuswami Aiyar held that they were indictable 'in the absence of proof of special custom at all events.' The qualification was a concession to prejudice and bigotry which should not have been made. What special custom could there be, with the sanction either of religion or public opinion, which must be respected in such a matter? There is none as far as I am aware. Even if there was, 'no amount of custom or public opinion', as pointed out by Sir Charles Cleveland, 'justifies Government in disregarding the ordinary principles of humanity in the matter.'

"My Lord, apart from these offences, there are, broadly speaking, three other distinct classes of offences against girls, which are either not provided against in the Penal Code or which exist in spite of legislative provision. Adoption of minors by procurers and prostitutes, seduction of girls for single acts of intercourse and dedication of girls to idols and material objects are the three channels through which girl-life is supplied to Indian brothels. Legislative activity must be applied to the stoppage of these sources of supply. Now, the adoption of a female minor by a procurer or prostitute is not, as the law stands, *ipso facto* an offence. The Calcutta High Court and the Madras High Court are agreed on that point. In the case of *The Deputy Legal Remembrancer v. Karuna Baistobi* and another, I. L. R. 22 Cal. 164, Justices Banerji and Sale held that such adoption might be from perfectly innocent motives, and therefore not punishable, unless proof was forthcoming of criminal intent at the inception. In the case of *Queen-Empress v. Ramanna and others*, I. L. R. 12 Mad. 273, Justices Mathuswami Aiyar and Parker laid down the same proposition of law. The subsequent case of *Kamalakshi v. Ramaswami*, I. L. R. 19 Mad. 127, did not make any difference in the law. The result is that in order to bring a case of infant adoption by a procurer or prostitute within the law, such proof of criminal intent must be given as is not procurable in 99 cases out of a hundred. The adopted girl is not employed for immoral purposes until she attains a reasonable age, and as the adoption generally takes place too early to justify the association of any ideas of immediate improper employment with the event, prosecution for such adoption must fail. And yet there could be no manner of doubt either about the ultimate fate of the girl or the object of the adoption. As Major Barton, Deputy Commissioner of Hoshiarpur, pertinently points out:

'If the woman's object in the adoption was to leave an heir for her property, why does she not adopt a boy instead of a girl? But it is invariably a girl who is so adopted which can leave no doubt as to the real motive of the adoption.'

"In the Bill accordingly provision has been made, not only to penalise adoption of girls under sixteen years by procurers and prostitutes but to make it invalid. This last provision is in accordance with the current judicial interpretation of the law. Practically all the highest tribunals have refused to recognise the validity of such adoption. The High Court of Bombay and the Punjab Chief Court have held that adoptions by prostitutes are invalid. The Calcutta High Court would appear to take the same view. In *Syamlal v. Saudamini*, 5 B. L. R. 362, it was held that a widow living in concubinage could not adopt, *A fortiori* would a prostitute be disqualified. In *Mathura Naikin v. Esu Naikin*, I. L. R. 4 Bom. 545, Mr. Justice West, in an elaborate judgment remarkable for its learning and close reasoning, held that an adoption by a prostitute was invalid. The Full Bench case of the Punjab Chief Court reported as No. 89 Punjab Record, 1884, laid down the same proposition. Adoption of a female is opposed to the spirit of Hindu Law; adoption by a female, except as an agent, delegate or representative of her husband, is equally opposed to Hindu Law, according to the Privy Council judgment in *Collector of Madura v. Mootoo Ramalinga Sathupathy*, 12 M. L. A. 435. Sir Thomas Strange and other authorities on Hindu Law are agreed there. The adopted son represents the husband of the adoptive mother and not the adoptive mother. A valid adoption of a female by a prostitute is thus

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out of the question, although *Manjamma v. Sheshgiri Rao*, I. L. R. 26 Bom. 491, creates some difficulty. Mahomedan Law also does not recognise adoption. The provision in the Bill, declaring an adoption by a prostitute invalid, thus does not embody any novel proposition either of Hindu or Mahomedan Law. It cannot therefore be objected to as inflicting an injury upon the class. Moreover, some of the prostitutes themselves would desire such limitation of their powers. A little over a year ago a printed appeal, the following translation of which was communicated to the press by the Hon'ble Mr. M. Ramchandra Rao of Ellore, was issued by about 40 members of the dancing-girl caste of various towns and villages of the Godaveri, Krisna and Gantur districts of the Madras Presidency, calling upon the people to support legislation prohibiting adoption:

'Sir,—We have come to know with great pleasure from the 'Kistna Patrica' (7th July 1911) that the Chief Secretary to the Madras Government has been called upon by the Secretary of State to ascertain public opinion as regards the desirability of prohibiting the custom of adopting minors by dancing-girls for purposes of prostitution. For a long time leading Social Reformers, as also some persons of our own caste, have been making attempts to improve and reform us, but it is extremely difficult for anything appreciable being done without the help of the Government. Now, to our great good fortune, we understand that the Government intend making a law that there should be no adoption by dancing-girls. We request you to support the action of Government by holding meetings in various parts of the country. By having the law passed we believe that our girls will be greatly benefited and that the custom of adopting girls from other castes for purposes of prostitution, will also be put an end to. (40 signatures.)'

"Nothing could be more encouraging. In the face of such unstinted support from such an unexpected quarter, the legislative prohibition incorporated in the Bill ought to excite no opposition."

"My Lord, the next offence in the group of offences mentioned above, though not directly connected with prostitution, is important as leading gradually to it. Society everywhere is intolerant of the lapses of females, and is jealous of feminine purity; much more so it is in India. Any little failing is visited with disproportionately rigorous punishment. Misbehaviour with a stranger on a single occasion, even though the result of compulsion, might, and as often as not does, excite so much persecution as to send the girl to the street. Seduction for a single act of intercourse is not therefore a light offence, but, according to the rulings of the High Courts of Madras and Calcutta and of the Judicial Commissioner of the Central Provinces, such intercourse, unless it is rape, is no offence under the Penal Code. The dictum in *Doulat Bee v. Sheik Ali*, 5 Mad. H. C. R. 473, though dissented from in one case reported in *Weir's Reports* p. 222, is good law on the point. It was followed in *Queen-Empress v. Sukee Raur* and others, I. L. R. 21 Cal. 97. In *Mt. Gangia's case*, reported in 11 C. P. L. R., Cr. p. 6, the Judicial Commissioner of the Central Provinces, taking the same view, held that the enticement of six girls into a house for a single act of intercourse could not be indictable. This is certainly unsatisfactory. Defilement of girls under sixteen years with consent has accordingly been made punishable in the Bill. Advantage has been taken to provide at the same time against certain serious offences against women which, it is desirable, should be made expressly punishable. It is doubtful if under the Penal Code all the different varieties of these offences are indictable. An offence like that of *Wilkins* in 31 Law Journal, Magistrate's Cases, 72, may come within the purview of section 328 of the Penal Code, but circumstances are conceivable which might make that section inapplicable.

"My Lord, I now come to dedication of minor girls, the third offence in the group. The provisions in the Bill relating thereto will not outrage the Hindu feeling. I have consulted some eminent Pandits on the subject, and they assure me there is nothing in the Hindu *Shastras* to sanction dedication, much less to enjoin it as a religious observance of special merit. And not only that: The law, as interpreted by the Courts, makes it punishable. Both the Bombay and Madras High

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Courts, in a series of cases, have held that dedication of a female minor is a 'disposal' within the meaning of section 372 of the Penal Code, and, as such, is an offence. I need refer to only a few cases, *vis*:—*Padmavati*, 5 Mad. H.C.R. 415; *Reg. v. Arunachalam* and two others, I.L.R. 1 Mad. 164; Appeal No. 746 (F.B.), *Weir's Reports*, Vol. I, p. 359; *Marakatham* and two others, *Weir's Reports*, Vol. I, page 364; *Srinivasa v. Annaswami* and others, I.L.R. 15 Mad. 323; *Reg. v. Jaili Bhavin*, 6 Bom. H.C.R., A.C. 60; and *Queen-Empress v. Baku*, I.L.R. 24 Bom. 287. It might accordingly be accepted as settled law that dedication to an idol or temple of a minor girl is an offence. The provision in the Bill interdicting it therefore makes no change in the law. The only innovation it introduces relates to several allied practices which affect the future life of the girl as seriously, but which are ignored in the present law. The section in the Bill is thus more comprehensive, and puts the law in a form more likely to attract public attention. There are besides, two additions, one providing for presumption of criminal intent and the other interdicting removal from British India of girls with the object of dedicating them to idols, etc. The latter provision has been necessitated by the decision of the Bombay High Court in the case of *Queen-Empress v. Baku* and another, reported in I. L. R. 24 Bom. 287. Even now there can be a prosecution for such removal to a Feudatory State with a certificate from the Political Agent, but this is a formality which might prove troublesome and obstructive in many cases. The section simplifies the process, and touches more the procedure than the substantive law. Provision for presumption of criminal intent has been made in this section as in the one next preceding prohibiting dedication. Now, one word as to this presumption. This is really not an innovation. It was held by the Calcutta High Court in *The Deputy Legal Remembrancer v. Karuna Baistobi* and another, I. L. R. 22. Cal. 164, that, 'having regard to the provisions of section 106, Illustration (a) of the Indian Evidence Act,' criminal intention could be presumed from the character and circumstances of the act. As dedication and removal followed by dedication could not be with an innocent object, presumption of guilty knowledge would arise almost in every case. The provisions in the Bill relating to presumption do not therefore make any violent change in the law.

"My Lord, of the other provisions of the Bill, those penalising procurement and the letting of houses to facilitate the commission of offences against minor girls have been taken practically bodily from the English Criminal Law Amendment Act, 48 and 49 Vict., 1885, Ch., 69, and are founded upon sound reasons. It is only just that the privacy of houseowners and the agency of seduction should be visited with condign punishment. These offences can be more satisfactorily dealt with in the manner suggested in the Bill than under the sections of the Penal Code relating to abetment. Immoral transfer of wife is now expressly made penal. In *Queen-Empress v. Narayan*, reported in *Ratanlal's Unreported Criminal Cases* at p. 440, the learned Justices Jardine and Candy appeared willing to condone such transfer if sanctioned by caste custom. But there must be a limit to tolerance of wicked practices, and where a custom is obviously immoral and outrageous the legislature has the right to stop it.

"My Lord, special sections have been inserted to prevent abetment and attempt on the lines of those in the Penal Code; by another section the discretionary powers of the Court under section 562 of the Criminal Procedure Code in dealing with youthful offenders have been taken away, and it has been made obligatory upon the trying Magistrate or Judge to discharge such offenders on recognizances. Repetition of the offences again has been brought within the purview of section 110 of the Criminal Procedure Code. In my humble opinion, the provisions of section 110 of the Criminal Procedure Code can be justly applied to the habitual commission of offences against girls and women. These habitual offenders are even greater enemies of society than hardened thieves and robbers. The extension of section 552 of the Criminal Procedure Code to the case of minor girls has appeared necessary to a large body of men, officials and non-officials. Without some such means it will be impossible in many cases to save the honour of girls. Provision has accordingly been made in the Bill in that behalf. It will be noted that a provision has been imported into the Bill from the English Act for the corroboration by other witnesses of the

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evidence given by girls of tender age as a condition precedent of conviction. This introduces a rule of evidence foreign to the principles of the Indian Evidence Act. But it cannot be matter for serious objection. Since the legislation proposed is of a somewhat stringent character fairness demands the inclusion of a section for the benefit of the accused suggested by the wisdom of English lawyers. It does not make any practical difference, as, notwithstanding the elasticity of the Indian Evidence Act, there is never a case in which an accused is convicted on the testimony of the complainant alone.

" My Lord, the other provisions of the Bill, bating those depriving procurers and prostitutes of the power of making an onerous gift or bequest, do not require any additional explanation. But the clauses excepted might at first sight appear hard and objectionable. The principles underlying section 29 of Act XXVII of 1871, however, should commend them to Hon'ble Members. Eunuchs and prostitutes are on the same level in this matter, and the reason of the exclusion of the former class from the enjoyment of these primary rights of citizenship applies with equal force in the case of prostitutes. The harm which section 29 of the Criminal Tribes Act is designed to prevent is present in this case too. The invidious distinction in the treatment of the two classes now observed can be justified neither on principle nor on fact. But the Bill does not seek to do away with this distinction altogether, even though such a course could be defended. The only disqualification it imposes upon procurers and prostitutes is necessary to complete the scheme of protection to minor girls I lay before Hon'ble Members. The inconveniences of such disqualification will be negligible in the operation of a law the principle feature of which is the prohibition of the possession of girls under sixteen years by procurers and prostitutes.

" My Lord, I have done. This is the Bill I crave the indulgence of the Council to introduce. I have given only an outline of it. I do not claim perfection for it. It is conceivable that a critical examination of the clauses will reveal in them flaws at present undetected, and that the combined wisdom of Hon'ble Members and the public will suggest improvements both in form and matter. I welcome criticism, destructive and constructive alike, and it will be my earnest endeavour to profit by it. Hon'ble Members will believe me I do not approach the subject in a spirit of uncompromising dogmatism. I am only anxious the thing should be done, and so long as the main purpose is served, I do not stickle over forms. There is a consensus of opinion among officials and non-officials about the necessity of greater protection to persons who are ill able to defend themselves, and whose weakness entitles them to our utmost consideration. My Lord, means must be devised to give effect to this general desire. It behoves us to attempt something practical. The Bill before the Council presents in a practical shape the ideas of a humble worker who undertakes charge of the legislation in all humility and with all the sense of responsibility which the seriousness of the subject might induce. It is now for the country to pronounce judgment.

" My Lord, in conclusion, I must express my profound obligations to Your Excellency for the permission so kindly given me to introduce the Bill. When the Bill passes into law, be it with modifications, it will be a point gairted in the cause of humanity, and the country will cherish with admiration and gratitude Your Excellency's memory as that of the greatest benefactor of the girlhood of India. With time, I am sure, the reform will gain in popular estimation as much importance as the suppression of the *Suttee* and infanticide.

" My Lord, my best thanks are also due to some of the Provincial Governments for the readiness with which they have supplied me valuable information on the subject which has been of the utmost assistance to me in presenting my case to-day in Council."

The Hon'ble Sir Reginald Craddock:—" My Lord, the Hon'ble Mr. Dadabhoj has put forward his Bill with great earnestness of purpose, and has expended much pains and trouble in marshalling his facts and collecting the information to support the introduction of his measure; and I do not think that when the Council has heard the statement that I am about to make on the part of Government, they will consider that we have in any way failed to appreciate

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Mr. Dadabhoy's efforts, or that we have in any way underrated the seriousness of the evils which he is asking us to control.

"The better protection of women and children is a question which has occupied increased attention in England for many years past, and the latest legislation on the subject bears so recent a date as 1908. But the problems presented in India are somewhat different and greatly more difficult than those in England; firstly, because the age of consent is much lower in India than in England; secondly, because in India the question is complicated by its connection with temple service, and with the practice of dedicating minor girls to that service; and thirdly, because of the early child marriages which prevail and the great variety of marriage laws, customs and observances which are to be found among the various races of the people in this country. Twice during the last decade, not to go further back in time, this question has formed the subject of correspondence between the Government of India and Local Governments, and last year correspondence with them was again started at the instance of the Secretary of State. That the previous references have been infructuous so far as new legislation is concerned was due to the facts and conclusions reported to us by the various Local Governments. These were:—

- (i) that the evils in question did not over the country at large appear to be widespread;
- (ii) that the existing law contained in sections 372 and 373 of the Indian Penal Code was sufficient, or would be sufficiently effective, if there had been behind them a force of public opinion ready to set them in motion;
- (iii) that as regards the girls attached to temple service it was not considered advisable in deference to religious prejudices to go beyond the protection which these two sections provided;
- (iv) that resort to any more drastic action than that provided by these two sections was open to grave objection on social grounds in a country like India.

"It was on these statements that on those occasions no further action was taken, but the replies that have been received to the latest reference on the subject, that made in 1911, indicate to us clearly both that the traffic in minor girls is on the increase, and also that there is a sensible development of public opinion among the educated classes in favour of fresh legislation. That development of public opinion has found expression in the Bill which has been introduced by the Hon'ble Mr. Dadabhoy, and in a second Bill on the same subject which stands in the name of the Hon'ble Mr. Mudholkar.

"There is no doubt force in the Hon'ble Mr. Dadabhoy's contention that proposals of this nature receive valuable support if they are put forward in a private Member's Bill; but I cannot lay too much stress on the fact that, constituted as the Government of India are, it would be quite impossible for them to shelter themselves from any odium that might attach to an unpopular law behind the plea that the objectionable legislation had been the outcome of a private Bill. And in a matter of such importance when far reaching amendments to the substantive criminal law of the country are in question, it is in accordance with the fitness of things and with general usage that any changes in the law which meet with the approval of Government should find a place in a Government Bill rather than in a private one, and it will involve no disparagement of Mr. Dadabhoy's or Mr. Mudholkar's praiseworthy and earnest efforts to grapple with a great evil if this should be the ultimate outcome of the course the Government now propose to take.

"I will go on now to explain this course. The Hon'ble Mr. Dadabhoy's Bill will be sent out in the usual way to Local Governments, and with it will be communicated to them such specific amendments to the existing law as the Government, as at present advised, are themselves prepared to endorse; and some further additions and changes in the law for which *prima facie* public opinion appears to be ripe, but which require very thorough ventilation both among persons of advanced thought and among people who, though not highly educated,

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are intelligent enough to appreciate the probable effect on the daily lives of the people and on their social observances which those suggested changes will bring about.

"I will proceed now to explain to the Council the various proposals which the Government intend to lay before Local Governments and the public in connection with Mr. Dadabhoj's Bill. Under the first heading, namely those specific amendments of existing sections which the Government have decided, subject to further criticisms of course, to adopt, I would draw the attention of the Council to the wording of sections 372 and 373 of the Indian Penal Code. In both these sections, it is proposed to make the wording 'unlawful or immoral' instead of 'unlawful and immoral'. It is also proposed that in section 373 the wording should run 'whoever buys, hires, or otherwise obtains, or is in possession of any minor girls, etc.' It is also proposed that in prosecutions under these two sections the onus of proving that a minor is not under 16 shall be transferred to the accused. Other amendments in respect of these two sections will be designed to make it clear—

- (i) that it is no defence to a charge under them that the minor will not enter upon a life of prostitution until she attains the age of 16; and
- (ii) that a single act of immorality as distinct from general prostitution shall be sufficient to enable offences under these sections to be established.

"All the above changes in these two sections are merely in the direction of ensuring that the protection which they are intended to give is not frustrated by defects of wording which may render proof of the offence exceedingly difficult and enable offenders to escape on pleas which are largely technical. The Hon'ble Mr. Dadabhoj has himself quoted several cases in which prosecutions have failed on one or other of these pleas with the most unhappy results to the children whom the law was intended to protect.

"Another amendment in the existing law, which the Government propose to make, is the amendment of section 552 of the Criminal Procedure Code. It is proposed to raise the age at which female children abducted or unlawfully detained may be restored to lawful guardians, instead of their being merely set at liberty, from under 14 to under 16. In other words, for purposes of this kind the girl will be regarded as a child until she attains the age of 16. These are the specific amendments of the existing law which the Government, as at present advised, are prepared to accept subject, as I have said, to further criticism.

"I now turn to the second class of proposals which the Government intend to put forward also for criticism, and they are all measures which they regard as most desirable in order to secure the objects in view. But they are measures which involve such drastic changes in the law as to make it essential to subject them to the fullest criticism and publicity before any final decision is come to in regard to them. One of the most important of these proposals is to raise the age of consent, the relation of husband and wife being excepted, from under 12 to under 13, and further to make it a separate misdemeanour punishable with imprisonment not exceeding two years, for any man (husband and wife being again excepted) to have intercourse with a girl between the ages of 13 and 15. In other words, in respect of the relation between husband and wife the law would remain as at present, while any person other than the husband having intercourse with a girl would be committing rape if she were under 13, and would be charged with misdemeanour if she were 13 but under 16. Although the terms felony and misdemeanour contained in the English Criminal law are unknown as such to the Indian Penal Code, yet the distinction which it is proposed to make between the two offences in the Indian Penal Code substantially corresponds to the difference between a felony and a misdemeanour in England.

"These amendments in the law will no doubt suffice to punish the principal offenders; but it is not so certain that it will always be possible to fasten guilt upon those who instigate and profit by the prostitution and seduction of helpless

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girls and a charge of abetment against despicable offenders of this kind might very well break down unless some special provision is made. It will therefore be necessary to render it penal for any person having the custody of a minor to cause or encourage her seduction or prostitution in any manner whatsoever, and, also it will be necessary to penalise the occupant of any premises who knowingly lends them for the prostitution or seduction of a minor. The English criminal law of 1885 goes so far as to render the owner of the premises himself liable, but it is considered that, in the circumstances of this country, it would be much safer to restrict this liability to the occupant of the premises against whom presumption of guilty knowledge would necessarily be much stronger. These are all cases of substantive offences which it is proposed, subject of course to public criticism, to introduce into the law. But it will be obvious to the Council that the mere creation of these new offences will not suffice to remove the evil complained of unless the law affords some means of taking away a minor from her evil surroundings and placing her where she can be brought up in a purer atmosphere. In fact what is required is not only punitive but also preventive action. In order to secure these objects, power must be given to take away minor girls from the custody not only of strangers but of guardians and even of parents who are bringing them up to a life of immorality. In this respect, we propose to invite opinion as to whether we should not go even further than the Hon'ble Mr. Dadabhoj's Bill and follow the English law. This law provides that even where the child to be rescued is in the custody of its mother, who is a prostitute, the child may be removed from that custody; but it also empowers the Court in the case of the mother, as distinct from other relations, to abstain from enforcing removal provided that she can show that she has taken adequate steps to preserve the daughter from contamination. This may appear to be, in the circumstances of this country, a very drastic measure even to suggest for consideration; but if the mother were to be exempted wholly from such a provision of the law, a false plea that the minor girl to be rescued was the prostitute's own child would be the easiest possible to raise and one of the most difficult to refute. Indeed, in the vast majority of cases, this rescue provision would be entirely frustrated if the mother and other relations were to be excluded from it.

"Now there have always been two great difficulties which have been urged over and over again and pronounced to be well-nigh insuperable in the way of action of the kind that I have described.

"The first of these difficulties is that such a provision would open the door to wholesale extortion by the subordinate police or by the enemies of alleged offenders, and it cannot be denied that it is practically a world-wide experience that women of ill-fame are particularly liable to exactions of this kind.

"I do not seek in any way to overlook or minimise this objection; but it is one that must be faced if this evil is to be fought and subdued. It may ultimately be found impossible to dispense with the initiative of the police if the new provisions of the law are to be operative; but we shall recommend for consideration, as a safe-guard, that the cognizance of these new offences, and the initiation of proceedings for the rescue of minors from the custody of prostitutes should be confined to complaints made and information given by private persons and to Magistrates acting on their own knowledge and suspicion; power to take cognizance or to institute proceedings being further confined to Presidency Magistrates or Magistrates of the 1st class. That is one of the great difficulties that has always been urged against legislation of the kind.

"The second and still greater difficulty is the disposal of minors who have been rescued. We do not consider it necessary to lay an obligation upon Government to provide refuges, asylums, or industrial schools for rescued minors, for the difficulty of knowing what to do with these girls when they grow up is, in the case of Government institutions, practically insuperable. To restore them to their natural guardians would be to return them to a life of vice, and it is impossible for the Government to arrange marriages for the girls in an institution of this kind. It is greatly to be hoped that, if this new procedure should be introduced and form part of the law, that private charity will come forward to a greater extent than it does at present to meet this particular difficulty, but

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it will be suggested when these papers are circulated that the law should provide, that in awarding the custody of the child, the Court shall give preference to a co-religionist willing to be responsible for its care. If no such co-religionist who is suitable should be forthcoming, then the child might be made over to any trustworthy person or any organization willing to take charge of it, and it is contemplated that in some cases the Government may appropriately give a grant-in-aid for the maintenance of such children. Opinion will be further invited as to whether the person naturally responsible for the child should, or should not, be compelled to contribute towards its maintenance. It will further be necessary to give definite protection to persons taking charge of minors under the orders "of a Magistrate from all liability to civil actions brought by the relatives for the possession of such minors, while any one interfering with the execution of any orders for the custody of a minor will have to be penalised."

"These, My Lord, are the proposals and suggestions upon which we desire to invite public opinion in connection with the publication of the Hon'ble Mr. Dadabhoj's Bill.

"As regards the other provisions of Mr. Dadabhoj's Bill and any further additions of substance which Mr. Mudholkar may have to recommend, we preserve an open mind, just as we have preserved an open mind in respect of the Bill introduced this afternoon into Your Lordship's Council by the Hon'ble Mr. Madge, whose eloquent pleading on behalf of the cause that he was urging must have moved everybody who heard it.

"As regards all these suggestions—whether those contained in Mr. Dadabhoj's Bill, or those added in Mr. Mudholkar's Bill, and those contained in the Hon'ble Mr. Madge's Bill—which, of course, is kindred to the subject we have under discussion—we shall give them full consideration along with the proposals which I have laid before the Council when we receive the opinions of Local Governments and the opinions of the public upon them.

"My Lord, there is no disguising the fact that in any measures that we may take for securing and increasing the protection of minor children, we shall be treading on very delicate ground. We shall run some risk possibly of subjecting innocent persons to blackmail and, in seeking to avoid these grievous wrongs to helpless children, it is quite possible that we may run counter to sentiments and prejudices which, though not in harmony with modern thought, cannot, having regard to local usages and traditions, be entirely ignored. In fact, the mere circulation of the amendments and proposals that we have suggested will afford very ample opportunity to hostile or mischievously-disposed persons to raise a cry that Government contemplates interference in the religion, castes, customs and social habits of the people. But we cannot combat these evils, My Lord, without running these risks. Moreover, some few years ago, possibly, it might have been very difficult for Government to circulate proposals of this kind; but circumstances have changed considerably. Not only has there been that notable development in public opinion to which I have referred, but in the large expansion of Your Lordship's Legislative Council, we have provided here ready to hand an agency which we expect, and confidently expect, will never fail to counteract malevolent influences that may be used against us when measures of this kind are under contemplation. We confidently expect, My Lord, that the Indian Members of Your Lordship's Council, and not only the Indian Members of that Council, but every member of the enlightened and educated classes, of whom every Member of this Council is himself a representative, though they may not approve of some or of any of the suggested changes in the law, will use their utmost influence to allay any feeling that may be aroused, and to assuage and silence any apprehension or any clamour that the Government are actuated by the desire in any way to assail the religion or to cast a slur upon the social usages of the people of this ancient land."

The Hon'ble Mr. Mudholkar:—"My Lord, connected as my name is with another Bill before Your Lordship and before the Council, I have very great pleasure in seconding the motion of my friend the Hon'ble Mr. Dadabhoj, and in doing so, to accord to him my hearty congratulations on the very full, interesting

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and able speech in which he has introduced his motion. Along with Mr. Dadabhoi I beg to tender not my mere thanks to Your Excellency and the members of the Government of India, but my gratitude, for the announcement which has been made on behalf of Government by the Hon'ble the Home Member. My Lord, my action in this matter is in no small measure due to my individual initiation and personal conviction; but, in bringing this motion before the Council, which stands in my name, I am also acting as the spokesman of a large number of men and women who have been devoting their very serious thought and attention to this matter. This subject has been engaging the attention of Indians who take interest in social reform for several years past; but during the last two years this interest has been greatly stimulated by certain cases of failures of justice. The Poona case to which my friend referred, and the Nasik case, to which also reference was made, raised great indignation not only amongst the educated people, but also amongst those who are called the depressed classes. I shall presently place before Your Excellency and the Council certain communications which I have received from members of that class, asking me to make a humble and earnest appeal on their behalf to Government. In various vernacular papers there have often appeared articles, some of them purporting to be written by women, in which such institutions as are supposed to bear the sanction of religion are pointed out as causing infinite harm to society. My Lord, 'the social evil' exists in every country, and it exists on a very large scale in India, of which a most inadequate idea is given to us by the census statistics. Some time ago, when studying this question, I turned over the latest census reports available to us, those of 1901, and I was surprised to find that only 1,18,000 persons are returned as members belonging to that unfortunate class, the prostitute class. My Lord, the utterly unreliable character of those figures becomes evident when one looks to the statistics for the different cities. We find, for instance, in Calcutta, a fairly honest or correct return given, and there are over 14,000 people - shown as plying that trade in Calcutta. In Bombay, on the other hand, it is shown that only 1,900 people are carrying on that trade, and in Madras, about 1,500. The city of Allahabad is shown as having only 70 persons, and the city of Rangoon as having no prostitutes at all. My Lord, these figures show conclusively how inadequate is the care with which they have been compiled. I have made certain inquiries in regard to certain towns, and, basing my calculations on my inquiries, and on the figures given in regard to Calcutta, I believe, My Lord, we shall have to admit that about one per cent. of the population consists of this unfortunate class; and going by that, there are nearly 25 lakhs of prostitutes in this country. Now this large class is recruited in the majority of cases, not by the operation of the natural causes, but by practices which we must characterise as criminal. There are, first of all, the incontestably criminal practices which the law has always tried to put down, the buying or hiring or otherwise unlawfully obtaining possession of minors. Then there are two other practices which claim a certain amount of social or religious authority or support in their favour. The practice of the *Devadasi* and the *Murali* and *Bhavin* institution and the practice of adoption of female girls. Now, My Lord, in regard to this, now that Government have been pleased to make their statement, it seems to be admitted that the present state of the law as interpreted by our Courts is not satisfactory. Though the majority of the High Courts have held that the dedication of a minor to temple service, resulting as it does in almost every case in the lifelong degradation and shame of the little girl is an offence under section 372, and the person who receives her, the manager of the temple, is also guilty under section 373; there has been even in regard to this at times rather a discordant and disquieting note struck, and, I am sorry to say, some of those notes were struck by men belonging to my own caste. I appreciate their learning, but I am afraid they were carrying legal refinement too far and insisting upon an amount of evidence which it is impossible to secure in the ordinary affairs of life. The case of adoption of these unfortunate women which is resorted to not only by the Hindu courtesans but also by those not belonging to the Hindu community, the case of adoption stands in even a much more unsatisfactory position. In regard to adoption by the Hindu courtesans, so far back as 1880, in a most learned and at the same time highly instructive and interesting judgment, that great learned

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jurist, who departed the other day and whose name the Bombay Presidency will never forget, the late Sir Raymond West, discussed the question not merely from the standpoint of a lawyer, but from that of a moralist and a statesman; and he pointed out that the practices of an abandoned class ought not to be regarded by our Courts of justice as customary usages binding upon them and entitled to consideration from them.

"The Madras High Court has been holding for some 50 years that the adoption of these women is, under the circumstances of the country, a perfectly valid usage and ought to be recognized, and even after the judgment of Sir Raymond West, that High Court has in several decisions dissented from the view advocated by him and has upheld these adoptions, and upheld them not only in regard to civil matters, but also in regard to criminal matters. The Bombay High Court itself has latterly rather shifted its position and taken a view not easily reconcilable with that held by Sir Raymond West. In regard to adoption of this unfortunate class, therefore, the aid of the Legislature is very necessary. Mr. Justice Muthiswamy Iyer in his judgment, in which he dissented from Sir Raymond West's judgment, said that though he sympathised with the reasoning of Sir Raymond West, it was not the province of our Courts to make the law but only to interpret it as it exists. It is the business of the Legislature to remove any hardship in the existing law which circumstances might bring to light. My Lord, this is, as it were, a sort of challenge thrown out to the Legislature. And looking to the evil consequences resulting from the practice as we see clearly, I am sure that not only the Legislature, as the announcement which the Hon'ble the Home Member has made might well lead us to hope will take up the glove, but the people of the country also will respond to the challenge and say that the institution shall not be allowed to continue any longer. My Lord, very often the name of religion, the sacred name of religion and the name of social custom are brought forward to defend institutions which deserve more our abhorrence than our support. In regard to the practice of the adoption of females there is nothing, I can assure the Council, whatsoever in the Smritis to support it. There are some instances in old times of the adoption of girls, but those are very rare instances, and the least that can be said is that if such a practice existed, it had fallen into desuetude thousands of years ago. The Bombay High Court, in a judgment reported in 15, Bombay, laid down that the adoption of a female child by a Brahmin was invalid and conferred no rights whatsoever upon that child. The Privy Council itself, in a case reported in 21, Calcutta, to which reference was made by my friend, observes that the general law of the Hindus does not sanction the adoption of female children. My Lord, the practice undoubtedly has been in existence for a long number of years. It is, however, one of those practices which classes like those to whom we are referring would naturally resort to perpetuate their profession. It is for Your Lordship's Government and for the Council to consider whether immoral usages adopted for the purpose of continuing immoral practices should receive the sanction or even the toleration of the Council. I hope that in this Council it will not be said that the adoption of a female child by these women is a thing which is enjoined or even tolerated by the Hindu law proper. My Lord, both in regard to the *Devadasi* system and in regard to the adoption of female girls by dancing women it is a libel to say that the Hindu law enjoins or sanctions them. I believe I can claim as much right to speak in the name of Hindus as any others who claim to do so, but neither Hinduism as now practised nor Hinduism as it was inculcated by our great Rishis and Munis and our great Achariyas ever recognized this; none of them recognized anything but chastity and purity as the real basis of religious life; and it was to them a most abhorrent thing that persons of loose character and following an infamous trade should be considered as necessarily required for purposes of religious worship. I hope that the name of religion-in-danger will not be brought forward in regard to these two matters, nor will it be said that society is likely to be subverted by the reforms which are suggested.

"My Lord, the cases which have come before our Courts show other deficiencies and defects, most of which have been mentioned by my Hon'ble friend,

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and some of which were referred to by the Hon'ble the Home Member. I am glad to see that the Hon'ble the Home Member, speaking on behalf of the Government, said that Government contemplated dealing with all these matters by a legislation undertaken by themselves. I might mention to this Council that when I first spoke on the subject to the Hon'ble the Secretary in the Home Department some months ago, I myself said that as the question was one which affected substantially the criminal law of the country, it was eminently one which the Government themselves should take up. But we, who feel that our society is going from bad to worse in some of these matters, could not afford to wait to see when Government would take action, and we thought it our duty to bring the matter before them. I must congratulate ourselves and congratulate also the Government that our humble efforts have, in a measure at any rate, called-forth this declaration of policy from the Government.

" My Lord, I am in general agreement with the principles which my friend Mr. Dadabhoj has laid before the Council. But there appear to me certain matters which I believe are not fully included in his proposals. In regard to the manner of dealing with these evils themselves, I believe that the proper method would be to proceed on existing lines and to make such changes, such additions and alterations as might be required, as our larger experience might call for, and by way of making amendments in the existing sections themselves remove the defects and deficiencies which have come to light. My suggestion in regard to this matter, therefore, my Lord, is that we should take up sections 361, 372 and 373 and introduce therein all the necessary changes which are required. In the first place, my Lord, I considered that the age laid down in these sections—section 361 which relates to kidnapping from lawful guardianship, section 372 and section 373—should be raised from 16 to 18. That is the age which is laid down by the English Act. I know it might be said that this is rather a large order. But, my Lord, I would ask the Council to consider that when the question involved is a small contract affecting a few rupees or when it is about an insignificant piece of property, a minor is considered incapable of entering into it. Should it, I ask, be considered that a girl below 18 is quite capable of giving a legal and intelligent consent in regard to her most precious treasure, her chastity and her honour? Young and inexperienced as she is, does she not, at a time of life when strong influences are required for checking her, does she not rather require the hand of control than freedom to do what she likes? My Lord, this is a question which certainly ought not to cause any great embarrassment on the ground of principle. So far as legislative interference is concerned, if legislative interference is considered improper, well it was exercised so far back as 1860 when the Penal Code was passed. The age-limit was laid down then. All that I ask is to take the age-limit further up. This, therefore, does not involve any change of policy or the inauguration of a new policy, nor does it in any way involve any interference with institutions as they are existing, or with the social usages of the people. I do not ask this Council to say that the *Murali* systems shall be put down and extinguished. All I ask is that young girls, at a time when they are unable to exercise any judgment upon the matter, should not become the victims of ignorant, vicious or greedy parents or guardians, or become the prey of unscrupulous persons. It is only for the purpose of saving these young children that this appeal is made.

" My Lord, the action that is called for is of a two-fold character. First of all, there is the action of a penal character which requires the strengthening of the criminal law. Along with that also we require preventive and protective action, and that I propose should be done by two methods. My friend referred to one of them in his speeches, but in the copy of the Bill which, with Your Excellency's permission, was supplied to me, I find that it is not included in the Bill proper. What I suggest is that in order to prevent an evasion of the law and to prevent enrolment of girls who are really under 18 or 16 as the Council might determine, but whom the managers of the temples would like to palm off as being above that age. What should be done is that before a girl is enrolled, she should go and make a declaration before the District Magistrate, stating what her age is, and that she voluntarily wishes to get herself enrolled as a *Devadasi*. My Lord, in many a case it is the influence of the people round about which brings about these dedications.

[Mr. Mudholkar; Mr. Ghuznavi.] [18TH SEPTEMBER, 1912.]

"After a certain age and when a girl understands things, she shrinks from these matters. In a letter which was signed by a woman belonging evidently to the prostitute class which appeared in the 'Sayaji Vijaya' of 13th August 1912 and in another which appeared in another vernacular paper of Bombay, it is pathetically pointed out how under difficult circumstances in order to save a family from starvation and ruin girls are implored to take to these infamous callings. That is they say how many of them are obliged to resort to this kind of life. So to prevent this kind of importunity and also to prevent false statement of age, there should be a declaration required to be made before a Magistrate and it should be only on the receipt of a certificate from a District Magistrate that any enrolment should be allowed to be made.

"Another thing which was suggested by my Bill was the action which I consider should be taken both by Government, by the local authorities or by the people themselves. In England, as Your Lordship knows, the Children's Act requires the supervision of houses which undertake the care and protection of infant children and afterwards lays down provisions for the protection of waifs and strays and of children in regard to whom offences like those we are dealing with have been committed, or whose parents have been convicted and are unable to support them. There are in that Act provisions in regard to juvenile offenders also. As to juvenile offenders, we have got our Reformatories, but for the other classes of children, we should have industrial schools like those which are established under the Children's Act (English). The Hon'ble the Home Member mentioned the great difficulty which Government had to face in regard to it. I do admit that, after the girls attain their age, the difficulty would be to find occupations and suitable matches for them.

"My Lord, the problem however is not one beyond the resources of statesmanship. It is one which I am sure now that Government are taking the earnest interest that they are doing in the matter can be dealt with. It is quite probable that many an Indian would be willing to take active part in this matter; and institutions like those which have sprung up in England would spring up in this country. What, however, is very often required is a certain impetus from persons possessing great knowledge and high ideals. And that impetus, I believe, can be given by Government and Government alone. When they see that Government are anxious to rescue these children, the people of the country will brace themselves to do their portion of the work.

"My Lord, I apologise to Your Lordship and to the Council for having trespassed so much upon your time and patience. But the subject is one which is of paramount importance to a very large section of the population. My Lord, it is the wail of the unfortunates that we hear. I hold in my hand a letter which I received only the other day and which was sent to me expressly to Simla because it was known that this subject would be under discussion. It is from some male persons belonging to the caste from which *Bhavinees* are recruited. It comes from Shiroda, one of the chief places where this institution flourishes, and therein they make a pathetic appeal to Your Excellency and to the Members of the Government. There is another appeal which was issued by a conference of the depressed classes held some two months ago near Bombay. They also pray that as it is the depressed classes, the lower classes from whom these unfortunates are for the most part recruited, and as the existence of this class of unfortunates is injurious not only to the members concerned but lowers the whole tone of the lower orders, they pray that Government should come to their aid and put a stop to this *Devadasi* and *Murali* systems and to the reprehensible practice of adoption."

The Hon'ble Mr. Ghuznavi: "My Lord, with Your Excellency's permission, I rise to accord my heartiest support to the motion which my friend the Hon'ble Mr. Dadabhoj has brought before the Council to-day, and to offer my fullest sympathy with the Bill which he seeks to introduce in this Council. I am sure we are all grateful both to him and to my friend the Hon'ble Mr. Mudholkar for taking upon themselves to champion the cause of morality and to befriend thousands of young females who are daily ensnared throughout the length and breadth of this country, and are condemned to a life of perpetual misery and degradation.

[18TH SEPTEMBER, 1912.]

[*Mr. Ghusnavi.*]

"Cynics there are and have been in all ages and climes whose business it is to decry any reform which is brought forward in this direction specially when it is ushered in in the shape of legislation. They should remember that morality has always been brought about by laws though not always secular but religious. I am sure all religions agree in condemning practices which it is the object of this Bill to bring within the pale of secular law. I therefore fail to see any futility or unwisdom in bringing forward a piece of legislation such as this. My Lord, some men will say that prostitutes are safety-valves of society. This may or may not be so. But there must be a limit to safety-valves. Unfortunately in this country as elsewhere prostitution is increasing by leaps and bounds. The figures, which my friend the Hon'ble Mr Mudholkar has quoted, are simply appalling, and yet they are not complete. Prostitutes are generally recruited either by buying and selling or by a system of adoption or by a false notion of so-called religious dedication. Happily the latter system is not in vogue among the Mussalman prostitutes who generally have recourse to the first two methods in order to multiply their number. Islam however forbids in most clear and emphatic terms all such methods and practices. Yet, My Lord, I regret to have to observe how few there are who have given a thought to the eradication of this evil. When we consider the countless innocent girls who through no fault of their own have become victims and are an easy prey to the wiles and snares of unscrupulous persons, or who through the cupidity and moral depravity of their parents or guardians have been forced to lead a life of sin and shame, I think, My Lord, it is high time to find means and ways to protect these innocent female children. After the able and elaborate speeches of both my Hon'ble friends who have quoted a mass of facts and figures which they must have taken enormous pains to collect, and which are absolutely incontrovertible, there is nothing further to add. Besides, My Lord, we are not at this stage able to offer any remarks or suggestions as to the Bill itself beyond general observations. The scope of this Bill, as I understand, is to make it penal for any man other than the husband to have carnal knowledge with any girl with or without her consent under the age of 16. My friend the Hon'ble Mr. Mudholkar advocates that the age limit should be raised to 18 rather than 16. Personally, I am inclined to favour that view; for I think even in this country no female mostly belonging to the lower classes below the age of 18 is in a position to judge for herself correctly and to protect herself from the snares and temptations which are placed in her way by unscrupulous persons or by professional procurers and procuresses. My Lord, the Hon'ble Mr. Dadaboy has told us of the immorality of Dacca, and has quoted cases and instances which have been supplied to him by the philanthropic and laudable persons who are interested in the institution known as the 'Mothers' Home.'

"My Lord, I am here to bear testimony to every word that has fallen from my Hon'ble friend in this respect. Dacca is reeking with immorality more than any other town in East Bengal. There are women there who are known as *Baijis* and are well-to-do persons. They keep in their employ number of profligate men and women whose business it is to decoy young innocent girls from all over the country and swell the rank of prostitution.

"Through Your Excellency's far-reaching and benign policy now that Dacca is going to be the home of a Residential University, I am here to welcome with all my heart any legislation which has for its ultimate purpose the diminishing of immorality.

"In Germany, My Lord, we are told they have a system of *Sitzen Politzei* or *Morel Police*. I for one am ready to lend my support even to a measure of this kind should it be brought forward.

"In conclusion, My Lord, I quite agree with my Hon'ble friend that, if during Your Excellency's régime for the first time in the history of Legislation of this nature, a Bill such as this is passed into Law, your name will go down to posterity as one of the greatest benefactors of Modern India."

[*Pandit Madan Mohan Malaviya.*] [18TH SEPTEMBER, 1912.]

The Hon'ble Pandit Madan Mohan Malaviya.—“ My Lord, I heartily support the objects with which my Hon'ble friends Mr. Dadabhoy and Mr. Mudholkar have brought forward the measures which they have asked leave to introduce to-day. The evil is a terrible one and I am convinced, my Lord, that legislation is necessary to put it down. As to the details of the measures, we have not had copies of the Bills supplied to us, and we are not in a position to offer any observations regarding the provisions; but I am thankful to hear from the Hon'ble the Home Member that the Government have decided to send out the Bill with their own proposals and suggestions to elicit public opinion on the question.

“ My Lord, the questions embraced by the Bills proposed to be referred by the Government to the public and Local Governments involve matters of great humanitarian interests, but, as the Hon'ble the Home Member has also pointed out, they tread upon delicate ground, and I have no doubt that, while the Government will proceed to give as much protection as minor girls require, it will also take care not to legislate in such a manner as to give rise to a real cause of complaint. So far as the evil is concerned I do not think that the Hon'ble the Home Member need have any doubt as to the support which the proposals of the Government will receive from the public. I do not think that there is any danger of the action of the Government being misunderstood, and I hope that the name, the sacred name, of religion will not be brought in this discussion to support a thing which is entirely condemned by every religious system known to mankind.

“ There are some points, my Lord, which have been mentioned by Mr. Dadabhoy in his eloquent speech to which I would briefly draw the attention of Government. My Lord, whatever the final decision on the shape of the measure may be after the matter has been considered by the public and discussed, I hope the main objects of the measure will be held in view and that they will receive the support of all right-thinking men. These, I take it to be, are, firstly, that the traffic in minor girls shall be stopped; secondly, that the adoption of minor girls by prostitutes shall also be stopped; thirdly, that as against strangers the age of consent shall be raised; as to whether it should be raised to 13 or 14 is a matter of detail for consideration; fourthly, there shall be an interdiction to the dedication of minor girls to temples; and fifthly, that the immoral transfers of wives, an unthinkable thing to all right-thinking men, shall be absolutely prohibited. These are the main points brought forward by Mr. Dadabhoy, and I am glad and thankful to see that the Government have decided to refer them for opinion to the Local Governments and to the public. Remarks have been made regarding one of these matters, the dedication of girls to temples, as possibly having some sanction of religion. My Lord, I hope that not a man in the country will be able to put forward one single text which will justify a thing which is so irreligious and sinful as the dedication of minor girls in a position where they must be compelled to lead a life of sin and shame. My Lord, I hope that all sound men will be united in the desire to support the Government in any legislation which shall secure that no girls shall be led, induced or compelled to take to a life of shame, or placed in a position where she may be helplessly led to adopt it until she has attained to discretion; and so far as that is concerned I hope and trust that the measure will receive the support of all right-thinking men throughout the country. There are no doubt a number of issues raised of very great delicacy, and these issues will no doubt receive the fullest consideration from Your Excellency's Government, and the ultimate result of the consideration of this measure will be a great advance forward in giving that humanitarian protection to girls which they so badly stand in need of. My Lord, I take it that no person having in charge or custody a girl, not even the mother or the father, has any right to dedicate any creature of God, any girl, to a life of shame and infamy, and I hope that so far as the main part of this Bill is concerned the Government will proceed firmly, no doubt cautiously but firmly, to attain that object.”

[18TH SEPTEMBER, 1912.] [Babu Bhupendra Nath Basu; Mr. Shafi.]

The Hon'ble Babu Bhupendra Nath Basu:—"My Lord, I think it would be cruel at this late hour of the day to trespass upon the time of the Council at any length by referring to the principles of the Bills which stand in the names of my friends Mr. Dadabhoy and Mr. Mudholkar. The thanks of the Additional Members of Council are due to these gentlemen for the efforts they have made in bringing so prominently forward the evils which they seek to combat. My Lord, no one for a moment pretends to believe that these evils can be altogether put down by legislation. Religion has failed to do so, and legislation is not likely to succeed, but the grosser and more objectionable features of these evils may be checked, if not eliminated by wise legislation, and it is, therefore, that we welcome these measures being introduced into the Council, for if by legislation we cannot eradicate the evils, certainly we may deal with symptoms and we may check abuses which ought not to have been allowed to exist. And, My Lord, in this connection our thanks are due to Your Excellency's Government for the pronouncement which has been made to-day by the Hon'ble the Home Member. He has appealed to us to exercise our influence outside, this Council in forming public opinion in support of the suggestions that Government propose to send out for public consideration. I can assure him and Your Excellency's Government that, whether we are inside this Council or outside, we shall give our whole-hearted support to the propositions which the Government have laid down, and I am confident that our countrymen also will support those proposals. But, if my friend the Hon'ble the Home Member has appealed to us for our support, may I also appeal to Government to be firm, not to lack courage but to go on as they have done in the past in some very important matters of social legislation. If they stand firm, My Lord; I have no doubt that the evils which we all deplore will in time be considerably checked if not absolutely removed."

The Hon'ble Mr. Shafi:—"My Lord, not only advocates of social reform, but all sincere well-wishers of the country will be deeply grateful to Government for the sympathetic attitude adopted towards the measures introduced by my Hon'ble friends, and for the pronouncement which the Hon'ble the Home Member has made to-day with reference to further action which the Government intend to take for the purpose of putting an end to these nefarious practices which are eating into the very vitals of Indian society. And in regard to the eloquent appeal contained in the concluding portion of the speech of the Hon'ble the Home Member, I may, on behalf of my friends and myself, who have the honour to represent the Land of Five Rivers, give our assurance to Your Excellency's Government that in whatever action Your Excellency's Government may take in order to grapple with these nefarious practices, they may fully rest assured of our whole-hearted co-operation."

"Turning to the motion which is now before the Council, I do not think it is necessary to add anything to the able and exhaustive arguments which have been addressed by the Hon'ble Mr. Dadabhoy in support of his case. I wish only to clear one misapprehension which evidently exists in the mind of my Hon'ble friend with reference to a certain custom prevailing in my own province. During one portion of his speech he linked *Burda faroshi* with *Chadar andasi* as part of the traffic in girls which prevails in the Punjab. Well, I am afraid that statement was based on a misapprehension. *Chadar andasi* is a well recognised custom in certain tribes in the Punjab, more particularly among the Jats, which represents a form of marriage unaccompanied by religious rites in which the near relations of the man and the woman come together and by means of a very simple ceremony, the man and the woman are united together as husband and wife. There is absolutely no element of prostitution in this custom of *Chadar andasi*, and therefore, if my learned friend's Bill, which we have not seen, contemplates penalizing this customary form of marriage, I would suggest that that portion of the Bill might be eliminated."

[*Mr. Dadabhoy; Mr. Shafi; Sir G. M. Chitnavis; Maharajadhiraja Bahadur of Burdwan; Mr. Subba Rao* :]

The Hon'ble Mr. Dadabhoy :—" It does not."

The Hon'ble Mr. Shafi :—" In conclusion, I again beg to assure Your Lordship's Government of our hearty and sincere co-operation in any efforts which the Government might make in grappling with this nefarious practice."

The Hon'ble Sir G. M. Chitnavis :—" My Lord, in giving my full support to my friend Mr. Dadabhoy's motion, I beg to congratulate the Hon'ble Home Member on the excellent and most sympathetic speech he has made on behalf of Government. The quotations given by Mr. Dadabhoy will impress most with the necessity of greater legislative protection to minor girls. He has made out a strong case for legislative interference, and some such provisions as he has explained seem necessary. I do not know if the number of *deva dasis* is increasing. The original practice of dedicating girls to temples was no doubt good, inasmuch as it was intended that these women should lead holy and virtuous lives; but with lapse of time gross indecencies came to be associated with the institution; and in the altered circumstances of the country, I believe many Hindus would be glad to see that something should be done to restrict such indecencies. I am really glad that the Home Member should have made an announcement that the Government is going to interfere and to incur the responsibility of introducing measures which will have the effect aimed at by the Bill now introduced by Mr. Dadabhoy."

The Hon'ble the Maharajadhiraja Bahadur of Burdwan :—" My Lord, I would not like to give my silent support to this Bill. I am glad that a pronouncement has been made by the Home Member regarding the attitude of Government towards Mr. Dadabhoy's Bill. Although some of us may think that these measures should come before the social reformers in the country rather than here, yet as it has been proved that even in the beginning of the twentieth century social reforms are scanty and social reformers few in India, Mr. Dadabhoy is fully justified in bringing this matter before this Council, and I give my whole-hearted support to its introduction to-day."

The Hon'ble Mr. Subba Rao :—" My Lord, at this late hour of the day, I do not propose to make a speech. I rise only to give my hearty support to the general principles underlying the two Bills standing in the names of Messrs. Dadabhoy and Mudholkar. I may say that this subject has been engaging the attention of the intelligent public for a good number of years, and the feeling has been growing that something should be done to give effective protection to minor girls. We are grateful indeed to Your Excellency's Government for their firm though cautious attitude and for the steps they propose to take in this matter."

The motion was put and agreed to.

The Hon'ble Mr. Dadabhoy introduced the Bill, and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

[18TH SEPTEMBER, 1912.]

[*Mr. Mudholkar ; The President.*]

PROTECTION OF MINOR FEMALES BILLS.

The Hon'ble Rao Bahadur R. N. Mudholkar, with reference to his proposed intention to move for leave to introduce a Bill to make better provision for the protection of Minor Females, said :—“ My Lord, it has been pointed out to me on behalf of Government that there is a technical difficulty in the way of the Bill, notice of which I gave some time ago. According to Parliamentary practice which this Council, in regard to matters which are not covered by express regulation, has to follow, it is not permissible to have two Bills at one and the same time on the same subject ; and in these circumstances, if I were to press my motion for leave to introduce the Bill which I have drafted, the only course which was open to Government, was, I was told, to express their inability to allow the motion ; and that motion would thus have been defeated. It was, however, very kindly suggested to me on behalf of Government that if there were any points in my Bill which were not covered by Mr. Dadabhoj's Bill, I might bring them before the Council or before Government, and that the opinion of the country and the Local Governments in regard to those specific points would be called at the same time as their opinions would be invited in regard to the provisions drafted by my Hon'ble and learned friend. My Lord, I accept that suggestion, and in deference to the wishes of Government, and being satisfied that this is the proper course, under the circumstances, I ask Your Excellency's permission to withdraw my motion as a separate motion.”

Permission granted, and motion withdrawn.

His Excellency the President:—“ As this is the last occasion on which this Council will meet for the transaction of public business, I should like to say a few words before we adjourn to-day. We have now reached the first term of the life of this Council under the scheme of the reformed Councils Act, and in a few months' time a new Council will meet in the Imperial capital of India. We are able, I am glad to say, to look back with satisfaction upon the work of this Council during the past three years, and to realise how much it has gained in experience and importance during that period. What pleases me in particular is to record the excellent and friendly relations that have prevailed amongst all the Members of this Council, and the mutual respect and esteem felt by all towards each other. The decorum and harmony with which our proceedings are conducted might well be a model to many other Legislatures of which we have heard and read, while the discussions that have taken place have been fruitful and of the highest value to Government as expressions of public opinion and of the various communities represented here. It is therefore a source to me of keen personal regret that the term of this Council is now drawing to a close, and that when the new Council meets at Delhi next January, some familiar friends and faces may have given place to new faces and what will, I hope, be new friends who will, I trust, carry on the high traditions that have been initiated in the hitherto short life of the reformed Legislative Council of the Governor General. I wish to take this opportunity to thank Hon'ble Members of Council on behalf of myself and of the Government of India for their valuable co-operation and assistance in the legislative business of Government during the past three years.

“ This will, I also hope, be the last occasion when my Legislative Council will meet in this room, where, I am bound to acknowledge, the accommodation is unsatisfactory and inadequate. The Council Chamber that is now being added to this house will, I hope, be finished next summer, and will provide better accommodation in a large Council room, a library for Members, Committee rooms, cloak rooms, etc., with a separate approach and entry for Hon'ble Members.

“ As for the temporary accommodation of this Council at Delhi, I have personally supervised the plans and buildings, and I can promise Hon'ble Members that, although the Council Chamber is only for temporary use and a very

strict regard for economy has been maintained in its construction, they will find much more convenient accommodation than I was ever able to afford them in Calcutta. There will also be residential accommodation provided on the Metcalfe Estate for non-official Members if required. I hope that Hon'ble Members may not suffer too much inconvenience and discomfort during the short interval of a few years before the new Capital is completed.

"I would like to say a few words generally on the subject of the temporary buildings at Delhi which, I may add, have been admirably designed and carried out by Lieutenant-Colonel Cole and his assistants and the contractors working under him.

"With a view to minimising expense, the Government of India have decided to take as small a staff as possible from the Government offices, but sufficient to cope with the more immediate work of the Government of India. The temporary Secretariats are in close proximity to the Council Chamber. The European clerks will be lodged either in quarters which will be hired for them in the Civil Lines or in tents, according to their desire. The Indian clerks will be provided with small houses, and I may add that I have inspected these houses, and my opinion is that the Indian clerks will find themselves so comfortable that they will not wish to leave them.

"In our building operations for temporary Delhi, we have limited ourselves to the strict minimum that was absolutely necessary, but we do not think that the money spent has been wasted or lost. We are confident that when new Delhi has been built, there will still be public purposes for the use of these buildings. We think that, without fear of exaggeration, we may say that the weight of probability is strongly in favour of Government realising almost full value for all their outlay in connection with the temporary works, should they be disposed to part with them, or else receiving its equivalent from the utility of the buildings for their own purposes.

"As regards the Government of India, I may say that one and all have decided to accept the most modest accommodation in two hotels that have been leased so as to diminish expenditure as much as possible, while some of them, amongst them being my friend Sir Harcourt Butler, with no doubt a view to further economies as a provision for education, have decided to brave the elements and to live in tents.

"I mention all this as I think it may be of interest to Hon'ble Members to know what provision has been made for next cold weather. I fear that for the time being the standard of comfort will not be as high as that of Calcutta or Simla, but I am confident that all will ungrudgingly make some self-sacrifice in the realisation of the national object that we have in view.

"As regards the new City of Delhi, you are probably aware that a site near but to the south of the old City has been selected and approved. Several schemes for laying out the new City have been proposed, amongst them being one by an Indian, but no definite decision will be taken until the return of the Experts in December. In the meantime estimates and plans for irrigation, building, &c. are being carefully prepared. Conditions have also been published in the Press of British India and of the Native States for an open competition in designs for four different classes of bungalows that will be required. Prizes will be awarded to the successful competitors. I am glad to say that I hear that a considerable number of Indians as well as Europeans have entered for this competition. The question of competition for further buildings is still under consideration.

"My attention has been drawn to articles in the Press on the subject of the architecture of the new City. You are aware of my own personal predilections

in this matter. Lord Crewe has recently stated his own views on this question in the following quotation that I take from the *Times* :—

"The great cities of India were very various in position and possibility. Bombay, with its fine harbour suffered as a city from being built on lines like New York, and was thereby cramped as regarded extension. Madras, on the other hand, was a garden city in the fullest sense. It covered a vast extent for the number of its population, and as one drove through its leafy groves it was often hard to make out where the houses were. Calcutta was in some parts more on the lines of European cities. But at Delhi they had a different problem to confront. They knew what the historical associations of Delhi were. To be convenient and suited to the Europeans who had to work there it could not be planned in a manner altogether foreign to Western ideas and Western life; yet, at the same time, it must not be hostile in appearance or in spirit to the ideals of the past. Therefore, when the actual architecture of the new City had to be considered it would be clearly no easy task for the architects engaged upon it to combine the old and new in a manner which was necessary if a truly satisfactory result was to be achieved."

"These were Lord Crewe's own words, and I may add that nothing has so far been settled.

"In general, preparations are being actively pushed, so that as soon as the lay out of the new City has been decided upon, building operations may be carried out with energy and without delay.

"I understand that it is the desire and intention of Hon'ble Members of my Council to be present at the State Entry into Delhi and to take part in the ceremony of the handing over of the Delhi province by the Government of the Punjab to the Government of India. I shall warmly appreciate and welcome the presence of the Members of my Legislative Council, the Representatives of the whole of British India, as most fitting and appropriate on such a memorable and historic occasion.

"With these few words, I will now take leave of Hon'ble Members, and I declare this Council adjourned."

The Council adjourned *sine die*.

SIMLA:

The 27th September, 1912.

W. H. VINCENT,

Secretary to the Government of India.