

*Friday,
22nd September, 1911*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. L

April 1911 - March 1912

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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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. 07, 85 & 86
VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Viceregal Lodge, Simla, on Friday, the 22nd September 1911.

PRESENT :

His Excellency **BARON HARDINGE OF PENSHURST**, P.C., G.O.B., G.C.M.G., G.C.V.O.,
G.M.S.I., G.M.L.E., Viceroy and Governor General of India, *presiding*,
and 38 Members, of whom 30 were additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Macpherson on behalf of the Hon'ble Mr. Chitnavis
asked :—

"Is there any truth in the report that the Government of India intend providing separate accommodation for the Imperial Legislative Council? If so, will the Government of India be pleased to say whether they propose to inquire into the feasibility of locating the Imperial Legislative Council in the Victoria Memorial Hall?"

The Hon'ble Mr. Jenkins replied :—

"The question of providing accommodation for the Imperial Legislative Council is under the consideration of Government, but no pronouncement as to the location of the proposed building can at present be made."

The Hon'ble Mr. Madge asked :—

"With reference to Regulation III of the Regulations for admission to the Indian Police Force which limits candidature to 'British subjects of European descent' whose fathers 'must have been British subjects, either natural-born or naturalised in the United Kingdom,' is it the intention of the Government to move the Secretary of State to modify the said Regulation to the extent of authorising the Government of India to nominate Anglo-Indians whom it might consider personally eligible, after laying down any educational tests which it may think necessary?"

[Mr. Jenkins; Mr. Subba Rao.]

[22ND SEPTEMBER 1911.]

The Hon'ble Mr. Jenkins replied :—

“The Governor General in Council already possesses the power to make appointments in India, of the nature referred to by the Hon'ble Member, on the special recommendation of Local Governments, and these powers have not infrequently been exercised.

“Special provision has, therefore, been made for Anglo-Indians, and no modification of the rules in their favour is, therefore, required.”

The Hon'ble Nawab Saiyid Muhammad on behalf of the Hon'ble Mr. Subba Rao asked :—

“With reference to the reply given by the Hon'ble the Home Member to the second part of my question on the 21st January last, on the subject of the exodus of the Provincial Governments to hill stations, will the Government be pleased to say whether they are now in a position to supply the information there requested?”

The Hon'ble Mr. Jenkins replied :—

“The Government of India have been at pains to ascertain the reasons why the expenditure referred to is considerably greater in Bengal and the United Provinces than in Madras, Bombay and Punjab. The accounts in the several Provinces are not kept in a uniform manner, but, as far as can be ascertained, the chief reasons are—

- (1) in the case of Bengal, that a larger number of heads of departments and a larger proportion of clerical establishment accompany the Local Government to the hills, and that two moves are made, one in the spring and the second in the autumn; and
- (2) in the case of the United Provinces, that a considerably larger proportion of clerical establishment accompanies the Local Government to the hills.”

The Hon'ble Nawab Saiyid Muhammad on behalf of the Hon'ble Mr. Subba Rao asked :—

“With reference to the answer of the Hon'ble Sir Harvey Adamson at the meeting of the 23rd March 1910, that ‘the Executive Branch of the Provincial Service is filled up partly by promotion of officers from the Subordinate Service and partly by selection of persons possessing prescribed educational qualifications who are not already in Government service,’

- (a) will the Government be pleased to state approximately the number of places annually recruited in each Province for the executive branch of the Provincial Service, and in what proportion they are so recruited—how many by promotion and how many by selection;
- (b) are there any Provinces where the executive branch of the Provincial Service is now filled up exclusively by promotion from the subordinate service and where not only special competition but also selection of persons who are not already in the Government service is dispensed with? If so, will the Government be pleased to state why such a course is adopted?”

The Hon'ble Mr. Jenkins replied :—

“The information asked for by the Hon'ble Member is not available. It will be called for from Local Governments, and, when received, will be laid on the table.”

[22ND SEPTEMBER 1911.] [Mr. Subba Rao ; Mr. Carlyle ; Raja of Dighapatia ; Mr. Jenkins ; Mr. Butler.]

The Hon'ble Nawab Saiyid Muhammad on behalf of the Hon'ble Mr. Subba Rao asked :—

" Will the Government be pleased to state whether the principles governing revisions of the settlement of land-revenue laid down by the Secretary of State in his despatch to the Government of India, No. 1 (Revenue), dated 5th January 1885, are now in force and whether there are any reasons now why the said despatch should not be placed on the table for general information ; if so, will the Government be pleased to say what they are ? "

The Hon'ble Mr. Carlyle replied :—

" The Despatch referred to is part of a correspondence on the subject of the principles of assessment to be followed in Northern India. Of the principles detailed in the Despatch, some have been brought into force, and some have been dropped or modified, with the tacit or express approval of the Secretary of State. The Despatch could not be published without the consent of the Secretary of State ; and, in view of the time which has elapsed and the further detailed declarations of policy which have been published with the sanction of the Secretary of State since 1885, the Government of India consider that no good purpose would be served by asking for permission to publish the Despatch."

The Hon'ble the Raja of Dighapatia asked :—

" Is it a fact that the contract relating to the *Sulva Samachar* was only a personal one with the late Rai Narendra Nath Sen Bahadur ?

" If so, will the Government of India be pleased to state if it is in contemplation to continue the subsidy to the *Sulva Samachar* for the full term of three years ? "

The Hon'ble Mr. Jenkins replied :—

" The contract referred to by the Hon'ble Member was originally personal to the late Rai Bahadur Narendra Nath Sen. It has been continued by the Bengal Government to his son for a period of nine months from the date of the death of his father, but will not be continued beyond that period."

The Hon'ble the Raja of Dighapatia asked :—

" Would the Government be pleased to state what steps are being taken to eradicate plague and malaria and how did they affect the last census figures ? "

The Hon'ble Mr. Butler replied :—

" The Hon'ble Member's question is of such wide scope, that it has been thought better that the Sanitary Commissioner with the Government of India should prepare a memorandum indicating the measures during the past few years against malaria and plague which have been taken and the lines of future policy which it is hoped to follow. This memorandum* is placed on the table.

" With regard to the effect of these diseases on the census figures, the Hon'ble Member is referred to paragraph 5 of the Resolution of the Government of India, No. 434-53, dated the 21st March 1911, dealing with the provisional totals of the census and to paragraph 1 of the memorandum* by the Sanitary Commissioner with the Government of India which further explains this matter."

* Vide Appendix A.

[*Raja of Dighapatia ; Sir G. Fleetwood Wilson ; [22ND SEPTEMBER 1911.]*
Mr. Jenkins ; Mr. Sachchidananda Sinha.)]

The Hon'ble the Raja of Dighapatia asked :—

“Do the Government of India intend asking for relief from the British Exchequer on account of the proposed abandonment of its opium-revenue?”

The Hon'ble Sir G. Fleetwood Wilson replied :—

“The matter is one on which the Government of India are not in a position to make any statement.”

The Hon'ble the Raja of Dighapatia asked :—

“Are Government aware that subscriptions for the King Edward Memorial Fund are being levied under official influence in both the Provinces of Bengal and Eastern Bengal and Assam along with the chaukidari-tax?”

The Hon'ble Mr. Jenkins replied :—

“The Government of India have made enquiries from the Local Governments concerned and have ascertained that the Hon'ble Member's information is incorrect.”

The Hon'ble the Raja of Dighapatia asked :—

“Are Government aware that numerous dacoities have recently taken place in the Provinces of Bengal and Eastern Bengal and Assam?”

“If so, do the Government intend to enquire into the causes of these dacoities and to take necessary steps to remedy the evil?”

The Hon'ble Mr. Jenkins replied :—

“Government are aware that a good many dacoities have recently taken place in the Provinces of Bengal and Eastern Bengal and Assam. The matter is receiving the closest attention of the Government of India and of the Local Governments.”

The Hon'ble the Raja of Dighapatia asked :—

“Is it a fact that revolvers and breech-loading guns belonging to persons exempted from provisions of the Arms Act have been found in the possession of persons convicted of dacoity or any anarchical crime?”

“If so, will the Government state under what circumstances, in which of the Provinces and on how many occasions have they been so found?”

The Hon'ble Mr. Jenkins replied :—

“It is a fact that revolvers and breech-loading guns belonging to persons exempted from the provisions of the Arms Act have been found in the possession of persons convicted of dacoity and anarchical crime. At so short a notice the Government of India have been unable to procure complete information; but it may be mentioned, by way of examples, that the revolvers with which Babu Ashutosh Biswas and Khan Bahadur Shams-ul-Alam were shot belonged to persons so exempted. Similarly, guns belonging to exempted persons were found in the possession respectively of a member of the Manicktolla gang, and of one of the persons convicted in the Haludhari dacoity and Howrah gang cases. The matter is engaging the attention of the Government of India.”

The Hon'ble Mr. Sachchidananda Sinha asked :—

“A.—Will the Government be pleased to state—

- (1) the amount of rainfall in the different Provinces and Indian States and the amount in defect as compared with the normal rainfall during the same period;

[22ND SEPTEMBER 1911.] [Mr. Sachchidananda Sinha ; Mr. Carlyle ; Sir T. R. Wynne.]

- (2) the present condition of the principal crops in the several Provinces and States ;
- (3) the extent of damage already done to the principal crops ;
- (4) the probable crop out-turn and the percentage of the same to the normal out-turn in the different Provinces and States ;
- (5) the extent of rise in the prices which may have taken place since the 1st of July last ; and
- (6) the condition of the fodder supply and of cattle.

"B.—What relief measures, if any, are going to be undertaken, and from what date."

The Hon'ble Mr. Carlyle replied :—

"With reference to Part A of his question, I would beg to refer the Hon'ble Member to the rainfall summaries and the season and crop reports which are published weekly in the Gazette and to the crop forecasts which are issued from time to time by the Director General of Commercial Intelligence, as these documents supply the information he asks for so far as at present available in considerable detail.

"2. As regards Part B, I lay on the table a statement* giving the most recent information which we possess as to agricultural conditions in the various Provinces and the degree in which special measures of relief appear likely to be required."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Is it a fact that the first and second class fares have lately been raised on the Bombay, Baroda and Central India Railway and the Madras and Southern Mahratta Railway ?

"(b) If so, will the Government be pleased to state the circumstances under which the above-mentioned Railway Companies have raised the fares ?

"(c) Do Government propose to take any steps to prevent such increase in passenger rates in future by any of the Railways ?"

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

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

"As regards the second part, the Railway Companies considered themselves justified in raising their fares on the ground that they were giving a better service and better accommodation to the public. I would also explain that the new rates are within the maxima which the Companies are entitled to charge under their contracts with the Secretary of State.

"As regards the last part of the question, I may remind the Hon'ble Member that Companies are entitled to raise their fares provided that they do not exceed the maxima laid down in their contracts."

The Hon'ble Mr. Sachchidananda Sinha asked :—

"(a) Are the Government aware that school and college fees have recently been raised in Bombay and Madras Presidencies and in the Central Provinces ?

"(b) Is it a fact that similar increase is in contemplation in other Provinces ?

"(c) If so, will the Government be pleased to say whether they are disposed to consider the desirability of issuing directions to Provincial Governments to postpone such increase for the present ?"

[*Mr. Butler Mr. Sachchidananda Sinha ; Mr. Clark ; Babu Bhupendranath Basu ; Mr. Jenkins.* [22ND SEPTEMBER 1911.]

The Hon'ble Mr. Butler replied :—

“College fees have been raised in Madras and college and school fees in the Central Provinces; high school fees will, it is understood, be raised in Bombay. A committee has been appointed in the United Provinces to consider fees in Anglo-vernacular schools. The Government of India have no intention of interfering in the matter, which is essentially one for the Local Government to decide.”

The Hon'ble Mr. Sachchidananda Sinha asked :—

“(a) Do Indian emigrants to Canada labour under disabilities entailing hardship on Indian subjects of the Crown ?

“(b) Is it a fact that the emigration laws of Canada place the Indian emigrants in a worse position than Chinese and Japanese emigrants ?

“(c) If so, do the Government intend to take any steps which may be necessary to improve matters ?”

The Hon'ble Mr. Clark replied :—

“(a) With reference to the first of the Hon'ble Member's questions, the attention of the Government of India has been drawn to certain disabilities imposed on Indian emigrants to Canada.

“(b) The answer to the second question is in the negative.

“(c) The Government of India are at present in correspondence with the Secretary of State on certain matters connected with the admission of Indians into Canada.”

The Hon'ble the Raja of Dighapatia on behalf of the Hon'ble Babu Bhupendranath Basu asked :—

“(a) Has the attention of the Government been drawn to the statement, in the House of Commons, by Mr. Montagu, in reply to a question by Mr. Yato, that the experiment of a subsidised journal in Calcutta was being made in compliance with a suggestion, made in a circular, by the Government of India to the Provincial Governments ?

“(b) Is Mr. Montagu's statement correct ?

“(c) If so, will the Government be pleased to lay on the table the said circular and the replies to it of the Local Governments ?

“(d) Is it in contemplation to subsidise any journals other than those already subsidised ?”

The Hon'ble Mr. Jenkins replied :—

“The answers to questions (a) and (b) are in the affirmative. The circular letter and the replies of Local Governments to it being of a confidential nature, the Government of India regret that they are unable to lay the papers on the table. It is not at present in contemplation to subsidise any journals other than those already subsidised.”

The Hon'ble the Raja of Dighapatia on behalf of the Hon'ble Babu Bhupendranath Basu asked :—

“(a) Is it a fact that in the newly issued five, ten and fifty rupee notes their values are no longer indicated on the notes in the Nagri character ?

“(b) Is it not a fact that, until the new notes came into circulation, the values of notes were always expressed in the Nagri character also, since the introduction of currency notes in this country ?

“(c) Have the Government received any memorial on the subject ?

[22ND SEPTEMBER 1911] [*Babu Bhupendranath Basu; Sir G. Fleetwood Wilson; Rao Bahadur R. N. Mudholkar; Mr. Jenkins.*]

"(d) Has the attention of the Government been drawn to the following remarks of the *Statesman* on the subject:—

'It is difficult to understand why this language (Hindi) and its character have been ignored at the present day.....The argument from previous practice is one which is hard to meet.'

"(e) Are the Government aware that the omission to express the values of the notes in the Nagri character is causing inconvenience to large sections of the public, who only know that and no other character?

"(f) Do the Government intend to direct that the values may hereafter be expressed in the Nagri character also?

"(g) If not, will Government be pleased to state their reasons?"

The Hon'ble Sir G. Fleetwood Wilson replied:—

"The new 'universal' currency notes have their value inscribed upon them in no less than 8 vernaculars. One of these is Nagri; but it is written in the Kaithi script, which was believed to be more familiar to the Hindu commercial classes of Upper India.

"The whole question of the vernacular inscriptions is now under the consideration of the Government."

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

"1. Have the Resolutions passed by the Central Provinces and Berar Provincial Conferences held in the Easter of 1905, 1906 and 1907 at Nagpur, Jabalpur and Raipur, respectively, urging the desirability of placing the combined territories of Central Provinces and Berar under a Lieutenant-Governor and the establishment of a Chief Court for that area, been received by the Government?

"2. Is it a fact that the functions and responsibilities of the Chief Commissioner of the Central Provinces are now greater than what they were when the Chief Commissionership was constituted?

"3. If so, do Government intend to raise it to a Lieutenant-Governorship?

"4. Is it a fact that the jurisdiction and the work of the Judicial Commissioner's Court, Central Provinces, are greater than what they were when the Court was constituted?

"5. If so, do Government intend to raise it to the position of a Chief Court?"

The Hon'ble Mr. Jenkins replied:—

"The answers to questions 1, 2 and 4 are in the affirmative. As regards questions 3 and 5, there is no intention at present to raise the status either of the Chief Commissionership or of the Judicial Commissioner's Court."

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

"Will the Government be pleased to furnish to the Council—

(a) a return showing the annual recurring charges, with details, paid out of the revenues of India from 1885-86 to 1909-10 under the operation of what is known as the Army Amalgamation Act of 1859;

(b) a return showing the total amount expended from ordinary revenue and from loans on account of military fortifications, special defence works, military roads, and so on, with details, from 1885-86 to 1909-10;

(c) a return showing the total cost, with details, of the military and strategic railways constructed and under construction from 1885-86 to 1909-10;

[*Rao Bahadur R. N. Mudholkar; Sir G. Fleetwood [22ND SEPTEMBER 1911.]
Wilson; Mr. Butler; Nawab Saiyid Muhammad.*]

- (d) a return showing the amount expended on each from 1885-86 to 1909-10, on (1) arms and ammunition and other ordnance and military stores from England and elsewhere, and (2) ditto obtained in India; and
- (e) a return showing the total amount of military pensions paid from year to year in India and England from 1885-86 to 1909-10 ?

The Hon'ble Sir G. Fleetwood Wilson replied :—

"The information asked for by the Hon'ble Rao Bahadur R. N. Mudholkar in clauses (a), (b), (d) and (e) of his question is being prepared and will be laid on the table when ready.

"In reply to clause (e) of the question, I lay on the table a statement* showing the capital expenditure incurred on military and strategic railways. It may be mentioned that most of these lines are now of some commercial value."

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

"Will the Government be pleased to lay on the table a copy of the detailed Delhi Durbar estimates recently sanctioned by the Secretary of State ?"

The Hon'ble Sir G. Fleetwood Wilson replied :—

"The sum provided for the Durbar expenditure appears in the Budget for the year and was mentioned in debate in this Council last session and received with unanimous approval. Details of the expenditure will be published in a special Appendix which will accompany the accounts of the year; and it is not considered either necessary or expedient to publish intermediate estimates."

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

"Will the Government be pleased to lay on the table the correspondence which passed between the Supreme and Local (Punjab) Governments on the subject of the withdrawal of the elective element from the Simla Municipality ?"

The Hon'ble Mr. Butler replied :—

"The Government of India are unable to lay the correspondence on the table."

The Hon'ble Nawab Saiyid Muhammad asked :—

"(a) Have the Government of India received any application from the Government of Madras regarding a grant to the Corporation of Madras for the construction of special water and drainage works ?

"(b) Will the Government be pleased to say if they are disposed to favourably consider the question of assisting the Corporation of Madras with a substantial grant ?"

The Hon'ble Mr. Butler replied :—

"No application of the nature referred to has been received from the Government of Madras, and the question has not come under the consideration of the Government of India."

The Hon'ble Nawab Saiyid Muhammad asked :—

"Is it a fact that the Revenue and Public Works Departments of the Government of India will remain in Simla during the coming winter and that only small camp offices will be taken down to Calcutta ?

"If so, will the Government be pleased to state the reasons for this step, and whether it is too late to reconsider the same ?"

[Mr. Carlyle; Mr. Jenkins; Mr. Syed Ali Imam; [22ND SEPTEMBER 1911.]
the Maharajadhiraja of Burdwan.]

The Hon'ble Mr. Carlyle replied :—

“The answer to the first part of the Hon'ble Member's question is in the affirmative. The step is being taken in pursuance of the promise made in this Council on the 25th January last, that all Members of the Government of India would during the current year subject the expenditure for which they are individually responsible to close scrutiny with a view to effecting all possible economies. It will be carried into effect this year, and its repetition in subsequent years will depend on the experience obtained of its working during this winter.”

CO-OPERATIVE SOCIETIES BILL.

The Hon'ble MR. CARLYLE moved that the Bill to amend the law relating to Co-operative Societies be referred to a Select Committee consisting of the Hon'ble Mr. Syed Ali Imam, the Hon'ble Mr. Chitnavis, the Hon'ble Mr. Gokhale, the Hon'ble Sir Vitaldas Thackersey, the Hon'ble Mr. Gates, the Hon'ble Mr. Maclagan and the mover.

The motion was put and agreed to.

INDIAN AIRSHIPS BILL.

The Hon'ble MR. JENKINS moved that the Report of the Select Committee on the Bill to control the manufacture, possession, use, sale, import and export of airships be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. JENKINS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

CALCUTTA IMPROVEMENT (APPEALS) BILL.

The Hon'ble MR. SYED ALI IMAM moved that the Bill to modify certain provisions of the Calcutta Improvement Act, 1911, be taken into consideration.

The motion was put and agreed to.

The Hon'ble THE MAHARAJADHIRAJA BAHADUR OF BURDWAN: “My Lord, those of us non-official Members who opposed certain provisions and principles in the Calcutta Improvement Act of 1911, which was passed in the Bengal Council last month, advocated that provision should be made for appeals to the High Court. For that reason undoubtedly the Bill that has been introduced by the Hon'ble the Law Member is to be welcomed; but unfortunately the Bill does not go far enough. There is to be no appeal, or rather no unconditional appeal, or direct appeal, to the High Court. The second appeals that we can get under the Act before us will wholly—not quite wholly but greatly—depend upon the decision of the president of the tribunal. There is certainly a saving clause, in which the High Court may grant an appeal; but, my Lord, this is not enough. What we want is that in certain cases a direct appeal to the High Court should be allowed. The Calcutta Improvement Act is an important measure, and although some of us non-official Members opposed strongly certain provisions in it, it has been made into law. We have come here—and I myself particularly—to see if in getting appeals to the High Court we might not get something to smooth down the feelings that were ruffled by the Member in charge of the Bill in the Bengal Council. My Lord, my amendment has been borrowed practically, if not wholly, from section 110 of the Civil Procedure Code. Had I not appreciated the difficulties that undoubtedly the Improvement Trust will have when large sums will be involved, when the

[22ND SEPTEMBER 1911.]

[*The Maharajahdiraja of Burdwan.*]

Calcutta Improvement scheme is put into operation, I would have liked to have put the amount at Rs. 5,000 or upwards and not Rs. 10,000 as I have done; for, under the ordinary law—under the Code of Civil Procedure—we get an appeal to His Majesty's Council for Rs. 10,000 and upwards. My Lord, my amendment is a moderate one. I do not know whether it will appeal to the Hon'ble Mr. Syed Ali Imam, who is now a crystallised official. My Lord, the arguments against accepting my amendments will, I am sure, be two in number. First of all, I suppose we shall be told that you are going to get a Judge of ten years' experience,—probably the Judge may be a barrister,—and therefore we should rely upon him and should not suspect that there may be any likelihood of any miscarriage of justice in any of the decisions that he may have to make. The second argument, my Lord, will be that you will increase the number of the Judges of the High Court of Calcutta if you have this amendment put in. My Lord, I doubt if either of these arguments has got any legs to stand upon. In the first place, since India has had the good fortune to claim Your Lordship as her Viceroy, Your Lordship has had ample experience regarding the fate of the recent political trials in the country—how they have broken down. Then again there are hundreds of cases that could be cited, in which we find that the High Court has set aside the judgments of District and Lower Courts. My Lord, these naturally, in the minds of the ordinary public, raise the suspicion that in these Courts, for some reason or other, justice is not done in the way that it might have been done, and that the great safeguard is the High Court. My Lord, for this reason, I think it is a legitimate demand. Then we have the plea that you will be increasing the number of the Judges of the High Court (I see that the Hon'ble Finance Member is looking at me because it will raise the expenditure); but, my Lord, in any case you will have to increase the number of your Judges. Either you will have to create a new High Court or a Chief Court for the Province of Eastern Bengal and Assam, or you will have to give more Judges to the High Court to do justice to Bengal and its sister Province.

"My Lord, every one is aware that when the Calcutta Improvement Bill came up for discussion in the Bengal Council, I had to speak strongly on behalf of those that I represented there. I would not be justified in repeating anything that I said there, because this Bill does not in any way concern that one which we have passed in the local Council. But I may mention to Your Lordship that there has been a great deal of feeling over the Calcutta Improvement Bill, and it is not only those unfortunate people who have been nicknamed blood-suckers, land-grabbers, and I do not know what, it is not only those that will be affected, but there will be many other classes affected in the city of Calcutta; and if Your Lordship's Government is pleased to accept this amendment, I am sure to a certain extent that that feeling will be allayed. In this there is no particular principle of equity involved. I believe a Secretary of State for India said that the pivot of British administration in India is at Whitehall. I, for one, I am afraid, cannot agree to that remark, because I have strongly believed, and do believe, that the pivot of administration in India is with the Governor General and his Council, and there cannot be the slightest doubt that the pivot of British justice, that justice on which the success of the British Government in India depends, is in the different High Courts; and I think that by accepting this amendment, you will not in any way be giving such a big concession because it exists in the ordinary law. I therefore, with Your Lordship's permission, beg to move the following amendment:—

"That to clause 3, sub-clause (1), of the Bill the following be added, namely:—

'(a) An appeal shall lie to the High Court in every decree passed by the tribunal where the subject-matter of the suit is Rs. 10,000 or upwards, and the amount or value of the subject-matter in dispute on appeal is the same sum or upwards; or

'the decree or final order must involve directly or indirectly some claim or question to or respecting property of like amount or value';

and that sub-clauses (a) and (b) be relettered (b) and (c), respectively."

[*Raja of Dighapatia*; *Sir G. Fleetwood Wilson*; *Mr. Mazharul Haque*.] [22ND SEPTEMBER 1911.]

The Hon'ble THE RAJA OF DIGHPATIA: "My Lord, I beg to second the amendment so ably moved by my Hon'ble friend the Maharaja Bahadur of Burdwan; and in doing so beg to say that though I have not studied the Calcutta Improvement Scheme so closely as my Hon'ble friend has, it strikes me that great injustice would be done to the Calcutta land-owners if the right of appealing to the High Court on the grounds of fact and law were withheld from them—a right which every Indian subject of His Majesty has in almost every important matter. It would be hard to conceive, my Lord, that so sympathetic a Government as Your Lordship's would deny the privilege to the land-owners of Calcutta, especially when in other land acquisition cases outside the limits of Calcutta there is an appeal to the High Court on the grounds of both law and fact. My Lord, it is a well known fact that the people of India look upon the right of appealing to the High Courts as something like the great Magna Charta; rightly or wrongly, they are never satisfied unless they have the decision of the Highest Court in the land. I have nothing to say against the tribunal, except that its constitution has been such that at times it cannot but have a leaning towards the Government side"—

The Hon'ble SIR G. FLEETWOOD WILSON: "My Lord, I rise to a point of order. This is the second occasion on which a reflection has been cast on the High Court of Calcutta. I do not know any legislative assembly in the world where it is permissible to reflect on a High Court in a Legislative Council."

The Hon'ble THE RAJA OF DIGHPATIA: "May I explain myself. Nothing was farther from my mind than to cast a reflection on the Calcutta High Court. I meant the tribunal of the Calcutta Corporation under the Improvement Scheme. I did not mean anything against the High Court."

"This right of appealing to the High Court would be the only safeguard in such cases. If, my Lord, this amendment has the misfortune to meet with the same fate as others brought by other non-official Members, I fear the impression may gain ground in the minds of the people that even the central Government cannot depend on the Judges of the High Court in matters like this. With these remarks, I beg to support the amendment moved by my Hon'ble friend."

The Hon'ble MR. MAZHARUL HAQUE: "My Lord, it is with pleasure that I rise to support the amendment of my friend the Hon'ble Maharaja Bahadur of Burdwan. My Lord, I have taken the trouble to compare the provisions of the present Bill together with the provisions of the City of Bombay Improvement Act, and I admit that the present Bill is a great improvement on that Act indeed; because I find in section 43, clause (11), of the City of Bombay Improvement Act, that an appeal is allowed only on the certificate of the Judge, while here I find, Sir, that in clause 2 certain appeals on points of law are allowed which may not have the certificate of the Judge. But the amendment, if it is accepted by the Government, will be a great improvement on the present Bill. There is not the slightest doubt, my Lord, that the people have great confidence in the High Court—in all the High Courts of India. The tribunal which has been constituted to try these cases under the Calcutta Improvement Act will not have that confidence, decidedly, as the Calcutta High Court will have. Large amounts are at stake, and therefore I think it is only right and proper that appeals should be allowed on facts; and I think it ought to appeal especially to the legal experience of my Hon'ble friend Mr. Syed Ali Imam. I think he ought to be the last man, having had that large experience at the bar that he has had, to oppose this amendment. We all know that sometimes—I do not say, my Lord, often—undoubtedly some injustice has been done in cases in the lower Courts which have been set right by the High Court. My Lord, I cannot help thinking that the Hon'ble Sir Guy Fleetwood Wilson misunderstood the remark of my Hon'ble friend the Raja of Dighapatia; for it is inconceivable that an Indian would get up in this Council, or anywhere in India, to throw any reflection upon the High Court."

The Hon'ble SIR G. FLEETWOOD WILSON: "I would remind my Hon'ble friend that the remark made was to the effect that in consequence of the result of certain political trials and various other trials of that character, the Court did not enjoy the confidence which it otherwise might do."

[*Raja of Dighapatia ; Mr. Mazharul Haque ; [22ND SEPTEMBER 1911.]*
Mr. Shamsul Huda ; Mr. Syed Ali Imam.]

The Hon'ble the RAJA OF DIGHAPATIA : " I never said that ; quite the contrary."

The Hon'ble MR. MAZHARUL HAQUE : " You cannot imagine an Indian getting up and speaking against the High Court, because they have got perfect confidence in all the High Courts. As a matter of fact, that is the place where we may get final justice in India.

" Now, my Lord, there is a provision in this Bill that there will be an appeal, but only when a certificate is given by the Judge. Now, I believe it is against human nature for a Judge who has passed an order to give a certificate against his own order for an appeal. In cases, I believe, where the Judge will differ from both the assessors, he will readily give a certificate ; but it is difficult to believe in a case where one assessor is on his side that he will give that certificate. So, to counteract that frailty of human nature, I would say that this amendment should be accepted by the Hon'ble Member in charge of this Bill."

The Hon'ble MR. SHAMSUL HUDA : " May it please Your Excellency, as one residing in the town of Calcutta, and to a certain extent acquainted with the feeling of that town, I feel bound to support the amendment that has been moved by my Hon'ble friend the Maharaja of Burdwan. My Lord, although I confess I find some difficulty in fitting the amendment into the Bill, and for that purpose it may probably be necessary to make some verbal alterations, I am strongly in support of the principle underlying the amendment. My Lord, in substance the amendment simply amounts to this, that in cases where the value of the subject-matter is Rs. 10,000 or upwards, the necessity for a certificate should be dispensed with. That seems to be the whole difference between the Bill as it stands and the amendment that has been moved by my Hon'ble friend. Now, my Lord, I submit that a certificate should not be made an absolute necessity in cases where the amount at stake is large. My Lord, it is a just expression that all human beings are fallible ; and although we believe in that so far as our neighbours are concerned, nothing is more difficult than to impress upon an individual his own fallibility ; and I believe the tribunal, once it has made up its mind as to the justice of a case, would be likely to say, ' We have done our best, and there is no reason why you should have any further appeal.' And, further, my Lord, what is the good, when the Bill is limited to questions of law only, what is the good of authorising the tribunal to give a certificate of appeal ? We know the High Court is quite as competent to decide whether an appeal should or should not be allowed as the tribunal. There is a provision in the Code of Civil Procedure which enables the High Court summarily to reject appeals in which there are no questions of law involved. We in this country, my Lord, have been accustomed to an appeal on facts in every case of importance, in almost all cases where the value is upwards of Rs. 50, excepting cases tried by the Small Cause Courts with special jurisdiction. This, I submit, is an innovation, and therefore I support the Hon'ble the Maharaja of Burdwan in the amendment, the effect of which would be to give a right of appeal, independently of a certificate, in cases of a certain value. No doubt the tribunal will consist of a Judge and two assessors. When one of the assessors differs from the Judge, then the decision will be by a majority of one only. Is it not fair that a person in this case should be allowed to go up to the High Court ? All I can say, my Lord, is that what can be done directly should not be done indirectly. Therefore, what I submit is this, that the Court below should not be saddled with the duty of granting this certificate, and it should be dispensed with where the amount involved is large."

The Hon'ble MR. SYED ALI IMAM : My Lord, I have listened to the speeches made in support of the amendment with attention, and feel convinced that the Hon'ble Members who have spoken in support of it are actuated by a genuine desire to improve upon the provisions of the Bill that is before the Council. Nevertheless, I find myself unable to accept the amendment, as I

[22ND SEPTEMBER 1911.]

[Mr. Syed Ali Imam.]

venture to submit that it has its birth in a vague want of confidence in the tribunal provided for by the Bengal Act. It has also its inception, I believe, in an inconsiderate desire to permit the carrying of litigation to the highest Court of appeal, irrespective either of the special needs of the case or of public policy. As to the tribunal in question, a glance at section 72 of the Act will show that it has to be formed and constituted in a manner to combine high legal training and judicial experience, with strong and sturdy common sense, capable not only of appreciating and weighing the evidence of facts, but having an intimate acquaintance with local conditions. The section provides that the president of the tribunal shall be a judicial officer of not less than ten years' standing, with at least three years' service as District Judge, or an officer not inferior to a Subordinate Judge. It also provides that he may be a barrister, an advocate or a pleader of not less than ten years' standing, having practised as such in the Calcutta High Court. These provisions, it can hardly be denied, secure a considerable degree of judicial efficiency and an intimate knowledge of law. But the section, my Lord, does not rest there. The constitution of the tribunal is further strengthened by the addition of two assessors who, with the president, will form the Court. A further safeguard is ensured, in that one of the assessors will be appointed by the Corporation of Calcutta and the other by the Local Government. It will, I feel sure, be conceded by the Hon'ble Members opposite that such a Court as this is highly qualified to arrive at correct findings of fact in the trial of a case before it. If three capable and competent judges of facts, associated together to find out the truth, cannot inspire confidence in a litigant, one is to assume that he is influenced not so much by the desire to get justice as by the love of litigation for its own sake. Those that have been in the legal profession—and I find to my great satisfaction that at least two of the speakers in this Council at present are ornaments of that profession—have not been denied the experience of coming across instances where people have embarked on litigation as an agreeable pastime, or even in some instances as a huge amusement. To such as these the amendment proposed by the Hon'ble the Maharaja of Burdwan will open the door to ineffable happiness. In this connection, my Lord, I beg permission to point out that the Hon'ble the Maharaja of Burdwan has somewhat laboured either under a misapprehension, or has not made it quite clear to the Council that he has quite appreciated the provisions regarding appeal from the tribunal. The Hon'ble the Maharaja has said that the tribunal will be one in which the president shall be a Judge or a barrister of the necessary qualifications mentioned in the Bill, and from that a comparison has been attempted to establish between the effectiveness and efficiency of a tribunal of that character with the efficiency of the High Court. I would most respectfully draw the Hon'ble Member's attention to the fact that the comparison is one in which I fail to find any common ground, for the reason that Their Lordships in the High Court do not sit together in the trial of cases with assessors. Their Lordships hold so distinctly a different position, a position constitutionally different from this tribunal, that it seems to be somewhat out of place to say that the appeal will be only from an order of the president. Where there is an appeal from an order of the president, a clear and an open appeal on facts is given under the Bill to the High Court; and therefore I may ask the Hon'ble the Maharaja of Burdwan to permit me to point out to him that so far as the inexperience of a Judge of ten years' standing, having put in three years as a District Judge, goes, the Maharaja of Burdwan can have no grievance, and the feeling in Calcutta, however strong, should not disturb his equanimity, inasmuch as the Bill I have the honour to place before the Council clearly states that from an order of the president alone there will be a full and complete appeal before the High Court on facts. Therefore, I submit that any reflection upon the inefficiency of a Judge of that standing is not at all one that can come into play in the arguments before the Council. Then comes another consideration. What is the part of the Bill that deals with other appeals? The part is exactly that where this Judge will be supported in his decision at any rate by no less than two assessors, one of whom will be a nominee of the Corporation of Calcutta. I do submit before the Council that this part of the Bill is sufficiently liberal. Questions of fact are to be

[Mr. Syed Ali Imam.]

[22ND SEPTEMBER 1911.]

decided with the help of such as are in touch with the daily life of the people, in this instance, the Calcutta public. If two of them are there to assist the president, who himself has considerable judicial training, whether he be a barrister, or a pleader, or a Judge of ten years' standing, I submit it is want of appreciation of the generous spirit that prevails over the conception of the Bill before the Council, if there be want of confidence in such a tribunal. Now, I have pointed out that to a certain class of people, no doubt, if the door of appeal to the High Court is opened wide, it will be a source of great happiness. But I look to the acknowledged patriotism of the Hon'ble the Maharaja of Burdwan, the mover of the amendment, and the place that the seconder has in the public life of India, to permit me to say that it is our duty not only to provide all reasonable means of obtaining justice, but also to protect society from being drawn into the meshes of wasteful litigation.

"The Bill has therefore provided for appeal to the High Court in such cases as fall under clause (b) of section 3 on points of law, or of usage having the force of law, or of substantial error or defect in procedure. On the other hand, it allows appeal on facts in all such cases as have been decided by the president sitting alone in pursuance of clause (b) of section 77 of the Bengal Act. I submit these provisions are ample to satisfy the legitimate wants of sober litigation. In support of this view, I cannot do better than quote the eminent authority of the Calcutta High Court itself. The opinions of Their Lordships of that Court is entitled to the greatest respect. I venture to think the Hon'ble the Maharajahdiraja Bahadur of Burdwan and the Hon'ble Mr. Mazharul Haque will find food for reflection in the letter of the Registrar of the High Court of Calcutta to the Government of Bengal, dated the 23rd February 1911. With Your Excellency's permission I will quote from that letter such paragraphs as bear upon this question of appeals. Says the Registrar:—

'In reply, I am to say that the Chief Justice and the Judges are of opinion that if the tribunal is composed of specially qualified persons, as they assume it will be, an unrestricted right of appeal to the High Court ought not to be allowed against its decisions. The provisions of the Bill, however, seem to them to require two important modifications.

'In the first place, in cases in which a certificate has been refused by the president under clause 67 (4), power ought, in the opinion of the Chief Justice and the Judges, to be reserved to the High Court to grant special leave to appeal. If there is any apprehension that in every case in which a certificate has been refused by the president, an attempt will be made to obtain special leave from this Court, a restriction may be put that special leave may be granted only in cases in which the value of the subject-matter in dispute exceeds a prescribed limit, say Rs. 5,000.

'In the second place, the Chief Justice and the Judges are of opinion that the appeal to the High Court, whether upon a certificate granted by the president or upon leave of this Court specially obtained, should not be an absolutely open appeal. They recommend that the appeal should be limited to the grounds mentioned in section 100 of the Civil Procedure Code of 1908.'

"That is the letter of the Registrar of the High Court of Calcutta. It will be observed that the Bill before the Council has faithfully followed the advice of Their Lordships, than whom a more stalwart protector of the privileges of an honest litigant does not exist. It seems to me that I shall be taking the time of the Council unnecessarily if I were to enlarge upon the soundness of the view that Their Lordships took regarding the provisions affecting appeals in a legislation of so special a character as was necessary for the success of the Calcutta Improvement Trust Scheme. I am sure this Council will not lend itself to any proposal which may obstruct and unduly protract the working out of such a beneficent measure. And yet that is exactly what will happen on the success of the amendment proposed. The High Court of Calcutta will be flooded with appeals which, if heard on facts, must either accumulate in enormous arrears or dislocate the ordinary functions of that Court. As it is, the strain on the Calcutta High Court has reached almost the breaking point. To-day there are 8,000 civil appeals in arrears. Considering the constitution of the tribunal and the safeguards provided against a miscarriage of justice in the Bill, it would be unreasonable and inconsistent with public interest to impose

[22ND SEPTEMBER 1911.]

[Mr. Syed Ali Imam.]

upon an unwilling High Court the burden which the amendment proposed will inevitably cast upon it. My Lord, I am unable to give my consent to the supersession of the view of the Calcutta High Court by that of the Hon'ble the mover and the seconder of this amendment. The Bill has been conceived in a generous and liberal spirit. Were the Government disposed to restrict the right to appeal, precedent was not wanting. Section 45, clause (2), of the Bombay Improvement Act, which has been referred to by the Hon'ble Mr. Haque, shuts out all appeals, save and except under a certificate granted by the president at his discretion.

" I have only just to make one or two observations, my Lord, in connection with some of the remarks which fell from Hon'ble Members opposite. The Hon'ble Mr. Mazharul Haque has been pleased to refer to the work that is done by Courts subordinate to the High Courts. To have all the cases in India, however small or however big, tried by the High Court is a counsel of perfection; but, my Lord, we have not only to consider the efficiency of a particular tribunal,—and no doubt so far as the High Court is concerned we are all united in our respect and reverence for the high efficiency of the Calcutta High Court,—but it seems to me that if we have got all this reverence for the High Court which it fully deserves, we should be perhaps doing an injustice to the hundreds and thousands of patient hard-working judicial officers in the country, some of whom at any rate from the sphere in which they are working rise one day to sit in that very High Court. I want to place before the Council my testimony, however small it may be, that, taken all in all, saving of course exceptional cases, the judiciary subordinate to the High Court in Bengal, of which I have got considerable experience, is certainly one which is deserving of every encouragement and not such discouragement as may follow from some of the remarks that have fallen from the Hon'ble the Maharajadhiraja Bahadur of Burdwan and my Hon'ble friend Mr. Mazharul Haque.

" Then, my Lord, I find some of the Hon'ble Members have gone and appealed to human nature. The Hon'ble Mr. Shamsul Huda, who himself adorns one of the most lucrative branches of the profession in the Calcutta High Court, has put forward the argument that human nature is human nature, and as long as that human nature exists, it is hopeless to expect anything but an expression of misguided and misconducted exercise of discretion. I join issue with my Hon'ble friend there. I submit that the president of the tribunal, if he is a vakil of the High Court, I have not the least doubt that my Hon'ble friend on the other side will concede him some independence and some power of ignoring human nature. If he happens to be a barrister, I have equally great faith that he will be able to exercise his judgment carefully; so also in the case of an advocate. Well, all these belong to the profession to which I have the honour to belong myself. But, my Lord, if I am so full of praise for the profession to which I am proud to belong, I cannot shut my eyes to those who also in this country have added lustre to the administration of justice. These judicial officers in themselves, my Lord, are pillars of administration, and it is not meet for us for one moment to hold that they are less independent, less able to ignore their own idiosyncracies than men in the profession. But, my Lord, I find that this question of certificate is not a new one that has been started in this Council. I will not quote the Bombay Improvement Act. I find even appeals to the Privy Council are subject to the same conditions. The High Court is asked to give permission in case of appeal to the Privy Council. And is it not a sound principle? Are not higher tribunals to be protected against waste of time? And should not we, who have trust in our Courts, also have faith in this, that they will decide this question from the point of view of independence and with a degree of personal detachment which has always distinguished them.

" My Lord, I regret to say that I am absolutely unable to accept the amendment which the Hon'ble the Maharajadhiraja Bahadur of Burdwan has moved before this Council, and I ask that the Council be pleased to refuse to give its sanction to the same."

[*The Maharajahdhiraja of Burdwan ; Mr. Syed Ali Imam ; Mr. Jenkins.*] [22ND SEPTEMBER 1911.]

The Hon'ble THE MAHARAJADHIRAJA BAHADUR OF BURDWAN: "My Lord, not being a lawyer, and not knowing that ineffable happiness that of course the Hon'ble the Law Member must have himself known before he came here, I cannot possibly go into that plea with him.

"My Lord, the Hon'ble the Law Member has been pleased to say that I have said that the president of this tribunal will be inefficient to cope with the work entrusted to him. I have mentioned in connection with the appeals to the High Court what the general public opinion is—why they prefer an appeal—an unrestricted appeal—to the High Court; though my amendment is certainly not an unrestricted appeal, and in that sense I have not gone against the advice given by the Calcutta High Court to the Government. What I have suggested is that appeals involving Rs. 10,000 and more, in cases of such appeals, direct appeal may be allowed.

"My Lord, of course I quite understand what the fate of this amendment is to be; but before I press it, which I am in duty bound to do, I should like to offer a word of explanation to the Hon'ble Sir Guy Fleetwood Wilson, for whom I have the greatest respect, if he thought that in my speech I in any way reflected on the Calcutta High Court. What I meant to say is this, when these political trials fell through, the Calcutta High Court did the best turn it could to the Government and the country by pointing out that these trials could not be decided otherwise than in the way they decided them, because the evidence was insufficient. I meant that it was the Calcutta High Court which does justice in cases where injustice has been done in the lower Court—it was the Calcutta High Court that pointed out this—and I was really paying a compliment to the Calcutta High Court and not in any way making any disparaging remark about the highest tribunal in the land.

"With these few remarks I beg to press my amendment."

The amendment was put and rejected.

The Hon'ble MR. SYED ALI IMAM moved that the Bill be passed.

The motion was put and agreed to.

COWASJEE JEHANGIR BARONETCY BILL.

The Hon'ble MR. SYED ALI IMAM moved that the Cowasjee Jehangir Baronetcy Bill be taken into consideration.

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.

DELEGATION OF POWERS BILL.

The Hon'ble MR. JENKINS: "My Lord, I move for leave to introduce a Bill to provide for the delegation of executive powers and duties in certain cases. This Bill is based upon the recommendations of the Royal Commission on Decentralization which will be found in Chapter IX of their Report to which I would invite the attention of Hon'ble Members. I do not propose to enter into any lengthy discussion of the causes which have rendered such a measure necessary. In the happy days which have gone never to return, when the administration was of a simple and in some localities even of a primitive character, when Government officers, although sometimes engaged in weighty affairs of State, enjoyed ample leisure which some of them turned to noble and enduring purpose, the legislature, such as it then was, had a light-hearted way of fixing all legal power in the highest possible authority. For many years no

[22ND SEPTEMBER 1911.]

[Mr. Jenkins.]

harm was done, because the laws were few and a great part of the administration was conducted without the aid of any written law at all. But the practice was carried on too long, indeed until within quite a recent date, and now that the administration has become more complex and that the Statute-book has increased very greatly in bulk, we find that the higher officers are unable to properly discharge the multifarious duties which are imposed upon them, while the lower officers are occupied as to a great part of their time in making reports to the higher officers upon matters which they might very well be allowed to settle themselves. Business even of trifling moment passes through many hands, and the work, or what is called work,—for much of it is about as profitable as the labour upon the old-fashioned jail treadmill,—is constantly increasing, and there are continual demands for increases of establishment both in the districts and in the Secretariats. The position now is this. We must either be prepared to spread the powers exercised under different enactments over a very much wider field or we must provide for a perpetually increasing cost in the administration. Now that we want every rupee that we can get for education, sanitation and promotion of the moral and material welfare of the people, I think the latter alternative may at once be rejected. My Lord, I will say no more upon this point because it is generally admitted that the evil exists. It is also generally admitted that some remedy must be found, and that quickly. The only doubt is as to the nature of the remedy which should be adopted. Two measures have been proposed. The first, which the Royal Commission called a general Decentralization Act; that is to say, an Act with schedules showing the amendments to be made in each enactment. The second, what they call a general Delegation Act, conferring upon the Government of India and the Local Governments power to delegate power from one authority to another. The Royal Commission declared in favour of a general Delegation Act for reasons which will be found stated in paragraphs 414-416 of their Report and which appear to me to be conclusive. I need not recapitulate the arguments which have been used in the Report as Hon'ble Members will be able to study them at their leisure. Great respect is due to the recommendations of a Royal Commission, especially to those of a Royal Commission constituted as this one was. Four of the members were distinguished members of the Indian Civil Service, of wide experience in many branches of the administration. The fifth was a selected member of the Colonial Civil Service. The Chairman was the Right Hon'ble Charles Hobhouse, whose antecedents and liberal principles furnish a sufficient guarantee that he would never lend the weight of his authority to any measure which would be unconstitutional or which might result in an undue extension of executive authority. There are, however, two points upon which I should like to say a few words. Since the Report of the Royal Commission was published, two experiments have been made, one in Bombay and one here in the Government of India, in the direction of preparing a general Decentralization Act, and in each case the result has been such as fully to confirm the opinion expressed by the Royal Commission regarding legislation of this kind. The task proved to be one of extraordinary difficulty owing to the multiplicity of the details and to the great variation in the conditions for which it was necessary to provide. If any Hon'ble Member has any doubt upon this point, I should very much like to shut him up for a few days in a room with hundreds of files upon this question, and I should be very much surprised if he did not emerge with a bad headache and a convert to our opinions. The second point is this; that even if it were possible to prepare a satisfactory Decentralization Act, it would not serve our requirements. We do not wish to delegate the same powers to the officers of the same classes in all localities, at all times and in all circumstances. Some powers may be so delegated to all officers of a certain class, but there are other powers which ought to be delegated only to selected officers, in certain localities, and in times of emergency such as famine or plague, when it is necessary temporarily to ease the strain on the administration. Now, if discretion is allowed under a Decentralization Act, the result would be that we should merely have a more clumsy Delegation Act. If no discretion of the kind were allowed, then the Act would not be sufficiently flexible for our purposes, and that I think is what the Royal Commission meant

[Mr. Jenkins.]

[22ND SEPTEMBER 1911.]

when they said in paragraph 414 of their Report, 'We consider that a general Delegation Act affords most convenient and elastic machinery for legislative decentralisation.' My Lord, I have not overlooked the fact that the late Mr. R. C. Dutt dissented from the recommendation of the Commission on this point. In any case, I should have held that the opinion of the majority of the Commission, backed by the full authority of the President, ought to have greater weight; but I also think it possible that if Mr. R. C. Dutt had been spared to witness the institution of these enlarged Councils, and to examine the provisions of the Bill as they now stand, he would have changed his opinion. For the Bill, as we now present it, is more restricted in scope in some material particulars than the measure which was proposed by the Royal Commission, and the safeguards which are provided against injudicious delegations are somewhat more elaborate. I will now proceed very briefly to explain the principal provisions of the Bill.

"Clause 2 of the Bill enables the Governor General in Council to delegate any power or duty to any authority subordinate to him, and clause 3 contains similar provisions *mutatis mutandis* with regard to Local Governments. Now these clauses are tolerably wide, and if they stood alone exception might justly be taken to them; but even in these clauses it will be observed that the power extends only to Indian enactments; that is to say, the Statutes which form the basis of the constitution of this country remain untouched; and the whole of the rest of the Bill is devoted to restricting the powers of delegation conferred by clauses 2 and 3, and to providing safeguards against their injudicious use. Under clause 3 it is provided that there shall be no power to delegate any powers or duties conferred or imposed by the Code of Criminal Procedure of 1898 or the Code of Civil Procedure, 1909, or by enactment relating to the constitution of Civil Courts for the time being in force. That is a provision of very great importance, and I think it will go a long way to meet the objections which have been urged in anticipation against the principle of the Bill. Under the same clause, sub-clause (b), the authority to sanction any action taken by a subordinate authority is also excluded. It may, at first sight, seem anomalous that while the delegation of a power or a duty is permitted, the delegation of the duty of sanctioning any act or order is not to be allowed; but there is really a very clear distinction between the two cases. In the case of a power exercised by one authority there is no reason, if an equally competent authority can be found, why the power should not be delegated to that authority; but when there is a sanctioning authority, the legislature clearly contemplates action by two authorities and not by one, and therefore it seemed proper to exclude the power to sanction from this Delegation Bill.

"Clause 5 excludes from the scope of the Bill all enactments which have not been in force for more than five years. That clause also contains the usual directions with regard to the publication of notifications, the receipt of objections, and so on; but the really important part of this clause will be found in sub-clauses (5), (6) and (7), which provide that no notification under the law shall become effective until copies have been sent to every Member of the Legislative Council and the Secretary of the Legislative Council has laid the papers upon the table, nor until three months have elapsed from the date of the notification and also a meeting of the Legislative Council has been held. Both those conditions must obtain. My Lord, I believe that this is the first occasion on which this method of procedure has been applied to Indian legislation although it is commonly in use in England. I believe that this method will prove in future to be extremely serviceable in the case of Bills of complexity in that it will enable the law to be adapted to varying conditions. My Lord, the provisions of the Bill, if passed into law with such amendments as may hereafter, upon further examination, appear expedient, will result in greater economy and efficiency of administration and will also tend very greatly to the convenience of the general public."

The motion was put and agreed to.

[22ND SEPTEMBER 1911.]

[Mr. Jenkins; Mr. Clark]

The Hon'ble Mr. JENKINS 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.

WHITE PHOSPHORUS MATCHES PROHIBITION BILL.

The Hon'ble Mr. CLARK: "My Lord, I introduce the Bill to prohibit the importation, manufacture and sale of matches made with white phosphorus, and I move that the Bill be circulated for the purpose of eliciting opinions thereon.

"This Bill, my Lord, is intended to carry out the liabilities and responsibilities which the Government of India have undertaken by adhering to the Berne International Convention of 1906, the object of which is to abolish the use of white phosphorus in the manufacture of matches. India has recently become a party to the Convention, and it is now necessary that she should prohibit the importation, manufacture and sale of matches made with white phosphorus.

"The manufacture of matches made with white phosphorus is, as is well known, attended with great risk to the operatives of contracting a very painful and dangerous disease known as necrosis, or in the vulgar tongue phossy jaw. The International Convention came into being in the hope of suppressing this disease, and it now counts among its adherents the greater number of the civilised nations of the world. In India the manufacture of matches is, comparatively speaking, in its infancy. There are only, so far as I know, in the whole of India some three or four factories of any importance. There is, thus, no immediate danger of the disease spreading to any serious extent in India. But, on the other hand, the fact that so few factories are concerned makes it a less serious matter to prohibit the use of white phosphorus in the manufacture of matches than if there were already a large industry with capital invested in plant which perhaps could not be adapted to other forms of manufacture. A case of necrosis has already been reported from one of the factories, and the Government of India, therefore, have had little hesitation in arriving at the conclusion that the time is fully come when the use of white phosphorus should be prohibited.

"The prohibition of manufacture carries with it naturally the prohibition of the importation of matches made with white phosphorus. Otherwise we should be exposing manufacturers in India, while they were prohibited from making any but the ordinary safety matches, to competition with matches which were made in this dangerous way. And in so doing, India, which has been a large market for these matches, will bear her part indirectly in suppressing in other countries an industry attended with such great dangers to the operatives. But, however excellent such a motive would be, Government would scarcely have been justified in taking this step in the interests of the working classes in other countries if it had been greatly to the detriment of the Indian consumer. It has been urged that in a damp climate such as prevails for a great part of the year in most parts of India, the ordinary safety match is of very little use and that the population cannot get on without the phosphorus-tipped strike-anywhere match, which is so familiar, especially among the poorer classes. This point was carefully considered by Government before they decided to accede to the Convention. The evidence that has been brought before them is all against the contention that the consumer will suffer. Time will be allowed for the change to be made gradually, and the expert information which Government have received indicates that non-phosphorus strike-anywhere matches, which will stand damp as well as the ordinary phosphorus matches, can now be manufactured at a cost of production so little higher as not likely to affect the consumer. For instance, among the countries which

[*Mr. Clark ; Mr. Armstrong.*] [22ND SEPTEMBER 1911.]

have joined the Convention and presumably can manage to do without phosphorus matches, are British Colonies such as Mauritius, the Seychellos, South and North Nigeria, and Fiji ; and the prohibition is also in force in the Dutch East Indies and in the French Colonies of New Caledonia, Madagascar and West Africa. In these countries conditions must be much the same as, or even worse than, in India. A striking instance nearer home is that no matches, other than safety matches, have been permitted in Burma since 1890, and Burma can boast an evil pre-eminence among the wet districts of India. The prohibition in that Province was based on entirely different grounds to those of the present legislation. It was found that the ingenious *dakait* utilised the heads of non-safety matches for the manufacture of percussion caps which he subsequently let off to the detriment of his fellow-countrymen and of the police. The question of removing the restriction was raised in 1906, and the then Secretary to the Government of Burma wrote, 'I am to submit that the exclusion from this Province of non-safety matches has caused no public inconvenience and has not been received by the public with any protest.' I think, my Lord, that the experience of Burma amply disposes of the theory that the Indian consumer cannot get on without white phosphorus matches.

"In framing the Bill, which *mutatis mutandis* follows the lines of the corresponding English Act of 1908, we have been careful to provide a sufficient interval before it comes into operation, adequately to safeguard existing rights. The prohibition of the use of white phosphorus in the manufacture of matches and of the importation of matches made with it does not come into force until the 1st January 1913, and section 6 of the Bill, which prohibits the sale, or possession for the purpose of sale, of any matches made with white phosphorus, is not to come into force until 1st January 1914. We are advised that this latter provision will give sufficient time for the disposal of existing stocks."

The Hon'ble Mr. ARMSTRONG : "My Lord, I desire to make a few observations on this Bill, not because I would in any way object to its introduction, but in the hope that my remarks will be considered by those in charge of the measure before it comes up for final disposal in Calcutta. Before dealing with the question, I would however express my acknowledgment to the Hon'ble Mr. Clark for postponing introduction until to-day. It was originally intended to introduce the Bill on the 11th, to consider the Report of the Select Committee on the 18th, and presumably to pass the measure to-day. But on representations from the Bengal, Bombay and Karachi Chambers of Commerce, who have all asked for time for consideration, the Hon'ble Member has kindly postponed the introduction, and this will give ample time for the measure to be considered before it comes up for final disposal later on. The Bill itself is of some commercial importance. But, as I shall show later, it will affect consumers in this country far more than it will affect the manufacturers of matches and the importers of them into India. The Bill only came to my hand about a fortnight ago, but rumours that it was to be introduced were current earlier in the year, and some enquiries had been made, but I feel not sufficient as yet to enable the question to be very fully dealt with. From the third line of the Statement of Objects and Reasons, which says that it has been decided that India shall be a party to the Berne International Convention of 1906, the object of which is to prohibit the use of yellow phosphorus matches, I rather feared that this Bill was not to be discussed on its merits. But now that the Hon'ble Member has given time for consideration, the views of the commercial community can of course be gathered, and I have no doubt the question will be decided eventually at the next meeting in Calcutta, with due regard to the best interests of the people of this country in the matter. I have a perfectly open mind on the question. I only desire that we should have full opportunities before we pass the measure, which I am told will cause considerable inconvenience to the agricultural and labouring classes in India whose numbers it is difficult to reckon. The Statement of Objects and Reasons refers to the Berne Convention, and I understand that the desire that India shall now become a party to this Convention is only following the example of other countries. But the conditions in this country are vastly different to those in Europe, and a question which

[22ND SEPTEMBER 1911.]

[Mr Armstrong.]

is perhaps of more importance is, have not the methods of manufacture developed in Europe, have not these methods vastly improved, since the signing of the Convention? From information supplied to me I understand that in the early eighties, when this question was first agitated, some matches were made by hand, and the disease of necrosis was very prevalent. After a year, or even before the signing of the Convention, conditions rapidly changed; and now, at any rate in Sweden and Norway, where these matches are principally made in Europe, the disease has been practically stamped out, and most up-to-date machinery, with perfect methods of ventilation, is used. I have received letters from the London representatives of groups of factories, in one of which it is said that under the perfect conditions under which sulphur matches are now made, all danger of necrosis may be considered as over, and in their works it is ten years since a case of necrosis occurred. In another the report is very similar. This danger of necrosis is said to be very remote in well-ventilated factories, and by care and the preventive steps taken, especially in Sweden, this disease has practically been stamped out. 'It is many years since we had a case of necrosis in our factories. In our factories we employ about 4,000 hands.' The letter goes on to say that in the United States of America similar legislation to that now proposed in India was suggested, but the measure was dropped when it was shown that the disease could be avoided by care in manufacture. Now the question I would ask is this: May not India benefit by the undoubtedly beneficial results of the Borne Convention if it can be shown that the people of this country really require this particular kind of match? It is not, and cannot be, contended that the use of this match does any harm to the consumers, and if the extracts I have quoted are typical of the present conditions in Europe we should not exclude such importations. It is said that one of the reasons for this legislation is that match manufacture is now beginning in India, and that it would be difficult to control it in the interests of the work-people. I am open to conviction as to this; but as we supervise and control other manufactures in this country, cannot we also control the manufacture of matches? They cannot be made and distributed in out-of-the-way places; and as we have heaps of factory inspectors, there ought to be no difficulty in formulating a scheme of control. Now, wherein lies the hardship of prohibition? The figures of importation for all India I have not got, for the official returns do not distinguish between the different kinds of matches. From 1st January to 31st December 1909 nearly 37,000 cases of sulphurs were imported into Bombay from Europe and Japan, against 39,500 packages of safeties. The 1910 figures are 36,400 sulphurs against 39,000 safeties, from which it is clear that the sulphurs are very largely used. The conditions of manufacture in Japan I regret I do not know anything about, but as the industry there is comparatively a new one, in all probability the most up-to-date machinery is used. In the peculiar climate of this country, which differs so very materially from that in those countries which became a party to this Convention, a match is required which does not go soft in the monsoon and will strike anywhere. The sulphur matches now imported fulfil these conditions, and it is because of this that they are so largely imported. They are, I believe, dearer than safeties, and it is not difficult to realise that to an agricultural labourer a match which strikes anywhere and will not deteriorate in the damp weather is the most valuable. I was told a few days ago by a Muhammadan, a man who knows a good deal of the conditions of life in this country, that when the labourers are leaving their villages in the morning, one of them will buy a box of sulphurs, will distribute the contents among his fellows, say half a dozen to each, and thereby the day's need in this respect is provided for. The only alternative is of course a box of safeties for each man, the striking surface of which goes soft and becomes useless in the monsoon, besides which the tips of the matches also go soft and come off. I do not wish to enlarge on this, as it is a matter of common experience. Safeties are used mainly by Europeans and by people who dwell in the towns. Sulphurs are used by the agricultural and labouring classes in the districts. It has not yet been shown that an equally good match can be produced. My information on the point is this, that while it may be possible to produce a strike-anywhere match which would contain no sulphur, it would

[Mr. Armstrong; Mr. Clark.] [22ND SEPTEMBER 1911.]

not be equal to the match now imported, and the price would probably be higher. An interesting point in connection with this question is that when the expedition for the relief of Khartoum was being sent down, the War Office decided that sulphur matches were the only suitable ones, and struck out safeties as being unsuitable. My Lord, I am not in any way antagonistic to this Bill, if good cause could be shown; but I think that close enquiries ought to be made as to the present conditions of manufacture before we deprive the people of this country of a very serviceable article in constant daily use, and it is in the hope that this may be done that I have ventured to address the Council on this matter."

The Hon'ble MR. CLARK: "My Lord, I think I ought to make a few observations on the very temperate and moderate speech which the Hon'ble Member has just delivered. I am aware, of course, that the conditions under which these matches are manufactured in Europe have very greatly improved, but the question is this. We are legislating for India and not for Europe; and we have to consider whether those conditions are applicable here and whether we are likely to get the improved methods of European factories in India. Hon'ble Members who know the conditions of this country better than I do will, I think, agree with me that it would be extremely difficult to get the Indian operative to take the necessary measures to avoid the danger of contamination. Whether, also, the factories here would be prepared to import elaborate automatic machinery is a further and doubtful question. If, as seems probable, strict regulation would prove in effect prohibitive, it would certainly be simpler and fairer directly to prohibit the use of white phosphorus. Also the experience in Europe is not so entirely favourable as the Hon'ble Member suggests. Other countries have tried regulation and found it fail. We began in England by regulating the manufacture in 1900, but we joined the Berne Convention in 1908. Austria, which held out for a long time and which is a great match-manufacturing country, has now passed a law prohibiting the use of white phosphorus in manufacture.

"The Hon'ble Member has referred to the United States of America as one of the countries in which prohibition has not been found necessary. My information on this point by no means agrees with his. I have here the report of the last General meeting of the Committee of the International Association for Labour Legislation held in September, 1910. It thus contains information fairly up-to-date. I will read a brief extract from the report:

'In the United States the prohibition of white phosphorus is expected in the near future, owing to the active initiative of the President of our American Section, Professor Farnam, and the Secretary, Dr. John B. Andrews. A joint investigation undertaken by the American Bureau of Labour and our American Section, covering 15 of the 16 American match factories, showed that where 15 cases of phosphorus necrosis were discovered by the Federal officials, the Secretary of the American Section found 80 cases by close investigations in the homes of the workers in 4 of these factories. The investigation showed that 65 per cent of the workers were exposed to phosphorus fumes; that 95 per cent were women and 83 per cent young persons under 16. The total number of workers in the 15 factories amounted to 3,591 persons, 2,024 of which were men, 1,253 adult women, 121 boys and 193 girls under 16. The inadequacy of the washing accommodation, ventilation, etc., was also revealed by the inquiry.'

"That cannot be described as a very encouraging result.

"The Hon'ble Member also considers that the consumer will suffer by the prohibition of these matches. As to that I have already informed Council of the countries where prohibition has already been effected and where the climatic conditions must be at least as bad as in India. I have cited the case of the West African Colonies, probably, as wet a country as any in the world, and the case of Burma, where all matches, except safety matches, have been prohibited for the last 20 years. I submit therefore that there is no strong case for supposing that the consumer will suffer. And in connection with consumption there is another point which deserves mention. The Hon'ble Member says that there can be no objection to permitting the use of these matches. I think that is a very debatable point. The matches contain a dangerous explosive (that was the reason for their prohibition in Burma). They also contain a dangerous poison, and their use brings the poison within reach of the poorest.

[22ND SEPTEMBER 1911.]

[Mr. Clark.]

“ On this point too the example of other countries is of interest. Australia, where matches made with white phosphorus are not manufactured at all, has prohibited their importation. Even a more striking instance is that of Sweden. Sweden is, I suppose, one of the largest match-making countries in the world. The manufacture of matches with white phosphorus is permitted there, but it is only permitted on condition that the matches are exported. The Swedish Government do not allow their circulation in their own country.”

The motion was put and agreed to.

CENTRAL PROVINCES EXCISE BILL.

The Hon'ble MR. CLARK : “ My Lord, I ask for leave to introduce a Bill to consolidate and amend the Excise law in the Central Provinces. The scope of this measure and the necessity for it is explained in the Statement of Objects and Reasons appended to the Bill. As stated therein, the existing Excise law of the Province (Act XII of 1896) has been found defective in various respects and too inelastic and restrictive for the efficient carrying out of Excise administration under present conditions. The new Bill has been drawn so as to provide for this, and also for the natural development of the administration in the future, and to obviate, as far as possible, the necessity for further legislation as that development takes place.”

The motion was put and agreed to.

The Hon'ble MR. CLARK 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 Central Provinces Gazette in English and in such other languages as the Local Administration thinks fit.

The motion was put and agreed to.

LIFE ASSURANCE COMPANIES BILL.

The Hon'ble MR. CLARK moved for leave to introduce a Bill to provide for the regulation of Life Assurance Companies. He said : “ My Lord, the object of this Bill is to provide for the better control of Life Insurance Companies in this country. Hitherto these companies have been under the ordinary Companies law as commercial companies. That has not proved a very satisfactory arrangement. I propose shortly also to ask leave to introduce a Bill for the better control of Provident Insurance Societies, that is to say, societies, not being Life Assurance Companies proper, which undertake insurance of births, marriages and deaths. By the joint operation of these two measures, we hope to establish an efficient control over the insurance business which falls within the general scope of life insurance in India.

“ The question was originally brought to the notice of the Government of India through scandals which arose in connection with some mushroom Companies and Societies which broke down and through which a great many people lost their money. There has been some criticism of the Government over the delay in bringing forward this measure. I think people who levelled this criticism have not entirely appreciated the difficulties of legislating on so complicated a subject in a country like India. You are not here, as in the United Kingdom, legislating for a small area and a homogeneous population : imperial legislation in India covers a vast area, where the conditions are widely divergent, and it is very important, before framing legislation, to ascertain exactly what those conditions are in all parts of the country alike. We have had to consult the Local Governments—which takes time—and they in their turn have had to consult commercial bodies, which sometimes takes even longer. The Bills have been framed after study of the reports which we received, and they have been sent to the Secretary of State in order to get the benefit of

[Mr. Clark.]

[22ND SEPTEMBER 1911.]

the much longer experience which they have had in England in regard to legislation dealing with life assurance. I think anything like hasty or ill-thought-out legislation would be exceedingly dangerous in a matter of this kind. It would almost certainly be inefficient, and very likely disastrous. The Government here has a double duty. First and foremost it has to protect the poorer classes, who are the chief clients of the Insurance Companies. But it has also to ensure that, in penalising the bad companies, it does not hamper the operations of the good. To do that would be to penalise thrift: and I submit that Government have done wisely in taking time to study this subject, which is full of so many complications and pitfalls. Two alternatives lay before Government—either legislation involving a considerable measure of State control as in certain Continental countries, or legislation as in the United Kingdom, which is based on the principle of a minimum of State control and a maximum of publicity. We have unhesitatingly followed the latter model. The public in India, however, are less instructed in such matters than the corresponding clientèle of Insurance Companies at home, and it seemed desirable that in one or two particulars Government should take a larger measure of control than is the case in England. Consequently powers are sought under the Bill for the Governor General in Council to take the initiative in applying to the Court to order the winding up of a Company which appears to be insolvent and also to appoint Inspectors to examine into the affairs of any Life Insurance Companies, in cases where explanations have been demanded of defects in the deposited accounts or other papers, and where such explanations have not been forthcoming or have proved to be unsatisfactory. But the safeguard to which we principally trust is publicity. Provision is made in the Bill for the preparation of proper accounts and balance-sheets and for periodical valuations by an actuary. All these documents are to be deposited with the Governor General in Council, and all share or policy holders are to have rights to copies. Every Company is also required before commencing business to make a deposit of Rs. 1 lakh. This, of course, is not a very large sum, but from the information before us it seems likely to afford a sufficient deterrent to the fraudulent Company, while on the other hand it will not be large enough unduly to penalise the smaller Companies of good standing of which there are a considerable number in India. The Bill also provides, in the case of a Life Insurance Company doing other business besides that of life assurance, for the complete separation of the life assurance fund and its appropriation as security for the life policy holders.

"There is one other provision of the Bill to which I should perhaps refer, as at first sight it may seem open to some criticism. We have decided to exempt from the provision of the Bill as to the initial deposit, and from the requirements as to accounts, etc., Life Assurance Companies doing business in India which are carrying on business in the United Kingdom under the English Act of 1909. The reasons for this exemption are, I submit, clear and sufficient. Such Companies have deposited in the United Kingdom a sum of £20,000, or about three times as much as the deposit we propose to ask for here. Their business, including their Indian business, is subjected, in the United Kingdom, to the same scrutiny as we propose to require of Indian Companies proper, and they have to submit accounts, etc., in forms practically identical with those prescribed in our Bill. Copies of these returns will have to be forwarded to the authorities in India by any Company which is to qualify for the exemption. To require that they should also make a deposit in India and should comply separately with the requirements of the Indian Bill, would have been superfluous and even unjustifiably vexatious.

"I do not think, my Lord, that at this stage I need say more on the subject of this proposed legislation. The Bill when introduced will be made public and circulated in the ordinary manner, and we have every hope that, together with the Provident Insurance Societies Bill, it will be passed into law during the Calcutta session of Council."

[22ND SEPTEMBER 1911.] [Mr. Armstrong ; Mr. Mudholkar ; Mr. Clark.]

The Hon'ble Mr. ARMSTRONG : " My Lord, I am very glad to see the introduction of this Bill. The question I know has been a very troublesome one, but I think the measure is very necessary to the best interests of assurers in this country. I think, however, that the Bill might be strengthened in some particulars. For instance, I think it would be very advisable that a certain percentage of the life assurance fund should be invested in trust securities, and also that where a company carries on other business, the life assurance funds should be separately invested. I am unable on this occasion to deal with the other points in the Bill, but I hope that the two suggestions I have made will be considered before the matter comes up for final disposal."

The Hon'ble Mr. MUDHOLKAR : " My Lord, I have been connected with the industrial movement in India for some time and with the Industrial Conference and the question of Insurance Companies. The present law in regard to Insurance Companies and the serious evils which exist in regard to these and several of these Provident Societies was considered in an informal manner by several persons taking an interest in the industrial progress of the country. What the Hon'ble Mover of the Bill has characterised as mushroom Companies is literally true in regard to very many of these concerns, and it is an undoubted fact that several persons of small means have come to grief over those concerns, and it is a matter of great satisfaction that this question is about to be dealt with by the legislature. But it is not only those small mushroom Companies which have produced evils. In regard to certain Companies which have large names and probably large means also, there have arisen cases—and one was very recently brought to my notice—of hardship suffered by persons who got their lives or property insured. There are Companies which are not registered in India, which are registered outside India and carry on business here, and it has been found in the case of some of these Companies that it was very difficult to obtain in the case of an insured life, or in the case of other assurance, the amount for which the life or the property was insured. The Company had no property in India ; they had only agents or a so-called office, and beyond a few tables and chairs there was nothing whatsoever that a person who had a claim upon them and had obtained a decree in regard to that could obtain satisfaction, and he was practically told so.

" My Lord, whether the safeguards which the Bill, I understand, proposes to enact in this matter will be adequate or some better safeguards will have to be thought about is a matter which will be considered hereafter. But it is a matter for congratulation that the Government do wish to take action in the matter and that the serious evils which have been felt by several persons are about to be dealt with. I hope that the suggestions which will be made in regard to this by persons of the various communities will be considered very sympathetically by the Member in charge of the Bill."

The Hon'ble Mr. CLARK : " My Lord, I do not know whether the Companies to which the Hon'ble Mr. Mudholkar alludes are English Companies or whether they are other Companies doing business in England. The exemption which we propose in regard to accounts and the deposit of 1 lakh, and so on, applies only to Companies operating in England under the Act of 1909 which can prove that they are doing so to the satisfaction of the Governor General in Council. The operations of these Companies are very closely watched in England, and I should have hardly expected that they could be concerned in any business of the kind he describes. However, I have no doubt he will be glad to give us particulars of the cases he has in mind.

" As to what the Hon'ble Mr. Armstrong says, we shall of course be very glad to consider the points he mentions when the Bill comes up for consideration."

The motion was put and agreed to.

The Hon'ble Mr. CLARK 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.

[Mr. Clark ; Sir G. Fleetwood Wilson.]

[22ND SEPTEMBER 1911.]

PROVIDENT INSURANCE SOCIETIES BILL.

The Hon'ble MR. CLARK moved for leave to introduce a Bill to provide for the regulation of Provident Insurance Societies. He said: "My Lord, as I have already dealt with the principles underlying our proposed legislation in respect of life insurance generally, I need not say much in regard to this Bill. I ought, however, to explain that the Bill does not profess to be a general measure dealing with Friendly Societies. Friendly Societies on the lines of those which have been so successful in England do not, so far as I am aware, exist in India, though we may well hope that in time a growing movement towards thrift will bring them into existence in this country. The present Bill therefore has not nearly so wide a scope as the English Friendly Societies Act.

"A large proportion of the Societies in India are of the type known as 'dividing societies'. Such Societies are not strictly subject to actuarial criticism and there is strong reason for thinking that the great majority of them are working on an unsound basis. In many cases their tendency, as at present conducted, is to spend excessive sums in management; and the promoters are apt to disappear or evade their obligations after a certain number of years' working, when the claims upon the Company have increased out of proportion to the growth in their revenue. It is unsound Societies of this type which we have especially in view in the present legislation.

"As in the Life Insurance Bill, the main principle of this measure is to secure the maximum of publicity. But here again, and for similar reasons, we have gone further in the direction of State control than in the English legislation regulating Friendly Societies. In the United Kingdom registration is optional; but we propose to make it compulsory on all Provident Insurance Societies in India to register themselves and to supply copies of their rules to the Registrar. Power will also be given to the Registrar in cases where he is of opinion that there is ground for enquiry, either into the solvency of a Society or as to whether its business is being conducted fraudulently, or not in accordance with the rules, to direct an enquiry to be held by an actuary; and, if the report is unsatisfactory, he will have power to direct the dissolution of the Society. I recognise that this provision imposes a considerable measure of responsibility on the Registrar, but I greatly doubt whether in India the interests of the members of these Societies could be adequately safeguarded without giving some such powers to a Government officer.

"Another important provision of the Bill prohibits the receipt by Insurance Societies of premiums for insuring against the death of any person other than the actual payer of the premium, or of a near relative such as children, brothers and sisters, etc. Such insurances are pure gambling which in the United Kingdom is rendered illegal under the Gambling Act of 1774. There is nothing whatever to be said in favour of them and it is a form of business which often has a very sinister side.

"The other provisions of the Bill deal with the requirements as to accounts and balance-sheets necessary in order to secure that measure of publicity which we trust will prove the best safeguard of the policy-holders."

The motion was put and agreed to.

The Hon'ble MR. CLARK introduced the Bill and moved that the Bill, 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.

INDIAN STAMP (AMENDMENT) BILL.

The Hon'ble SIR G. FLEETWOOD WILSON: "My Lord, I move for leave to introduce a Bill further to amend the Indian Stamp Act, 1899. The Bill was amended in 1910, and one of the objects of that amendment was

[22ND SEPTEMBER 1911.]

[Sir G. Fleetwood Wilson; the President.]

to considerably enhance the stamp-duty on bills of exchange and promissory notes exceeding in amount Rs. 1,000. It also increased the rate on bills between Rs. 600 and Rs. 1,000 but to a less extent. It contained a concession in regard to bills of Rs. 600 and under. The old rate was allowed to remain and the new rate did not apply. The result of this concession is as unexpected as it is unsatisfactory. Advantage has been taken of it to break up large bills into a number of small bills so as to evade the full duty on a large figure bill. I may mention that great inconvenience has been caused to banks and firms and that the Presidency Banks and the Chambers of Commerce who have been consulted are in favour of withdrawing the concession, and the object of this amendment is to do so. The present Bill therefore proposes to raise the old duty on bills of exchange for amounts not exceeding Rs. 1,000 in roughly the same ratio as the enhancement which was effected in 1910 on bills which exceeded the amount of Rs. 1,000.

"The principle of this amending Bill has met with the approval, as I have said, of the Presidency Banks and all but one of the Chambers of Commerce, and I do not think I need elaborate the advantages of it any further."

The Hon'ble Mr. ARMSTRONG: "My Lord, I am also very glad to see the introduction of this Bill, and I hope it will be passed without any hesitation. During the past eighteen months a very great deal of additional work has been thrown on those who handle such small bills, the fullest advantage having been taken of the reduced duty on small amounts."

The motion was put and agreed to.

The Hon'ble Sir G. FLEETWOOD WILSON 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.

SECRETARY TO THE LEGISLATIVE COUNCIL.

His Excellency THE PRESIDENT: "Before adjourning the proceedings of the Legislative Council to-day I wish to say a few words. In the first place I should like to express, on my own behalf, and on behalf of the Government of India, and I think I may say, on behalf of all Members of Council, our keen regret that this is the last occasion on which as a Council we shall be able to profit by the assistance and advice of our friend Mr. Macpherson, the Legislative Secretary.

"Mr. Macpherson has had a very long, useful and distinguished career. It may not be within the knowledge of some of the Members of my Council that Mr. Macpherson has served for 34 years in the Legislative Department under no less than 8 Viceroys and 9 Law Members and has taken a prominent share in the preparation of all the laws and amendments that have been passed by the Legislative Council during that period. He has seen the Council grow from a small body of less than 20 Members, amongst whom the non-official element was practically a negligible quantity, to its present membership of about 70, of which nearly one-half are non-official Members.

"Since his appointment as Secretary, he has enjoyed the confidence of 5 successive Law Members; he has been the principal draftsman of the Government of India ever since his appointment in 1896, and I think without exaggeration we may say that the Indian Statute-book in its present form is largely the handiwork of Mr. Macpherson. His exceptional knowledge and experience were of the utmost usefulness to the Government of India in the preparation of the constitution of the new Council, and I think I can say authoritatively that he enjoyed the complete confidence and trust of the late

[The President; Mr. Macpherson.]

[22ND SEPTEMBER 1911.]

and present Law Members. And now at the end of a long, useful and distinguished career, Mr. Macpherson is entitled to his well-earned repose, and I think that I may say on behalf of all Members here that he will carry away with him in his honourable retirement our warmest and most cordial wishes for his continued health and happiness. I can assure him that he will not be forgotten, and although we may sometimes miss the familiar kindly presence of one whom we have all known so well, I am confident that in Mr. Vincent, a gentleman of exceptional attainments and of a distinguished legal career, we shall have a worthy successor who will strain every nerve to maintain the high traditions of his office and of the Legislative Department of the Government of India."

The Hon'ble MR. MACPHERSON: "My Lord, I trust I may be permitted to tender my most respectful and grateful thanks to Your Lordship for the extremely kind terms in which you have referred to my services as Secretary to this Council."

ADDRESS TO HIS MAJESTY THE KING-EMPEROR.

His Excellency THE PRESIDENT: "I have one more subject that I wish to mention to-day. In winding up the Budget Debate on the 27th March last I told you that Their Imperial Majesties, the King-Emperor and the Queen-Empress, would be received by the representatives of British India on the Ridge at Delhi. Since making that announcement the King-Emperor has been graciously pleased to signify his consent to receiving an Address from the Members of my Legislative Council as the accredited representatives of British India on the Ridge at Delhi on the occasion of the State entry. I trust, therefore, that my Legislative Council will be in full strength on that occasion in the special places that will be reserved for them on the Ridge. As I shall be in personal attendance on His Imperial Majesty, the King-Emperor, on that occasion, the Address will be presented by the Hon'ble Vice-President of the Legislative Council. A draft of the proposed Address will be submitted for His Imperial Majesty's approval, and I hope that all Hon'ble Members of my Council will sign the Address as soon as possible after their arrival at Delhi and before the morning of the State entry of Their Imperial Majesties.

"I have nothing more to say to-day, except that I now adjourn the Council *sine die*."

J. M. MACPHERSON,

Secy. to the Govt. of India,

Legislative Department.

SIMLA;

The 29th September 1911. }