

*Tuesday,
9th September, 1913*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. LII

April 1913 - March 1914

ABSTRACT OF PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS,

From April 1913 to March 1914.

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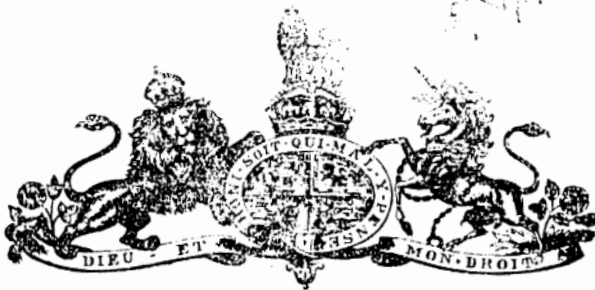


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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIA COUNCILS ACTS, 1851 to 1909 (24 & 25 Vict., c. 67, 55 & 56 Vict., c. 14, AND 9 Edw. VII, c. 4).

The Council met at Viceregal Lodge, Simla, on Tuesday, the 9th September, 1913.

PRESENT :

His Excellency **BARON HARDINGE OF PENSHURST**, P.C., G.C.B., G.C.M.G., G.C.V.O., G.M.S.I., G.M.I.E., I.S.O., Viceroy and Governor General, *presiding*, and 50 Members, of whom 41 were Additional Members.

OATH OF OFFICE.

The following Additional Members, before taking their seats, made the prescribed oath of their allegiance to the Crown—

The Hon'ble Mr. John Harold Abbott.

The Hon'ble Surgeon-General Aylmer Martin Crofts, C.I.E., I.M.S.

The Hon'ble Mr. Reginald Pemberton Russell.

The Hon'ble Mr. John Henry Kerr, C.I.E., I.C.S.

The Hon'ble Mr. James Bennett Brunyate, C.I.E., I.C.S.

The Hon'ble Sir Edward Maclagan laid on the table the *Rules and Orders issued by Local Governments and Administrations on the subject of the exemption of agricultural improvements from enhancement of assessment, which were promised in the reply given to the question put by the Hon'ble Raja Kushalpal Singh at the meeting of the Legislative Council held on the 17th March, 1913.

The Hon'ble Mr. Clark laid on the table a †statement showing the number of shops for the sale of excisable articles in the different provinces of India which were closed on the recommendations of local Advisory Committees during each of the three years 1910-11, 1911-12 and 1912-13, which was promised in the reply given to the question put by the Hon'ble Mr. Rayaningar at the meeting of the Legislative Council held on the 18th March, 1913.

* Not printed in these proceedings.

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† *Vide* Appendix A.

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

[9TH SEPTEMBER, 1913.]

QUESTIONS AND ANSWERS.

The Hon'ble Mr. Banerji asked :—

Salaries of Indians employed on the Eastern Bengal State Railway in certain capacities.

1. (a) Is it the case that the Eastern Bengal Railway authorities have issued the following Notification :—

'With the sanction of the Agent, the minimum salary of a European or Anglo-Indian Assistant Station Master, while actually employed in the post, will, on and from the 1st of April, 1913, be Rs. 200 per mensem; and the minimum salary of a European or Anglo-Indian Station Master, while actually employed in the post, will, on and from the same date, be Rs. 250 per mensem.'

'The minimum salary of European and Anglo-Indian Transportation Inspectors, Traffic Inspectors, Train Masters and Yard Masters is also raised to Rs. 250 on and from the 1st April, 1913?'

"(b) Has any similar notification been issued by the Eastern Bengal State Railway authorities granting increase of salaries to their Indian servants employed in similar capacities? If not, why not?"

"(c) Will the Government of India be pleased to say whether they propose to consider the case of the Indian servants of the Eastern Bengal State Railway employed in the aforesaid capacities and pass in respect of them orders similar to those issued in the case of the European and Anglo-Indian servants of the Railway?"

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

"(1) The Eastern Bengal Railway authorities have issued the notification in question. It refers only to Assistant Station Masters, etc., employed at large stations like Sealdah, Naihati, Lalmanir Hat, etc., where, at the present time as it happens, only Europeans or Anglo-Indian Assistant Station Masters are employed.

"(2) No similar notification has yet been issued by the Eastern Bengal Railway Administration granting increase of salaries to their Indian servants employed in similar capacities, because at present no Indians, except one, a Goods Supervisor, whose pay is Rs. 275 a month, have qualified for these appointments. They will, however, be brought under the same scale, when they do so qualify.

"I may mention that there is no bar on the Eastern Bengal Railway to an Indian holding the highest position on the line. The Engineer-in-Chief is an Indian, so also is the Chief Examiner of Accounts, the head of the Audit and Accounts Department."

The Hon'ble Mr. Banerji asked :—

Collision between police and some Indian coolies at a sugar plantation in British Guiana.

2. (a) Has there recently been a case of collision between the police and some Indian coolies at a sugar plantation, Rose Hall (Canje Creek), Berbice, in British Guiana? If so, has the attention of the Government been drawn to it?

"(b) Is it the case that the police went fully armed and equipped with a maxim gun to secure the arrest of five Indian coolies, and that resistance being offered, the police fired two volleys upon the coolies, killing sixteen and wounding thirty?"

"(c) Do the Government propose to make an inquiry and lay the report of such inquiry on the table?"

"(d) Will the Government be pleased to state whether a judicial inquiry has been held in regard to this matter by the local authorities? If so, will the Government be pleased to state the result of such inquiry?"

9TH SEPTEMBER, 1913.]

[*Mr. Clark ; Mr. Banerji.*]

The Hon'ble Mr. Clark replied :—

" (1) The answer to the first part of the question is in the affirmative. As regards the second part, the facts are, I regret to say, substantially as stated, the number of coolies killed being fifteen. I should add, however, that, when the police attempted to execute the warrants against the five men, they were opposed by a large mob armed with cutlasses and other weapons. The order to fire was not given until the Riot Act had been read, and one of the police had been killed and two others injured by the mob, the situation of the rest of the police being one of considerable danger. The maxim gun was not used. A report* of the judicial enquiry made under the order of the Government of British Guiana is laid on the table.

" (2) It will be seen from the report that the immediate cause of the outbreak was an endeavour on the part of the police to execute warrants against five coolies charged with intimidation. It also appears, however, that a contributory cause of the ill-feeling which culminated in the outbreak was that it was proposed to transfer five men from one plantation to another, and that the transfer was to be effected, according to what is stated to be the usual practice, with the assistance of the police. The Secretary of State for the Colonies has called the attention of the Government of British Guiana to the objections to the employment of the police in effecting the transfer of labourers, except in cases where resistance is expected. He has also pointed out the desirability of issuing instructions that reasonable notice of transfer should be given to immigrants, that the cause of transfer should be stated if the immigrant concerned asks for it, and that the sanction of the Government should be obtained before either of these requirements are dispensed with. The Government of India have expressed their satisfaction at the action taken by the Secretary of State, and have asked to be informed what steps are being taken by the Government of British Guiana to give effect to his suggestions.

" (3) It appears to the Government of India, on the information at present before them, that the unrest on the estate, which culminated in this regrettable incident, was due in large measure to unintelligent handling of the coolies and should have been preventible. In these circumstances, they are endeavouring to secure that adequate compensation should be paid to the families of the persons killed in the riot."

The Hon'ble Mr. Banerji asked :—

3. " (a) Has the attention of the Government been drawn to the proceedings of a public meeting recently held at Caxton Hall, London, under the Presidency of Sir Manchurjee Bhowuggree in which certain alleged grievances of the Indian residents in Canada were discussed? Grievances of the Indian residents in Canada.

" (b) Is it the case (1) that the Canadian Government has passed an order prohibiting immigration to Canada from India except by direct passage, (2) that there are no steam-ships running direct from India to Canada, and (3) that the order practically amounts to actual prohibition?

" (c) Is it the case that there are 4,500 Indians in Canada, 90 per cent of whom are Sikhs, and that in consequence of this order many of them are prevented from bringing over their wives and families to Canada?

" (d) Is it true that no such bar is imposed on Japanese and Chinese immigrants to Canada, the Japanese being allowed to enter Canada to the number of 400 per annum and the Chinese on the payment of a poll-tax of 500 dollars?"

[*Mr. Clark; Maharaja Ranajit Sinha; Sir T. R. Wynne.*]

[9TH SEPTEMBER, 1913.]

The Hon'ble Mr. Clark replied :—

" (a) The answer is in the affirmative.

" (b) (1) An order in Council was issued by the Canadian Government in May, 1910, prohibiting the landing in Canada of immigrants who have come to Canada otherwise than by continuous journey. The order applies to all immigrants and not only to Indians.

" (2) and (3). The facts are as stated.

" (c) The Government of India have no very recent information as to the number of Indians in Canada, but it is understood to be about 2,500. They are unaware how many of these are Sikhs. The effect of the order is as stated, but the Government of India have, on more than one occasion, recently represented to the Secretary of State the importance they attach to a concession being made by the Canadian Government in favour of wives and minor children of Indians resident in Canada, and the withdrawal in their case of the restriction imposed by the requirement of continuous journey on through ticket. Intimation has since been received that the Secretary of State for the Colonies is communicating with the Dominion Government as to the possibility of facilitating the entry of the wives and children of Indians who have acquired Canadian domicile.

" (d) As I have already explained the Order in Council applies to all immigrants and not only to Indians. There is, however, direct communication between Japan and China and Canada. The entry of Japanese labourers is limited to a fixed number in any one year. Chinese immigrants are required to pay a poll-tax of 500 dollars."

The Hon'ble Maharaja Ranajit Sinha asked :—

Latrine accommodation in 1st and 3rd class bogie carriages lately built for Eastern Bengal State Railway.

4. "Is it a fact that some Intermediate and Third class bogie carriages have lately been built for the Eastern Bengal State Railway in which there is no latrine accommodation? If so, will the Government be pleased to state whether they propose to direct the Railway authorities to make suitable arrangements for the same?"

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

"Six intermediate class bogie carriages and two third and brake bogies (broad gauge) have recently been built for the Eastern Bengal Railway without latrine accommodation for exclusive use on the suburban traffic with trains to run less than fifty miles. No intermediate and third class carriages have lately been constructed without latrine accommodation for through service."

The Hon'ble Maharaja Ranajit Sinha asked :—

Outrages on female passengers in running trains.

5. "Is it a fact that occasionally outrages are committed on female passengers in running trains? If so, will the Government be pleased to state what steps they have taken or propose to take for better safety and protection of such passengers?"

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

"A question on the same subject was put by the Hon'ble Babu Bhupendra Nath Basu at the Council Meeting held on the 5th August, 1910, and I may perhaps refer the Hon'ble Member to the reply given to Mr. Bhupendra Nath Basu, in which the whole matter was fully dealt with."

The Hon'ble Maharaja Ranajit Sinha asked :—

Servants' accommodation class carriages in 1st and 2nd class carriages in Eastern Bengal State Railway through trains.

6. "Is it a fact that there are no servants' quarters attached to 1st and 2nd class carriages in all the through trains of the Eastern Bengal State Railway? And, if so, will the Government be pleased to say whether they propose to direct the Railway authorities to take proper steps in the matter?"

9TH SEPTEMBER, 1913.] [Sir T. R. Wynne ; Maharaja Ranajit Sinha.]

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

"The Government of India are aware that the carriages on the Eastern Bengal Railway are not designed so as to provide servants' accommodation attached to the 1st and 2nd class carriages.

"Carriages providing a servants' compartment to 1st and 2nd class carriages were introduced for the convenience of passengers making long journeys, such as those from Calcutta to Delhi and Bombay to Lahore.

"On the Eastern Bengal Railway the length of journeys in one carriage is short, owing to the line being partly Broad Gauge and partly Metre Gauge, which necessitates a change of carriage, and it has not therefore been considered necessary to provide special servants' accommodation."

The Hon'ble Maharaja Ranajit Sinha asked :—

7. "Is it a fact that there is no provision for supplying drinking water to the passengers at some stations of the Eastern Bengal State Railway even during the hot season? If so, will the Government be pleased to state if they propose to take any step in the matter?"

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

"No complaints have been received recently by the Railway Board regarding the non-supply of drinking water to passengers on the Eastern Bengal Railway nor have the Railway Board any reason to suppose that the arrangements made for supplying water to passengers are inadequate.

"A copy of the Hon'ble Member's question will be forwarded to the Agent, Eastern Bengal Railway, for information and attention."

The Hon'ble Maharaja Ranajit Sinha asked :—

8. "Is it a fact that the people of Murshidabad in the Bengal Presidency submitted a representation for changing the timings of the Ranaghat-Murshidabad branch of the Eastern Bengal State Railway to suit the Court passengers? If so, will the Government be pleased to state what orders have been passed in the matter?"

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

"In April, 1912, the people of Murshidabad submitted a representation asking for a change in the timings of trains on the Ranaghat-Murshidabad Branch to suit the Court passengers, and an additional service of trains on the Branch was put on by the Eastern Bengal Railway Administration to remove the inconvenience complained of.

"A minor complaint regarding the alteration by a few minutes in the timing of a certain train was made in February last by the correspondents of the Murshidabad District Association, and was sent to the Agent, Eastern Bengal Railway, for disposal."

The Hon'ble Maharaja Ranajit Sinha asked :—

9. "(a) Is it a fact that the people residing within the jurisdiction of Kandi sub-division in the district of Murshidabad, Bengal Presidency, feel great inconvenience for want of a Railway communication?"

"(b) Is it a fact that Messrs. Martin & Co. proposed to open a light Railway from Sainthia to Behrampore and that the idea was dropped as the East Indian Railway Company contemplated taking up the work?"

"(c) Is it a fact that the East Indian Railway Company have abandoned the project? If so, will the Government be pleased to state what steps, if any, they propose to take to remove the inconvenience of the people residing therein?"

[*Sir T. R. Wynne ; Maharaja Ranajit Sinha.*] [9TH SEPTEMBER, 1913.]

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

" The Government is aware that the people residing within the jurisdiction of Kandi sub-division in the district of Murshidabad have petitioned the East Indian Railway Administration for the construction of a line from Sainthia through Kandi to Berhampore. A survey has been made and plans and estimates prepared for a broad gauge railway from Sainthia passing through Kandi and connecting with the new line recently opened between Azimgunge and Katwa at a point opposite to Berhampore on the other side of the river. This line will be 40 miles in length and is estimated to cost 29 lakhs of rupees. Detailed estimates have not been prepared for extending this line to Berhampore, but the cost of a railway bridge across the Bhagirathi and approaches to same would probably not be less than 12 lakhs of rupees, making a total of say 41 lakhs for the complete project for a line from Sainthia to Berhampore, the distance being about 44 miles.

" (a) Messrs. Martin and Company were approached in regard to the construction of a light railway from Sainthia to Kandi, a distance of 25 miles, but after an investigation of the traffic prospects of such a line, they were unable to give the project their support.

" (b) The East Indian Railway Company has not abandoned the project for constructing a broad gauge line from Sainthia through Kandi to connect with their new line between Azimgunge and Katwa, which was only opened in May last and has unfortunately been seriously damaged by the recent floods in that part of the country. The people residing in the jurisdiction of Kandi Sub-division who petitioned for the construction of a line from Sainthia to Berhampore have been told that this work cannot be undertaken until the Railway is in a position to form some idea in regard to the development of traffic on the new line between Azimgunge and Katwa, which passes the town of Kandi 8 miles to the east. As previously stated this line has been badly damaged by the recent floods and will have to be closed for some months while the necessary repairs are being carried out, and in the meantime the East Indian Railway Administration is not in a position to make a definite statement in regard to the project for a line between Sainthia and Berhampore."

The Hon'ble Maharaja Ranajit Sinha asked :—

10. " (a) Is it a fact that the people residing within the jurisdiction of sub-division of Satkhira in the district of Khulna, Bengal Presidency, are much inconvenienced for want of a Railway communication ?

" (b) Is it a fact that the Government contemplated the opening of a broad gauge line from Navaran to Satkhira to remove the said inconvenience ? If so, will the Government be pleased to state when the work is likely to be taken up and by what time it may be completed ? "

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

" As the headquarter town of the Satkhira sub-division is about 25 miles from the nearest Railway station, it is no doubt probable that the construction of a Railway to Satkhira would be a public convenience.

" Proposals have been submitted for the construction of a broad gauge Railway from Navaran to Satkhira by a Company to be formed under Branch Line Terms, and a detailed survey was notified in the Gazette of India of 29th March, 1913. At the present time it is not possible to say when construction will be begun or completed."

9TH SEPTEMBER, 1913.] [*Raja Kushalpal Singh; Sir Reginald Craddock; Sir Harcourt Butler; Sir T. R. Wynne.*]

The Hon'ble Raja Kushalpal Singh asked:—

11. "Is it a fact that in some cases, especially important ones, proceedings under Section 110 of the Criminal Procedure Code are taken with the knowledge of the District Magistrates. If so, will the Government be pleased to say whether they propose to amend section 405 of the Criminal Procedure Code by making appeals under that section lie to the Court of Session instead of to the Court of the District Magistrate?" Amendment of section 406 of Criminal Procedure Code.

The Hon'ble Sir Reginald Craddock replied:—

"It is possible that, in some instances, the facts may be as surmised by the Hon'ble Member. No proposal to amend the Code on the lines indicated is under the consideration of Government."

The Hon'ble Raja Kushalpal Singh asked:—

12. "With reference to the reply given by the Hon'ble Sir Harcourt Butler to the first part of the question asked by the Raja of Dighapatia on the 22nd March, 1912, regarding the advisability of creating a department in each province to deal exclusively with matters of local self-government, which was contained in the Secretary of State's despatch, will the Government be pleased to state what action they intend to take in the matter?" Creation of a local self-government department in each province.

The Hon'ble Sir Harcourt Butler replied:—

"The Local Governments consulted were not in favour of the proposal, which was also not recommended by the Royal Commission on Decentralization. The Government of India do not propose to take any action in the matter."

The Hon'ble Raja Kushalpal Singh asked:—

13. "With reference to the reply given by the Hon'ble Sir Reginald Craddock to the question asked by Mr. Sachchidananda Sinha on the 1st March, 1912, regarding the status and functions of Deputy Superintendents of Police, will the Government be pleased to say whether they are now in a position to make any pronouncement on the subject?" Status and functions of Deputy Superintendents of Police.

The Hon'ble Sir Reginald Craddock replied:—

"The matter falls within the scope of the reference to the Royal Commission on the Public Services in India, and the Government of India will therefore not be in a position to make a pronouncement until the views of the Commission are known."

The Hon'ble Raja Kushalpal Singh asked:—

14. "With a view to helping the fruit trade, will the Government be pleased to consider the desirability of directing Railway Companies to weigh together and book as single consignments a number of packages of fruits when sent to one consignee and to return free of charge empty boxes from the markets to the sender?" Booking of fresh fruit consignments and return of empty boxes.

The Hon'ble Sir T. R. Wynne replied:—

"The suggestion made by the Hon'ble Member will be conveyed to the Administrations of the different Railways."

[*Mir Asad Ali ; Sir Reginald Craddock ; Sir Harcourt Butler ; Sir Fazulbhoj Currimbhoy ; Mr. Clark.*] [9TH SEPTEMBER, 1913.]

The Hon'ble Mir Asad Ali asked :—

Non-official representation of Cantonment stations in Legislative Councils. 15. "(a) Will Government be pleased to say whether they propose to consider the desirability of giving non-official representation in Legislative Councils to British Cantonment stations, such as Bangalore and Secunderabad (Deccan) ?

"(b) Will Government be pleased to state if the non-official interests of these stations are represented either in Provincial Councils or the Imperial Council ? And if so, in what way ?

"(c) Is it a fact that these Cantonment stations, though under direct British control, do not form part of the electorates under the new Council Regulations ?"

The Hon'ble Sir Reginald Craddock replied :—

"It is the case that residents of Bangalore and Secunderabad do not take part in the elections for the Legislative Councils, nor are there any members on such Councils elected by these interests. Government contemplate no change in this respect."

The Hon'ble Mir Asad Ali asked :—

Separate electorates for Hindus and Muhammadans in District and Taluk Boards and Municipalities. 16. "(a) Does the Government of India propose to introduce throughout India for the system of separate election for Hindus and Muhammadans in District and Taluk Boards and Municipalities ? If so, when will it be introduced ?

"(b) Will Government be pleased to state for each province the relative proportion between Hindus and Muhammadans in each of the local bodies mentioned in (a) ?"

The Hon'ble Sir Harcourt Butler replied :—

"(a) The question of the separate representation of Muhammadans on Municipal and District Boards is under the consideration of the Government of India.

"(b) The Government of India have no information as to the relative proportion between Hindus and Muhammadans in each District, Taluk and Municipal Board in the different Provinces."

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

South African Immigration Bill. 17. "Will Government be pleased to say whether they had an opportunity of expressing their opinion on the provisions of the South African Immigration Bill, recently passed into law, so far as they affect the interests of British Indians in that colony ; and if so, will they be pleased to say whether they propose to place on the Council table any representations which they might have made in regard to it ?"

The Hon'ble Mr. Clark replied :—

"The Government of India have been in constant communication with the Secretary of State on the subject of the proposed legislation during the period while the present South African Immigration Act and the Bills which preceded it were under consideration. As my Hon'ble friend is, no doubt, aware, negotiations with a view to a satisfactory settlement are still in progress, and Government do not consider it expedient to lay any further correspondence on the table in addition to that which has already been published by His Majesty's Government."

9TH SEPTEMBER, 1913.]

[*Sir Fazulbhoj Currimbhoy ; Sir Reginald Craddock ; Sir Harcourt Butler.*]

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

18. " Will Government be pleased to state (1) the number of Indian ladies who have (a) taken a degree in medicine in any of the Indian Universities during the last 10 years, (b) been trained as Hospital Assistants, midwives and nurses during the same period ; (2) what facilities in the shape of special institutions and scholarships exist for the purpose of promoting medical education among Indian women and (3) the amount of annual expenditure on such institutions and scholarships? "

Medical edu-
cation among
Indian Women.

The Hon'ble Sir Reginald Craddock replied :—

" The statistics asked for have required a general reference to Local Governments, but a statement will, in due course, be laid on the table for the Hon'ble Member's information."

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

19. " Is it a fact that the heads of the several Provincial Governments have expressed themselves highly satisfied with the working of the enlarged Legislative Councils? If so, will Government be pleased to say whether they propose to take into consideration the desirability of increasing the elective element in these Councils? "

Increase of
elective element
in Legislative
Councils.

The Hon'ble Sir Reginald Craddock replied :—

" The Government of India have seen statements of the general character indicated. Some changes in the Regulations were recently notified, and no further changes are at present in contemplation by Government."

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

20. " (a) Will Government be pleased to lay on the table the opinions received from Local Governments and public bodies on the scheme of the Government of Bombay involving the grant of a monopoly of the pilgrim traffic to Jedda to a single firm? "

Haj pilgrimage.

" (b) Will Government be pleased to say whether they propose to consider the desirability of appointing a strong Committee, consisting of representative Mahomedan gentlemen from all the provinces, to consider and advise them on the whole subject of the Haj pilgrimage, and to postpone any further action on the Bombay Government's scheme till such Committee has made its report."

The Hon'ble Sir Harcourt Butler replied :—

" (a) The answer is in the negative. The answers of the majority of Local Governments who were consulted on the proposals of the Bombay Government for the future regulation of the pilgrim traffic have not yet been received."

" (b) Until they have received and considered the replies of Local Governments, the Government of India are unable to state what action they will take in connection with the future regulation of the pilgrim traffic. As indicated in their letter of 16th May, 1913, published for general information under the Department of Education notification No. 836, dated the 20th May, 1913, they desire to elicit the fullest expression of Muhammadan opinion on the subject."

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

21. " Will the Government be pleased to state if they have come to a final decision on the Bombay Back Bay Reclamation Scheme; and, if so, what? "

Bombay Back
Bay Reclama-
tion.

[*Sir Edward Maclagan ; Sir Fazulbhoj Currimbhoj ; Sir T. R. Wynne ; Sir Reginald Craddock.*] [9TH SEPTEMBER, 1913.]

The Hon'ble Sir Edward Maclagan replied :—

" No final decision has yet been arrived at on the Bombay Back Bay Reclamation Scheme."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

Committee of arbitration to facilitate the prompt settlement of railway strikes.

22. " Will Government be pleased to say whether they propose to take into consideration the desirability of appointing a permanent committee of arbitration to facilitate the prompt settlement of railway strikes ? "

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

" The whole question of the prevention or prompt settlement of railway disputes has been engaging, and still continues to engage, the earnest attention of Government. Arbitration as a means of settling strikes has been duly taken into consideration. "

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

Creation of a separate Judicial Department.

23. " Will Government be pleased to say if they propose to consider the advisability of creating a separate Judicial Department of this Government for the determination of questions affecting the judicial administration of the country, and of placing a special member in charge of it, and, further, of reserving the post for an Indian lawyer of experience ? "

The Hon'ble Sir Reginald Craddock replied :—

" The distribution of business between the different Departments of the Government of India is governed by the orders of the Governor General. No change in the existing distribution is at present contemplated."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

Expenditure involved in the separation of Judicial and Executive functions.

24. " Anent the reference, in the Decennial Report on the Moral and Material Progress of India just issued, to ' the heavy expenditure involved in the complete separation of Judicial and Executive functions,' will the Government be pleased to state if the statement is based on any estimate of the probable expenditure of a particular scheme ? If so, will the scheme and the estimate of expenditure involved be laid on the table."

The Hon'ble Sir Reginald Craddock replied :—

" The remark quoted is of a general character. So far as the Government of India are aware, it does not refer to any particular scheme."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

Better provision for education of Native Indian soldiers.

25. " (a) Has the attention of Government been drawn to Colonel Yate's recommendation in the House of Commons, on the occasion of the discussion of the Indian Budget, for better provision for the education of Native Indian soldiers ? If so, does Government propose to take any action upon it ?

" (b) Are there any regimental schools for imparting general instruction to young recruits ? If not, does Government propose to establish such schools at suitable centres ? "

9TH SEPTEMBER, 1913.]

[Major-General Birdwood; Sir Fazulbhoj
Currimbhoj; Sir Reginald Craddock.]

The Hon'ble Major-General Birdwood, on behalf of His Excellency the Commander-in-Chief, replied :—

"(a) A copy of the Parliamentary questions and answers referred to has been received from the India Office. The question of improving regimental schools of Indian units had already been taken up by the Government of India and is at present being discussed between the Departments of Government concerned.

"(b) Regimental schools already exist in all Indian units for the purpose of imparting education to Non-commissioned officers and men (including recruits) of the Indian Army."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

26. "(a) With reference to the Hon'ble Mr. Montagu's remarks in Parliament about the proposed reconstitution of the India Council, will the Government be pleased to lay on the table the detailed scheme, if any ?

Proposed re-constitution of the India Council.

"(b) Will the Indian public be allowed an opportunity of submitting their views about the details of any scheme of reorganization before final decision by the Secretary of State ?"

The Hon'ble Sir Reginald Craddock replied :—

"The Government of India have no information, beyond the reports of the statement made in the House of Lords on the 31st July last by the Secretary of State for India, as to the details of the scheme for the conduct of India Office business, which His Lordship contemplates, nor as to the procedure which he intends to follow in arriving at a decision."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

27. "Apropos of the Hon'ble Mr. Montagu's statement in the House of Commons, regarding the proposed changes in the law of confessions by under-trial prisoners, will Government be pleased to lay on the table the papers relating to the subject ?"

Proposed changes in the law of confessions by under-trial prisoners.

The Hon'ble Sir Reginald Craddock replied :—

"From an answer given in the House of Commons by the Under Secretary of State on the 5th August, the Government of India understand that the Secretary of State contemplates the presentation of these papers to the Houses of Parliament. Until this is done, any publication in this country would be premature."

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

28. "(a) Will Government be pleased to state the number of collisions and other accidents on Indian railways during the current calendar year ?

Collisions and accidents on Indian Railways.

"(b) Is it a fact that accidents on Indian railways have of late increased in number ? If so, to what causes is this increase attributable ?

"(c) On which among the various systems of railways are these accidents most frequent ?

"(d) What per cent of Drivers and Guards and Signallers work overtime on each of the different Indian railways ?

"(e) What are the rates of remuneration for overtime work of these different classes of railway servants on the various railways, and what per cent of their salaries do these rates represent ?

"(f) Have inquiries been held into the collisions and other accidents of 1913 ? If so, will Government be pleased to publish the results of such inquiries ?

"(g) Will Government be pleased to say whether they propose to associate the non-official public with railway officers in all inquiries into railway accidents ?

[Sir T. R. Wynne.]

[9TH SEPTEMBER, 1913.]

The Hon'ble Sir T. R. Wynne replied:—

"The Railway Board's report on accidents is prepared for each year from reports submitted by railways at the end of each year, reports of serious accidents only being sent to the Board by telegram at the time they occur. A complete number of accidents which have occurred from the 1st January to 31st August, 1913, ranging from serious accidents to running over cattle and suicides, all of which are classed as accidents, is therefore not available; and in my reply to question (a) I can only give the figure for serious accidents which have been reported by telegram. The number is 37, of which 11 were collisions between trains; 16 were derailments and 10 were due to other causes.

"(b) The Railway Board's report on accidents for 1912*, a copy of which I place on the table, shows that in 1912, 1 passenger was killed out of each 60 millions who travelled, as against, in 1911, 1 passenger killed out of each 33 millions who travelled, which shows a considerable improvement.

"During the first part of 1913, 2 serious accidents have occurred, due to exceptional causes, 1 at Bargaon on the G. I. P. and the other near Ondal. The cause of the first has been thoroughly investigated in public during the trial of the railway employes concerned, and they have been duly convicted. In the second case, it was due to an unprecedented flood.

"With regard to question (c) the answer, as regards the 37 accidents I have referred to as having occurred from 1st January to 31st August, is—

Occurred on Bengal and North-Western Railway ...	...	1
" " Kalka-Simla Railway ...	...	1
" " South Indian Railway ...	...	1
" " Madras and Southern Mahratta Railway ...	...	1
" " East Indian Railway ...	...	7
" " Great Indian Peninsula Railway ...	...	7
" " Gaekwar's Mehsana Railway ...	...	1
" " Assam-Bengal Railway ...	...	3
" " Oudh and Rohilkhand Railway ...	...	1
" " Eastern Bengal Railway ...	...	6
" " Bengal-Nagpur Railway ...	...	7
" " Bombay-Baroda and Central India Railway ...	...	1

"In the accident report for 1912*, which I am laying on the table, complete details are given for every railway for the whole of the year.

"Question (d).—I am unable to answer this question, as no complete record of such information is kept.

"Question (e).—The rates of remuneration for overtime work of the class of employe referred to in question (d) vary somewhat on each railway. I lay on the table the overtime rules* for the North-Western Railway as a sample. It is not possible to say what percentage of each man's salary the rates represent. It depends on each man's salary, and the percentage will vary according to the amount of overtime he works.

"Question (f).—Inquiries are always held into very serious collisions and accidents. I shall be glad to show the Hon'ble Member the inquiry report on any serious accident which has occurred in 1913, which he may desire to see.

"Question (g).—Government, as at present advised, do not propose to associate the non-official public with railway officers in all inquiries into railway accidents. There seems a general impression that an inquiry into railway accidents is left solely to the railway officers of the line on which it occurs, and that the matter ends there. I think this is a good opportunity to remove this very

* Not published with these proceedings.

9TH SEPTEMBER, 1913.]

[*Sir T. R. Wynne; Mr. Qumrul Huda; Sir Reginald Craddock.*]

erroneous impression. Directly a serious railway accident occurs the railway concerned has at once to report by telegram its occurrence to the Magistrate and Police Superintendent of the District, the Government Inspector and the Railway Board. Before the inquiry is held the Agent of the line reports to the Magistrate, the Police Superintendent and the Government Inspector the place and date at and on which the inquiry will be held so that they may be present. The finding of the inquiry is submitted to the Government Inspector, who expresses his opinion and sends all the papers to the Railway Board. The Railway Board then carefully consider the whole case and the cause of the accident and decide what action, if necessary, should be taken to ensure improved working. The Magistrate of the District can also, if he thinks fit, independently, decide to take proceedings against the Railway employes concerned.

"The main cause of most accidents on railways is neglect in obeying rules of working. These rules are constantly being improved and amended as experience shows the necessity, as it is impossible to foresee in all cases the extraordinary complications which sometimes arise and which lead to an accident."

The Hon'ble Mr. Qumrul Huda asked :—

29. "(1) Did His Excellency the Viceroy receive the following telegram Telegram received by His Excellency the Viceroy regarding mosque at Machli Bazar without waiting the result of memorial submitted to His Honour the Lieutenant-Governor. Proceedings illegal and unknown since British Rule in India—Excitement greatest—request intervention and restoration of the sacred building in the same place."?

'Telegram :—"The following resolution passed by Cawnpur Mohammedans to-day in a general meeting to inform Your Excellency that unexpected sacrilege of Cawnpur Machli Bazar mosque by authorities with the aid of armed police without waiting the result of memorial submitted to His Honour the Lieutenant-Governor. Proceedings illegal and unknown since British Rule in India—Excitement greatest—request intervention and restoration of the sacred building in the same place."'

"(2) Will this Government be pleased to state what action was taken on the receipt of the above telegram?"

The Hon'ble Sir Reginald Craddock replied :—

"The telegram in question was received by the Government of India and was forwarded in original to the Government of the United Provinces for disposal in accordance with the ordinary practice when representations are submitted to the Government of India direct concerning matters with which a Local Government is primarily dealing."

The Hon'ble Mr. Qumrul Huda asked :—

30. "(1) Has the policy of the Government recently changed towards the sanctity and sacredness of Musalman mosques and Hindoo temples in India? Policy of Government towards the sanctity and sacredness of mosques and temples and the religious susceptibilities of its Indian subjects."

"(2) Has the policy of the Government of recent years changed towards the religious susceptibilities of its Indian subjects?"

"(3) Will the Government be pleased to state its policy as regards the sanctity and sacredness of Musalman mosques and Hindoo temples in India and the religious susceptibilities of its Indian subjects?"

The Hon'ble Sir Reginald Craddock replied :—

"The best known declaration of the policy of Government in this country with reference to the religious beliefs and usages of the people is contained in Her late Majesty Queen Victoria's Proclamation of 1858, in which it was declared to be the Royal Will and Pleasure that none should be in any wise favoured, none molested or disquieted by reason of their religious faith or observances; that all alike shall enjoy the equal and impartial protection of the law and that no interference would be made with the religious belief or worship of Her Imperial Majesty's subjects. In His late Majesty King Edward VII's message to the Delhi Durbar of 1903 and in the announcement by His present Majesty King George V on the occasion of the Delhi Durbar of 1911, these assurances were renewed and neither has there been any change in the policy thus laid down, nor is there any intention of introducing any changes."

[*Mr. Achariar ; Sir Reginald Craddock ;
Mr. Ghuznavi ; Sir William Meyer.*]

[9TH SEPTEMBER, 1913.

The Hon'ble Mr. Achariar asked :—

Amendment of
Code of Criminal
Procedure.

31. "In reference to the speech of the Under Secretary of State, India Office, in the Commons this year when the Indian Budget was introduced, in relation to the contemplated amendment of the Code of Criminal Procedure,—

"(a) Will Government be pleased to state whether it will lay on the table the whole correspondence on the subject between the India Office and the Indian Government, together with the papers containing the opinions obtained on the proposed amendment ?

"(b) Was the question referred for such opinions confined to the law and practice as to confessions recorded during the investigation by the Police and before trial, or did it include other points as well and, if so, what were they ?

"(c) In inviting opinions on the subject, were non-officials, whether individuals or representative bodies, included ?

"(d) Has Government come to definite and final conclusions as to the contemplated amendment and will it be pleased to state what power and opportunities the members of this Council have for the purpose of examining and, if necessary, of modifying such conclusions before they become part of the Code ?"

The Hon'ble Sir Reginald Craddock replied :—

"The Hon'ble Member is referred to the answer just given to Sir Fazulbhoj Currimbhoy. The recent correspondence with Local Governments was concerned with the record of confessions prior to trial, and raised two issues : firstly, whether such confessions should be recorded at all, and secondly, whether, if they were recorded, any additional restrictions on the procedure were required. The Government of India addressed Local Governments, and it would appear from the replies received that the opinions collected were mainly the of judicial and executive officers. The whole question is still under the consideration of the Secretary of State, and pending the receipt of his reply the Government of India are not in a position to make any statement as to the line of future action."

The Hon'ble Mr. Ghuznavi asked :—

Holiday on
account of Shab-
i-Barat festival.

32. "(a) Has the attention of the Government been drawn to an article published in the "Lahore Observer," dated the 19th July, 1913, in which it is stated that the Musalman festival of Shab-i-Barat having fallen on the 19th of July this year, and the same having been included as a Public Holiday under the provisions of the Negotiable Instruments Act of 1881 by the Local Government of the Punjab, the Accountant-General of the Punjab refused to allow this holiday to his entire office against the provisions of the Act and the Standing Orders of the Government on the subject ?

"(b) If so, will the Government be pleased to say whether they propose to consider the desirability of taking such steps as to ensure future observance of holidays under the Negotiable Instruments Act."

The Hon'ble Sir William Meyer replied :—

"The Government have seen the article referred to in part (a) of the Hon'ble Member's question.

"With reference to part (b) they have taken steps to secure the observance of the orders on the subject."

The Hon'ble Mr. Ghuznavi asked :—

Appointments
held by Hindus,
Musalmans and
others in all
State Railways
throughout
Bengal.

33. "Will the Government be pleased to lay on the table a statement showing the number of appointments and their respective salaries held by (1) Hindus, (2) Musalmans and (3) others in all the State Railways throughout the Presidency of Bengal in all grades of the service ?"

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[*Sir T. R. Wynne; Mr. Ghuznavi; Mr. Clark; Rai Sita Nath Ray Bahadur; Sir William Meyer.*]

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

" Government regret that they are unable to lay on the table the statement asked for by the Hon'ble Member. To obtain this information would necessitate several Railways having practically to carry out a census of the employes who are serving in Bengal as their systems extend to other Provinces in India, and the Hon'ble Member will readily appreciate the very serious amount of labour involved in such an undertaking. I shall be glad, however, to discuss the matter with the Hon'ble Member should he wish to do so."

The Hon'ble Mr. Ghuznavi asked :—

34. " Will the Government be pleased to lay on the table a statement showing the number of appointments and their respective salaries held by (1) Hindus, (2) Musalmans and (3) others in the Postal and Telegraph Departments throughout the Presidency of Bengal in all grades of the service? "

Appointments held by Hindus, Musalmans and others in the Postal and Telegraph Departments in the Presidency of Bengal.

The Hon'ble Mr. Clark replied :—

" The compilation of the statement asked for by my Hon'ble friend will impose a very heavy amount of labour on the Department and will take a considerable time. Perhaps, in the circumstances, he may see his way not to press for the information. I shall be glad to discuss the matter with him if he would care to do so."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

35. " With reference to the Resolution of the Government of India, dated the 17th May, 1912, enunciating the financial relations to be observed between the Imperial and the several Provincial Governments, will the Government be pleased to say whether they propose to place the opinions of the latter, as well as all the correspondence that passed between the Supreme Government and the Provincial Governments in this connection, on the table of the House? "

Financial relations between Imperial and Provincial Governments.

The Hon'ble Sir William Meyer replied :—

" The Government are not prepared to make public the correspondence in question."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

36. " (a) Will the Government be pleased to lay on the table a statement of the number of accidents with the list of casualties that have occurred on the various Railway lines of India from January, 1912, to December, 1912, and from January, 1913, to July, 1913? "

Accidents on Indian Railways and appointment of Commission of Inquiry.

" (b) Will the Government be pleased to say whether they propose to appoint a Commission of Inquiry to find out the causes of the accidents and to devise effective means to prevent their future recurrence? "

" (c) Will the Government also state how many of the accidents have occurred in State-owned and State-managed lines, and how many in lines owned by State, but managed by Companies? "

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

" (a) I beg to lay on the table a copy of the Railway Board's accident report* for the year 1912. The report for the period of 1st January to end of July, 1913, has not yet been compiled, as the report is an annual one.

* Not printed with these Proceedings.

[*Sir T. R. Wynne ; Rai Sita Nath Ray Bahadur ;* [5TH SEPTEMBER, 1913.
Mr. Clark ; Sir William Meyer.]

"(b) From the Hon'ble Member's question I am afraid he is under the impression that it is possible to find effective means to prevent any accident occurring in the future.

"I can assure him this is an impossibility. The causes of accidents are numberless, often complicated and, in the case of derailments, sometimes inexplicable.

"Under present procedure every serious accident is thoroughly inquired into, both in respect to its technical side and to the possibility of its being due to carelessness or neglect in working, and steps are at once taken to introduce any precautions possible to prevent its recurrence.

"Accidents are mainly caused by neglect in carrying out rules of working, and therefore cannot be entirely prevented. They can only be minimized by constant care and supervision of working by the railway officials and by securing strict obedience to rules of working. In these circumstances, Government do not consider that there are grounds for the appointment of a Commission of Inquiry as suggested by the Hon'ble Member.

"The answer to question (c) for the year 1912 will be found in the report which I have laid on the table."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

Amount of gold in bars and coins imported into India. 37. "(a) Will the Government be pleased to lay on the table a complete statement of the amount of gold in bars and coins imported into India during the last 25 years, and how much of these was for State purposes and how much for the use of private parties and banks ?

Quantity of gold in currency hoarded or converted into ornaments. "(b) Has the Government any information regarding the quantity of gold which is still in currency in India and also the quantity which is believed to have been hoarded or converted into ornaments by the people ?"

The Hon'ble Mr. Clark replied :—

"As regards the first part of the question, I lay on the table a statement* showing the value of gold coin and bullion imported into India by sea in the 25 years ending 1912-13 on private and Government account respectively. It is not possible to show separately the imports on account of banks.

"As regards the second part of the question, Government are unable to supply statistical information as to the quantity of gold in active circulation in India or as to the quantity which is held in hoards or has been converted into ornaments during any named period. For recent examinations of this question they would refer the Hon'ble Member to the published Paper Currency reports of the last few years."

The Hon'ble Rai Sita Nath Ray Bahadur asked :—

Establishment of a State Bank in India. 38. "Was the Government asked for its opinion on the advisability of the establishment of a State Bank in India by the Secretary of State for India ; and if so, will the Government state the opinion, if any, which it has given in the matter ?"

The Hon'ble Sir William Meyer replied :—

"The Government of India expressed their views on the question of a State Bank in the discussions of 1899 to 1901, but have not had occasion to report on it since. It is now under the consideration of the Royal Commission on Indian Currency and Finance."

9TH SEPTEMBER, 1913.]

[*Mr. Syed Ali Imam.*]

THE REPEALING AND AMENDING BILL.

The Hon'ble Mr. Syed Ali Imam moved for leave to introduce a Bill to amend certain enactments and to repeal certain other enactments. He said :—

" My Lord, the Bill which I now move for leave to introduce in Council is not of general interest. It does not propose to enact any new law, but belongs in its general scope to that very useful class of measures which are known in England as Statute Law Revision Bills and in India as Repealing and Amending Bills. The main object of Bills of this class is to remove from the Statute-book such portions of the law as have become obsolete by time or from any other cause. It is in keeping with the practice of the Government of India to take up legislation of this kind from time to time, in order to prepare the way for a new edition of the collection of our general Acts, which is published by the Legislative Department. This is essential ; for, if we did not do so, we should retain a large amount of worthless matter on our Statute-book, uselessly adding to its volume. I may be pardoned for saying that it is a legitimate matter of pride to the Department over which I have the honour to preside that the Indian Statute-book is less encumbered with obsolete and useless enactments than that of almost any other nation, and I seek the help of the Council in my endeavour to keep it in the same condition. My desire is to hand over the Statute-book to my successors in as well a pruned condition as the good order in which I received it from my distinguished predecessors in office, and to make it impossible for any critic to refer to it in the words of Cromwell as 'an ungodly jumble'.

" I do not wish to detain the Council with many remarks on the Statute Law Revision of this kind. All I may urge is that a revision on the lines on which the Bill has been drawn is very desirable and should be proceeded with at regular intervals. In the past we have done so almost every ten years. The last Repealing and Amending Act was passed in the year 1903 ; so the time has now come when we should again take stock of our position and, in the language of Lord Hobhouse, 'remove dead matter from the Statute-book'.

" The particular amendments contained in the Bill are sufficiently explained by the reasons assigned in the fifth column of the Schedule. These explanations will, of course, be removed when the Bill becomes law. But they will serve to explain and justify the reasons for the proposed amendments and will support my statement that the object of the Bill is to make some purely formal alterations, correct certain errors and slips that have crept into various laws, and to repeal certain other enactments which have been superseded by later legislation or have become spent or obsolete. I think I may safely say that there is nothing in any way controversial in the measure, and therefore if the Bill is allowed to be introduced to-day, I propose, with the permission of this Council to move at our next meeting that it be taken into consideration and passed into law. With these remarks, My Lord, I beg for leave to introduce the Repealing and Amending Bill."

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam introduced the Bill and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English.

The motion was put and agreed to.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Hon'ble Mr. Syed Ali Imam moved for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908. He said :—

" My Lord, I move for leave to introduce a Bill further to amend the Code of Civil Procedure of 1908. The title of the Bill is such as may raise visions of

[*Mr. Syed Ali Imam.*]

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prodigious and interminable sittings of the Council, but I may at once remove all cause for alarm by mentioning that in seeking for this permission, I have not embarked upon any ambitious undertaking, and that the Bill which I propose to introduce is neither formidable nor is it likely to occupy the time of Hon'ble Members to any considerable extent. The Code of 1908, that great achievement of Sir Erle Richards, has fortunately not required serious amendment as yet, and therefore the Bill does not aim at any very material change in the law. There are only two amendments of a modest character that I propose to place before the Council. One of them is to empower the High Courts of Calcutta, Madras and Bombay to extend such provisions of the Code as are not inconsistent with the express provision of Act XV of 1882 as amended by Act I of 1895 to the Presidency Small Cause Courts, and to give validity to the rules already promulgated by these High Courts under section 9 of that Act. The other amendment is to restore the powers that Local Governments enjoyed under the latter portion of section 327 of the Code of 1882, and which by an oversight was omitted when that Code was amended in 1908.

"As regards the first, doubt has been felt whether the rule-making powers of the Chartered High Courts under section 9 of the Small Cause Courts Act are sufficient to permit the extension of some of the provisions of the Code of Civil Procedure to such Courts. Under clause 1 (a) of section 9 of that Act these High Courts may by rule prescribe the procedure to be followed and the practice to be observed by the Small Cause Courts, but there are matters which are hardly within the terms 'procedure or practice' for which it is desirable to provide by such rules. An examination of the rules already prescribed by the three High Courts appears to show that, whereas the simple and summary procedure characteristic of the proceedings of these subordinate Courts have been safeguarded in their full and entire integrity, some of the rules might be considered open to criticism on the ground that they do not deal with matters strictly of procedure and practice. Yet it cannot for a moment be questioned that these rules, perhaps in excess of the power conferred by the Act, are beneficial and essential to the proper working of the Small Cause Courts. These considerations force upon us the necessity of conferring upon the Presidency High Courts extensive powers to apply provisions of the Code to such Courts so long as they are not inconsistent with the principles of the Small Cause Courts Act itself. It will be observed on an examination of the Bill that a fair measure of discretion has been left to the High Courts to determine the suitability of a provision of the Code that they may think fit for application. This is justified by the consideration that obviously the High Courts are the best judges of the procedure to be followed in the Presidency Small Cause Courts and the anxious desire of those Courts to promote efficiency of business therein has been sufficiently manifested in the past to make it entirely safe for the Government of India to entrust them with these powers with the fullest confidence that they will always be used in accordance with the principles on which these subordinate Courts are constituted. The amendment will put the rule-making powers of these High Courts in this connection on a much surer footing than they are at present. Obviously, the natural place for such a modification of the law is in section 8 of the Code. The next step is but a corollary to the proposed amendment. This is to validate the rules that have heretofore been made by the said High Courts, and in order to avoid any question of their legality being raised, a provision to guard against such a contingency has been inserted in the Bill.

"As to the other proposed amendment, it will be perhaps sufficient to say that it does not aim at enacting anything new. On the contrary, it is put forward with a view to restore the authority that Local Governments used to exercise in the matter of sale of lands in execution of decrees. The Code of 1908 as a matter of mere accident did not save such authority and the result was that the rules framed by Local Governments in different parts of India ceased to have any legal force.

"The new clause will revive such rules as were in force on the date on which the present Code became operative, and also provide for their modification,

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL ; THE 19
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[*Mr. Syed Ali Imam ; Sir Harcourt Butler.*]

with the previous sanction of the Governor General in Council, whenever such a course may be found to be necessary.

" I think that Hon'ble Members will agree with me that the two amendments to which I have referred will be found to be useful and salutary. Under the circumstances, if the Bill is allowed to be introduced, I propose, with the permission of the Council, to move at our next meeting that the Bill may be taken into consideration and passed into law. With these submissions, My Lord, I beg for leave to introduce the Bill. "

The motion was put and agreed to.

The Hon'ble Mr. Syed Ali Imam introduced the Bill and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English.

The motion was put and agreed to.

THE INDIAN COPYRIGHT BILL, 1913.

The Hon'ble Sir Harcourt Butler moved for leave to introduce a Bill to modify and add to the provisions of the Copyright Act, 1911. He said :—

" My Lord, the amendment of the Indian Copyright Act (XX of 1847) so as to bring it into conformity with modern requirements has long been considered necessary. As, however, the question of the amendment of the English Copyright Acts has been simultaneously under consideration, and as in a matter of this kind it is obviously desirable to secure conformity within the Empire, so far as is compatible with local conditions, it was thought better to await Imperial legislation on the subject.

" The circumstances leading up to the passing of the Copyright Act of 1911, which came into operation in the United Kingdom on July 1st, 1912, are detailed in the Statement of Objects and Reasons.

" The Copyright Act, 1911, is the most important Copyright Act ever passed in England. It repeals seventeen Acts absolutely, and considerable portions of other Acts, and is intended so far as possible to form a Code of Copyright Law.

" The chief changes effected in previously existing English law were :—

- (1) It gives copyright generally during the life of an author and for fifty years after his death, instead of for 42 years, or during life and for seven years after death, whichever might be the longer period.
- (2) It simplifies the procedure for protection of lectures and speeches.
- (3) It prevents an infringement of a musical composer's rights by mechanical instruments such as pianolas and gramophones, and gives copyright in certain cases to gramophone discs and pianola rolls.
- (4) It also protects architectural works, including any building or structure, having an artistic character, or any model of such building or structure in respect of such character or design ; but processes or methods of construction are not so protected.

" The deficiencies in the Indian Copyright law, as embodied in the Indian Copyright Act, XX of 1847, which, for instance, contained no provision for copyright in translations, photographs, sculpture and works of art generally, are made good.

" Another important matter of principle involved in the Act is the abolition of the formality of the registration of copyright. This is in accordance with the provisions of the Berne Convention, and with the practice of most nations. The onus of proving that he is not aware of copyright is now thrown on the person infringing it, and the necessity of registration is now done away with. Summary remedies for infringement are also provided.

[Sir Harcourt Butler ; Rai Sri Ram Bahadur.] [9TH SEPTEMBER, 1913.]

"The Act was brought into force in India by proclamation in the Gazette of India on the 31st October, 1912, under section 37 (2) (d) of the Act, in view of difficulties that were experienced in England through the non-proclamation in India of the Act of 1911, and having regard to the serious hardships and loss which might thereby be inflicted on English authors.

"Under section 27 of the Act the Legislature of any British possession to which the Act extends is given power to modify or add to the provisions of the Act, but, except in so far as such modifications and additions relate to procedure and remedies, they shall apply only to works the authors of which were at the time of the making of the work resident in the possession, and to works first published in the possession.

"We propose as few modifications as are possible in view of the desirability of securing that uniformity throughout the Empire, which was advocated by the Imperial Copyright Conference of 1910.

"In addition to purely formal changes, we propose a material relaxation with regard to translations. This is, in our opinion, necessary in view of the special linguistic conditions of India, of the variety of languages spoken, and of the useful part played by translations in disseminating knowledge. We propose therefore that translations of works first published in India should be permitted after the expiry of 5 years, from date of first publication, but only on the condition that two years' notice of the intention to publish a translation has been given to the author. By this means we hope adequately to safeguard the rights of the author and those of the public.

"The provisions of section 19 of the English Act, containing provisions as to mechanical instruments, are new and unsuited, if adopted *in toto* to the conditions of India. The majority of Indian melodies have not been published (*i.e.*, written in staff notation) except through the medium of the phonograph. It is impossible in many cases to identify the original composer or author, and the melodies are subject to great variety of notation and tune. In order to make it clear that in order to fall within the definition of 'musical work' music must have been graphically represented, it is proposed to adopt *mutatis mutandis* the definition of the term 'musical work' contained in the English Musical Copyright Act, 1902, *viz.*, 'musical work means any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced.'

"The provision restricting jurisdiction to High Courts only in all civil proceedings regarding infringement of copyright is thought desirable in view of the technicalities of the subject and the greater finality that such a tribunal will afford."

The Hon'ble Rai Sri Ram Bahadur said :—

"My Lord, with Your Excellency's permission I beg to say a few words in support of the motion made by the Hon'ble Member in charge of Education.

"As the provisions of the Bill are not known to us except the brief outline given by the Hon'ble Member in his speech just delivered, no detailed observations can be made on them at this stage. But I welcome the Bill as many of the defects and shortcomings of the Indian Copyright Act (Act XX of 1847) will be removed now. That Act has now become an antiquated piece of legislation—it was passed nearly two-thirds of a century ago.

"In my experience of copyright cases, the Act of 1847 has been found wanting in several respects and many of its provisions required modification and improvement.

"The law of copyright was found so unsatisfactory in Great Britain and other European countries that an international Convention was held in Berlin in 1908 to adopt common bases for the maintenance of the Copyright Union. That Convention was followed by an Imperial Copyright Conference held in 1910, under the Chairmanship of Mr. Buxton, the President of the Board of Trade. The object of this Conference was to place the law of copyright upon an intelligent and systematic footing. The various self-governing Colonies were represented at

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that Conference, but no representative was taken from the Indian Empire to take part in its deliberations. The result of the Report of the Conference was the passing of the Copyright Act of 1911 by the British Parliament. The self-governing Dominions were given a choice to accept the provisions of the Act or not, but its operation was extended to all other parts of the British Empire, including India.

"Several new matters, such as architecture and works of artistic craftsmanship, have been added in the Act of 1911 for copyright protection—the inclusion of architecture being the most important innovation. My Lord, innovations of this character are not suitable to this country.

"Another fundamental change is the abolition of all formalities in the matter of registration. There is also an alteration in the duration of copyright. The last named changes, we hope, will be conducive to the production of more numerous and a better class of original works in India.

"The Bill which is being introduced, we hope, will make such possible additions and alterations as to render the provisions of the English Act of 1911 more suitable to the conditions of this country.

"With these remarks, I support the motion before the Council."

The motion was put and agreed to.

The Hon'ble Sir Harcourt Butler 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 Local Governments think fit.

The motion was put and agreed to.

THE PROVINCIAL SMALL CAUSE COURTS (AMENDMENT)
BILL.

The Hon'ble Sir Reginald Craddock moved for leave to introduce a Bill to amend the Provincial Small Cause Courts Act, 1887. He said:—

"My Lord, I move for leave to introduce a Bill to amend the Provincial Small Cause Courts Act, 1887.

"This Bill is a small piece of legislation involving the amendment of the second Schedule to the Provincial Small Cause Courts Act, IX of 1887. That schedule specifies the classes of suits which are excluded from the jurisdiction of a Provincial Small Cause Court, although the pecuniary sum involved would otherwise bring them within the jurisdiction of that Court.

"Among the suits already excluded by Article 35 of that Schedule are suits for compensation for wrongful arrest, restraint or confinement, for compensation for injury to the person, and for compensation for illegal, improper, or excessive distress or attachment. It is now proposed by this Bill to add to the list of exclusions, suits for compensation for any offence specified in Chapter XVII of the Indian Penal Code and also cases in which compensation is sought for trespass or damage committed in the illegal or improper execution of any other legal process or search. As a further corollary, it is proposed to exclude suits to recover property obtained by the commission of an offence specified in Chapter XVII of the Indian Penal Code.

"I feel sure that the Council will appreciate the reasons for this amendment; for the exclusions proposed involve no departure in principle, but are *ejusdem*

[*Sir Reginald Craddock; Sir Edward Maclagan.*] [9TH SEPTEMBER, 1913.]

generis with the exclusions contained in the existing Act, and they have the approval of the Local Governments and the High Courts consulted. Suits of this description may involve complicated issues of law and fact which are not suitable for a summary trial; and an adverse decree from which there is no appeal, based on evidence which is not recorded in detail, may seriously prejudice the defendant to an extent far beyond the pecuniary amount decreed against him, and may involve a slur, possibly a very serious slur, on his character such as to injure him in his profession or calling. This is a risk to which no man should be exposed without the advantage of a regular trial and a full right of appeal.

The motion was put and agreed to.

"For these reasons, My Lord, I beg to move for leave for the introduction of the Bill."

The Hon'ble Sir Reginald Craddock 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 Local Governments think fit.

The motion was put and agreed to.

THE DESTRUCTIVE INSECTS AND PESTS BILL, 1913.

The Hon'ble Sir Edward Maclagan moved for leave to introduce a Bill to prevent the introduction into British India of any insect, fungus or other pest, which is or may be destructive to crops. He said:—

"My Lord, the Government was addressed some years ago by the Bombay Chamber of Commerce, who pointed out that most other countries had protected themselves by somewhat stringent measures from the damage done to agriculture and gardening by the introduction of destructive insects and other pests. They urged upon us that, with the increase of communications, the time had then come when similar precautions should be taken in India. 'The attention of the Chamber', they said, 'has recently been drawn to the danger of the introduction into India of insect pests, more particularly through the importation of plants from foreign countries. This danger is ever present, and owing to increased communication and trade with various other portions of the world, and the more rapid transport of merchandise, the danger has now become extremely serious. It is reasonable to suppose that if some forms of virulent insect pests obtain footing here, and are allowed to propagate unchecked, the damage done to the staple crops of this country will be incalculable. * * * In Europe and America very stringent precautions are now taken, and in Australia plants are thoroughly fumigated on both leaving and arriving in the country. Considering the great importance of the question, my committee strongly urge that similar precautions may be taken in India, and more particularly in Bombay * * *'. On receipt of this representation we consulted our experts and ascertained that in several cases disease had already been introduced along with imported material, and that there were many destructive diseases in other countries which were likely to be introduced into India if no restrictions were imposed. We further ascertained from the Customs authorities that a considerable number of packages containing fruit, bulbs, roots, seeds and plants were regularly imported into India, and it seemed clear that if steps were not taken to control such importations, considerable loss might be occasioned to the agriculture and fruit culture of this country. Our next step was to consult the various Local Governments and, through them, to obtain the opinions of several Chambers of Commerce, Superintendents of Botanical Gardens and other botanical experts, fruit growers, tea and coffee growers and Planters' Associations; and these opinions, upon

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[*Sir Edward Maclagan.*]

receipt, were laid before a committee of experts, who then submitted definite proposals for dealing with the question.

" We had originally proposed to impose the necessary restrictions by a notification under the Sea Customs Act of 1878, but we found that the terms of that Act did not adequately cover the case with which we had to deal. We decided, therefore, to resort to special legislation, and the present Bill has been accordingly prepared, under which the Government is armed with the powers necessary for the purpose. After preparing this Bill we ascertained that a Conference was to meet in Rome in April, 1913, to discuss this very subject. We, thereupon, nominated one of our officers to attend the Conference, and took no further action with regard to the Bill, pending the receipt of the recommendations of the Conference; but as the Conference was afterwards indefinitely postponed, it was decided to proceed with the Bill as it stood.

" The provisions of the Bill are based partly on the corresponding English Acts of 1877 and 1907 and partly on the Indian Livestock Importation Act of 1898. They give the Government power to regulate or, when necessary, prohibit the import of specified articles which cannot be unreservedly introduced into the country without entailing a likelihood of danger to crops and gardens. This power, I need hardly say, will be used with discretion and applied only to cases where its exclusion is considered to be really necessary. In some cases we should probably require a certificate from the country of exportation that certain diseases are not prevalent in that country or in the neighbourhood where the crop was grown, as the case may be; and in others we shall need a license by the Agricultural Department in this country, which would be given on satisfactory evidence as to the reliable character of the merchants from whom the stock was received. In another class of cases it will be necessary to go further—importation being confined to certain ports and arrangements being made for subjecting the suspected article to fumigation. Our object is to deal with the more injurious kinds of imports only, but to deal with them effectively so as to save the Indian agricultural and fruit-rearing industries, as far as possible, from the more serious chances of loss to which they are exposed from the present system of unrestricted importation.

" With this explanation, My Lord, I move for leave to introduce a Bill to prevent the introduction into British India of any insect, fungus or other pest which is destructive to crops."

The motion was put and agreed to.

The Hon'ble Sir Edward Maclagan 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 Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Wednesday, the 17th September, 1913.

W. H. VINCENT,

*Secretary to the Government of India,
Legislative Department.*

SIMLA;

The 12th September, 1913.