

***THE INDIAN LEGISLATIVE COUNCIL***

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**P L**

**PROCEEDINGS  
OF  
*THE INDIAN LEGISLATIVE COUNCIL***

***ASSEMBLED FOR THE PURPOSE OF MAKING***

**LAWS AND REGULATIONS**

**VOL. LVIII**

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE INDIAN LEGISLATIVE COUNCIL ASSEMBLED UNDER  
THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1915.  
(5 & 6 Geo. V, Ch. 61.)

The Council met at the Council Chamber, Imperial Secretariat, Delhi, on  
Wednesday, the 25th February, 1920.

PRESENT:

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.C.M.G., G.C.B.E.,  
Viceroy and Governor General, *presiding*, and 59 Members, of whom 51  
were Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr. V. J. Patel asked:—

11.2 A.M.

1. "Is it a fact that in no University is there a chair for the teaching, or any facilities for the study and research, of the indigenous system of medicines? Do Government intend to take any steps in the matter?"

The Hon'ble Mr. Shafi replied:—

"So far as the Government of India are aware there is no chair in any of the Indian Universities for the study of, and research in, indigenous medicines. Teaching in these subjects was at one time given under the auspices of the Punjab University. The Ayurvedic classes were subsequently transferred to the Dayanand Anglo-Vedic College and the Unani classes to the Islamia College, Lahore; and it is understood that the University gives a grant for their maintenance. The Government of India do not intend to take any steps in the matter. The question is one for consideration, in the first place, by the Universities. The Calcutta University Commission devoted some care to this

[*Mr. Shafi; Mr. V. J. Patel; Mr. W. M. Hailey; Sir William Marris.*] [25TH FEBRUARY, 1920.]

subject and, while they considered that it affords a fruitful field of study and investigation, felt it impossible to ask the University of Calcutta to undertake to train students in it."

**The Hon'ble Mr. V. J. Patel** asked :—

Local bodies  
in India.

2. "Will Government be pleased to give a list of Local Bodies in India (1) which are wholly elected, and (2) which, though not wholly elected, consist entirely of non-officials?"

**The Hon'ble Mr. Shafi** replied :—

"The list\* required by the Hon'ble Member is placed on the table."

**The Hon'ble Mr. V. J. Patel** asked :—

Taxation.

3. "(a) Has the attention of Government been drawn to the following opinion of Lord Selborne's Committee :—

'Whenever the necessity for new taxation arises, as arise it must, the question involved should be threshed out by both parts of the Government in consultation together, and it is especially important that in this matter both parts of the Government should, if possible, be in agreement when the proposals of the Government are laid before the Legislature.'

(b) Has the attention of Government been also drawn to the following observations of the Secretary of State appearing at page 283 of the Official Report of the debates in the House of Commons of Wednesday, 3rd December, 1919 :—

Mr. Montagu : 'The situation is really this. So far as I understand the Provincial Government in India now has practically no powers of taxation. The powers of taxation are absolutely a new thing. To my mind taxation ought not to be imposed on the provinces. I hope the contingency will never arise except when the whole Government, after consideration of the resources at its disposal, agrees to go to the Legislature and ask for taxation, and I take it all Budget proposals will be discussed in common between all the parties concerned.'

(c) Do Government propose to give effect to these opinions, and will provision as indicated therein be made in the rules to be made under the Government of India Act?"

**The Hon'ble Mr. W. M. Hailey** replied :—

"(a) Yes.

(b) Yes. The Government of India take these remarks to mean that the future Provincial taxation should be imposed only on the initiative of the whole Local Government and with the concurrence of the local Legislature.

(c) It is proposed that the rules regarding the budget and taxation should be framed in accordance with the recommendations of the Joint Committee."

**The Hon'ble Mr. V. J. Patel** asked :—

Lord  
Hardinge's  
Post-war  
Reforms.

4. "(a) Is there any despatch of Lord Hardinge containing proposals for post-war reforms which he prepared and submitted to the Secretary of State after full consultation with the heads of the various Local Governments?"

(b) If so, will Government lay it on the table?"

**The Hon'ble Sir William Marris** replied :—

"The answer is in the negative."

[25TH FEBRUARY, 1920.] [Mr. V. J. Patel: Sir William Marris; Sir William Vincent.]

**The Hon'ble Mr. V. J. Patel** asked:—

5. "Do Government propose to include in the rules to be framed under the Government of India Act, rules for the appointment of Standing Committees of the Legislative bodies, their composition and regulations governing their procedure?" Standing Committees of Legislative bodies.

**The Hon'ble Sir William Marris** replied:—

"The Hon'ble Member's attention is drawn to paragraph 10 of the Joint Committee's Report which runs as follows—

'The Committee think that it may often greatly assist the political education of India if standing committees of the legislative bodies are attached to certain departments of Government, but they only express this opinion on the understanding that the appointment of such committees, their composition, and the regulations which govern their procedure, shall be matters wholly and exclusively within the discretion of the Governor General or of the Governor, as the case may be.'

In view of this strong expression of opinion the Government of India do not propose that the Governor General's or Governor's discretion should be fettered by rules under the Act."

**The Hon'ble Mr. V. J. Patel** asked:—

6. "Are Government prepared to do away with the system of confidential reports so far as it is applicable to gazetted officers?" Abolition of confidential reports on gazetted officers.

**The Hon'ble Sir William Vincent** replied:—

"The Government of India do not contemplate any change of the existing practice in this matter."

**The Hon'ble Mr. V. J. Patel** asked:—

7. "(a) Is it a fact that for the purpose of formulating the franchise proposals to be submitted to the Franchise Committee, the Government of Bombay had prepared statistics showing the number of voters on the basis of an annual income of Rs. 250?" Voters in the Bombay Presidency.

(b) Will Government be pleased to say what was the number of voters in the Bombay Presidency on that calculation, and why ultimately the idea of including such voters was given up?"

**The Hon'ble Sir William Marris** replied:—

"(a) Yes.

(b) The number of persons in the Bombay Presidency (excluding Bombay and Karachi cities, which were not included in the calculations) who were estimated to have an annual income of Rs. 250 or over was 170,610. As regards the reason why the Franchise Committee did not include receipt of an annual income of this amount in their proposals for the franchise, the Hon'ble Member is referred to paragraph 9 of their report, in which it is stated that the proposals of the Committee were based on the possession of property as evidenced by the payment of land-revenue, rent or local rates in rural areas, and of municipal rates in urban areas and of income-tax generally. It is presumed that the Committee considered that it would not be possible to make annual income not so evidenced the basis of a satisfactory electoral roll."

**The Hon'ble Mr. V. J. Patel** asked:—

8. "What action have Government so far taken on the report of the expert employed to study the problem of reviving the trade in natural indigo and to devise means of standardising the natural product in a form which would enable it to compete with the German synthetic dye?" Steps taken to revive the trade in indigo.

[*Sir Claude Hill; Mr. V. J. Patel; Sir William Vincent; Sir William Marris.*] [25TH FEBRUARY, 1920.]

**The Hon'ble Sir Claude Hill** replied :—

"I lay" on the table the information asked for by the Hon'ble Member."

**The Hon'ble Mr. V. J. Patel** asked :—

Kazi Abdul  
Ghaffar.

9. "(a) When was the order directing the removal of Kazi Abdul Ghaffar from the Bengal Presidency passed under the Defence of India Rules?

(b) Is it a fact that the said order has not yet been withdrawn, and that the Kazi has petitioned the Government of Bengal that the general amnesty be extended to him?

(c) Do Government propose to call for the papers and consider his case?"

**The Hon'ble Sir William Vincent** replied :—

"(a) On the 14th September, 1918.

(b) Yes.

(c) His Excellency the Governor General has considered the case and has decided that it would not at present be consistent with the public safety to cancel the order."

**The Hon'ble Mr. V. J. Patel** asked :—

Personnel of  
the Informal  
Advisory  
Committee  
to examine  
the draft  
rules, etc.,  
under the  
new Govern-  
ment of  
India Act.

10. "(a) What is the personnel of the informal Advisory Committee recently appointed by Government to examine the draft rules, regulations and standing orders under the new Government of India Act?

(b) Is Mr. Surendra Nath Banerjea included as a member of that Committee? If not, why not?

(c) Are any members of the Moderate or the Congress Deputations that were sent to England in connection with the reforms, included as members of that Committee? If not, why not?"

**The Hon'ble Sir William Marris** replied :—

"(a) The members of the Committee are—

The Hon'ble Rao Bahadur B. N. Sarma,

„ „ Mr. Srinivasa Sastri,

„ „ Sir Dinshaw Wacha,

„ „ Mr. Surendra Nath Banerjea,

„ „ Dr. Tej Bahadur Sapru,

„ „ Sardar Bahadur Sardar Sundar Singh, Majithia,

„ „ Mr. Sachchidananda Sinha,

„ „ Khan Bahadur Ebrahim Haroon Jaffer,

„ „ Rajah of Mahmudabad,

„ „ Mr. W. E. Crum,

„ „ Mr. N. F. Paton.

(c) It is understood that Messrs. Sastri, Banerjea and Sapru were members of a deputation which visited England in connection with the reforms."

**The Hon'ble Mr. V. J. Patel** asked :—

"Are any members of the Congress Deputation which were sent to England in connection with the Reforms included as members of the Committee?"

**The Hon'ble Sir William Marris** replied :—

"I am not aware of the exact personnel of the Congress Deputation."

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**The Hon'ble Mr. V. J. Patel** asked :—

11. "What action have Government taken on the report of the expert employed on an investigation of the tanning materials yielded by various forests in India with a view to preparing tanning extracts for trial on a commercial basis?"

Tanning materials yielded by the forests in India.

**The Hon'ble Sir Claude Hill** replied :—

"The expert employed by the Government of India on investigating the tanning materials yielded by Indian forests has published several preliminary reports. His general survey of Indian tanstuffs was, however, interrupted during the war by the more urgent investigation of tanstuffs which could be readily adopted as a substitute for *taricad*, the deficiency of which was jeopardising the supply of half-tanned leather to the War Office. The expert is now continuing his general survey of indigenous tanstuffs, and the results of his investigations will be made available to the public, from time to time, as the survey of each local area is completed."

**The Hon'ble Mr. V. J. Patel** asked :—

12. "(a) Will Government state what action they have taken or propose to take in regard to the following recommendation of Lord Selborne's Committee :—

Allotment of seats to the rural population of Broach and Kaira.

'The Committee regard the number of seats allotted to the rural population as distinct from the urban as disproportionately low and consider that it should receive a larger share of representation.'

(b) Is it a fact that the seats allotted to the rural population of the Districts of Broach and Kaira in the Bombay Presidency compare very unfavourably with those allotted to the rural population of the Ahmedabad and Panch Mahals Districts?

(c) Do Government propose to call for the report of the Government of Bombay on this question?"

**The Hon'ble Sir William Marris** replied :—

"(a) It is proposed to allot from 5 to 7 additional seats to rural constituencies in the provinces of Madras, Bengal, and the United Provinces where the disparity in favour of urban areas was conspicuous.

(b) The Hon'ble Member is referred to the statistics of population and voting strength contained in paragraph E of Appendix II to the report of the Franchise Committee. The Government of India do not consider that the disparity between the two pairs of districts is greater than must inevitably occur in any practical scheme of distribution of seats.

(c) The answer is in the negative."

**The Hon'ble Mr. V. J. Patel** asked :—

13. "(a) Is it a fact that in 1918, a resolution recommending the introduction of the system of proportional representation in elections for select municipal areas was discussed in the Bombay Legislative Council?"

Municipal elections.

(b) If so, what has been the outcome of that discussion?

(c) Do the Government of India propose to call upon Local Governments and Administrations to apply the said system by way of experiment in elections for select local bodies?"

**The Hon'ble Mr. Shafi** replied :—

"The resolution referred to by the Hon'ble Member was discussed in the Bombay Legislative Council in 1918, but was subsequently withdrawn. The Hon'ble Member's attention is invited to paragraph 5 of the Resolution of

[*Mr. Shafi; Mr. T. J. Patel; Sir William Vincent; Sir William Marris.*] [25TH FEBRUARY, 1920.]

the Government of India on Local Self-Government, dated the 10th May 1918, which lays down the system of representation which the Government of India consider suitable for introduction in local bodies. The Government of India do not propose to call upon Local Governments and Administrations to introduce any system of proportional representation by way of experiment in elections for select local bodies."

**The Hon'ble Mr. V. J. Patel** asked:—

Repeal of  
Press Act.

14. "Do Government propose to repeal the Press Act as urged by the Indian National Congress, or at any rate to amend it on the lines outlined by Sir P. S. Sivaswamy Aiyer, in his speech as president of the Second All-India Moderate Conference?"

**The Hon'ble Sir William Vincent** replied:—

"Government do not propose to repeal the Press Act, but they will examine the suggestions for its amendment made by Sir P. S. Sivaswamy Aiyer."

**The Hon'ble Mr. V. J. Patel** asked:—

Appropriation of  
revenue for  
military  
purposes.

15. "Under the new Government of India Act, will it be open to the Legislative Assembly to discuss as the Legislative Council now does, at the time when the annual statement is under consideration, the proposals of the Governor General in Council for the appropriation of revenue for military purposes?"

**The Hon'ble Sir William Marris** replied:—

"The Hon'ble Member is referred to the provision of section 25 (3) subsection (5) of the Government of India Act, 1919, under which proposals for the appropriation of revenue relating to expenditure classified as 'defence' expenditure shall not be open to discussion in the Indian legislature at the time when the annual statement is under consideration, unless the Governor General otherwise directs."

**The Hon'ble Mr. V. J. Patel** asked:—

Votes for  
women in  
the Bombay  
Presidency.

16. "(a) Is it a fact that in the city of Bombay women have been exercising Municipal franchise for some years, and that recently the Bombay Legislative Council has adopted a resolution recommending that women should be eligible for membership of the Bombay Corporation?"

(b) Do Government propose to grant the vote to the women of the Bombay Presidency in the new constitution? If not, why not?"

**The Hon'ble Mr. Shafi** replied:—

"(a) There is nothing in the City of Bombay Municipal Act, 1888, which expressly debar women in that city from voting at municipal elections. The Government of India believe that the statement made by the Hon'ble Member himself before the Joint Select Committee on the Government of India Bill that women in the Bombay Presidency have been exercising the franchise for many years past is correct. A resolution recommending to the Governor in Council that steps be taken to remove the disqualification in the Act above mentioned, which prevents a female from being elected or appointed as a Councillor of the Corporation, was moved on the 8th November 1918 in the Legislative Council of the Governor of Bombay and was adopted by a majority of votes.

(b) The Hon'ble Member is referred to the report of the Joint Select Committee on clause 7 of the Government of India Bill. It is proposed that the rules should deal with the question of woman suffrage in accordance with the recommendations of the Joint Committee."



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**The Hon'ble Mr. V. J. Patel** asked :—

17. "(a) Have the Government of Madras invited the Brahmaus and the non-Brahmaus to settle the question of separate representation for the latter in the Legislative Council by means of the reservation of seats by negotiation amongst themselves, and if so, with what result ?

Reservation of seats for non-Brahmaus and Mahrattas.

(b) Have the Government of Bombay taken similar action on the question of the treatment to be accorded to the Mahrattas and the allied communities in the Bombay Presidency, and if so, with what result ?"

**The Hon'ble Sir William Marris** replied :—

"(a) The Hon'ble Member is referred to the Communiqué recently issued by the Government of Madras. As stated in this, since no agreement could be reached between the Brahmaus and non-Brahmaus as regards the separate representation of the latter by means of the reservation of seats, the Government of India, at the request of the Government of Madras, have appointed Lord Meston as arbitrator.

(b) It is understood that negotiations are in progress between the Mahrattas and the non-Mahrattas, but that they have not yet reached a stage at which the prospects of an agreement being arrived at can be forecasted."

**The Hon'ble Mr. V. J. Patel** asked :—

18. "Do Government propose to take immediate steps to repeal the Rowlatt Act ?"

The Anarchical and Revolutionary Crimes Act.

**The Hon'ble Sir William Vincent** replied :—

"The answer is in the negative."

**The Hon'ble Mr. G. S. Khaparde** asked :—

19. "(a) Is it a fact that the Delhi post offices are under the administrative control of the Punjab Government ?

Postal delivery of certain newspapers in Delhi.

(b) Is it a fact that any prohibition order issued by the Punjab Government in regard to newspapers is regarded by the Delhi post offices as debarring them from serving the papers concerned in the city and province of Delhi with the consequence that (1) the *Independent* of Allahabad, (2) the *Amrita Bazar Patrika* of Calcutta, (3) the *Hamdam* of Lucknow, (4) the *Congress* of Delhi itself, etc., cannot be delivered in Delhi through the agency of the post office though these papers are not prohibited by the Delhi Government itself ?"

**The Hon'ble Sir George Barnes** replied :—

"(a) The post offices in Delhi Province are under the administrative control of the Postmaster-General, Punjab and North-West Frontier Circle. They are not under the Punjab Government.

The answer to (b) is yes. The newspapers proscribed by the Punjab Government are intercepted by the post offices in the Delhi Province under the authority of the Chief Commissioner, Delhi. Of the papers named by the Hon'ble Member the orders relating to the interception of the *Amrita Bazar Patrika* and the *Hamdam* of Lucknow have since been withdrawn."

**The Hon'ble Mr. G. S. Khaparde** asked :—

20. "(a) What are the circumstances which necessitated the prohibition of the transmission of gold and silver coin by railways in India ?

Transmission of gold and silver coin by railway in India.

(b) How long will the said prohibition remain in force ?"

**The Hon'ble Mr. W. M. Hailey** replied :—

"(a) The restrictions on the transmission of specie by railways in India were necessitated by the difficulties of the currency position.

[*Mr. W. M. Hailey; Mr. G. S. Khaparde; Sir Claude Hill; Khan Bahadur Ibrahim Haroon Jaffer; Sir William Vincent; Maharaja Sir Manindra Chandra Nandi.*] [25TH FEBRUARY, 1920.]

(b) The restrictions on the movement of gold coin and bullion were removed in September last. As regards silver bullion, permits for transport by rail are now being issued in all cases, but the Government of India are not at present in a position to make any statement regarding the removal of restrictions on the movement of silver coin."

**The Hon'ble Mr. G. S. Khaparde** asked:—

Pasture  
lands.

21. "Will the Government be pleased to state—

- (a) Whether the Governor General in Council received, on or about 24th March 1916, a memorial and a telegram of that date from Mr. Hansaund Varma of Calcutta praying for setting apart for exclusive purposes of grazing certain plots of pasture lands in every place available in every village, taluka and district in British India?
- (b) Did Government forward the said memorial and telegram to the Department of Agriculture?
- (c) If the answer to (a) and (b) be in the affirmative, will Government be pleased to state the steps taken to give effect to the prayer in the memorial and the telegram?"

**The Hon'ble Sir Claude Hill** replied:—

- "(a) The answer is in the affirmative.
- (b) The matter was considered in the Department of Revenue and Agriculture.
- (c) No action has been taken by the Government of India, as the question is one for disposal by Local Governments."

**The Hon'ble Khan Bahadur Ebrahim Haroon Jaffer** asked:—

Enhance-  
ment of  
salaries of  
public  
servants.

22. "What arrangements have been and are proposed to be made regarding the enhancement of the salaries of public servants in response to the increased cost of living?"

**The Hon'ble Sir William Vincent** replied:—

"Temporary relief has been given in the shape of war allowances to the lower paid Government servants in all provinces. As a result of the recommendations made by the Public Services Commission the revision of pay, both of the Imperial and of the Provincial Services, has been taken up, and in many cases new rates of pay have already been sanctioned. The permanent revision of the salaries of subordinate services and of Secretariat establishments is now, it is understood, under consideration by Local Governments, and provision to a considerable amount has been made in the provincial budgets for this purpose. In dealing with the question of revision of pay of Government servants account has been taken in all cases of the increased cost of living."

**The Hon'ble Maharaja Sir Manindra Chandra Nandi** asked:—

Artificial  
obstacles  
created by  
the Irriga-  
tion Depart-  
ment in the  
way of free  
flow of the  
waters of  
the Ganges.

23. "(a) What is the number and the nature of the artificial obstacles created by the Irrigation Department in the way of the free flow of the waters of the Ganges from Hardwar to the Bay of Bengal?"

(b) Are Government aware of the prevalence of the opinion that these obstacles seriously offend Hindu religious ideas, and prejudice the economic and sanitary welfare of the people of the United Provinces and the Provinces of Bengal and Bihar?"

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Sir Claude Hill.]

(c) Will Government be pleased to state whether and when it is proposed to remove the obstacles or to minimise their harmful effects?

(d) Will Government lay on the table a copy of the pronouncement of Lord Hardinge regarding the removal of obstacles at Narora and all papers connected with this question?

(e) Has any effect been given to this pronouncement? If not, is it intended to take any steps in this matter, and, if so, what?

(f) Has it, among other things, been suggested as a remedial measure that an opening of at least 30 feet should be left in the Ganges at Hardwar, and that a similar opening should be made at Narora, with a view to provide a sufficient and an unobstructed flow of the natural stream for bathing and other religious purposes, and do Government propose to give effect to such suggestions? If so, when?

(g) If the answer to the last half of (f) be in the negative, will Government be pleased to state how much water flows out of the existing openings at Hardwar and at Narora when the river is at its lowest, and whether such water is sufficient for the purposes mentioned above?

(h) If the water be not sufficient for the above purposes, what steps are proposed to be taken to meet these requirements?"

**The Hon'ble Sir Claude Hill** replied:—

"(a) Two weirs have been constructed to divert the water of the Ganges into canals. The first is the now weir at Hardwar which forms part of the headworks of the Ganges Canal. The second is the Narora weir near Rajghat.

(b) The Government of India have on two occasions considered representations made by the Hindu community to the effect that the flow of the Ganges should not be controlled. On the first occasion, in 1914, Sir James Meeson met a representative gathering of Hindus at Hardwar, and in consultation with them drew up proposals which were accepted as fully meeting their objections. Before these proposals could be carried into effect, a further representation was made in 1916 by the All-India Hindu Sabha. Sir James Meeson again held a conference at Hardwar, and this conference agreed to certain proposals involving the provision of a gap in the weir at Hardwar to pass a minimum discharge of 400 cusecs. This gap has since been provided.

At Narora a notch was constructed in February 1916. A continuous flow of water passes through this notch and the continuous flow of the Ganges from Hardwar to the sea is thus ensured.

The Government of India believe that any objection the Hindu community may have had to these weirs has now been removed. They have no reason to believe that the existence of these works can in any way prejudice the economic and sanitary welfare of the people of the United Provinces or of the Provinces of Bengal and Bihar.

(c) Since there are now no obstacles such as are described in (b) of the question, there are no proposals for their removal.

(d) and (e). The Government of India have no record of any order issued by Lord Hardinge regarding the removal of obstacles at Narora, but they understand that it was at his suggestion that the notch already referred to was constructed in 1916.

(f) and (g). It was suggested by the All-India Hindu Sabha in 1916 that an opening of at least 30 ft. should be left in the weir at Hardwar and that a similar opening should be provided in the weir at Narora. At Hardwar an opening, as suggested, has been provided, the bottom of the opening being at the bed level of the river. As already stated the minimum discharge through that opening is 400 cusecs.

The minimum discharge through the notch at Narora is not available, but a continuous discharge is ensured. The width of the notch is 2 ft. and

[*Sir Claude Hill; Maharaja Sir Manindra Chandra Nandi; Mr. W. M. Hailey.*] [25TH FEBRUARY, 1920.]

the estimated discharge when water is level with the top of the gates of the weir is 49 cusecs. It is estimated that, if an opening similar to that provided at Hardwar be provided at Narora, the annual loss involved would be Rs. 2½ lakhs, of which practically the whole would fall directly upon the *ryot*. The construction of such an opening further involves serious engineering difficulties and might necessitate the re-construction of the whole weir. The Government of India do not, in the circumstances, consider that they would be justified in acceding to the suggestion."

**The Hon'ble Maharaja Sir Manindra Chandra Nandi** asked :—

House allowance for Provincial Service Officers.

24. "Has any scheme been sanctioned or formulated for including the Provincial Service officers in the scope of the Calcutta, Bombay and Rangoon house-allowance schemes, as recommended by the Public Services Commission in paragraph 69 of their Report?"

**The Hon'ble Mr. W. M. Hailey** replied :—

"The Calcutta, Bombay and Rangoon house allowance schemes were not framed with reference to the needs of Provincial Service officers, but a scheme of local allowances for Provincial Service officers specially devised to meet their needs was sanctioned for Rangoon in 1916, and it is understood that a similar scheme is under preparation in Bombay. It has not been considered necessary to extend the principle to Provincial Service officers serving in Calcutta."

**The Hon'ble Maharaja Sir Manindra Chandra Nandi** asked :—

The gross provincial revenue and expenditure.

25. "What is the amount of difference between the gross provincial revenue and the gross provincial expenditure of each of the major provinces of India in each of the six years from 1912-13 to 1918-19?"

**The Hon'ble Mr. W. M. Hailey** replied :—

"A statement\* giving the figures asked for is laid on the table. The figures for provincial revenue include assignments to the provinces from Imperial revenues."

**The Hon'ble Maharaja Sir Manindra Chandra Nandi** asked :—

The Provincial Educational Service.

26. "(a) With reference to the Communiqué of the Government of India, dated the 26th November, 1919, relating to the re-organisation of the Provincial Educational Service, will Government state—

(i) the date from which the orders of the Secretary of State on the subject will be given effect to ;

(ii) whether the Secretary of State has sanctioned any incremental scale of pay on the lines of the recommendations of the Public Services Commission in place of the graded system which obtains at present ;

(iii) if the answer to (ii) be in the affirmative, the details of the scale sanctioned ?

(b) Is it in contemplation to promote the more deserving among the members of the Provincial Educational Service to the Indian Educational Service ?

(c) If the answer to (b) be in the affirmative, will Government state to what extent and from when such promotions will be made?"

\* Not included in these Proceedings.

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**The Hon'ble Mr. Shafi** replied :—

“(a) (i) The date from which the orders of the Secretary of State will take effect is primarily a matter for decision by Local Governments.

(ii) and (iii) The Secretary of State has not sanctioned any such incremental scale. It will be open to the Local Governments to arrange the grades or scales of the Provincial Educational Service within the limits mentioned in the Communiqué.

(b) It is under contemplation to promote certain posts together with their incumbents from the Provincial to the Indian Educational Service.

(c) The Government are not as yet in a position to make a statement with reference to this part of the Hon'ble Member's question.”

**The Hon'ble Mr. Kamini Kumar Chanda** asked :—

27. “(a) Is the following table, showing the composition of the existing scientific services, correct :—

Recruitment of Indians in various services.

Name of the service.	OFFICERS (IMPERIAL GRADE).		AVERAGE PAY OF	
	Europeans.	Indians.	Europeans.	Indians.
			Rs.	Rs.
Botanical Survey . . . . .	2	0	1,000	0
Geological Survey . . . . .	16	0	1,010	0
Zoological Survey . . . . .	3	1	970	700
Agricultural Service . . . . .	38	5	1,000	460
Forest Service . . . . .	9	1	1,040	680
Medical and Bacteriological Service (on Civil Employment).	24	5	1,220	520
Indian Munitions Board . . . . .	11	1	780	300
Meteorological Department . . . . .	10	2	970	770
Veterinary Department (Civil) . . . . .	9	0	1,100	...
Educational Service . . . . .	34	3	910	490
Indian Trigonometrical Survey . . . . .	46	0	...	...

(b) Is it a fact that the Hon'ble Mr. Surendra Nath Banerjea, in his evidence before the Welby Commission in 1897, called attention to the absence of Indians from the scientific services? Was any action taken on that evidence?

(c) Is the practical exclusion of Indians from the above services due to lack of qualified men or a matter of policy?

(d) Is it a fact that the Provincial Service of the Indian Trigonometrical Survey consists of 112 officers, nearly 80 per cent. of which are Europeans and Anglo-Indians without any academic distinction?”

**The Hon'ble Sir Claude Hill** replied :—

“(a) The table given in the question contains many inaccuracies. I am unable to furnish a correct one because the method on which the Hon'ble Member wishes it to be compiled is not clear, but if he will explain exactly what he wants I shall be happy to give him any information required.

(b) The reply to the first question is in the affirmative. The Welby Commission presumably gave due weight to the Hon'ble Mr. Banerjea's evidence.

(c) The comparatively small number of Indians in the services specified by the Hon'ble Member is due generally, though not in all cases, to the lack of

[ *Sir Claude Hill*; *Mr. Kamini Kumar Chanda*; [ 25TH FEBRUARY, 1920. ]  
*Sir William Vincent*; *Mr. Sachchidananda Sinha*. ]

qualified candidates. It is proposed in future largely to increase the Indian element in the scientific services generally.

(d) The Hon'ble Member presumably refers to the Provincial Service of the Survey of India Department. This service comprises 112 officers, of whom rather less than 75 per cent. are Europeans or Anglo-Indians.

As regards academic qualifications the Hon'ble Member's attention is invited to paragraph 32(3) of the Survey of India Hand-book, which prescribes that all applicants for admission to the Provincial Service must have passed the B.A. or B.Sc. examination of an Indian University or the Final or High Standard examination under the Code Regulations of European schools, or possess the School Leaving Certificate of any Province or one of the Entrance examination certificates of any University in the United Kingdom."

**The Hon'ble Mr. Kamini Kumar Chanda** asked :---

Political prisoners, detenus, internees and deportees.

28. "(a) What is the number of political prisoners, detenus, internees and deportees province by province, regarding whom effect has been given to the Royal Proclamation about amnesty?"

(b) What is the number of such persons in each province who have not been granted any benefit under the said proclamation?

(c) Do Government intend to give relief to them and if so when?

(d) Do Government propose to issue or suggest to Local Governments the issue of instructions to the Criminal Investigation Department to try as far as possible to give any reasonable active assistance and in any case to abstain from causing any difficulties to the political prisoners, detenus, deportees and internees who have now been released or about to be released, in obtaining means of earning a livelihood?"

**The Hon'ble Sir William Vincent** replied :—

"(a) and (b). A \* statement is laid on the table.

(c) As indicated in the statement, certain cases remain over for consideration. In other cases His Excellency the Viceroy has not found it possible to extend the indulgence of clemency because the release of the persons concerned would not, in his opinion, be compatible at present with the public safety.

(d) Government do not propose to issue instructions of the nature contemplated to Local Governments and Administrations. They have no doubt that officers of the Criminal Investigation Department will abstain from any action likely to prevent those released from earning an honest living; and as a matter of fact it is understood that Local Governments and their officers, including those employed in the Criminal Investigation Department, have in the past done much to help such persons."

**The Hon'ble Mr. Sachchidananda Sinha** asked :—

System of recruitment for the various Provincial Services in the North-West Frontier Province.

29. "(a) Will Government be pleased to state the system of recruitment for the various Provincial Services in the North-West Frontier Province, specifying whether there is any educational standard fixed as a minimum qualification for entry into any of them, and if so, what it is in each?

(b) Will Government be pleased to lay on the table a statement showing—

(i) the number of appointments held by the various communities in the said services on the 1st of July, 1908, when Sir George Roos-Keppel assumed charge of the province and on the 1st July, 1919, when he was about to retire, and

(ii) the strength and the names of the present permanent cadre, detailing the educational qualifications of each of them?"

[25TH FEBRUARY, 1920.] [Mr. H. R. C. Dobbs; Mr. Sachchidananda Sinha.]

**The Hon'ble Mr. H. R. C. Dobbs** replied :—

“(a) (i) *Executive.*

Extra Assistant Commissioners (including Munsiffs) are appointed ordinarily by selection and no minimum educational standard is fixed.

(ii) *Educational.*

The Educational Service consists of officers promoted from the subordinate service and an Inspectress selected from the Punjab. No minimum educational standard is fixed.

(iii) *Police.*

Deputy Superintendents of Police are appointed either by promotion from Inspectors or direct recruitment or by selection from other departments of Government. They must all possess a minimum educational qualification equivalent to the Punjab University Matriculation, but the Chief Commissioner may dispense with a knowledge of English.

(iv) *Medical Service.*

There is no definite system of recruitment for the Provincial Medical Service, but Assistant Surgeons must obtain the M. B. and B. S. degrees.

(v) *The Irrigation.*

Forest and Excise Departments obtain their officers on loan from the Punjab cadre.

(b) In view of the grave pre-occupations of the authorities in the North-West Frontier Province at the present time the Government of India are not prepared to order the collection and compilation of the information asked for, which would involve the expenditure of much time and labour.”

**The Hon'ble Mr. Sachchidananda Sinha** asked :—

30. “(a) What was the total cost of the administration of the districts now constituting the North-West Frontier Province when it formed part of the Punjab? Cost of the administration of the North-West Frontier Province.

(b) Will Government be pleased to state (i) the total estimated additional cost of the administration of the said province at the time of its creation, and (ii) the total amount of the present expenditure showing the net increase or decrease in the latter over the original additional estimate?”

**The Hon'ble Mr. H. R. C. Dobbs** replied :—

“(a) The total cost of the administration of the districts now constituting the North-West Frontier Province, just before they were separated from the Punjab was Rs. 64,15,417 per annum.

(b) (i) At the time of its creation the total additional cost of the administration of the province was estimated at Rs. 3,08,407 per annum. The actual additional cost to Government of the formation of the province was estimated at Rs. 3,55,507 as there was a decrease in the cost of headquarter offices of the Punjab Government.

(ii) The total expenditure for the year 1918-1919 was Rs. 1,05,62,476, being an excess of Rs. 37,78,652 over the original estimate of the cost of the administration of the North-West Frontier Province.”

**The Hon'ble Mr. Sachchidananda Sinha** asked :—

31. “(a) What was the total number of political offenders in detention or jail on the date of the issue of His Majesty the King-Emperor's Proclamation in each province, including the Andamans? Release of political offenders.

[ Mr. Sachchidananda Sinha; Sir William Vincent; Sir George Burnes; Mr. W. M. Hailey. ] [ 25TH FEBRUARY, 1920. ]

(b) How many of these have been released in each province in pursuance of the terms of the said Proclamation?

(c) If all political offenders have not yet been released, will Government be pleased to state the reason for not extending to them the benefit of the Royal clemency?

(d) Do Government propose to take into further consideration the cases of those not yet released? If not, why not?"

**The Hon'ble Sir William Vincent** replied:—

"(a), (b), (c) and (d).—The Hon'ble Member is referred to the reply given to the Hon'ble Mr. Kamini Kumar Chanda."

**The Hon'ble Mr. Sachchidananda Sinha** asked:—

Number of officers Indian, European and Anglo-Indian, employed in the office of the Postmaster-General of Bihar and Orissa.

32. "(a) What is the total number of officers—Indian, European and Anglo-Indian—in the office of the Postmaster-General of Bihar and Orissa, and also in the Postal department of the province, in the various grades, drawing a salary of not less than Rs. 25 per mensem?"

(b) How many and what proportion of the Indian employees are natives of Bihar and Orissa or domiciled therein?

(c) What is the number of the natives of Bihar and Orissa serving in the Postal Department outside their own province?

(d) Do Government propose to take any steps to recruit more largely from amongst persons who are natives of the province of Bihar and Orissa or domiciled therein? If not, will Government be pleased to state their reasons therefor?"

**The Hon'ble Sir George Barnes** replied:—

"(a) Out of 61 officials on Rs. 30 and above attached to the office of the Postmaster-General, Bihar and Orissa, 3 are Europeans or Anglo-Indians, 35 are Indians belonging to other provinces and the remaining 23 are natives of the province or domiciled therein. While out of a total number of 1,039 officials on Rs. 25 and above serving in Post offices in the Bihar and Orissa Circle, 9 are Europeans or Anglo-Indians, 260 are Indians belonging to other provinces, and 770 are natives of the province or domiciled therein.

(b) 793 persons or more than two-thirds of the employees are natives of the province or domiciled therein.

(c) About 450 natives of Bihar and Orissa are serving in the Post Office and Railway Mail Service in other provinces.

(d) There is already a standing order to the effect that candidates for the Post Office in the Bihar and Orissa Circle should be recruited, as far as possible, from amongst natives of the province or from amongst persons permanently domiciled therein."

**The Hon'ble Mr. Sachchidananda Sinha** asked:—

Expenditure in connection with the administration of civil and criminal justice.

33. "Will Government lay on the table a statement showing the income, the expenditure, and the net loss or gain for the last five years (1914—1919) in the various provinces in connection with the administration of civil and criminal justice?"

**The Hon'ble Mr. W. M. Hailey** replied:—

"A statement\* is laid on the table showing in round thousands the total figures of receipts and expenditure under the three principal heads relating to the administration of Civil and Criminal Justice, namely, the receipts from

\* Not included in these Proceedings.



[25TH FEBRUARY, 1920.]

[Mr. W. M. Hailey; Mr. Sachchidananda Sinha; Mr. Shafi.]

the sale of Court-fee Stamps and the receipts and expenditure under 'Law and Justice,' including Jails. These figures, however, when taken by themselves, are misleading and give no clear indication whether the administration of Civil and Criminal Justice is a source of profit or of loss to Government. To arrive at a correct estimate of profit or loss it would be necessary to include various items which are sufficiently large materially to affect the result. The nature of these items is explained as regards the Civil Courts in the Government of India's Resolution No. 101, dated the 9th January 1920, a copy of which is also laid on the table. The Hon'ble Member will observe from the Resolution that the compilation of even an approximately accurate statement is a matter which would involve a very large expenditure of time and labour."

**The Hon'ble Mr. Sachchidananda Sinha asked:—**

34. (a) Will Government lay on the table a statement showing the state of primary education in the various provinces since the issue of the Government of India's Resolution, dated 21st February, 1913, in which it was stated 'It is the desire and hope of the Government of India to see in the not distant future some 91,000 primary public schools added to the 100,000 which already exist for boys and to double the 4½ millions who now receive instruction in them?' Primary education.

(b) Has the attention of Government been drawn to the Resolution of the Bihar and Orissa Government, dated the 7th January, 1920, on the report on education in that province for the year 1918-1919, and particularly to the following remarks of the Lieutenant Governor in Council:—

'Although there was a very considerable increase in the funds placed at the disposal of local bodies for primary education, the number of schools fell from 25,827 to 25,652 and the number of pupils from 711,715 to 695,258. \* \* \* The constant failure to record adequate progress in elementary education in spite of an increase in expenditure of over 60 per cent, since the province was founded continues to cause the Lieutenant-Governor in Council much concern?'

(c) Has the attention of Government been drawn to a leading article headed 'Education in the local Council' in the *Searchlight* of Patna, dated 23rd October 1919, in which it is stated that since the province was constituted there has been till now a decrease of 3·5 per cent in the number of students in the primary schools? If so, is that statement of the *Searchlight* correct?

(d) In what other provinces, if any, has there been an actual decrease in the number of schools or scholars? If in no other except Bihar and Orissa, do Government propose to take steps to examine for themselves the question of the decline of primary education in that province? If not, why not?"

**The Hon'ble Mr. Shafi replied:—**

(a) "The statement † is laid on the table. It is necessary to explain that, with effect from 1914-15, the figures for a number of Indian States, which it had been the practice previously to include along with the figures for British India, were omitted. The number of all institutions and pupils shown were thereby reduced by approximately 5,000 and 330,000, respectively. This change in the method of collecting statistics affected Bombay more seriously than any other province, with the result that that presidency shows an apparent decline in primary schools and pupils, whereas in reality there has been an approximate increase of 1,900 schools and 103,000 pupils.

(b) Yes.

(c) The attention of the Government has not been drawn to the leading article in question. If the leading article makes the statement that there has been from the time of the constitution of that province up till now a decrease of 3·5 per cent in the number of pupils in primary schools, then it is misinformed. There has, on the contrary, been an increase of 7·7 per cent. in such schools over and above the figures for 1911-12.

(d) It is not clear whether the Hon'ble Member's question has reference to the year 1918-19 or to some period of years. If the former, the facts are that the number of primary schools did, during that year, decrease in Burma

\* Not included in these Proceedings.

† Vide Appendix.

[*Mr. Shafi; Mr. Sachchidananda Sinha; [25TH FEBRUARY, 1920]*  
*Sir William Vincent.*]

and Bihar and Orissa, but increased in every other province, the total net increase for India being 2,396. There was also in that year a considerable decrease in the number of primary school pupils in Bengal, substantial decreases in Burma, Bihar and Orissa, the Central Provinces and Berar and Assam and a very small decrease in Madras. There was a large increase in Bombay, a substantial increase in the United Provinces and small increases in the Punjab, the North-West Frontier Province and other minor Administrations, giving a total net increase of 8,741 pupils for all India. If the Hon'ble Member's question refers to figures over a longer period, the statement laid on the table will furnish him with the necessary information."

**The Hon'ble Mr. Sachchidananda Sinha asked:—**

**Publicity  
Boards.**

35. "(a) Is it a fact that certain Local Governments and Administrations have recently organized Publicity Boards? If so, which are the Provinces now possessing such Boards?

(b) Have these Boards been established as the result of any suggestion or direction conveyed by either the Secretary of State for India or the Government of India? If so, do Government propose to lay on the table a copy of the said communication? If not, why not?

(c) If no such communication was issued, will Government be pleased to state the reason for the establishment of these Boards and the objects they are intended to serve?

(d) Will Government lay on the table a statement showing the name or names of the officer or officers forming the staff of these Boards in each of the provinces, with their emoluments and all other expenses incidental thereto?

(e) Is it a fact that all or some of these Boards issue periodicals? If so, will Government be pleased to lay on the table a copy of each of them and a statement showing, for each province, the annual cost of issuing such periodicals?

(f) What is the total annual cost, actual or estimated, of the maintenance of these Boards?"

**The Hon'ble Sir William Vincent replied:—**

"(a) Yes. Publicity Boards exist in Madras, the United Provinces and the Punjab, and there are publicity organizations in certain other provinces.

(b) Publicity Boards were originally established in consequence of the recommendation of the Delhi Conference in 1918.

(c) Originally war organizations, they have been found to possess considerable utility as sources of public information. They were first established as a result of the recommendation by the Government of India, but their continuance has been a result of local experience of their educational utility. Government do not propose to lay upon the table the correspondence connected with their establishment, but they are prepared to make a statement regarding the objects and methods of publicity work. This will be laid on the table at some later date when there has been time to compile the necessary information.

(d) A statement\* is laid upon the table giving the particulars asked for by the Hon'ble Member so far as they are now available to the Government of India. Further details will be placed at his disposal when they have been received from the Local Governments concerned.

(e) Two Provincial Boards, those of the United Provinces and the Punjab, issue periodicals. A copy\* of each is laid on the table.

(f) The Hon'ble Member is referred to the statements laid on the table."

\* Not included in these Proceedings.

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[Mr. Sachchidananda Sinha; Sir William Vincent; Mr. K. V. Rangaswamy Ayyangar; Sir Claude Hill; Sir George Barnes.]

**The Hon'ble Mr. Sachchidananda Sinha** asked:—

“36. (a) Has the attention of Government been drawn to three editorial articles, about the recent Royal Proclamation, which appeared in the *Statesman* of Calcutta in its issues of 27th, 30th, and 31st December last?”

Articles in connection with the Royal Proclamation in the Statesman.

(b) Is it a fact, as suggested in these articles, that the amnesty granted in the Royal Proclamation was forced on the Government of India by Mr. Montagu, or that it was dictated from London without the Government of India having been consulted about the matter?

(c) Have Government taken any steps by means of the issue of a communiqué or otherwise to remove any misapprehension that may possibly exist in the public mind caused by the publication of the *Statesman's* articles in question? If not, will they make a statement in the Council which may remove any such misapprehension? If not, why not?”

**The Hon'ble Sir William Vincent** replied:—

“(a) Government have seen the articles referred to.

(b) The message of Royal clemency was proclaimed after consultation with the Government of India, and the general principle involved had their full approval.

(c) Government do not believe that any real misapprehension was caused by the articles in question. The answer given to the present question renders any further action in this matter unnecessary.”

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar** asked:—

37. “(a) Will Government be pleased to furnish information as to what percentage of the Indian population resort to agriculture and agricultural labour?”

Agriculturalists and agricultural labourers in India.

(b) What percentage of the agricultural labourers receive their wages in kind and what percentage in cash?”

**The Hon'ble Sir Claude Hill** replied:—

“(a) The Hon'ble Member is referred to paragraph 529 of the Census Report of 1911 in which it is stated that 72 per cent. of the total population of India are engaged in pasture and agriculture.

(b) The information is not available.”

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar** asked:—

38. “(a) Is it a fact that many people were induced by the Government of Madras, through the Board of Revenue, to open salt factories during the last year and the year before last?”

Salt factories.

(b) Is it a fact that the foreign competition by importation of salt is bringing ruin on the native industry and also great loss to the Government revenue?”

(c) Are Government prepared to impose a duty on the foreign salt imported so that there will not be any discouragement to the native industry?”

**The Hon'ble Sir George Barnes** replied:—

“(a) In 1917 the Government of India asked the Madras Government to take steps to increase the output of salt in view of the danger of a shortage of imported salt. The Madras Government reported in 1919 that the area of land set apart for salt manufacture had risen from 12,000 to 20,000 acres, and the output of salt was estimated at 200 lakhs of maunds per year as compared with 107 lakhs in pre-war years.

[*Sir George Barnes; Major Malik Sir Umar Hayat Khan; The Commander-in-Chief; Khan Sahib Shah Nawaz Bhutto; Sir Claude Hill.*] [25TH FEBRUARY, 1920.]

(b) The Madras salt as manufactured at present is impure, and is not popular in Calcutta, which affords its chief market outside the Presidency. The Government of India have asked the Secretary of State to obtain a technical expert to advise the Madras Government on measures for improving the quality of salt manufactured from sea brine and for producing the grade which is in demand in the Calcutta and other outside markets. The present price of imported salt in Calcutta (excluding duty) is Rs. 1-13-0 per maund. Its price before the war was 11 annas per maund; but, so far as is known, there is no prospect of a material fall in the price of imported salt in the near future. The cost of production of Madras bay salt is never more than 3 annas per maund, the railway freight to Calcutta is 8 annas per maund. This leaves a margin of Rs. 1-2-0 for bagging, intermediate expenses, and for the cost of crushing. The import of foreign salt in 1913-14 was 607,000 tons. In 1917-18 it was 337,000 tons, and in 1918-19 (the first 8 months) it was 255,000 tons (=382,000 tons for the whole year). It does not appear therefore to be a fact that foreign competition is bringing ruin on the native industry.

(c) Foreign salt already pays customs duty on import at the rate at which the excise duty is for the time being leviable on salt manufactured in the place where the import takes place."

**The Hon'ble Major Malik Sir Umar Hayat Khan asked :—**

increase in present rates of pay and allowances of Indian ranks.

39. "In view of the present increased cost of living, do Government propose to make any increase in the present rates of —

- (a) Pay of Indian ranks ?
- (b) Pensions of Indian ranks ?
- (c) Wound and injury pensions of Indian ranks ?
- (d) Family pensions of Indian ranks and followers ?"

**His Excellency the Commander-in-Chief replied :—**

"(a) The question of any permanent increase required in the pay of Indian ranks is under consideration by the Army in India Committee in connection with the re-organization of the Indian Army. Meanwhile, the extra six-monthly bonus of Rs. 60 and Rs. 30 for Indian officers and Rs. 24 for other ranks, which was sanctioned temporarily as a war measure and would have been withdrawn on the termination of the war, is being continued. In addition all Indian troops serving out of India or Burma have been granted a special monthly expatriation allowance in lieu of the old foreign service *batta*, the allowance for a sepoy being Rs. 5 compared with Rs. 1-8-0 the *batta* rate.

(b), (c) and (d). The Government of India are engaged in telegraphic correspondence with the Secretary of State on these points."

**The Hon'ble Khan Sahib Shah Nawaz Bhutto asked :—**

The Sukkur Barrage.

40. "(a) Is it a fact that no improvements in irrigation are made in Sind ?

(b) Are Government aware that considerable loss and damage have been caused to numerous landholders in Sind as a result of the delay in constructing the Sukkur Barrage ?

(c) When do Government propose to take the project in hand ?"

**The Hon'ble Sir Claude Hill replied :—**

"(a) No. It is not a fact that no improvements in irrigation are made in Sind. In respect of the developments of irrigation in Sind since 1900, the Hon'ble Member is referred to pages 21 and 22 of the Review of Irrigation in India for 1917-18. Since 1880 the total irrigation from Government works in Sind has increased from 1½ to 3¼ million acres, and it is

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anticipated that when the principal works recently completed, under construction, or under consideration are in full working order, an additional area of 946,000 acres will be irrigated. This extension of the irrigated area is exclusive of the Sukkur Barrage Scheme, which is estimated will provide irrigation for an increase of 2,200,000 of annual cultivation, or double the cultivation of the whole of the central area of Sind.

(b) There has been no delay in the matter of the Sukkur Barrage except such as is incidental in the framing and consideration of a project of great magnitude which is estimated to cost 1,400 lakhs.

(c) The plans and estimates for the Barrage portion of the project have been completed and are under the consideration of the Government of Bombay. A soil survey of the tracts under command has recently been completed and the revision of the projects for the Right and Left Bank Canals has been taken in hand. No date can be fixed as to when the construction of the project will be taken in hand."

**The Hon'ble Rao Bahadur B. N. Sarma asked:—**

41. "Do Government propose to publish the report of the Army Committee presided over by Lord Escher, when it is presented, and give this Council an opportunity of discussing it before final orders are passed thereon?"

Publication of the report of the Army Committee

**His Excellency the Commander-in-Chief replied:—**

"The report of the Army in India Committee will not be submitted to the Government of India, but to the Secretary of State by whom the Committee was appointed. The Government of India are not aware of the Secretary of State's intentions as regards publication of this Report, and are consequently unable to say whether this Council will be afforded an opportunity of discussing it before final orders are passed."

**The Hon'ble Rao Bahadur B. N. Sarma asked:—**

42. "What was the normal Imperial expenditure (excluding extraordinary war expenditure) during the years 1917-18 and 1918-19 under the heads proposed to be made Imperial under the Reform Scheme?"

Normal Imperial expenditure under the Reform Scheme

**The Hon'ble Mr. W. M. Hailey replied:—**

"The Government regret that it is not possible to collect, examine and classify the figures desired, without an expenditure of labour which it would be impossible to undertake during the present budget season; but as recently promised, I will after March 1st lay on the table figures showing actual revenue and expenditure re-classified as desired by the Hon'ble Member."

**The Hon'ble Rao Bahadur B. N. Sarma asked:—**

43. "What proportion of the railway rolling stock, for which budget provision was made in 1919, has arrived in India, and when is the remainder expected to arrive?"

Railway rolling stock

**The Hon'ble Sir Arthur Anderson replied:—**

"From information received, it is clear that conditions prevailing in England have delayed the delivery of a large proportion of the materials under order for delivery to Indian Railways during the current year. Information as to the proportion of the rolling stock actually delivered is not yet complete, and Government are unable to say definitely when the balance of stock will come forward, but it is hoped that it will reach India in the early part of the coming financial year."

978 QUESTIONS AND ANSWERS: WORKMAN'S BREACH OF CONTRACT (AMENDMENT) BILL; CHARITABLE AND RELIGIOUS TRUSTS BILL; INDIAN CENSUS BILL.

[Rao Bahadur B. N. Sarma; Sir Arthur Anderson; Sir George Barnes; Sir William Vincent; Mr Shafi.] [25TH FEBRUARY, 1920.]

**The Hon'ble Rao Bahadur B. N. Sarma asked:—**

Formation of a Railway Committee.

**44.** "When will the proposed Railway Committee be formed, and what will be the terms of reference thereto?"

**The Hon'ble Sir Arthur Anderson replied:—**

"The proposed Railway Committee will be formed in the coming cold season of 1920-21.

As the terms of reference are under correspondence with the Secretary of State, an announcement thereon cannot at present be made."

**The Hon'ble Rao Bahadur B. N. Sarma asked:—**

Exports of raw skins to the United States.

**45.** "(a) What were the exports of raw skins to the United States since the passing of the Indian Tariff (Amendment) Act, 1919?

(b) Has the duty had any protective effect, or has it only been operative as a revenue measure?"

**The Hon'ble Sir George Barnes replied:—**

"(a) During the four months September to December 1919, beyond which figures are not yet available, 200,798 cwts. of raw sheep and goat skins valued at Rs. 4,99,12,825 were exported from India to the United States of America.

(b) It is obviously too early to judge whether the duty has had any protective effect. Shipments since the imposition of the duty have been unusually large, but conditions have been wholly abnormal on account of the world-wide shortage of stocks arising from the conditions that prevailed during the war. It should moreover be remembered that, as previous commitments were exempted when the duty was first imposed, a considerable proportion of the shipments during the period mentioned above were made free of duty."

### WORKMAN'S BREACH OF CONTRACT (AMENDMENT) BILL.

11-39 A.M.

**The Hon'ble Sir William Vincent:—**"My Lord, I beg to present the Report of the Select Committee on the Bill further to amend the Workman's Breach of Contract Act, 1859."

### CHARITABLE AND RELIGIOUS TRUSTS BILL.

**The Hon'ble Sir William Vincent:—**"My Lord, I move that the Hon'ble Raja Sir Rampal Singh be added to the Select Committee appointed to report on the Bill to provide more effectual control over the administration of Charitable and Religious Trusts, *vice* the Hon'ble Pandit Madan Mohan Malaviya, who has told me that he will be unable to act. I may add that it was only by an oversight that the Hon'ble Raja's name was omitted on the day the Committee was appointed."

The motion was put and agreed to.

### INDIAN CENSUS BILL.

11-40 A.M.

**The Hon'ble Mr. Shafi:—**"My Lord, I beg to move that the Report of the Select Committee on the Bill to provide for certain matters in connection with the taking of census be taken into consideration. No notices of amendments have been received, and the Bill as drafted and slightly amended in the Select Committee is apparently acceptable to all Hon'ble Members."

The motion was put and agreed to.

**The Hon'ble Mr. Shafi:**—"My Lord, I move that the Bill as amended be passed."

The motion was put and agreed to.

### PROVINCIAL INSOLVENCY BILL.

**The Hon'ble Sir George Lowndes:**—"My Lord, I have the honour to move that the Report of the Select Committee on the Bill further to amend the Provincial Insolvency Act, 1907, be taken into consideration. 11-42 A.

"The legislation of which we have now reached the final stages has been a matter of long and mature consideration by the Government of India. In September 1917, an informal committee was assembled to consider the suggestions which had then been made. In September 1918, the Bill was introduced and published and the opinions received on it from all quarters were favourable. In February 1919, it was referred to a Select Committee; the Select Committee considered the Bill and reported in September 1919, and their Report was presented to this Council on the 24th of that month. They recommended *inter alia* that the Bill should be re-committed to them for consolidation with the existing Act, and this was accepted by the Council. The Committee sat again during this Session to re-consider the Bill with the question of consolidation, and they presented their final Report on the 11th of this month.

"Before, my Lord, I deal with the Report, I desire to express my thanks to those who have taken part in these committees, and who have given me and the Government their whole-hearted co-operation in this matter. It is to their ungrudging labours that we owe much that is good in this Bill, and I feel that the Council owes a particular debt of gratitude to them in this case. For myself, I should like to express my thanks in particular to my Hon'ble friend, Mr. Chanda, whose legal experience has been of great value to us, and to my Hon'ble friend, Mr. Sarma, whose many sided attainments have always been the subject of my most earnest admiration, and last but not least, I should like to pay some tribute to my own department for the very heavy spade work that they had to do in this matter.

"Turning to the Bill, I would explain, as shortly as possible, what the position is. As the Council knows, the old Civil Procedure Code of 1882 contains certain rather crude provisions for dealing with insolvents outside the Presidency towns. These were replaced in 1907 by the Provincial Insolvency Act of that year, which was admittedly a measure rather of an experimental nature, and which in the twelve years in which it has been in operation has not been found to be altogether successful. In 1909 the Presidency towns Insolvency Act was passed, which was probably a better-considered measure, and in many ways formed the model which we sought to follow in amending the Provincial Act, and a considerable portion of the labours of the committee has been devoted to assimilating in the Provincial Act provisions from the Presidency towns Act. But the chief defect in the Provincial Act was always found to be that it lent itself peculiarly to the devices of dishonest debtors, and it was thought that it was necessary to make it much more stringent in dealing with debtors who possibly at all events might be dishonest. It is to remedy this that the main labours of the committee have been devoted.

"Many other points, however, arose for consideration in the committee, and they have all been taken into account, and the committee's recommendations on them have been embodied in their first Report. When it came back for consolidation, we did a great deal of additional work, not merely paste and scissors as in the case of so many consolidation Bills; but we have re-arranged the whole Act to get it into a more reasonable sequence. We have fitted it together; we have had to make many consequential amendments, and we have transferred to Schedules certain

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provisions which were in the Act before, but which we thought could more fittingly be embodied in Schedules. The Council have the consolidated Bill before them, and I propose to deal only with it now as it is somewhat difficult to trace back the provisions which are now in the consolidated Bill to their origin in the Bill as amended by the first Report of the Committee. There are many minor amendments in the Bill as it is now before the Council which have, I think, been sufficiently dealt with in the Select Committee Reports; and I do not propose to refer to them at all.

"If Hon'ble Members will glance at the Bill, they will see that a large portion of it is printed in italics; that is the new part arising from the first Report of the Committee. Certain provisions are also underlined; those are changes which have been made by the second Report of the Committee in the course of consolidation, and they are mainly drafting changes. There are one or two changes which go rather further than drafting, but they are, I think, sufficiently explained in the second Report. We have had only two amendments tabled to this Bill, which no doubt will be dealt with by my Hon'ble friend Mr. Sarma later. It is, I think, in itself some tribute to the labours of the Committee that there are only two points really outstanding for the consideration of the Council. I do not propose to weary the Council at any length with this Bill, as I take it that it has met with general acceptance, but it is my duty very shortly to call attention to the really important changes which we have made.

"If the Council will turn to the consolidated Bill, which is now before them, they will find in clause 4 an important change, in that we have given the insolvency court power to deal finally, if they choose, with any questions of law or fact arising in the course of their investigations. We do not make it compulsory upon the court to do so, we merely give them the power to do so, and we hope that where questions of difficulty or complexity, especially touching the rights of third parties, come before insolvency courts, they will think it wise either to leave them to the decision of the ordinary courts, or to act upon the power which we have given to them in sub-clause (3), without deciding the rights of parties, to sell whatever interest an insolvent has in the property. This of course makes for expedition, and enables the estate to be wound up with much greater promptitude than if the auditors have to wait for the result of other legal proceedings. It is not a novelty, in that it is little more than the adoption of the ordinary procedure in execution where the right title and interest of the debtor, whatever it may be, is sold by the executing court.

"Turning to clause 10 it provides that it shall be a condition precedent to the presentation of the insolvency petition that the debtor is unable to pay his debts. This is not quite such a simple question as it sounds, because if the court is to be satisfied at the outset that the debtor is unable to pay his debts before it can go further, very large questions may arise for preliminary decision, for instance, in this country, there are often questions of the *benami* holding of property. We do not desire that there should be a preliminary trial of such questions at the outset of every petition, and we have accordingly provided under clause 24 that *prima facie* proof only of inability to pay debts shall be required at this stage, leaving the question open for more detailed consideration when the adjudication has been made.

"Clause 20 contains a new provision with regard to the appointment of a receiver. We thought that ordinarily where a debtor was the petitioner an interim receiver should be appointed at once. We do not make this compulsory on the court; we only say that *ordinarily* where the debtor is the petitioner an interim receiver shall be appointed, and that where the creditor is the petitioner the court may, if it so desires, appoint an interim receiver. A later clause [56 (5)] applies to interim receivers the various provisions of the Act which affect receivers generally.

"Clause 27 and certain clauses that go with it are probably among the most important changes in the Bill. The clauses which the Council will have to consider in connection with it are 43, 10 (2) and 13 (1) (f). The question



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dealt with here is that of the discharge of the insolvent. In the past debtors have only cared to come before a court to file their petition, to get release from jail, it may be, or protection. They have hardly even cared to come up for discharge. But it is only when they come up for discharge that it is possible to deal with various offences that may have been committed by them. In practice under the Provincial Insolvency Act no application is made for discharge at all. There seems to be no ignominy attaching to an undischarged bankrupt at all events outside the larger towns, and the provisions for discharge have been practically inoperative. The change that we have proposed here is that it shall be compulsory upon every petitioner to come up for his discharge within a certain period. Clause 27 provides that the court is to fix the period within which the debtor must apply for his discharge. Clause 43 provides that if he does not so apply his adjudication shall be annulled. He is liable thereupon to go back to jail if he has been released, and is subject to the ordinary processes of execution. Clause 10 (2) provides that no insolvent may file a second petition on the same facts without the leave of the court. Clause 13(1) (f) provides that every petitioner must state in his petition whether an adjudication has been previously annulled, in order that the court may be able to judge whether the petition is within the law or not.

“Turning to clause 44 (2) the words in italics at the end of sub-clause (2) are important and provide that an insolvent's discharge shall release him from all debts provable in the insolvency. Under the existing Provincial Act the discharge releases the debtor only from the debts which have been entered in the Schedule. It was thought by the Committee that this puts a premium on creditors not coming in under the Act, but keeping out in order to harass the debtor or to get better terms out of him after the insolvency is over. It is obviously the policy of insolvency law not only to distribute the estate among the creditors fairly, but to give the debtor, if he has been an honest man, a fresh start from that time onwards. It is obvious that this policy will be defeated if we encourage creditors to keep their claims out of the schedule. We have, therefore, proposed the substitution for the existing provision of a provision that the discharge shall extend to all debts which are *provable* in the insolvency. In this instance, as in many others, we have adopted the provision of the Presidency-towns Act which is practically to this effect.

“The next clause of the Bill to which I need refer is clause 69 dealing with penalties. This was clause 19 of the original Bill as amended in the first Report of the Committee. This appears to be a very considerable change from the old Act, but the change is more in form than in substance. It was found that section 43 of the old Act was unworkable largely on account of the vagueness of the language. We have remodelled it largely on the lines of the Presidency-towns Act. The only modifications, however, of the clause as originally introduced in this Council are first that we have provided that in the case of a number of offences committed in the course of the same insolvency proceedings the aggregate imprisonment shall only be two years, and, secondly, that we have added a provision that the insolvency court instead of dealing with the offence itself may, if it thinks fit, make a complaint before the nearest Magistrate. This will enable more serious offences to be dealt with by the ordinary criminal courts.

“Clause 73 deals with the disqualifications of insolvents in the matter of being appointed to various offices. In this matter we have not changed in any way the provisions of the Bill as originally introduced.

“Part V, clause 74, deals with the summary administration of small estates. In this case, again, we have made no changes from the Bill as originally introduced, except that we have restored the old limit of Rs. 500. In the preliminary Committee which sat in September 1917 the question of the limit of summary administrations was discussed at some length. The Act put a limit of Rs. 500, but the Committee thought that, in order to get small estates through with greater expedition, it was desirable to lower the limit and to make the summary procedure apply only in the case of estates of Rs. 200 or under. When the Bill was circulated for opinions there were considerable

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differences of opinion on this point. Many suggested that the old limit should be maintained, others agreed that the limit should be lowered, others again thought the limit should be raised as high as Rs. 2,000. These opinions were considered by the Select Committee, and it came to the conclusion that, on the whole, it would be better to keep the limit already in the Act, namely, Rs. 500, and we have therefore restored it.

" Clause 78 is, I think, also of sufficient importance to be mentioned. It is a limitation clause. When we provided that if a debtor does not come up for his discharge his adjudication should be annulled, it was obvious that this might cause hardship in the case of creditors, who had causes of action against him at the time of adjudication, but who were precluded from filing their suits. If the adjudication was subsequently annulled, it seemed necessary to provide that the period between the adjudication and the annulment should be extended, and we have embodied this suggestion in clause 78. My friend, Mr. Sarma, did not see eye to eye with the rest of us on this question, and proposes the omission of the proviso at the end of the clause. I will leave him to argue the point, as I shall have another opportunity of dealing with it.

" I do not think there are any other points that I need refer to. I hope I have not wearied the Council with my explanations. If I have done so, I ask for forgiveness. I am conscious that this is a really dull piece of legislation and that it has not got in it even a flavouring of that spice of political interest which many of my Hon'ble friends seek to extract from even the most innocent forms of Government legislation.

" It is, however, none the less a really useful piece of work, and I feel that if it commends itself to the Council, we shall have effected a distinct improvement in a branch of the law which ought to be of greater use to the community than it has been in the past. My Lord, I commend this Bill to the careful consideration of the Council."

The motion was put and agreed to.

13-2 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma.**—" My Lord, I beg to move that in sub-clause (2) of clause 4, for the words 'as between the debtor and all claimants against the debtor's estate who were parties thereto' the words 'as between, on the one hand, the debtor and the debtor's estate and on the other hand, all claimants against him or it' shall be substituted.

" It is with great hesitation, my Lord, that I have placed this amendment before the Council for consideration. I have always felt that in view of the great importance of clause 4 of the Bill, we should make our meaning clear when we give finality to the decisions that may be arrived at by the Insolvency Courts in adjudicating upon questions of title, priority or of any nature whatsoever for the purpose of doing complete justice, or for making a complete distribution of the property. It is not merely by way of an idle compliment that I say that it is with considerable hesitation that I placed this amendment, because all our difficulties have been very patiently listened to and considered by the Hon'ble Sir George Lowndes, and I feel that if I was not able to convince him, then it may be somewhat difficult to convince him now. I think that when I make the matter a little more clear he would sympathise with my position in the matter and see his way to accept the amendment. It is but fair to say that in drafting the particular wording of this amendment I have had the assistance of, or I may say I owe the wording to, the very great legal acumen and experience of my friends, and I have therefore ventured to bring it forward. I have always felt that it is necessary to make our meaning clear especially when we deal with the question as to who are the parties to an adjudication. Considerable difficulties have arisen in the administration of justice in deciding questions of *res judicata*, in determining who are the parties to an adjudication, and I think that if we can

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make our meaning clear by saying that the matters that may be adjudicated upon under clause 4 (1) are matters between the debtor and his estate on the one hand, and all persons whatsoever who may claim against that estate on the other hand, the matter would be more simple than if we import the words 'persons who are parties thereto'. Well, let us take a question of adjudication of title. Any creditor who may assert any title against the debtor or his estate to a particular piece of property in insolvency should set up his title, that is, he must be a claimant. Well, if he be a claimant against the estate, the matter is *res judicata* whether he is on the schedule or not, and the matter is extremely important in view of the fact that all creditors who have not proved their debts, but who can prove their debts, must be considered to be represented in insolvency and would be represented by the Receiver if a receiver be appointed, and we have made provision for the appointment of a Receiver. I therefore think, Sir, that if we make this provision that on the one hand the party would be the debtor and the debtor's estate, may be the receiver, and the creditors who are represented by the receiver on the one hand, and the persons who claim the estate, on the other hand, the whole ground would be covered. In cases of priority the persons who would dispute would be the creditors themselves or the receiver may dispute the priority of a creditor. In that case the debtor's estate would be represented by the receiver or by the debtor and the creditors would be the persons claiming against the estate within the meaning of that particular clause. I therefore think there will be no harm if we omit the words 'as between the debtor and all claimants against the debtor's estate who were parties thereto' and substitute those that I have suggested . . . . .

**The Hon'ble Sir George Lowndes.**—"My Lord, I do not want <sup>12-7 P.M.</sup> the Hon'ble Member to think that I am obdurate. My heart goes with him and my heart is going to carry the day. My judgment is still against him, I am not at all sure that this is not rather dangerous, but my Hon'ble friend has great experience in these matters, and if the Council agrees to this amendment, I am prepared to accept it. What it means is this that if a question of title has been adjudicated by an Insolvency Court the decision by the Insolvency Court according to my Hon'ble friend, Mr. Sarma, is to be binding upon everybody, the debtor and the debtor's estate on the one hand and everybody who claims against the debtor's estate on the other hand. Personally, I should have thought it safer to limit it only to what I call the parties, that is the people who have actually appeared on the claim. People who had not appeared on the claim possibly had no notice of it at all and should not be bound by it, but I am quite willing to bow to my Hon'ble friend's experience in these insolvency matters, and if the Council thinks that the clause is a better clause than the one we have provided, I am quite willing to accept it. I am quite prepared, if my Hon'ble friend wishes it, that everybody should vote according to his own inclination."

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, I do <sup>12-9 P.M.</sup> not think that there is any real difficulty as apprehended by the Hon'ble Sir George Lowndes. I think matters between the debtor on the one hand and the creditors who support his title and claim their dividends out of the estate would not be *res judicata* upon any subsidiary points upon which the decision may be come to. It is only questions of title with regard to any property claimed and disputed to be the debtor's property that would be adjudicated upon as between the debtor and the creditors who support him on the one hand, and the persons who oppose him or who claim a title to that estate on the other hand. All persons who actively claim a title to that estate would be parties thereto necessarily, and I therefore think that no one who is not a party to the suit in that sense of the term would be in any way whatsoever prejudiced by any adjudication. The difficulty I felt was as to whether a creditor siding

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with a debtor in respect of the title to a particular piece of property but not in the schedule or not proving his debt or not a party regularly to the suit would still be governed by an adjudication on any issue raised in the course of these proceedings. My submission is that those creditors who support the debtor would be on the same side and the matter would not be *res judicata*; only the creditors claiming and receiving a dividend would be estopped. The matter would be *res judicata* as between the debtor on the one side and the persons who claim adversely to the estate on the other, and I do not think that any person by reason of absence of notice or by reason of his not being a party to the suit would be prejudicially affected in any manner whatsoever."

The motion was put and agreed to.

**The Hon'ble Rao Bahadur B. N. Sarma:**—" My Lord, I move that the proviso to sub-clause (2) of clause 78 be omitted. The proviso runs thus:—

' Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act.'

" The Hon'ble Sir George Lowndes has told us that the Select Committee has extended the original operation of the Bill by bringing in creditors who have not proved under the Act within the purview of clause 44 of the Bill, that means to say that they would lose their right to proceed against the debtor after discharge even though they did not take the benefit of the insolvency proceedings and did not come in for a dividend and did not take a dividend. The question here raised is as to whether we should draw a distinction between creditors who have proved and who have not proved further to the detriment of a person who has not proved by depriving him of the benefit which this clause granted to creditors who have proved before annulment. Let me make my meaning clear. In insolvency proceedings every creditor has got an opportunity of proving his debt and no person can proceed against the debtor or the debtor's estate during the pendency of the proceedings, except as provided in the Act. After the adjudication order has been made, whether a man has proved under the Act or has not proved under the Act equally is he debarred ordinarily from proceeding by way of a suit, against the debtor or his estate. The order of adjudication may, however, be annulled by the court on its being proved to its satisfaction that the debts can be paid or that no order of adjudication should have been made at all, and then the property re-vests in the debtor and persons can proceed from that date onwards against the debtor or his estate. Now during that interval the persons who have been deprived of the benefit of taking the usual proceedings will be given the advantage under this clause of having to their credit, for the purposes of computation of limitation, the period which has elapsed between the date of the order of adjudication and the date of annulment, that is, if they have lost three months they will have three further months within which they can file a suit. But if, unfortunately, a man has not proved, this proviso enacts that he shall not have that benefit. My position is that a creditor who is debarred from taking the regular proceedings by reason of an adjudication order should be given the benefit equally whether he applies for a dividend by proving his debt or does not. I will explain by one or two concrete instances wherein the hardship lies. Supposing a creditor has three months within which he can file a suit when an order of adjudication is made. He comes to know a little after, say within a month, that an order of adjudication is made, he has still two months' time within which he can sue. Suddenly at the end of a month and 20 days the order of adjudication is annulled. He has still 10 days within which to sue. The suspensory period may be long if the insolvency proceedings are protracted. The order of annulment may be passed when he has only ten days or even two days within which he can sue, or after the period is over. Now in the case of a creditor who has proved or, at any rate, offered to prove under the Act this three months' period

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or two months and 28 days' period between the order of adjudication and the order of annulment will be counted in his favour, that is, he will have three months or two months and 28 days still to his credit. But the creditor who has not moved the court in insolvency will not have these 2 months and 28 days; he will have only two days within which to bring a suit or one day or it may be he will have no time whatsoever, although in the course of the insolvency, if the proceedings should be continued without annulment, he might have proved his debt. Therefore, in one case he might be deprived altogether of his remedy by reason of a sudden annulment of the adjudication order. In any case he would be seriously prejudiced by the period of limitation being curtailed against him for no fault of his own. I therefore submit that there is no real reason for curtailing the rights and privileges of a creditor further in the manner that is suggested in this proviso.

"The only argument that may be advanced is that it would make creditors diligent in proving their debts. Well, my Lord, there may be occasions when a man does not really know that there is any necessity for proving or thinks that it is not worth while to do so. I will put it to the Council he may discover that the order of adjudication has been annulled by reason that the man is able to pay his debts in full, when suddenly it is found that the debtor is really in possession of a very much larger estate than was supposed to be the case. A man may be justified in not proving his debt if he stands to receive only one anna or six pies of his debt, but why should you deprive him of this period when the circumstances under which an order of adjudication is annulled show that the debtor is in a position to pay a very much higher dividend or practically the whole? I submit, my Lord, that we should not penalise a creditor further than we have done. We have under clause 44, and I hope rightly also, enacted that a creditor who does not prove under the Act will have no remedy against the debtor after discharge. I think we need not go further and rule that he shall not have even the benefit of limitation allowed to other creditors who have offered to prove under the Act."

**The Hon'ble Sir George Lowndes:**—"My Lord, I can only <sup>12-10 P.M.</sup> recommend the Council very strongly not to accept this amendment. My Hon'ble friend Mr. Sarma says there is no real reason why you should penalise a man who has not proved. I can only say with great respect that none are so deaf as those who will not hear.

"I gave my Hon'ble friend the reason when I was addressing the Council just now. The reason is the policy of bankruptcy law. The policy of bankruptcy law is, as I stated, not merely to distribute the bankrupt's estate, but to start the bankrupt afresh after his insolvency; and the tendency in India is, as my Hon'ble friend Mr. Sarma knows quite well, for creditors to hang out and wait till the man is free and then to harass him when he ought to be making a new start in life, by threatening to sue him for debts which they have not proved in insolvency. It is to meet this that we have insisted on the proviso, namely, 'debts provable in insolvency', not merely 'debts which have been proved.' It is in the same way to check this that I strongly advise the Council not to extend this concession in the matter of limitation to people who have not come in and proved their debts in insolvency. The position we are dealing with is this; that a man has filed a petition in insolvency, or a creditor has filed a petition that he may be adjudicated an insolvent; upon that the court, if it finds the petition in order, makes an order of adjudication and at the time of making the order of adjudication declares upon what date the insolvent has to come up for his discharge. The court has power under the clause to enlarge that time if necessary; but everybody knows, everybody who is a creditor of the man knows, that he has been adjudicated an insolvent, and will know that by the order of adjudication a time is fixed within which he has got to come up for his discharge. If the insolvent does not come up for his discharge as the court has ordered, his adjudication will be annulled, and the only question is, whose rights are you to save upon that annulment? I say that you should only save the rights of

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creditors who have come in and proved their debts—the right of those who though honest creditors having honest debts upon which they could otherwise have sued have been prevented by the law from suing him during that period. My Hon'ble friend, Mr. Sarma, says 'let anybody stand out who likes; do not make them come in; there is no necessity for them to prove their debts at all; if the adjudication of the insolvent is annulled let them have the advantage of this concession of limitation in order that their suits too may be saved.' I say that is directly contrary to at least one-half of the policy of insolvency law. I ask the Council to maintain the proviso to section 78 as it stands in the Bill."

12-22 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma.**—"I submit, my Lord, that the reasoning of the policy of insolvency law under which we insist upon everybody proving his debt on pain of being unable to proceed against the debtor after discharge is a thoroughly sound one, and I approve of it. There is no difference between the Hon'ble Law Member and myself; but he seems to think that we have made a concession in favour of creditors who have proved to which other people are not entitled. Therein he differs from me widely. I do not look upon it as a concession. I look upon it as a right, the right of a creditor to proceed against a debtor normally in the course of proceedings within the period of limitation, a right conferred upon him by law. The special policy of the insolvency law prevents him from proceeding against the debtor in the ordinary course. Therefore, we say when an order is found to have been wrongly made adjudicating a person as insolvent, when that order is annulled we shall restore the person who is prevented from proceeding in the ordinary manner, to the old position; there is no question of a concession there, it is a question of right; we are restoring in a measure his former privilege. As I say we are not in any way assisting this man because it may be that the creditor would be perfectly justified, though his debt may be an honest debt, in not worrying himself to prove his debt when the assets are very small; but the very reason on which these orders of adjudication are annulled, namely, possible large property in the possession of the debtor, would justify the creditor proceeding against him in the ordinary course; it may be that he may not have thought it worth while proceeding under the old order or it may be that he has postponed it for a month or two. Therefore, my submission is that we shall be unjustly depriving that person of an ordinary right by enacting this proviso. It is not a question of a concession, and there is not the slightest use saying that the policy of insolvency law is against removing this proviso from this section."

The motion was put and negatived.

**The Hon'ble Sir George Lowndes:**—"My Lord, I beg to move that the Bill as consolidated and amended be passed."

The motion was put and agreed to.

12-26 P.M.

**INLAND STEAM VESSELS (AMENDMENT) BILL.**

**The Hon'ble Sir George Barnes:**—"I beg to move that the Bill to amend the Inland Steam Vessels Act, 1917, be taken into consideration. Since the introduction of the Bill, my Lord, no objections whatever have been received, nor any criticisms."

The motion was put and agreed to.

12-26 P.M.

**The Hon'ble Sir George Barnes:**—"My Lord, I beg to move that the Bill be passed."

The motion was put and agreed to.

INDIAN TARIFF (AMENDMENT) BILL; INDIAN PASSPORT 987  
BILL.

[25TH FEBRUARY, 1920.] [Sir William Vincent; Mr. H. R. O. Dobbs.]

INDIAN TARIFF (AMENDMENT) BILL.

**The Hon'ble Sir William Vincent** :—"My Lord, I beg to move that the Bill further to amend the Indian Tariff Act, 1894, be taken into consideration. I have received no criticisms and no notice of amendments of this Bill."

12-27 P.M.

The motion was put and agreed to.

**The Hon'ble Sir William Vincent** :—"My Lord, I move that the Bill be passed."

The motion was put and agreed to.

INDIAN PASSPORT BILL.

**The Hon'ble Mr. H. R. O. Dobbs** :—"My Lord, I rise to move for leave to introduce a Bill enabling Government to make rules with a view to preventing any person not in possession of a passport from entering India by sea, land or air."

12-28 P.M.

"The present passport rules were framed in 1917 under the Defence of India Act of 1916, and will cease to be in force six months after the termination of the war. It is not known when this will be, but it may be presumed that the peace terms with the last of the enemy Powers, Turkey, will be ratified within the next two or three months, so that the present passport rules will cease to be in force about nine months hence.

"The passport rules of 1917 make it obligatory for all persons entering or leaving India by sea to be in possession of a properly issued and *visaed* passport not more than two years old, and the *visas* are in practice granted for single journeys only. There are large classes of exemptions, including *bonâ fide* labourers travelling between India and the Malay States or Ceylon, and *bonâ fide* Muhammadan pilgrims coming to and from Jeddah or Basrah. The system is reported to have worked satisfactorily, and may, on the whole, be said to have fulfilled the object for which it was introduced; that is to say, it has formed a reasonably effective check upon the movements to and from India of actual or potential spies and Bolshevik propagandists.

"It was at first hoped that after the war it would be possible to do away with the system, but it is only too evident that the end of actual hostilities will not free India or any other country of ordered and peaceful conditions from the great danger, to meet which the passport system was devised. Not only the United Kingdom and the Dominions of Canada and Australia, but also certain foreign nations, such as the United States and Sweden, have already decided to retain their war regulations controlling entry into those countries, and it is believed that practically every civilised country intends to follow their example, although we have not yet received detailed information of the intentions of countries other than those mentioned. In the United Kingdom the Aliens Restrictions Act of 1914 was 'continued and extended' by the Aliens Restrictions Amendment Act of 1919, and an Order in Council was promulgated whereby, with certain exceptions, all persons landing in the United Kingdom, whether British subjects or foreigners, have to be in possession of a passport. The new Aliens Restrictions Act under which this order is passed, will continue in force until the 23rd December 1920. With regard to foreigners, India and the Dominions have been definitely invited by His Majesty's Government to bring their system into line, so far as is possible, with that of the United Kingdom.

"I need not dwell at length upon the very special danger to which India would be exposed in the present state of the world, if no attempt were made to scrutinise the intentions and antecedents of persons trying to enter her territories. We know that the Bolshevik Government have published far and wide

[ Mr. H. R. C. Dobbs ; Rao Bahadur B. N. Sarma. ] [ 25TH FEBRUARY, 1920. ]

their intention of flooding the East generally, and India in particular, with trained revolutionary propagandists. We may expect attempts on the part of the agents of Bolshevism to penetrate this country by every possible route and every possible means. We know that there are a number of such persons at the Schools of Propaganda at Moscow, Tashkent and elsewhere in Soviet Russia.

"I am sure that all the Members of this Council, whatever their political creed, will unite in a desire to prevent, so far as possible, this pernicious penetration, the object of which is to create hatred and strife not so much between the Government and governed as between the 'haves' and the 'have nots.' In addition there is the question of restricting the entry into India for the present, of former enemy subjects. The Government of India have not yet finally formulated their policy on this point except in the case of Germans and German-Austrians, whose entry into India will, at all events, be generally prohibited for a period of five years.

"The Council will observe that the Bill which is now being introduced is merely an Enabling Bill, and that the force of it will reside in the rules. The obligation to obtain a passport at present imposed on persons leaving India is being definitely abandoned, and this may remove a considerable inconvenience from the travelling public, although in the case of persons going to countries requiring passports (which, I fear, will be most countries) there will at present be very little practical difference. The object of leaving the main operations of the Bill to be embodied in rules is, of course, to secure elasticity in view of the rapidly changing conditions of the outside world. It is the intention of the Government of India at present to relax the conditions governing the validity of passports by making the *visa* last for one year instead of a new one being required as at present for every journey, and this relaxation will, I hope, be further extended as the world settles down. On the other hand, the Bill takes power to require passports from persons entering India by land and air, as well as by sea. It is not our present intention to make passports obligatory for entry by land except in the case of the Nushki railway by which there is the danger of the entry of Bolshevist emissaries.

"I beg, my Lord, for leave to introduce the Bill."

12-24 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, we have every desire to co-operate with the Government in the object they have at heart, namely, of preventing undesirable foreigners from entering the country with a view to carrying on dangerous propaganda, for the purpose of unsettling the minds of the people here. But we have great difficulty in the way of accepting the introduction of a Bill of this description, because of the extensive powers proposed to be conferred on the Executive, enabling it to prohibit even Indians settled here, resident here, domiciled here, from entering British India if the Government thinks that they are undesirable persons. We can readily, though reluctantly, appreciate the wisdom of a law like this, if it were confined to aliens or to particular classes of British subjects with whom we are at variance on essential, vital principles although I would deprecate drawing any distinction between the several parts of the British Empire. But, my Lord, I think there can be no justification whatsoever for asking this Legislative Council to enable the executive Government to prevent *bona fide* Indian subjects of His Majesty from entering the country without a passport, which it would be in their discretion to refuse if that is the meaning of this law. If I am mistaken, I hope to be told so. I daresay the Government would exercise very cautiously the powers that may be given under this law. The question is not whether these powers are to be exercised wisely or unwisely, but whether such powers should be conferred on the Executive in reference to any of His Majesty's British Indian subjects. I know that certain persons who leave India may be considered to be extremely undesirable from several points of view, that they may have come into contact and active association during their stay outside with the King's enemies, with Bolshevists, with persons who are ready and eager to propagate doctrines deemed undesirable. To my mind the remedy seems to be to take powers, if necessary, to arrest such persons, to deal with them



[ 25TH FEBRUARY, 1920. ]

[ *Rao Bahadur B. N. Sarma; Mr. P. J. G. Pipon.* ]

when they arrive in British India, but not to prevent them from coming to their homes. The Government have, I think, ample power to deport any person under the Madras Regulations, the Bengal Regulations, and the Rowlatt Acts we have passed recently. Therefore, it cannot be contended that Government has not the power to deal summarily with British Indian subjects who may be considered dangerous to good government. Therefore, I would ask respectfully, what is the necessity for a power to prevent Indian subjects from coming back to their homes. Take the case of Lajpat Rai. I believe it was under the Defence of India Act rules that Lajpat Rai was prevented from entering India; and that has been the cause of a very sore grievance. It was an extremely unwise act on the part of Government. What I would have understood as defensible would have been to deal with Lajpat Rai under the law if it could be proved that he was a dangerous subject, and secure his punishment if he created unlawful mischief outside India. If in this respect the law is weak, you may seek to amend it so as to bring within the category of offences punishable all offences committed outside India by British subjects. If Government has no power to proceed against dangerous persons, in the ordinary course of law, still they have power under the summary laws to deal with them and prevent them from doing mischief. I, therefore, submit that this Bill should be confined only to aliens, and if the Government are prepared to go further they may take powers to extend it to other parts of the British Empire. I think there is absolutely no justification for such wide powers as are asked for. Then, again, it may be that at present it is the intention of Government to prevent access to British India to persons outside the frontier, but it should not relate to subjects of Native States. I submit, my Lord, that the Bill should be confined to persons not ordinarily resident in India."

**The Hon'ble Mr. P. J. G. Pipon.**—"My Lord, I should not have ventured to trespass on the time of the Council, but that I happen to have had about 3½ years' practical experience of the working of passports, and, to a certain extent, I am familiar with the working of the passport system in most countries. I think I might even shorten the debate if I could convince my Hon'ble friend Mr. Sarma that when he has made the suggestion, as he has made, that the Government of India should exempt British Indians from the operation of the law which insists upon passports for all persons entering India, there is no question of principle involved in it at all. It is merely a question of practice. Now a passport system entails not only a properly constituted authority for issuing passports, but a machinery for checking it. It is, therefore, perfectly impossible for that machinery to guess the nationality of any person except by demanding the production of a passport. I speak of those conditions where, as during the present war, passports had to be required from a very large number of persons. What is rather interesting in this matter is that the French Government during the war were confronted with very much the same difficulty as my Hon'ble friend is. They had to make in their country a large number of very complicated rules to govern the circulation (as they call it) of the different classes of persons passing through France. The French Government is like my Hon'ble friend, very very sensitive to the rights of their own nationals, to the rights of Frenchmen in France, and consequently at the beginning of the war they made some attempt to lay down rules by which foreigners had to produce certain papers, but Frenchmen were exempted. The result of that was that the unfortunate Frenchmen who had no papers were stopped at the barrier, whereas foreigners who had papers went through without difficulty. The point is that the Frenchman had to prove that he *was* a Frenchman. I may tell my Hon'ble friend that if in India a general passport system is introduced, an Indian returning to India has to prove first of all that he is an Indian. Now that is not a very easy matter without a passport. Any question such as basing it on language is bound to break down. For instance

**The Hon'ble Rao Bahadur B. N. Sarma:**—"May I rise, my Lord, to make a personal explanation?"

[The President; Rao Bahadur B. N. Sarma; [25TH FEBRUARY, 1920.]  
Mr. P. J. G. Pipon; Mr. G. S. Khaparde;  
Mr. A. P. Muddiman; Mr. Kamini Kumar  
Chanda.]

**The President** :—" Only a personal explanation."

**The Hon'ble Rao Bahadur B. N. Sarma** :—" I only meant that there should be a clause compelling the Government to exempt British Indian subjects, that is all, and not that no safeguard should be taken to see whether a man is a British Indian subject or not?"

**The Hon'ble Mr. P. J. G. Pipon** :—" My Lord, all that I meant to say is that it is practically impossible to exempt any particular class of persons. As I was going to say the French Government made an attempt and a very serious attempt to exempt their own nationals from certain rules, and they were obliged to lay down after a very short period that the Frenchmen must also have papers. Otherwise it was impossible for the machinery to know whether he was a Frenchman or a foreigner. I hope I have made that point clear. I do not wish to detain the Council any longer except to say that I rather hope that I have convinced my Hon'ble friend that there is no question of principle involved in this Bill at all. We may concede him all his principles, but it is absolutely impossible, as shown by my personal experience, to exempt the nationals of a country in actual practice. I do not wish to detain the Council any longer."

**The Hon'ble Mr. G. S. Khaparde** :—" My Lord, I feel a difficulty about this Bill, because as the wording goes, there is nothing to prevent British Indians from not coming under this Bill . . . . ."

**The Hon'ble Mr. A. P. Muddiman** :—" May I point out, your Excellency, that this is a motion for leave to introduce a Bill, and the Hon'ble Member is dealing with the principle of it. The usual practice is for members to speak on the principles of a Bill on the motion that the Bill be referred to a Select Committee or for the general consideration of the Bill?"

12-15 P.M.

**The Hon'ble Mr. G. S. Khaparde** :—" I submit, my Lord, I feel a difficulty about the principle itself. The principle is this, that *prima facie* an Indian has got every right to go out and return to his home when he pleases, and it is only in exceptional circumstances that we can impose restrictions on him. In other countries also it is the same case that every man has got a right to go back to his own country. But in India the question is a little difficult because there are two Indias, British India and Native India or India consisting of Native States, and whether the Act goes so far as to prevent British Indians from going to Native States and *vice versa*, is not clear from this Bill.

"The next question of principle is that it is left to the executive Government to frame the rules. I submit the Legislative Council sits twice a year, and the rules that are framed by the Government could be brought before the Council and modified as might be found necessary. If that is so, why after the rules are framed, should they not be brought before the Council and considered? It is said that such rules existed during war time. I quite agree, but during the war we never put our mind to such things. We gave something like a free hand to officers so that they might win the war in any way they liked, but the present is not war time; we are in times of profound peace, I believe, and so I think these rules may be brought here for being considered. Otherwise these rules will be framed and merely published in the Gazette of India and then they will become law. These are the two matters about which I feel some difficulty, and I shall be glad to have an explanation about it when the Hon'ble Member in charge makes a reply."

12-47 P.M.

**The Hon'ble Mr. Kamini Kumar Chanda** :—" My Lord, I speak with some diffidence on this Bill. I freely confess that when I first read this Bill and the Statement of Objects and Reasons, I thought that it was a

[25TH FEBRUARY, 1920.] [Mr. Kamini Kumar Chanda; Sir William Vincent; Mr. Shafi.]

dangerous power that was going to be created and that it might be used against Indians, persons domiciled in India. I felt the force of that. But I confess after hearing my Hon'ble\* friend sitting in front of me I feel the force of what he has said.

"There is, however, one difficulty which my Hon'ble friend, Mr. Khaparde, has pointed out, and it is this, that almost everything is left to rules to be framed by the executive Government. These are matters, I think, my Lord, that require careful consideration. Certainly we shall resent it very much that a person born or domiciled in India, if he goes out of India for a short time, should find it difficult to come back to India unless he obtains a passport. There is considerable force, I admit, in that argument, because in certain instances it may be necessary, but in the generality of cases this restriction that a person born in India, if he goes out of India for a short period, should produce evidence before he can come back, would be very much resented.

"I therefore think that if the rules to be framed be revised in this Council, some objection may perhaps disappear. However, I keep an open mind on the matter."

**The Hon'ble Sir William Vincent:**—"My Lord, I should like to draw the attention of Council to the fact that this is only a motion for leave to introduce. The Hon'ble Mr. Dobbs has not asked the Council to accept this Bill; all he has done is to make a very simple request for leave to introduce and publish the Bill in the Gazette. As, however, attention has been drawn to the question of the possible exclusion, firstly, of Indian subjects generally from India, and secondly, of subjects of Indian States from British India, I had better explain the facts. I have been in charge of the Home Department for the last years of the war, and I may say that it has never been our policy, as far as I am aware, to exclude Indians domiciled in India from this country. I will take a particular instance. A number of Indians were recently convicted, as many members are aware, in America for certain offences. We examined the question of prohibiting them from returning to India very carefully, and we finally came to the conclusion that it was our duty, as I might put it colloquially, to consume our own smoke, and that we should have to take back any of our own people, *i.e.*, persons domiciled in India whether we wanted them or not. So far as I am aware, Mr. Lajpat Rai went to America of his own accord before the war. He got his passport from America to England and then got a passport from the Secretary of State to India, and I cannot find in the very short time available to me that any orders excluding him from India were issued against him by the Government of India. As to excluding subjects of Indian States, I submit that this is a fanciful suggestion. I cannot remember any occasion on which we have excluded a subject of an Indian State from British India, nor is it, so far as I am aware, contemplated by the Foreign Department that any such action should be taken under this Bill. The question whether any specific amendments in the law are necessary to meet that point might well be deferred, but I can assure the Council that we have never used the Defence of India rules which, as Hon'ble Members are aware, give us pretty extensive powers in the direction suggested by the Hon'ble Member. I put it to the Council that it is impossible, however, to exclude persons who are not British subjects without a passport system for all, nor indeed we should be prepared to allow the entry into India of persons of an undesirable character from any country. For the present, however, all the Hon'ble Mr. Dobbs asks is, for leave to introduce this Bill and publish it for information, and subsequently, when opinion has been fully ventilated on it, members of this Council will have ample opportunities of discussing it in detail with fuller information."

**The Hon'ble Mr. Shafi:**—"My Lord, I would like to add a few words in order to remove a misapprehension under which my Hon'ble friend

\* The Hon'ble Mr. Pison.

[*Mr. Shafi; Mr. H. R. C. Dobbs; Sir Claude Hill.*] [25TH FEBRUARY, 1920]

Mr. Sarma is apparently labouring. This Bill by its provisions excludes nobody from entry into India; it only authorises His Excellency in Council to frame rules under the Act for the exclusion of persons from India. And you will notice that under clause 3, sub-clause (2)(c), the rules may provide for the exemption either absolutely or on some condition of any person or class of persons from any provision of such rules, so that the Bill itself does not exclude any one from entry into India. It only authorises the Governor General in Council to frame rules and in consequence the objection that my learned friend is putting forward against the Bill does not apply."

12-55 P.M.

**The Hon'ble Mr. H. R. C. Dobbs:**—"My Lord, I have very little to add to the arguments contained in the Hon'ble Sir William Vincent's remarks. It is the fact that our main difficulty, if British subjects were not brought within the scope of this Bill, would be to distinguish British subjects from aliens, especially of course in the case of Americans, and it is mainly for that reason that British subjects have not been excluded from the operations of the Bill. It is also the fact that there have been countless difficulties in practice and unending telegrams in regard to passports, and we have often had to modify our practice at very short notice, and if rules had to be submitted to the Council, say once a year, there might be considerable difficulty in dealing with the matter as rapidly as might be required. I trust, therefore, that the Council, will agree to the introduction of this Bill and to its publication, and any matters which may be found to be obnoxious can of course be carefully considered when the Bill is further debated after publication."

The motion was put and agreed to.

**The Hon'ble Mr. H. R. C. Dobbs:**—"I beg to introduce the Bill and move 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.

### DOURINE (AMENDMENT) BILL.

12-56 P.M.

**The Hon'ble Sir Claude Hill:**—"My Lord, I beg to move for leave to introduce a Bill to amend the Dourine Act, 1910. The Bill itself is an exceedingly simple one, and I need not detain the Council for more than a few moments in making this motion since the provisions practically amount only to two qualifications of the existing Act. But I should perhaps explain for the information of the Council that this disease, Dourine, had had a tremendous extension of its baneful activities lately in the Punjab, and that the measures which have been possible under the existing Dourine Act to combat it have proved ineffective. The result has been, since the infection is transmitted wherever breeding operations take place, that a considerable number of stallions has had to be destroyed, and that a considerable economic loss has been occasioned in horse-breeding to private owners as well as to Government. In such circumstances two additional provisions, with a view to prevent this economic loss, are proposed in the Bill, which I am asking for leave to introduce. The first is, it is proposed to give power to the Inspector authorised under the Act to remove a mare found or believed to be affected with Dourine and keep her under observation. The second provision is that, since it has been found that the alternative at present offered in section 8 of the Act of branding mares has failed, it is proposed to abrogate that alternative and no longer to provide for the branding of mares at all. I do not think, my Lord, that, in addition to what is stated in the Statement of Objects and Reasons, I need say anything further in regard to the provisions of the Bill. I therefore move for leave to introduce it."

The motion was put and agreed to.

DOURINE (AMENDMENT) BILL; GLANDERS AND FARCY 993  
(AMENDMENT) BILL; IMPORT AND EXPORT OF GOODS  
(AMENDMENT) BILL.

[25TH FEBRUARY, 1920.] [Sir Claude Hill; Sir George Barnes.]

**The Hon'ble Sir Claude Hill:**—"My Lord, I now introduce the Bill and move 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.

**GLANDERS AND FARCY (AMENDMENT) BILL.**

**The Hon'ble Sir Claude Hill:**—"My Lord, I now beg to move for leave to introduce a Bill further to amend the law relating to Glanders and Farcy. In doing so, I may even be briefer than I have been in reference to the Dourine Act, since the provisions of this Bill are designed practically only to include camels in the list of animals to which the Act applies. Under a Notification issued in September 1910 *surra* was declared to be one of the infectious diseases coming within the scope of the Glanders and Farcy Act. Well, it has been found since that *surra* is a disease to which camels are peculiarly susceptible and that camels are *par excellence* the carriers of the disease of *surra*, and that it is necessary to bring camels within the scope of the Act. That is practically the whole purpose of the very short Bill which is before the Council, my Lord. The only other alteration is to extend the discretion allowed to Local Governments under section 3 of the Act of determining the local application of the Act." 12-58 P.M.

The motion was put and agreed to.

**The Hon'ble Sir Claude Hill:**—"I now beg to introduce the Bill, and to move 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.

**IMPORT AND EXPORT OF GOODS (AMENDMENT)  
BILL.**

**The Hon'ble Sir George Barnes:**—"My Lord, last Session I introduced a Bill to extend the operation of, and otherwise to amend the Import and Export of Goods Act, 1916. The Bill was introduced on the 18th of September last, that is to say, very nearly at the end of the Session, and on the 24th of September, a day before the Session came to an end, it came on for consideration. On that day Mr. Sarma appealed to me to give him more time to consider the details of the Bill. He said that the Bill had not been published for a sufficient time to enable him to consider the details. As there was no urgency whatever in the matter, I then agreed to postponing the Bill until the present Session. When Mr. Sarma asked for more time he also tabled two amendments: one was to limit the operation of the Bill to foodstuffs and the other had some other point of limitation. Now, we want the Bill mainly for foodstuffs, probably also for gold, and, I think, for no other purpose. I have discussed the matter with my Hon'ble friend, Mr. Sarma, and he agrees with us in thinking that the most satisfactory course would now be to refer the Bill to a Select Committee and then to consider what amendments are necessary in order to limit its scope, if any limitation at all is necessary. Accordingly, my Lord, I beg to move that the Bill be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes, the Hon'ble Sir Fazulbhoj Currimbhoy, the Hon'ble Mr. Sita Nath Ray, the Hon'ble Mr. Mant, the Hon'ble Mr. Sarma, the Hon'ble Mr. Lee, the Hon'ble Mr. McPherson, the Hon'ble Mr. Crum, the Hon'ble Mr. Jaffer, the Hon'ble Mr. Cook and myself, and that it be a special instruction to the Select Committee to consider whether the provisions of 1 P.M.

994 IMPORT AND EXPORT OF GOODS (AMENDMENT) BILL;  
HINDU MARRIAGES VALIDITY BILL.

[Sir George Barnes; Rao Bahadur B. N. [25TH FEBRUARY, 1920.]  
Sarma; Mr. V. J. Patel.]

section 8 of the said Act should be amended with the object of limiting its scope, and if so, to report the amendments in the Act which the Committee consider necessary or desirable to give effect to that purpose."

1-4 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma:**—"My Lord, I am glad that the Hon'ble Sir George Barnes has seen his way to recommend that this Bill should be referred to a Select Committee. We commit ourselves to no particular course of action, but we all feel that some power must be given to the Government to regulate the export of foodstuffs. Whether any other articles would have to be included, within what period of time the power should be exercised and so on, are matters which will be gone into by the Select Committee. I am thankful that the Hon'ble Sir George Barnes agreed to postponing this Bill to the Delhi Session and that he has seen his way to refer the matter to a Select Committee now."

The motion was put and agreed to.

[At this stage the Council adjourned for Lunch.]

[At this stage the Hon'ble the Vice-President took the Chair.]

**HINDU MARRIAGES VALIDITY BILL.**

**The Hon'ble Mr. V. J. Patel:**—"Sir, I beg to move that the Bill to provide that marriages between Hindus of different castes are valid be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes, the Hon'ble Sir William Vincent, the Hon'ble Mr. Muddiman, the Hon'ble Dr. Sapru, the Hon'ble Mr. Chanda, the Hon'ble Mr. Sastri, the Hon'ble Mr. Khaparde, the Hon'ble Mr. McPherson, the Hon'ble Mr. Sinha, the Hon'ble Mr. Kincaid and myself. In making a few observations on this motion I hope I shall not say anything which might offend my Hindu friends here or outside this Council. I do not desire to lead an attack on the caste system, nor do I wish to discuss the advantages or disadvantages of that system. In fact from my point of view such a discussion is not at all necessary for the purposes of this Bill. Let us as practical men take the facts as they exist to-day and try to solve them; let us face them and arrive at some solution. What are the facts? The Hindu community is divided into four principal castes,—the Brahmins, the Kshatriyas, the Vaisyas and the Sudras. Each of these principal castes is again sub-divided into hundreds of sub-castes. Marriages among sub-castes of the same caste, or as I should like to call them, inter-sub-caste marriages are admittedly allowed by the Hindu Shastras and they are in consonance with the general Hindu opinion; and we know that hundreds of such marriages, I mean inter-sub-caste marriages, have taken place in different parts of India.

"Then I come to inter-caste marriages. They are of two kinds, marriage of a man of a higher caste with a woman of a lower caste. Such a marriage is called *Anuloma*, while the second class, called *Pratiloma*, is the marriage of a woman of a higher caste with a man of the lower caste. Now *Anuloma* marriages were admittedly permitted by the Hindu Shastras. *Pratiloma* marriages were condemned by the Hindu Shastras, but such condemnation was according to the best authorities merely moral. There is no text on Hindu law which can be cited to prove that *Pratiloma* marriages were illegal and the issues of such marriages illegitimate. That is the position according to the Shastras. Inter-sub-caste marriages, as I have said, are sanctioned not only by Shastras, but have been in consonance with general Hindu opinion, and hundreds of such marriages have in fact taken place, but in some decisions doubts have been thrown on the validity of such marriages. With regard to inter-caste marriages of both kinds, courts have held that they are invalid and the issues of such marriages are illegitimate. Now, the object of this Bill is to validate inter-sub-caste marriages as well as inter-caste marriages. In the first place, this

[ 25TH FEBRUARY, 1920. ] [ Mr. V. J. Patel. ]

Bill will remove the doubt which has been cast on the validity of inter-sub-caste marriages; and in the second, it will validate inter-caste marriages. That is the object of this Bill.

"Now, if we look to the history of the marriage legislation, we find that the first Act passed is what is known as the Civil Marriage Act, III of 1872. That Act is really all embracing so to say. To use the words of Mr. Basu 'anybody can marry anybody,' provided both parties make a declaration that they do not profess any of the religions named in the Act, and provided also that the marriage is registered. The two conditions necessary are that there should be a declaration and there should be registration of marriage. These two conditions being fulfilled a Hindu can marry a Muhammadan, a Muhammadan can marry a Christian, a Christian can marry a Hindu, and so forth. Then, a few years ago, was passed the Sikh Anand Marriage Act. Under that Act parties may declare themselves Sikhs and go through the Sikh marriage ceremony called Anand. Such marriage is good and valid in law and the issue of such marriage legitimate. Later, an attempt was made by my friend Mr. B. N. Basu to have a law doing away with the declaration required under the Civil Marriage Act. He in fact wanted that parties could by mere registration and without renouncing their faith, enter into a valid marriage. But that attempt of his failed. His Bill was, as I have stated, all embracing. Under its provisions it was open to a Hindu to marry a Muhammadan, or a Christian or a person of any other faith. My Bill follows the line of least resistance. I want to confine it only to Hindus. I do not include within my Bill any other community. What is more, I want to see that the sacramental character of the Hindu Marriage is retained. I do not wish to engraft any new principles not sanctioned by Hindus on this marriage. I wish a marriage under my Bill should be essentially a Hindu marriage, not a civil contract. Having said this much I now wish to emphasise the fact that in taking up this Bill at this Session we are not rushing through in any sense this legislation. The Bill was introduced as early as September 1918, 15 months have passed and ample opportunities have been given to the public, to those interested, to the Local Governments and to various public bodies and associations to agitate the question, to formulate their views and submit them to the Government of India. The whole record is now complete. We know what Hindu opinion is. No question of deferring further consideration of this measure can, therefore, arise. We are not rushing this Bill through the Council. For the purposes of my argument, I divide the opinions received into three classes—

- (1) the opinions of Local Governments;
- (2) the opinions of the highest Judicial officers, *i.e.*, of High Courts, of Judicial Commissioners, and of Chief Courts;
- (3) the opinions of the Hindu community to whom this Bill is intended to apply.

"I take the first class of opinions, namely, those of Local Governments. I find on a careful study of these opinions that the Chief Commissioner of Delhi says that the Bill should not be supported by Government, he does not go so far as to say that the Government should oppose it; the Chief Commissioner of Baluchistan is not prepared to express any opinion; the Lieutenant-Governor of Burma advises that the Government of India should hesitate before giving sanction to this change; the Chief Commissioner of Coorg is entirely in favour of the Bill; the Chief Commissioner of the North-West Frontier Province puts two sides of the case and expresses no opinion of his own; the Lieutenant-Governor of the Punjab advises that further consideration of the Bill should be deferred. The United Provinces Government strongly supports the Bill. The Government of Bihar and Orissa is of opinion that non-Hindu Members should not vote. The Chief Commissioner of Ajmer-Merwara is of opinion that the Bill should not receive official support. The Assam Government is of opinion that the Government should oppose the Bill unless it is clear that the opponents are in an insignificant minority. The Central Provinces Government thinks that the Government should remain neutral and leave the decision to non-official Members. The Bengal

[*Mr. V. J. Patel; Rai Sita Nath Ray Bahadur; [26TH FEBRUARY, 1920.]*  
*The Vice-President.*]

Government says the voting should be confined to non-official Members or that the Bill should be deferred, the Madras Government would like to see the Bill deferred, so also Bombay. I have analysed these opinions and my analysis is this. There are two Governments who seem to hold the view that the Government of India should oppose the Bill, unless it is proved that there is a great majority in favour of the Bill—they are the Government of Assam and the Government of Burma. There are two Governments who feel strongly that the Government of India should support the Bill; they are the United Provinces and Coorg. There are two Governments that desire to express no opinion; they are Baluchistan and the North-West Frontier Province. There are three Governments who would like to see this Bill deferred; that is the Punjab, Madras and Bombay. There are five Governments who consider that officials should not vote on this Bill; they are Bihar and Orissa, the Central Provinces, Bengal and Ajmer-Merwara and Delhi. I may say here that the Bengal Government have suggested that either the non-officials alone should decide the fate of this Bill or that the Bill should be deferred. So, generally speaking, it is clear from the analysis I have just given that there are only two Local Governments who are opposed to this Bill. There are two Local Governments who are entirely in favour of the Bill. There are two Local Governments who express no opinion. There are three Local Governments who are of opinion that the Bill should be deferred, and there are five Local Governments who think that officials should not vote on this Bill. That is, so far as I could gather, the result of the opinions of the Local Governments. I want to place my case as fairly before the Council as possible, and if in doing so I quote any opinion which any Hon'ble Member thinks is incorrect, I hope he will pardon me and not think that I have any desire to mis-state the case . . . . .

**The Hon'ble Rai Sitanath Ray Bahadur:**—"May I interrupt you? Most of the opinions you have quoted are against the Bill, especially Bengal, Madras, Burma and Assam . . . . ."

**The Vice-President:**—"May I ask if the Hon'ble Member is making a personal explanation?"

**The Hon'ble Mr. V. J. Patel:**—"Now, I come to the second class opinions, namely, the opinions of the Judicial officers, particularly of the High Courts, the Chief Courts and the Judicial Commissioners. I may say at once that the High Courts of Calcutta and Bombay say that they have no criticism to offer. Then I take the High Court of Allahabad. The opinions of the Judges there are, generally speaking, in favour of this Bill. This is the letter of the Registrar, High Court of Judicature, Allahabad.

"Sir, In reply to your letter . . . . ."

**The Vice-President:**—"I should like to remind the Hon'ble Member that it is not the practice here to read long extracts to the Council, but to quote from them as shortly as possible."

**The Hon'ble Mr. V. J. Patel:**—"The Hon'ble Mr. Justice Walsh has no criticisms to offer. Almost all other Hon'ble Judges have given favourable opinions in regard to this Bill. The Hon'ble Mr. Justice Bannerjee's opinion is very important. It is only a few lines and I will, with your permission, Sir, read it. . . . The proposed measure seems to me to be unobjectionable. It is only an enabling one. Under the strict Hindu law inter-marriage between persons belonging to different castes is not wholly interdicted, but entails degradation. In modern times among some advanced people such inter-marriages have taken place. It is desirable that the issue of such marriages should be declared to be legitimate. Many of those who have contracted marriages of this description are not prepared to make the declaration required by Act III



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of 1872. They are entitled to relief. The proposed legislation will not affect the general Hindu community'.

"The Hon'ble Mr. Justice Tudball says, 'I approve'.

"The Hon'ble Mr. Justice Rafique says ' . . . Speaking personally, I approve of the provisions of the Bill and think that it is a move in the right direction'.

The Hon'ble Mr. Justice Piggott thinks 'that he would recommend that such advance should take the shape of some amendment of Act III of 1872, making it possible for persons to avail themselves of its provisions without declaring themselves not to be Hindus'.

"Generally speaking, as I say, the opinions of the Judges of the Allahabad High Court are in favour of the Bill.

"Then I take the opinions of the Judicial Commissioner of the Central Provinces. I may say that the opinion of the Judicial Commissioner of the Central Provinces concurs with the opinions of the two Assistant Judicial Commissioners under him. He quotes their opinions which are in favour of this Bill and says he also is of the same opinion.

"Then I take Madras. In Madras some of the Judges express no opinion, while about six Judges who express opinion are in favour. The Hon'ble Mr. Justice Kumaraswamy Shastri is against. I will read the opinion of the Hon'ble Mr. Justice Sadashiv Iyer which is very important. He says:— 'I entirely agree with the Bill and the Statement of Objects and Reasons. Under the Vedic Hindu Law such marriages between members of different castes were clearly valid, though they were (as in western countries even now, as regards marriages between members of different classes in society) socially disapproved of, and in later times even moral stigma was attached to the parties thereto. Exceptionally they were always allowed and even approved by social opinion, especially in the case of kings and nobles who were freely allowed to take wives from inferior or superior castes. The legal prohibition is a custom of very recent origin being based upon what I believe (with the greatest respect to those who differ) the erroneous view that even what might be called a negative custom (that is, the absence for a long time of what was an undoubtedly a legal practice according to the Shastras) is binding as law now, especially if a forged text or a recent unscrupulous commentator enacts that the practice is prohibited in the *Kaliyuga*'.

"Sir, I am not going to quote other opinions and trouble this Council, but this particular opinion is so important and is so well reasoned that I should like to read one more paragraph from it.

'As regards public opposition to the Bill, we must expect much noisy opposition from the ultra-orthodox Hindus belonging to all kinds of political parties. Radical politicians like the Hon'ble Mr. K. V. Rangaswami Ayyangar, advanced congress politicians like the respected and influential Pandit Madan Mohan Malaviya, influential wealthy Brahman and other noblemen like the Maharaja of Darbhanga, wealthy educated reactionaries with high University degrees (especially if they have been "good fellows" and unbelievers in their youth and have reacted to orthodoxy), even influential non-Brahmans like Diwan Bahadur Rajaratna Mudaliyar, C.I.E. (though they are anti-home rulers and anti-Brahmans as they opposed even Mr. Bhanu's Bill), and most Hindu Matadhipatis whose influence is, however, waning, will all be found ranged together in opposition. But on the other side will be found most of the influential Hindu Theosophists, the Arya Samajists, the Hindu Social Reformers, the members of the Brahma and Prarthana Samajes and their sympathisers most of whom are within the Hindu religious fold, the Ramakrishna and Vivekananda mutts and their sympathisers, the majority of the younger generation of the educated Hindus (and this, in my opinion, is very important). The great majority of illiterate Hindus will be really

indifferent, though, through natural conservatism, they might attend in large numbers the meetings convened by the influential opponents of the Bill. With the safeguarding provisions which I have ventured to recommend the agitation will be mostly artificial and innocuous. Permissive legislation (like the Widow Re-marriage Act) and even prohibitive and substantial legislation like the Acts relating to the abolition of *Sati*, the age of consent and the removal of native converts' disabilities were accepted by the Hindus whose national characteristic is of tolerance and who are intuitively non-aggressive towards permissive and even positive legislation when it is really in consonance with justice and equity and with the spirit of the ancient *Shastras* though against the hydra-headed custom which differs in different places and different centres and hence has not got the strength of unity for the purpose of sustained effort against good legislation. May I, in conclusion, very respectfully suggest that just as the Government was not afraid in the olden days to range itself on the side of Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, M. G. Ranade, K. T. Telang, R. Raghunatha Rao, Sir Sankaran Nair (in connection with the Malabar Marriage Regulation) and other sober, religious and social reformers against unreasonable opposition to beneficent social legislation (opposition led by gentlemen even of the influence and standing of Sir Romesh Chandra Mitter, Sir T. Madhava Rao, the Editor of the 'Amrita Bazar Patrika,' etc.) it is their duty to actively support this permissive legislation introduced by the Hon'ble Mr. Patel which is so long overdue but whose need is almost urgent in these days when social changes have to be made *pari passu* with political changes if a genuine Hindu nationality as a valuable and not an obstructive element of a larger Indian nationality is to be built up?

"So far, Sir, about Madras. Then, again, the Judicial Commissioner of Oudh is entirely in my favour, and the Judges of the Patna High Court are generally speaking, in favour of this Bill. The Bill is further strongly supported by the Chief Court of Burma. Thus you will find that as a matter of fact there is no High Court, or Chief Court, or Court of Judicial Commissioner which is opposed to the Bill. Excepting the Bombay and the Calcutta High Courts, who do not express any opinion, all other highest judicial courts in India are in favour of this Bill.

"Now, Sir, I come to the third class of opinions, namely, the opinions of the Hindu community as a whole. In this connection my contention, Sir, is that the Bill has found support from a very very great majority of the Hindus numerically speaking. You must remember this fact that the Hindu community does not consist of one class or community. The Hindu community consists of several classes and communities, and if you analyse the opinions in connection with this Bill as expressed by all these classes, you will find as a result of your analysis that a great majority of the Hindu community, numerically speaking, is in my favour. I may say at once that the whole community of my Sudra brothers and sisters is entirely in favour of this Bill, and I can say without fear of contradiction, Sir, that almost the entire non-Brahmin community is in my favour. Having in my favour the non-Brahmin community and the Sudra community (and in non-Brahmin of course I include the *Kshatriyas* and the *Vaishyas*) there remain only the Brahmin community. As I have said, I do not wish to lead any attack on any particular community. I quite realise that it is only human nature that one who is in possession of power does not like to part with it so easily. I also recognise this fact, Sir, that a great many supporters as you will see from the voluminous opinions that have been received on this Bill are from the Brahmin community, and I am sure the whole country is indebted to those liberal-minded members of the Brahmin community who have come forward openly to help this noble cause. But I cannot lose sight of the fact that the opposition to the Bill mainly comes from that community. Therefore I submit, Sir, that this Council has no business, and the Local Governments have no business, to say that the majority of Hindus is against this measure. You may say with some justification that the majority of the Brahmins is against my Bill, and I am perfectly willing to accept that statement, but I cannot understand how any one can say that the majority of the Hindu community is opposed to the Bill. Then, Sir, the opposition to this Bill is nothing compared with the opposition that you had in connection with social reform legislation in days gone by. When the Sutte Bill was on the anvil you had a sole memorial signed by very very influential Hindu gentlemen submitted to

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Government stating that marital rites of the Hindu community would be jeopardised, that chastity among women would be an unknown quantity, that husbands would be poisoned and murdered, and that social life would be intolerable. That was the state of Hindu feeling then. In spite of such opposition that Bill was passed. Then you had a tremendous uproar and excitement in the Hindu community when the Age of Consent Bill was put on the Statute-book. Then, again, when you had the question of widow re-marriage under consideration, the feeling was that the whole of the Hindu society was going to be upset and the purity of the Hindu widow was going to be destroyed. That was then the feeling among the Hindu community, and when the Removal of Disabilities Act was passed almost the whole Hindu community was up in arms against the Bill and charged Government with having introduced legislation for the purpose of encouraging Christianity. I may say, Sir, in view of all this, the opposition to my Bill is not even one-hundredth part of the opposition that you had to face from time to time in the matter of social legislation in the past.

"When I say that the opposition mainly comes from one community I am bound to give this Council some proof in support of this sweeping statement. The Chief Court of Burma supports this Bill, and the Registrar of that Court in his letter to the Government of India states :—

"I am directed to state that most of the judicial officers consulted are of opinion that the proposed legislation is desirable. The District Judge of Hantawaddy and Insein, himself a Hindu gentleman, is in favour of it. Such opposition as there is against the proposed measure appears to emanate from Brahmin circles."

"I am sorry, Sir, but that is the opinion of the Chief Court of Burma.

"Then, Sir, I will refer this Council to the opinion of the Bombay Government. The Bombay Government referred this Bill to the non-official members of the Legislative Council and received their opinions. The following is the summary of those opinions :—

"The opinions of the Hindu non-official members of the Legislative Council follow much the same lines. The Bill is unconditionally supported by the Hon'ble Mr. Chhutilal Mehta, a Gujrati Bania, the Hon'ble Mr. Lallubhai Samaldas, a Gujrati Nagar Brahmin, the Hon'ble Rao Bahadur Tekchand Udhavdas, a Sindhi Amil, and the Hon'ble Mr. Harchandrai Visbindas, also a Sindhi Amil. The Hon'ble Mr. R. P. Paranjpye, a Chitpawan Brahmin, the Hon'ble Mr. G. K. Parekh, a Gujrati Bania, the Hon'ble Rao Bahadur Rao Saheb Hajilal Desai, a Gujrati Patidar, and the Hon'ble Rao Bahadur V. S. Naik, a Dharwar Brahmin, (probably a Desasth) also support the Bill with certain modifications. Against the Bill are the Hon'ble Mr. P. A. Desai, a Brahmin whose sub-caste is not known, and the Hon'ble Rao Bahadur G. K. Sathe, a Chitpawan Brahmin.

"The conclusion is that the opposition roughly consists of the religious leaders and their following and the more orthodox sections of the Brahmin community; the supporters are mostly "Reformers", a few Brahmins and educated non-Brahmins generally."

"It seems clear, Sir, that when the Bill was referred to the non-official members of the Bombay Legislative Council the only opponents that could be found were the two Brahmins. I do not for a moment minimise the services of those Brahmin members who have supported the Bill, but the fact remains that no non-Brahmin Member has opposed it.

"Then, in the Bombay Presidency of which I can speak with some knowledge, I know that the political conference at Gujrat, besides the social conferences, passed a resolution supporting the principle of this Bill. Sindh is a cosmopolitan division and is not opposed to my Bill so far as I know. It is only where the Brahmin predominates that the opposition is strong. It is in the Deccan that there is this trouble of Brahmins and non-Brahmins, of Mahrattas and Brahmins, of Lingayats and Brahmins, and there you hear a good deal of noise about this Bill. You hear of lots of meetings in favour and of lots of meetings against. The District Judge of Poona, Mr. P. E. Percival, what does he say? It is only one line, Sir. He says :—

"In view of the strong opposition, especially among the Brahmin community of Poona and elsewhere, Government will no doubt decide to be conspicuously neutral in respect of the Bill."

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"I am sorry to have this statement from an eminent judge like my friend Mr. Percival that, because the Brahmins oppose the Bill the Government should remain neutral and neglect the interest of a very large majority of the Hindus. I say again, I am forced to the conviction that the opposition mainly comes from one community, but there it is; the fact must be faced, as I said in the beginning.

"Now, we come to the Madras Presidency. I will just read to this Council the opinion of non-Brahmins expressed in a conference which they held in connection with this Bill. It says:—

'This Conference gives its hearty support and approves the principle embodied in the Hon'ble Mr. Patel's Bill regarding the validity of marriages between different Hindu castes.'

The Secretary of the Conference adds:—

'I should like to draw your attention to the significance of this Resolution. It embodies the considered opinion of a very large section of the non-Brahmin community of the Presidency. Taken in conjunction with the support given to the Bill by the South Indian Liberal Federation, it practically amounts to a full endorsement of the principle of intercaste marriages by the non-Brahmin Hindus. The conference has not expressed any opinion on those questions of inheritance which are intimately connected with it besides giving their adherence to the underlying principle.'

That means, Sir, that the whole of the non-Brahmin community of Madras—and I am sure the Hon'ble Mr. Sarma will support me in this statement—is, generally speaking, in support of this Bill. There is, of course, a keen difference of opinion on certain political questions between the Brahmins and the non-Brahmins in Madras and we know that. But what we are concerned with here is, whether the majority of the Hindus support this Bill or not. The only issue before this Council is, whether the great majority of the Hindu community is in favour of this Bill or is opposed to it. Several Local Governments seem to suggest that there is a great majority of Hindu opinion against the Bill. But, if you analyse the opinions, you will find that it is not so. The fact is that it is mainly one community, the vocal community, the community that is in power, who kicks up a row and seems excited, and the Local Governments feel as if the whole Hindu community is against my Bill. That is really not so. I will just quote to you the opinion of the Hon'ble Mr. P. O. Mitter.

"The Hon'ble Mr. P. O. Mitter writes to the Government of Bengal a long letter, and I will only read the relevant portion.

'Lastly, I desire to point out that out of about 21 millions of Hindus in my province over 10 millions are so-called untouchables. These classes have their peculiar marriage custom and amongst some of these classes inter-caste marriages and, at any rate, inter-sub-caste marriages are permissible. Considering that the Brahmins in Bengal are a little over a million, the Kayasthas about the same number and the Baidyas less than one hundred thousand, it is very unreasonable on the part of some section of the members of these higher castes to oppose a Bill which will ultimately solve marriage problems of the so-called lower castes. With the advance of education and improvement in the economic conditions and social life of the so-called lower castes, the necessity of a marriage law of the type intended in the Bill will become all the greater, and if the so-called higher castes have the well-being of the future generations of the so-called lower castes in view, then far from opposing a Bill of this character they should have toleration enough to welcome it, specially as the Bill will compel no one to marry under its provisions.'

"According to this opinion in Bengal also the opposition is confined mostly to the Brahmin community.

"As I said, Sir, I have my best supporters in the Brahmin community, and I am very much grateful to them, and my non-Brahmin brothers and sisters and my Sudra brothers and sisters will also be certainly very much thankful to them. Even in this very Council you find a good many Brahmin members in support of this Bill; my friend, the Hon'ble Mr. Sastri, the Hon'ble Mr. Surendra Nath Banerjee, the Hon'ble Mr. Khaparde and the Hon'ble Mr. Sarma. All these gentlemen are Brahmins, but they are Brahmins of a different type. They understand the situation, they see which way the wind blows, they see how the world goes; they realize the situation and they say:

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'Well, if we want a step towards political equality, we must be prepared also to grant a step towards social equality.'

'Now, Sir, I do not wish to trouble the Council with a number of opinions. I had a mind to read some of the opinions which are very weighty, but as you, Sir, have asked me not to read many opinions to this Council, I do not wish to take up the time of the Council. I will turn to other considerations. This is a motion for reference to Select Committee. Now any discussion of a Bill must necessarily relate, firstly, to the principle of the Bill and, secondly, to the details. At this stage according to the well-understood practice of the Council, we discuss the principle of the Bill; and if we agree to it we refer the Bill to the Select Committee who settle the details. Of course we suggest for the consideration of the Select Committee certain vital matters of detail during the discussion on the motion, but that is all. So the discussion at this stage must principally be confined to the principle, namely, whether inter-caste marriages should be in law valid or not. That is the main principle of the Bill. As I have said, this Bill will in the first place remove doubts regarding the validity of the inter-sub-caste marriages; that will be one effect; and no Hindu can or will object to this as far as I know; it being in consonance with the entire Hindu opinion. Then, again, if you look at it from the point of view of equity, you know that hundreds of inter-caste marriages and inter-sub-caste marriages have taken place in India, and what are you going to do with these people? What is the status of the issue of such marriages? No doubt the parties live as husband and wife, but they do not know whether the courts of law, Mr. Justice So and So will decide whether they are in law husband and wife or not. So the whole thing is in suspense and doubt. People do not know, although they have been living together for years, they do not know whether they are in law husband and wife and whether their children are legitimate. As a matter of fact, so far as inter-caste marriages are concerned, it is practically certain that such marriages are invalid and the issue illegitimate. So far as inter-sub-caste marriages are concerned, it is all doubtful; in some cases the Council will see that the parties were absolutely innocent. They did not know the state of the law; perhaps they were minors when they were married, and in all cases certainly the issues are absolutely innocent. Are they to be allowed to suffer? That is the question. Are you not going to give a helping hand to these people who are innocent, who for no fault of their own have to suffer? So as I say equity is also in my favour; you have got to take some step to validate these marriages. In some cases of course the parties believe that inter-caste marriages are allowed by the Shastras and no one has any business to say that they should not follow the Hindu Shastras. They *bona fide* believe, and rightly perhaps that the Hindu Shastras do allow such marriages, and they want to follow the Shastras. Why should you now, why should courts of law interfere and say 'No; though your shastras allow, we shall not recognise these marriages?'

'Then there is a small minority of the non-Brahmin community that here and there join hands with the great majority of the Brahmins in opposing this Bill; they have done so really from some sort of influence or from want of proper appreciation of the effect of this measure. They do not realise that this Bill is merely a permissive measure; they lose sight of that fact or they are not told about it; they are most of them illiterate poor people; they do not understand these things, the intricacies of the law and so on; and the way some interested and clever people manage to put the case against the Bill mislead them. The fact is that the opposition from that small minority of non-Brahmins is due mostly to my mind to want of appreciation on their part of the provisions of the Bill. The Bill is really permissive; there is no compulsion; no one is asked to marry out of his caste. At the same time, what is to be remembered is this, my Bill preserves the autonomy of the caste which the present interpretation of the Hindu law by the Judges seeks to destroy. I maintain that my Bill is intended to help the autonomy of the caste, to help to preserve the power of the caste; we know it is no shutting our eyes to the fact that inter-caste and inter-sub-caste marriages have been condoned, and I go further and say, in several cases encouraged by the castes concerned. These castes do not

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mind them, they sometimes welcome such unions, and allow full social intermixture with the parties and their issue, and yet when for some reason the case goes to a court of law the court of law says 'Whatever your caste may do or has done, we do not care; we say that the marriage is illegal; we say that the issues are illegitimate; we say that the so-called wife will not be entitled to maintenance; and so on.'

That is the position the law says one thing; the caste may do another. I say my Bill really helps the caste to preserve its autonomy. There is nothing in my Bill to prevent caste 'banging' if they like the parties to the marriage; caste may say 'well, you are going against the rules of caste, we do not regard you as a Hindu, or we excommunicate you' My Bill does not interfere with caste, let castes do what do they like. I want caste to preserve its power, its autonomy, but the law is against us, the judges are in the way, they say 'we do not care what the caste has done.' My plea is that by this Bill you will help caste to keep its autonomy, to keep its power. Let them deal with the parties to these marriages, why should law interfere? It is the privilege of caste to deal with its offending members. I have done. I do not wish to take up any more time of this Council. I will take the opportunity on the third reading of the Bill, if it comes to that stage, to once again emphasise the need for this Bill. I trust my Brahmin friends will excuse me if I have said anything to offend them. I have said what I have felt."

2-18 P. M.

**The Hon'ble Sir William Vincent:**—"Sir, I move as an amendment to the motion already before the Council 'that the Bill be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes and all the non-official members of this Council.' In moving this amendment, I should like to explain the position of the Government in regard to this measure. The Government of India regard the Bill as a liberal measure with which individual members of the Government have every sympathy. It is a permissive measure as I understand it; in no sense is it obligatory upon any person. My own experience is that the best educated Indian opinion I have met, at any rate in the province with which I am familiar, is strongly in favour of the proposals. Many of us indeed feel that it is unreasonable that adult persons who desire to marry should be prohibited by law from doing so because they happen to belong to different castes. Nor am I myself much impressed with the argument that this law will strike a blow at the foundations of the Hindu religion. This argument has been used too often. It was advanced when *Sati* was prohibited, at the time of the Widow Re-marriage Act, when the Caste Disabilities Act was enacted, and later on when the Age of Consent Act was passed. We are many of us unwilling to believe that the Hindu religion does not rest on some more solid basis than that. I am told also that in some Indian States there is legislation comparable to the Bill before the Council. I have no definite information, however, on the point and speak subject to correction.

"I think the Council will sympathise with this attitude of Government towards the Bill. At the same time, this is a matter in which *festina lento* is a very good watchword, and it is most important we should have a definite pronouncement of the views of non-official members on the Bill. There is a great cleavage of public opinion on the merits or demerits of the proposal. I cannot myself agree that the Hon'ble Member has presented a very accurate picture of this feeling. I have no doubt that his affection for his own measure has in some way influenced him in overestimating the value of opinions in support of the Bill and minimising that of those opposed to him. He said he wished to put the matter clearly before us. I am sure that was his intention, but I do not think that any person who reads through these opinions carefully can accept the view that the majority of orthodox Hindu opinion is not at the present moment opposed to the Bill. It is useless enumerating Local Governments as if they were to be counted on your fingers. To cite the local administration of Coorg, as if it was of the same importance as a large Presidency, is not the way in which the value of local opinion is really ascertained, nor do I think, if I may say so, that the Hon'ble Member was correct in his attack

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on Brahmins as the real opponents of this measure. There are indications that other castes feel very strongly on this point. Then I was told—and I heard this with amazement—that even if vocal opinion was against the Bill Government should neglect this opposition and that they should be guided by the opinions of the silent millions. How often have I been told in this Council that there is one opinion in India, and that that is the vocal opinion of the educated classes. When any official has ever suggested that there is any other opinion, he is told that it is some invention or delusion of his, but now I am asked to neglect public opinion as voiced by Brahmins. Apart, however, from the justice of this attack on the Brahmins, if I had been in my Hon'ble friend's place, I should have avoided it as a matter of tactics. In the first place, my experience of this Council is that many of the acutest Indian intellects have always been Brahmins. I once said a word about Brahmins in the Council on a former occasion and brought a storm about my ears. I roused in truth a hornet's nest and I have avoided doing so again. I assure my Hon'ble friend that this is the most dangerous hornet's nest he has ever disturbed. If there is one thing which Hindu Members in this Council will not bear, it is any suspicion of what they think is an unfair attack upon the Brahmin community. I have now placed before Council the views of Government on the Bill. There is a natural feeling of sympathy with this measure, but, in view of the opposition from the orthodox community, we seek to obtain the advice of non-official members of this Council as to our wisest course, and for this reason I have moved the amendment now before the Council. We shall largely be guided by the opinion of the non-official members who represent largely the educated opinion of the country.

"It is for that reason, and in order to secure an effectual presentment of that opinion, that I have proposed that this Bill should be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes (who, as Hon'ble Members know, is bound under the rules to be Chairman of every Select Committee) and of non-officials. Otherwise, indeed, it is very difficult for Government to ascertain the views of individual members.

"I must, however, say that while I propose this course we retain liberty of action, if we think necessary, owing to circumstances, either to defer the further consideration of this measure until the enlarged Legislative Councils come into being, or to re-publish it or to take any other line that may appear to us to be most proper in the whole circumstances. I should be glad if this motion is carried, and I may say that it will be carried because I shall use the official majority, and I have reason to believe also that my Hon'ble friend Mr. Patel will not oppose it. If it is carried we shall be glad to have the views of the non-official members not only on the details of the Bill—and I am not going to have it said that the Government have accepted the principle of this Bill in the sense that they mean to pass it in the Council—but also on the question whether the non-official members of this Council think that it would be right to pass this Bill at the present juncture, or whether they think that public opinion is not yet ripe for it and that it should be postponed until we have a more representative Council. Sir, I have been criticised because I have included persons other than Hindus in the Select Committee, and I will again explain very shortly my reasons for doing so. I hope I am not detaining the Council too long. To my mind it is carrying the idea of communal representation to an intolerable length to say that Muhammadans are not to vote on a measure of this kind if they so desire. I did not hear it suggested the other day when the Outohi Memon Bill was introduced by my friend Mr. Jaffer, that the few Muhammadan Members alone in this Council should vote on it. Such a thing was never suggested; in fact, I believe, the Bill received some support from a particular Hindu Member. There are also some Muhammadan Members in this Council, and other non-Hindu Members who represent mixed constituencies—constituencies partly consisting of Hindus. Would it have been right for the Government to say to deprive these constituencies of their right to discuss this important question because they have chosen to elect a Muhammadan to represent them in this Council? Have not Government also often been told that Members of this Council are in the first

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place Indians and not merely Hindus or Muhammadans and that they are in closer touch with their own people than any of you officials can be? Is there not any truth in this argument? I admit the Muhammadan and the Hindu in this country may in many cases have more intimate knowledge of social matters affecting Indians than any of us can have. In any case, however, I do not seek to force any Muhammadan to sit on this committee. I merely give him an opportunity of doing so. I hope that many will serve on it, and that they will give the Government the benefit of their views on this question, of their knowledge and their experience. We have no power, however, to force them to do so and if the conscience or feeling of any member prohibits him from sitting on this committee, let him abstain from it. The Government will lose the benefit of the assistance they might have rendered, but this will be a matter of regret; we cannot in any way enforce our wishes.

"Finally, I wish to make it clear that, while the Government are referring this matter entirely to the non-official committee, they quite realise that the responsibility for the ultimate decision will rest with them. So long as the present form of government remains, it would be idle for Government to attempt to get rid of responsibility in this matter. But what we seek in this matter, is the advice and help of all the non-official members of this Council, on a question of very great difficulty, the difficulties, the intricacies and the perplexities of which we, as Europeans, possibly cannot understand as fully as many Members of this Council.

"There are at least one or two official Indian Members on this Council, and I have been asked why I did not include them on the committee, but the answer is very simple. We seek in this matter to obtain non-official opinion. I am, however, prepared in this case to ask any Indian officials there are, should the committee so desire, to sit with them and assist them in any manner possible with their advice and co-operation and that, I hope, will meet the views of those who think that Hindu officials should be put on this committee. Sir, I hope that the amendment which I have moved will commend itself to the Council."

3-32 P.M.

**The Hon'ble Khan Bahadur Ebrahim Haroon Jaffer:—**

"Sir, at the express desire of my Hon'ble friend, I wish to withdraw my\* amendment, but before I do so I wish to clear the position of my community towards the Bill . . . ."

**The Vice-President:—**"I only called upon the Hon'ble Member to move his amendment. If he does not desire to move it, he cannot make a speech now."

**The Hon'ble Khan Bahadur Ebrahim Haroon Jaffer:—**

"I withdraw the amendment, Sir."

**The Vice-President:—**"The Hon'ble Member does not move his amendment."

3-33 P.M.

**The Hon'ble Maharaja Sir Manindra Chandra Nandi of Kassimbazar:—**"Sir, I had an unpleasant duty of opposing this Bill when it was introduced in Council in September 1918, and I have unfortunately the same unpleasant duty of opposing it to-day. I know, Sir, that the Bill is not a compulsory one, and is only a permissive measure; yet I have very great fears that, as soon as it gets into the Statute-book, it will begin to disorganize Hindu society and make a wreck of its existing organization. Of the eight different kinds of marriages known and sanctioned by the Hindu Shastras, many have now ceased to exist and hold sway, and I have reasons to believe that the operations of this Bill will undermine the sacramental character

\* "That the Bill be referred to a Select Committee consisting of the Hon'ble Sir George Lowndes and all the non-official Hindu members of this Council."



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of those that still remain. Once this wedge is driven into the economy of Hindu social life, the observance of all traditional Hindu customs and the elementary principles of our domestic organization will begin to crumble to pieces in no time. The Hindu community still consider the caste system as the foundation of the whole Hindu social edifice, and inter-marriage among castes, especially among superior and inferior castes, is regarded by them as an encroachment on their religious system, as the Hindu domestic ceremonies and social customs are based on religion, and the religious and social system of the Hindu are so linked together, that it is impossible for a Hindu to marry outside the caste permitted by Hinduism and still remain a Hindu. It is impossible to effect the Hon'ble Mr. Patel's object by a Bill containing a single declaration and providing for no procedure. The Bill provides for no ceremony and no form of marriage, either religious or civil. A religious marriage between persons of different castes cannot now take place under the Hindu law, and a civil ceremony can only be provided in the circumstances laid down by the existing Act, namely, upon a declaration of parties that they are no longer Hindus. But without prescribing some form of ceremony there can be no legal marriage, and, as it stands, the Bill would be either ineffective or introduce, at best, a sort of marriage that would neither be welcome nor desirable in good society. I hope, Sir, the present Council will be no party to such a measure of a revolutionary character, and that it will not be referred to a Select Committee at all."

**The Hon'ble Raja Sir Rampal Singh:**—"Mr. Vice-President, 3-37 P.M. I desire to oppose both the motions with regard to the Bill going to the Select Committee stage, but before doing so, I should like to make an observation of a personal character. Sir, some of us, I may better refer to myself, have to labour under a peculiar difficulty of which I desire to make a confession before the Council for its due appreciation. While addressing the Council I, in common with others who are deficient in public speaking, have to perform at one and the same time three-fold duties :

Duty No. 1. To control myself from natural nervousness due to being unaccustomed, owing to several causes, to such ordeals. The legs tremble and the heart throbs though the tongue speaketh by pressure from within.

Duty No. 2. To develop ideas and thoughts systematically. This is not at all difficult if the debate is a congenial one and I am well conversant with the subject-matter under discussion.

Duty No. 3. To translate those ideas and thoughts into foreign language which forms the medium of giving expression to them. This last duty is arduous and very trying.

"It is for these reasons that I have to lean upon manuscript speeches about which to insinuate that they are written by some one else is simply extremely unbecoming, to use a very mild term. If my Hon'ble colleagues, the official members, had to face half of these difficulties and if the performance of even half the duties mentioned above were to fall on them, I would certainly give them credit if they could carry on the debates with as much eloquence as they do now. But in that case there is one thing of which I am quite certain. None of them would have ventured to liken me to a gramophone entertaining the Council just as the records might be put into the machine. . . .

**The Vice-President:**—"I would ask the Hon'ble Member to address himself to the motion before the Council; I have heard nothing relevant to it yet."

**The Hon'ble Raja Sir Rampal Singh:**—"I could not catch what the Hon'ble the Vice-President said."

**The Vice-President:**—"I asked the Hon'ble Member to confine himself to the motion before the Council."

[ *Raja Sir Rampal Singh ; The Vice-President.* ] [ 25TH FEBRUARY, 1920. ]

**The Hon'ble Raja Sir Rampal Singh** :—“ It is only a personal matter.”

**The Vice-President** :—“ We are not discussing gramophones.”

**The Hon'ble Raja Sir Rampal Singh** :—“ The Bill which it is proposed to refer to a Select Committee cannot claim my sympathy. There are special misgivings as to the questions of succession and inheritance, and it is due to that, that great opposition has been raised against the Bill. If the Hon'ble Mr. Patel, who has introduced this Bill, would kindly re-draft it and clear up such points, I think there might not be so much opposition as there is at present. Hindu society, we know, can no longer remain knit together in the trammels which the society provided for itself to remain compact in ancient times or much later, as the case may be. It is no good to go into that controversy. It is true that in ancient times the society survived inroads upon its social structure by the artificial measures which it adopted, but now the civilizing Western influences are too great and forcible to let that structure remain intact in its former or present-day condition. I fully admit that certain very important changes in its social usages and practices are highly imperative. These changes are already taking place imperceptibly, but surely. My submission is, is it at all proper and expedient to rush this measure and cause a shock to the community? In my own humble way, I am also a social reformer, but not a too enthusiastic and head-long reformer such as would cause an eruption in society. The rural population, which is the main population of India, is still quite ignorant of this Bill. Go to a village and inform the elders that such and such a Bill has been introduced into the Council, and I am sure the very information will be treated by them with contempt. What will be their state of feelings when in course of time they will come to know of its effects? The Bill will touch small and big properties whose proprietors and owners, as well as their collaterals, have always prided themselves upon their blue blood. They may be wrong or they may be right, but that is another thing. The question is, will not this measure be shocking to their sentiments and instincts? ”

“ Well, Sir, it has always been our complaint, and to a certain extent, justly, that the present day Councils do not represent Indian public opinion at all. Now we have been granted real and responsible representative institutions. A Select Committee formed from the members of this Council cannot claim to have the weight and representative character as the one that might be formed by the reformed Councils. I ask, Sir, what weight, what influence, what sanction, what authority, will the decision of a Select Committee of this Council carry upon the Hindu mind? I must exclude the official and Muhammadan members because the Bill does not touch them, and their opinions cannot influence the Hindu public in this matter. Does the Council believe that the remaining ten or twelve members are entitled to come to a decision on a question of such momentous importance? ”

“ In this country all the ills to which the people are subjected are attributed to the commissions and omissions of the Government. Is it wise to exasperate the Hindu public mind that a foreign Government has imposed upon them an enactment subversive of the old order of things? The aloofness of the Government of India from the Bill on the words that fell from the lips of the Hon'ble the Home Member when the Bill was introduced or what he has said to-day have not reached and will not reach the ears of the masses and so they, I mean the Government, will have to bear the odium. The news of the grant of a certain measure of Swaraj has certainly reached to a certain extent to every nook and corner of the country. I should think that it would be far better to take up this question when the new constitution is formed. In that case it will carry more weight and authority and people will appreciate its real import owing to its sanction from their own representatives. I believe the Deceased Wife's Sister's Bill took very long before it was passed into law in the mother of Parliaments. England is one of the most advanced countries

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in the world. Taking that fact into consideration, I hope I will not be thought guilty of recommending dilatoriness for a measure at the importance of which no one can cavil. One year is not a very long time to wait.

"The Hon'ble Mover has, unfortunately, brought forward the Brahmin and non-Brahmin controversy in this connection. I am sorry to say that the Kshytriya community which held sway over this country for a long time, and which even now owns about two-thirds of this country, is bitterly opposed to this Bill. I may remind the Hon'ble Mover that the Hon'ble Raja Moti Chand is not a Brahmin, but he is opposed to the Bill. The Hon'ble Raja Chandra Chur Singh is not a Brahmin, but he is opposed to the Bill. The Hon'ble Lala Sukhbir Sinha, one of the leading members of the Legislative Council of the United Provinces, is also opposed to the Bill. So it is not a question of Brahmin and non-Brahmin; it is a question of the social reform of the Hindu community, and, I think, it would be proper for this Council to take as its guide the public opinion of the Hindu community."

**The Hon'ble Rao Bahadur B. N. Sarma:**—"Sir, when this Bill was originally introduced, I supported the principle of it. I adhere to my support of the principle, but I raised certain questions for consideration which do not seem to have appealed to my friend Mr. Patel, and he has not alluded to them at all in the course of his remarks asking for the appointment of a Committee. If the question be as to whether this Bill should be passed into law as it is, I would most emphatically say 'no', although I adhere to the principle of the Bill, because I believe that the Bill as it stands, if passed into an enactment, would do as much harm, as perhaps more harm, than good. We, educated Indians, who foresee what the future of the country is likely to be are naturally extremely anxious to permit those who believe in the tenets of the Hindu religion and are moved by its sublime philosophy to continue to be Hindus and yet live what to them are reformed lives. It is for that purpose, therefore, that we heartily appreciate any movement which tries to encourage the freedom of marriage amongst the various sections of the Hindu community. Therein we are at one with the Hon'ble Mr. Patel; but I think, Sir, he has done wrong in thinking that he has the support of the vast mass of the Hindu community or the non-Brahmin community in his favour. If I were to act upon what I believe would be the mandate of my constituency, consisting mostly of non-Brahmins, I should certainly not be prepared to vote for this Bill at all, and I feel certain that if it were to come to a question of taking the view of the community and having the election of a representative on that view, I should be surprised if very many who were in favour of the Bill would be returned to the Council. But that is not the position which we have taken up here, because we believe that in enabling the passing of this Bill, we would be doing something which would really build up the future structure of the Indian community. Therefore, his remarks about the Brahmains and the non-Brahmins were, I think, rather unhappy. It is the custom and the fashion of the day to explain away any inconvenient positions by attributing all the inconveniences and the difficulties to the Brahmin. And here the Brahmin comes in as a very handy instrument in the hand of Mr. Patel to explain his difficulty about the position of the Hindu community, but the Brahmin gains by this Bill which makes him a present of the girls of all the other communities to choose from in marriage which he has been prevented from doing by customary law for the last three or four centuries. Wherein does he lose? He does not lose anything at all. The Brahmin is monogamous partly because he cannot marry more girls than one in his community owing to the limitations of the sex ratio. In the good old days, the Brahmin married into all the other castes. He never lost caste, he married into all the other castes. The law of inheritance provided a gradation and, consequently, there was absolutely no difficulty in his way. But it was the Brahmin who saw that the Hindu community would not prosper if this unfair advantage were given to him, and he said 'no'. Now, unless this Bill says

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that the parties to a contract of marriage under this Bill are to be monogamous, the result may be disastrous to the Hindu community because it would encourage polygamous marriages in future on a large scale since Hindu society and Hindu sentiment do not condemn the association of men of the higher castes with women of the lower castes. A Kshatriya will not lose caste if he marries a Vaishya or Sudra. Consequently, Sir, to bring in the Brahmin caste for the purpose of explaining the opposition seems to me rather unnecessary and useless. I do not go into the statistics of those who support and those who are against the Bill. If I had known that my learned friend would have a fling at the Brahmins I should have collected them, but I know as a matter of fact how the South Indian Federation happened to change its views rather recently. When Mr. Basu's Bill was discussed and I was in Madras, and I heartily supported it, I knew how angry I made many of my non-Brahmin friends there, but some of them now seem to think that somehow the privileges of the Brahmins would be effected by this Bill and, consequently, they have suddenly turned round and have taken a different attitude. But I think they no more represent the non-Brahmins of the Southern Presidency than I represent the Brahmins of the Southern Presidency in this matter. The vast majority of the Brahmins to which community I have the honour to belong, as well as the non-Brahmins of the Southern Presidency would, if a vote were taken on this, be against it; but that is a different point.

"I come now, Sir, to the point I was trying to reach. It was this. Is it open to this Council in the Select Committee to treat merely as a matter of detail very vast questions of principle, namely, as to whether the offspring of marriages under this new Bill, if passed into law, would be governed by the ancient Hindu law which would be revived for the purpose, or whether it would be necessary to make a new law for them?

"What is to be the law of adoption in their case? What is to be the law of marriage ceremonial in their case? It is perfectly true that in the old days *anuloma* marriages were very common, though public sentiment was against *pratiloma* marriages. My Hon'ble friend was perfectly right in saying that; they were not treated as unlawful although it came to the same thing, because the offspring of a *pratiloma* marriage got hardly anything by way of inheritance. The result of our not making any provision by way of rules of inheritance under this Bill would be this. Section 8 of the *Mitakshara* would in the case of communities, in the Southern Presidency, Orissa and Bihar and other persons also, govern the laws of succession. It says the sons of a Brahmin by a Brahmin wife shall have four shares, by a Kshatriya wife, three, by a Vaishya wife two, and by Sudra one. Out of ten shares, the children by a Kshatriya wife three or two, or one, by a Vaishya wife two; so that if a Brahmin marries into all the four castes the shares would be four or three or two or one out of ten. I do not know whether it is the desire of any Hon'ble friend to perpetuate that law of succession; at any rate I would not be a party to it.

"Then, again, my learned friend conveniently forgets that his Bill would provide for *pratiloma* marriages, and I should not be a party to a Bill which draws any distinction between *Anuloma* and *Pratiloma* marriages. I would equally interpose no legal obstacles in the way of men of the lower castes marrying women of the higher castes; but the law of succession is so precarious that the children of these unions would hardly get anything. What is to be done with them? Therefore, I do think the Select Committee would be bound to go into the question of succession and recommend a rule which would not be the Hindu law rule, which may be a very equitable rule, but which would still not be in consonance with the ancient Hindu law. Therefore, as to whether it would be competent to the Select Committee to make a new law in regard to succession—treating it as a matter of detail—is a question I leave to the official members who will have to dispose of this matter.

"When the question of adoption will come in. Supposing a Brahmin marries a Brahmin wife and a Sudra wife; if he dies issueless, who is to adopt? Is it to be the Brahmin wife or the Sudra wife or both jointly? Is the Sudra wife to adopt a Brahmin or Sudra boy, or is the Brahmin wife to adopt a Sudra

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or Brahmin boy? What is to be the law? Among the Sudras illegitimate sons would be entitled to a share, and the rules of adoption are different. What is to be the law in the future?

"Then, Sir, there is the question of adult marriages. We shall have to provide whether it would be competent to the reformers to marry their children when not of age into castes to which they do not belong. That is another point which we shall have to consider; it is not contained in the Bill as it stands at present.

"I think these questions of adoption, succession and inheritance are very vital questions, and as I have put it the question of monogamy or polygamy is also a very important one. If we are to frame new rules with regard to monogamy, with regard to adult marriage, with regard to adoption, with regard to succession, there will be precious little of Hindu law left intact. It will be a new law, and the creation of a new sect no doubt, and I should like to encourage that sect and I hope that sect will in future greatly absorb the whole community of India. But however that may be, it would hardly be 'Hindu' in the strict present accepted sense of the term, and therefore it would be a question which would have to be left open to the Hindu community again to consider, as to whether they would like to have these vast changes made before they are permitted to marry into other castes. Sir, the question is not so very simple as it may appear on the surface. There are very important questions as to whether a Brahmin woman or a Kshatriya woman—'Brahmin' sounds very harsh in some people's ears and I will avoid all controversy—as to whether a Kshatriya lady can say 'I will not live with my husband because he has married a Sudra woman.' Well, questions of divorce of that character would arise the moment we pass this Bill. The reform has our hearty sympathy, and I do not therefore stand for an indefinite postponement of the question. I do not believe that if this Bill comes before a committee constituted under the Reforms Scheme, it would have the ghost of a chance. I am rather sceptical—I may be wrong, I personally would not like to introduce any obstacles—but I may state clearly that the Government would be thinking wrongly if the views of any of us should be considered to be representative of the communities to which we belong. They are our honest views, which, we think, would be for the welfare of the future community of India, but I do not think we reflect the opinion of the communities when we vote here one way or the other."

The Council adjourned until Thursday, the 26th February, at 11 o'clock.

A. P. MUDDIMAN,

*Secretary to the Government of India,*

*Legislative Department.*

DELHI :

*The 6th March, 1920.*

**APPENDIX.**

[Referred to in Answer to Question No. 34.]

Statement referred to in part (a) of the reply to the Hon'ble Mr. S. Sinha's question regarding primary education.

**PRIMARY SCHOOLS FOR BOYS.**

Province.	1911-12.		1918-19.		Average of increase or decrease during the last seven years.	
	Schools.	Pupils.	Schools.	Pupils.	Schools.	Pupils.
Madras . . . . .	24,044	940,989	29,052	1,250,796	+5,908	+310,107
Bombay . . . . .	11,609	972,391	10,647	608,200	-962	-64,191
Bengal . . . . .	28,608	1,074,100	34,278	1,144,885	+5,670	+70,785
United Provinces . . . . .	9,258	480,544	11,507	685,040	+2,249	+205,396
Punjab . . . . .	3,417	179,588	5,173	246,771	+1,756	+67,183
Burma . . . . .	4,764	101,226	6,853	206,382	+1,589	+45,146
Bihar and Orissa . . . . .	21,990	618,959	23,053	686,123	+1,063	+21,764
Central Provinces and Berar . . . . .	9,195	239,711	3,841	257,506	+646	+17,795
Assam . . . . .	3,469	141,743	3,924	161,804	+455	+20,050
North-West Frontier Province . . . . .	260	14,130	618	25,898	+358	+11,260
Other Administrations . . . . .	80	6,153	459	22,511	+379	+18,358
<b>INDIA</b>	<b>110,692</b>	<b>4,532,648</b>	<b>129,803</b>	<b>5,240,316</b>	<b>+19,111</b>	<b>+723,668</b>

N. B.—The increase shown here is an under estimate as the figures for 1911-12 include certain Indian States which were omitted from the returns with effect from 1914-15.

Statement referred to in part (d) of the reply to the Hon'ble Mr. S. Sinha's question regarding primary education.

**PRIMARY EDUCATION.**

Province.	1911-12.		1918-19.		Average of increase or decrease during the last seven years.	
	Schools.	Pupils.	Schools.	Pupils.	Schools.	Pupils.
Madras . . . . .	25,206	1,029,050	32,009	1,400,994	+6,803	+371,944
Bombay . . . . .	12,763	767,130	11,968	701,804	-795	-65,326
Bengal . . . . .	35,186	1,237,180	44,925	1,364,201	+9,739	+127,021
United Provinces . . . . .	10,215	612,293	12,653	726,462	+2,438	+218,169
Punjab . . . . .	4,054	208,979	6,128	288,680	+2,074	+81,011
Burma . . . . .	5,316	181,406	7,316	239,767	+2,000	+58,361
Bihar and Orissa . . . . .	23,249	645,417	25,052	696,256	+1,803	+49,839
Central Provinces and Berar . . . . .	3,504	256,203	4,165	275,718	+661	+19,510
Assam . . . . .	3,711	148,987	4,271	172,598	+560	+23,811
North-West Frontier Province . . . . .	288	16,054	635	28,443	+347	+12,389
Other Administrations . . . . .	86	5,743	524	27,554	+438	+21,811
<b>INDIA</b>	<b>128,578</b>	<b>4,988,143</b>	<b>160,271</b>	<b>5,941,432</b>	<b>+31,693</b>	<b>+953,340</b>

N. B.—The increase shown here is an under estimate as the figures for 1911-12 include certain Indian States which were omitted from the returns with effect from 1914-15.