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

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

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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 17th March, 1930.

PRESENT:

The Hon'ble SIR GEORGE LOWNDES, K.C., K.C.S.I., Vice-President, *presiding*,
and 57 Members, of whom 50 were Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Mr Surendra Nath Banerjea asked:—

11 A.M.

1. (a) Has the detailed survey for the proposed Ishurdi-Shadhuganj Railway covering a distance of 46 miles in the district of Pabna in Bengal been completed?

Ishurdi-Shadhuganj Railway in the district of Pabna.

(b) Is it a fact that the actual distance between Ishurdi and Pabna which is the headquarters of the district is only 16 miles?

(c) When do Government propose to begin operations in connection with this project?"

The Hon'ble Sir Arthur Anderson replied—

"(a) and (b). The reply is in the affirmative.

(c) Government are not in a position to say at present when the Ishurdi-Pabna-Sadhuganj Railway project will be proceeded with."

[*Mr. Kamini Kumar Chanda; Sir William Marris; Sir Arthur Anderson; Mr. W. M. Hailey.*] [17TH MARCH, 1920.]

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

Constitutional Reforms in Ajmer-Merwara.

2. "(a) What constitutional reforms is it contemplated to introduce in the scheduled district of Ajmer-Merwara ?

(b) Will these reforms be introduced in the district simultaneously with reforms in the other provinces ?

(c) Will the reforms proposals be published before introduction, for the opinion and criticism of the people of that district ?"

The Hon'ble Sir William Marris replied:—

"The Hon'ble Member is referred to paragraph 198 of the report on Indian constitutional reforms. It is proposed, in accordance with the view there taken, to associate with the personal administration of the Chief Commissioner some form of advisory council adjusted in composition and functions to the local conditions. Details have yet to be settled and the Government of India are unable to say exactly when the advisory council will be constituted; but the matter is engaging their attention."

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

Ishurdi-Shadhuganj Railway in the district of Pabna.

3. "(a) Is it a fact that a detailed survey of a proposed railway line in the Pabna district (Ishurdi-Shadhuganj) was completed before the war ?

(b) What is the present position in the matter ?

(c) Do Government contemplate taking up the alignment of the proposed railway at an early date ?"

The Hon'ble Sir Arthur Anderson replied:—

"The Hon'ble Member is referred to the reply given to a similar inquiry by the Hon'ble Mr. Surendra Nath Banerjee."

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

Financial effects due to increase of pay in certain services.

4. "Will Government be pleased to state the financial effects of the increase of pay of—

(a) the Indian Civil Service ;

(b) the Indian Army ;

(c) the Indian Police Service ;

(d) the Indian Educational Service ; and

(e) the Indian Medical Service ;

and to lay on the table the correspondence on the subject between the Government of India and the Secretary of State ?"

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

"(i) With reference to (a), (c), (d) and (e), the Hon'ble Member is referred to the answer given by me on the 1st March to a similar question by the Hon'ble Rao Bahadur B. N. Sarma. As regards (b), the process of revising the rates of pay of the personnel of the Indian Army and of the British Army serving in India is not yet complete. For the information which is so far available on the point, the Hon'ble Member is referred to the particulars given in my narrative introducing the Financial Statement.

(ii) Government are not prepared at present to lay on the table the correspondence regarding the Indian Civil Service, the Indian Police Service, the Indian Medical Service and the Indian Army. Correspondence relating to the Indian Educational Service was laid on the table by the Hon'ble Mr. Shafi on the 8th March in reply to a question by the Hon'ble Member."

[17TH MARCH, 1920.] [*Mr. Kamini Kumar Chanda; Sir William Vincent; Sir William Marris; Chaudhuri Muhammad Ismail Khan.*]

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

5. “(a) Is it a fact that several Provincial Governments are refunding the security taken in respect of newspapers? Security taken in respect of newspapers.
 (b) Do Government propose to take similar action in Delhi?”

The Hon'ble Sir William Vincent replied:—

“ (a) The reply is in the affirmative.

(b) No newspapers are under security in Delhi. The Chief Commissioner reports that he is considering the action to be taken in respect of press securities on the lines adopted by the Governments of the United Provinces and that of the Punjab.”

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

6. “Will Government publish or place on the table the reply of the Secretary of State to the Reforms despatch of the Government of India?” The reply to the Reforms despatch.

The Hon'ble Sir William Marris replied :—

“The only despatch received from the Secretary of State on the subject of the Reforms is a despatch, dated December 25th, 1919. Some of the matters dealt with in this despatch are still under discussion between the Secretary of State and the Government of India, and publication, therefore, at this stage would be contrary to the standing practice in such cases. In this view the Secretary of State concurs.”

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

7. “(a) Is it a fact that the Southborough Committee recommended the allotment of half a seat to the Moslems of Assam on the Council of State (that is one seat alternately to the Central Provinces and Assam Moslems)? Representation of the Assam Moslems on the Council of State.

(b) Is it a fact that as stated in the Communiqué, dated the 8th January, this proposed representation of the Assam Moslems is not to be given effect to?

(c) Do Government propose to reconsider the question and allot one full seat to Assam Moslems or at least to give effect to the recommendation of the Southborough Committee?”

The Hon'ble Sir William Marris replied :—

“(a) Yes.

(b) and (c) The Government of India have under consideration a proposal to allot half a seat to the Assam Moslem population.”

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

8. “Is there any rule in the Government of India Secretariat against Indian clerks attending office in Indian costume?” Attendance of Indian clerks in Indian costume.

The Hon'ble Sir William Vincent replied :—

“The reply is in the negative.”

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

9. “Do Government propose to instruct the Provincial Governments to refund the press securities held by them and to refrain from demanding such securities in the future?” Refund of Press Securities.

The Hon'ble Sir William Vincent replied :—

“The Hon'ble Member is referred to the reply given to the Hon'ble Rao Bahadur B. N. Sarma, on the 1st March.”

[17TH MARCH, 1920.] [Chaudhuri Muhammad Ismail Khan; Sir George Barnes; Sir Arthur Anderson.]

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

Appoint-
ment of a
Telegraph
Committee.

10. "(a) Is it a fact :—

- (1) that Government have appointed a Telegraph Committee; and
- (2) that there are no non-official Indian Members on the Committee, while no less than three non-official members from the European and Anglo-Indian communities have been taken on it?

(b) Do Government propose to consider the propriety of having at least four non-official Indian members—two Muhammadans and two Hindus on the Committee?"

The Hon'ble Sir George Barnes replied :—

"The reply to both parts of the questions marked (a) (1) and (2) is in the affirmative.

In reply to question (b) Government consider that no useful purpose would have been served by appointing additional non-official members to the Committee. The sittings of the Committee have now been concluded and the report containing their recommendations is expected very shortly."

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

Railway
communica-
tion with
Pabna.

11. "(a) Is it a fact that the town of Pabna, which is the headquarters of the district, is situated at a distance of 16 miles from the nearest railway station (Ishurdi, on the Eastern Bengal Railway)?

(b) Before the outbreak of the war was a detailed survey for the proposed Ishurdi-Shadhubanj Railway contemplated?

(c) Do Government intend to take up the work of the proposed line in the near future?"

The Hon'ble Sir Arthur Anderson replied :—

"The Hon'ble Member is referred to the reply given to a similar inquiry by the Hon'ble Mr. Surendra Nath Banerjee."

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

Railway
connection
between
Faridpur &
Calcutta.

12. "What steps have been taken regarding the proposal to connect Faridpur with Calcutta by railway through Jessore?"

The Hon'ble Sir Arthur Anderson replied :—

"A reconnaissance survey for a broad gauge line connecting Jessore and Faridpur was carried out in 1916-17. The Government of Bengal, however, did not consider the project to be urgent, or the alignment selected to be likely to afford the most suitable connection between Calcutta and Eastern Bengal. Government have accordingly decided not to proceed further with the project at present."

The Hon'ble Chaudhuri Muhammad Ismail Khan asked :—

Provision for
faster trains
from
Calcutta to
Khulna.

13. "Do Government propose to consider the desirability of providing faster trains on the central section of the Eastern Bengal Railway from Calcutta to Khulna?"

The Hon'ble Sir Arthur Anderson replied :—

"Government are advised that the train service can only be appreciably accelerated by running through a number of stations without stopping, and while this would satisfy a limited number of passengers, it would inconvenience a considerably greater number. Government do not therefore propose to take action in the manner indicated."

[17TH MARCH, 1920.] [Mr. V. J. Patel; Mr. W. M. Hailey; Sir William Marris.]

The Hon'ble Mr. V. J. Patel asked :—

14. "(a) Is it a fact that the Deputy Controller of Currency, Bombay, recently refused an application for Government sterling bills by Mr. S. R. Bomanji of Bombay? If so, why?" Mr. Bomanji's application for sterling bills.

(b) Did Mr. Bomanji send a telegram to His Excellency the Viceroy alleging that the Deputy Controller of Currency, Bombay, has made most invidious distinctions between European and Indian applicants?

(c) In that telegram does Mr. Bomanji state that such favouritism is extremely deplorable and bound to create great discontent, and solicit His Excellency's intervention?

(d) Do Government propose to institute a thorough inquiry into the truth or otherwise of those allegations and place the result before the public without delay?"

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

"The answers to (a), (b) and (c) are in the affirmative.

The Hon'ble Member's attention is drawn to the communiqué issued on February 23rd in which Government reserved the right to refuse any tender absolutely without assigning reasons. The Government of India do not propose to inquire from the Deputy Controller of Currency at Bombay why he considered Mr. Bomanji's tender as not being necessitated by genuine trade purposes. They have no reason to believe that that officer, in exercising the discretion given to him in this matter, made invidious distinctions between European and Indian applicants."

The Hon'ble Mr. V. J. Patel asked :—

15. "(a) Is it a fact that the power vested in the Presidents of Legislative Councils to dispense with the 'leave' stage of Bills has been freely exercised in the past in favour of Government Bills and never in favour of non-official Bills?" The motion for leave to introduce a Bill.

(b) Do Government propose to provide in the rules to be made under the new Government of India Act that there shall be a motion for leave to introduce every Bill, whether official or non-official?"

The Hon'ble Sir William Marris replied :—

"(a) The reply is in the negative. Non-official as well as official Bills have in the past been published under Rule 23 of the Rules for the conduct of Legislative Business.

(b) It is proposed to provide that when a Bill, with the Statement of Objects and Reasons, has been published by order of the Governor General or Governor in the Gazette, it shall not be necessary to move for leave to introduce the Bill."

The Hon'ble Mr. V. J. Patel asked :—

16. "In the rules and regulations now being made in connection with the new Legislative bodies, is it proposed to make provision enabling the respective bodies to fix for themselves the time when they are to sit, or to require the Governor General or the Governor, as the case may be, to convene a meeting on a requisition duly signed by a certain proportion of the Members?" Sittings of the new Legislative bodies.

The Hon'ble Sir William Marris replied :—

"The answer is in the negative. The Hon'ble Member is referred to sections 8 (3) and 21 (2) of the Act from which he will see that the Act has left it to the Governor General and the Governor to appoint such times as they think fit for holding the sessions of the central and local legislatures, respectively."

[*Mr. V. J. Patel; Sir William Marris; Sir William Vincent; Sir Claude Hill.*] [17TH MARCH, 1920.]

The Hon'ble Mr. V. J. Patel asked :—

Residential
qualifica-
tion.

17. "(a) Is it a fact that the recommendation of the Bengal Government in favour of the residential qualifications was not accepted by the Franchise Committee, while such recommendations by the Governments of Bombay, Central Provinces and the Punjab were accepted? If so, what are the reasons for this differential treatment?

(b) Is it a fact that the Bengal Presidency was represented on the Committee while the Presidency of Bombay, the Central Provinces and the Punjab had no representatives on it?"

The Hon'ble Sir William Marris replied :—

"(a) The answer to the first part of the question is in the affirmative. As regards the second sub-part of the question, the Government of India are not in a position to add anything to the statement of reasons contained in paragraph 29 of the report of the Franchise Committee.

(b) The Committee contained representatives of all the four provinces referred to."

The Hon'ble Mr. V. J. Patel asked :—

Abolition of
separate
leave
rules for
Europeans
and Indians
in mixed
services.

18. "Do Government propose to submit fresh proposals to the Secretary of State for India in Council doing away with separate leave rules for Europeans and Indians in mixed services?"

The Hon'ble Sir William Vincent replied :—

"There are no separate leave rules for Europeans and Indians in mixed services. Separate long leave rules exist for what are described as European Services and as Indian Services in the Civil Service Regulations, but the terms European and Indian are not used in an exclusively racial sense. There are Indians in the former and Europeans in the latter. Within the same service and among officers holding the same appointments or class of appointments to which the rules apply, no discrimination is made between Europeans and Indians. The question of the maintenance of these separate rules and the classification of officers for this purpose are under consideration in connection with the recommendations of the Public Services Commission."

The Hon'ble Mr. V. J. Patel asked :—

Rise in the
price of
foodstuffs.

19. "(a) Has the attention of Government been drawn to the following Resolution passed by the Joint Session of the Indian Industrial Conference and the Indian Commercial Congress recently held at Bombay :—

'This Conference views with great concern the alarming rise in prices of necessaries of life in India, specially in foodstuffs, and respectfully but emphatically urges the Government that export of all foodstuffs including dairy products and live stock may be regulated by a Committee of officials and non-officials and not by Government Departments as at present, and that only to the extent of the surplus over the requirements of the country.'

(b) What action, if any, do Government propose to take in the matter?"

The Hon'ble Sir Claude Hill replied :—

"(a) Government have seen in the press the Resolution referred to by the Hon'ble Member.

(b) The questions raised in the Resolution have been considered by the Committee of this Council on high prices, but I may say at once that Government do not propose to entrust the regulation of exports to any committee."

[17TH MARCH, 1920.]

[*Mr. V. J. Patel; Sir William Marris; Sir William Vincent.*]

The Hon'ble Mr. V. J. Patel asked :—

20. "What is the total amount paid by the Government of India to meet the expenses of witnesses sent to England to give evidence before Lord Selborne's Committee? Will Government be pleased to name the witnesses, with the amount paid for each?"

Witnesses sent to appear before Lord Selborne's Committee.

The Hon'ble Sir William Marris replied :—

"No persons were sent to England by Government to give evidence before the Committee and Government made no payments on account of the expenses of witnesses before the Committee."

The Hon'ble Mr. V. J. Patel asked :—

21. "In the rules to be made under the new Government of India Act, do Government propose to provide that the member in charge of any Bill, whether he be official or non-official, shall invariably be a member as well as the Chairman of the Select Committee on that Bill?"

Position of a member in charge of a Bill under the new Act.

The Hon'ble Sir William Marris replied :—

"It is proposed to provide in the standing orders of the Legislative Assembly and the Council of State which will be made under section 24 (6) of the Government of India Act, 1919, that the Member of the Government in charge of the department to which a Bill relates shall be the Chairman of the Select Committee, and that the Member of Council, whether official or non-official, who introduced the Bill, shall be a Member of the Select Committee. The Government of India have suggested to Local Governments that the standing orders to be made under section 11 (6) by the Governor in Council should include a similar provision."

The Hon'ble Mr. V. J. Patel asked :—

22. "Has Government received from the Lord Chancellor of England a memorandum regarding the proposal for an Imperial Court of Appeal as stated in Resolution 22 of the Imperial War Conference, 1918? If so, will Government lay it on the table?"

An Imperial Court of Appeal.

The Hon'ble Sir William Vincent replied :—

"Government has not yet received a memorandum from the Lord Chancellor of England: but the Secretary of State has been addressed again on the subject."

The Hon'ble Mr. V. J. Patel asked :—

23. "(a) Is it proposed to include women graduates of seven years' standing in the electoral rolls for University seats in the local Legislative Councils?"

Grant of the vote to women graduates.

(b) Is it not a fact that Lord Selborne's Committee has recommended the giving of the vote to all graduates of seven years' standing *irrespective of sex*?"

The Hon'ble Sir William Marris replied :—

"(a) No. As recommended by the Joint Committee, provision will be made in the rules under section 7 (4) (c) of the Government of India Act, 1919, for their inclusion in any province in which the Legislative Council may by resolution so recommend."

(b) The Joint Committee recommended that the franchise for the University seats should be extended to all graduates of over seven years' standing, but the Government of India understand that this recommendation, which does not include the three words italicised in the Hon'ble Member's question, is subject to the general proposal of the Committee in regard to the admission of women to the franchise."

[*Mr. V. J. Patel; His Excellency the Commander-in-Chief; Sir William Marris.*] [17TH MARCH, 1920.]

The Hon'ble Mr. V. J. Patel asked :—

Bungalows requisitioned under Defence of India Act in Poona.

24. "(a) With reference to part (b) of the answer given on the 21st March, 1919 to my question regarding the bungalows requisitioned under the Defence of India Act in Poona, will Government say how the one representation received from lessees therein referred to has been disposed of ?

(b) Were certain bungalows in Poona requisitioned from these lessees under the said Act ?

(c) Is it a fact that in paying compensation the lessees in question were not recognised by Government as owners ?

(d) Is it a fact that the said lessees were not given an opportunity of a hearing by the arbitrator appointed by the Government to decide this matter ? If so, will Government state the reasons which led the arbitrator to deny the lessees a hearing ?

(e) Do Government propose to reconsider the representation of, and pay compensation to, the said lessees ?"

His Excellency the Commander-in-Chief replied :—

"(a) The representation was considered and rejected by the Government of India.

(b) Yes.

(c) Yes.

(d) The question of paying compensation to the said lessees was not referred to arbitration, as Government decided that the lessees were protected by the Contract Act, and had suffered no actual loss from the requisitioning of the bungalows in question.

(e) It is not proposed to re-open the question."

The Hon'ble Mr. V. J. Patel asked :—

Representation of Assam, Burma, and Central Provinces on the Rules Committee.

25. "(a) Will Government state whether the Provinces of Assam and Burma and the Central Provinces have their representatives on the Rules Committee ? If not, why not ?

(b) Have the Indian commercial community or the landholders found any representation on the Committee ? If not, why not ?

(c) What is the strength of the European commercial community on the Committee ?"

The Hon'ble Sir William Marris replied :—

"(a) The Hon'ble Member is already aware that the committee does not include representatives of the provinces mentioned. The new constitution of Burma has yet to be determined, and at present therefore its interest in most of the matters dealt with by the committee is small. The committee includes 12 members, and is therefore already as large as is consistent with the expeditious disposal of business which is demanded by the situation. In determining its composition the Government have been guided by considerations of the value and weight of the advice likely to be forthcoming. For this reason it is not proposed to add representatives of the Central Provinces and Assam, neither of which provinces has enjoyed a long experience of the working of provincial legislatures.

(b) The Indian commercial community and the landholders are represented by the Hon'ble Sir Dinshaw Wacha, and the Hon'ble the Raja of Mahmudabad, respectively.

(c) There are two representatives of the European commercial community on the Committee, *viz.*, the Hon'ble Mr. Crum and the Hon'ble Mr. Paton."

[17TH MARCH, 1920.] [Mr. V. J. Patel; Sir William Marris; Mr. Shafi.]

The Hon'ble Mr. V. J. Patel asked :—

26. "(a) Is it proposed to publish the rules made under the new Government of India Act, for public criticism after they have been examined by the Advisory Committee? Rules under the Reforms Act.

(b) What time will be given to the public to submit their views?

(c) Will the Advisory Committee be entitled to re-examine the rules and make recommendations in the light of suggestions from the public?"

The Hon'ble Sir William Marris replied :—

"The course which the Government of India propose to take for the purpose of eliciting opinion upon the rules to be framed under the Government of India Act has been stated on more than one occasion. But as the Hon'ble Member appears to be still in doubt upon the subject I will re-state the intentions of Government as clearly as I can, and also the reasons for the course proposed. The main rules have to reach England by the end of April or early in May if time is to be allowed for their due consideration by the Joint Committee and Parliament. The chief of these rules relate to the composition of and elections for the provincial councils and the Indian legislature; and the rules of business and standing orders for all these bodies. To obtain opinion and advice upon these rules, the Government of India are circulating copies to all non-official Hon'ble Members of this Council and are also discussing the draft rules with an informal advisory committee composed of non-official members. Local Governments are similarly taking the opinion of advisory committees of the non-official members of the provincial councils. A large and valuable body of opinion is thus being obtained upon the rules and there is no ground for any suggestion that the rules are being made in secret, or are being withheld from criticism. The Government of India will consider when they despatch the rules to the Secretary of State whether they will also publish them for general information for the purpose of affording parties interested an opportunity to lay their views before the Joint Committee. But it is quite impracticable for the opinion of all the various communities and interests concerned to be invited and considered before the rules are sent Home. It was with the object of obtaining opinion upon such points, that the two committees over which Lord Southborough presided were appointed."

The Hon'ble Mr. V. J. Patel asked :—

27. "Is it the intention of Government to introduce early legislation with the object of amending the Indian Universities Act, 1904, so as— Amendment of the Indian Universities Act, 1904.

(a) to increase the elective element on Senates; and

(b) to enable graduates of five years' standing to register themselves."

The Hon'ble Mr. Shafi replied :—

"(a) and (b). Legislation for the incorporation of a University at Dacca is now before the Council and regarding the University of Calcutta is in contemplation. The Hon'ble Member's attention is invited to the answer given by the Hon'ble Sir Sankaran Nair to the Hon'ble Mr. Surendra Nath Banerjee on the 18th March 1918, to a somewhat similar question. The constitution of Senates formed a subject regarding which the Government of India specially invited the opinion of the commission, as will be seen from paragraph 13 of Chapter XXVII of their report. It is understood that Local Governments and Universities are now considering the report. Until the considered views of these bodies are more fully known, the Government of India are unable to say whether it will be desirable to introduce further legislation affecting generally the composition of the Senates. As the Hon'ble Member is no doubt aware, the commission have recommended in the case of the University of Calcutta and of the proposed University of Dacca governing bodies, the constitution of none of which precisely answers to the existing senates of the older

[*Mr. Shastri; Mr. P. J. Patil; Sir William Vincent; Sir William Marris.*] [17TH MARCH, 1920.]

universities in India. Attention is invited to paragraphs 11, 30 and 32 of Resolution No. 99, dated the 27th January 1920 of the Government of India in the Department of Education."

The Hon'ble Mr. V. J. Patel asked :—

The Executive Council of the Viceroy.

28. "(a) Are any vacancies likely to occur in the Executive Council of the Viceroy during the course of this year ?

(b) If so, is it proposed to appoint Indians to such vacancies ?"

The Hon'ble Sir William Vincent replied :—

"(a) In the ordinary course there will be one vacancy in July 1920 and one in December 1920.

(b) Government are not in a position to make any statement on the subject at present."

The Hon'ble Mr. V. J. Patel asked :—

Number of sittings held by the Rules Committee.

29. "(a) How many sittings have been held so far by the Rules Committee under the Chairmanship of Sir William Marris ?

(b) Will Government state the names of members who attended and those who did not attend each of the sittings of the Committee ?"

The Hon'ble Sir William Marris replied :—

"The question appears to be based on a misconception as to the status and functions of the committee referred to. This committee is not a committee of the Council, but an informal body which has been appointed by the Government of India to advise them regarding the rules which have to be made under the Government of India Act. Full reports of the proceedings of the committee are being forwarded to the Secretary of State, but it would be neither suitable nor in consonance with the practice in such cases that these reports should be made public, and the Government of India, therefore, are not prepared to supply the information asked for by the Hon'ble Member."

The Hon'ble Mr. V. J. Patel asked :—

Rules to be made by the Secretary of State for India in Council.

30. "(a) Has the Secretary of State for India consulted the Government of India in regard to the rules to be made by the former under the new Government of India Act ?

(b) Will the public in India be given an opportunity to express their views on those rules before they are finally sanctioned ?"

The Hon'ble Sir William Marris replied :—

"(a) The sections of the Government of India Act under which rules will be made by the Secretary of State or the Secretary of State in Council are sections 33, 36, 37, 38 and 39. The Government of India propose to prepare draft rules under all these sections for the consideration of the Secretary of State.

(b) The Hon'ble Member is referred to the answer which I have given to another question asked by him."

The Hon'ble Mr. V. J. Patel asked :—

Function of the Advisory Rules Committee.

31. "(a) What are the functions of the Advisory Rules Committee under the Chairmanship of the Hon'ble Sir William Marris ? Will it continue to exist after the present Session of the Council is over ? If so, how long ?

(b) What is the date, in respect of each member of the Committee on which a letter was addressed to him regarding his appointment or proposed appointment ?

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(c) Did the Hon'ble Dr. Sapru consent to serve on the Committee? How many meetings has he attended since his appointment on this Committee?

(d) Do Government propose to make any provision for filling the vacancies on the Committee caused by continued absence, resignation or any other cause?

The Hon'ble Sir William Marris replied:—

"The Hon'ble Member is referred to the answer which I have given to another question of his. For the reasons therein stated the Government of India are not prepared to give the information asked for in (b) and (c) of this question. The functions of the Committee, as explained on more than one occasion, are to advise the Government of India regarding the rules which have to be made under the Government of India Act, and meetings of the Committee will continue to be held till all the rules have been prepared. Additions have been made to the strength of the Committee since it was first constituted, and the Government of India consider that for the present at any rate it is not necessary or desirable to appoint any more members."

The Hon'ble Mr. V. J. Patel asked:—

32. 'Will Government be pleased to say whether, in pursuance of the Royal Proclamation of clemency, the order of deportation from India passed against Mr. B. G. Horniman will be cancelled, and if not, why not?' Deportation of Mr. B. G. Horniman.

The Hon'ble Sir William Vincent replied:—

"His Excellency the Governor General does not propose to cancel the order of deportation from India passed against Mr. Horniman in April 1919 because concurring with the Bombay Government he does not consider that it would be compatible with the public safety to extend to him at present the benefits of the amnesty under the Royal Proclamation."

The Hon'ble Mr. V. J. Patel asked:—

33. "Will Government be pleased to state the total number of (a) questions and (b) parts of questions disallowed by His Excellency the President up to date during the present Session of this Council? How many of such disallowed questions or parts of questions were from the Hon'ble Mr. V. J. Patel?" Questions disallowed during the present Session of Council.

The Hon'ble Mr. A. P. Muddiman replied:—

"Up to the 10th March, 12 questions had been disallowed by His Excellency the President; 6 of these were received from Mr. Patel. Of these 4 were disallowed under Rule 8, i.e., on the ground that they ought to be put in a Local Council.

It is difficult to state exactly on any given date during a Session how many questions have been disallowed in part. But from an examination of the questions disposed of up to the 10th March, it appears that 27 questions were disallowed in part, 16 of which were from Mr. Patel.

In connection with these figures it is material to point out that out of the 375 questions of which notice has been received during the present Session, 116 or over 30 per cent. have been received from Mr. Patel. I may add that if all other non-official members had displayed the same thirst for information, the total number of questions for the Session would have been nearly 4,000."

The Hon'ble Sir Fazulbhoj Currimbhoj asked:—

34. "(a) Did the Currency Committee observe in paragraph 21 of their Report that 'in order to encourage the Exchange Banks to buy export bills in excess of their purchases of exchange in other direction, the Secretary of State Export Bills.

[*Sir Fazulbhoj Currimbhoj; Mr. W. M. Hailey; Sir George Barnes.*] [17TH MARCH, 1920.]

insured them against the risk of a rise in exchange, by undertaking to sell to them within a year after the war, exchange up to the amount of their over-buying at the rate at which their excess purchases had been made.

(b) What is the total amount of disbursement in this connection and under what head is it debited ? ”

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

(a) The answer is in the affirmative. The undertaking in question was given to the Exchange Banks on three occasions, in consideration, as explained in the report of the Currency Committee, of the acceptance by the Banks of joint responsibility for seeing that exports of war importance were not prevented by difficulties of finance. The first undertaking covered the period 1st January 1917 to 31st August 1917, and guaranteed the sale of Councils bills within one year after the war at the rates which were in force at the time of the undertaking, *viz.*, 1s. 4½*d.* for immediate telegraphic transfers and 1s. 4⁵/₈*d.* for deferreds up to the amount of over-buying by each Bank during the above period. The second undertaking was given in respect of the period from the 1st September 1917 to the 11th April 1918, and was subsequently extended to apply to the over-bought position of the Banks as on the 31st December 1918; it guaranteed the sale of Councils within one year after the war to the extent of the over-bought position of each Bank at the rates in force during this period, *viz.*, 1s. 5*d.* for immediate telegraphic transfers and 1s. 4²⁰/₃₂*d.* for deferreds. The third undertaking covered the period 12th April 1918 to 10th May 1919, and was in similar terms, the rates at which the Councils were to be sold being those in force in this period, *viz.*, 1s. 6*d.* for immediates and 1s. 5²⁰/₃₂*d.* for deferreds.

(b) The accounts of the Banks working out the amounts which they are entitled to remit at the above special rates have not yet been completely verified. As far as information is available at present, they amount to about £6 million under the first, £5½ million under the second and £5 million under the third guarantee. Against these liabilities, remittances aggregating £7 million have been effected in the last and current years, of which £5 million related to the first and the balance to the second guarantee, leaving a sum of £9½ million still to be liquidated.

The sterling proceeds of the Council bills sold up to date to the Exchange Banks in pursuance of this undertaking would have been higher by £1,900,000 if they had been sold at rates current for Councils from time to time instead of at favourable rates. The latter sum appears in the accounts as a short credit for gains from exchange.”

The Hon'ble Sir Fazulbhoj Currimbhoj asked :—

Remittances
on London
through
Post Offices,

35. “What is the amount of remittances on London through Post Offices since the beginning of the present year ? ”

The Hon'ble Sir George Barnes replied :—

“The total number and value of sterling money orders drawn in India and Burma on the United Kingdom in January and February last are as follows :—

	Number.	Value.
January	18,810	£126,220
February	42,505	£864,000

It is not possible to give the figures showing remittances by means of British Postal Orders, as such orders are payable not only in the United Kingdom, but in all British Possessions and Colonies, including India.”

[17TH MARCH, 1920.]

[Sir Fazulbhoj Currimbhoy ; Sir William Vincent ;
Mir Asad Ali, Khan Bahadur ; Sir Claude
Hill ; Khan Bahadur Ebrahim Haroon
Jaffer ; Sir Thomas Holland ; Sir Gangadhar
Chitnavis.]

The Hon'ble Sir Fazulbhoj Currimbhoy asked :—

36. " Are any steps to be taken to have in India an institution for training selected candidates for the Indian Civil Service ? "

Institution
for training
candidates
for the In-
dian Civil
Service.

The Hon'ble Sir William Vincent replied :—

" The answer is in the negative. Selected candidates for the Indian Civil Service must under statutory rules spend their period of probation in England, at the end of which they are examined. Only those who pass this final examination are appointed as members of the Indian Civil Service. "

The Hon'ble Mir Asad Ali, Khan Bahadur, asked :—

37. " Will Government state for each province—

(a) the number of agricultural colleges, agricultural schools, technical or commercial schools and agricultural and technical schools ; and

(b) the annual expenditure incurred on each of the above institutions ? "

Agricultural
schools and
colleges.

The Hon'ble Sir Claude Hill replied :—

" A statement * is laid on the table giving the information required so far as it is available in respect of the last financial year. "

The Hon'ble Mir Asad Ali, Khan Bahadur, asked :—

38. " Will Government state for each of the last six years the quantity of rice purchased for military or other Government purposes in the Madras Presidency ? "

Purchase of
rice in the
Madras
Presidency.

The Hon'ble Sir Claude Hill replied :—

" I lay on the table a statement † showing the purchases for military purposes, so far as details are available. The Government of India have no information of any purchases for other Government purposes. "

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

39. " How many labour strikes have taken place in the different parts of the country during the past three months, how many operatives were involved in them, and how were the disputes settled ? "

Labour
strikes.

The Hon'ble Sir Thomas Holland replied :—

" A statement ‡ is laid on the table giving the information available in respect of strikes which have recently taken place. It has not been possible to verify in all cases the information regarding the manner in which the strikes were settled. "

The Hon'ble Sir Gangadhar Chitnavis asked :—

40. " (a) Is it a fact that Japanese merchants have begun to speculate in Bombay and other places by making large purchases in land ?

(b) Is it not a fact that Indians are prohibited from purchasing any land in Japan ?

(c) If so, do Government propose to take steps to prevent subjects of foreign countries purchasing land in India when similar privileges are not given to Indians in such countries ? "

Purchase of
land by
Japanese
merchants
in Bombay
and other
places.

* Vide Appendix A.
† Vide Appendix B.
‡ Vide Appendix C.

[*Sir William Vincent; Maharaja Sir Manindra Chandra Nandi; Mr. W. M. Hailey; Sir William Marris; Sir George Barnes.*] [17TH MARCH, 1920.]

The Hon'ble Sir William Vincent replied :—

"(a) The Government of India have no detailed information of large purchases of land, but instances have been brought to their notice of their purchase by Japanese of sites for factories in the interior of the country and of business and residential premises at Bombay and other ports.

(b) The Government of India have no definite information, but they understand that, in certain circumstances, the possession of land by foreigners is permitted in Japan, and that the Japanese Government are now taking steps to revise their law so as to allow ownership by any foreigner.

(c) The matter is under the consideration of the Government of India."

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

Details of expenditure for the Imperial Secretariat.

41. "Will Government lay on the table the details of the additional expenditure of the sum of 6.55 lacs which appear to have been spent for the Imperial Secretariat in 1919-20 as mentioned in the Budget for 1920-21 under head '18-General Administration'?"

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

"A statement * giving the details required is laid on the table."

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

Anticipated cost of the Reforms scheme.

42. "What is the amount of money which is intended to be spent in each province of India for inaugurating the new scheme of government provided for in the Government of India Act, 1919?"

The Hon'ble Sir William Marris replied :—

"It is presumed that the reference is to the expenditure which will be incurred in each province during the current year for the purpose of bringing the Reforms into operation. The Government of India have no information as to the amount of such expenditure, and it is probable that many of the Local Governments to whom a reference would have to be made are not at present in a position to furnish accurate estimates. I would suggest that the Hon'ble Member should address Local Governments on the subject at some later date. If, however, the reference is to the cost of the reformed provincial Governments as compared with that of the existing provincial Governments, then the answer is that the amount of the additional expenditure which will be involved depends in part upon factors some of which, *e.g.*, the number of Ministers to be appointed, the salaries which may be voted for them by the Legislative Councils, and the consequential changes in headquarters offices and the cost of Council chambers, are not yet known, and cannot therefore be estimated at the present moment."

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

Collection of Customs duty in Calcutta and Chittagong.

43. "What is the total Customs duty collected in the ports of Calcutta and Chittagong in each of the seven years from 1912-13 to 1918-19, and what proportion of this amount was levied year by year for that period for goods intended for Bengal and for goods conveyed to other provinces?"

The Hon'ble Sir George Barnes replied :—

"I lay on the table a statement * showing the total Customs duty collected in the Ports of Calcutta and Chittagong in each of the seven years from 1912-13 to 1918-19.

*Not included in these Proceedings.

[17TH MARCH, 1920.] [Sir George Barnes; Maharaja Sir Manindra Chandra Nandi; Sir Arthur Anderson; Rai Lalit Mohan Chatterjee.]

If, by the second part of the question, the Hon'ble Maharaja means that he would like to have an estimate of the amount of Customs duty paid in respect of goods imported at Calcutta and Chittagong and subsequently conveyed outside the province of Bengal, I regret that the information is not available. In the case of a large number of commodities, no distinction is made in the statistics of rail-borne trade between goods of foreign and goods of indigenous origin. Moreover, in most cases, the Customs duty is an *ad valorem* duty and the value of all articles has been constantly changing during the period referred to in the question, while the statistics of rail-borne trade give no information as to the date of import of any of the goods carried. Consequently no calculation could be made which would not be so inaccurate as to be worthless."

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

44. "Will the Government state the names of the urgent railway projects to which has been allotted the sum of £630,000 in the Budget for 1920-21?" Urgent railway projects.

The Hon'ble Sir Arthur Anderson replied:—

"A list* of the lines for which tentative provision has been made in the Budget for 1920-21 is laid on the table."

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

45. "Have Government in contemplation the construction of a railway line connecting Khulna with Barisal in Bengal? If so, when is it intended to take the work in hand?" Connection of Khulna with Barisal by rail.

The Hon'ble Sir Arthur Anderson replied:—

"The Hon'ble Member is referred to the reply given to a similar inquiry made by Hon'ble Haji Chowdhuri Muhammad Ismail Khan on the 11th instant."

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

46. "Do Government propose to consider the advisability of taking in hand at an early date the construction of the Ishurdi-Shadhuganj Railway for which a survey was made and completed some time before the war?" Construction of the Ishurdi-Shadhuganj Railway.

The Hon'ble Sir Arthur Anderson replied:—

"The Hon'ble Member is referred to the reply given to a similar inquiry by Hon'ble Mr. Surendra Nath Banerjee."

The Hon'ble Rai Lalit Mohan Chatterjee Bahadur asked:—

47. "(a) Has the attention of Government been drawn to the proceedings of a meeting of the Senate of the University of Calcutta which took place in the first week of January last and in the course of which it was alleged that grants had been persistently refused in aid of the University?" Refusal of grants to the University of Calcutta.

(b) If so, will Government make a statement regarding the making of grants to the University of Calcutta and the allegations made at the said meeting?"

[Mr. Shafi.]

[17TH MARCH, 1920.]

The Hon'ble Mr. Shafi replied:—

(a) The Government of India have seen in the papers an account of a speech delivered by the Hon'ble Mr. Justice Sir Asutosh Mukerji at a meeting of the Senate of the University of Calcutta, which is probably the meeting to which the Hon'ble Member has drawn attention.

(b) The allegations made or clearly insinuated in the course of this speech as reported in the press appear to be as follows:—

First, it is stated that the Secretary in the Education Department figured largely in the transactions described, that the letters refusing grants all emanated from him and that in August, 1917, he seized on a convenient opportunity for making a fresh refusal; it is suggested as a possible reason for the renewal of the Syndicate's request that he 'might be moved to alter his attitude of determined hostility towards the University'; and the words occur, 'we now know what forces of evil were silently at work behind the scenes against the realisations of our aspirations.' The facts are that the Secretary to the Government of India in the Education Department was naturally required to issue the letters expressing the views of the Government of India on those matters; that the Government of India had in no sense abrogated their functions (in the manner which would naturally be inferred from the speech as reported) to a Secretary; that the affairs of the University of Calcutta were always carefully considered by the Government of India; and that the Government of India throughout fully consulted the Government of Bengal or the Rector, and were largely guided by their opinion.

Second, the speech as reported attempts to show that one of the methods adopted for delaying the assignment of grants to the University was the reiterated request for information which was already in the possession of the Government of India. This is particularly asserted as regards a certain letter of the 19th June, 1915, of which the speech says, 'Mr. Sharp sent a reply which, I venture to think, without disrespect to him, is one of the strangest documents which have ever emanated from the Secretariat. Mr. Sharp professed to entertain the view that the information as regards the College of Science available to the Government was particularly meagre.' This letter is also stated to furnish, in the speaker's opinion, a 'psychological problem worthy of investigation by distinguished students of theoretical and experimental psychology.' The facts are that the information previously supplied to the Government of India was out of date by reason of the generous donation of 10 lakhs subsequently made by Sir Rash Bihari Ghose, and the great expansion which was taking place in post-graduate teaching by the University; that the letter not only dealt with the College of Science, but pointed out that the attitude of Government towards that scheme must necessarily be based on the conclusions arrived at in other and wider matters and invited a clear statement upon the whole policy of the University regarding M. A. and M. Sc. teaching; that the financial condition of the University was undergoing examination by a sub-committee; and that His Excellency the Rector of the University had given it as his opinion that the proposals previously made by the University were inadequately set out and required supplementing by a full exposition. Further, the speech goes on to say that, notwithstanding the position taken up in the Government of India's letters of the 16th March and the 19th June, 1915, 'the Syndicate however solemnly sat down to draw up a statement regarding the general policy of the University in respect of the University College of Science,' that 'this valuable document was transmitted to Simla on the 26th June, 1915,' and that it contained no information which had not previously been applied. The facts are that the letter of the 26th June did not even purport to be a reply to the Government of India's letter of the 19th of the same month; that that letter first received an *ad interim* reply on the 9th July, 1915, but was actually answered in two letters, dated the 27th November and 7th December, 1916, in which it is stated that the Syndicate themselves felt it incumbent upon them to indicate their general policy and declared that they were not even then able fully to reply to the letter of the 19th June, 1915; that, in view of this uncertainty, the Government of

[17TH MARCH, 1920.] [Mr. Shafi; Mr. K. V. Reddi; Sir William Marris.]

India constituted a Committee in 1916, with Sir Asutosh Mukherji himself as President, who examined the scheme and whose proposals were accepted with alacrity by the Senate and the Syndicate; but that it was left to the Calcutta University Commission, of which he was a member, to find various defects in that policy and to suggest their remedies.

Third, while the speaker admitted an Imperial grant in 1912 of Rs. 65,000, his speech compels the inference that no grants were given by the Government of India during the later years of which he treated, and he said, 'We have repeatedly approached the custodians of the public funds, but we have met with steady and persistent refusal.' The facts are that, during those years, in which it is asserted that the University met with persistent refusal, the Government of India made new grants of 18 lakhs for purposes of the University; that the recurring grants to that University amount at present to Rs. 1,28,000 a year, and the non-recurring grants made to it since 1910, when the Education Department of the Government of India was created, have totalled 22 lakhs; that the University have from time to time expressed their gratitude for these grants; and that the claims of this University had to be considered along with those of other Universities, and of elementary, industrial and other branches of Education."

The Hon'ble Mr. K. V. Reddi asked :—

48. (a) What are the proportions of Brahmans and of non-Brahmans out of the total population of the Madras Presidency ? Brahmans and non-Brahmans of Madras.

(b) What is the proportion of the tax-paying capacity of Brahmans to that of non-Brahmans in Madras judged by the test of the voting strength of the two communities under the new scheme of Reforms ? "

The Hon'ble Sir William Marris replied :—

"(a) Brahmans form 3 per cent. and non-Brahmans 69 per cent. of the total population.

(b) I would suggest that regarding this part of the question the Hon'ble Member should address the Local Government—the only authority which may be in a position to supply the information asked for."

The Hon'ble Mr. K. V. Reddi asked :—

49. " Will Government be pleased to state—

(a) The number of elementary and secondary schools established for the exclusive use of the children of the depressed classes during the last nine years ? Elementary and secondary schools for the depressed classes.

(b) The amount of money spent or likely to be spent on such schools out of the total Imperial grants of 555.97 lakhs of rupees to Local Governments (excluding the 1.50 lakhs referred to in paragraph 105 of the memorandum explaining the details of the budget estimates) ? and

(c) The percentage of the boys at school to the population of the school-going age among the depressed classes ? "

The Hon'ble Mr. Shafi replied :—

"(a) and (b) The information will be obtained and laid on the table.

(c) It is now the practice to show the proportion of pupils under education as a percentage of the whole population, not of the population of school-going age. The figures of members of the depressed classes at school are shown in General Table V.-A. of the last Quinquennial Review and of the subsequent publications entitled 'Indian Education', the most recent of which was laid on the table the other day. It is assumed that the Hon'ble Member desires to know the percentage of boys at school to the male population of the depressed classes. The figures for the male and female population are not separately shown in the tables, but those for pupils are shown. The percentage of pupils male and

(Mr. Shafi; Mr. K. V. Reddi; Sir William Vincent; Rai Sita Nath Ray Bahadur; Sir George Barnes.) [17th MARCH, 1920.]

female to the total population of the depressed classes is about 1:4; that of boys to the male population must be considerably higher. The Hon'ble Member's attention is also invited to Chapter XVIII of the Seventh Quinquennial Review and to Appendix XIII in Volume II of the same. It will be seen from paragraph 505 of the last Review that the figures regarding the education of the depressed classes are liable to variation owing to difficulties and variations in the denotation of that term."

The Hon'ble Mr. K. V. Reddi asked :—

Housing of
the de-
pressed
classes.

50. "(a) Has any Local Government prepared a programme for solving the housing problems of the depressed classes within its territories?

(b) If not, do Government propose to ask Local Governments to do so now?

(c) What is the amount spent by Local Governments (out of Imperial grants for sanitation during the last nine years) for the purpose of extension of hamlets for depressed classes?

(d) Has any money been hitherto spent out of the said fund towards the housing of the depressed classes and, if so, how much?"

The Hon'ble Mr. Shafi replied :—

"The question asked by the Hon'ble Member cannot be specifically answered, because schemes of housing and sanitation are not framed, nor are grants for sanitation given, with special reference to the needs of the depressed as contrasted with other classes. Various housing schemes have, however, been framed by certain Local Governments and Acts have been passed for Calcutta, Bombay and the United Provinces. No doubt some or all of these schemes will substantially improve the housing conditions of the poorer classes, two of them specifically provide for schemes for particular classes of the community, such as the poorer or working class, and the depressed classes are likely to benefit along with other classes from such grants as have been given for general purposes of sanitation. The Hon'ble Member's question and this answer will be brought to the notice of Local Governments"

The Hon'ble Mr. K. V. Reddi asked :—

Use of
public wells,
etc., by
depressed
classes in
provinces.

51. "(a) In how many and what provinces are the depressed classes (known as untouchables) not allowed the free use of public wells and public rest-houses?

(b) Have Government issued any instructions to the Local Governments to declare that such wells and rest-houses are as much open to the depressed classes as to any other communities in India?

(c) If not, do Government propose to issue such instructions now?"

The Hon'ble Sir William Vincent replied :—

"(a) Government have no detailed or accurate information on the point.

(b) The answer is in the negative.

(c) Government have no such intention. The matter is essentially one for the Local Governments concerned."

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

Export duty
on Indian
hides and
skins.

52. "What is the effect of the export duty on Indian hides and skins—

(a) as regards the tannery business;

(b) as regards the shipping of hides and skins;

(c) as regards the producers of hides and skins?"

The Hon'ble Sir George Barnes replied :—

"I invite the attention of the Hon'ble Member to the reply given by me to the Hon'ble Rao Bahadur B. N. Sarma's somewhat similar question on the 25th of February. It is too early to estimate the effect of the export duty in respect of any of the points referred to in the Hon'ble Member's question."

[17TH MARCH, 1920.]

[*Rai Sita Nath Ray Bahadur; Sir Thomas Holland; Sir William Vincent; Sardar Bahadur Sardar Sundar Singh Majithia.*]

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

53. "(a) Is it a fact that at the instance of the Indian Munitions Board several searches were made in Calcutta?"

Searches made in Calcutta at the instance of the Munitions Board.

(b) Will Government state the reason and the result of those searches and also the result of subsequent inquiries into the matter?"

The Hon'ble Sir Thomas Holland replied :—

"It became necessary, some time ago, to make an investigation into certain transactions to which the Munitions Board was a party, and in which there was reason to suspect that Government had been defrauded.

In the course of the investigation certain documents were seized by the Police under magisterial authority. These seizures are, I presume, the 'searches' to which the Hon'ble Member refers.

The inquiries are still in progress and it would be premature to state the results."

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

54. "(a) Will Government lay on the table statements showing :

(1) The number of Indians and Anglo-Indians in the clerical establishment of the Government of India Secretariat directly recruited to the upper division in the different departments during the last five years and the qualifications of the selected candidates in each case?

The Government of India Secretariat clerical establishment.

(2) The number of Indians and Anglo-Indians in the said clerical establishment promoted from the lower to the upper division during the last five years and the criterion of selection adopted?

(b) Is it a fact that in the case of Anglo-Indian recruits to the clerical establishment the initial monthly salary is generally fixed at a figure in the neighbourhood of Rs. 100, while in the case of Indian recruits with higher educational qualifications, the minimum salary of Rs. 50 is generally fixed?

(c) Is it a fact that up to now no Indian has been appointed Superintendent in the Foreign and Political and Revenue and Agriculture Departments of the Government of India. If so, why?

(d) What is the number of Registrars in the Government of India Departments, and how many posts of Registrars are at present permanently held by Indians?"

The Hon'ble Sir William Vincent replied :—

"A statement containing so much of the information required as can be collected without undue labour and expense will be laid on the table when ready."

The Hon'ble Sardar Bahadur Sardar Sundar Singh Majithia asked :—

55. "Will Government be pleased to state :—

(a) the number and religions of returned immigrants who were under detention in the Punjab immediately before the King-Emperor's Proclamation;

(b) the number that have since been released, and

(c) whether Government propose to consider the cases of those still under detention and to release them under the clemency provisions of His Majesty's gracious Proclamation and if so, when?"

Immigrants under detention in the Punjab.

The Hon'ble Sir William Vincent replied :—

"(a) 60 such persons were under detention in the Punjab immediately before the Royal Proclamation. Of this number 40 were Sikhs, 19 were

1376 QUESTIONS AND ANSWERS; INDIAN INCOME-TAX (AMENDMENT) BILL; SUPER-TAX BILL; IMPORT AND EXPORT OF GOODS (AMENDMENT) BILL.

[*Sir William Vincent; Mr. W. M. Hailey; Sir George Barnes.*] [17TH MARCH, 1920.]

Hindus and 1 Muhammadan, and all of these were persons convicted of serious offences.

(b) 16 Sikhs, 14 Hindus and 1 Muhammadan have been released under the order of His Excellency the Governor General.

(c) His Excellency the Governor General has decided not to release 16 persons on the ground that they have been convicted of serious crimes of violence, such as murder and dacoity, or took part in attempts to seduce His Majesty's troops. The remaining 13 are persons who made a forcible escape from custody. Their cases will be re-considered at a later date."

INDIAN INCOME-TAX (AMENDMENT) BILL.

11-42 A.M. **The Hon'ble Mr. W. M. Hailey:**—"Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-Tax Act 1918."

SUPER-TAX BILL.

The Hon'ble Mr. Hailey:—"Sir, I beg to present the Report of the Select Committee on the Bill to amend the law relating to super-tax."

IMPORT AND EXPORT OF GOODS (AMENDMENT) BILL.

11-43 A.M. **The Hon'ble Sir George Barnes:**—"Sir, I beg to move that the Report of the Select Committee on the Bill to extend the operation of, and otherwise to amend, the Import and Export of Goods Act, 1916, be taken into consideration. The existing Act runs during the continuance of the war and for a period of six months thereafter. The official end of the war has not yet been fixed, and consequently the present Act will remain in force for at least six months longer, and probably for an appreciably longer time.

"The Amending Bill was referred to a Select Committee with special instructions to consider whether the provisions of section 3 of the existing Act should be amended with the object of limiting its scope, and, if so, to report the amendments to the Act which the Committee might consider necessary or desirable to give effect to for that purpose. These special instructions were carefully considered by the Committee, and they came to the conclusion that it would be better to impose a definite time-limit on the existing Act rather than interfere with its scope. The Committee accordingly have recommended a continuance of the Act in its present form until the 31st of March 1921. So far as I can foresee, and this is stated in the report of the Committee, it will not be necessary to use the Act for any commodities other than foodstuffs, including fodder, gold and rouble notes and exports only of silver. My Hon'ble friend Mr. Sarma expressed the opinion before the Committee, as he has done on more than one occasion in this Council, that there ought to be no restriction on the import of gold, but he said that he recognised that this question would be decided in connection with another Bill, which is before this Council. I beg to move that the Bill be taken into consideration."

The motion was put and agreed to.

IMPORT AND EXPORT OF GOODS (AMENDMENT) BILL; 1877
CHARITABLE AND RELIGIOUS TRUSTS BILL.

[17TH MARCH, 1920.] [*Sir George Barnes; Sir William Vincent; The
Vice-President; Mr. Kamini Kumar Chanda;
Mr. G. S. Khaparde.*]

The Hon'ble Sir George Barnes :—“Sir, I beg to move that the Bill be passed.”

The motion was put and agreed to.

CHARITABLE AND RELIGIOUS TRUSTS BILL.

The Hon'ble Sir William Vincent :—“Sir, I move that the ^{11-45 A.M.} Report of the Select Committee on the Bill to provide more effectual control over the administration of Charitable and Religious Trusts be taken into consideration. I will not delay the Council for any time over the present motion, because the reasons for the changes made by the Select Committee in the Bill are fully explained in the report of that body. We have also a number of amendments on, I may say, all other points of importance, and they will be discussed when each amendment is brought forward. I trust the present motion will commend itself to the Council.”

The motion was put and agreed to.

The Vice-President :—“The amendments will now be discussed.”

The Hon'ble Mr. Kamini Kumar Chanda :—“On a point of ^{11-45 A.M.} order, Sir. This amendment which stands in the name of Mr. Khaparde and the next which stands in my name are of the nature, as you will see, that they depend on the amendment which stands in my name as No. 21 on the list. It is consequential; and I therefore pray that these amendments may be taken after that amendment closes.”

The Hon'ble Sir William Vincent :—“What Mr. Chanda proposes would be very convenient in regard to his own amendment; but I do not quite see that the difficulty arises in respect of Mr. Khaparde's amendment. However, I have no objection to the proposed course”.

The Vice-President :—“Does the Hon'ble Mr. Khaparde desire that his amendment should be taken later?”

The Hon'ble Mr. G. S. Khaparde :—“I have no objection, Sir.”

The Vice-President :—“We will proceed in the order laid down in the papers.”

The Hon'ble Mr. G. S. Khaparde :—“Sir, my amendment reads ^{11-49 A.M.} as follows :—

‘That in the preamble, the word ‘public’ be inserted between the words ‘regarding’ and ‘trusts’; the word ‘public’ where it occurs be omitted, and after the words ‘trustees of such trusts’ the words ‘and to provide generally more effective control over the administration of such trusts’ be inserted.’

“At first sight it would appear that my amendment is purely formal; but I submit that there is a big question involved in the little transfer which I propose. This subject of the administration of public trusts was not dealt with by the Civil Procedure Code, when it was first framed in 1859. We did not reach this question at all till we came to the year 1877, and then for the first time section 539 of that Code was enacted. This word ‘public’ was then attached to the word ‘trust’ and section 539 of the Act of 1877 expressly referred to public trusts. Then, later on it came to be brought into the Act of 1882, and the wording was ‘religious or charitable trusts for a public purpose.’ I take it that both the things meant one and the same thing. But since then some doubts have been expressed; and as under the present Bill,

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powers of, I will not say drastic, but certainly of a far-reaching character, are given to Courts in summary procedure. I think it proper that this word 'public' should be attached or rather restored to its place as it was under the Act of 1876. The object of doing that is that I personally do not like that this Act should extend to the cases of private charities and private religious trusts. They should be confined to public charities and public trusts. I believe this point is clear, or at any rate was clear, to the mind of the Government of India in the year 1908. In that year, as the Council probably remembers, Dr. (now Sir) Rash Behari Ghose introduced a small Bill with a very limited scope. That Bill was intended merely to demanding accounts and nothing more. It only said that in certain cases, two persons with the consent of the Advocate General in a presidency-town and with the sanction of the Collector in the mufassal may apply to the Court and ask the Court to call upon the trustees to publish accounts, and there the Bill ended.

"On that occasion the Home Member made a very important speech of which at present I need only read two or three sentences. Sir Harvey Adamson said :—

'Before giving their final support to the Bill the Government of India desire to ascertain how these facilities are likely to be exercised. On the one hand, it may be alleged that it is only right that every trustee of a public trust should be obliged to exhibit to the public the accounts of his trust. As an abstract principle it is impossible to deny so reasonable a proposition. On the other hand, it may be alleged that as applied to religious trusts in India this proposition involves an innovation and a subversion of existing custom which may have far-reaching and unexpected consequences.'

"I need not read the rest, because I propose to read it in connection with another amendment. It may be seen therefore that Sir Harvey Adamson believed that these powers were intended to apply only to public trusts. The position is the same now, the powers that are asked for now under this Bill in my opinion apply only to public charitable and religious trusts and not to private trusts, and therefore I have made the proposal which is now before the Council. There is another argument on this question which I wish to submit; it is that in India as also elsewhere there is a difference of opinion on certain religious questions. In England there was a difference of opinion on the point of offering prayers for the benefit of the dead. Under the Superstitious Practices Act, I believe that is the name, these were declared to be void. Well, there are various purposes about which there are differences of opinion and which are likely to arise in this case. It would be rather inconvenient if the interpretation should depend on a single judge. I propose that the word 'public,' should be inserted between the words 'regarding' and 'trust' in the preamble. This would be applicable not only to the case of trusts to Hindus but also to Muhammadans. In the case of Christians the procedure would be considerably simpler, because it would be governed by the provisions of the Indian Succession Act. In the case of temples and mosques there is a ritual attaching to which one part of the community agrees and the other part does not agree. In the case of disputes I do not wish that the matter should be brought into the Court and decided in that way. The powers which it is sought to obtain should be confined to public trusts and not be applicable to private trusts or charities. That is my object in moving this amendment. The words I refer to I have taken from the title of the Bill itself, but unfortunately the words do not occur in the preamble.

"These, Sir, are the reasons for which I submit my amendment and commend it to the Council."

11-57 A. M.

The Hon'ble Sir William Vincent :—"Sir, I wish at the outset to disabuse the Council at once of one idea, namely, the suggestion that the Bill as drafted extends to private trusts. I will just ask the Council for one moment to read the preamble and they will see that there is no kind of foundation for the suggestion. The Bill runs :—'Whereas it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes'

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This clearly excludes private trusts altogether from the scope of the Bill. It is very important that Hon'ble Members should realise that. If it were a question of applying the provisions of this Bill to private trusts at all, I should be the very first person to object to such a course. As to the drafting to which exception is taken, I may say the Bill is in a great measure ancillary to the Code of Civil Procedure. Hon'ble Members will see that the first part of the Bill furnishes facilities for obtaining information which may lead to a suit under the Code, for that reason the expert Department on which we are dependent, namely, the Legislative Department, decided—and if I may say so rightly decided—to adopt in the Bill the same language as that used in section 92 of the Code of Civil Procedure. If Hon'ble Members will read that section they will see that the words there are 'trust created for public purposes of a charitable or religious nature'

"We accepted therefore in the Bill the wording which has been in force for some years in section 92 of the Civil Procedure Code, which is the basis of all suits under the Code relating to public trusts, and it would be very unsafe to depart from it. I may add that there have been numerous judicial pronouncements as to the proper interpretation of these words which leave no doubt whatever that they apply only to public trusts.

"I can see no reason whatever for altering the position of the word 'public' in these circumstances. In fact, I think if we did so, we should be giving an idea that we meant something different in this Act to what we have in the Civil Procedure Code, but it is really a matter in which I am willing to be advised by the expert department, and I hope the Council will support me in that attitude."

The Hon'ble Mr. G. S. Khaparde:—"Sir, the objection which ^{12 P.M.} the Hon'ble the Home Member has put forward was present to my mind that the words have been taken from the Civil Procedure Code, and that is where my objection also lies, because the words in the section are for a very limited kind of powers which are to be exercised with a great deal of caution in so far as two persons have to join, and they must get the consent of the Advocate General or of the Government before they can commence a suit of that kind. But in the present Act, the thing goes further, and I am afraid there will be an extension even to this Act which will not be covered by the Civil Procedure Code and this I wanted to make clear. Secondly, the procedure is summary, and in summary proceedings it is undesirable that the words that are capable of being extended should be used. I am also glad that the Hon'ble the Home Member is willing to be advised by the Legislative Department, and to that department I agree to leave the decision of this matter."

The Vice-President:—"Am I to understand that the Hon'ble Member withdraws his amendment?"

The Hon'ble Mr. G. S. Khaparde:—"No, Sir, I do not want to withdraw."

The motion was then put and negatived.

The Hon'ble Mr. A. P. Muddiman:—"This is a purely consequential amendment, Sir."

The Hon'ble Mr. G. S. Khaparde:—"Yes, Sir, it is a consequential amendment, and it may be omitted."

The amendment No. 3 on the list that in sub-clause (1) of clause 1 the word 'Public' be inserted before the word 'Charitable' was omitted.

[*Mr. G. S. Khaparde.*] [17TH MARCH, 1920.]

12-1 P.M.]

The Hon'ble Mr. G. S. Khaparde :—“*Sir, my amendment is that to clause 2 the following should be added :—*

‘*And the expression ‘any person having an interest’ means, in the case of a temple or mosque—a person who has such a pecuniary or direct interest as would entitle him to take part in the management or superintendence of the trust, and in the case of a charitable institution—any person deriving or having the right to derive any benefit of the nature provided by the institution.’*

“*What I seek to do is to define the words ‘having an interest in the trust.’ The words at present used in the Code are ‘the Advocate General or two or more persons having an interest in the trust and having obtained the consent, and so on.’ The words are not defined in section 92, and they have given rise to a great deal of discussion, and conflicting decisions not easily reconcilable. I suppose that would be admitted; at any rate, I do not want to make that point; but it has been recognised in that celebrated judgment 42, Madras, page 360. It is true that the reason given by the Hon'ble the Home Member that in an ancillary Act we should not go further, or we should not appear to go further, weighs with me. But other circumstances also weigh with me, namely, when an expression has been interpreted by Courts in a manner which is not entirely consistent or reconcilable, then it becomes the duty of the legislature to read all those interpretations and adopt such a one as appears to be the best. I submit that this rule should be applied to the present case. This expression has been variously interpreted. Even this 42, Madras, cannot be called a unanimous judgment, because different judges have given different judgments. So, I think, this is a proper case in which the legislature should exercise its discretion and consider all those interpretations and adopt the one which appears the best. That is why every ten years all these major Acts which are called Codes are revised, so that the latest interpretations may be incorporated into them and the future causes of dispute may be eliminated. This is one of those cases which has been variously interpreted. There is a difference of opinion on that point, and I submit this is a proper case in which the legislature should read all those interpretations and adopt the one which appears the best. To me naturally the interpretation which I have put in appears to be the best. I may be partial to my own views on that subject. But the real point is that these trusts would be either charitable or religious trusts. In the case of trusts of a religious nature very important questions would arise, and it should not be open to anybody to come up at once and ask for information or accounts. So I propose in the case of these religious and charitable trusts that a person having an interest would mean a person who has such a direct or pecuniary interest. You had the word ‘direct’ in the old Act of 1877, and it was there until, I believe, 1897, and in 1897 the word was taken out. Now I have put in the word ‘pecuniary’. I remember that 42, Madras, says that the interest need not be pecuniary, but I provide for it by saying that the interest may be either pecuniary or direct, but he must have some interest, and an interest of such a nature as would entitle him to take part in the management or superintendence of the trust. He should not be only, as it was claimed to be in 1842, any person having merely the right to worship in a mosque or temple who could bring a suit, because questions of mode of worship would come in, but it may be the descendant of the pious founder of the mosque or temple or one who has been habitually worshipping may be engaged on some business, such people alone should be able to commence a suit of that kind. It should not be open to any casual visitor to come there and start this litigation, because religion is rather a delicate subject, and I am anxious that it should be kept out of all Courts as far as possible. Therefore, in the case of religious trusts, I have made the conditions a little stringent by saying that the person should have either a direct interest or a pecuniary interest or such kind of interest as would entitle him to the right of management or superintendence of the trust. In the case of charitable trusts, it is not so. Charitable trusts, as I understand them, are Educational Institutions, Medical Colleges, General Hospitals opened or a college founded, school established, and in these cases all the beneficiaries have*

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a right, that is to say, everybody for whose benefit it is intended should be in a position to commence a suit of this kind if he believes that it is being mis-managed. Therefore, I base the first part of my motion on the ground that it is the duty of the legislature to interpret the words that are there in the Civil Procedure Code for our future guidance, and the other portions are intended to protect the charities under popular management. They might be doing, I think according to their judgment, their best, and there may be a part of the community who may not approve of their mode of management, and so it should not be possible for those people who dissent from the view of the people who are managing the trusts, unless they have certain rights in the management of the temple, to commence proceedings under this Act. That is the reason why I have moved this amendment, and I trust it will commend itself to the Council, because it is a very important matter and this expression 'interest in the trust' is the corner-stone of the whole legislature, and if it is not properly interpreted, it will give rise to any amount of litigation which will be simply undesirable, and it would also lead to trouble which is also undesirable. So in order to make this Act acceptable to the general public and also to the persons concerned directly with it, namely, the monks as we should call them, or Pujaris of temples and the worshippers of the mosques in fact in order to make it acceptable to all parties, I propose to make this amendment, and I hope the Council will accept it."

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I am 12-10 P.M. afraid I must oppose the amendment of my hon'ble friend Mr. Khaparde. The acceptance of his amendment would mean that you will go back to the wording of the Civil Procedure Code which obtained till the year 1888. As my Hon'ble friend has pointed out the wording 'direct interest' was used in the old Act of 1877, and it was repealed in 1888.

"The Calcutta High Court held that Mussalman worshippers of a mosque coming from another village were not entitled to file a suit under that section. That was a case reported in Indian Law Reports, 8 Calcutta. And in consequence of that ruling, this matter was reconsidered by the Legislature and by section 44 of Act VII of 1888 the word 'direct' was eliminated, and the Calcutta High Court, in a later case, reported in 24 Calcutta, held that the result of that was that the law was assimilated to the law contained in another Act, namely, Act XX of 1863. Section 15 of that Act will be contradicted if the amendment of my friend be accepted. It reads thus:—

'The interest required in order to entitle a person to sue under the last preceding section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any mosque, temple or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.'

"Therefore, if we accept this amendment, I am afraid the results would be that we would go back to the state of things which obtained before the earlier Calcutta High Court ruling and before the amendment that was effected by Act VII of 1888, and that would conflict with this section. Apart from that, as Mr. Justice Sadasiva Aiyar pointed out in a case reported in 23 Madras, page 278, in the case of a temple or mosque, persons entitled to attend there for the purpose of worship and devotion are presumably the beneficiaries intended by the founder, and if such persons have no interest in the institution, it is difficult to imagine who has such an interest. But my Hon'ble friend says they must have a pecuniary interest, so that they can take part in the management or superintendence of the Trust. That would be defeating the object of the Trust in some cases, and under these circumstances my submission is, Sir, that this amendment of my friend should not be accepted."

The Hon'ble Mr. Srinivasa Sastri:—"Sir, I have also a similar 12-14 P.M. difficulty in accepting this amendment. In the Madras Presidency there is

[*Mr. Srinivasa Sastri; Sir Gangadhar Chitnavis; [17TH MARCH, 1920.]*
Mr. Surendra Nath Banerjea; Rao Bahadur
B. N. Sarma.]

a society called the Dharma Rakshini Sabha, a body of persons who have voluntarily undertaken the duty of looking after these charitable and religious institutions with the object of seeing that they are properly and righteously administered. A society of that kind has headquarters in Madras, but it takes an interest in institutions all over the Presidency. I wonder if the language of Mr. Khaparde's amendment will allow a member ordinarily resident in Madras to take action under this Bill against the Trustee of a temple, say, in the Tinnevely District. If we accept the words 'a person who has such a pecuniary or direct interest as would entitle him to take part in the management or superintendence of the trust,' they seem to me to go too far, and it is highly desirable that voluntary associations of that kind should not be debarred from taking this action by any language in the Bill. I should therefore be, Sir, against accepting this amendment."

12-15 P.M.

The Hon'ble Sir Gangadhar Chitnavis:—"Sir, I feel sure this amendment will have the effect of confining complaints to persons who have a *bona fide* interest in the Trusts or endowments against which they complain. Complaints will thus be limited to cases of personal interest and personal knowledge and based upon true and honest information. This will prevent frivolous or malicious suits to the prejudice of honest workers and trustees who have often to work at great personal sacrifice. I therefore support the amendment."

12-16 P.M.

The Hon'ble Mr. Surendra Nath Banerjea:—"Sir, I am sorry I find myself in disagreement with my Hon'ble friend to my left* in a matter like this. I think the effect of the acceptance of this amendment of the Hon'ble Mr. Khaparde would be to exclude those who have the most vital interest in these temples, namely, the worshippers. The great body of worshippers have no pecuniary interest in the temples. They do not take part in the management of the temples. They are strangers to the control and the pecuniary concerns of the temple, and yet it is in the interests of worshippers and others similarly situated that this Bill has been introduced. I certainly think that the effect of the acceptance of this amendment would be to restrict the number of those who might seek redress, and the Bill would to this extent be rendered inoperative. I hope, Sir, the Government will not accept this amendment."

12-17 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"Speaking for the Madras Presidency, Sir, it would be disastrous if this amendment were to be accepted. At the present moment, in the case of a large number of temples, the persons interested in the management are really treating the property as their own private property, and, therefore, they would never come forward to plead the cause of the trust. I think it would be absolutely wrong in the case of a charitable institution that only a person deriving, or having the right to derive any benefit, that is the beneficiaries alone should have the power. It leaves the matter as vague as ever. It is absolutely unnecessary, and if it is meant to limit the privilege to a person having a right to the property, I think, Sir, it would be fatal. As my friend Mr. Sastri put it, the number of breaches of trust in the Madras Presidency is alarmingly large. No association has been able to cope with the evil, and I think the reason why we have in the Madras Presidency pressed for the enlargement of the scope of this Bill is that it is perfectly hopeless within the limits the Government of India set for themselves to make the Bill so remedial in its character as to cure the evils we are suffering from in that Presidency. Inasmuch as charitable and religious endowments will be a transferred subject, it will come within the purview of the new Councils, and give us that liberty of action that we desire, but I think there is no justification whatsoever for curtailing still further the scope of the Bill in the manner suggested here."

*Sir Gangadhar Chitnavis.

[17TH MARCH, 1920.] [Sir William Vincent; Raja Sir Rampal Singh; Mr. G. S. Khaparde.]

The Hon'ble Sir William Vincent:—"Sir, I am very grateful ^{19-10 P.M.} to Hon'ble Members particularly the Hon'ble Mr. Sastri, Mr. Sarma and Mr. Banerjee for the support they have given to this clause as approved by the Select Committee. I have little to add to what they have already said. This amendment, if it was accepted, would go further than I think the Hon'ble Mr. Sastri anticipates, for it might deprive a regular worshipper at a temple of the right to present in a petition under the new law. As far as I can see, reading the amendment as drafted, indeed, it would only admit in the case of a temple of some person who was interested in the management himself bringing a petition before the judge to get his own misdoeds brought to light, and I do not think that that is a thing that any trustee would be likely to do. The Hon'ble Mr. Khaparde has said, that there have been differences of opinion as to the proper interpretation of this word 'interest' in the Civil Procedure Code. He has also referred to the amendment of the Code which the word 'direct' was eliminated before 'interest.' So far as I am aware however there is no interpretation of the Code of Civil Procedure since it has been amended that restricts the meaning of this term 'interest' in the manner in which he is proposing.

"The case in the Madras High Court reported in 42 Madras was heard by five judges, and not one of their judgments will support the view that is taken by Mr. Khaparde. In fact it was the difficulty of the words 'direct intent' in the old Code of Civil Procedure that led to the omission of the word 'direct' when the Code was revised.

"The Hon'ble Member in another part of his speech suggested that there was some question of interfering with the ritual of these temples. I defy anybody who has examined this Bill to say that there is one word which can be so interpreted. There is really no authority for the suggestion at all.

"I have only one more word to add and that is that this legislation—I am afraid however I shall repeat this often during this debate—is in great measure ancillary to the Civil Procedure Code, and Council must therefore, if it wishes to keep the law consistent, adopt in the Bill the language of that Code. Hon'ble Members cannot vary that language without giving rise to dangers of differences of interpretation and of making the law very difficult indeed to work for those who have to interpret it.

"I hope that Hon'ble Members will under these circumstances not accept this amendment."

The Hon'ble Raja Sir Rampal Singh:—"Sir, I am opposed to ^{12-22 P.M.} this amendment. I am afraid that, if it is accepted, it will restrict the little good that the Bill intends to confer upon the public. Common sense entails that everybody who has a right to worship in a temple has a right to see that it is well managed. I therefore oppose the amendment."

The Hon'ble Mr. G. S. Khaparde:—"I did not quite catch whether the Hon'ble Member supports or opposes the amendment."

The Vice-President:—"I understand the Hon'ble Member opposes the amendment."

The Hon'ble Raja Sir Rampal Singh:—"Yes, I oppose it."

The Hon'ble Mr. G. S. Khaparde:—"I think no answer has yet ^{12-23 P.M.} been given to the first criticism that I advanced, namely, that it is the business of the legislature to take all doubtful points into consideration and clear them up. The answer that has been attempted so far as I can see is that there is no judgment which supports my view. That may be so or that may not be so, but the question still remains that there is a dispute about the interpretation of the words 'who has an interest in the trust,' and that difference of opinion has got to be cleared up by the legislature. The objection

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taken to it was that the word 'direct' was there at one time, but it has been deliberately taken out. I quite agree that it has been taken out and because it was taken out it led Dr. now Sir Rash Behari Ghosh to bring in his second Bill. I tried to go through all those proceedings, I could not unfortunately get hold of some of them, but there was that difference of opinion and Sir Rash Behari Ghosh wished it to be cleared up. I wish to do the same thing, but in a much humbler way. It was objected that it would be introducing or restoring a word that was deliberately taken out. To that my reply is the present Act is a summary Act and, therefore, under a summary procedure it is undesirable that people who have got doubtful interests or whose interests may be a matter of calculation should be allowed to come in. The other objection that was taken was that the regular worshippers would be excluded. I humbly submit that they would not. If they have been worshippers for a long time they always acquire a status in our Hindu temples, as, I believe, even under the English law they acquire the right of superintendence, that is to say they can say 'We have been here for 30 years and worship has been conducted in this manner. If you wish to change it we shall get the opinion of the Court and shall see that the law will restore it to what it has been.' So they would not be excluded.

"A third objection and one which goes somewhat to the root of it was taken by my Hon'ble friend Mr. Sastri. He thinks that the Dharma-Rakshini Sabha would not be able to interfere. Well, I think, they will in this way that if they wish to act in respect of a particular temple they would have to be assisted and would have to work through some two or three persons who live in that place and go to that temple. It would not do for them to sit in Madras and go on litigating about a village 200 miles away about which perhaps the whole village does not want what the Sabha wants to do. The way to reconcile this difficulty would be to compel the Sabha to work through two or more persons residing in the village, and I think my amendment brings about that. It would not do for a central body to dominate the situation all over the country. That is undesirable, as I myself think, because people in the Presidency-towns are very well educated and very good people, but sometimes they are more advanced than the people living elsewhere who do not want to follow them or do not want to go at the same rate of speed. So, I think that objection about the Dharma Rakshini Sabha can be answered by saying that if they are in earnest they can get two or three people in the village to support them or anyhow nominally come forward and support them, and the Sabha can supply the funds, engage eminent lawyers and conduct the whole litigation.

"It was suggested that anybody willing or able to worship in a temple should be able to bring a suit. Now this is the view which was put forward in the 42 Madras case and was expressly overruled or ruled against anyhow by the Chief Justice. I am sorry I have not marked the sentences, but the Chief Justice pointed out that it did not mean that a man had a right to direct the worship or that it is given to all people professing a particular faith who belong to one sect or another to insist on a particular mode of worship and to say 'I am entitled to come to the temple; I shall insist upon this being done, otherwise I will bring a suit.' Well, if one person threatens another person with legal proceedings that is not an offence, but it does work and serves the purpose of blackmail very well sometimes. For instance, there are persons, Indian ladies and others, who for reasons of their own do not like to appear in Court. If you threaten such persons to bring them into Court and subject them to cross-examination, they will yield. In our anxiety to keep the purity of these religious endowments we must not carry them so far that blackmailers will find an easy market. Therefore, I submit that on this general ground of interpretation and also on this particular ground of the people having a voice in the matter, it is necessary that the section should be amended as I wish to amend it. I do not want to extend it so far as my Hon'ble friend Mr. Chanda would like to have it, because that would introduce a factor of great trouble and difficulty into the matter and perhaps lead to blackmail.

"With these words, I still support my amendment."

The amendment was put and negatived.

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The Vice-President :—" Amendment No. 13 on the list standing in the name of Mr. Chanda deals with much the same point and, I think, it might be better to take it up next."

The Hon'ble Mr. Kamini Kumar Chanda :—" The Council will see that I propose"

The Hon'ble Sir William Vincent :—" May I rise to a point of order, Sir? I submit that this amendment is out of order. The amendment runs :—

'The interest required in order to entitle a person to take action under this Act or section 92 of the Code of Civil Procedure, 1908, need not be a pecuniary or direct or immediate interest or such interest as would entitle the person suing to take any part in the management or superintendence of the trust.

'A person interested shall for the purpose of this Act and section 92 of the Code of Civil Procedure, 1908, mean in case of a temple, mosque, or other religious establishment, a person or a corporate body of persons having been in the habit of attending or having a right of attendance at the performance of worship or service thereat, and in the case of a charitable institution, educational or otherwise, any person or corporate body of persons deriving or having a right to derive any benefit therefrom'.

"I submit that an amendment of the Civil Procedure Code does not arise out of the Bill which is before the Council."

The Vice-President :—" I am afraid that is so, Mr. Chanda."

The Hon'ble Mr. Kamini Kumar Chanda :—" In that case may I move the first portion, Sir? "

The Vice-President :—" I think the Hon'ble Member will have to delete the words which the Member in charge objects to."

The Hon'ble Mr. Kamini Kumar Chanda :—" I take out the words, Sir."

The Vice-President :—" You will strike out the words 'section 92 of the Code of Civil Procedure, 1908' coming in both places? "

The Hon'ble Mr. Kamini Kumar Chanda :—" Yes Sir, the ^{2.31 P.M.} amendment I propose reads as follows :—

'The interest required in order to entitle a person to take action under this Act need not be a pecuniary or a direct or immediate interest or such interest as would entitle the person suing to take any part in the management or superintendence of the trust.

'A person interested shall for the purpose of this Act mean in case of a temple, mosque or other religious establishment, a person or a corporate body of persons having been in the habit of attending or having a right of attendance at the performance of worship or service thereat, and in the case of a charitable institution, educational or otherwise, any person or corporate body of persons deriving or having a right to derive any benefit therefrom'.

"I will tell the Council in one moment why I wish that this definition should be adopted or should be incorporated. As I suggested just now we have two Statutes bearing on that question at present, Act 20 of 1863 and section 92 of the Civil Procedure Code. Now both Mr. Khaparde and myself stated to the Council in discussing his last amendment that prior to 1863, section 92 of the Civil Procedure Code contained the words 'direct interest' and that was interpreted by the Calcutta High Court, in 8 Calcutta, very restrictively. In consequence of that ruling this section was amended by the legislature by section 44 of Act 7 of 1863, that the word 'direct' should be deleted. In the section in the Code at present the words are 'any two or more persons having an interest in the trust'. The word 'interest' is not defined there, but in the other Act to which I referred—Act 20 of 1863—I read out the section to the Council a short while ago, so I need not read the whole of it. It says that 'it is not necessary that the interest should

Mr. Kamini Kumar Chanda; Mr. G. S. Khaparde; Mr. K. V. Reddi. [17th March, 1920.]

be a direct or pecuniary one'. Now the result of this amendment to section 92 is, as interpreted by the Calcutta High Court that—I read from page 418 of 24 Calcutta—'Under that section as originally enacted, the words were 'having a direct interest in the trust' and the word 'direct' has been taken out by Act VII of 1888. The inference is that the legislature intended to allow persons having the same sort of interest that is sufficient under section 14 of Act XX of 1863 to maintain a suit under section 539'. So these two Acts are now the same so far as this matter is concerned according to the Calcutta High Court, but unfortunately the Madras High Court interpreted the Act in a different manner. In the case which was mentioned by my Hon'ble friend Mr. Khaparde, the case is reported in 42 Madras, this question arises as to the meaning of the word 'interest' the case was first tried by Chief Justice Wallis and Mr. Justice Kumaraswami Sastri and they differed. The Chief Justice held that the word 'interest' in section 92 must not be interpreted with reference to section 15 of Act XX of 1863 and Mr. Justice Sastri held the opposite view taking the view of the Calcutta High Court that the word 'interest' in section 92 must be interpreted in the manner of section 15 of Act X of 1863.

"Then the matter went up before three Judges—Justices Abdul Rahim, Oldfield and Coutts-Trotter, and again there was a difference of opinion.* According to the majority of the Judges of the Madras High Court, the interpretation placed by the Calcutta High Court on the word 'interest' is not correct. The word 'interest' in section 92 is the same as in section 15 of Act XX of 1863. Now the question is, what is to be done? How is this word to be interpreted; unless you do away with this confusion people will not know or understand what to do.

"Therefore my submission is, Sir, that it is very necessary that some definition should be given to avoid this confusion, that the word 'interest' should be defined as in section 15 of Act XX of 1863. That will make the law uniform. If this is not done I am afraid it will lead to a conflict of decisions and to litigation. With these few words, Sir, I request that this amendment of mine be accepted."

12-40 P.M. **The Hon'ble Mr. G. S. Khaparde:**—"I agree with my friend, the Hon'ble Mr. Chanda that this word 'interest' does require to be defined; but as to the definition which he proposes I am sorry I do not agree with it. Nearly anybody, as he said himself, living here can insist upon certain things being done in Benares, or insist upon certain things being done in Cape Comorin. That, I think, is carrying matters a little too far; and as to the definition given in the Act of 1863, it was pointed out at Madras, I believe, by the Chief Justice that these words were taken from Lord Romilly's Act and they referred to a different matter altogether; they have been so taken here and they have been wrongly interpreted and that was the reason why the Chief Justice had to say that those words and their implications ought not to be imported into the law of India. That reason weighs with me very considerably, because, in England even, they would not accept that kind of thing, a discretion given for one purpose could not be imported for other purposes altogether. With these observations, I support one part of the amendment, namely, that the word should be defined; but I prefer my own definition, unfortunately, to his."

12-42 P.M. **The Hon'ble Mr. K. V. Reddi:**—"Sir, I beg to oppose this amendment. It occurs to me, Sir, that this Bill is perhaps the embodiment of caution itself, and in that way it is not satisfactory to those who expected a larger measure from the Government; and any restriction now sought to be imposed upon the provisions of the Bill would only whittle it down so as to make it of no practical use. The word 'interest' no doubt has given occasion for difference of opinion in the various High Courts, and perhaps between different judges

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in the same High Court. But, Sir, if we are to frame legislation here or in the Provincial Council simply because Judges have differed in the High Court I am afraid there will be no end to legislation.

“Now, I will only draw your attention to one point here. My friend, the Hon'ble Mr. Chanda wants that only he who is directly interested in a charity, in the sense that he must be in the case of a charitable institution, educational or otherwise, a person or corporate body of persons deriving or having a right to derive any benefit therefrom, should be able to have a right of suit. Now, there are certain institutions, charitable public institutions, in which the very poor are fed and the very poor are given educational facilities. Now, if my Hon'ble friend's amendment is to be carried, it is only those that directly receive that benefit who will be entitled to go to a Court. In 99 cases out of 100 these persons would find it impossible to go to a Court for the simplest of reasons that they cannot afford to go to Court. They are so poor. It would, therefore, mean that this Bill will be practically a dead letter. Take for instance those institutions which we have in the country where the poor are fed, most of whom are Panchamas and the depressed classes. If they themselves are asked to go to a Court it is an impossibility for them. There are various associations that take an interest in them, the Depressed Classes Mission for instance, and if this amendment is carried, those associations will not be allowed to go to Court on behalf of those in whom they are interesting themselves. I would therefore think that any attempt to restrict the provisions of this Bill further should be opposed.”

The Hon'ble Sir William Vincent:—“Sir, this amendment really runs in exactly the opposite direction to the amendment of Mr. Khaparde. Mr. Khaparde sought definitely to restrict the right of petitioning under this Act, and Mr. Chanda, I think, seeks to enlarge it to what he considers a legitimate extent. I have very great sympathy with him and indeed with any one who seeks to secure more effective control over the management of these public religious and charitable endowments. But I must say that the criticisms which I have heard to-day have not been directed against the Act at all, but against the Civil Procedure Code, which we have not now before us. All the difficulties which my Hon'ble friend pointed out will remain whether the amendment is accepted or not. The words in the Bill are the words used in the Code, and I want to remind the Council of the names of the men who framed that Code in 1908. Many members of this Council will be familiar with these names. They were all learned lawyers of very great authority and they very carefully abstained from attempting any definition of this term interest. The Hon'ble Mr. Chanda has found it very difficult to do it himself; all he has done is to insert in the clause an explanation which really is not a definition at all, and I hope that the Council will not accept such a dangerous attempt at definition as that contained in the amendment before them. 73-15

“The Madras ruling to which reference has been made does not go, I think, as far as the Hon'ble Mover said. I understand it to mean that an occasional worshipper in a distant temple is not necessarily to have a right of suit; that is, that a man living in Peshawar—I think this is an example cited in the case—ought not to be allowed to bring a suit under section 92, Civil Procedure Code, about a temple in Malabar; and there is a good deal of reason for this view which will, I think, commend itself to my Hon'ble friend, Mr. Khaparde. But I am not here to defend this interpretation of the law so much as again to point out to this Council that if you begin tinkering with this Bill without making corresponding amendments in the Civil Procedure Code, you will really be doing very great injury to those who will have to use it. This Bill is ancillary to the Code of Civil Procedure, and unless you propose first of all to alter the definition in the Code, it would be most unwise to do so here.

“Part of the definition which the Hon'ble Member has drafted is taken from section 15 of the Act of 1863, I think. Now it has been found on more than one occasion that that definition is not at all satisfactory, and even the

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Hon'ble Member, if I am correct, has found it necessary to add to it very considerably. If the Council will support me in adhering to the words that are now in the Civil Procedure Code, another great advantage is secured, namely, that we shall attract a very large number of important and authoritative judicial decisions given under the Code which will be of the greatest value to those who have to deal with this new law. If Council at this stage inserts in this Bill a new definition of a most complicated and intricate character, I think members will be acting very unwisely. It is quite open to any Member, if he seeks further to control these religious endowments in any particular province, to get a Bill introduced in the local Council to effect this. There are many provinces which are ready for such measures; and I hope myself that we shall see a good deal more legislation on the subject. But I ask the Council not to spoil what is a very simple measure, by the introduction of an explanation in it which will really make it very difficult to work the Act. The Hon'ble Member himself appreciated this fact, for he originally proposed an amendment of the Code of Civil Procedure in his notice; and it was only when I urged that such an amendment was out of order that he desisted from it. But I think every member of this Council will see that if you have one definition of the term interest in this Act and no definition in the Civil Procedure Code, this Act being in a large degree ancillary to the Code, the proceedings under this being preparatory to a suit under the Civil Procedure Code, very great difficulty will arise in using the provisions of the law."

12-50 P.M. **The Hon'ble Mr. Kamini Kumar Chanda** :—"Sir, I am afraid that my difficulty is not removed. I am not very particular about the wording of the definition which I propose. But what I do say is this. You must define the word 'interest' in this Act; otherwise this difficulty will remain. Well, the Hon'ble the Home Member says that the rulings which I quoted were with reference to the Civil Procedure Code, not with reference to this Act. That was because this Act is not in existence. What we do is this: we simply quote the word 'interest' from the Code. Now what is the meaning of that word 'interest'? I have shown that the High Courts differ about this, and not only that, but judges in the same High Court differ about it. I therefore think that it is the duty of the legislature, this having been brought to their notice, to say what they mean by the word 'interest,' so that it will be a guide for High Courts in future.

"My object was that the legislature should find some means of removing these doubts. I find that there is a great deal of doubt in regard to interest, and therefore, I think, it is our duty to find some means of removing it. What I say is simply define 'interest' and so get over the difficulty. This matter has at all events been brought to your notice. This, Sir, is my submission and I hope there will be a definition provided in the way I have suggested."

The amendment was put and negatived.

12-54 P.M. **The Hon'ble Mr. G. S. Khaparde** :—"Sir, I beg to move that in clause 3 for the words 'any person' the words 'any three persons' be substituted. This amendment of mine is free from the objections taken to the former one, in fact, it derives some support from the arguments that have been adduced by the Hon'ble the Home Member, that no change should be made and that the clause should be retained as far as possible in its present form in section 92 of the Civil Procedure Code. This is what I seek to do myself. Under this Bill any person has the right to bring a suit acting on his own account. I say kindly restore the law as it is laid down in section 92 of the Code of Civil Procedure, which requires that two or more persons interested may bring a suit after having secured the concurrence of the Advocate General in Presidency towns or by the Collector outside those towns. Now having secured that certificate from the Advocate General or the Collector, they have to attach it to their plaint and then they bring in their suit. This Act

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[*Mr. G. S. Khaparde; Mr. Kamini Kumar Chanda; Pandit Madan Mohan Malaviya; Sir William Vincent.*]

dispenses with the Advocate General and the Collector. What I suggest is not necessarily that the Advocate General or the Collector should be brought in, but that any three persons interested should be allowed or rather may be allowed to petition. I retain the number of persons concerned but take away the power so far as it applies to the officials alone. In that way all the facilities given under the present Bill are kept in consonance with the law as it stands. In this connection I should like to read to the Council a small paragraph from the speech of Sir Harvey Adamson.

'Before giving their final support to the Bill, the Government of India desire to ascertain how these facilities are likely to be exercised. On the one hand, it may be alleged that it is only right that every trustee of a public trust should be obliged to exhibit to the public the accounts of his trust. As an abstract principle it is impossible to deny so reasonable a proposition. On the other hand, it may be alleged that as applied to religious trusts in India, this proposition involves an innovation and a subversion of existing custom which may have far-reaching and unexpected consequences. Would the facility, a very cheap and inexpensive facility, be likely to lead to oppression, and would it be used for corrupt purposes? Is the guarantee that the consent of the Advocate General, or even of the Collector, must be obtained before making an application a sufficient guarantee that the application is made on proper grounds? Is the Advocate General in the Presidency-towns or the Collector outside in a position to determine such a question, or would he not find it difficult in most cases to refuse so apparently reasonable a request as that the accounts of a public trust should be open to the inspection of the public? Then given it is necessary to consider by what machinery and in what methods these trusts have customarily been managed by honest trustees. In India there is generally immemorial usage in such matters. How does the machinery lend itself to the exhibition of accounts?'

"These are the difficulties that weighed with Sir Harvey Adamson and they are just as much present to-day as they were in his time. It is our intention to keep these institutions pure, but unconsciously we will expose the mahants, the managers and other people to the machinations of evil doers and facilitate the practice of blackmail because any person can get up and present a petition and then the whole machinery of the law is put in motion.

"It is for this reason that I propose that in clause 3 for the words 'any person' the words 'three persons' should be substituted. Reasons for this will be found fully set forth in the speech of Sir Harvey Adamson to which I have referred. With these words, Sir, I submit my motion to the Council."

The Hon'ble Mr. Kamini Kumar Chanda:—"I think, Sir, 12-59 P.M. there is a good deal of force in what the Hon'ble Mr. Khaparde has said. I therefore support this amendment."

The Hon'ble Pandit Madan Mohan Malaviya:—"Sir, 1 P.M. I support this amendment, and I hope it will be accepted by the Hon'ble the Home Member. No harm is likely to accrue from 'three' being substituted for 'any person' in the category of persons who may wish to apply to the Court. On the contrary, there will be a certain amount of safeguard provided that no action will be taken by men who have not taken the trouble to consider whether there was reason for taking any action, and the substitution of the words 'any three persons' for the words 'any person' would give an assurance to the Court that they were interested by considerations of a public character and not of a private character. I hope the amendment will be favourably considered."

The Hon'ble Sir William Vincent:—"Sir, this is a question 1-1 P.M. which was discussed in the Select Committee at some length, and there was a general consensus of opinion there that it was not advisable to amend the Bill in the sense proposed by the Hon'ble Mr. Khaparde. I do not attach any very great importance to this point, but I think myself that the Bill as drafted is very much better. The Hon'ble Mr. Khaparde has really throughout the discussions on the Bill—I daresay he is right from his point of view—been seeking to restrict the scope of this Bill. At first he attempted to define the word 'interest' in such a way that very few people should be able to take

[*Sir William Vincent; Mr. Surendra Nath Banerjea; Rao Bahadur B. N. Sarma.*] [17TH MARCH, 1920.]

advantage of the provisions of the new law. Well, he failed there. Now he comes forward and says 'one person alone should not be allowed to put in a petition, there ought to be three,' and he proceeds to speak of suits under the Act. Now there is nothing in the whole Bill about suits. All the Bill seeks to do is to authorise a man interested in a trust of a particular character to ask the Court to direct the trustees to give him certain information. Is that privilege which any man ought to be deprived of if he is interested in the subject-matter of the trust? The Hon'ble Member says that he is supported in his argument by what is laid down in section 92 of the Code of Civil Procedure. I have some knowledge of suits under that section. My experience is that if there are two plaintiffs, one is the real plaintiff and the other is not infrequently a man of straw. There is no safeguard whatever in prescribing that the suit must be brought by two people. But even under the Code, however, there is no provision that three persons should join in a suit under section 92, and, as a matter of fact, the provisions of the Code regarding these trusts have been found to be ineffective. That is one of the reasons why this Bill is introduced. I don't want to press this point too strongly against the Hon'ble Member. It is not a matter of very great importance, but I suggest that any one person who has got an interest in the temple ought not to be debarred from asking a trustee through a Court to give him reasonable information. The petitioner in such a case does not seek to turn the trustee out or to get any remedy of that kind against him. All he asks is that the trustee should give him reasonable information which really any trustee of a public trust ought to give without any application being made to the Court at all. For these reasons I oppose the amendment."

1-3 P.M.

The Hon'ble Mr. Surendra Nath Banerjea:—"Sir, I am not in a position to accept the amendment of the Hon'ble Mr. Khaparde. As the Hon'ble the Home Member has pointed out, the whole tenour of his amendment is directed towards restricting the scope of the Bill. Here we are, and have been suffering, for years and years together ever since 1863. We have been a long-suffering people so far as the scandalous waste of temple funds is concerned, and this little paltry Bill is introduced, and it is a small instalment, and inadequate to our expectations and desires, and we go on tinkering. I do not think we are doing justice to the large number of worshippers who frequent our temples and who from day to day witness the scandalous waste and extravagance that goes on in our temples. Why raise this difficulty of having three persons, and what is it after all that these three persons have to do? The judge is to be moved in order to obtain some information. It is not a regular suit. It is not a matter in which a combination of several persons is required. It seems to me, therefore, that this amendment is altogether out of proportion to the needs of the situation, and is directed to the one express purpose of restricting the scope of the Bill which from my point of view and from the point of view of many others ought to be much wider in its scope than it is. I therefore support the original provision."

1-5 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"Sir, the trustees of religious and charitable institutions ought to be always ready with their accounts. Now a person having an interest in the temple would ordinarily ask the trustees for information before he moves the Court, because if he does not take that precaution he will ordinarily be taxed with costs by the Court. But if the required information is not given to the person by the trustee, I think he ought to be in a position to get it through the Court in order to see whether the trustees are properly administering the trust funds or not. All that we provide for here is power to a person to get this information from the court, and he utilises that, and if the trustees refuse to supply the information on the court asking them to do so, then they commit a breach of the trust, and not otherwise. Why should three persons seek simultaneously this information before a Court exercises its power? It is after all a discretionary power given to the Court, because if the Court does not desire to do so, it need not do so because we have provided for action being taken on *prima facie* ground

[*Rao Bahadur B. N. Sarma; Mr. G. S. Khaparde; [17TH MARCH, 1920.]*
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in a later clause. Apart from that, difficulties have arisen in the past by the enactment of a clause that two or more persons shall act together. Two or more persons make an application. One of them is bribed to withdraw from the matter. Is the petition to continue? or the moment the petition has failed, is it competent to the Court to pursue the matter further at the instance of another joining? Supposing one man dies, is it not necessary that another person should be co-opted with the petitioner in order that the proceedings may continue. Various unnecessary difficulties have arisen already under the law as it stands, and in order to remedy those difficulties we intend to provide that any person may move the Court in the matter. In a matter of seeking information, Sir, I think the Courts may well be trusted with the discretionary power granted to them to proceed under the Act where the application is made only by one person. I would request the Hon'ble Mr. Khaparde to see his way to enable this Bill to be of some efficacy in checking the maladministration which has been going on for many years past."

The Hon'ble Mr. G. S. Khaparde:—"Sir, I shall be very 1-8 P. M. brief. If it was merely confined to asking for accounts, I should not have brought forward this amendment. But we provide that in a certain time, about which I have put in another amendment, the trustee will be placed under the obligation to bring a suit. So this is a summary proceeding which involves and compels under certain circumstances a trustee to bring a suit and enter on a costly litigation, and therefore it is not so simple or easy as it is tried to be made out.

"Then there is one more point to which I should like to invite the attention of the Council, and that is about section 6. I am not against this Bill at all, nor do I seek to restrict its scope, but I am unwilling that it should be extended so as to become oppressive, and I am not so impressed against these monks or worshippers of the temples. In my province at any rate, there is not one against them, whereas in certain provinces it would appear that everybody is against them. But there is a chance of a suit being started in this matter, and therefore I say that not any one single person should be qualified by law to bring any suit."

The amendment was put and negatived.

The Hon'ble Mr. Kamini Kumar Chanda:—"May I ask, Sir, 1-10 P. M. that amendments Nos. 6 and 7 be taken together?

6. That in clause 3 the word 'substantial' be omitted.

7. That in clause 3 after the words 'subject-matter of the trust' the words 'or the religious and charitable institution' be inserted."

The Vice-President:—"Certainly."

The Hon'ble Mr. Kamini Kumar Chanda:—"I beg to move that in clause 3 of the Bill the word 'substantial' be omitted, and in the same clause relating to the court where the proceedings are to be instituted the choice of the Court amplified. The Bill says 'that the suit shall be instituted in the Court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate. That is to say that will amplify the choice if my amendment is accepted, so that the petitioner can file a suit in any court in the jurisdiction of which either the institution is situated, or any property of the institution is situated. Before going further therefore I call attention to the law at present. As I have already said, there are two Statutes on this point. There is Act XX of 1863 and section 92 of the Civil Procedure Code. Under section 14 of Act XX of 1863—

'Any person or persons interested in any mosque, temple, or religious establishment, or in the performance of the worship or of the services thereof, or the Trustee relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such mosque, temple, or religious establishment.'

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" Now what is Civil Court? Civil Court is defined in section 2 of the Act :—

' The words ' Civil Court ' . . . shall mean the principal Court of Original Civil Jurisdiction in the District in which the mosque, temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.'

" So if a suit is to be filed under this Act, it is to be done in the Court which has jurisdiction over the institution.

" Then we have section 92 of the Civil Procedure Code, where, with a certificate of the Advocate General, two persons may file a suit :—

' Two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the Local Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate.'

" There, Sir, we have ' the whole or any part of the subject-matter of the trust is situate,' and now we say the suit shall be filed in a Court which has jurisdiction over the place where a substantial part of the property is situated. Therefore there are these three procedures on the same matter. Is it desirable to have such a conflict? It could easily be avoided and harmony obtained without any difficulty. Therefore, Sir, if we say the suit may be filed either where the institution is situated, as we have in Act XX of 1862, or where any part of the property is situate as in section 92 of the Civil Procedure Code, I think the difficulty would be removed. Some conflict remains between those two Acts, but so far as this Bill is concerned, there will be no conflict between this and either of the other two. That is my first ground.

" My second ground is this, that I think it is desirable and expedient that we should amplify the choice of Courts. Now if we confine the suit to the Court which has jurisdiction over the place where a substantial part of the property is situated, as you say in this Bill, the result may be that no suit will be filed. It may be, for instance, that there is a shrine in the city of Delhi, but a substantial part of the property is in the district of Muttra and the other portions are distributed over several other places. Now it may happen that the trustee may be able to get hold of the persons concerned who are interested in the matter in Muttra, and no body in any other place has the right to apply. Therefore no suit would be filed against him. I therefore submit, Sir, that it is desirable that this choice should be amplified, and it seems to me that *prima facie* the place where the temple is situated is the place where the suit should be filed. My submission therefore is that both these amendments should be accepted, that a suit may be filed either in the place where the institution is situated or where any part of the property is situated. That would be in harmony with the existing law."

1-18 P.M.

The Hon'ble Sir William Vincent :—" There are two amendments before Council. The first is that in clause 3 the word 'substantial' be omitted. Hon'ble Members, who sat on the Select Committee will remember that there was a good deal of discussion on this point and a considerable division of opinion. It is to my mind not a matter of vital importance whether the word is retained or not. But the reason why we put it in was this, that there was some sympathy for Mr. Khaparde's ideal mahant who might be harassed by an application brought in some distant place, possibly, where a very small fraction, say a couple bighas of *devollar* land, a very small fraction out of a very large estate were situated. We thought that was a little unfair on the man. I have known cases in which suits have been so brought deliberately to harass and inconvenience defendants in districts where they find it both expensive and indeed impossible to secure proper legal aid and the attendance of witnesses, and it was only reasonable we thought that a suit should, therefore, be brought where there was a substantial part of the trust property. If the Council think that was an unreasonable restriction, then I myself should not object very much to the change being made. I am only

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trying to explain to Council the reason why those words were retained, and that this course was taken after very careful consideration in Select Committee.

"The second amendment is that after the words 'subject-matter of the trust,' the words 'or the religious and charitable institution' be inserted. Now here again I go back to the old point that I have so often put before Council. Mr. Chanda himself read the Code. The words in the Bill at present are taken from the Code and the Bill is ancillary to the Code. It also is reasonable that the suit should be brought where the trust property is situated. For this reason I oppose these two amendments, though if the Council have any strong feeling about the omission of the word 'substantial' I should not feel called upon to press the point."

The Hon'ble Mr. Surendra Nath Banerjea:—"Sir, as the Hon'ble the Home Member has pointed out, there was considerable discussion in the Select Committee as to the retention of this word 'substantial' in the place where it does occur. I was one of those who objected to its retention, and therefore I sympathise with the amendment moved by the Hon'ble Mr. Chanda. My Hon'ble friend the Home Member has referred to the ideal mahant of Mr. Khaparde. Well I should like to find out the ideal mahant. I have searched in vain for the ideal mahant from one part of India to another in broad daylight, in the hours of midnight, and in the morning hours, but there is no ideal mahant that I know of. And that being so, I am not prepared to do anything to take part in legislation for a person who does not exist, but who may come into being under the restrictions that we now propose to impose. Therefore that plea about the ideal mahant dissipates into thin air when tested under the scrutiny of facts. It is not a case of persecution. You ask for information. It is not a suit that you are going to bring; you ask for certain information, and after having got the information, you may make your plans and bring a suit. Therefore it is a small thing you ask for. The machinery of the Courts is not set in motion and no harassment of any kind can take place. The judge issues the order, and the judge inspects the trustee's books and gets the information and the man goes home, happy or unhappy it is impossible to say. There is no question of persecution or harassment or vexation; only this information is asked for, and therefore, it seems to me that it ought to be quite enough if only a part of the property is situated in a particular area. I do not subscribe to the second part of the amendment, but I support the omission of the word 'substantial'."

The Hon'ble Rai Sita Nath Ray Bahadur:—"I beg to say that it is true that a mahant may be harassed by a suit being brought in a distant part of the country where a very small portion of the property of the trust may be situated. Therefore in many cases it would be far better to keep in the word 'substantial' because the Court would have to judge whether a substantial part or a minor portion only of the property is situated in the district in which the petition has been filed."

"It would be much better to say 'where the temple or mosque is situated'. That would give the Court jurisdiction over the temple or mosque. Instead of saying 'substantial part of the property or any part of the trust property is situated' it would be much better to say 'where the temple or mosque is situated.'"

The Hon'ble Sir William Vincent:—"May I rise to a point of order? The Hon'ble Member has not given notice of any amendment of this character."

The Vice-President:—"I understand the Hon'ble Member is addressing himself to amendments Nos. 6 and 7."

The Hon'ble Rai Sita Nath Ray Bahadur:—"I am supporting the amendment of the Hon'ble Mr. Chanda."

[*Mr. Kamini Kumar Chanda; The Vice-President; Sir William Vincent.*] [17TH MARCH, 1920.]

1-21 P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—“ Well, Sir, I do not think I need trouble myself very much about the ideal mahant, I am more concerned with the helpless worshipper. On the whole, the balance of advantage is in favour of my amendment that the worshipper should also be protected. Therefore I think it is better on the whole that my amendment should be accepted.

“ As regards my second amendment I am sorry that the Hon'ble the Home Member does not see his way to accept it. I thought it was only natural that the place of suing should be where the temple is situated. I do not think I can add anything more to what I have said excepting this, that the Hon'ble the Home Member swears by the old Code of 1908, but he might have gone back to the older Act of 1863. Why does he ignore that? That Act is in favour of my contention that the suit should be where the shrine is situated.

“ With these words I press both these amendments.”

Amendment No. 6 was then put to the Council and declared negatived.

The Hon'ble Mr. Kamini Kumar Chanda :—“ May I have a division on this point. The Hon'ble Member

The Vice-President :—“ Order, order, I have put the amendment and the vote has been taken. The Hon'ble Member can call for a division if he likes.”

Amendment No. 7 was then put to the Council and declared negatived.

The Vice-President :—“ Both the amendments are, therefore, lost.”

“ The Council will now adjourn till half past two.”

The Hon'ble Mr. Kamini Kumar Chanda :—“ I ask for a division.”

The Vice-President :—“ I am afraid I have adjourned the Council.”

[At this stage the Council adjourned for lunch.]

2-30 P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—“ Sir, I beg to move amendment No. 8, which runs as follows :—

‘ That in clause 3 (1) after the word ‘ trustee ’ the words ‘ or where there is no trustee, actual or constructive, the person for the time being in possession of or managing such property ’ be inserted.’

“ In regard to this amendment I only wish to say one word. It is quite conceivable.—I think I know one case which clearly shows—that there may be no actual trustee at the present moment for any particular trust. The man in occupation and in the management of the property may be a trespasser, and I think that provision should be made to cover a case like that.

“ With these few words, Sir, I beg to move my amendment.”

2-32 P.M.

The Hon'ble Sir William Vincent :—“ The Bill aims solely at trusts, and where there is a trust there must be a trustee. If the managing body is occupying the position of trustee it will be liable. If the managing body is not occupying that position, the Committee ought not to be liable under this Act.”

The amendment was put and negatived.

2-33 P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—“ I move, Sir—

‘ That in clause 3 (1) after the word ‘ income ’ the words ‘ and expenditure for a period not exceeding three years next preceding the date of the application ’ be inserted.

[17TH MARCH, 1920.] [*Mr. Kamini Kumar Chanda; Sir William Vincent; Raja Sir Rampal Singh.*]

"The Bill as it stands, Sir, only enables a person to apply for information regarding income. I do not know the reason why expenditure has been left out. It seems to me that it is more important to know how the money is expended than how the income stands, and therefore, Sir, I move that these words be inserted."

The Hon'ble Sir William Vincent:—"If [the Hon'ble Member will refer to section 3 (2), he will see that the Court has power to direct that the accounts of the trust shall be examined and audited. That means income and expenditure, and I really think that meets the point he has in view."

The Hon'ble Mr. Kamini Kumar Chanda:—"I do not see the point at all. If you mention 'income' I do not see why you should not state 'expenditure'."

The amendment was put and negatived.

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I beg leave ^{2-35 p.m.} to move the following amendment:—

'That in clause 3 (2) after the word 'audited' the words 'by an auditor approved by Government, or by such other person or through such registered corporate body as the Court may direct' be inserted.'

"Sir, it is not said by whom these accounts will be audited. The trustee himself may get them audited by his own clerk and say 'here is the audited account'. I think it would be more satisfactory if the accounts could be audited in a more satisfactory manner. The accounts should be audited and approved by a Government auditor or by the Court direct. I think it would be much more satisfactory."

The Hon'ble Sir William Vincent:—"The section provides that the accounts shall be examined and audited, and it is left to the discretion of the Court as to whether they should be examined and audited by any Chartered Accountant, and that, in my opinion, is sufficient."

The Hon'ble Mr. Kamini Kumar Chanda:—"I cannot see why you do not say that direction about the auditor is in the discretion of the Court."

The amendment was put and negatived.

The Hon'ble Raja Sir Rampal Singh:—"Sir, I beg to ^{2-36 p.m.} move the amendment that stands in my name, and I hope the Council will accept it. It runs as follows:—

'That in clause 3 (2), the word 'and' be omitted and the words 'and published at the time or annually' be added at the end.'

"I believe, Sir, that the amendment is not inconsistent with the moderate and cautious policy of the Bill. It will serve the interest of the trust as well as the interest of the persons and the trustee. The person or persons shall not have the necessity to apply to the vote every now and then to have the direction contained in sub-clause (2) and at the same time will be safe to face the so-called embarrassment of appearing before the Court and defending himself against the petition. It is but a truism to say that secrecy in accounts helps unscrupulous trustees to misappropriate trust funds and become creatures of ease, and publicity in that matter will, I hope, check them from such propensities.

"It is not so much in small trusts having small incomes that the public are so deeply interested; it is in big trusts having large incomes that the public feel that they have a right to know how the accounts stand and how the expenditure of the trust is made. It is in respect of the latter class of persons of a trust that the Court shall have discretionary power to direct that

[*Raja Sir Rampal Singh; Sir William Vincent; [17th March, 1920.]*
Mr. Kamini Kumar Chanda.]

the accounts shall be audited and published annually. I am only asking that a little more discretionary power be given to the Courts to exercise in special cases. It is not at all obligatory on the part of the Court to direct that every trust should be audited and published annually; it is only in special cases, and I hope that such discretionary power will be given to the Courts."

2-30 P.M.

The Hon'ble Sir William Vincent:—"Sir, I have received so much assistance from the Hon'ble Member in Select Committee over this Bill that I am very anxious to meet him, but if I explain the position of the Government in this matter, I hope he will withdraw this amendment and deal with the matter under discussion in a separate Bill in the Local Council. The scope of this present Bill is intentionally limited to cases in which a person interested in a trust believes that there has been some misappropriation of funds or some mal-administration about which he wants information preparatory to bringing a suit. That is the principle of the Bill. The general questions of publishing accounts annually and having accounts audited each year and of further control over the administration of this trust were specifically left for legislation in local Councils. I think Hon'ble Members, or some at least, will remember that Sir Ibrahim Rahimtoola introduced a Bill to provide for many of these points in the Bombay Council. I wish myself that he had been allowed to proceed further with that Bill, and I hope that in the United Provinces, and in other provinces, the principle underlying the amendment which my Hon'ble friend has now brought forward will be accepted, but I do not want to insert a provision of this kind in the present Bill. What we propose, what these proceedings under the Bill are intended to do, is simply to facilitate the bringing of suits in cases in which mal-administration of the properties is taking place. The proceedings are intended to be summary proceedings preliminary to such a suit.

"I hope, in these circumstances, the Hon'ble Member will not press the matter."

The Hon'ble Raja Sir Rampal Singh:—"Sir, I beg to withdraw the amendment on the assurance that has been given by the Hon'ble the Home Member."

The amendment was withdrawn.

2-41 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I beg to move—

'That after clause 3 (2) the following proviso be inserted:—

'Provided that not more than one proceeding shall be instituted or be going on against the trustee in any Court at one and the same time.'

"The object of the amendment is obvious. Under the Bill as it stands there is nothing to prevent more than one suit being instituted in the same Court against the same trustee, or in more Courts than one. I think that what I suggest in my amendment ought to be done."

2-43 P.M.

The Hon'ble Sir William Vincent:—"Sir, I should like to ask the Hon'ble Member what the effect of this amendment would be if a collusive petition were brought forward. Let me assume that a petitioner comes forward who is really an accomplice of a fraudulent trustee; he puts in a petition under the new law and takes no further interest in the proceedings or delays them. In the meantime two or three other persons later want to file perfectly *bona fide* petitions. The effect of this amendment would be that they could do nothing because a collusive petition had been filed already. I should like to know again what would be the effect if two different petitioners, having entirely different objects in view under different circumstances and for different reasons wanted to bring in two separate petitions, one for accounts, we will say one for information. Is there any reason why they should not be allowed to do so? If it is a

[*Sir William Vincent; Mr. Kamini Kumar Chanda; Mr. A. P. Muddiman; Mr. G. S. Khaparde.*] [17TH MARCH, 1920.]

question of harassing a trustee by petitions relating to the same subject-matter or on the same points, what would be the result of a number of petitions? The result would certainly be that the Court would hear them jointly; there is no reason whatever why the two proceedings should not proceed *pari passu* and the trustee would not in any way be inconvenienced."

The Hon'ble Mr. Kamini Kumar Chanda :—" I have nothing more to say."

The amendment was put and negatived.

The Hon'ble Mr. Kamini Kumar Chanda :—" Sir, I beg to move this amendment, *viz.*,

' That in clause 5 (1) after the words ' on receipt of a petition under section 3 ' the words ' after taking such evidence, and making such inquiry, if any, which in its opinion may be necessary ' be inserted.'

" This amendment simply says that if on receipt of a petition by the Court, the Court finds there is cause to proceed, it shall do so. Under the section as it stands the Court can do so on the mere presentation of a petition. I, therefore, want to make it clear that the Court may, if it thinks necessary, make any inquiry or take evidence."

The Hon'ble Sir William Vincent :—" Sir, I am glad to meet the Hon'ble Member. I am quite prepared to accept the amendment."

The Hon'ble Mr. A. P. Muddiman :—" I should like to point out, Sir, that the amendment is not in proper form. As Mr. Chanda has got it, we shall have two ' opinions '— ' after taking such evidence . . . which in its opinion may be necessary, is of opinion.' I think the amendment should be in this form :—" after making such inquiry, if any, as it may consider necessary, is of opinion, etc. etc. "

The Hon'ble Mr. Kamini Kumar Chanda :—" I accept the alteration."

The amendment, as altered by the Hon'ble Mr. Muddiman, was put and agreed to.

The Hon'ble Mr. G. S. Khaparde :—" Sir, I beg to move—

2-45 P.M.

' That in clause 5 (1) before the words ' a trust ' the words ' prima facie ' be inserted.'

" Sir, these words were in the original clause, but, I believe, they got dropped out somehow; so I move that they may be restored."

The Hon'ble Sir William Vincent :—" Sir, the insertion of these words ' prima facie ' would really weaken the position of the Court. The Court has now power to make an inquiry under the amendment of Mr. Chanda's which has been accepted, and also power to take evidence; there is therefore no point in inserting the words ' prima facie.' The section as amended will run ' If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, which in its opinion may be necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given. I submit that this is enough for all reasonable requirements."

The Hon'ble Mr. G. S. Khaparde :—" I only wanted the words to make it clear that it was a preliminary inquiry to be confirmed afterwards

[*Mr. G. S. Khaparde; Mr. Kamini Kumar Chanda; Sir William Vincent; Mr. A. P. Muddiman; The Vice-President.*] [17th MARCH, 1920.]

by a proper inquiry. Therefore, I say that the term 'prima facie' which was there originally should be put in. I do not think there was any motion in the Select Committee to drop it."

The amendment was put and negatived.

2-46 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I beg to move—

'That to clause 5(2) the following be added:—

'The statement, if any, which the trustee may make in answer to the petition, shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.'

"Under the Bill, Sir, the petition is to be signed and verified, but it does not say anything about the answer of the trustee. The man may come up and say that there is no trust at all, but there would be nothing binding against him in writing. I think it is incumbent on him to make a statement, to commit himself to a statement in writing."

2-47 P.M.

The Hon'ble Sir William Vincent:—"Sir, I am willing to accept the amendment in a modified form, if it will meet the Hon'ble Mr. Chanda. The form I propose is this: 'The trustee may and, if so required by the Court, shall, at the time of the first hearing or within such time as the Court may permit, present a written statement of his case. If he does present a written statement, the statement shall be verified and signed in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.'

"The difference is this, that it is left to the trustee, as I believe is the practice in other similar proceedings, to decide whether he will file a written statement or not, unless the Court directs him to do so; if he does elect to file one it must be verified. I think that this probably will meet the Hon'ble Member."

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I accept it."

The Hon'ble Mr. A. P. Muddiman:—"Sir, I should like to have authority to make the necessary consequential amendment. This will involve a consequential amendment."

The Vice-President:—"I take it that that is assented to; and I take it that the amendment in the altered form is accepted by the Council."

The amendment as altered was put and agreed to.

2-48 P.M.

The Hon'ble Mr. G. S. Khaparde:—"I move, Sir,—

'That in clause 5(3) for the words 'three months' the words 'within a period not exceeding six months or such period to which it may be extended' be substituted.

"This is intended merely to give discretion to the Court to extend the time, if necessary. We often say in ordinary suits that there is no time to put in a written statement or defence and the Court has discretion to extend the time. I want to give the same discretion by these amendments of mine, Nos. 17 and 18."

The Hon'ble Sir William Vincent:—"Sir, this clause, as it appears in the amended Bill, was accepted by the Select Committee after considerable discussion. The general view was that a reasonable time should be allowed to the trustee to bring a suit and that three months was ample for him to take this action. If it is said that he should have more time to bring a suit for a declaration of the kind required and if the period is increased to six months, these summary proceedings under the Bill, which are intended by their very nature to be expeditious and of a speedy character, would be unreasonably delayed."

The amendment was put and negatived.

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The Vice-President:—"Does the Hon'ble Member desire to put the next amendment without a speech?"

The Hon'ble Mr. G. S. Khaparde:—"Yes, Sir. It is consequential."

The Vice-President:—"I think we may take it that No. 18* goes out."

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I move— 2-49 P.M.

'That in clause 6 after the words 'sub-section (b) of section 5 the words 'or if in the course of an inquiry under section 5 the Court finds that the trustee has committed a breach of trust or falsified his accounts or other records' be inserted.'

"Sir, the amendment is fairly obvious, and I need not explain it further."

The Hon'ble Sir William Vincent:—"Sir, I am sorry that I 2-50 P.M. could not think of accepting this amendment. These proceedings are to be summary proceedings directing trustees of Trusts of a particular character to produce accounts for audit or to furnish information. The amendment which Mr. Chanda has put in would necessitate prolonged inquiries by the Court as to whether a trustee had committed a breach of trust or falsified his accounts. It would mean really that the Court would have to make the same inquiry as a Court inquiring into a suit under section 92 of the Code, and all possibility of expeditious action would be gone. It would destroy the whole of the expedition in these proceedings and would really cause intolerable delay.

"I hope the Council will not think of accepting this amendment."

The amendment was put and negatived.

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I beg to 2-51 P.M. move that at the end of clause 6 the following be added:—

(1) The Court may, in a special case where it finds that the trustee has committed a breach of trust direct that the trustee be removed on any application in that behalf by any party to the proceeding; provided that the trustee so removed shall have a right of filing a suit for his re-instatement.

(2) In case of such summary removal of a trustee the Court shall appoint an interim trustee and proceed to frame a scheme of management, after hearing the management committee, if any, which may have been formed for the trust.'

The Hon'ble Sir William Vincent:—"Sir, I really am surprised 2-52 P.M. to see this amendment proposed in the Council. I repeat I can only express surprise that Mr. Chanda should propose to this Council that a Trustee should be removed on the basis of a summary proceeding and that a scheme of management should be framed; in fact, that all the remedies now provided in the case of a regular suit under section 92 of the Civil Procedure Code and Act XX of 1863 should be obtained in a summary proceeding under the Act. The endowments often include properties of very great value and Trustees are entitled to fair treatment. I cannot think that the Council will accept this proposal as fair."

The amendment was put and negatived

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I beg to 2-53 P.M. move—

'That for clause 7 the following be substituted:—

'7 (1) Management Committees shall as soon as practicable be appointed under the Religious Endowments Act, 1863, in every district in which there is any religious and charitable trust.

*That in clause 5 (4) for the words 'three months' the words 'the period fixed by the Court' be substituted.

[*Mr. Kamini Kumar Chanda*; *Sir William Vincent*; *The Vice-President*; *Mr. G. F. S. Christie*] [17th MARCH, 1920.]

'(2) The trustee of such trust will take advice of such committee in the management of such trust. In case he objects to such advice, the matter will be referred to the Court which will then after hearing both parties pass orders in the matter which will be binding on the trustee.'

The Hon'ble Sir William Vincent :—" Sir, I rise to a point of order. I submit that this amendment does not come within the scope of the Bill at all."

The Vice-President :—" It really does not come within the scope of the Bill."

The amendment was accordingly ruled out.

2-55 P.M.

The Hon'ble Mr. G. F. S. Christie :—" Sir, I beg to move that sub-clause (c) of clause 9 be omitted.

"The sub-clause which I propose to omit runs as follows :—

'(c) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.'

"Sir, I can only speak with any authority with regard to my own province. The longer I have listened to the discussions in this Council the more am I impressed with the difference in conditions between my province, and the rest of India. I was not a member of the Select Committee and I do not know on what grounds this particular clause was retained. But I do know that this Bill was capable of doing a great deal of good to my province, and that this will be very seriously impaired, if not altogether eliminated, by the retention of this clause. I must confess that I was greatly disappointed at finding nothing in the report of the Select Committee on the opinion expressed by Sir Reginald Craddock. In his letter of the 29th December 1919 he said :—

'It has further been urged that provision should be made for those trusts which are administered under a scheme, which has been approved by a Court of competent jurisdiction but which does not provide for a periodical audit of accounts. His Honour would therefore suggest that clause 8 be amended so as to bring such trusts, of whom there are some in Burma, under the operation of the Bill.'

"That is not an exaggerated statement, for we find in the letter of the Bar Library Association, Rangoon, the following paragraph :—

'With reference to section 8 (c) we have to point out that there is no provision for audit in any of the schemes that have been settled by Courts for administration of trusts relating to pagodas in Burma with the result that the accounts of pagoda trustees have never been audited by any qualified auditor.'

"I would remind the Council that pagoda trusts are by far the most important trusts of a charitable or religious nature in Burma. Of course it may be said that if it is desirable that there should be an audit of accounts provision should be made in the scheme for it, but local interests are too powerful and would prevent the Court from taking the action which it would otherwise take. The idea seems to be that the goose is not to be allowed to lay her golden eggs outside the poultry yard. Nothing seems to be more distasteful to Burmans than to keep accurate accounts of monies received. They should be compelled to do so in all cases where public monies are received. It is for this purpose this amendment is needed with regard to pagoda trusts, and I would ask the support of the Hon'ble Mr Banerjee and other Hon'ble Members who have laid stress on the wasteful disposal of temple monies. We have the same wasteful expenditure in Burma, and if this amendment is not accepted, it will mean that we shall have to apply again to the local legislature for a separate Act."

2-59 P.M.

The Hon'ble Sir William Vincent :—" Sir, I confess I am somewhat astonished to hear that in Burma a Court which frames a scheme for the administration of a public endowment does not make some provision for accounts. I should have thought myself that that is one of the first things the Court would see to. I have had some small experience of these schemes at one time of my

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life and most members of the Bar present here will bear me out in saying that generally speaking no Court would sanction any scheme in which provision was not made for proper accounts. The reason, however, why we have excluded these trusts from the operation of the Act is that there are a number of them which are administered under schemes fixed not only by Courts of justice, but, I think, by special enactments which provide adequately for the points with which the Bill deals. We thought, and I still think, that it really is unnecessary to allow the provisions of this Act to apply to Trusts of this character for the management of which regular schemes have been framed by competent authority. I would suggest to the Hon'ble Member that if there are schemes in Burma of the character which do not provide for the maintenance of proper accounts—and I gather that there are—those interested in the trusts should apply to the Court for a modification of the scheme so as to provide for the elementary necessity of keeping accounts or, if necessary, a Bill to deal with the point should be introduced in the local Council. I do not think we should be justified in introducing in an all-India measure provisions for accounts in such cases merely because there are some schemes in Burma in which this is not provided for. I think it would be much wiser if I put it to the Hon'ble Member to withdraw his amendment and leave the Bill as it is."

The Hon'ble Mr. G. F. S. Christie:—"Not having received any support to my amendment, I beg to withdraw it."

The amendment was by leave withdrawn.

The Hon'ble Mr. G. S. Khaparde:—"Sir, the amendment ^{3 P.M.} which stands in my name runs thus:—

"That to clause 9 after sub-clause (c) the following sub-clause be added:—

'(d) If the petitioners are paupers or undischarged insolvents, or are guilty of vexatious conduct.'

"My amendment relates to paupers and undischarged insolvents in clause 9. I have taken the last few words from the Civil Procedure Code, under which paupers can sue only under certain conditions and their suits are liable to be rejected for vexatious conduct. We wish to purify the administration of charitable trusts, and in our anxiety to do so, we should not permit anybody and everybody to come and disturb the management, and that is the reason why I propose this amendment."

The Hon'ble Sir William Vincent:—"Will the Hon'ble Member tell me what the section of the Civil Procedure Code to which he is referring is?"

The Hon'ble Mr. G. S. Khaparde:—"I refer to the part dealing with suits by and against paupers. So far as the undischarged insolvents are concerned, they have no status; even under the new reforms scheme they have no votes."

The Hon'ble Sir William Vincent:—"Sir, the Hon'ble ^{3.3 P.M.} Member here asks the Council to accept an amendment of the Bill providing that no application should be entertained from a pauper, an undischarged insolvent or a man who has been guilty of vexatious conduct. I do not know how the unfortunate Court is to ascertain before a petition is entertained whether this man has been guilty of such conduct or not, or how it could refuse to entertain a petition on these grounds. I further put it to the Council that every Mahant, if I may use the word, or every trustee would use such a provision to defeat the object of the Law. In every case the trustee would come forward at once and say that the petitioner has been guilty of very vexatious conduct; and had given him a lot of trouble. Is that the kind of thing that my Hon'ble friend Mr. Khaparde seeks to provide for? If so, no one

[*Sir William Vincent; Mr. G. S. Khaparde.*] [17TH MARCH, 1920.]

else will support him. I put it to the Council that this amendment would really render the whole Bill ineffective."

The Hon'ble Mr. G. S. Khaparde:—"Sir, the vexatious conduct I was thinking of is a well-recognised thing in the Civil Procedure Code. A man disobeying orders or making frivolous complaints and agitating on matters already disposed of is considered to be guilty of vexatious conduct, and I think the Courts would have power to reject the application. That is what I mean by vexatious conduct."

The amendment was put and negatived.

3-5 P.M.

The Hon'ble Mr. G. S. Khaparde:—"Sir, I beg to move the following amendment:—

'That in clause 10 (1) for the words 'the plaintiff' where they first occur the words 'either party'; for the words 'the defendant' where they first occur the word 'them'; and for the words 'the defendant' where they occur for the second time the words 'the petitioners or the defendants' be substituted.'

"Sir, this amendment is to put the parties on terms of equality. The petitioner ought not to be favoured over the trustee who would be the defendant in the case. So I propose that in proper cases security should be taken both from the petitioner as well as from the trustee concerned."

3-6 P.M.

The Hon'ble Sir William Vincent:—"Sir, I have explained more than once the reason why the present clause was inserted. It is because of the difficulty of getting private persons to come forward and incur the very heavy expenditure necessitated by suits against trustees of these endowments. Very serious expenditure is incurred, and it is only fair that where such a course is necessary, the Court should have power to make an order securing the plaintiffs against loss. But the really curious point in the amendment is, that it does not effect what the Hon'ble Member wants. By some extraordinary mistake he has not substituted anything for the word 'plaintiff' where it occurs for the last time in the clause. The only result is, so far as I understand the amendment, is that the plaintiff may in certain instances be called upon to furnish security for his own cost. If Hon'ble Members will read the clause they will see that in the words 'for any expenditure incurred, or likely to be incurred, by the plaintiff in instituting and maintaining such suit,' no change is proposed; there is no substitution of any new words, so that by some mistake the Hon'ble Member has proposed an amendment which does not effect what he intends."

3-7 P.M.

The Hon'ble Mr. G. S. Khaparde:—"Sir, I did not put this clause, because under the Civil Procedure Code, a plaintiff who does not reside or have property within the jurisdiction of the Court has got to furnish security for the costs of the defendant. There is no trouble on that head at all. It is provided for by the general rule, and, so far as the special procedure was concerned, I made this substitution. It is not with any desire to favour either that I omitted it."

The amendment was put and negatived.

3-8 P.M.

The Hon'ble Mr. G. S. Khaparde:—"Sir, I beg to move the following amendment:—

'That to clause 12 the following be added:—

'Except from an order awarding costs or from an order transferring possession of property.'

"This is an amendment to provide for costs or from an order transferring the possession of property, and though the matter is entirely in the discretion of the Court, still, as the proceedings are summary, there ought to be a remedy against an improper award. Similarly, also the wording in some parts is so general that property may change hands under the orders of the Court, and

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it should be in the power of either party not to agree to that. The usual course is that on a question of costs appeals are not allowed, but in this particular instance, as this is a summary procedure, a number of things may be done, and I submit that costs for appeals should be provided for."

The Hon'ble Sir William Vincent:—"Sir, it is a little surprising that Council should be asked to provide not for an appeal against an order itself, but for an appeal against an order awarding costs. In all cases, however, where the original order is not appealable if there is any injustice done there is always a power of revision given to the High Courts. The Hon'ble Member has admitted himself that an appeal very rarely lies on a question of costs only, and there is no reason why such an appeal should be allowed under this law. I really do not know what clause the Hon'ble Member was referring to when he spoke of orders transferring possession of property. Perhaps the Hon'ble Member would explain to me under what clause such an order could be made. May I ask him to assist me in this matter?" 3-9 P.M.

The Hon'ble Mr. G. S. Khaparde:—"Under clause 5 the Court shall order a stay of the proceedings, and if such suit is so instituted it shall continue to be stayed until it is finally decided. If he does not bring a suit, then the Court proceeds to decide matters and award costs. The Court might decide that the man might replace the costs by some other property. There is nothing to prevent him from doing so." 3-10 P.M.

The Hon'ble Sir William Vincent:—"The Hon'ble Member will see if he examines the Bill that there is nothing in clause 5 at all that authorises the Court to make any order transferring property. The Hon'ble Member is a lawyer, and it is a little surprising to me that an allegation of this kind should be put forward. I could have put forward a better case for the amendment myself. I maintain that there is no order under this Act which can transfer the possession of property, and I oppose the amendment." 3-11 P.M.

The Hon'ble Mr. G. S. Khaparde:—"I submit the words do admit of that construction and they do not provide for an appeal and there will be a real grievance."

The amendment was put and negatived.

The Hon'ble Sir William Vincent:—"Sir, I now move that the Bill as amended be passed. Of course it is open to any Hon'ble Member to object to this motion because amendments have been accepted to-day, but as they are really only formal amendments on matters of little moment, I hope that Council will not delay the passing of this Bill on that account. I have only to thank many members here for the great assistance rendered to me in the discussion of this Bill, and to express the hope that it will go some little way to prevent the grievous misappropriation of public Trust funds to which Hon'ble Members have referred so frequently in this Council. I do not want to take up the time of the Council for any length of time because there is a lot of business on the list and I feel—it is not entirely due to myself—I feel we have already wasted a good deal of time over unimportant details connected with this Bill." 3-12 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"Although I adhere to the views I expressed when moving my amendment when the Bill was referred to the Select Committee, I think I shall not oppose this motion that the Bill be passed into law. Of course it would be more satisfactory if what is wanted was done, and if we had a more drastic enactment in order that real power could be exercised over the administration of trust funds. I think it would be more satisfactory if you consolidated the law which now is scattered in three different enactments and amended it, and had one enactment embodying the whole law and making it more effective than what is proposed in this Bill." 3-13 P.M.

[*Mr. Kamini Kumar Chanda; Major Malik Sir Umar Hayat Khan; Mr. Surendra Nath Banerjea.*] [17TH MARCH, 1920.]

I think we might allow the Bill to be passed and see how it works. Before I sit down I would ask the indulgence of the Council for one moment. The Hon'ble the Home Member on the last occasion, in opposing my amendment, made a remark that as my Local Government said there was no opposition to the Bill in the Province, I must have come under outside influence. Some Hon'ble colleagues of mine expressed some surprise to me that I did not protest against that remark. I did not do so on two grounds. In the first place, although I do not admit his major premise that the opinion of the Local Government must be conclusive on the question of public feeling on any matter, nor his deduction therefrom, namely, that any one who does not support the views of the Local Government must be supposed to be under outside influence. I did not protest at the time because I thought that his remarks might be construed to be legitimate criticism of my attitude towards the Bill, regard being had to what I had written to him in a letter. And, secondly, I thought that, in view of my attitude towards the Bill and the strong remarks I made against Trustees, there was no chance of my position being misunderstood. But as the Hon'ble Mr. Banerjea made a statement a little before the Hon'ble Member spoke, namely, that some mahant had seen him and tried to influence him to move that the Bill be postponed, some people have taken that remark of the Hon'ble Home Member to imply some imputation against me: I think I am entitled to ask the Hon'ble Member to say what he had in his mind. I will tell the Council what I wrote to him about. I got a letter from the Committee of management of one of the shrines in Bengal who were having a litigation against the mahant in the High Court. The writer of the letter asked to come and see me in order that he might give me his suggestions in regard to the Bill, and on that I wrote to the Home Member asking for some information. It was not of the character suggested by the Hon'ble Mr. Banerjea. It was the other way. In a way it is correct to say that I have listened to outside advice, that is to say the suggestion was made to me, not by a man of my Province, but by some one outside my Province. Still I think the remark is likely to be misunderstood, and, as the Hon'ble Member knows, it has been misunderstood. I think I am entitled to ask him what he had in his mind."

3-17 P.M.

The Hon'ble Major Malik Sir Umar Hayat Khan:—"I stand up to say a word because hitherto the Muhammadan point has not been put forward. I rise to welcome the Bill especially on behalf of Punjab Muhammadans, and say this with regard to all these amendments which have been lost, that the Muhammadans would welcome this Bill because it is according to Muhammadan Law. Every Muhammadan, wherever he is, even if he goes to China and there sees something wrong, is authorised by his religion to say that such and such a trust is not right. The Bill as it is now being passed absolutely meets their wishes except in one way, that is, that it does not go far enough."

3-18 P.M.

The Hon'ble Mr. Surendra Nath Banerjea:—"I think I may be permitted to thank the Government and the Hon'ble the Home Member for the passage of this Bill. This is a reform which has been long overdue. Many, many years ago Rai Bahadur Ananda Charlu tried to introduce a Bill of this kind into this Council, but it did not proceed through many stages. After him Sir Rashbehari Ghose tried to follow in his footsteps, and he again did not meet with any measure of success. The Bill does not indeed go very far, but it is the first instalment of a reform which may be a hint and indication to Provincial Governments which will be autonomous, and being autonomous they will be able to proceed upon these lines of legislation with greater firmness, courage, than they have been able to do in the past.

"It is the beginning, the first instalment of a reform which in course of time, I hope, will bring our public trusts under public control. I have said again and again that there is, and there has been going on for a long time, a scandalous waste of trust funds. In Bengal, before Bengal was partitioned, it was

[17th MARCH, 1920.] [Mr. Surendra Nath Banerjea; Mr. G. S. Khaparde; Mr. Srinivasa Sastri.]

estimated that the public funds represented by these various trust properties amounted to several crores of rupees. Sir, I had the honour of making a suggestion in my evidence before the Sadler Commission that the proceeds of these funds might be devoted to the purpose of education without being diverted from their true purpose. Of course this could not be done now. Legislation would have to be resorted to and the Provincial Governments, being autonomous would be in a better position to undertake legislation on these lines than the Government of India, as the Government of India is constituted now. It is not so much the law what we have put upon the Statute-book to-day that we welcome, but the beginning of a great movement which will be fraught with great results in the future. It is the hope that it holds out to us that a line of legislation will now be undertaken, the beginning of which have been well and truly laid to-day which will prevent the scandalous waste of temple funds and bring public trusts under public control.

"Therefore, Sir, I desire to congratulate the Government of India and the Hon'ble the Home Member on the passage of this Bill."

The Hon'ble Mr. G. S. Khaparde:—"I did not wish to speak ^{3-20 P.M.} further, but since things have been said, I will explain my position, and that is made necessary by the speech which the Hon'ble Babu Surendra Nath Banerjea delivered just now. At least in my part of the country there are no mahants against whom we have such complaints, nor do I know of any of these people who have misappropriated funds or abused their trust. It appears that in Bengal the trustees have not behaved well, and, as our Hon'ble friend Babu Surendra Nath Banerjea told us before lunch that he looked for them during sleep. No wonder he never found them; one may find them in waking moments.

"So far as I am concerned, I wish both these petitioners and trustees to be put on terms of equality. As it is, I like the Bill and I have supported it, but I wish that the impression may not go abroad that we were against these mahants or trustees altogether, and that we want to favour all kinds of petitions against them. I hope this impression will not go abroad. The desire of this Council is, I believe, to deal fairly with both parties and certainly not in the direction indicated by my Hon'ble friend Babu Surendra Nath Banerjea that funds which are set apart for saying prayers for the dead, funds which are set apart for the feeding of Brahmins, funds which are set apart for distributing money to the poor and for other charitable purposes, should be diverted to the purpose of education. That will be taking us back to the days of the English law when prayers for the dead were considered superstitious and were prohibited.

"I trust that the legislation which now begins will not end in that direction. Those are all the remarks which I have to offer."

The Hon'ble Mr. Srinivasa Sastri:—"After the remarks ^{3-23 P.M.} which the Hon'ble Mr. Khaparde has made, it becomes necessary that I should say a word from the point of view of Madras. The abuses which this Bill, small as it is, seeks to correct are of very long standing, and have created for many years a feeling that the law ought to be amended so that temple trustees could be brought to book. Our efforts in Madras have been unavailing over a long series of years, and I am therefore saying nothing by way of exaggeration when I offer congratulations to the Government of India on having passed this Bill. It does help public men in removing a grave reproach against the conduct of temple trustees. Crores certainly are involved in this business, and I know a modest calculation which computes the loss to the public from misbehaviour of temple trustees at sums which will enable whole Universities to be founded and a whole scheme of compulsory education to be maintained.

"Sir, I sympathise with the view that the Hon'ble Mr. Khaparde puts forward that the law should hold the scales even between the trustees and those

[*Mr. Srinivasa Sastry; Rai Sita Nath Ray Bahadur; [17th March, 1920.]*
Mr. Surendra Nath Banerjea; Raja Sir
Rampal Singh; Sir William Vincent.]

who wish to bring them to book. But is there nothing like a bias which people bring to bear from their own experience? The Hon'ble Mr. Kharade has been living in a happier province than I happen to come from. He has no prejudice against temple trustees. I happen by long experience to have contracted a prejudice against them, and I perfectly approve of the way in which facilities are placed in the hands of those who wish to remedy these long-standing grievances. It is a sad confession to make, but my duty compels me to make it, that the management of our charitable and religious funds hitherto has not been a credit to us. I must except from this condemnation a class of benefactors in Madras called the Nattukotty Chetties. Their trusts are well and truly laid, they are very well looked after indeed. But other classes of trusts are not so well looked after; in fact they have the reputation of being quite the contrary. I have no doubt that this Bill will be welcome in the whole of Madras; and I have no doubt, at the same time, that it will be considered only a small instalment of the necessary reform in this direction."

3-26 P.M.

The Hon'ble Rai Sita Nath Ray Bahadur:—"I also beg to congratulate the Government on the passage of this Bill. It will go a long way to prevent the wasteful expenditure of public trust money and religious endowment funds. I am certainly not here to support any wasteful expenditure of public money, but at the same time my esteemed friend the Hon'ble Mr. Banerjea will not, I am sorry to say, find many supporters, at least in Bengal, amongst Hindus and Muhammadans, when he says that any part of trust money set apart for religious or charitable purposes should be diverted to any other purpose, whether it be education or sanitation . . .

The Hon'ble Mr. Surendra Nath Banerjea:—"I just rise to correct a mistake. I did not say that the money should be diverted to sanitation but to education of a religious character perfectly consistent with the objects of the endowment."

The Hon'ble Rai Sita Nath Ray Bahadur:—"At least my impression was that he advocated it."

The Hon'ble Mr. Surendra Nath Banerjea:—"No, I did not."

The Hon'ble Rai Sita Nath Ray Bahadur:—"However, that may be, people in my province would surely not tolerate that any part of the money set apart for religious or charitable purposes should be diverted to any other purpose, whether it be education or any other purpose."

3-58 P.M.

The Hon'ble Raja Sir Rampal Singh:—"Sir, I beg to associate myself with my Hon'ble Colleagues in congratulating the Government and the Hon'ble the Home Member on his having steered this Bill to this stage. I cannot however disguise from myself the fact that the Bill does not go far enough and that it will not be efficacious in removing the evils which at present prevail in the management of these trusts. But, so far as it goes, it is well and good and for that we are very thankful to the Hon'ble the Home Member. The present procedure of obtaining sanction from the Advocate General and of suing the trustees is very cumbrous, expensive and unsatisfactory, and the present Bill will certainly ease matters.

"I whole-heartedly support the motion of the Hon'ble the Home Member to have the Bill passed."

3-50 P.M.

The Hon'ble Sir William Vincent:—"Sir, I should like, in the first place, to thank Hon'ble Members of the Council for the congratulations which they have offered to me in connection with this Bill. It is a position in which the Home Member, if I may say so, so seldom finds himself that such commen-

CHARITABLE AND RELIGIOUS TRUSTS BILL; INDIAN PAPER CURRENCY (TEMPORARY AMENDMENT) BILL

[17TH MARCH, 1920.] [Sir William Vincent; Mr. Surendra Nath Banerjea; Mr. W. M. Hailey.]

dations are the more appreciated. It is not always that measures which I have to introduce are received with such approval. I am glad, however, that it has not fallen to my lot to introduce a Bill of the nature proposed by the Hon'ble Mr. Banerjea. If such a Bill were introduced, I can see that there would be those who would say that many of these trust funds were intended not for educational purposes but for something entirely different, and that a proposal to utilise them for education would be a kind of legalised looting

The Hon'ble Mr. Surendra Nath Banerjea :—"I did not say so. I said money intended for religious purposes may be devoted to religious education which is a part of religion."

The Hon'ble Sir William Vincent :—"I am sorry if I misunderstood the Hon'ble Member. I thought he meant to use the money for general education. In any case I am glad that I have not got to introduce a Bill of that character.

"I should like to say one more word before I close with reference to a remark from Mr. Chanda. He thought that some explanation was due to him from me respecting the remark I made when the Bill was introduced. I myself do not think that anything I said necessitated any explanation or would justify anyone in asking for such an explanation. At the same time, I should be very unwilling to allow any misapprehension to remain in the mind of the Hon'ble Member, if it does, or in the mind of the public. I did not say or suggest that the Hon'ble Member had been influenced in his attitude to the Bill by any mahant. What I had in my mind was this. We had certain opinions from the City of Delhi against this Bill and as Hon'ble Members are aware the Hon'ble Mr. Chanda has frequently posed as the self-elected Member for Delhi, and I was getting at him for taking up that attitude in a Bill of which his own province approved. If the impression has got abroad that I intended any imputation on the Hon'ble Member's character in any way, I am perfectly prepared to assure him that no such imputation was intended, nor indeed can it be implied from the language that I used."

The motion was put and agreed to.

INDIAN PAPER CURRENCY (TEMPORARY AMENDMENT) BILL.

The Hon'ble Mr. W. M. Hailey :—"Sir, I beg to move for leave 3-22 P.M. to introduce a Bill to consolidate and amend temporarily the Indian Paper Currency Act, 1919.

"The main object of this measure was briefly referred to in a Communiqué issued on February 23rd regarding the continuance of the sale of Reverse Councils, and from the Statement of Objects and Reasons Hon'ble Members will have seen that the necessity for this legislation has there been explained in somewhat greater detail. The matter is, however, a somewhat technical one, and the Council will, I am sure, desire that I should explain the precise character and effect of this Bill, and the reasons why a temporary measure of this sort is in our opinion necessary.

"As Hon'ble Members know, by a series of short Acts, ending with the Paper Currency Amendment Act passed last September, the maximum limit up to which the Currency Reserve can be invested in securities has during the past five years gradually been raised to a figure of Rs. 120 crores. All these Acts come to an end six months after the date fixed for the termination of the war.

"Hon'ble Members also know that the future composition of the Reserve, and in particular, the proportion of metal to securities, and the nature of

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[Mr. W. M. Hailey.] [17TH MARCH, 1920.]

the securities, was the subject of certain detailed recommendations by the Exchange and Currency Committee. *Inter alia*, the Committee recommended that a minimum 40 per cent of the Paper Currency Reserve should be held in the form of metal, and it is clear that the adoption of a percentage system will introduce a much needed elasticity into our currency arrangements, as compared with the present system under which the amount of the invested portion is rigidly fixed. Whatever difference of opinion there may be regarding the Committee's recommendations on other points, I am inclined to think that the broad lines of their recommendations regarding the Paper Currency Reserve will probably meet with general approval. I will not, however, trouble the Council with any remarks about these recommendations, for the simple reason that the amount of metal in our possession is at present not sufficient to give effect to them; the Committee itself, indeed, quite recognised that the composition of the Paper Currency Reserve, as laid down by them, would have to be worked up to gradually. The subject will have to be very carefully considered in detail, and I need hardly say that in due course the whole matter will have to come up before the Legislative Council.

"Meanwhile, something must be done as regards the continuance of the present investing powers. It is quite true that possibly the present temporary Acts might survive until the September Session, but there is another very important reason why legislation is in any case necessary during the present Session. Under the present law, out of the Rs. 1.0 crores of permissible investments, Rs. 100 crores must be held in British Treasury Bills. The present Bill removes that restriction and allows the Reserve to be held either in rupee or in sterling securities indifferently. Now there are perhaps some Hon'ble Members present here who think that this is quite a sound thing to do, and that, in view of the fact that the rupee equivalent of our sterling securities decreases every time that sterling depreciates, it is a sound policy to cut our losses and to replace our sterling securities by rupee securities. I must, however, explain to the Council the whole effect of the measure we propose. We do not propose to go into the open market and purchase rupee securities; the rupee securities which would be held in the Paper Currency Reserve will be merely our own securities issued *ad hoc*, that is, created for this definite purpose. They will, therefore as backing to our note issue, have a different value to sterling securities. Their utility, of course, depends on the extent to which they could be realised if thrown on the market.

"If, therefore, we were³ proposing this as a permanent or even *quasi*-permanent feature of the Currency Reserve, I admit that there might be some ground for apprehension on the part of the public; I should, indeed, be disappointed if it were not criticised, for the credit of a State is so deeply involved in the soundness or unsoundness of the arrangements governing its note issue that it is impossible to take a too purist line in such matters—it is better to be a little too rigid, even to the point of pedantry, than too lax; we all know how much the great financial strength of England before the war was derived from the severity with which the issue of paper money was safeguarded. As regards the present Bill, however, although I have rather gone out of my way not to gloss over the exact effect of its provisions, I hope that I shall be able to convince the Council that it can without danger entrust us with the powers for which we ask. Hon'ble Members will have noticed that we only propose to give the Bill a duration until October 1st, *i.e.*, to the end of the September Session, and I will now explain exactly why it is that we ask the Council for these very temporary powers.

"The Secretary of State has hitherto been able to meet the sale of Reverse Councils from his own Treasury balances, but he is now coming to the end of his cash balances and must now sell out the sterling securities in the Paper Currency Reserve. The result of this would be, in the absence of the legislation now proposed, that we should have to cancel currency notes to the full rupee equivalent, at 1s. 4d., of the sterling securities sold out to pay for Reverse Councils. For example, for every million pounds of Reverse Councils

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sold by us, we should have to cancel currency notes to the extent of Rs. 150 lakhs, although if we are selling at, say, 2s. 8d. we receive in India only Rs. 75 lakhs. I am sure that the business members of the Council will agree with me that to withdraw, say, Rs. 3 crores of currency notes a week from the money markets would in a very short time provoke a very serious financial stringency, for seeing that now-a-days we do not keep any large funds locked up in the Reserve Treasuries, those notes would have to come mainly from the cash reserves of the banks. What we propose, therefore, is to take such powers as will enable us to replace the sterling securities sold by rupee securities created *ad hoc*, to the extent to which we find this necessary having regard to the general monetary position.

"If my explanation of the real character of investing the Currency Reserve in rupee securities has been followed by the Council, then it will be clear to it that the powers for which we are asking are considerable. I need hardly say that, if the Council agrees to give us these powers, we shall use them to the smallest possible extent. Our first endeavour will be to take notes off the market; and we shall only use the powers for which we now ask when by not using them, we should cause serious disturbance to the money markets and thus to trade and business generally. I hope the Council will agree that on the previous occasions on which we had to take currency powers from the Council we have not misused them. Hon'ble Members will remember that in introducing the last Currency Amendment Bill in September last, Mr. Howard gave them an assurance that the new 20 crore powers would not be used unless absolutely necessary. In my speech introducing the Financial Statement I described to what lengths of inconvenience we put ourselves during December last in order to avoid making use of those powers, and how we just managed to carry through without doing so. The Council can be assured that, in the interval between now and September, if we use these powers at all, we shall do so with the greatest caution, and in the full knowledge that we shall have to give an account of our stewardship next September. It may possibly be some little time before we actually use these powers, but it would obviously be most improper for us to keep the matter from the purview of the Council during the present Session, and subsequently, when the necessity actually arises, to ask the Governor General to proceed by Ordinance regarding measures the need for which can at any rate now be foreseen.

"There is one flaw in our armour which will, perhaps, not have escaped the vigilance of some of the Hon'ble Members here; it is this. We take credit for not having used the 20 crore investing power which was given us in September last; in other words, our present investments only amount to 100 crores; why therefore do we want to increase them, now that the period of tight treasury balances is over? There is, of course, a reply to this. The Council will remember that in introducing the Financial Statement, I referred at some length to the deficiency which arises in the Paper Currency Reserve owing to the fact that our sterling securities are valued at 1s. 4d.; they are still so valued, but obviously we cannot go on giving them a value which everyone must admit, no matter whether he agrees with the Currency Committee's policy or not, is no longer a correct value. It is clear that we must get nearer to true facts, and accordingly we shall before long exhibit our Currency accounts on a basis of 2s. sterling. We are in consultation with the Secretary of State as to the precise time when and the method by which this shall be done; but it is clear that, whenever the accounts are so changed, there will at once appear a deficiency, i.e., the total amount of the securities will, when added to the metallic portion of the Reserve, not amount to the gross circulation. It will be necessary, therefore, to create temporarily a certain amount of *ad hoc* securities in order that the accounts may balance. This, it may be said, is merely a technical device, and I quite admit that this is so; but it has this obvious merit that it will show very prominently, both to ourselves and to the general public, what is the true position, which is at present concealed by the rate at which sterling securities are converted into rupees; and will bring home to all of us the necessity for doing all we can, as I emphasised in my

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speech on March 1st, to make up the deficiency at the earliest possible time, and, until this has been done, not to divert all our gains by exchange to other purposes. It is quite impossible to say at present what the actual deficiency will amount to on a 2s. basis, but so far as we can see, this 120 crore limit will give us sufficient powers in the matter.

"As I have said before, we are fully conscious that this must be regarded as a temporary measure which we should not think of justifying if it were a piece of permanent legislation. By September the position will have cleared up in one way or another, and then both the Council and ourselves will be in a much better position to examine the whole merits of the policy which should be permanently adopted as regards the Paper Currency Reserve."

3-13 P.M.

The Hon'ble Sir Fazulbhoj Currimbhoj :—"Sir, I rise to oppose the principle of the Bill. This Bill is a corollary to the currency policy adopted by the Government of India in regard to reverse bills in conformity with the wishes of the Secretary of State. The feeling in Bombay regarding the currency policy of the Government is very acute, and they have arranged to hold a meeting on the 20th instant with a view to condemn the policy of the Government. With your permission, Sir, I will read a telegram which I received this morning from the Indian Merchants' Chamber and Bureau, which will clearly show the feeling which is in Bombay in regard to this question.

"The committee of the Indian Merchants' Chamber and Bureau beg to reiterate their request to stop sales of reverse bills which in their opinion are driving Government to take steps more and more harmful to the finances and interests of the country. The Bill to amend the Paper Currency Act, 1919, appears to them as the inevitable sequence of a misconceived policy. It is, in their opinion, a device to conceal from the public the loss to Indian finance arising from the sale of reverse bills. Full provisions of the Bill are unknown here, but from Statement of Objects and Reasons published it is obscure, particularly on the amount of security reserved against notes previously supported by English Treasury Bills. Committee strongly urge that the Bill be dropped or at least first submitted for commercial opinion. Further, Committee protests against the Government silence on so many representations made by them on the subject of currency and exchange. Country is being driven into a more impossible situation every day, and in deference to the commercial opinion will not help to save it . . . from Jehangir Bomanji Petit, Chairman."

"Sir, many a time in this Council during this Session I have expressed the opinion of the Commercial community in regard to the policy adopted by the Government of India in regard to these reverse bills and the free importation of gold. Therefore, I do not wish to take up the time of this Council and repeat those sentiments over and over again. Sir, I will only appeal to the Government of India to draw their attention to the tension which has been brought about in the commercial community by this policy which they have adopted, and I hope that they will reconsider the position. With these few words, I oppose this Bill on its principle, although I know it will cause a stringency in the money market if the Currency notes are removed; but I cannot help it. I have, therefore, to oppose it."

3-15 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—"Sir, it is with deep regret that I notice that the Hon'ble Mr. Hailey has been obliged to bring forward a Bill of this description before a legislative assembly. Our thanks are, however, due to him, for his courage in asking a legislative assembly to approve of the introduction of a measure of this description instead of getting an ordinance passed when the Council is not sitting. If I speak strongly it is because I hope that the Council will rise with one voice and refuse leave to save the Government of India from itself. Sir, there is no emergency. There is a complete departure from the principles which ought

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to guide the Government in their currency policy when they put forward the measures they ask us to adopt this morning. The powers, though granted for six months only, are likely to be highly detrimental to the financial position of India. The Government might wipe out all the balances we have in England, both in the Gold Standard Reserve and in the Paper Currency Reserve, if the policy upon which they have already started should continue during these six months. Viewed from no standpoint can this measure be justified. I shall, in order to justify such strong statements, proceed to a little detail in discussing the principles of the Bill as to what the position would be. At the present moment, *i.e.*, on the 10th March you have 182 crores in notes; 84 millions in gold and silver coin or bullion, and 98 millions and odd in Government of India securities and British Treasury Bills. The Currency Committee recommended that as a temporary measure the power which the Government of India now have to invest 120 crores in securities might be continued; but they say that only 20 crores should be in Government of India securities and the rest in securities of the rest of the British Empire. I shall state my points before I read these statements. Now, what may be the result if this Bill be passed into law? You might sell the £54 millions of treasury bills we have at Home, amounting technically to 82 crores, which we purchased for 82 crores it would be more accurate to say, we might sell the whole of them; we might send 20 crores of gold bullion from India and we shall have against the Rs 182 crores notes possibly 82 crores in coin and bullion, silver and gold, and 120 crores Government of India securities. One principle as to why all past legislatures have condemned Government's investing the reserves in their own securities is that they are really no securities on which you can fall back, and that they would be worth nothing if sales are compelled or forced when there is a currency crisis; you cannot meet a currency crisis by sale of your own bills, of your own securities. With the tendency to live on your own treasury bills encouraged, the temptation would be irresistible and hence economists and legislators have emphatically condemned the practice of holding large reserves in your own treasury bills or in your own securities, and that is the reason why the Currency Committee have emphatically denied the power and recommended that the securities of the Government of India should be held only to the extent of 20 crores and the rest of other countries within the British Empire.

"Let us proceed. We find now that there are applications for Reverse Councils to the extent of 117 millions. 104 immediate, 12 deferred and 2 millions have been allotted; suppose during the course of these 6 months you were obliged to sell Reverse Councils to the extent of the apparent demand you may have to sell the 54 millions of British Treasury Bills and 37 millions in the Gold Standard Reserve. You will wipe out the whole of the balances in England. There is nothing to prevent Government from doing so if accommodation is to be given to those who wish to transmit money to the extent of 117 millions at the high rate of exchange now prevailing. What would be the loss? You bought these securities in England at the rate of Rs. 15 to the pound, and you will get by the forced sale a rate of 2 shillings 7 pence, the current American cross rate, *i.e.*, nearly a half, the 37 millions pounds in the Gold Standard Reserve and the 54 millions in the Paper Currency would really be worth only 45 according to the old standard. Of course the loss would not be so great if you bring down the exchange to 2 shillings. But whatever it be, the loss would be ruinous and Government ought to pause in connection with this matter lest they should wipe out all they built up in the way of Gold Standard Reserves, and more than half of the Paper Currency Reserves. Reading through the literature of the past one would notice that it was the Gold Standard Reserve that was considered to be the first line of defence. I can understand why it is that the Government cannot or does not utilise it. We find, turning to page 36 of the Gold Standard Reserve that the funds have been locked up in securities which may not be redeemable for some time except to a small extent. There were treasury bills of 8 millions maturing between December 1919 and March 1920; exchequer bonds redeemable between February 1920 to October 1921 to the

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extent of 16 millions and war bonds redeemable from 1st October 1920 to the extent of 7 millions. And there are various smaller amounts. Thus we cannot quarrel very much with the Government for not falling back on the Gold Standard, if only their course would not directly be in conflict with the essential principles underlying the currency system. From the Chamberlain Commission's Report and from the spirit and letter of their recommendations I gather that they accept 5 millions in the Paper Currency reserves in England to form a second line of defence in a time of crisis. Hon'ble Members will thus see that it was to a very limited extent and as a second line of defence was the Paper Currency reserve to be utilised in support of exchange. What do we now find? We find that the Paper Currency Reserve in England consists of only three crores in the shape of gold bullion. If we adopt the advice given by the Chamberlain Committee, we could not touch more than that. I fear that the 45 crores of gold we have here may be touched. That is the danger to which I have referred; there is a risk of possibly 20 crores of gold being sent out from here. Hon'ble Members will notice that the 45 crores of bullion would at a 2 shillings valuation be only 30 crores; i.e., there would be a loss of over 15 crores. My submission, therefore, is that exchange should be supported only by the gold Standard Reserve in the first instance, and, therefore, whatever may be the loss if you are to be logical and not depart from principle, you can only employ the Gold Standard Reserve for maintaining exchange. There is no reason whatever for selling Reverse Councils now. This question has been discussed and I will not repeat the arguments again. But apart from this question, Currency Reserves should be held sacred and should not be tampered with in the manner proposed whatever may be the difficulties. I respectfully beg to submit that there should be no deviation from correct currency principles. If you say that against the 182 crores of notes there will be 62 crores of bullion, then I submit there is really no object in insisting on currency reserves. We cannot realise the object of the Paper Currency Reserve; when there is a rush on the Paper Currency Reserves and people wish to get silver or gold in exchange for notes the Government must be in a position to meet the demand so that convertibility may be maintained. If there is a rush for a large part of the 182 crores and you have only 70 crores where will you get the balance? You will have to depend on your credit and that is a credit of your own creation. There is a grave risk and I implore the Government to pause before they ask the Council to accept the new principle or no principle. I know that the Government would be extremely reluctant to use the powers that it asks for unless perhaps it is forced to do so, but it is that 'unless' that is a dangerous thing. I think we should be doing wrong if we allow the Government to deviate from the straight and right course. It may be that they did not purchase the twenty million Treasury Bills last time that they have turned round the corner in a very skilful way for the benefit of the country, but may I say that the opinions of these experts and financiers must be taken with a grain of salt, at any rate in these days when no one knows exactly whither one is drifting. When Sir William Meyer introduced his statement and asked for powers, he said that Treasury Bills were as good as gold and every one believed it. That is what every one hopes will be the case in the near future. But unfortunately at the present moment we notice that we will lose by a sale of the British Treasury Bills because there is no metallic backing for them and the American cross rate is against England. That is the reason why we shall lose by getting in our Treasury Bills, the Home Treasury Bills. So what every one believed to be an axiomatic truth to which no exception could be taken has turned out in a very short time to be absolutely incorrect. Therefore we cannot allow the fads of the greatest experts to go too far. An emergency is said to have arisen. What is the emergency? The emergency is that Reverse Councils have to be sold. Well, we went into that question and we found that there was no adverse balance of trade; we found that the Secretary of State had ample funds for himself, and therefore where is the question of any emergency now? The principle underlying section 4 is most dangerous to adopt. The section reads:—'Section 22 of the said

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Act shall be construed as if for the words one hundred and forty millions the words 'twelve hundred millions' were substituted and as if the proviso to that section were omitted.

"At present the Hon'ble Mr. Hailey told us that we are obliged to keep a large quantity of securities in Treasury Bills, and the Currency Committee recommend us to adopt the same policy in future. The Committee says as follows:—

"As regards the composition of the fiduciary portion of the reserve, we recommend that the amount to be held in securities issued by the Government of India should be limited to 20 crores, the figure at present permissible under the temporary legislation now in force, and that the balance should be held in securities of other Governments comprised within the British Empire. Of the amount so held not more than 10 crores should be invested in securities with more than one year's maturity, and any securities so held should be redeemable at a fixed date. The balance of the invested portion of the reserve over and above the 30 crores already provided for should be held in short-dated securities with not more than one year's maturity, issued by Governments within the British Empire, other than the Government of India."

"Then they contemplate that 71 crores would be the bullion in the reserves under their recommendations and 107 would be in securities. We have got three more crores of notes now, and therefore I think we can add these three to the above figures. The Government may say that they already possess the power of investing up to 120 crores. I grant that. I also grant that there is a passage in the report for their benefit, viz., that they may retain for a limited period the existing power to invest up to 20 crores, but the Currency Committee never contemplated the conversion of the fiduciary issue of the rest of the British Empire into Government of India I. O. U. We cannot say that we shall accept one portion of the Committee's recommendations and reject the other portion of the same. I think, Sir, that the Indian Government has been advised in this case throughout to accept only such portions of the Currency Committee's recommendations as commended themselves to the expert advisers of the Secretary of State, because it is impossible for me to believe, although I should not draw a distinction between the Government here and the Government in England, it is impossible for me to believe that the Government of India has its heart in this business. Apart from that, I submit that if we are to stick to the Committee's recommendation about high exchange even at the risk of losing all our export trade, at the risk of prejudicing our industries; if we are to stick this high exchange rate of 2s., let us have all the recommendations of the Committee brought into force immediately as suggested and not in a partial manner absolutely prejudicial to the people of this country. I think, Sir, there is much justification for the alarm that is felt throughout India, specially in Indian circles, that the Government have been very badly advised in their currency policy. The net result of the Government proceeding in this manner would be that six months hence the Hon'ble Mr. Hailey would possibly be obliged to come here and say, 'We have been under superior advice obliged to sell all our securities in the United Kingdom to cover the losses; so let us start with a clean slate.' I hope that contingency won't be forced upon the Hon'ble Mr. Hailey and that we shall not allow the Government to be tempted. I think we will be acting as the true friends of the Government of India in resisting its demand at the present moment. I think there is absolutely no justification for the sale of Reverse Councils on the scale that they are now being sold; if the 117 millions are sold, the whole of our balances would be wiped out and India would be landed in a colossal loss of many crores of rupees; if we allow this Bill to go through we shall be practically sanctioning the principle that we can invest our Paper Currency Reserves in our own securities; and, lastly, we shall also be admitting that such a tremendous contingency has arisen after the war as to compel the Government to depart from all currency precedent and principle. I hope, Sir, that the Council will not accede to this motion."

The Hon'ble Mr. W. E. Crum.—"Sir, I share entirely the objections which the Hon'ble Mr. Hailey, the Hon'ble Mr. Sarma and the Hon'ble

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Sir Fazulbhoj Currimbhoj have to this Bill. I am perfectly certain that none of us would wish to bring this Bill into effect unless it were absolutely necessary, and I feel that if Government have asked us to pass this Bill, it is because they do feel that it is necessary and that they do feel that there is an emergency. The Hon'ble Mr. Sarma has already told us of the recommendations of the Currency Committee with regard to the holding of the Currency Note Reserves, and there is no question about it that the Government of India now propose to go directly against the proposals of that committee. They are placed however with the two alternatives, namely, of entirely stopping the sale of Reverse Councils or of withdrawing currency notes from the market here. Now what would be the effect of either of these two alternatives? The Hon'ble Mr. Sarma said that the balance of trade is really in favour of India. Well, I am not quite sure that it is, and that is really the crux of the whole problem. If the balance of trade were in favour of India, that is to say in favour of India at the present moment, then I personally cannot see how exchange is going down in the way that it is going, and I do think that temporarily (I believe it only to be temporary) the balance of trade has turned against India and therefore in order to preserve some sort of equilibrium of exchange reverse councils must be continued. The other day when I was replying to some remarks of Sir Fazulbhoj Currimbhoj regarding high exchange, I pointed out the difficulties that would occur to the people of India if exchange was to go down very largely. Now I would like to give the Council an instance. The other day, when I was in Calcutta, I was looking into the prices of cloth, that is to say the prices of imported cloth from Manchester. I found that on the basis of a 2s. 6d. exchange Manchester prices for purchasing for shipment, say July-August, were 25 per cent. above the Calcutta prices. Now that means that if exchange goes down and is allowed to go down steadily to 2s. or even lower, as it might do, the people of India will have to pay an enormously increased price for their cloth. We know the trouble that there has been already in this country over the prices of cloth, the complaints that there have been over the prices of everything, even the cloth riots that there have been in places, and I do submit that if we allow exchange to go down too low and too quickly, the position will be very very serious indeed from the point of view of the poorer people of this country. Then as regards the other alternative of withdrawing currency notes from the market here. We are coming now to what ought to be the two busiest months of the year, the latter half of March, April and May. Fortunately, I understand that the balances with the Presidency Banks are increasing instead of going down, which is on the whole, at this time of the year a very hopeful sign, and therefore it may be possible for Government to withdraw currency notes to a much larger extent than they would be able to do in ordinary years at this time of the year. But the effect, if money did again come into demand these busy months, combined with the effect of a withdrawal of notes, might be to create a stringency in the money market in India which would be very serious indeed. Then, Sir, there is a point that I would like to draw the attention of the Council to regarding the possible extent to which these reverse councils are likely to be required. Now Mr. Sarma made rather a point of the fact that 117 millions were applied for last week. Well, I can give him a little personal instance as to how that 117 millions was made up. My firm wanted to remit some money to England. As a matter of fact we wanted to remit £30,000. We applied for half a million of Councils and we were allotted £9,000. Well, I think, that shows that this £117 millions which is being applied for is absolutely beside the point. You can draw no conclusions from it whatever, and personally I believe that if Government go on with this £2 millions a week for a comparatively short time we will see the pendulum swinging the other way and we will see the market settling again somewhere about the price it ought to be at. I certainly do not think that there is the least danger of Government having to continue at the rate of £2 millions a week until this Act ends, which is on the 1st of October 1920. Therefore, for the reasons, that I think that the entire stoppage of reverse councils would be bad for India, that I think equally that the withdrawal of currency notes,

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at the rate of three crores a week might have very serious effects, and thirdly for the reason that I see no alternative, I support Government in this Bill. But I would like to see, if possible, the amount which is to be held in India limited, not to put the whole amount of 120 crores into Indian securities. And we have the assurance of Government that they will use this measure to the very minimum extent, and for that reason, being perfectly satisfied that the Finance Member will use the discretion that he has been given with the utmost possible care, I support the Bill."

The Hon'ble Mr. W. M. Hailey :--"Sir, the proposal which I put 4-16 p.m. before the Council, and which I put forward in a manner which showed that I fully recognised that from the purist, or from the orthodox point of view there were objections to that proposal, has been criticised by the Hon'ble Mr. Sarma and by the Hon'ble Sir Fazulbhoy Currimbhoy. The Hon'ble Sir Fazulbhoy Currimbhoy objected to it because it was simply a part, a necessary part of what he deems to be our objectionable policy of selling reverse councils. We are fully aware of the objections which Sir Fazulbhoy Currimbhoy and his friends have to that policy. At the same time, the Council is well aware of our reasons for continuing the policy; I explained those reasons at some length the other evening; and perhaps it was due to the length of the speech which I inflicted upon the Council, or perhaps it was due to the lateness of the hour at which the debate took place; but I do not remember that, when a division was called for, there was a single supporter of the resolution which called upon us to do away entirely with the sale of reverse councils. And why, Sir? Because I know, and the opponents of that policy know perfectly well, that the objection is not to the principle of the sale of reverse councils at all, but arises from the fact that we are having to carry out our policy under somewhat unusual circumstances and at a somewhat unfortunate time. A year ago we were selling reverse councils; exchange was at 1s. 6d., and we were naturally undertaking a loss in doing so. There was no objection then. It is because the gap between the market price and the gold price is so wide now that the objection has arisen. Now what says Sir Fazulbhoy? Stop reverse councils altogether. If you do so you will not have to face the consequence to which this Bill leads you. Sir, I find it hard to believe that he would really wish, if we had demonstrable proof that the balance of trade was against us, that we should stop them altogether. He might ask us not to base our rate on the American cross rate or not to take so high a figure as 2 shillings gold, but would he actually support to this Council the proposition that in no circumstances should we help remittances home, that we should go entirely against the policy which has been followed for the support of the gold exchange standard for many years of selling reverse councils when it was necessary to support the rupee rate? For that reason, I find it hard to follow the objection of the Hon'ble Sir Fazulbhoy Currimbhoy to the full. I desire again to criticise the statement that he made that the operation we propose in this Bill would only conceal our loss. Why, Sir, if it does anything, it brings it prominently to everybody's notice. I called attention to that aspect of the question in the speech I made to the Council just now. The mere publication of our Statement of Objects and Reasons will bring it before the world; the change in the character of our securities will compel us, when the next Council sits, to re-adjust the matter. So far from concealing our loss it blazons it forth. And on one point at all events I can claim that Sir Fazulbhoy is an advocate on my side. He himself protests strongly against causing any stringency in the money market conditions, and as the Hon'ble Mr. Crum has pointed out, if we have in any circumstances to sell reverse councils—I do not say by the present method or on the present basis, but if we have to sell them at all—then, if we take them against currency, that must cause a stringency in the money market; and it is mainly to prevent that stringency that I have brought the present Bill forward.

"Now, Sir, I should like to meet in as few words as possible, the very thoughtful, the very temperate (if I may be allowed to use that word) and the

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very carefully prepared attack which the Hon'ble Mr. Sarma made on this Bill. To some extent, I welcome what he said. I see that we have in this Council a financial purist who will not abandon his orthodoxy for any temporary requirements of the situation. Well, we ourselves welcome the assistance of such purists. We ourselves have frequently been accused of an undue preference for purism and orthodoxy, and if we can find here so stalwart a champion of that cause we have nothing but a kindly feeling for him.

"Now, Sir, he pinned a great part of his argument to the fact that the Currency Committee advised that we should have only 20 crores of Indian securities in our Reserves, and recommended that we should in no case exceed that amount. I fully admit the force of his argument. I fully admit that if we were to propose to carry out as a permanent measure the steps we are now suggesting, it would be contrary to the report of the Currency Committee. My defence against that argument is that we do not propose this as a permanent policy. I find nothing in the Currency Committee's Report to show that they thought that we should immediately make this transfer in our investments, nor did they suggest how we could possibly do so. They contemplated that we should at all events take some time to work up to our 40 per cent. proportion of metal; that in itself shows that they realised that their standard was an ideal to be worked up to rather than an immediate possibility. We cannot work up to it at present, and the steps I have asked for leave to take are purely transitory, which will eventually, we hope, lead up to that position.

"Then again he said we might arrive at a position when we should have currency reserves here 120 crores of Indian securities, having got rid entirely of the whole of our home securities. I want no better argument, and can present no better argument against that suggestion, than the reply which has been put forward by the Hon'ble Mr. Crum. His answer is, I think, clear and conclusive. It is exceedingly unlikely that we should have to use our powers to that extent. I find it difficult to imagine that we should have against us a balance of trade so intense, so long-continued, that we should have to go on selling 2 million reverse councils a week up to September next.

"His third argument was this, that you have two lines of defence; you have always said that the Gold Standard Reserve was your first line of defence; and your loss should now fall on the Gold Standard Reserve. Take your loss there and do not tamper with your currency reserves. He suggests that the reason why we propose to operate against the Paper Currency Reserve and not against the Gold Standard Reserve is this, that the Gold Standard Reserve is locked up in securities which are difficult to realise. That, Sir, is not the reason at all, at all events that is not the primary reason. The reason why we propose to operate against the Paper Currency Reserve rather than against the Gold Standard Reserve is this. We are dealing with a situation of high exchange and that means that the rupee equivalent of the Paper Currency Reserve sterling securities is much less than they were when purchased. As a matter of policy, therefore, it is our duty to bring back to India that portion of the Paper Currency Reserve first before operating on the Gold Standard Reserve. That is one point. The second point is this that, from a practical point of view, it is desirable to leave the Gold Standard Reserve until the Paper Currency Reserve has been re-transferred, in case—it may be only a possibility—but I say in case the Secretary of State finds it impossible to keep himself in funds by Councils for his heavy home liabilities. He will then be able to use the Gold Standard Reserve and we can credit the Gold Standard Reserve out here. There is a third point, and I think a conclusive one. When you operate against the Paper Currency Reserve you have to operate within the Paper Currency Reserve; when you operate against the Gold Standard Reserve it disappears; it melts and we are under no obligation to replace it; whereas we are under a statutory obligation to replace the Paper Currency Reserve.

"Of course I am very well aware that the whole of Mr. Sarma's argument really rests on his main proposition that this Bill is only a corollary of an evil policy; that Council should not give powers to Government

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which would help them to persist in their evil courses. I have ventured to say a few words on that subject in reply to the Hon'ble Sir Fazulbhoy Currimbhoy; and just as I ventured to quote Mr. Crum's general argument against Sir Fazulbhoy, I venture to quote it also against Mr. Sarma. Mr. Crum amidst our many critics here and elsewhere, has held out a guiding light to one who is tossing on rather troubled waters, and I thank him for the assistance he has rendered us. But while relying on Mr. Crum's general answer to Mr. Sarma, let me in addition correct one impression of the Hon'ble Mr. Sarma's. He says there is no need whatever for our selling reverse councils because the Secretary of State is well in funds. Now, Sir, we have received so much careful criticism from the Hon'ble Mr. Sarma that I desire to put him right on this technical point. The effect of selling reverse councils is to empty the Secretary of State's treasury not to replete it.

"I have answered these objections I am afraid, Sir, at some length. I can only say that in the circumstances I have explained, I must try to persuade the Council that we have no alternative but to persist in what our critics call our evil courses."

The motion was put and the Council divided as follows:—

<i>Ayes 53.</i>	<i>Noes 19.</i>
His Excellency the Commander-in-Chief.	The Hon'ble Sir Gangadhar Chitnavis
The Hon'ble Sir Claude Hill.	" Pandit Madan Mohan Malaviya.
" Sir George Lowndes.	" Mr. S. Sastri.
" Sir George Barnes	" Mr. B. N. Sarma.
" Sir William Vincent.	" Mir Asad Ali, Khan Bahadur.
" Mr. Shafi.	" Mr. V. J. Patel.
" Mr. W. M. Hailey.	" Mr. E. H. Jaffer.
" Sir Arthur Anderson.	" Sir Fazulbhoy Currimbhoy.
" Sir Thomas Holland.	" Rai Sitanath Ray Bahadur.
" Mr. W. E. Crum.	" Maharaja Sir M. C. Nandi.
" Mr. C. F. de la Fosse.	" Raja Sir Rampal Singh.
" Mr. E. M. Cook.	" Nawab Ali Chaudhuri, Khan Bahadur.
" Mr. H. Sharp.	" Chaudhri Mohamed Ismail Khan.
" Mr. H. McPherson	" Sir Umar Hayat Khan.
" Mr. A. H. Ley.	" Sir Zulfiqar Ali Khan.
" Sir William Marris.	" Sardar Sunder Singh.
" Mr. R. A. Mant.	" Mr. K. V. Reddi.
" Major-General Sir Alfred Bingley.	" Mr. G. S. Khaparde.
" Mr. E. Burdon.	" Mr. K. K. Chanda.
" Sir Sydney Crookshank.	
" Surgeon General W. R. Edwards.	
" Mr. H. Mouchieff Smith.	
" Mr. A. P. Muddiman.	
" Mr. U. A. Barron.	
" Mr. N. E. Marjoribanks.	
" Sir Dinshaw Wacha.	
" Mr. K. C. De.	
" Mr. L. F. Morshead.	
" Mr. C. A. Kincaid.	
" Mr. P. J. G. Eipou.	
" Mr. A. B. Nelson.	
" Mr. B. C. Allen.	
" Mr. G. F. S. Christie.	

The motion was therefore agreed to.

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The Hon'ble Mr. W. M. Hailey :—“ Sir, 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 Hon'ble Pandit Madan Mohan Malaviya :—“ Mr. Vice-President,

The Vice-President :—“ I must remind the Hon'ble Member that the motion before the Council is merely for publication, and that he is not entitled to make a speech on any other subject.”

4-30 P.M. 3. **The Hon'ble Pandit Madan Mohan Malaviya** :—“ Mr. Vice-President, you might have saved yourself the trouble of reminding me. I have carefully noted the language. The motion now before the Council, as the Vice-President has been pleased to remind us, is that the Bill, together with the Statement of Objects and Reasons relating thereto be published in the Gazette of India in English. The object of this publication, I take it, is that the commercial world and the public generally should be able to understand the reasons which have led the Government of India to put forward this proposal; and, bearing that in mind and feeling certain that the Government of India do desire that they should have the public with them as much as they can in the matter of legislation of the importance of the one now before us, I should like to make two things clear, in order that we should be able to see how the position exactly stands, and that the public should be able to know what are the reasons for the proposal which will come before the Council next week. The Hon'ble Sir Fazulbhoj Currimbhoj has laid before the Council the telegram which he has received from Mr. J. B. Petit, Chairman of the Indian Merchants' Chamber and Bureau of Bombay. I have received a similar telegram; and they attack the Government of India on the proposal before the Council now on one simple issue. They say they reiterate their request to stop the sale of reverse Bills which in their opinion are driving the Government to take steps more and more harmful to the finance and interests of the country. Now, they say that it is the sale of the reverse Bills which is leading the Government of India to take this step. I am sure the Government of India will desire to make the position clear, so that if the public are not informed of the real circumstances, they should be. With regard to the question of the sale of reverse Councils I would like the Hon'ble Member to mention for my own personal edification—I shall feel grateful to him—and perhaps also for the edification of the country generally if he will make one point clear. In their Report, the Currency Committee state the conditions under which reverse councils are to be sold. I wish to ask if those conditions exist which would justify the sale of reverse Councils. Now, the Hon'ble Mr. Crum has said that if the balance of trade was really against, not in favour of, India, reverse Councils should certainly be sold. The Hon'ble the Finance Member also asked the Hon'ble Sir Fazulbhoj Currimbhoj what the balance of trade was against us. Now, Sir, if the balance of trade is shown to be against us, I think our objection,—if not the entire objection of the country—will disappear, for in this report the Currency Committee gave the whole history of the sale of reverse Councils and they explained the recommendations which they made on the subject of the sale of reverse Councils and, what is more important, they have laid down very clear and definite limitations within which reverse Councils should be sold. In stating the position at the outbreak of the war, with regard to the sale of reverse Councils, they say :—

“ The amount of the Council drafts offered for sale each week was, therefore, fixed not only with reference to the requirements of the India Office, but also with reference to the demands for remittance to India, subject always to the capacity of the Government of India's resources to meet them. The rate obtained for the drafts varied from time to time according to trade demand, but as there was a standing offer to sell Bills without limit of amount at 1s. 4½d. per rupee, the price never exceeded this figure, which corresponded to the theoretical gold export point. The Secretary of State also maintained the practice

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of not selling his Bills below 1s. 3½d. per rupee. If (and I invite the Hon'ble the Finance Member's attention to this) owing to a temporary change in the normal current of trade, there was a tendency for the exchange value of the rupee to fall below this figure

The Hon'ble Mr. E. M. Cook:—"Sir, I rise to a point of order. I 4.45 P.M.
beg to submit that the Hon'ble Member is not speaking to the motion before the Council."

The Vice-President:—"I have been very patient with the Hon'ble Member in hopes that he was coming to the motion; but nothing that has fallen from his lips till now has had any relevance to the question, the sole question, that is before the Council, viz., whether the Bill for the introduction of which leave has been granted, should be published in the Gazette. That is the sole question before the Council, and I must ask the Hon'ble Member to address himself to that, and to that alone."

The Hon'ble Pandit Madan Mohan Malaviya:—"I am sorry, Sir, if I have not made myself clear. I stated that the motion was that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India. The report of the discussion which has taken place in this Council and is taking place will be published along with the Bill in the Gazette of India and the public would be in a position to know what exactly the position is, whether there is justification for introducing the present Bill before us or not. It is in that light that I have addressed these remarks before the Hon'ble the Finance Member, so that he may supplement what I maintain and maintain with very clear firmness, has not been made clear in the discussion so far"

The Vice-President:—"I regret that I must tell the Hon'ble Member that he is out of order. The question is not whether the speeches now made should be published; it is whether the Bill should be published. If the Hon'ble Member cannot speak to the motion, I shall put the question."

The Hon'ble Pandit Madan Mohan Malaviya:—"Well, Sir, the speeches may not be published in the Gazette of India along with the Bill; that is not the motion, and I thank you, Sir, for the correction; but the speeches will be in the papers soon and I hope the public will read them; and if you will kindly allow me to complete, probably you will be satisfied that I am speaking absolutely to order and for the benefit of the Government too. May I proceed?"

The Vice-President:—"I can only ask the Hon'ble Member to address himself to the question as to whether the Bill should be published. That is the sole question, not whether it should be published with a speech by him or by anybody else."

The Hon'ble Pandit Madan Mohan Malaviya:—"I am making it clear, Sir, that the Bill should not be published in the Gazette unless the Hon'ble the Finance Member gives an explanation to-day in this Council which will enable the public to judge of the merits of the Bill. If I can say that on this motion, that is, oppose this motion and state my reasons for it, then I will proceed."

The Hon'ble Mr. W. M. Hailey:—"Sir, I am afraid I must 4.47 P.M.
again rise to a point of order. It is quite impossible for me to offer any further explanations or make any further statements on the subject of this Bill to-day, because although the Hon'ble Pandit perhaps does not appear to desire to keep to the rules of the Council, I have a certain preference for doing so. On this motion, which is one for publication and nothing else, I conceive that I shall be able to make no further statement or observations at all."

1420 INDIAN PAPER CURRENCY (TEMPORARY AMENDMENT)
BILL; INDIAN RED CROSS SOCIETY BILL.

[*The Vice-President; Sir Claude Hill.*] [17TH MARCH, 1930.]

The Vice-President:—"I am afraid I must hold that the Hon'ble Member is out of order. I gave him an opportunity to speak on the previous motion, but he did not choose to address the Council then, and I am not going to allow him another opportunity now."

The motion was put and agreed to.

INDIAN RED CROSS SOCIETY BILL.

4-16 P.M.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move that the Bill to constitute an Indian Red Cross Society be taken into consideration. In doing so, I do not think I need detain the Council very long, for the reason that, although a fortnight has elapsed since the introduction of the Bill, no comments of an unfavourable character and no criticisms whatever have appeared, so far as my observation goes, in the press. On the contrary, certain very favourable remarks have been made and congratulatory comments also have been made on the subject of the establishment of the Indian Red Cross Society. I think, however, that although I need not repeat what I said in introducing the Bill or go in detail into the merits of the measure, I should read for the information of the Council a note which has been made by the Sanitary Commissioner with the Government of India regarding the Red Cross Society's activities. He says:—

'I welcome the announcement that the League of Red Cross Societies intends to include within its activities an active campaign to promote interest in public health.'

'In India interest is dawning and requires stimulation. Societies for health, social welfare, maternity and child welfare, etc., are springing up, and guidance for them is very necessary. Guidance leads to co-ordination. Perhaps the best way of securing this guidance is by means of a central organisation for publicity. I have suggested a central official public health bureau with publicity as its main function, and I hope it will be established. But the Red Cross Society, owing to its association with the League of Red Cross Societies, will be in a position to gain detailed information with regard to practice in other countries, and through its branches in India to disseminate this information widely.'

"I have ventured to trouble the Council with this extract for the reason that I want to emphasise the great importance which the promoters of this Red Cross Bill attach to it, as justifying us in becoming affiliated formally to the League of Red Cross Societies, and I should like only to add this further remark, that we are already being inundated with literature of the most valuable kind from the League of Red Cross Societies, giving us the fullest information possible regarding organisations in other countries for the combating of sickness and for the improvement of hospital welfare; and we are very anxious to get to work at the earliest possible moment in the direction of co-ordinating that work in India. I have had similarly commendatory intimation from various societies in India, including the Peoples Social Service League and others, urging that expedition be exercised to bring the Red Cross Bill into being, and therefore I do not think it is necessary at this stage to do more than move the motion which stands in my name, with the intimation that the few amendments which also stand in my name and which I shall be moving directly, are of a purely formal character."

The motion was put and agreed to.

4-31 P.M.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move that in clause 3 of the Bill to constitute an Indian Red Cross Society after the word 'Society' the words and brackets '(hereinafter called the Managing Body)' be inserted, and that for the words 'Managing Body of the Society' wherever they occur in clauses 4 to 12 the words 'Managing Body' be substituted.

"This is a formal amendment in drafting."

The amendment was put and agreed to.

17TH MARCH, 1920.] [*Sir Claude Hill.*]

The Hon'ble Sir Claude Hill:—"Sir, I beg to move that clause 4 be re-numbered clause 5 and clause 5 be re-numbered clause 4. The reason for this is also a drafting one. I take it that it is important to incorporate your society before you give it power to make rules." 4-52 P.M.

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move—" 4-53 P.M.

'That in clause 5 as re-numbered, for the words from 'The constitution of the Society' to 'previous publication' the following be substituted:—

'The Managing Body shall, within six months from the commencement of this Act and subject to the condition of previous publication, make rules for the management, control and procedure of the Society.'

"This is also a purely drafting amendment."

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move—" 4-54 P.M.

'That in clause 6 (b), for the words 'be held' the words 'shall be applied' be substituted, and the words 'and by it applied' be omitted.'

"The reason for this is that funds will be held and the property of the Society vested in and held by the Society and not the Managing Body."

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move—" 4-55 P.M.

'That in clause 8, for the words from 'there shall be constituted' to 'the society and' the following be substituted:—

'If Branch Committees consisting of Members of the Society are constituted in any of the Provinces, States and other parts of India specified in the Second Schedule then.'

The reason for this, the only substantive amendment, is of course that this legislature is not competent to constitute Societies in the Provinces, States and other parts of India mentioned in the Second Schedule. It is only competent to say what shall happen if such Societies are constituted."

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move—" 4-56 P.M.

'That in clause 11, for the words and figures 'by section 6' the words and figures 'under clause (b) of section 6' and for the word and figure 'section 4' the word and figure 'section 5' be substituted.'

"This amendment is consequential."

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I beg to move—" 4-57 P.M.

'That in clause 12, for the word and figure 'section 4' the word and figure 'section 5' be substituted.'

This is a consequential amendment."

The amendment was put and agreed to.

The Hon'ble Sir Claude Hill:—"Sir, I now move that the Bill, as amended, be passed and, in doing so, I can only express once more the hope that is in me as regards the result to India of this measure. We cannot hope of course that India will at one leap, and immediately after the passing of the Bill, take the same place in the world of Red Cross Societies, as for example America, where we know that 26 per cent. of the population are Members of the Society, where, in other words, over 12 million members are enrolled, but we can hope, and I am perfectly certain,

1422 INDIAN RED CROSS SOCIETY BILL; INDIAN ELECTRICITY
(AMENDMENT) BILL.

[*Sir Claude Hill*; *Sir Umar Hayat Khan*; *Mr.* [17TH MARCH, 1920.]
W. E. Crum; *Rao Bahadur B. N. Sarma*;
Mr. Kamini Kumar Chanda; *Mr. V. J. Patel.*]

that we shall meet with a response from India which will be very surprising and gratifying. Because the Red Cross Society, as constituted, will stand for precisely that kind of ameliorative and philanthropic work for which India has been celebrated; and all of us who are interested in promoting this measure earnestly hope to see that by the organisation of the Red Cross Society there will be set up a machinery which will bring about the improvement of conditions in civil hospitals as well as in military throughout the Indian Empire. That will be exceedingly gratifying to those who have in the past toiled in the field of public welfare of that kind. I shall also, if I may, take this opportunity of thanking the Hon'ble Members of this Council who have assisted me so much in shaping the Bill and particularly Mr. Muddiman, who, in spite of very great stress of work, has very kindly helped in putting the final polish upon the form that this Bill takes. I beg to move that the Bill, as amended, be passed."

1.50 P.M. **The Hon'ble Sir Umar Hayat Khan:**—"On behalf of the soldiers in this country I beg to thank the Government for passing this Bill. It will do an immense amount of good."

6 P.M. **The Hon'ble Mr. W. E. Crum:**—"Sir, I beg to congratulate the Hon'ble Sir Claude Hill very heartily on the passing of this Bill. As far as Bengal is concerned, we are entirely in favour of the Bill and we are supporting it by every means in our power. We hope very shortly to create a Branch of the Red Cross Society in Bengal; a draft Bill has been prepared to deal with the question. I am greatly indebted to the Hon'ble Sir Claude Hill for the help he has given me over that Bill, and I should like to thank him for that also. I hope very shortly that Bengal will have a Branch of the Red Cross Society in their province."

6.1 P.M. **The Hon'ble Rao Bahadur B. N. Sarma:**—"Sir, Young India is throbbing with a desire to start social service work in an earnest spirit. The Hon'ble Sir Claude Hill has enabled Young India to participate in a movement of a world-wide character which would draw Young Indians into sympathetic touch with the rest of the world. The Hon'ble Member has been known for the practical interest he has evinced in advancing the cause of Indian reform and for the sympathetic interest he has shown during anxious times in promoting Indian aspirations.

"We are extremely sorry to lose him, and we may be permitted to congratulate him that he, not as an official member but in his private capacity, has been able to help India by bringing this Bill on the Statute-book."

5.2 P.M. **The Hon'ble Mr. Kamini Kumar Chanda:**—"Sir, speaking on behalf of my province I wish to congratulate the Hon'ble Sir Claude Hill on the measure he has introduced."

6.3 P.M. **The Hon'ble Sir Claude Hill:**—"Sir, I wish once more to tender my sincere thanks to this Council for the support they have accorded to this measure."

The motion was put and agreed to.

The Council then adjourned till 6.30 P.M.

INDIAN ELECTRICITY (AMENDMENT) BILL.

6.30 P.M. **The Hon'ble Mr. V. J. Patel:**—"Sir, I beg to move that the Bill further to amend the Indian Electricity Act, 1910, be taken into consideration. Sir, the Electricity Act in England provides that no license for the supply of

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[Mr. V. J. Patel.]

electricity can be given to any person or company or shareholders within the limits of any local body without the consent of that body. That being so, local bodies in England could make their own terms with a person or a company desiring to have a license for the supply of electricity within their areas. In India under the old Electricity Act, III of 1903, there was an obligation imposed on the local Government to consult every local authority as a preliminary measure on the merits of an application from any person for a license. That clause was altered by the Act of 1910, and as a result of such alteration the local bodies in India are placed on the same footing as the public in respect of any objections to be raised on the application for a license. Now the object of my Bill is firstly to restore the old law which existed till 1910, namely, that when an application for a license is made to the local Government by any person or company of shareholders for the supply of electricity within any municipal or local board area, the local Government should be bound to consult the body concerned. The first part of my Bill reads thus :—

'Before granting a license under this part, the Local Government shall consult every local authority concerned, and where such local authority advances any objection to the grant of a license, the Local Government shall take such objection into consideration, and, if in its opinion it is insufficient, it shall record in writing and communicate to such authority its reasons for such opinion'.

"Now these words are taken bodily from Act III of 1903. I want the old Act which existed in 1903 to be restored in this respect so that the local bodies in India may have the opportunity of approaching the Local Government with any objection they have to raise against the grant of a license at the earliest possible opportunity.

"The second object of my Bill is to secure to the local authority preference in respect of a license wherever its objection to the grant of a license to an outside person or company of shareholders is based on its own claim for such license. That is to say where there are two rival claimants, one the local body and the other a company of shareholders, the local bodies should have the preference, unless, of course, as I stated in the proviso to the Bill, there exist special circumstances which in the opinion of the local Government render such preference inexpedient. Sir, this Bill was introduced in February 1919. It is more than a year now and the opinions of the people concerned, as well as those of the Local Governments, have been received, and I am glad to say that most of the Local Governments consulted support the Bill so far as the first portion of the amending Bill is concerned.

"With regard to the second part also, the majority of Local Governments is, I venture to say, in favour of it. I will first invite the attention of the Council in a very few words to some of these opinions. The Bihar and Orissa Government says :—

'In reply, I am to say that the Lieutenant-Governor in Council does not see any objection to the substitution of the amending clause and its proviso for the existing clause (b) of subsection (2) of section 3 of the Indian Electricity Act, 1910, as it merely provides that where an application supported by the Local Authority is put aside for another application special circumstances must be shown which render the choice necessary or expedient.'

"The Chief Commissioner of Ajmer-Merwara says :—

'If a Local Government is obliged to consult every local authority concerned the obstruction and delay for which opportunity will thus be afforded will inevitably tend to drive the firm applying for the license out of the market'.

"So apparently the Chief Commissioner is against the Bill. Now I come to the Punjab. The Government of the Punjab says :—

'So far as the provisions of the draft clause other than those contained in the proviso are concerned, the Lieutenant-Governor sees no objection to legislation on the lines proposed; but the principle underlying the draft proviso, viz., that a local authority has the first claim to a license, is one which (as pointed out by the Financial Commissioners) is subject to such large qualifications that the attempt made by this proviso to ensure its acceptance seems to His Honour to be of doubtful value.'

The Commissioner of Delhi is against this Bill. And the Government of Assam says:—

'I am directed to acknowledge the receipt of your letter No. 585, dated the 28th February, 1919, regarding a Bill further to amend the Indian Electricity Act, 1910, and to say that the officers and municipal bodies who were consulted and who have expressed any opinion on the Bill consider it unobjectionable, with the exception of one dissentient who is not in favour of preference being given to a Local Authority if it claims a license. The Chief Commissioner agrees with the opinion of the majority.'

"Then, Sir, the Local Administration of Baluchistan expresses no opinion. The Central Provinces Government is against it, while the Chief Commissioner of the North-West Frontier Province and the Chief Commissioner of Coorg are in favour of the Bill. The Chief Commissioner of Coorg says:—

'With reference to your letter No. 585, dated the 28th February, 1919, regarding the Bill further to amend the Indian Electricity Act, 1910 (IX of 1910), I am directed to state that the Chief Commissioner sees no objection to the proposed amendment.'

"And the Chief Commissioner of the North-West Frontier Province says:—

'After consulting the Departments concerned, there appears to be no objection to the proposed amendment.'

"Then, Sir, I come to the Government of Bengal. The Government of Bengal says that the first part of the Bill is harmless though unnecessary, but the proviso therein is an unnecessary interference with the discretion of local Governments, while the United Provinces Government says:—

'With reference to your letter * * * I am directed to say that, after consulting the Hon'ble the Judges of the High Court and other officers, this Government has no objection to urge against the proposed amendment of the Indian Electricity Act, 1910.'

"The Government of Burma says:—

'The Hon'ble the Judges of the Chief Court have made no comments upon the Bill, while many others consulted see no objection to the proposed amendment * * * * In all such cases the Local Government would naturally be disposed to grant the requisite license to the local body and thus give them the advantage of the profits on the undertaking. On the balance of these arguments, therefore, the Lieutenant-Governor would prefer to see the proviso omitted.'

"Then, Sir, I come to Bombay and this is a very important opinion. The Bombay Government say:—

'With reference to the Bombay Government Public Works Department telegram * * * * I am directed to state that the Governor in Council supports the Bill subject to the proviso that a condition may be embodied therein to ensure (1) that the local authority shall submit within a period of two months the objections, if any, it has to advance and (2) that if the objection is based on a rival claim for such a license, the rival claim shall be submitted within a further period of four months.'

"Now this comment is made by the Government of Bombay for the express purpose of providing against delay. It may be that the local body may not apply for months and months and the interests of ratepayers would thereby suffer. Therefore, the Bombay Government suggests that the Bill should be accepted, but that there should be a provision in the Bill that the rival claim shall be submitted within a period of four months by the local authority. When I read this opinion I thought I should incorporate the suggestion in the Bill. I also thought it would be much better if the Bill went to the Select Committee so that the matter might be considered there and the suggested proviso might be included in the Bill. I saw the Secretary of the Legislative Department who directed me to the Hon'ble Sir Claude Hill. I had two interviews with the Hon'ble Sir Claude Hill on the subject; I saw at his instance his Secretary, Sir Sydney Crookshank and the Deputy Secretary several times, with the result that some amendment on the lines suggested by the Bombay Government was agreed upon, and it was arranged that the Hon'ble Sir Claude Hill would move that amendment on behalf of the Government and I promised to accept it. Of course he added that the papers would have to be sent to the Electrical Engineer to Government, and that would take some time, but it was distinctly understood that I should not move for reference to Select Committee, but should straight off make a motion for the consideration of the Bill.

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Therefore, instead of giving notice of a motion for reference to a Select Committee, I gave notice of this motion that the Bill be taken into consideration, so that the Government might propose an amendment as arranged and I would accept it. However, it appears now that the Government have reconsidered their position and I do not know what they are going to do really. I say this in order to explain how and why instead of moving for a reference to a Select Committee I move that the Bill be taken into consideration.

"Now, to analyse the opinions. I find that six Governments are in favour of the Bill entirely, i.e., the North-West Frontier Province, Oorg, Bihar, Assam, the United Provinces and Bombay, while three Provinces support the first part of the Bill only, namely, Bengal, which says that it is harmless though unnecessary, Burma, and Madras. So there are 9 out of 12 local Governments who support the first part. While six support the whole Bill as it is, though Bombay suggests a slight amendment in the second part; there are only three local Governments who say that they do not want the Bill at all, namely, the Central Provinces, Ajmer-Merwara, and Delhi. That is the position with regard to the opinions of Local Governments. It is quite clear that the majority is in favour of the whole Bill.

"I do not think it is necessary to trouble the Council with any further arguments. I have hardly ever come across a non-official Bill so strongly supported by Local Governments, and I trust the Council will accept this motion. The reason which induced me to bring this amending Bill is that when we are talking about greater liberty and greater freedom to local bodies and when the Government of India themselves have inaugurated a policy in that behalf by its Resolution, I thought all impediments which come in the way of the progress and development of these bodies should be removed. I have had something to do with a local body who has applied for a license for the supply of electricity, and I know that a company of shareholders has put in a rival claim. I know from experience how difficult it is for local bodies to compete with powerful companies.

"With these few words, I trust the Council will accept this motion."

On the Hon'ble Sir Thomas Holland rising to address the Council . . .

The Hon'ble Mr. V. J. Patel:—"Sir, I rise to a point of order. There is the amendment for a reference to Select Committee which must follow the original motion. That is the usual practice."

The Vice-President:—"I understand that Sir Thomas Holland objects to the Bill being taken into consideration."

The Hon'ble Sir Thomas Holland:—"That is so, Sir."

The Vice-President:—"His objection comes first logically; ordinarily there is no objection to that."

The Hon'ble Sir Thomas Holland:—"My first appearance in this Council was for the purpose of accepting, on behalf of Government, a Bill introduced by my Hon'ble friend, Mr. Patel; and if he had stuck to the path of progress and reform, I should probably still be following him, even if sometimes, like another timid and hesitating disciple, I 'followed afar off.' But when he wants to set the clock back by seven years, my radical instincts begin to rebel.

"Mr. Patel proposes, as he explained clearly in his opening speech, to reenact *verbatim* a sub-section of the old Electricity Act which the first reformed Council, just ten years ago, rejected and replaced because it gave rise to unnecessary delay in the grant of licenses.

[*Sir Thomas Holland.*] [17TH MARCH, 1920.]

"Delay may be a necessary evil sometimes, but it should not be accepted as a sufficient and only object in administration.

"The present system in existence under the Bill of 1910 seems to give the local authorities ample opportunity of intervening, in the interests of the rate-payers, when a license to supply electrical energy has been applied for and published in the usual way. If this be so, there appears to be no reason for making a double reference to every local authority that might be affected, as was required by the Act of 1903. The local authority, that is so careless or unconscious of its responsibilities as to fail to act on publication of the license, is not likely to intervene with an objection of any considerable value, nor is it likely to be efficient enough to undertake the organisation of electrical supply on its own account. It was partly to prevent this unnecessary delay that this section in the Act of 1903 was revised, as was explained in the Statement of Objects and Reasons appended to the Bill, which afterwards became the Electricity Act of 1910. If experience at that time showed that the alteration was required for this purpose, there is surely no reason for reviving the discarded procedure of the old Act.

"So far as the suggested clause goes there appears to the Government of India to be no necessity to undertake a special revision of the Act of 1910, but, of course, the Council will have an opportunity of discussing this question again when the Act comes up shortly for general revision in other respects. The best that can be said for the clause, therefore, is that it is useless; and experience in the working of the clause before 1910 showed that it was an unnecessary cause of delay and, consequently, was an objectionable drag on the form of enterprise required to enable our municipalities to organise municipal amenities on up-to-date lines.

"As for the proviso, it appears to the Government of India to be open to objection for quite other reasons than those that apply to the clause, and those objections have been pointed out by various Local Governments, including that of the Punjab which would not mind tolerating otherwise the clause itself. Last year, in dealing with this Bill, Sir Claude Hill pointed out that the suggested proviso might have a deterrent effect upon capital. The opinions collected confirm this fear.

"The survey of the conditions necessary for a firm or company to draw up conditions for electric supply require the expenditure of both time and money. If after going to the expense of testing promising propositions of the sort their claims are to be 'jumped' by the local authorities, it is obvious that private enterprise, undertaken with a view of discovering practicable schemes, will soon come to an end. With this proviso before them no local authority need do more than sit tight and wait on private enterprise; they will thus get worked out for them *gratis* a scheme of a difficult and technical nature. But, naturally, private firms will refuse to move if their efforts are to be superseded by a local authority that has hitherto shown only ineptitude. We should, thus, create a vicious circle: each would merely wait for the other; the Bill would lead to stagnation, each party would be waiting on the other, and the result of this stagnation could be that nobody would benefit but the oil companies that now serve the primitive form of lighting adopted by most municipalities in India.

"As a company or firm would naturally not apply for a license without being fairly certain of profit—that is what they work for—the local authority with the help of this Bill would apparently be in a financially safe position in ousting the company and exercising its right of prior claim. It is an absolutely simple plan, guaranteed to get an electric company sitting every time: it is so delightfully, childishly simple that I do not understand why no one thought of it before. Nothing could possibly be easier to the sporting local authority than the first bag; but, alas! there will be no game available for a second.

"Under the Bill neither the firm nor the local authority would move. Why should they? But under present circumstances there is an incentive for competition and enterprise. Why destroy a good thing?

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"There is another aspect of the question which it is important to consider, and that is the production of electricity for industrial purposes. Electric-light in most advanced industrial countries is now simply a bye-product and a very troublesome one at that, as the lighting load is expensive to meet and unproductive in revenue. By combining the wants of the industrial community with those of a municipality requiring mainly lights and fans it is possible to make effective use of those technical companies that are experts in electric supply. Ordinarily one cannot expect a municipality to risk the capital outlay necessary to meet more than the direct municipal wants, and any measure that inhibits private enterprise of a healthy kind, strictly controlled and limited in the public interests, is retrogressive, not progressive.

"It is important to remember that with the greatly-increased radius to which electric power can now be carried economically, the day of the small installation is finished. We have started a hydro-electric survey of India, and the results indicate the great industrial developments that are likely to follow, unless every scheme is to be blocked by any of the many local authorities exercising their prior claim to establish small, and therefore uneconomical, installations.

"Mr. Patel referred to the English Act in support of his Bill. It is quite true that the old Act of 1903 practically embodied the English Act of 1882 as amended again in 1888. But I do not think Mr. Patel is quite right in saying that the Local Authority under the English Act have absolute veto.

"The first section of the amended Act runs as follows:—

"1. Notwithstanding anything in the Electric-lighting Act, 1882, no provisional order authorising the supply of electricity by any undertakers within the district of any local authority shall be granted by the Board of Trade except with the consent of such local authority, unless the Board of Trade, in any case in which the consent of such local authority is refused, are of opinion that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case they shall make a special report, stating the grounds upon which they have dispensed with such consent * * * *"

"Now it seems to be generally admitted at Home that the English Act is quite out of date and unworkable. The weakness of the Act was discovered during the industrial development before the war and became painfully manifest during the war. The recent development in England of electric supply schemes, covering wide areas especially, has shown the faultiness of the old English Act from the industrial standpoint. It was, as its title says, an "Electric-lighting Act," not an Electric Power or Supply Act, it was not designed to deal with the general production and supply of electricity for other uses. I understand a Committee is now at work at Home to discover the errors and shortcomings of this Act with a view of introducing reform.

"Then Mr. Patel referred to the opinions of Local Governments. He has, I think, summarised these opinions with accuracy, but an analysis of those replies suggests a slightly different interpretation.

"It will be seen from these replies that the Governments of the North-West Frontier Province, Coorg, Assam, Punjab, Bihar and Orissa, and the United Provinces offer no objection to the Bill.

"On the other hand, there are three Local Governments that distinctly object both to the clause and to the proviso.

"Now, it is obvious, therefore, that there is a distinct, but not a very great numerical, majority of Local Governments who have taken up the attitude of 'no objection;' but, as has been stated so frequently in this Council, and recently by Sir William Vincent, it is not advisable or fair to count provincial heads in this simple way. Among the Provinces that have objected to the Bill one might rule out Ajmer-Merwara as having had no appropriate experience of the Electricity Act. Equally, from those on the other side who have no objection to the Bill, I think we might rule out the North-West Frontier Province, Coorg and possibly Assam. By this method of pruning, we should reduce the voting to about equal on either side, and the decision based on the method of counting heads thus becomes a 'wash-out.'

[*Sir Thomas Holland ; Mr. W. E. Crum.*] [17TH MARCH, 1920.]

“Generally speaking, those Provinces that offer no objection to the Bill give no reasons for their attitude, although the Bihar and Orissa Government referred to by Mr. Patel give a reason that seems to show that they did not realise the draft of the Bill at all. They seemed to imagine that the contemplated rivalry would be between two separate companies and not between a company and the local authority.

“But is it fair to assume that those Governments that have merely offered no objection have considered the merits of the Bill as seriously and thoroughly as those that have given reasoned statements for their objections? Mr. Patel might object to this way of discriminating between those who oppose his Bill and those who support it by the simple formula of no objection. If we are to assume that negative evidence in this respect is of the same weight as positive evidence, it would not be difficult to show, by a different but closely related set of facts, that all the Local Governments are really against Mr. Patel's Bill. As the result of experience obtained during the working of the Act of 1910 the Government of India had been considering the revision of that Act in several particulars. They, accordingly, in August last invited the opinions of the Local Governments with regard to the proposed modifications; they also invited suggestions for any further additions or alterations to the Act. The opinions of all Local Governments, except the United Provinces and Madras, have now been received, and not one of them proposes a revision of Section 3(2) (a) (i). On negative evidence alone, therefore, we should be justified in assuming that all Local Governments approve of this sub-clause in the 1910 Act, and have no desire to follow Mr. Patel in reinstating the provisions of 1903. Evidently, Mr. Patel would not be wise to call the Local Governments as witnesses in favour of his Bill; nearly half of them object to the Bill altogether; some of them do not object to the clause, but would leave out the proviso; and others, like the Roman deputy Gallo, ‘cared for none of these things’ at all.

“Now Mr. Patel referred in his opening speech to the incident of the Bandra Municipality, which he also described last year, where a firm had applied for a license to supply the Municipality of Bandra with electricity, whilst the Bandra Municipality had applied also for a license from the Local Government. He has not told us the result of that application. With becoming delicacy he said last year that he did not desire to prejudice the case of either party by any remarks in this Council, but wished to say that it is very difficult for a local authority to fight its battle against powerful interests. That battle has now been fought, if there has been a battle; for, on the 6th of this month the Bombay Government published in their Gazette a notification granting to the Municipality of Bandra a license for the supply of electrical energy within its own municipal district. The very instance raised by Mr. Patel as an object of alarm has thus served to demonstrate that the present Act, without any revision, permits the Local Government to favour the claim of the local authority when they consider the circumstances sufficient to warrant the supersession of an independent firm. This is the real point: does the present Act enable a local Government to give the preference to a local authority which is as up-to-date and as efficient as that of Mr. Patel's own Municipality of Bandra? Apparently it does do so, and consequently both the clause and the proviso are quite unnecessary. I hope, therefore, Mr. Patel will for once agree with the Government and withdraw his Bill.

“I find myself frequently in sympathy with Mr. Patel's views. I admire the way in which he tickles the soft spots of the Government, and I am sure he will agree with me privately, if not in public speech, that as Bandra has now secured its license, his real mission in the Imperial Council has been forestalled, and there is now no longer any necessity for this Bill.”

7-6 P.M. **The Hon'ble Mr. W. E. Crum** :—“Sir, I must say that I expected to hear from Mr. Patel more cogent arguments in favour of his amendment. He has given us the views of the various Local Governments, and given them very fairly. But it seems to me, as Sir Thomas Holland pointed out,

[17TH MARCH, 1920.]

[Mr. W. E. Crum; Mr. G. S. Khaparde.]

that the Local Governments in many cases knew very little about the subject. Now, Sir, as regards the first part of the clause, as Sir Thomas Holland has already said, there seems to be really no objection to it at all. It is quite a harmless clause; but the point is that the requirements of it are already covered under the present Act. It is a very remarkable thing that the Legal Remembrancer in Bengal, the Advocate-General in Bombay and the Advocate-General in Madras have all given it as their opinion that section 3 (2) (a) (i) covers entirely the case of municipalities and their possible objections to companies coming in and tendering for electric supply. But, apart altogether from the first part of the amendment, there are, as Sir Thomas Holland pointed out, serious objections to the proviso; and one of the most serious objections is, that Mr. Patel proposes to follow the British Act which has certainly in the last few years been condemned as a most inefficient Act. In this connection, I think, it may interest members of Council to know the opinion of probably the most important body connected with the production of electricity in Great Britain. I refer to the Institution of Electrical Engineers. Last June this body wrote to Sir A. Stanley, President of the Board of Trade, and they submitted the minutes of a meeting which had been held shortly before, and at which all the important electrical associations of Great Britain were represented, and this is the way in which they characterised the British Act, an Act which does give considerable power of veto to the local authorities. They said—

‘The restrictive conditions embodied in the Electric-lighting Acts, the Tramway Act, the Light Railway Act, and the various Acts relating to electric supply have had a most detrimental effect on electrical progress in Great Britain. This legislation has led to the multiplication of small, arbitrary and uneconomical areas of electric supply and systems of electric traction. It has discouraged the investment of capital in electrical undertakings by imposing limited tenure with unattractive terms of expropriation and various other onerous conditions. It has placed obstacles in the way of grouping undertakings into comprehensive systems of supply and transport. It has generally prevented British electrical engineers and manufacturers from realising in their own country the highest achievements of which their technical skill and productive capacity were capable.’

Therefore, Sir, I think that that is a sufficient answer when Mr. Patel quotes the English Act in support of his amendment. I understand that a Committee is now sitting in the United Kingdom to consider the whole revision of the British Electricity Acts. As Sir Thomas Holland has pointed out it is unfair to tenderers to leave them to make an expensive survey, to go to the expense of examining the conditions in any particular town or municipality, and then allow the municipalities to crib all their work. I think that on that ground alone the Bill is most objectionable. And lastly, Sir, there is perhaps what is the most important point of all that the whole of the Electricity Act is going to be revised in the near future. There is a committee which has sat or is about to sit and report on the subject and therefore I would second Sir Thomas Holland in urging Mr. Patel to withdraw his Bill, seeing that the whole law will be considered when the new Bill comes up for examination.”

The Hon'ble Mr. G. S. Khaparde:—“Sir, I should like to make just a few observations. I wish to remark on the statement made by Sir Thomas Holland that capital would be scared away if the local authorities had control. I am rather persuaded to the contrary and think if there is to be local self-government, it would naturally be supreme or at least not left unconsulted in the area under its control, and that capital would not be scared away, the only difference would be that the procedure would be altered and capitalists when they wished to introduce electricity would go to the local authorities first and having talked with them would prepare their application and submit it to the Local Government. It would then be easy and plain sailing. In this matter we want to make it clear that local self-government will have their say in the matter and that the Local Government will act always in consultation with local self-government. That is the point for consideration. Another objection was that in England this Act has been condemned. I quite agree that the electricity engineers or capitalists who want large concerns have condemned it, but it has yet to run the gauntlet of parliamentary debate. It is too early to say that this Act in England has fallen

7-11 P.M.

[*Mr. G. S. Khaparde; Mr. Kamini Kumar Chanda; Sir Claude Hill; Rao Bahadur B. N. Sarma.*] [17TH MARCH, 1920.]

into disrepute. It may be that feeling is rising, it may be that engineers prefer large works, it may be that capitalists want to monopolize the whole of electricity, but I believe that as long as the matter has not been debated in Parliament, it is too early to say that the Act has been condemned. I wish to support the motion that this Bill be taken into consideration and do so accordingly."

7-15 P.M.

The Hon'ble Mr. Kamini Kumar Chanda:—"Sir, I have only one word to say with reference to what fell from Sir Thomas Holland to the effect that we have no experience in Assam in regard to electricity. That is not so. We have electricity in Tezpur for some years. We have also it in tea gardens. We have small installations in my town and proposed to have a Municipal installation and the war has delayed it. As regards the motion before the Council there seems no reason why local bodies should not be consulted. The ground of objection taken is that it may cause delay. I submit that as the Bombay Government says that if a time limit is fixed for the opinion of the local body, there should be no delay. There should therefore be no objection on this account. There is one objection that I came across a few days ago which is original. I think the Council should have the benefit of it. Lieutenant-Colonel Beadon in his opinion printed in the papers says that it will benefit no one but lawyers. I would be grateful to him if he pointed out how the lawyers would be benefited as I would like to learn the art. I support the motion put forward by Mr. Patel."

7-18 P.M.

The Hon'ble Sir Claude Hill:—"Sir, for two reasons my sympathy goes out very largely to Mr. Patel. In the first place, he has after considerable labour endeavoured to bring forward a Bill which he believed, and which he was justified in believing, would be beneficial, inasmuch as he took for his model the law as it exists in England. He was entitled to believe that it would be an improvement on the existing Electricity Act. My sympathy goes out to him because it was completely demonstrated this afternoon that in following the English precedent he was not following the better but the worse. The second reason why my sympathy goes to my friend Mr. Patel is, that he is justified in complaining of some confusion last year as I was Member in charge of the Public Works Department he was referred to me and we discussed the Bill. Then when it comes to Council he is suddenly confronted with a change of venue. In accordance with this change my friend Sir Thomas Holland will be in charge of the Bill and the understanding which was hinted at by Mr. Patel and which he hoped would be arrived at in regard to this Bill does not find fruition. Sir, that is not my fault, nor if I may say so is it the fault of Sir Thomas Holland's nor my friend Mr. Patel's fault, but it is a misfortune inherent in the conditions. I expressed to Mr. Patel that we were anxious not to throw out a Bill over which he had expended considerable trouble. The misfortune is as I say inherent in the conditions. The Government must in such a matter consult the Electrical Adviser to the Government of India, and after such consultation the arguments which have been explained to the Council by Sir Thomas Holland prevailed. It was found to be clearly inadvisable to proceed with a measure which Sir Thomas Holland has explained is in essence of a retrograde character."

7-20 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"Sir, I can quite understand and appreciate the Hon'ble Mr. Patel's impatience and his position with regard to the Bill for increasing the electrical supply and for industrial purposes."

"But it seems to me that there is a vital principle involved which differentiates the point of view from which the question is being looked at by him and by some of us Indians. The question is as to whether the nationalisation of the electrical resources of India in so far as they can be utilised by large industrial undertakings, is to be undertaken on behalf of the Government and all the

[17TH MARCH, 1920.] [Rao Bahadur B. N. Sarma; Mr. V. J. Patel;
The Vice-President.]

Local Boards pooling their resources together, so that the advantages and the profits may go to assist the local bodies in undertaking other improvements within the sphere of their jurisdiction, or are we to promote, for the sake of rapidity of development foreign companies to undertake these enterprises. That is the point at issue. The resources of local bodies and municipalities are so miserable that some of them would like to imitate the example of European countries and undertake commercial business so as to improve their resources and they think that electrical enterprise and enterprises of a similar nature fall legitimately within their jurisdiction. I quite realise that the days of small enterprises are gone and that municipalities and small Local Boards cannot ordinarily undertake these vast businesses. These are days for large industrial enterprises run by Corporations and Trusts. The question is as to whether we should encourage a large foreign company undertaking in a province the industrial development with foreign capital or with capital partially foreign and partially indigenous, or whether the Provincial Governments should develop an organization whereby the profits may go largely to Municipalities and District Boards. That is the point at issue, Sir, and I think the Hon'ble Mr. Patel's object in introducing this Bill was to prominently draw the attention of the Council to the desire of the people to retain, if possible, the profits for the benefit of the local bodies, Municipalities and Local Boards. Again, I do not think small foreign companies would be of greater efficacy or value from the point of view of the capital employed than District Boards or Municipalities combined together. I do not think there is much advantage there. Of course, private companies have more initiative and push, and they take certain risks which public bodies do not readily undertake, therefore there is a chance of speedier development if the enterprises are undertaken by private companies. At the same time if you give contracts ranging over 50 years or so, the chances may be that in the long run we shall lose even in rapidity of progress because vested interests will prevent any large developments requiring great expert knowledge and capital. Secondly, the profits may be locked up too long and local bodies may suffer. I hope, therefore, this question will receive further attention and that Government would reconsider their decision, and treat Mr. Patel's Bill more favourably. If that cannot be done, I hope that when they undertake the revision of the Electricity Act these points will be taken into consideration."

The Hon'ble Mr. V. J. Patel:—"Sir, may I know if the 7-35 P.M. amendments to the original motion are not to be taken up?"

The Vice-President:—"This is a motion to take the Bill into consideration."

The Hon'ble Mr. V. J. Patel:—"The amendments are put down on the agenda, therefore I ask that question."

The Vice-President:—"Certainly, we do not take up the amendments till the motion that the Bill be taken into consideration is passed. If that motion is lost, the Council cannot consider the amendments."

The Hon'ble Mr. V. J. Patel:—"Sir, I had hoped that I would be able to place this small Bill on the Statute-book and thus further the interests of local self-government. In fact when I came over to Delhi to attend the Council meeting and met the Hon'ble Sir Claude Hill, I was encouraged in my hope. But as things have taken a different turn and Government have decided to oppose my Bill, the usual fate it must meet."

"The Hon'ble Sir Thomas Holland said that about ten days ago the Bombay Government have passed orders granting a licence for the supply of electricity to the Bandra Municipality and that my mission to this Council is therefore successful, thereby hinting that I brought this forward because I had

[*Mr. V. J. Patel; Mr. O. A. Barron; Mr. Kamini Kumar Chanda.*] [17TH MARCH, 1920.]

some hitch in getting for the Bandra Municipality a licence for the supply of electricity. When I moved my Bill I said these words:—

'The main consideration which has induced me to bring in this Bill is that under the policy recently inaugurated by the Government of India the local authorities are now going to enjoy more independence and more freedom, and I beg to submit that it is high time that Acts containing restrictions which hinder the healthy development and growth of local bodies should now be abrogated or amended.'

"That is the sole object with which I have brought forward this Bill, say what the Hon'ble Sir Thomas Holland may.

"Now Sir, I am told that I should withdraw this Bill because the whole matter of amending the Act is under consideration by the Government. Well, if I had been given some hope that the proposals contained in this Bill would be favourably considered at the time there was some sense in asking me to withdraw, but as it is the Hon'ble Sir Thomas Holland has very clearly pointed out that none of the local Governments who were consulted on the general amendment of the Electricity Act has suggested the amendment which I now propose, and therefore perhaps my hon'ble friend Sir Thomas Holland could not give me any hope that the proposals contained in the amending Bill would be considered when the whole question would be taken up. Well, Sir, there is no hope, so far as I understand the position for these proposals being considered at the time and I am sorry I cannot therefore, withdraw.

"It has been said that I have brought this Bill on the basis of the English law. Not at all. The English law goes much further than this Bill. English law, as I have stated in my opening remarks, provides that no licence for the supply of electricity can be given to any person or Company without the consent of the local authority for whose area the licence is applied for.

"My Bill does not go so far as to say that the applicant should be required to obtain consent of the local authority, all it says is that if the local authority also applies for a licence within the area, that local authority should, in the absence of special circumstances, be given preference. That is the only demand that I make. But apart from that, when I cite the English law we are told that the English law has been found unworkable; that it has worked to the detriment of industrial development. When I cite the opinions of Local Governments in favour of my Bill, my Hon'ble friend Mr. Crum comes forward and says 'Local Governments know very little about these things.' I do not know whom to cite or what to cite. My Hon'ble friend Sir Thomas Holland says that three Local Governments have opposed my Bill, and they have given reasoned opinions, while the Local Governments who have supported me have not given any reasons. Well, of the Local Governments who have opposed the Bill, the reasoned opinion of one Local Government has been read by my Hon'ble friend Mr. Chanda to this Council! From Delhi we hear..."

The Hon'ble Mr. C. A. Barron:—"May I rise to a personal explanation? That was not my opinion."

The Hon'ble Mr. Kamini Kumar Chanda:—"The Deputy Commissioner."

The Hon'ble Mr. V. J. Patel:—"Oh! with regard to other two Local Governments I see no reasons given by them, but if you will turn to the opinion given by the Bombay Government you will see that it is a very important and well reasoned opinion. What has my Hon'ble friend Sir Thomas Holland got to say about that opinion, which says that the Bill is all right and it should be supported, subject to the inclusion of a proviso that within four months the local authorities must apply to the Local Government for the license? I heard no reply from my Hon'ble friend Sir Thomas Holland to that reasoned opinion of the Bombay Government. But it is not in favour of the position he has taken up, so it is worthless I suppose! But it is worthwhile knowing that three Local Governments who oppose my Bill are the Central Provinces, Delhi and Ajmer-Merwara, very important local administrations

INDIAN ELECTRICITY (AMENDMENT) BILL; INDIAN ARMY 1483
(SUSPENSION OF SENTENCES) BILL.

[17TH MARCH, 1920.] [Mr. V. J. Patel; The Vice-President; His
Excellency the Commander-in-Chief.]

indeed! And the Provinces of Bombay, the United Provinces and Bihar, who support my Bill, are not in the opinion of my Hon'ble friend Sir Thomas Holland perhaps so important. However there it is. Here is a Bill, a non-official Bill, the first part of which is supported by nine out of twelve Local Governments and both parts are supported by six Local Governments. Only three Local Governments, Delhi, Central Provinces and Ajmer-Merwara, oppose the whole Bill. All the municipalities and local boards consulted support the Bill, and other bodies and associations consulted by Local Governments have also supported it. Even Messrs. Killick, Nixon and Company of Bombay have supported this Bill, and yet the Government of India, for reasons best known to themselves, say no, we have decided not to support it; Local Governments may do what they like. But they have not considered the whole Bill in the manner in which the Government of India have considered it. Well, I find from the opinions before us that the Local Governments have consulted their Public Works Department, their engineers among others. Whom else could the Local Governments consult? And after consulting those experts, they have formulated and submitted their opinions, and the Hon'ble Sir Thomas Holland says that the Local Governments have not looked at the Bill from the point of view from which the Government of India looks at it. I have to make one request so far as the first portion of the Bill is concerned. It is supported by, as I say, nine Local Governments. The second part is supported by six, and as I understand from the Hon'ble Mr. Crum, he himself has no objection to the first portion of the Bill. I would therefore request you, Sir, to put the two separately to the Council, and I would still appeal to the Hon'ble Sir Thomas Holland and ask him if he can see his way, at any rate, to accept the first portion, which, as one Local Government has said, is harmless."

The Vice-President :—"I am afraid I cannot put a motion to take into consideration in two halves. If we get over this fence, I shall be very happy to put the Bill section by section."

The Hon'ble Mr. V. J. Patel :—"I am entirely in the hands of the Hon'ble Sir Thomas Holland."

The motion was put.

The Vice-President :—"You had better ask for a division, Mr. Patel."

The Hon'ble Mr. V. J. Patel :—"Yes, Sir."

The Council divided by Members standing and 17 voted for the motion and 24 against the motion, which was therefore negatived.

INDIAN ARMY (SUSPENSION OF SENTENCES) BILL.

His Excellency the Commander-in-Chief :—"Sir, I beg to 7-89 p. 31. move for leave to introduce a Bill to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Indian Army Act, 1911. The object of this Bill is stated in the Statement of Objects and Reasons which is self-explanatory and I have no remarks to add thereto.

The Bill is to enable us to retain, as a permanent measure, an Act which has proved very useful during the war and enabled the military authorities to maintain a high standard of discipline while exercising clemency in cases where such clemency is desirable.

[*His Excellency the Commander-in-Chief.*] [17TH MARCH, 1920.]

"In adopting this policy, we are merely following the policy adopted in the case of the British soldier. The changes proposed are of a minor character and are the result of experience in the working of the Act during the war."

The motion was put and agreed to.

His Excellency the Commander-in-Chief:—"Sir, 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.

The Council adjourned at 7-40 P.M. till 11 A.M. on the 18th March, 1920.

A. P. MUDDIMAN,

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

DELHI :

The 27th March, 1920.

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APPENDIX A.

[Referred to in answer to Question No. 57.]

Statement showing the number of (i) Technical and Industrial Schools, (ii) Commercial Schools, and (iii) Agricultural Colleges and Schools in the various provinces in India and the expenditure incurred on their account during the year 1918-19.

Province.	TECHNICAL AND INDUSTRIAL SCHOOLS.		COMMERCIAL SCHOOLS.		AGRICULTURAL COLLEGES AND SCHOOLS.		
	Number of schools.	Expenditure.	Number of schools.	Expenditure.	COLLEGE.		SCHOOLS.
					Number.	Expenditure.	Number.	Expenditure.
Madras	36	4,94,285	2	15,994	1	99,500	R
Bombay	26	3,69,081	43	88,488	1	1,03,000	...
Bengal	78	2,87,978	20	85,984	...	...	22,000
United Provinces	25	1,22,949	1	13,161	1	1,68,598	...
Punjab	33	1,14,891	...	...	1	72,800	...
Uttara	6	9,322	7	19,542	...	...	...
Bihar and Orissa	41	98,011	5	6,187	1	98,000	...
Central Provinces	11	67,083	...	...	1	62,600	1,400
Assam	8	50,645	...	...	...	...	...
Other Administrations	6	19,378	1	813	...	...	...
India (Imperial)	...	...	...	...	1	8,33,120	...
TOTAL	272	16,86,352	79	2,00,100	7	12,40,513	7
							23,400

* Includes Rs 2,38,920 for the office of the Agricultural Adviser and Director of the Agricultural Research Institute and College, Puna.

N.B.—There are also one Government Commercial College in Bombay with an expenditure of Rs 1,545 and two aided Commercial Colleges in the United Provinces with an expenditure of Rs 12,036.

APPENDIX B.

[Referred to in answer to Question No. 58.]

Statement showing purchases of rice in the Madras Presidency for military purposes.

	Tons.
1914-15	92
1915-16	76
1916-17	155
1918	60
1919	Nil.

APPENDIX C.

[Referred to in answer to Question No. 39.]

Statement showing the details of the labour strikes which have recently taken place in India.

Place.	Concern.	No. of operatives involved in each.	Manner in which the strikes were settled.	REMARKS.
PUNJAB.				
Bhatinda	North Western Railway.	•	Amicably settled.	* Exact number not known.
BURMA.				
Rangoon	Wharf coolies	1,000	Increase of pay.	
MADRAS PRESIDENCY.				
Madura	Madura Mills	†	Returned unconditionally.	† Number not known.
Madras	Army Clothing Factory.	31	Ditto.	
"	Madras Tramways	1,400	The strike was settled through the intervention of the Governor and the Commissioner of Labour. The men were granted an increase of wages and other relief and they undertook not to strike in future without reference to the Commissioner of Labour.	
BIHAR AND ORISSA.				
Jamalpur	East Indian Railway Workshops	10,300	Returned to work unconditionally.	
Patna	Patna Jaw Press	70	Ringleaders resigned and remainder returned to work on wages being increased.	
Muzaffarpur	Postal employees	‡	Amicably settled.	‡ Ditto.
CENTRAL PROVINCES.				
Hinganghat	Raj Sahib Reckhand Mohla Mill.	1,000	Enhancement of grain allowance.	
Nagpur	Empress Mills	5,000	Increase of wages.	
UNITED PROVINCES.				
Barilly	Rohilkhand and Kumaon Railway.	600	Acceptance by the men of the rates of pay which were about to be given to them when they went on strike.	
Saharanpur	North Western Railway.	About 1,500	Assurance given that any legitimate grievance would be examined and remedied as far as possible.	
Jhansi	Great Indian Peninsula Railway Workshop.	§	The strike lasted for a few hours only and was amicably settled.	§ Ditto.
Allahabad	Pioneer Printing Press	746	Men returned unconditionally but management made certain adjustments and improvements in pay.	
Cawnpore	Elgin Mills, Woollen Mills, Victoria Mills, Mair Mills, Cawnpore Cotton Mills, Jute Mills, Ganges Flour Mill, Cooper Allen and Company, The Tannery, Empire Engineering Company.	20,000	Increase of wages, payment of bonus and shorter hours.	
"	Elgin Mills	800	Amicably settled.	
"	Tailoring Department, Elgin Mills.	126	Increase of wages was given.	

Statement showing the details of the labour strikes which have recently taken place in India—contd.

Place.	Concern.	No. of operatives involved in each.	Manner in which the strikes were settled.	REMARKS.
UNITED PROVINCES—continued.				
Cannara	Elgin Mills	2,000	Redress in respect of payment of wages in time promised.	
"	Woolen Mills	2,000	Amicably settled.	
"	Weaving Department, Victoria Mills.	300	Amicably settled.	
"	Victoria Mills	200	Redress in respect of fortnightly payment of wages promised.	
"	Cotton Mills	2,500	Promise of an increase of wages.	
"	Ditto	500	Payment of bonus.	
"	Ditto	2,000	"	* Men still on strike on 20th February 1920.
"	Cooper Allen and Company . .	5,000	Payment and increase of bonus.	
"	Ditto	200	Amicably settled.	
"	Cooper Allen and Company and Taznery.	6,000	†	† Strike partially continues. Latest information on 20th February 1920.
"	Empire Engineering Company .	800	A small increase of wages was given.	
"	Ditto	500	‡	‡ Strike continues. Company has decided to enlist new men and new mistris.
"	Harness Factory	8,000	Men returned to work after a fortnight when paid servants of company were given an increase and contract workers promised an increase.	
"	Jajman Mill's	500	Increase of wages given.	
"	Hafiz Hakim Tannery	300	Ditto.	
"	Premier Oil Mills	150	Men listened to advice and returned to work the same day.	
"	Swadeshi Cotton Mills	600	Amicably settled.	
"	Palledars working in General-ganj.	50	Increase of wages given.	
BENGAL PRESIDENCY.				
Calcutta	Masons	10,000	Increase of wages.	
Burdwan Kuli	Bengal Iron and Steel Works .	11,000	Promise of an increase of wages.	
Rajshahi	Hackney carriage drivers . . .	50	Amicably settled.	
Pabna	Ditto	15	Ditto.	
Howrah	Jute Mills, Ghusari, New Central, Ganges, Fort William and Howrah.	27,000	Men resumed work on condition that their grievances were to be considered and their wages increased.	
"	Workers in 8 Jute Presses and an electrical workshop of Messrs. Parry and Company.	80	Ditto.	
Calcutta	Messrs. Graham and Company's Hilda Geddon.	100	Men resumed work unconditionally.	
"	Taxi drivers	1,200	Strike settled by the Commissioner of Police, Calcutta.	
"	Rickshaw coolies	300	Owners agreed to a reduction of the daily rates of hire for each rickshaw.	

Statement showing the details of the labour strikes which have recently taken place in India - contd.

Place.	Concern.	No. of operatives involved in each.	Manner in which the strikes were settled.	REMARKS.
BOMBAY PRESIDENCY.				
Bombay City	Cotton Spinning and Weaving Mills.	195,000 roughly.	Increase of allowances, reduction of working hours and other minor concessions.	
"	Dye Works	1,842	Ditto.	
"	MacKenzie Saw Mills	350	Increase of wages.	
"	Royal Indian Marine Dockyard.	4,175	Ditto.	
"	Bombay Port Trust Workshops	3,600	Ditto.	
"	Bombay Port Trust temporary tally clerks.	800	Ditto.	
"	Bombay Port Trust Hamallege labourers (Coolies).	3,000	Ditto.	
"	Bombay Port Trust Crane-men.	450	Ditto.	
"	Bombay Port Trust sweepers	375	Daily wages raised and holiday granted on Sunday from 1 p.m.	
"	Times of India Press, Machinery Department.	200	Grant of an allowance.	
"	Pragnipitra-Parsi-Press	25	Increase of wages.	
"	Sanj. Vartaman Press	100	Amicably settled.	
"	Caxton Works-Printers	250	Increase of wages.	
"	Osler and Company Electricians.	40	Men resumed work at the old rates.	
"	Messrs. Alcock, Ashdown and Company (Carnac Iron Works, Carnac Road).	600	An increase of wages and promise to consider question of the grant of a bonus.	
"	Messrs. Alcock, Ashdown and Company (Docks).	250	Increase of wages and grant of a war allowance.	
"	Messrs. Alcock, Ashdown and Company, Mazagon.	635	Increase of wages.	
"	Bombay Municipality-Drainage Department. Babula Tank Road.	800	An increase of wages.	
"	Messrs. Hyland and Company, Motor Workshops Hughes Road.	240	Increase of wages and other minor concessions.	
"	Marland Price	40	Dismissed from work.	
"	P. and O. and B. I. S. N. Company Dockyard.	6,000	Increase of wages and grant of a bonus.	
"	B. I. S. N. Company's Firemen of Cargo boats.	42	Increase of wages.	
"	Oil Installations	1,888	Grant of an allowance.	
"	Padamsey Glass Company	125	Increase of wages.	
"	Trolleyway Company's Workshops at Dadar.	1,500	Ditto.	
"	Eastern Chemical Company	270	Not settled. Men have not resumed work.	Latest information on 24th February 1920.
"	Tally clerks of the Stevedore Messrs. Osaka Loren-Kaisha	35	Wages raised.	
"	Boiler makers of the Poronpuu Foundry at Jacob Circle working in Docks.	64	Increase of wages.	

Statement showing the details of the labour strikes which have recently taken place in India--concl'd.

Place.	Concern.	No. of operatives involved in each.	Manner in which the strikes were settled.	REMARKS.
BOMBAY PRESIDENCY--concl'd.				
Sind Karachi	Coolies of Stavedores and Karnabi.	600	Strike still continues	Latest information on 24th February 1920.
Presidency Proper.	Railway strike	105	Settled by increase of pay.	
Bandar	Ditto	185	Ditto.	
"	Ditto	210	Settled by promise to consider grievance.	
Kalyan	Ditto	250	Settled by increase of pay.	
Sholapur	Ditto	20	Resumed work unconditionally first day after strike.	
"	Mill strike	12,000	Strike still continues	Ditto.
Barisi	Ditto	505	Ditto	Ditto.
Poona	Copper Smiths	150	Settled by increase of pay.	
"	Mill strikes	500	Settled by increase of wages	
Ahmedabad	Ditto	4,322	Strike settled by increase of wages in four mills, bonus in 10, increased wages to folder in all mills and one by compromise.	One mill at a time on seven occasions, two at a time on 4 occasions. On one occasion Folding Department in all mills struck work. The total number of strikes is 11 affecting 16 mills entirely and 1 strike affecting Folding Department only in all mills.
Godhra	Municipal sweepers	119	Settled by an increase in grain compensation allowance.	
"	Peons in Post and Telegraph Offices.	*	Settled by granting an increase of wages.	*Number not known.
Amalner	Mill strike	610	Settled by increased wages and bonus and reduction in working hours.	

APPENDIX D.

[*Referred to in answer to Question No. 44.*]

List of lines for which funds have been provisionally reserved in 1920-21.

- (1) Dholka Dhanduka Railway (Bombay, Baroda and Central India Railway).
- (2) Vizagapatam Harbour (Bengal Nagpur Railway).
- (3) Raipur Vizianagram Railway (Bengal Nagpur Railway).
- (4) Ramgarh Bokaro Extension (Bengal Nagpur and East Indian Railways).
- (5) Vasad Katana Railway (Bombay, Baroda and Central India Railway).
- (6) Chinchli Bagalkot Railway (Madras and Southern Mahratta Railway).
- (7) Trichinopoly Ramnad Railway (South Indian Railway).
- (8) Chittagong Akyab Railway.