

*Thursday,  
5th September, 1918*

**ABSTRACT OF THE PROCEEDINGS**  
**OF THE**  
*Council of the Governor General of India,*  
**LAWS AND REGULATIONS**

**Vol. LVII**

**April 1919 - March 1920**

**ABSTRACT OF PROCEEDINGS**  
**OF**  
**THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA**  
**ASSEMBLED FOR THE PURPOSE OF MAKING**  
**LAWS AND REGULATIONS,**

**April 1919 - March 1920**

**Vol. LVII**

*Published by Authority of Governor General.*

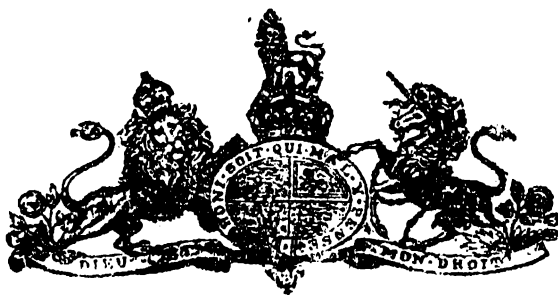


**& Debates Section**

**Gazette  
Parliament Library Building  
Room No. FB-025  
Block 'G'  
DELHI**

**SUPERINTENDENT GOVERNMENT PRINTING, INDIA.**

**1918**



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, Viceregal Lodge, Simla, on Thursday,  
the 5th September, 1918.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.C.M.G., G.O.B.E.,  
Viceroy and Governor General, *presiding* and 57 Members, of whom 49  
were Additional Members.

QUESTIONS AND ANSWERS.

11-4 AM. The Hon'ble Mr. V. J. Patel asked :—

1. "Will Government be pleased to state what stage the question regarding the creation of a City Civil Court for the cities of Calcutta and Bombay respectively has reached? Will the opinions of the Local Governments and the High Courts concerned be laid on the table?"

Creation of  
City Civil  
Courts for  
the cities of  
Calcutta and  
Bombay.

The Hon'ble Sir William Vincent replied :—

"In 1915, the Government of Bengal asked this Government to obtain the opinion of the Calcutta High Court on this question. The opinion was obtained and was sent to the Government of Bengal in April 1917. The Government of India have not been further addressed in the matter. They are not prepared at present to lay the papers on the table.

No proposals have been received from the Government of Bombay."

The Hon'ble Mr. V. J. Patel asked :—

2. "(a) Is it true that the Government of India intimated to the Government of Bombay in 1915 that section 3 (j) of the Town Planning Act was *ultra vires* of the powers of the Bombay Legislative Council, and that early opportunity should be taken to amend it?"

The Bombay  
Town  
Planning  
Act.

(b) Is it true that the section has not been amended so far?"

The Hon'ble Sir George Lowndes replied :—

"(a) The Government of India in February 1915 drew the attention of the Government of Bombay to the fact that the language of section 3 (j) of the Bombay Town Planning Act, 1915, appeared to be too wide, and suggested the advisability, when opportunity occurred, of remedying the defect."

[*Sir George Lowndes ; Mr. F. J. Patel ; Sir C. Sankaran Nair ; Sir Claude Hill.*] [ 5TH SEPTEMBER, 1918. ]

(b) The Government of Bombay have recently submitted for the approval of the Government of India a draft Repealing and Amending Bill by which it is proposed to amend the Act in the direction contemplated."

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

Appoint-  
ment and  
nomination  
of Municipal  
Commissioners

3. "(a) Is it a fact that under the law governing the system of Municipal Commissioners which obtains in large cities in the Bombay Presidency and which is commended by the Government of India in their recent Resolution on Local Self-Government, a Municipality is neither empowered to appoint nor to nominate a Municipal Commissioner ?

(b) Do Government recommend such a system for adoption in other Provinces in spite of this fact ?"

**The Hon'ble Sir C. Sankaran Nair** replied :—

"(a) and (b). The law in Bombay is as described by the Hon'ble Member. The Government of India, in their Resolution of 1915, commended the system of a nominated Commissioner which prevails in Bombay, and in their Resolution of May 1918, they said it is worthy of consideration. They also indicated that his nomination might be by the Board, though his appointment should be approved by Government."

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

Strike  
among  
Talathis in  
Bombay.

4. "(a) Will Government be pleased to state—

(i) How many *talathis* of the Bombay Presidency have struck work and since when ?

(ii) How many of them are dismissed and how many suspended ?

(iii) How many of them who went on strike have now resumed work ?

(iv) How many new hands have been entertained since the strike ?

(b) Is it true that the demand of these *talathis* is that the scale of their salaries should be revised from Rs. 12 to 20 to Rs. 20 to 45 per mensem, and that they submitted several representations on the subject to the Bombay Government since April last ?

(c) Will Government be pleased to state whether they propose to interfere and bring about some reasonable arrangement ?"

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

"(a) & (b) The detailed information asked for should be obtained by a question in the local Council.

(c) The Bombay Government's proposals for a substantial increase in the emoluments of the *talathis* have recently been sanctioned by His Majesty's Secretary of State."

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

Total  
number of  
voters for  
Municipalities  
and  
Local  
Boards in  
each  
Province of  
India.

5. "What is the total number of voters—

(a) for Municipalities, and

(b) for Local Boards,

in each Province of British India ?"

[ 5TH SEPTEMBER, 1918. ]

[ *Sir C. Sankaran Nair ; Mr. V. J. Patel ;  
Sir William Vincent ; Sir George  
Barnes.* ]

**The Hon'ble Sir C. Sankaran Nair** replied :—

“ The information, so far as available, is laid on the table.\*”

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

6. “ (a) Has the attention of Government been drawn to the speech made by His Excellency the Governor of Bombay as President of the Bombay War Conference ?

*The Governor of  
Bombay's  
speech on  
the Home  
Rule League*

(b) Has any correspondence passed between the Bombay Government and the Government of India on the subject since the said speech was made, and, if so, will it be laid on the Council table ? ”

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

“ (a) and (b) The Government of India have received a full report of the proceedings of the Bombay War Conference, including the speech of His Excellency the Governor ; no other correspondence on the subject passed between the Government of India and the Local Government. ”

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

7. “ Do Government propose to consider the desirability of cancelling at an early date the orders under the Defence of India Act prohibiting Messrs. Tilak and Pal from entering the limits of Delhi ? ”

*Orders  
prohibiting  
Messrs.  
Tilak and  
Pal from  
entering  
Delhi.*

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

“ The orders in question were not passed by the Government of India, and they have no intention of interfering in this matter. ”

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

8. “ Will Government be pleased to lay on the table all the communications addressed by them from time to time to the Local Governments on the recommendations of the Public Services Commission, as also the replies so far received ? ”

*The Public  
Services  
Commission.*

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

“ Government consider that it would be premature to publish correspondence on the subject at the present stage. ”

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

9. “ (a) Has the attention of Government been drawn to the resolution passed by the Bombay Legislative Council at its meeting in March last ‘ that the power to determine the number and location of liquor shops be given to select municipalities ’ ?

*Liquor shops  
in Bombay.*

(b) Have the Government of Bombay given effect to the recommendation of the said Resolution ? If not, why not ? ”

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

“ (a) The answer to the first part of the Hon'ble Member's question is yes.

(b) With regard to the second part, Government are not aware what action has been taken by the Government of Bombay with regard to the Resolution. The matter is one for the Local Government to decide. ”

[*Mr. V. J. Patel ; Sir George Barnes ; Sir William Vincent ; Sir Robert Gillan.*] [ 5TH SEPTEMBER, 1918. ]

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

" May I put a supplementary question, my Lord? Will the Government be pleased to make an inquiry and let this Council know whether the Bombay Government has taken any action? "

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

" There is no objection to making the inquiry suggested."

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

*Terms of  
Members of  
existing  
Legislative  
Councils.*

10. " Do Government intend to extend the terms of the present Members of the Legislative Councils in British India, or to allow those terms to expire in the usual course? "

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

" The present intention of Government is to allow the terms to expire in the usual course."

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

*List of  
Magazines  
and Journals  
proscribed  
by Govern-  
ment.*

11. "(a) Will Government be pleased to place on the table a list of magazines and journals proscribed from registered libraries with dates from which such prohibition came into force?

(b) How many of these journals have since become extinct? Are Government aware that their stoppage is due more or less to the step taken by Government? "

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

" Government has no information as to registered libraries. It will be collected, and when complete will be laid on the table."

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

*Separation  
of Executive  
and Judicial  
functions.*

12. " Do Government propose to prepare a general scheme for the separation of the Executive and Judicial in British India, or to suggest to the Local Governments to make their own schemes for the purpose, and submit them for the consideration of the Government of India? "

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

" The Government do not intend to make any examination of this question during the pendency of the war."

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

*Vasad-  
Borsad-  
Kathana  
Railway.*

13. "(a) Is it a fact that there has been delay in the prosecution of the scheme of the Vasad-Borsad-Kathana Railway?

(b) If so, will Government be pleased to state fully the reasons for the delay?

(c) When should the public expect further action by Government in the matter? "

**The Hon'ble Sir Robert Gillan** replied :—

" (a) It is a fact that there has been considerable delay in the development of the scheme for a railway between Vasad and Kathana via Borsad.

[ 5TH SEPTEMBER, 1918. ]

[*Sir Robert Gillan ; Mr. V. J. Patel ; Sir William Vincent ; Sir C. Sankaran Nair.*]

(b) The delay in the preparation of the scheme has been entirely due to a difference of opinion between the Government of Bombay and the Baroda Durbar as to the alignment best suited to serve the area affected. A rival scheme was proposed by the Durbar who have also raised the question of the necessity for protecting the interests of the Anand-Cambay Railway. When the scheme has been finally settled, there will still remain the difficulty of obtaining rails and materials for the construction of the line, a difficulty which must continue to exist until the end of the war.

(c) The question of the extent to which the traffic of the Anand-Cambay Railway will be affected is at present under discussion between the Railway Board and the Bombay, Baroda and Central India Railway Company, while a revised proposal, made by the Baroda Durbar for a modification of the Vasad-Borsad-Kathana Scheme has recently been referred to the Agent of that Company for opinion. It is impossible at present to say when a final decision will be arrived at, but the matter will be further considered on receipt of the Agent's opinion."

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

14. "(a) Are there any proposals before Government for an increase in the salaries of High Court Judges ?

Salaries of High Court Judges and reduction of salaries of Members of the Provincial and Imperial Legislative Councils.

(b) Will Government be pleased to say whether there subsist any reasons for maintaining a difference between the salary of the Chief Justice of Bengal and that of other Chief Justices ?

(c) Do Government propose to consider the desirability of reducing the salary of a Member of the Provincial Executive Council to Rs. 4,000 and that of a member of the Executive Council of the Government of India to Rs. 5,000 per month ?"

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

"(a) and (c). The answer is in the negative.

(b) The Calcutta High Court occupies a unique position, in that it exercises jurisdiction over two provinces. The strength of the Court is greater than that of any other High Court, and it serves a larger population."

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

15. "(a) Is it a fact that Municipalities can always co-opt experts, whether officials or non-officials, on Committees ?

Nomination of Officials on Municipal and Local Boards.

(b) Will Government be pleased to say why the special representation of officials by nomination for the purposes of advice or discussion only and without the right of voting is regarded necessary ?"

**The Hon'ble Sir C. Sankaran Nair replied :—**

"(a) The provision to which the Hon'ble Member alludes is contained in the Bombay District Municipal Act of 1901 and in certain other Acts.

(b) The Hon'ble Member presumably alludes to paragraph 5 of the Government of India, Department of Education, Resolution No. 41, dated 10th May 1918. That paragraph contemplates the constitution of Boards with at least a three-fourths elected majority, and does not specify as essential official representation upon the Board. The provision regarding the nomination of persons possessed of official experience will secure that the Board itself and not merely its committees should benefit by their advice."

[*Mr. V. J. Patel ; Sir William Vincent ; Mr. G. S. Khaparde.*] [ 5TH SEPTEMBER, 1918. ]

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

Indian Constitutional Reforms, paragraph 238.

16. "(a) Has the attention of Government been drawn to the following observations of the authors of the Report on Indian Constitutional Reforms in paragraph 238 of the report :

' On the publication of this report we should like to see the lists discussed in the Provincial Councils and considered by the Provincial Governments so that the Committee may have ready at hand considered criticisms upon the applicability of our suggestions to the circumstances of each particular province.'

(b) Have any instructions been issued to Local Governments requiring them to discuss the question on or before any given date and prescribing the procedure for such discussion ?

(c) Is the discussion to be held on a formal resolution on the subject on behalf of Government or that of any Additional Member ?

(d) In the debate on such Resolution are the official members to be allowed to take part and vote ?"

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

" Government has considered the passage in the Report referred to by the Hon'ble Member. The attention of Local Governments has been drawn to this matter and to the desirability of placing the members of the Committee to be appointed in possession of the views of the various Provincial Legislative Councils at as early a stage of their inquiry as possible. The exact procedure to be adopted will be a matter for the Local Governments to decide."

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

Trial by Jury.

17. " Will Government be pleased to state the names of the Districts in British India where the system of trial by Jury obtains, with the following information in respect of each District :—

(a) the year in which and the offences for which the system came to be introduced ;

(b) any subsequent modification or modifications in the first notification ;

(c) the number of cases tried by Jury since the introduction of the system ;

(d) the number of cases in which the Judge agreed with the verdict of the jury ;

(e) the number of cases in which reference was made by the Judge to the High Court, and

(f) the number in which the High Court agreed with or differed from the Judge ?"

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

" A statement giving the information asked for in parts (a) and (b) of the question will be laid on the table in due course. The statistics maintained do not furnish the material for supplying the rest of the information asked for."

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

Recovery of sums due to co-operative societies as arrears of land-revenue.

18. "(a) Will Government be pleased to state if they have received proposals from the Central Provinces Government so to amend the Central Provinces Land Revenue Act and the Berar Land Revenue Code as to empower the Revenue



[ 5TH SEPTEMBER, 1918. ]

[ *Mr. G. S. Khaparde ; Sir Claude Hill ; Sir William Vincent.* ]

officers to recover sums due to the co-operative societies there as arrears of land-revenue ?

(b) If the answer be in the affirmative, will Government be pleased to place on the table all papers relating to the proposals ?

(c) Are the proposals mentioned in (a) above supported by the Local Government and a large body of workers, both official and non-official, connected with the co-operative movement ?

(d) What action do Government propose to take with regard to the said proposals ?

(e) Is it a fact that the Hon'ble Rao Bahadur Kelkar, a non-official member of the Central Provinces Legislative Council, wished to introduce a Bill carrying out the proposals mentioned in (a) above, and that the permission for him to do so was withheld ? If so, will Government be pleased to state the reasons for doing so ?

(f) If the Government of India do not propose to take any action, do they propose to advise the Central Provinces Government to permit the said Hon'ble Rao Bahadur Kelkar or any other non-official member to bring in a Bill in the Central Provinces Legislative Council to give effect to the said proposals ?

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

" (a) The Government of India have been informed demi-officially that the Central Provinces Administration has under consideration proposals which have been formulated by the Registrar, Co-operative Societies, on the lines indicated by the Hon'ble Member, but these proposals have not yet been formally submitted to the Government of India. In the circumstances, parts (b), (c), (d) and (f) of the Hon'ble Member's question are premature, and cannot be answered at present.

(e) The Government of India have no information. This part of the question should be put in the local Council."

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

19. "(a) Has the attention of the Government of India been drawn to a notification of the Punjab Government, dated 21st June 1918, directing Mr. Barkat Ali, Editor of the *Observer*, Lahore, to perform his professional duties, as an Editor in a particular manner, under rule 3 of the Defence of India Rules, 1915 ?

(b) Will the Government of India be pleased to lay on the table the correspondence, if any, between itself and the Punjab Government, relating to the issue of the said notification ?"

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

" (a) The answer is in the affirmative.

(b) No correspondence has passed between the Government of India and the Punjab Government relating to the issue of the notification to which the Hon'ble Member refers."

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

20. "(a) Have the Punjab Government initiated the practice of blacklisting newspapers for the purpose of Government subscription, advertisement, etc. ?

(b) Has this practice been adopted by any, and, if so, by which other Local Government ?

Black-  
listing of  
newspapers.

[Mr. G. S. Khaparde ; Sir William Vincent] [ 5TH SEPTEMBER, 1918. ]

(c) Does the practice of blacklisting newspapers obtain in any other part of the British Empire ?

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

“(a) and (b) The Governments of Bombay, the United Provinces, and the Punjab, and the Chief Commissioners of the North-West Frontier Provinces and Delhi issue from time to time a list of newspapers to which Government notices and advertisements should not be sent.

(c) The Government of India have no information on the point.”

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

The Sedition Committee, 1918.

21. “(a) Will Government be pleased to place on the table a list of the witnesses examined by the Sedition Committee, 1918, and the minutes of evidence recorded by the Committee ?

(b) Were Mr. B. G. Tilak and Mr. B. C. Pal examined by the Committee? If not, why not ?

(c) If the Appendices to the Report of the Committee are not to be published, will Government be pleased to render them available to the Members of this Council ?”

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

“(a) Government are not in possession of any list of witnesses examined by the Committee, or of any minutes of evidence that may have been recorded by them; and in view of the policy of intimidation and terrorism pursued by the revolutionaries, to which the Committee draw attention in their report, it is manifestly undesirable to divulge the names of the witnesses or the evidence which they gave.

(b) It does not appear from the report that Messrs. Tilak and Pal were examined, but Government have no definite information on the subject. The taking of evidence was left to the discretion of the Committee under the terms of reference made to it. I will quote the words of the Government of India Resolution of December 10th, 1917 :—“The Committee...will be given full access to all documentary evidence in the possession of Government bearing on the existence and extent of revolutionary conspiracies in India and will supplement this with such other evidence as it may consider necessary.”

(c) Government have carefully considered the Hon'ble Member's request, but regret that they are unable to accede to it.”

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

Passports granted to Home Rule deputations.

22. “Will Government be pleased to lay on the table the correspondence, if any, leading up and relating to the cancellation in April, May and June 1918 of the passports granted to Home Rule deputations going to England ?”

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

“Such of the correspondence as was material was made public in the Communiqué which was issued in the matter by the Government of India on the 16th April last, to which the Hon'ble Member is referred.”

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

Names of papers subjected to pre-censorship.

23. “Will Government be pleased to lay on the table a statement giving the names of the papers, if any, subjected to pre-censorship under rule 3 of Defence of India (Consolidation) Rules, 1915, and the reasons for the action taken ?”

[ 5TH SEPTEMBER, 1918. ]

[*Sir William Vincent ; Rai Bahadur B. D. Shukul ; Sir Claude Hill.*]

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

"So far as the Government of India are aware, only three newspapers have been subjected to pre-censorship under the Defence of India Rules, namely, the *Hamdard*, *Zamindar* and *Observer*. In respect of the two first named, the Hon'ble Member is referred to the answer given by the Hon'ble Sir Reginald Craddock in reply to a question asked in this Council by the Hon'ble Mr. Qumrul Huda on the 9th March 1916. The Government of India are not aware of the reasons for the action taken in respect of the *Observer*."

**The Hon'ble Rai Bahadur B. D. Shukul asked :—**

24. "(a) Are Government aware that owing to want of pastures cattle have deteriorated, and milk and ghee in sufficient quantities are not available, and that cultivators are put to considerable inconvenience and loss for want of pure milk, ghee and good bullocks? Pasture grounds for cattle.

(b) If so, will Government make adequate provision for sufficient pasture in every village, and exempt cattle-breeders from the payment of any forest dues in the Government forests?"

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

"This subject has been raised more than once in this Council, and if the Hon'ble Member will refer to the answers given on 12th January 1915 by Sir Robert Carlyle to Maharaja Ranajit Sinha and by myself on 20th March 1916 to Rai Ghanasayam Barua Bahadur, he will see how difficult it is to say whether there has been any general deterioration in the quality of Indian cattle or not. He will also see that the question of the provision of additional pasturage is one which must necessarily be left to Local Governments. I may add that, under the Indian Forest Act, the framing of grazing rules for cattle rests with Local Governments."

**The Hon'ble Rai Bahadur B. D. Shukul asked :—**

25. "(a) Is it a fact that owing to deterioration of the soil in India due to exhaustion there has been a steady decline in the average outturns of crops? Deterioration of the soil in India.

(b) Is it a fact that in America, the Department of Agriculture has established a bureau of soils which undertakes to examine and analyse samples of soil to determine the sort of crops for which they are best suited and the methods by which they can be turned to the best advantage, and that every American cultivator can by sending samples of his soil to the Agricultural Department have them examined free of charge and obtain the necessary information as to the proper season and the best method to grow the most suitable crop? If so, will Government be pleased to consider the desirability of establishing a bureau of soils for similar purposes in India?"

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

"(a) No. So far from there being a steady decline in the average outturns of crops, in some provinces, e.g., Madras, the Central Provinces and the Punjab, the average outturn per acre of certain crops has actually increased. Where the average outturn does show a tendency to decline, this is in many cases due, not to soil deterioration or exhaustion, but to the fact that pressure of population has caused an extension of cultivation to inferior lands producing poorer crops.

(b) Yes. Similar work to that done by the American bureau of soils is carried out in India at present by the Agricultural Chemists. Soil surveys have

[*Sir Claude Hill ; Sir Manindra Chandra Nandi ; Sir William Meyer.*] [ 5TH SEPTEMBER, 1918. ]

been undertaken in various provinces and sanction has been received to the appointment of a Soil Physicist for Bombay. The question of the appointment of Agricultural Bacteriologists for the investigation of soil problems is under consideration in connection with proposals for the expansion of the Agricultural Departments."

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

Opium  
Revenue  
and Trade.

26. "(a) Is it a fact that the opium traffic and the cultivation of poppy in China is being resumed on an extensive scale, particularly in the province of Shensi, in spite of the understanding involved in the Treaty on the subject with the Government of India to the contrary ?

(b) Has the drug now being produced and sold in China been pronounced by some experts to be far inferior in quality and more injurious to health than the one which India used to export to that country before the understanding in question ?

(c) Will Government be pleased to state the amount of revenue annually sacrificed in consequence of the Treaty with China on the subject ?

(d) Did Sir Guy Fleetwood Wilson in introducing the Budget for 1911-12 state that China found it practically impossible to 'enforce a morality which is far too advanced for popular acceptance' ?

(e) Do Government intend to reconsider the terms of the said Treaty and consider the question of restoring the Indian traffic in opium with China ? "

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

"(a) The Government have seen statements in certain newspapers to the effect that there has been a recrudescence of the opium traffic and of poppy cultivation in China, the Province of Shensi being particularly mentioned, but they have received no official information as to the extent to which this has actually taken place.

(b) The Government have not seen any opinions by experts to the effect that opium produced and sold in China is far inferior in quality and more injurious to health than the opium previously exported thither from India, and they are not in a position to express a definite opinion on the question.

(c) The Shanghai International Opium Commission in 1909 took £2½ million sterling as approximately representing the revenue derived by India from the export of opium to China ; but even when the trade was in full swing the figure varied widely from year to year according to the price obtained for Bengal opium and the quantity available for sale and in the years immediately preceding the stoppage of the trade the knowledge that this was impending gave a special stimulus to prices. No estimate of any value of the sum which could now be secured, if the trade were still open, is consequently feasible.

(d) In his speech introducing the Financial Statement for 1913-14, Sir Guy Fleetwood Wilson said ' But we cannot conceal from ourselves that China has set herself a task which experience proves to be one of the greatest difficulty—the enforcement of a morality possibly too advanced for popular acceptance.' It is probably this remark to which the Hon'ble Member refers.

(e) The agreement in 1911 was made between His Majesty's Government and the Chinese Government. It is not the intention of the Government of India to move His Majesty's Government to re-open with the Chinese Government the question of the terms of the agreement, and they do not consider that they would have the support of public opinion either in India or in England in any attempt

[ 5TH SEPTEMBER, 1918. ]

[*Sir William Meyer; Sir Manindra Chandra Nandi; Sir Robert Gillan; Khan Bahadur Mian Muhammad Shafi; Sir Hamilton Grant.*]

to influence the Chinese Government against their wishes to permit a resumption of the Indian opium traffic. It may however console the Hon'ble Member to know that owing to the demand for Indian opium for medical purposes—a recent and profitable development, which is free from the objections that used to surround the China trade—we are at present fully able to find a market for all opium produced in India, and that our opium revenue has grown from £1,600,000 in 1913-14 to about £3,200,000, which is what we expect to get in the current year.”

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

27. “(a) Will Government be pleased to state the reasons for the failure of the local consulting Committee of the East Indian Railway established in 1890 ? The East Indian Railway.

(b) Is it in contemplation to revive this Committee with an altered constitution so as to include representative Europeans and Indians ?

(c) If the answer to (b) be in the affirmative, is it in contemplation to include new subjects within the scope of work of this Committee and to allow the general public to have an effective voice in the management and control of the East Indian Railway ? ”

**The Hon'ble Sir Robert Gillan** replied :—

“(a) So far as the Railway Board are aware the Local Consulting Committee of the East Indian Railway has proved a success. It has fulfilled the object for which it was constituted, and the Agent of the East Indian Railway is satisfied as to its utility. This fact has led the Railway Board to constitute a similar Consulting Committee for the Eastern Bengal Railway.

(b) and (c) There is no intention at present of reconsidering the constitution of the Committee, and any alterations in present arrangements either in respect to personnel or scope of work performed by the Committee are obviously dependent on the decision in regard to future management of the East Indian Railway which is now under the consideration of the Secretary of State. It may however be mentioned that the Committee already includes both European and Indian representatives.”

**The Hon'ble Khan Bahadur Mian Muhammad Shafi** asked :—

28. “(a) Are Government aware that Mr. H. S. Suhrawardy, a British Indian subject, who was a student at Oxford and went to Petrograd to study the Russian language preparatory to occupying the Chair of European Literature in the Aligarh Muslim University, is stranded in Moscow, and that all efforts on the part of his parents and friends in India and of the Muslim University authorities, since April last, to render him assistance have been frustrated owing to the closing of banks in Russia and the interruption of telegraphic communication, etc. ? Return of Mr. H. S. Suhrawardy to India from Russia.

(b) Will Government be pleased to state what steps, if any, have been taken to facilitate Mr. Suhrawardy's return to India or to ensure his safety in Russia, and what information, if any, they have regarding Mr. Suhrawardy's conditions and whereabouts ?

(c) Will Government be pleased to move the Home authorities to take suitable steps to ensure Mr. Suhrawardy's safety and return to India ? ”

**The Hon'ble Sir Hamilton Grant** replied :—

“The Government of India are aware of the circumstances in which Mr. Hasan Shahid Suhrawardy has remained in Russia. In December 1917, the

[*Sir Hamilton Grant ; Sir Fazulbhoy Currimbhoy ; Sir William Meyer.*] [ 5TH SEPTEMBER, 1918. ]

Government of India received from the Government of the United Provinces a communication from the Honorary Secretary, Moslem University Association, Aligarh, in which an explanation was given of the circumstances in which Mr. H. S. Suhrawardy was stranded in Moscow, and a request was made that steps might be taken to ensure his return to India *via* England or some neutral country. On receipt of this communication the Government of India addressed the India Office and requested that inquiries might be made about Mr. Suhrawardy and his return to India facilitated, if possible. A reply was received from the India Office towards the end of last April to the effect that His Majesty's Ambassador at Petrograd had been instructed by His Majesty's Government to facilitate Mr. Suhrawardy's return, that Mr. Suhrawardy was in good health, and that there was no cause for apprehension as to his safety. This information was communicated to the Moslem University Association of Aligarh through the United Provinces Government in May last. Subsequently the Aligarh Moslem University Association again approached the Government of India and requested that a sum of Rs. 2,500 should be transmitted to Mr. Suhrawardy, and that he should be informed at the same time that he was entitled to no further financial help and would have to refund the whole according to the agreement signed by him unless he returned to India at once. This communication was received on the 6th of July last and on the 10th of July the Government of India telegraphed to the Secretary of State asking that the money and message referred to above might be transmitted to Mr. Suhrawardy and that his return to India might be facilitated. So far the Government of India have not heard the result of this telegram."

**The Hon'ble Sir Fazulbhoy Currimbhoy asked :—**

29. " Will Government be pleased to state—

- (a) the progress made in the gold refinery and mint set up at Bombay, and  
(b) the number of gold coins struck at the Mint in Bombay since the war."

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

" (a) The gold mint is in working order and, as recently announced in the press, the coinage of sovereigns commenced on the 10th August. As regards the refinery, most of the apparatus required has arrived from England and the necessary building work will be completed by the end of this month. Allowing for some time for preliminary trials, the refinery is expected to begin operations early in November.

(b) The gold coins struck at Bombay since the war and up to the 24th August last amounted to 2,109,703 gold mohurs and 90,000 sovereigns; £10,001 Egyptian were also struck for the Egyptian Government."

**The Hon'ble Sir Fazulbhoy Currimbhoy asked :—**

30. " Will Government be pleased to state what portion, if any, of the cost of the English Consular Services is borne by this country? "

**The Hon'ble Sir Hamilton Grant replied :—**

" In accordance with the recommendation of the Welby Commission, Indian revenues bear half the cost of the English Consular Services in Persia.

A contribution is made towards the cost of the Consulate at Tengyueh in China. India also contributes £1,000 a year towards the cost of the Consulate at Chiangmai in Siam and bears half the cost of the repairs to the Consulate."

Gold coins struck at the Mint in Bombay.

Cost of the English Consular Services.

[5TH SEPTEMBER, 1918.] [Sir Fazulbhoy Currimbhoy; Sir Robert Gillan; Sir George Barnes; Sir William Meyer; Mr. Kamini Kumar Chanda.]

**The Hon'ble Sir Fazulbhoy Currimbhoy** asked :—

31. "Will Government be pleased to lay on the table the papers relating to the forthcoming termination of the contract with the East Indian Railway Company?" East Indian Railway Company.

**The Hon'ble Sir Robert Gillan** replied :—

"The Secretary of State has recently made a further inquiry in this matter. The \*correspondence which has arisen out of this inquiry is laid on the table."

**The Hon'ble Sir Fazulbhoy Currimbhoy** asked :—

32. "Will the Government be pleased to state the arrangements made by them on behalf of the Government of the United Kingdom for the purchase of :—" Purchase of Tea, Jute and Wheat by Government.

- (1) Tea.
- (2) Jute.
- (3) Wheat?"

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

"Details regarding the arrangements made for the purchase of tea and raw jute for His Majesty's Government were notified to the public in Press Communiqués issued by the Government of India in the Department of Commerce and Industry on the 14th September, 1917, and the 4th December, 1917, which I lay on the table for the Hon'ble Member's convenience.

In the case of wheat, purchases are made by the Wheat Commissioner in India on behalf of the Royal Commission appointed in the United Kingdom."

**The Hon'ble Sir Fazulbhoy Currimbhoy** asked :—

33. "Will Government be pleased to state the extent of their balances with banks other than the Presidency Banks?" Government balances with banks.

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

"Government hold no part of their balances with Banks other than the Presidency Banks."

**The Hon'ble Sir Fazulbhoy Currimbhoy** asked :—

34. "Will Government be pleased to lay on the table any proposals made by the Government of India to the Imperial Government in regard to post-war trade arrangements?" Post-war trade arrangements.

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

"Questions in connection with trade policy after the war were, I believe, discussed at the recent Imperial War Conference in London; but I regret I am unable to lay on the table any papers on the subject."

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

35. "(a) Has the attention of Government been drawn to an article headed 'Political prisoners in the Andamans' in the *Bengalee* of the 16th June, 1918?" Political prisoners in the Andamans.

(b) Is it a fact that as stated in the said article there were complaints in the columns of the *Bengalee* about the treatment in the Andamans of persons

\* Vide Appendix A to these Proceedings.  
† Not included in these Proceedings.

[Mr. Kamini Kumar Chanda ; Sir William Vincent ; Mr. Surendra Nath Banerjee.] [ 5TH SEPTEMBER, 1918. ]

described therein as 'political prisoners,' and that Sir Reginald Craddock visited the Island and made an inquiry about five years ago ?

(c) Have such prisoners been visited by any high official since then ? If so, when and by whom ?

(d) Is there any record of any complaints made by any of the prisoners since the inquiry by Sir Reginald Craddock, and was any inquiry made in regard thereto by any high official ? If so, will Government be pleased to place on the table the papers, if any ?

(e) What facilities are afforded to the prisoners to bring their grievances and complaints, if any, before the higher authorities ?

(f) Will Government be pleased to consider the expediency of arranging periodical inspections by non-official visitors ?

(g) Will Government be pleased to consider the necessity of making an inquiry into, among other complaints, the allegations made in the *Bengalee* of the 16th June, 1918, about the treatment of one Asutosh Lahiri, who is described as a graduate. Is it true, as alleged, that he was given the hardest task in the shape of husking and coir-pounding for eight months though he was promised light work after six months, and that on his complaining to the Superintendent and asking for light work he was flogged ?

(h) Is it true as alleged in the *Bengalee* that certain prisoners were ordered to pluck grass and clear the yard on a Sunday, and on their refusal to work on Sunday, seven men were punished, two with three months' separate confinement and five with bar-fetters and separate confinement and invalid diet ?

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

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

(b) The answer to the first part of the question is in the affirmative. Sir Reginald Craddock visited the Island in the latter part of 1913.

(c) No Member of Council has visited the Island since then.

(d) The Government of India have on record all complaints formally submitted to them by prisoners of this class in the Andamans since Sir Reginald Craddock visited the Island. There have been only two such and the Government of India in the Home Department dealt with them. Government do not propose to lay the papers on the table.

(e) Petitions addressed to the Government of India are submitted to them in accordance with the petition rules. The general rules leave ample scope for the prisoners to bring their grievances to the notice of the Government of India.

(f) The Government of India do not consider it necessary to arrange for the periodical inspection of prisoners in the Andamans by non-official visitors.

(g) and (h) The Superintendent, Port Blair's letter answering the charges brought against the administration in the issues of the *Bengalee*, dated the 16th and 20th June, 1918 was published in the *Bengalee* newspaper of the 27th July, 1918, and the Government of India have nothing further to add to the details given, nor do they consider any inquiry to be necessary."

**The Hon'ble Mr. Surendra Nath Banerjee** asked:—

36. "(a) Has the attention of Government been drawn to two articles which appeared in the *Bengalee* newspaper of June 16th and June 20th last, dealing with the condition of certain political prisoners in the Andaman Islands ?

(b) Is it the case that one Bhai Bhan Singh, an old Sikh prisoner, was abused by the Superintendent for shortness of his daily work, and when no redress was forthcoming on appeal some prisoners struck work ?



[ 5TH SEPTEMBER, 1918. ]

[ *Mr. Surendra Nath Banerjee.* ]

(c) Is it the case that they were in consequence punished with bar-fetters, separate confinement and invalid diet for six months ?

(d) Is it true that one Ashutosh Lahiri did very hard work with the husking machine and then at coir-pounding for eight months, the Superintendent giving him to understand that he would be put to light labour after six months ?

(e) Is it true that after having worked for eight months he complained to the Superintendent, who refused to give him light work ?

(f) Is it true that he in consequence refused to do hard work and was awarded 15 stripes, bar-fetters and separate confinement for six months ?

(g) Is Ashutosh Lahiri a graduate of the Calcutta University ?

(h) Is it the case that some of the prisoners were ordered to pluck grass and clear the yard on a Sunday, and it being a Sunday they refused to do the work ?

(i) Is it true that as a consequence seven men were punished, two with three months' separate confinement and five with six months' bar-fetters, separate confinement and invalid diet ?

(j) Is invalid diet a very spare diet which cannot satisfy the hunger of an average man ?

(k) Is the following statement which appeared in the *Bengalee* of June 20th correct :—

'Bhai Bhan Singh was abused by a European warder, and he paid him 'back in the same coin. He was caged for insolent conduct and was 'punished with six months' bar-fetters, separate confinement and invalid diet. 'Frequently Mr. Barry used to see him in his cell. One day he abused him 'and was abused in return. He gave orders to the convict officers to teach him 'a lesson. At eight in the morning three or four men entered his cell and 'severely beat him. But Mr. Barry again came at ten accompanied by a 'dozen bodyguard of European warders, free Indian warders, jamadars and 'tindals, etc., removed Bhai Bhan Singh to the cage-cell and there he 'was 'beaten. Bhai Bhan Singh, it is alleged, grew desperate under the increasing 'pressure of the treatment that he received. He was punished again with bar-fetters till further orders and was to remain in a cage-cell.'

(l) Is it the case that the treatment to which Bhai Bhan Singh was subjected told upon his health and he was removed to hospital ?

(m) Is it true that recently some of the political prisoners were punished with bar-fetters, separate confinement and invalid diets, simply for exchanging mutual greetings, and that they were punished even for reading books ?

(n) Is it the case that a few months ago one Bhai Nadhan Singh was caged and punished with six months' bar-fetters, separate confinement and invalid diet for continuing to read when Mr. Barry came to his block ?

(o) Is it the case that when a man is in separate confinement he is not allowed his bedding in his cell nor can he have his blanket-coat ?

(p) Is it true that the winter lasts for eight months in the Andamans ?

(q) Is it a fact that there have been many cases in which continued separate confinement and hard work have resulted in serious illness ?

(r) Is it true that one Bhai Bhola Singh is dead, two men Bhai Bhan Singh and another are suffering from phthisis, Bhai Nand Singh and Ram Saran have got scrofula and Pandit Jagat Ram has got neurasthenia ?

(s) Do Government propose to make a thorough inquiry into the allegations made in the public prints referred to above, by an officer independent of the administration of the Andamans, and lay the report on the table ?

[*Sir William Vincent; Sir George Barnes; Mr. V. J. Patel.*] [5TH SEPTEMBER, 1918.]

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

"The Hon'ble Member is referred to the letter, dated the 13th July, 1918, from the Superintendent, Port Blair, which was published in the *Bengalee* of the 27th July, and to the answer given to the questions on the same subject by the Hon'ble Mr. K. K. Chanda. As regards part (r) of the questions, he is referred specially to paragraph 11 of the Superintendent's letter, which deals with the health of the convicts, and where it is said that at the present time there is no case of serious illness amongst seditionists in the jail."

## THE ENEMY TRADING ORDERS (VALIDATION) BILL.

11-37 A.M. **The Hon'ble Sir George Barnes** :—"My Lord, I beg to move for leave to intro duce a Bill to terminate doubts which have arisen as to the continuance in force of notifications, orders and rules made or issued under the Enemy Trading Ordinance, 1916.

"This Bill, my Lord, is a small and purely technical Bill. Under the Enemy Trading Ordinance, 1916, which Ordinance was made an Act by this Council, certain Orders and Notifications were made, and rules issued. Then the Enemy Trading Act, 1916, was passed, which repealed the Ordinance. It is doubtful whether the validating clauses in the General Clauses Act, 1897, apply in this case, and consequently it may be possible to argue that the notifications, rules and orders issued under the Ordinance have lost their validity as from the date of the repeal of the Ordinance itself. It is plainly unwise to let any doubts exist on the subject, and the simple object of this Bill is to set all doubts at rest."

The motion was put and agreed to.

**The Hon'ble Sir George Barnes** :—"My Lord, I beg to introduce the Bill, and to move that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English."

The motion was put and agreed to.

## THE HINDU MARRIAGES (VALIDITY) BILL.

11-39 A.M. **The Hon'ble Mr. V. J. Patel** :—"Your Excellency, I beg to move for leave to introduce a Bill to provide that marriages between Hindus of different castes are valid. Under the existing Hindu Law as interpreted in Courts of Law, parties to a Hindu marriage must be of the same caste, otherwise the marriage is invalid unless it is sanctioned by custom. Therefore suits by either party for restitution of conjugal rights or by the wife for maintenance or inheritance or by the children for inheritance, succession or possession are not maintainable. This interpretation, my Lord, entails serious hardships in individual cases, as I have stated in the Objects and Reasons. I shall only quote two instances in support of my statement. Those two cases were decided by the Bombay High Court. A girl of 16 married a young man of another caste. They lived together for 25 years and had eight children by the marriage. Then it happened that the husband discarded the wife. A Hindu lady as she was, she avoided going to Court for nine years, but old age and starvation seemed at last to have compelled her to seek redress, and she filed a suit for maintenance. The Court held that, as the parties did not belong to the same caste, the marriage was invalid according to Hindu Law. She could not get

[5TH SEPTEMBER, 1918.]

[Mr. V. J. Patel.]

any maintenance as her husband's *dasi* or kept mistress, because, as the Court held, she was not one, as that term is explained in law. She could not be maintained as a concubine because the law requires unbroken living together for it, and with the modesty of a Hindu lady she had refrained from going to Court for nine years. No principle of civil contract, representation, estoppel, *factum valet*, or acquiescence, could help her, and she was left without any remedy whatsoever. That is a case reported in 14, Bombay L. R., page 547, *Kashi vs. Jamnadas*.

"Another case is reported in 2, Bombay L. R., page 128, *Laxmi vs. Kalian Singh*. In that case the facts were these. Kalian Singh, a Rajput, married Laxmi, a Brahmin. Laxmi was taken away from her husband's house and was not allowed to stay with him. The husband Kalian Singh therefore brought this suit for restitution of conjugal rights. It was held that, although there was a marriage in fact, there was no marriage in law, as the parties did not belong to the same caste. Kalian Singh was therefore not entitled to the restitution of conjugal rights.

"Similar cases have occurred in all the provinces, but I will not take up the time of this Council by stating the facts of those cases. Apart from these hardships in individual cases, marriage forms the substratum of the whole order of civil life, and upon the contracting of the best possible marriages depends the happiness of home, the strength and self-respect of people and the self-reliance and progress of the nation. All unnecessary obstacles to such marriages must have of course evil effects, and obstacles on the ground that the parties do not belong to the same caste, are detrimental in more ways than one. They seal up the compartments of caste. They maintain the process of continual inbreeding and generate defective, helpless and despondent progeny. The evils of child marriage and forlorn widowhood, of sales, purchases and exchanges and even hires of girls to be temporary wives, are due to them. They perpetuate castes, some so small as containing eight persons, and they are responsible for incestuous marriages, polygamy where there is a superfluity of girls, and homeless immoral life where there is a dearth of girls. These and other evils act and react upon one another, and all evils are strengthened to multiply further evils.

"The necessity for a change in the present law is felt in many quarters. The most orthodox even know how difficult it often becomes to find a suitable match for their daughters and sons within their caste, and how there are so many ill-matched unions resulting in violations of marital duties, miseries and social tragedies, how sisters and brothers compete to catch such a match for their children and quarrels arise between them and they become life-long enemies; how widowers and men of advanced age either marry little girls or remain unmarried and deviate from the paths of healthy moral life, the influence of which on their children and surroundings they do not think of or care for. Lest a suitable match may be seduced by another, marriages are hurried sometimes regardless of all good feelings and fine human sentiments. Sales, purchases, and exchanges of brides and compulsory dowries are disliked even by many of the orthodox of the caste; but they are helpless. They cannot create a local or special custom which a Court might recognise. Moreover, there are doubts regarding several castes as to which primary caste they belong to. There are castes which in one province are classed among one primary caste, while the Court in another province has classed them among another primary caste. Many castes having been formed out of mixed marriages, there will always be a dispute and difficulty on this question, and the question will always remain open in cases where one of the parties was an illegitimate child.

"Education, travel, contact in cities with people of other castes and such causes have widened the outlook of the younger generations whose ideas of marriage, home and life generally are broader, and they resent the evils I have above mentioned; but they are helpless.

[*Mr. V. J. Patel ; Maharaja Sir Manindra Chandra Nandi ; Rai Bahadur B. D. Shukul.*]

[5TH SEPTEMBER, 1918.]

"It may be that large castes are not so much affected by the present law as the small castes; but the number of large castes is small. In provinces like Gujarat from which I come, they are all small castes, and they are much affected by such a law. I say however that even if one province or one caste is affected, the law should not remain as it is.

"I do not mean to assert that as soon as the requisite law is enacted, there will be nothing left to come in the way of suitable marriages. But these other obstacles can be remedied by the people themselves, and the popular opinion as regards these other obstacles is making rapid progress in the right direction. But the law can only be changed by the Legislature.

"The law as it stands is positive. So far as it goes, it goes to the root of the recognised principle of autonomy of castes. Even if a caste resolves,—and I know of at least one caste which has resolved—giving liberty to its members to have marriage relations with other castes, such marriages run the risk of being declared illegal, and the children of such marriages run the risk of being declared bastards incapable of inheritance.

"The law, as it will be after the Bill is passed, if it is passed at all, will be permissive. It will restore the autonomy of caste in this respect. The Bill only seeks to remedy a wrong. It will obviate the necessity of Hindus declaring as required by the Civil Marriage Act that they are not Hindus. The Hindu marriage is a sacrament and it is a rending of the conscience for a Hindu after performing all the ceremonies of the sacrament to go to the Registrar and make a solemn declaration that he is not a Hindu. It will not interfere with any old right or impose any fresh obligation. It is in the interest of justice and morality and of public policy that the law ought to discourage the living together of man and woman as husband and wife without legally sanctioned marriages, and ought to give all facilities and inducements possible to enter into the sacred relations of marriage with all its moral and legal obligations. With these few words, I beg leave to introduce the Bill."

12.40 AM.

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

"Your Excellency, I confess I find myself in an uncomfortable position in being obliged to oppose the introduction of Mr. Patel's Hindu Marriage Validity Bill. It is no pleasant work for anybody to oppose a Bill which certain sections of the people at least think desirable and necessary for the well-being of the body-politic and the progress of the community, but I realise I have no alternative left to me but to enter my humble protest against the principle which underlies the Bill in question. The Bill, I am afraid, if enacted into law, will make for disintegration and is likely to act prejudicially to the best interests of the Hindu society. It may be quite possible that the existing law, with everything it involves, causes serious hardship in individual cases, but I am of opinion that the interests of the community should always be safeguarded and cared for more than the convenience of particular individuals. In this case, I have no doubt, the interests of the community are being sought to be sacrificed to the interest of the individual—a situation which is repugnant to all modern notions of social legislation. I have another very strong reason to oppose the motion of Mr. Patel. I do not think it is quite the right time to bring such a controversial topic for public discussion, as it is bound to raise bitterness and create bad blood, particularly among the more conservative elements of the community. Under the circumstance, my Lord, I hope to be excused for entering my protest against the introduction of this Bill."

12.40 AM.

**The Hon'ble Rai Bahadur B. D. Shukul:—**"My Lord, I rise to oppose this motion, and I do so because as an orthodox Hindu I strongly feel that the Bill seeks to introduce a radical change in the Hindu law, which will breed disintegration in the Hindu society. I am opposed to the very principle underlying this Bill. It rides rough-shod on the time-honoured matrimonial laws and customs. It countenances a union which will contaminate the whole society. Nothing could be more shocking to the sentiments and feelings of an orthodox Hindu. By encouraging intermarriages between the different castes, it will destroy the sacramental character of Hindu marriages.

[5TH SEPTEMBER, 1918.]

[Rai Bahadur B. D. Shukul.]

"The marriage amongst the Hindus is far more based on religious observations, rites and ceremonies than among the members of any other communities. No Hindu marriage is valid without performing the ritual prescribed by the Shastras. According to Hindu law, marriage is not a mere civil contract. It is one of the 'संस्कार' sacraments necessary for complete regeneration. Yagnvalka says:—

‘एवमेन=शमयातिवी जगन्मसि भुद्रवम.’ (Yog. I, 13).

‘Thus by the performance of these ceremonies is the taint of seed and womb removed.’ The very word ‘भार्या’ meaning ‘wife’ attaches religious significance to it. Pandit Raghunandan in his work उद्वाहतत्त्व (Udvahtatva) which is an authoritative treatise on the subject defines the word भार्या and observes अतएव भार्या शब्दोय पा हवनीयादि वदलौ किकाकः

सङ्गे ना दौकिक संस्कारभुक्त स्त्री वचन : i.e., the word wife is like the terms Yupa (sacrificial post) and Ahvaniya (sacrificial fire). It means not any woman taken as a wife, but a wife taken in marriage with the proper occult rites and ceremonies. The Hon'ble Mr. Stephens also observed while introducing the Special Marriage Bill that 'in relation to the subject of marriage, the law and Hindu religion are two names for one thing.' Religion, my Lord, is the essence of Hinduism. A really orthodox Hindu would sooner part with his life rather than budge an inch from the path of duty ordained by the Shastras. Religion is as dear to him as his very life. The marriage ceremony is a part and parcel of his religion. It marks the beginning of the second stage of the most onerous part of the Hindu life known as 'गृहस्थाश्रम.' The lawfully married wife of an orthodox Hindu occupies a very respectable position in the household. She is not only there to minister to the comforts of her husband, but she is his inseparable companion in the performance of all the religious duties. It is for this reason that she bears the proud name of a 'Dharm Patni,' i.e. 'sacred wife.' The nuptial knot once knit is held indissoluble. Even death cannot undo it. My Hon'ble friend the mover might attribute such an idea to ignorance, prejudice and superstition, or by whatsoever other names he might be pleased to call it; but the existence of the idea will have to be admitted and it cannot be ignored. It is based upon the sanction and command of the Shastras, and is cherished not by hundreds and thousands of the people, but by millions, who form the bulk of the population. And who are these people, my Lord? They are the masses who at this hour of trial and tribulation are furnishing recruits in thousands, every week, to shed their blood in the defence of the Empire. It is they whose faith in their own religion is unshakable, who regard their Sovereign King as an incarnation of God and death on the battle-field as an honour to themselves and their country. I think it is an ill-conceived measure that seeks to disregard the feelings of these men and especially in a matter like this, when an open challenge is offered to their existing rites and customs. There have been dark days in the history of India to which I need not refer which shall ever remain as a standing reminder of the fact, how a slight spark of even a baseless rumour is sufficient to burst the ignorant mob into a flame and make the whole country ablaze.

"My Lord, the introduction of this measure is hardly in consonance with the principle of non-interference to which the Government is already pledged ever since the Gracious Proclamation of Her late Imperial Majesty Queen Victoria in 1858. The Bill now before the Council is not the first attempt of its kind. Sir Henry Maine introduced a Bill with a similar motive, but the object was defeated and the Governor General's Council held on the 16th January 1872 that:—

'We think that the Bill as drawn by Sir Henry Maine would involve interference with native law which we did not consider justifiable under all the circumstances of the case. It

[*Rai Bahadur B. D. Shukul ; Sir William Vincent.*]

[5TH SEPTEMBER, 1918.]

appears to me that the Hindu law and religion on the subject of marriage are one and the same thing, that they must be adopted as a whole or removed as a whole, that if a man objects to an essential part of the Hindu religion, ceases to be a Hindu and must be dealt with according to the laws which relate to persons in such a position.

“Later on, the Hon’ble Sir Reginald Craddock while replying to the Hon’ble Mr. Basu, when the latter introduced his Special Marriage Amendment Bill, declared ‘that the Government could not interfere unless and until two things were proved, namely, first, that such custom constituted an outrage on the fundamental laws of humanity, and second, that an overwhelming majority of the persons professing this faith approached the Government and asked for the Reforms.’ With regard to the first, I would ask the Hon’ble mover if he could point out to a single instance since this reply was given, which would amount to an outrage on the fundamental laws of humanity. The two instances mentioned by the Hon’ble mover just now may amount to instances of personal inconvenience and hardship, but they can hardly be said to amount to an outrage on the fundamental laws of humanity. And with regard to the second, Sir Reginald has already given a definite pledge on behalf of Government to the effect ‘that it was the plain duty of Government to oppose any further action with reference to the Bill until such time as the overwhelming majority of which I have spoken, in favour of a reform of this kind may be in clear evidence before Government’. I would like my Hon’ble friend the mover to note the words ‘clear evidence,’ and I am at my wit’s end to make out as to what ‘clear evidence’ he has furnished which should justify a change of attitude on the part of Government with regard to this question. Has any memorial been duly submitted to Government during these six or seven years by the majority of the people who are to be affected by this law? Has there been noticed any indication of such a demand for a change of attitude by the Government on the part of the people through the columns of newspapers? If none of these conditions exist, I would earnestly appeal to my friend not to embarrass the position of the Government at this supreme moment by introducing legislation, which tends to create a wide breach in the chief stronghold of the Hindu society. The Government has to be very cautious especially in all socio-religious matters like this. Their actions are liable to be misunderstood and motives doubted. These are broad facts which no wise Government should ignore. We are all having very anxious times. This is the time when we require the co-operation of the whole nation, and it is neither wise nor statesmanlike to embark upon legislation, which would tend to demolish the very foundation upon which the fabric of the Hindu society is raised. With these words, my lord, I beg to oppose this motion, and hope the Bill will not be allowed to proceed further.”

11-50 A.M.

**The Hon’ble Sir William Vincent :—**“My Lord, I think it would be convenient if I interpose at this stage to explain the position of the Government in regard to this Bill. It is precisely the same as their attitude towards a somewhat similar measure, or more correctly a measure on a similar subject, which was brought forward in this Council by the Hon’ble Mr. Basu some years ago. The Government are prepared to accept the motion for leave to introduce, and will be glad to get the Bill circulated in order to obtain public opinion on it.

“They consider that it would be unwise to throw out such a measure without ascertaining Hindu opinion on the subject. We were told just now that Government had received no memorial from the public in support of this Bill and no indication of the public wishes in the matter. That is exactly what the Government seek to obtain by admitting this motion and by circulating the Bill for opinion. But, my Lord, I must not be misunderstood, and the position of Government must be made perfectly clear. While we are prepared to invite public opinion on this measure, we are in no way committed either to support the Bill at a later stage. We reserve an absolute right to support it or oppose it later on. We are not unmindful of the discussions, I may say acrimonious discussions, which some Members of this Council will remember, which arose in regard to Mr. Basu’s Bill, and it would be obviously premature for us to tie our hands in any way. We seek at this moment to obtain public opinion

[5TH SEPTEMBER, 1918.]

[Sir William Vincent ; Mr. G. S. Khaparde.]

on the Bill : but the Government will be largely guided by the opinions of those primarily affected by the measure in dealing with it at a subsequent stage : I appeal, if I may do so, to those of conservative instincts who are opposed to this measure and who think it is a great invasion of Hindu rights to allow their fellow-countrymen and their co-religionists to examine the Bill and give them an opportunity of expressing their views on it : If then, as is maintained, this Bill strikes at the very root principles of Hindu society, surely the objections which they make now will be more than justified by the opinions which are received. I am well aware that the Bill involves a change of the Hindu law, and for that reason the Government are rightly cautious in their attitude towards it. But, as I said before, we think it right that the full opinion of the country should be obtained on the measure, and that it would be unwise of us summarily to reject a measure for which some Members of this Council at any rate have some sympathy."

**The Hon'ble Mr. G. S. Khaparde** :—"My Lord, I rise to support the introduction of this Bill. I believe the nature of the Hindu law and the Hindu religion appears to be misunderstood in some quarters. The Hindu religion is like the British Empire, a very Imperial matter. The British Empire does not invade other people's countries to take possession of them. So Hinduism does not go about preaching to convert other people to itself. We stand on our own merits. Our excellence attracts our neighbours, and just as in the British Empire neighbouring States like to come and be amalgamated with it, so also Hinduism, standing by itself, on its own excellence, attracts other people to come into its fold. That is how we absorb them. We never convert them, we never conquer them. Just as the British Empire leads no armies to conquer other countries, so we do not send out missionaries to convert other people ; our excellence attracts them, and if they choose to come in we are very glad and we give them self-government at once. We make every body who wants to come in into an independent caste of himself and people like him and say to them make your own rules for governing yourselves as you like, only do not disturb the harmony or commit a breach of the peace. That is how Hinduism goes on by absorption, by taking people into its own fold and by letting them have liberty to act as they like. It is this mode of action that has given to Hindu law also what are called mixed castes, that is to say, Brahmins marrying people from the lower castes and lower caste people marrying among castes higher than themselves. There are a large number of books from which I could quote which lay down the rules of inheritance, and this is an old thing, as old as many of our sacred books. So I believe my friend the Hon'ble Mr. Patel in seeking to legalise these marriages is only carrying out a time-honoured policy of Hindu law, namely, to absorb our neighbours and even to forgive people of our own race who have been led out of the fold. If they do not like to observe the old ritual we let them go on ; we only say start a new family, but you do it on your own responsibility. Later on, when the Bill comes up again, I will move an amendment to say that people who will contract marriages of this kind will lose all their rights of inheritance in their natural family, just as in England we know that if a son chooses to marry against the wishes of his family the father retains the right of cutting him off with a shilling. If people choose to contract these marriages, then the head of the family can say to them, 'I will not give you any part of my inheritance ; you have to start for yourself and your children,' both in the case of the bride as well as in the case of the bridegroom, and that is very fair. It is not so much part of the religion as it is a part of the *patria potestas*, the power of the head of the family. If the members of the family choose to dispute the traditions, if they like to go out of it and to found a new family, by all means let them do so ; only they can take nothing out of the family to enrich themselves. This will shut out property hunters and all the other troubles incidental to marriages of this kind. I believe this proposal is not only not against the Hindu law, but in my humble judgment it really promotes the object of the Hindu law. The Hindu law does not like to drive anybody out of its fold. It is very willing to admit anybody that is willing to come in and gives such a

11-541.

[*Mr. G. S. Khaparde; Raja Sir Rampal Singh; Rai Sita Nath Ray Bahadur.*]

[5TH SEPTEMBER, 1918.]

person's liberty to do as he likes within his own caste. If other people like to associate with him, by all means let them do so, but if other people do not like to associate with him we cannot force them. That is why, as I said before, we are like the British Empire, standing for liberty, standing for self-government, and giving to everybody full liberty to do as he pleases.

"It has been said that this Bill is inopportune and that we have got larger questions and ought not to deal with this. I humbly submit that this is the proper time. We have a maxim 'He who seeks equity, must do equity.' If we seek for self-government and all these higher powers, I believe we should be prepared to grant them to our own people in a peaceful manner. Both from the point of view of expediency as well as from the point of view of the Hindu law as it really is and Hindu sentiment as it really obtains, I humbly submit that this Bill should be admitted. As has been pointed out by the Hon'ble the Home Member it is only for evoking public opinion and for the purpose of seeing what the criticisms are. When this has been done, if the public feeling is in favour of the Bill, certainly it will be passed. If it is not, I shall be the first person to propose that the people are not ready for it and that it should be dropped for the time being.

"With these remarks, I beg to support the introduction of this Bill."

12 P.M.

**The Hon'ble Raja Sir Rampal Singh** :—"My Lord, I rise to oppose the grant of leave for the introduction of the Hindu Marriage Bill into the Council. I am no believer in the caste system of Hindu society and it is my firm conviction that as long as Hindus will remain a caste-ridden people, there is very little prospect of their rising in the present day civilization and of their occupying an exalted position amongst the nations of the world. Things have changed from olden times, and the caste system which might have fitted those pre-historic days is no longer suited to the present conditions, and it is bound to die a natural death in the course of time. But side by side with having such beliefs and convictions I must confess, and I feel no remorse in giving expression to that confession, that I am an observer of caste rules as far as possible. There is great disparity between the views I hold in this respect and the line of action I follow. Some of the reformers might call it cowardice, but I call it prudence emanating from a sense of responsibility and obligation to the community itself which has to be reformed and for which such self-sacrifice should not be grudged. It is the masses that have to be led towards the desired goal, and it would serve no good purpose to go far ahead of the society leaving it behind immersed in social evils. However, that does not matter much in the consideration of the question that is before the Council of granting leave to the mover to introduce the Bill that stands in his name to legalise Hindu marriages between different castes. The object is laudable from a reformer's point of view, and the Bill has the support of reason and logic. But it is not always reason and logic that hold sway in such matters over the people. It is more often sentiment that governs the world and I can, without fear of contradiction, say that Hindu sentiment will most assuredly be opposed to the Bill. Is it wise, is it expedient in the present times to give cause to the Hindu public to raise an agitation that the Hindu religion is in danger? Not long ago the Hon'ble Balu Bhupendra Nath Basu introduced a Bill on similar lines, and the fate that attended it is not unknown to this Council. A similar hue and cry would be raised, I am afraid, on this Bill also, and I am strongly of opinion that at the present time no cause should be given for such an agitation. The Hon'ble mover will get ample opportunities for introducing such like Bills, having for their object social reform, in the reformed Councils. I therefore move that leave to introduce the Bill may not be given."

12 2 P.M.

**The Hon'ble Rai Sita Nath Ray Bahadur** :—"My Lord, I beg to oppose the Hon'ble Mr. Patel's Marriage Bill. I cannot conceive why our friend should have taken any trouble at all after the fate which befell a similar measure proposed by Mr. Bhupendra Nath Basu against which the



[5TH SEPTEMBER, 1918.]

[*Rai Sita Nath Ray Bahadur; Mr. Srinivasa Sastri.*]

whole section of the orthodox Hindu community declared itself in unmistakable terms. After that we have a right to expect that more weighty reasons should be given to justify the principles of the Bill before us, which are absolutely repugnant to the feelings of a large section of the Hindu community. There are so many castes among the Hindus and each caste is divided into so many divisions and sub-divisions that it would be hopeless to expect inter-marriages amongst the thousand and one castes in which the four principal sections of the Hindu community are divided and sub-divided.

"According to Mr. Patel's Bill, it would be quite valid and quite legal for a Sudra to marry a Brahmin girl and *vice versa*. I cannot believe, my Lord, that the Hindu community, as at present constituted, would ever submit to such a measure within any measurable distance of time. I cannot believe that before caste-distinctions are absolutely swept away the Hindu community would tolerate such a measure. I therefore beg to oppose the Bill.

"In conclusion, I have to request the Government that it should not at this stage give any indication of its sympathy with the principles of a Bill which is undoubtedly an invasion of the ancient rights of the Hindu community. I pray that the Government should maintain an attitude of strict neutrality."

**The Hon'ble Mr. Srinivasa Sastri:**—"My Lord, I rise to signify my consent to the introduction of this Bill. It is somewhat unfortunate that when leave is asked to introduce a Bill Members should go into the principles of the Bill and discuss the grounds upon which the Bill should be supported or opposed. That is a practice not known in other houses. In Parliament, I think, the practice is generally to give leave to Bills being introduced without too nice an examination of fundamental principles. In this Council, however, owing perhaps to the recent ruling of the Government that Bills should be published before introduction, Members are in full possession of the nature of the Bills and it is possible for them, having no dummy Bills to deal with but regular live Bills, to go into the whole question. Anyhow, the matter being before the Council and Members having started a discussion, I think it would be very unfortunate if those Members who are in favour of this Bill and the principle that it involves did not give clear expression to that sentiment.

10.5 P.M.

"It has been said that this Bill introduces no new principle in Hindu society or Hindu religion, but that it seeks only to revive an ancient practice which has fallen into desuetude. This is no doubt partially true; but those who rely on antiquity for the introduction of the present Bill must also see that their case is somewhat weakened when all the Shastras that we know of sanction only *anuloma* marriages and discountenance *pratiloma* marriages. That is, the ancient law of the Hindus permitted marriages between men of the higher castes and women of the lower castes, but did not permit marriages between women of the higher castes and men of the lower castes. This Bill in that regard seeks to go further than the ancient principle and is not therefore merely a revival of the ancient practice.

"There is, my Lord, another difficulty also when we rely too much on the ancient practice. Mr. Patel's Bill—in my opinion somewhat unfortunately—seeks to give sanction to the new marriages that he advocates upon the ground of the religious ceremonies that may be performed. Now when we seek the sanction of the ancient religious ceremonies, it is necessary that we take good care that we do not shock the religious sentiments and feelings of the vast mass of people with whom we have to deal. Perhaps it would have been wiser to introduce into the Bill a provision to the effect that the marriage should be of a civil nature. In that case it would be possible for social reformers to ask that various other features of a regular modern type of marriage should also be introduced. For example, when the Legislative Assembly of this country in this century is asked to give its sanction to a new type of marriage, it seems to me to be absolutely necessary to include in it provisions such as that the parties to the marriage should be adults or should not be below a

[*Mr. Srinivasa Sastri.*]

[5TH SEPTEMBER, 1918.]

certain age. In the case of the bridegroom I should specify 18 at least, and in the case of the bride at least 15. Then we should further specify—I am only mentioning these things, my Lord, as difficulties that stand in the way of introducing a large Bill of this kind,—we should also specify, for example, that the parties to the marriage should not have husbands or wives alive; and further that the principle of divorce should perhaps be introduced into this new Bill.

“For all these reasons the Bill that Mr. Patel has introduced, or proposes to introduce, seems too inadequate and the Select Committee to which it might be referred at a later stage would have a great task before it in putting the Bill into proper form.

“I am also aware that the Government of India at present are bound by one of their principles to refrain from identifying themselves too much with reform movements of this kind. I do not altogether approve of their attitude. I think in many respects it is over-cautious. For example the principles which Sir Reginald Craddock on a similar occasion four years ago enunciated in this Council were two. My Hon'ble friend Mr. Shukul has referred to them. One is that the majority of the people affected by the legislation should consent to it. I shall refer to this first. That the majority of the people affected should consent to it is a demand which it is impossible to satisfy in legislation of this kind. Mr. Patel has made it clear that this Bill is only permissive, that it seeks to give relief to certain adventurous members of the community who think that the religious basis of marriage should be widened, that marriages should be permitted within circles which are now prohibited, and it is impossible to satisfy the condition that the majority of the people should give their consent to such a Bill being passed. This is a purely permissive measure and that requirement, I think, it would be very difficult indeed to meet. My Lord, I am somewhat sceptical about the utility of raising discussions of this character at this stage. But it does seem to me that I must mention that these principles have not always been borne in mind by the Government of India itself. There have been occasions, for instance, in the year 1850, when the Caste Disabilities Removal Act was passed, when the other principle to which Sir Reginald Craddock referred was not altogether observed. That other principle is to the effect that it should be shown that the measure proposed is necessary in order to prevent some violation of a fundamental law of humanity. It must prevent some enormity, some cruelty or something of that kind. I am not aware what inhumanity the Caste Disabilities Removal Act attempted to prevent or the other Act of 1872 to which this Council gave sanction. In the year 1872 what is known as the Brahmo Marriage Act was passed. I do not suppose that there was any violation of the fundamental laws of humanity at that time which the Government of India thought it necessary to remedy. It is not always such extreme grievances that a Government should undertake to remedy. Even ordinary measures of social amelioration might be opposed by large numbers of the community, and still a civilised Government would be bound to give relief to those that obviously suffer from disabilities imposed by the majority. Where a minority in an advanced community desire relief at the hands of the Legislature, it seems to me that the Legislature should not refuse it upon such grounds. But I am aware, and I am prepared for the moment to concede the fact, that the Government of India at the present moment is acting in what might be considered a very legitimate spirit of caution. I will not therefore press them too hard. At the same time there is one matter to which I would request the attention of the Hon'ble Mr. Patel himself. I have been trying during the last two or three days to speak to him somewhat intimately on this matter, and ask him to withdraw his present motion in order that the Bill might be considered by the fuller Council which we expect to be inaugurated in the course of the next two or three years. There is something to be said in favour of such a postponement of this measure. No doubt if we were not actually on the eve of these great constitutional changes, I would press the motion on the Council and stand by the side of Mr. Patel and

[5TH SEPTEMBER, 1918.]

[Mr. Srinivasa Sastri; Mr. K. V. Rangaswamy Ayyangar.]

give him all the assistance I can in seeing that this measure passes. But we are on the eve of seeing a larger Council where the Indian element will be more strongly represented, and where a measure of this kind will be listened to with greater attention than perhaps could be commanded in a Council of this kind where there are a large number of persons who are apparently not interested deeply in this matter. We have Europeans, we have Muhammadans, and we have Parsi Members. They have nothing to do with this Bill, for this Bill, unlike Mr. Basu's Bill, is confined to the Hindu community. My Lord, I seek therefore the attention of Mr. Patel respectfully to this passage in the Report on Indian Constitutional Reforms:—

'An autocratic administration which does not share the religious ideas of the people obviously finds its sole safe ground in leaving the whole department of traditional social usage severely alone. In such matters as child marriage it is possible that through excess of caution proper to the régime under which it works it may be actually perpetuating stereotyped customs which the better mind of the community might be brought after the necessary period of struggle to modify. A government in which Indians themselves participate, invigorated by a closer touch with a more enlightened popular opinion, may be able with all due caution to effect with the free assent or acquiescence of the Indians themselves what under the present system has to be rigorously set aside.'

"My Lord; that is a consideration which it seems to me Mr. Patel might well bear in mind in pressing his motion. If, yielding to the reason that this passage discloses, Mr. Patel should withdraw his motion at the present stage, I shall be content. But if he presses his motion for leave to introduce the Bill, I am bound, in obedience to my convictions and to the dictates of my conscience, to give him my hearty support."

**The Hon'ble Mr. K. V. Rangaswamy Ayyangar;—**"My Lord, I am sorry to have to oppose the motion brought forward by my friend, the Hon'ble Mr. Patel. Not that I do not understand that Parliamentary etiquette requires us to allow to be introduced in the Council any Bill, good, bad or indifferent and to be discussed in the Council, and not because sentiments run high that I oppose this motion. But time and again such Bills have been discussed and there awaits no new discussion. Similar attempts of legislation both in the Provincial and in the Imperial Councils have failed till now, and perhaps thinking that this is the mildest of all those that have been brought till now and also under the impression that this would be the best opportunity for carrying out a Bill of this sort, as all parties are attempting at a national union that this has been ushered into the Council.

12-17 P.M.

"The prime consideration in introducing any Bill should be that law should follow custom, and not that law should introduce a new custom to the country especially in matters of inheritance of property. Viewed from this standpoint the Bill utterly fails to commend itself to the Council. The Judges of the Privy Council and High Courts too have laid down that custom is transcendent law. Yet Mr. Patel without creating a custom of intercaste marriage by educative work wants the Legislature to give an impetus to the creation of a custom which is dear to his heart and which he is unable to create by proper educative work. In this country people attach an undue importance to legislative decrees, and he evidently desires to use the Legislature as a second string to his bow of social reform. His constituency, I think, has not given him any mandate to introduce this Bill.

"Among the followers of *Vedas* and *Smritis*, who, I suppose, are called Hindus, little distinction is made between social laws and religious tenets, and the restrictions on marriages form the prime factor of the Ordinances of *Smritis*. It is considered that marriage is a sacrament and people trespassing those Ordinances are not considered Hindus. It is an elementary and well-known rule of Hindu Law that marriage should be within the caste as per *Manu*, Chapter III, verses 12, 13 and 14, etc., and *Yajñavalkya*, Chapter IV, verse 57, etc., etc. Though *anuloma* marriages were allowed, yet they were condemned. In the *Gita*, the Lord has condemned *Varnasankara* in unmeasured

[*Mr. K. V. Rangaswamy Ayyangar; Pandit Madan Mohan Malaviya.*]

[5TH SEPTEMBER, 1918.]

terms. Mr. Patel says that a man can commit *Varnasankara* and yet be a Hindu. He wants a legislative declaration that a Hindu committing a gross offence against the Hindu sacred laws shall be recognised by the British Government as a Hindu. Everywhere it is recognised that the marriage system is the essence of the ideals of each race. To tinker with it by the direct attack of compulsive legislation or by the insidious method of enabling and permissive legislation is an act of treason to the sovereignty of the spirit of the race. Else why not introduce an enabling Bill to render bigamy, marriages for limited periods, and marriages dissoluble at will, etc., valid among Christians.

"Even in materialistic countries they never allow such interference in long established customs and social usages. No marriage system is based solely on principles of abstract reasons. For the matter of that none of the highest things of life are demonstrated by abstract reason. The highest truths of religion are not so demonstrable but they are none the less true. The domain of truth is wider than that of reason.

"Mr. Patel's Bill interferes with a certain custom. It need not necessarily stop with caste, but it may even go on to inter-racial marriages.

"It may be pertinently asked when even a convert to Christianity is now allowed to inherit his parental property, why one should be debarred from inheriting the same only because he takes a wife from a different caste. I should confess that even that kind of inheritance is quite opposed to the Hindu precepts and ordinances, and I wish to contend that only because that kind of inheritance is so allowed by the Government it should not be used as an argument for this, for one wrong will not justify another. So I have to protest against giving leave for the introduction of this Bill.

"Further, one reason why people of my view who protest against such interference in established customs, think that the Reform Scheme is unsatisfactory in that in the Provincial Legislature and in the Imperial there is no protection against the introduction of such Bills, inasmuch as the executive Government can interfere only when those Bills trespass on the Reserved Subjects or trench upon peace, order and good government."

12.24 P.M.

**The Hon'ble Pandit Madan Mohan Malaviya :—**"I regret, my Lord, to have to oppose this motion for leave to introduce this Bill put forward by the Hon'ble Member. It has been said that a motion like this should not be opposed, and that the Bill should be allowed to be introduced as a matter of course as is done elsewhere. Attention has, therefore, to be drawn to the special considerations which make against leave being given for the introduction of this Bill. The Hon'ble the Home Member has expressed the attitude of Government towards the proposed measure. He has told us that that attitude is precisely the same as it was when Sir Reginald Craddock expressed the mind of the Government in 1912, towards a similar measure. Now, my Lord, this Bill raises a question which was raised in the Bill which was introduced by the Hon'ble Mr. Bhupendra Nath Basu. No doubt there is an important difference, in that the Bill now proposed has the object of legalising certain marriages among Hindus only; but this point was fully covered by that Bill, though it sought to effect something more. When that Bill was introduced, it was referred to Local Governments and to the general public for their opinions. Local Governments and the general public expressed their opinions, and there was a tremendous volume of opinion received against the Bill, as was evident from the remarks which the Hon'ble Sir Reginald Craddock made on the motion to refer the Bill to a Select Committee.

Now, my Lord, if a long time had transpired since then, if there had been evidence of a great change in public opinion, I could understand the attitude adopted by the Hon'ble the Home Member to-day. But as has been pointed out by some previous speakers, barely six years have passed since this matter was referred to the Local Governments and to the general public. There is no new circumstance indicated why the question should be

[5TH SEPTEMBER, 1918.]

[*Pandit Madan Mohan Malaviya; Dr. Tej Bahadur Sapru.*]

agitated again. Of course a hardship is felt by a certain number of people. There is no doubt that they feel it to be a real hardship; but it is the same that was felt when the Bill was taken up by the Hon'ble Mr. Bhupendra Nath Basu. There is nothing put forward to show that there has been any noticeable change in public opinion on the question. Is it right, then, is it wise, will it serve any good purpose, to agitate the public mind over it again, and to ask the Local Governments to reconsider this matter and to express their opinions again about it? If anybody could fairly say, either from among the non-official or from the official Members, that there has been such a change as would justify a fresh reference to the general public and to the Local Governments, I could understand the position taken up by the Hon'ble the Home Member and the mover of the motion before us. But I do not think anybody can say so. That being the case, I submit, my Lord, that this motion comes at a time when there is little justification for it.

"I do not wish to go into the merits of the question, except to say that the general sense of the Hindu community will be entirely opposed to this Bill. You may refer the Bill again to the Local Governments and to the public, if you choose to do so; but I do not think that a reference is needed to convince anybody who keeps his eyes and ears open and is in touch with public opinion in this country that the great bulk of the Hindu community will be opposed to this measure. Individuals and groups of individuals who belong to a large community have to put up with hardships and inconvenience so long as the dominant sense in the community is opposed to the views which they entertain or want to promote. That is unfortunately the position of those who think that such a measure as the Hon'ble Mr. Patel advocates should be allowed. But the facts being as they are, I submit that it will serve no useful purpose; it will create unnecessary stir among the general Hindu public, and will unnecessarily take up the time of Local Governments and Administrations, if leave to introduce this Bill is given. For these reasons, my Lord, I oppose the motion which is before the Council."

**The Hon'ble Dr. Tej Bahadur Sapru:**—"My Lord, I rise as a cordial and warm supporter of the measure which has been sought to be introduced to-day by my friend Mr. Patel. My Lord, it has been said that Hindu religion is in danger and that Hindu society is in great peril. I do not believe in any such protestations. I believe, if we could turn back the records of our predecessors 50 or 60 years ago, when one distinguished predecessor of your Lordship abolished *Sati* in this country, or another distinguished predecessor of your Lordship passed a measure recognising the validity of the re-marriage of widows, I believe we would find a family likeness between the protests made by the orthodox members to-day and the protests made by their predecessors at that time. Meanwhile the world has gone on, and I believe that with the world Hindu society too has considerably changed. My Lord, not only has Hindu society considerably changed, but Hindu society has also tolerated many judicial interferences with Hindu law. I challenge any one of my lawyer-friends here, to say that the Hindu law as administered by our Anglo-Indian Judges or even by Hindu Judges to-day is exactly the same as the Shastries in the old days used to interpret it. Changes by Judges have gone on increasing with regard to almost every branch of Hindu law, and it passes my comprehension why Hindu sentiment should feel shocked at a reasonable change in this direction. But, my Lord, those who criticise this measure, I am afraid, entirely misunderstand the scope of the Bill. It is not really an invasion upon orthodoxy. It is really meant for the protection of those who are not prepared to subscribe to all the conditions and tenets of orthodoxy. If orthodoxy is entitled to protection, so are those who do not subscribe to orthodoxy.

12-27 P.M.

"Now, my Lord, Mr. Patel does not want any orthodox men to go out of this room and act up to his injunction in this respect. It is certainly not intended that orthodox men and women should marry out of caste if they think that they are not prepared to do it. But at the same time I join issue with

[*Dr. Tej Bahadur Sapru ; Mr. Surendra Nath Banerjee.*]

[5TH SEPTEMBER, 1918.]

orthodox people if they say that if there is a man who is prepared to go out of caste and to seek a wife out of caste, he has got no right to do so. Undoubtedly the caste has got the right to penalise his conduct ; and I recognise that it may ostracize him. That is the only penalty which society can impose on him, but that man has got a right to go to the Legislature and say ' why not protect me, why put me in that dubious position.'

"What is more important than all this, my Lord, is to my mind the fact that some Hindu States, governed by Hindu Rajas, have taken the lead in this matter. Take for instance the Native State of Indore, or again take, for instance, the Native State of Nepal. In Nepal,—and I say it with confidence because the question arose in a case,—marriages between *Brahmins* and *Kshatriyas*, between Hindus of different castes, are perfectly permissible. If that be so in an orthodox Hindu State, I do not see any reason why Hindu sentiment in British India should feel so much outraged by granting liberty to dissenters to follow the bent of their own minds. My Hon'ble friend Mr. Sastri has raised several points which are more or less in the nature of side-issues. I do not propose to go into these questions at the present stage. Probably they will come up before the Select Committee, and the Select Committee will be the proper place for the consideration of those points ; but meanwhile I do feel that the state of the law as it stands at present is extremely unsatisfactory, and when Hindu Judges and also Anglo-Indian Judges have said in the course of their judgments that though the ancient Hindu law permitted such marriages, they are not prepared to follow the ancient Hindu law because the custom during the last few hundred years or more has been to the contrary, I submit it is taking an extraordinary risk for any dissenter to go out of his caste for the purposes of marriage. It is for that reason that I would ask your Lordship to allow this Bill to be introduced, not as an aggression upon orthodoxy, but by way of protection of the dissenters."

12.34 P.M.

**The Hon'ble Mr. Surendra Nath Banerjee:**—"My Lord, I may say at once that I am in very deep sympathy with the objects of the Bill which has been introduced by my friend, the Hon'ble Mr. Patel, and if we were living in ordinary times, free from the unusual excitement through which we are passing at the present moment, I should certainly vote for this measure. But, my Lord, politics has been described by an eminent author as the science of opportunists, and it does seem to me that the introduction of this Bill is most inopportune at the present moment. We have enough of troubles over the Reform Scheme. The atmosphere is almost electric ; why throw an apple of discord into our midst ? We want a little peace, a little calmness, a little of sobriety and self-restraint for the consideration of the grave issues involved in the Reform Scheme. And now here is another contentious, controversial Bill introduced which will appeal to the deepest of our sentiments, the sentiment of religion. For this reason I think the introduction of this Bill is inopportune. My Hon'ble friend the Home Member has explained to us the attitude of the Government. He says that the Government is prepared to circulate this Bill for opinion. Does he lay the flattering unction to his soul that the circulation of the Bill will not cause agitation ? The Bill will be sent to the various public bodies ; the various newspapers will take it up, they will begin to discuss it and in a most excited manner. It does seem to me that my Hon'ble friend is altogether mistaken if he thinks that that is a most innocuous proceeding. It is not so at all. It will lead to agitation and controversy, it will lead to that excitement we are so anxious to avert at the present moment.

"Now passing from the attitude of the Government, I should like to address a word or two to the Hon'ble introducer of this Bill. I suppose he wants the Bill to be passed ; he does not want merely a bit of excitement in the Indian atmosphere of to-day ; he does not want anything to be added to the unrest through which we are passing at the present moment. Well, if that be his object, if he wants the Bill to be passed, it seems to me the wisest course is to withdraw it at the present moment, to wait for the Reformed Councils, and then allow the matter to be disposed of by them. Truly, this Council is not in a position to adjudicate

[5TH SEPTEMBER, 1918.] [Mr. Surendra Nath Banerjea ; Mr. M. A. Jinnah.]

upon a matter of this kind. Social considerations are considerations which the Government must necessarily fight shy of. The Government is cautious. If I were a member of the Government I should be very cautious in dealing with social problems. That being so a responsible Government would take courage in both hands and deal with social questions. Therefore, for the purposes of the Bill itself and for the high motives with which I am prepared to credit my Hon'ble friend, I beg him to withdraw the Bill, and I associate myself with the entreaty that has been addressed to him by my friend the Hon'ble Mr. Sastri. The Bill is inopportune and it ought to be withdrawn in the interests of the Bill itself and for the success of the great social reform which my Hon'ble friend has so much at heart."

**The Hon'ble Mr. M. A. Jinnah :—**"My Lord, it is certainly an irony of fate that my friend Mr. Surendra Nath Banerjea, who has been agitating for the last 40 years and more, should be so much afraid of agitation and unrest. Is the circulation of this Bill going to cause unrest? What will the people understand by it? The Government attitude is perfectly clear. The Home Member, on behalf of the Government says we seek opinions. Why should that cause unrest and anxiety to anybody I fail to understand. Then the next point of Mr. Banerjea was that this Bill will be considered better in the new Councils where the Government will be a responsible Government. Is this Government not a responsible Government now? I see no reason why this Government should not consider this Bill at this moment if there is a case made out for it. Is there no duty or obligation lying on this Government as it is at present constituted? Are we to wait until another or new Council is formed which, in the opinion of Mr. Surendra Nath Banerjea will be a responsible Government? I certainly fail to understand that argument. I can quite understand my friend Mr. Sastri who said that we might wait until the new Council is formed. But may I say to my friend Mr. Sastri that this Bill will take a considerable time in order to ascertain the opinions of the various sections of the community, and is it not desirable that we should at least proceed with the work of receiving and collecting that body of opinion? When that opinion is collected, probably we will, and I for one hope that we will, have the new Councils fully inaugurated and instituted. Then let the new Council deal with this Bill if necessary. But I see no reason whatsoever why we should delay even the circulation of the Bill and collection of opinions until the new Councils are formed.

"Personally, my Lord, I would like to go much further than this Bill. I was one of the supporters of Mr. Basu's Bill, and I then emphatically dissented from the attitude that was taken up by Sir Reginald Craddock, the Home Member at that time, who laid down two propositions and said that, unless those two propositions were complied with, the Government could not possibly give their assent to any measure of this character. One was that there should be an overwhelming majority in favour of the Bill, and the other was that if there was something like an outrage upon humanity, then the Government would be obliged to step in and prevent that by legislation. But, my Lord, there is a third proposition, and I ask the Government and those who are responsible for the Government of India to-day to read what Mr. Curtis has said on this subject. Mr. Curtis in his 'Letters to the People of India' has dealt with this question in a manner which will commend itself to anybody who is really interested in this question. I do not want to quote that because I have not got the book here, but I would urge upon every Member of the Government to bear in mind those observations and principles which he has laid down, and I say it is incumbent, it is absolutely obligatory, on the Government to grant that liberty of conscience to individuals. Even on the ground of equity and fairness: Let those who wish to contract marriages unfettered by the shackles of caste or any other shackles do so. It is not obligatory under this Bill that every Brahmin should marry a Sudra, nor is it necessary that every Sudra should marry a Brahmin. This is purely permissive—true. What does this Bill say? It says that if a Brahmin wishes to marry a Sudra, and if a Sudra is willing to marry

[*Mr. M. A. Jinnah; Rao Bahadur B. N. Sarma.*]

[5TH SEPTEMBER, 1918.]

a Brahmin, let them do so. Why should they be prevented and why should their union be invalid? It is then open to the Brahmin community or the Sudra community, if they object to any member of their caste marrying outside their caste, to outcast him or her if they like. But why should you, because the majority do not approve of it, legalize his marriage with another caste. The argument is that until you get a majority you should not do it. Now I ask the Government—I do not ask those who advocate the principle that until you get a majority you should not do it—but I ask the Government face to face, if you are going to be guided in the matter only when you get a majority, how many years will you have to wait for it? And is the Government going to stand by and allow the majority to oppress the minority? And remember that this minority is the creation more of the Western education for which you yourselves are responsible. Are you going to deny liberty to those whom you have educated? Are you going to deny liberty to those whom you have trained up in Western ideas, and are they to remain the victims of this caste shackle? I am a Mussulman. This is a question which I know concerns the Hindus, but as a Member of this Council I have to record my vote, and I cannot simply sit quiet and record it one way or the other. I am as much interested, my Lord, in coming to the rescue of the Hindu minority suffering to-day because of this law as anybody else would be interested in coming to the rescue of a Mussulman minority if it was suffering. Therefore, I strongly urge upon the Government to allow this Bill to go out to the country and let us collect opinions upon it."

12-45 P.M.

**The Hon'ble Rao Bahadur B. N. Sarma** :—"My Lord, I am in hearty agreement with the principles underlying this Bill. It seems to me that the attitude of those who oppose this Bill *in toto* is somewhat unreasonable. It merely asks for liberty of conscience. There is a section of the educated community—I will not say a large section—which believes in the fundamental spiritual doctrines of Hinduism, but which does not believe in the sacred character of the marriage laws as at present understood by the Hindus. Now the question is, are we to drive them out of the Hindu fold, and are we to compel them to say that they are not Hindus in order that they may contract a legal valid marriage? I think the answer to that question can only be in the negative, and the only course open to us is to accept the principle underlying this Bill. But, my Lord, unless there are radical changes and alterations in the Bill, I fear that it may do more harm than good to Hindu society. It would, I fear, encourage polygamy which must have been one of the objects which the Hindu law-givers had in view in abolishing intercaste marriages. There was this safeguard in Mr. Basu's Bill that those who married under that Bill, as amended, could marry only one person, whereas if the Hindu law is to be modified in the manner suggested, there is just a possibility of *Kulinism* being rampant in the land. It would be possible for uneducated Brahmins and upper caste Hindus to get brides among all the castes, and there would be difficulties of inheritance and difficulties of social life arising from such a condition of things. And that was, I believe, one of the objects at any rate why the ancient Hindu law-givers prohibited inter-caste unions. It will be necessary therefore, if we permit inter-caste marriages, to make it also incumbent upon a person who marries out of his caste not to marry more than one person. Well, that is a question of detail, though an important detail, which would have to be discussed when the Bill is referred to the Select Committee, and it would be only perhaps on that condition that many of us would be able to vote for the Bill.

"With regard to the question of expediency, I would join the Hon'ble Mr. Sastri in appealing to the Hon'ble Mr. Patel not to press this motion at the present juncture. My reason is this. We have got only one Session before us, and, I believe, it would be absolutely impossible to receive all the opinions during the life-time of this Council. The question would have to be taken up afresh in the new Reformed Councils and I do not wish to burden that body with legislation of such a controversial character in the very first stages of its



[5TH SEPTEMBER, 1918.]

[*Rao Bahadur B. N. Sarma; Sir George Lowndes; Pandit Madan Mohan Malaviya.*]

existence. I would like that the question should be brought up before a full Council of 100 or 150 Members representing all the communities, and that they should have a chance of saying 'aye' or 'no.' But if the Hon'ble Mr. Patel does not see his way to withdraw the Bill at the present stage I must, inasmuch as I believe in the principles underlying it, vote for the Bill."

**The Hon'ble Sir George Lowndes:**—"My Lord, there are one or two things which, I think, ought to be said before this debate is closed. I have no desire to enter into the controversy in any way at all. But it seems to me that the attitude of Government may possibly be a little misunderstood in view of the remarks which fell from my Hon'ble and learned friend opposite. All that Government desires, is that this Bill should go out to the public and that they should have an opportunity of knowing what the views of the public are upon it. That the Government will be guided by the opinions they receive and the views they hear is quite certain. But my Hon'ble Colleague, Sir William Vincent, did not say that the fate of the Bill would depend upon the majority of the opinions received. All that my Hon'ble Colleague said was that Government would be guided by the opinions they received."

12-49 P.M.

"In the second place, my Lord, there is a fact which it appears to me ought to be made clear before Hon'ble Members are asked to vote on this motion. Frequent references have been made to Mr. Basu's Bill which was introduced a few years ago, but no one, so far as I have heard, has pointed out the essential difference between that Bill and this. Mr. Basu's Bill purported to validate or to make possible marriages between Hindus and non-Hindus, whereas, as I understand, Mr. Patel's Bill, it only deals with the question of inter-Hindu marriages. It appears to me that this in itself is a sufficient answer to what fell from my Hon'ble friend Pandit Madan Mohan Malaviya when he asked 'why do you want to raise this question again now?' The answer seems to be that the question is not the same; this is the smaller half of the question which agitated people so much in 1912.

"There is one other point, my Lord, which I think, as a lawyer, I ought to refer to. We have heard so much here from orthodox Members of this Council about disturbance of the foundations of their religion and how the sacrament of marriage—I quite admit that marriage among Hindus is a sacrament—is bound up with the foundations of their religion, and how it will be struck at by this Bill. My Lord, the position is a somewhat extraordinary one. In most cases where we are asked to legislate with regard to questions which touch the Hindu religion, (and sometimes the Muhammadan religion), we are told that it is only going back to the old law, that we shall only be restoring the law of the ancient *Shastras* which has been overridden by the Privy Council or by the Courts in India. That is the common argument. The curious thing is that this is the exact opposite of that position. So far as marriages between a Hindu man of one caste and a Hindu woman of a lower caste are concerned, they were allowed by the *Shastras* in India during the whole of the best period of Hindu history. They were not only legal but they were recognised as such by every great writer on the subject....."

**The Hon'ble Pandit Madan Mohan Malaviya:**—"That is not correct."

**The Hon'ble Sir George Lowndes:**—"I believe it is quite correct."

**The Hon'ble Pandit Madan Mohan Malaviya:**—"For 3,000 years it has not been so."

**The Hon'ble Sir George Lowndes:**—"My Hon'ble friend is very brave, and my Hon'ble friend Mr. Ayyangar was braver still, though I fancy with a very slight knowledge of the subject. He ventured to quote Manu as laying down that such marriages were improper. Now, Manu, as my Hon'ble

[Sir George Lacombe; Mr. V. J. Patel.]

[5TH SEPTEMBER, 1918.]

friend ought to know, is probably a conglomeration of texts belonging to a great number of different periods. I can point out to my Hon'ble friend Mr. Ayyangar and to the Hon'ble Pandit passages in Manu which directly recognise the legality of such marriages and the succession of property under them. It is not certain to what period the later texts belong, but they are clearly not of the same period as the others. Manu, it is true, contains one or two texts—to one of which the Hon'ble Mr. Ayyangar referred—disapproving of such marriages; but Manu is hardly an authority as the work contains texts both ways.

“But apart from Manu, take the Benares school of writers. I start with the *Mitakshara*, and the *Mitakshara* recognises the legality of these marriages. That is somewhere about the 11th century. The doctrine goes on right down to *Mitra Misra* one of the latest commentators in the beginning of the 17th century who also recognises their validity. Take the Southern India School. We have got exactly the same thing there. From the writers of the 13th century right down to the 17th century, the validity of these mixed marriages is directly recognised. Take even the school of Bengal. Here we have the *Dayabaga*, which was definitely, very definitely Brahministic, I had almost said a recrudescence of Brahmanism,—the whole foundation of which was the getting away from the secular views of the time,—even the *Dayabaga* recognises the legality of these marriages. Therefore, I think, the Council ought to understand that when we hear talk of the foundations of the Hindu religion, being disturbed, it is not the foundations of the old Hindu religion, but the foundations of modern custom which has supplanted the old religion since the 16th century. And this I submit, is a point of considerable relevance.”

12-55 P.M.

**The Hon'ble Mr. V. J. Patel:**—“My Lord, I have only a few words to add to what my Hon'ble friend who has just sat down has remarked. It has been alleged that Hindu religion and Hindu custom are being disturbed; but I would just draw the attention of this Council to a piece of recent legislation on the subject of Hindu inter-caste marriages in the Kolhapur State. I will only read two or three lines from the preamble which runs as follows:—

‘Whereas Hindus and Jains are now divided into innumerable castes and parties of different castes cannot marry on account of custom, but such marriages among Hindus and Jains generally were common in ancient times, and whereas it is desirable that any Jain or Hindu should be free to marry anyone of either persuasion irrespective of caste, and whereas it is expedient to provide a form of marriage for them and to legalise certain marriages the validity of which is doubtful, it is hereby enacted, etc., etc.’

It has been recognised in this piece of legislation that in ancient times inter-caste marriages were common, and that therefore they will not in any way interfere with old Hindu religion or Hindu custom. Of course dealing with this particular piece of legislation, I may point out that one of the clauses in it is to the effect that the parties after giving 14 days' notice to the Registrar are perfectly entitled to undergo the form of marriage and enter into a legally valid contract. That being so, any two persons of different castes residing in British India might go to the Kolhapur State and stay there for 14 days and marry. What answer have those who have been opposing this measure to-day got to give to this?

“There is one other point, your Excellency, which I should like to make clear. My Hon'ble friend Mr. Sastri and my Hon'ble friend Mr. Sarma, as well as my Hon'ble friend Mr. Banerjee, have asked me to consider whether it is wise to go on with this Bill at this stage, and whether it would not be better to withdraw it now and bring it up again later on. Let me assure them that so far as I am concerned, I am perfectly willing to bring this Bill again when the new Councils come into existence. There is nothing to prevent me from doing so, in case my present attempt fails. But there is absolutely no reason why I should withdraw the Bill now. I propose to take advantage of the present opportunity, and if I be re-elected on the New Council, I shall take the opportunity of making a second attempt then, in the event of my failing now.”

The motion was put and agreed to.

[5TH SEPTEMBER, 1918.]

[*Mr. V. J. Patel; Mr. Surendra Nath Banerjea; The President.*]

**The Hon'ble Mr. V. J. Patel:**—"I now introduce the Bill, my Lord, and move that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit."

The motion was put and agreed to.

### RESOLUTION *Re* REFORMS PROPOSALS.

**The Hon'ble Mr. Surendra Nath Banerjea:**—"My Lord, may I respectfully ask your Excellency to adjourn the Council to-day, as my Resolution deals with a very important matter, and it seems to me that it would be most fitting that it should be taken as the first item on to-morrow's list."

**His Excellency the President:**—"I think that is a reasonable request, which I feel sure the Council will be willing to accept. I therefore propose to adjourn this Council from now to 11 o'clock to-morrow morning. Mr. Banerjea's Resolution will be the first on to-morrow's list."

The Council then adjourned till Friday, the 6th September, 1918.

SIMLA ;

*The 12th September 1918.*

A. P. MUDDIMAN,

*Secretary to the Government of India.*

**APPENDIX A.***[Referred to in answer to Question No. 31.]*

Telegram No. D-3, dated the 6th December 1917.

Serial No. 1.

From—The Viceroy (Railway Department),

To—The Secretary of State.

Our despatch dated 17th August number eighteen. Notice has been given Resolution to be moved Imperial Legislative Council beginning of February urging that East Indian Railway may be taken under State management, shall we have reply to despatch in question by then or can you inform us in January next your views.

Telegram dated the 13th December 1917.

Serial No. 2.

From—The Secretary of State,

To—The Viceroy (Railway Department).

Your telegram dated December 6th, D-3, I am afraid that reply to your despatch dated August 17th, No. 18, cannot be promised by date named. It requires very careful consideration and must await Mr. Montagu's consideration on his return.

No. 188-F-16, dated 9th May 1918.

Serial No. 3.

From—The Secretary, Railway Board,

To—The Secretary, Public Works Department, India Office.

In continuation of the Government of India Despatch No. 18-Railway, dated the 17th August 1917, and with reference to Secretary of State's telegram of 13th December last, I am directed to forward herewith 6 copies of an extract from the Proceedings of the Indian Legislative Council held on the 18th March 1918 containing the discussion on the Resolution moved by the Hon'ble Rao Bahadur B. N. Sarma on the East Indian Railway Company contract.

Telegram, dated London, the 5th June 1918.

Serial No. 4.

From—The Secretary of State,

To—The Viceroy (Railway Department).

Your Railway Despatch No. 18, dated 17th August last. East Indian Railway. Please send as soon as possible and meantime telegraph summary of replies from Local Governments and public bodies to further enquiry made demi-officially before I left India.

Telegram, dated Simla, the 8th June 1918.

Serial No. 5

From—The Viceroy (Railway Department),

To—The Secretary of State for India, London.

Your telegram of 5th June. East Indian Railway. We have consulted Government of Bengal, Government of Bombay, Government of the United Provinces and Chambers of Commerce in these Provinces. Government of Bengal and Government of United Provinces, and European Chamber of Commerce, Upper India, Cawnpore support Board of Directors in India, and express view there would be no difficulty securing Board of sufficient strength and permanence. Government of Bombay adhere to State management and are strongly opposed to Boards in England. The majority of European Bombay Chamber of Commerce support Board in India. Minority support Board in England. Indian Bombay Chamber of Commerce adhere to State management. No reply received as yet from either European or Indian Chamber of Commerce, Bengal. Replies received are being sent.

Serial No. 6.

No. 188-F.-16, dated the 13th June 1918.

From—The Secretary, Railway Board,

To—The Secretary, Public Works Department, India Office, London.

In continuation of this office telegram dated the 8th June 1918 in connection with the East Indian Railway Contract, I am directed to forward herewith 6 copies of the accompanying papers containing the views of certain Local Governments and Chambers of Commerce regarding the proposed location of the Boards of Directors of Indian Railways in India and to say that the replies of the two Calcutta Chambers of Commerce will be forwarded on receipt.

Serial No. 7.

Demi-official letter No. 188-F.-16, dated Simla, the 4th April 1918.

From—The HON'BLE SIR ROBERT GILLAN, K. C. S. I., President, Railway Board,

To—C. P. WALSH, Esq., Secretary to the Government of Bengal, Public Works Department.

Will you please refer to our letter No. 188-F.-16 of 17th June 1916 and the reply of your Government, No. 282-R. of 10th February 1917 on the subject of State and Company management? The broad issue then placed before local Governments was which of these systems had the advantage under Indian conditions, and an endeavour was made in an enclosure to our letter to state the arguments on both sides: amongst other factors it was noted as one of the defects alleged against the present system that the Boards of Indian Companies are located in London. Following up the point a third alternative has been suggested, namely, neither to retain the existing system intact nor to have recourse to State management but to have an Indian company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto. This plan seems to have certain advantages. Your Government appeared on the whole to be in favour of State management, but the alternative of management by a company domiciled in India was not specifically placed before them. It is possible that many who have pressed for State management would be satisfied by a change which while retaining Company management brought the Directorate into closer touch with Indian conditions. We should be glad to be favoured with the views of your Government first as to the general merits of this suggested alternative and secondly as to the practicability of constituting a satisfactory Board of Directors in India. The doubt which has been suggested is whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a strong enough Board could be constituted in India. The particular case which is now to be settled, and with reference to which these questions have to be considered, is that of the East Indian Railway Company, and in this case there would be the commercial community (both European and Indian) of Calcutta and Cawnpore on which to draw for a Directorate. This case is now actually under the consideration of the Secretary of State. To save time therefore I am writing unofficially; and I hope you will be able to let us have a reply before the end of May.

Serial No. 8.

Demi-official letter No. 188-F.-16, dated Simla, the 4th April 1918.

From—The HON'BLE SIR ROBERT GILLAN, K. C. S. I., President, Railway Board,

To—The HON'BLE MR. S. P. O'DONNELL, I. C. S., Chief Secretary to Government, United Provinces, Allahabad.

Will you please refer to our letter No. 188-F.-16 of 27th June 1916 and the reply of your Government of the 7th February 1917 on the subject of State and Company management? The broad issue then placed before local Governments was which of these systems had the advantage under Indian conditions and an endeavour was made in an enclosure to our letter to state the arguments on both sides; amongst other factors it was noted as one of the defects alleged against the present system that the Boards of Indian Companies are located in

London. Following up this point a third alternative has been suggested, namely neither to retain the existing system intact nor to have recourse to State management but to have an *Indian* Company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto. This plan seems to have certain advantages. Sir Harcourt Butler as Lieutenant-Governor of Burma expressed his opinion as in favour of Company management but even those who favour this system on general grounds have to admit that there are serious drawbacks in arrangements which as at present place so much of the control in England. On the other hand it appears probable that much of the agitation in favour of State management arises out of the fact that the direction of the companies is out of touch with Indian conditions and would be satisfied to a considerable extent by the management of the railway by an Indian instead of an English company, especially if, as is suggested, some Indian directors were included on the Board. The doubt which has been suggested is whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a strong enough Board could be constituted in India. The particular case which is now to be settled is that of the East Indian Railway Company, and in this case there would consequently be the commercial community of Cawnpore and Calcutta on which to draw for a Directorate. Your Government is one of those particularly interested in the management of this system, and we should be much obliged if we could have an expression of its views on the new alternative I have stated. The matter is now actually under the consideration of the Secretary of State. To save time therefore I am writing un-officially, and I hope you will be able to let us have a reply before the end of May.

---

Demi-official letter No. 188-F.-16, dated Simla, the 18th April 1918.

Serial No. 4.

From—The HON'BLE SIR ROBERT GILLAN, K. C.S.I., President, Railway Board,  
To—R. J. KANT, Esq., Assoc. M. Inst. C. E., Joint Secretary, Government of  
Bombay, Public Works Department, Bombay.

Please refer to our letter No. 188-F. of 27th June 1916 and your reply dated 5th April 1917 on the subject of State and Company management. As an alternative on the one hand to State management and on the other to the continuance of the present system the suggestion that at any rate the Boards of Directors of Indian Railway Companies should be located in India has attracted considerable attention and we have been making enquiries about it. On the merits of this suggestion the opinion of your Government is clearly expressed in paragraph 5 (b) of your letter. A doubt, however, has been expressed whether under Indian conditions, and in view particularly of the fluctuating character of a large portion of the commercial community, it would be possible to form a Board of sufficient strength and permanence; it will be necessary to deal specifically with this point and I am to invite the opinion of your Government on it. As the question of policy in connection with the renewal of the East Indian Railway contract is already under the consideration of the Secretary of State the matter is urgent. To save time I am writing therefore unofficially. I am to express the hope that you will be able to let us have a reply by the end of May.

---

Demi-official letter No. 526-R., dated Calcutta, the 17th April 1918.

Serial No. 3.

From—C. P. WALSH, Esq., Secretary to the Government of Bengal, Public Works  
Department, R. and B. Branch and Railway Department, Calcutta,  
To—The HON'BLE SIR ROBERT WOODBURN GILLAN, K.C.S.I., President, Rail-  
way Board, Simla.

With reference to your demi-official letter No. 188-F-16 of 4th April 1918, asking for the views of this Government on a third alternative to State or Company management of railways in India, I should be glad to know whether you desire that this Government should ascertain the views of public bodies in Calcutta, who are interested in the question, before expressing their own views. I venture to make this enquiry as the subject of your letter is at present in demi-

official form and I am in doubt whether you desire that the alternative proposal should be made public at the present stage to the extent which would be necessary in ascertaining the views of public bodies.

Serial No. 4.

Demi-official letter No. 188-F.-16, dated Simla, the 30th April 1918.

From—The HON'BLE SIR ROBERT GILLAN, K.C.S.I., President, Railway Board, Simla,

To—C. P. WALSH, Esq., Secretary to the Government of Bengal, Public Works Department, R. and B. Branch and Railway Department, Calcutta.

I am sorry for the delay in replying to your letter No. 526-R., on the State and Company question. We have addressed enquiries on the suggestion of having an Indian Company to the Bengal Chamber and National Chamber, and I think in the circumstances it will be sufficient if your Government let us know their own views without consulting public bodies.

Serial No. 5.

Demi-official No. 199, dated Naini Tal, the 23rd May 1918.

From—A. C. CHATTERJEE, Esq., of the United Provinces Government,

To—The HON'BLE SIR ROBERT GILLAN, K.C.S.I., President, Railway Board, Simla.

Will you kindly refer to your demi-official No. 188-F.-16, of 4th April on the subject of Railway managements.

Sir Harcourt Butler has given careful consideration to the proposal mentioned in your letter, namely that instead of either the existing system or purely State management, a railway should be administered by an *Indian* Company with a Board of Directors in India. The proposed Board would include a Government Director with a power of veto. I am to say that His Honour is in entire sympathy with this scheme. A similar suggestion was made in paragraphs 5 and 6 of this Government's letter No. 67-R.-673 of the 7th February 1917. Sir Harcourt Butler agrees with Sir James Meston's view that the main justification for the location of the Boards of Indian railway companies in London was that the entire capital had to be raised there. The situation in this respect is changing. His Honour is also of the opinion that Boards composed of men engaged in business in India are likely to be in much closer touch with actual requirements than Boards in London with directors, who have retired from active business in India. The Lieutenant-Governor also agrees with you in thinking that it is desirable that some Indian directors should be included on the Boards.

2. With regard to the particular case of the East Indian Railway Company Sir Harcourt Butler has no doubt that a strong and efficient board can be recruited from among the commercial community of Cawnpore and Calcutta.

Serial No. 6.

Demi-official letter, dated Mahableshwar, the 23rd May 1918.

From—R. J. KENT, Esq., Assoc. M. Inst. C. E., Joint Secretary, Government of Bombay, Public Works Department, Bombay,

To—The HON'BLE SIR R. W. GILLAN, K.C.S.I., Chairman, Railway Board, Government of India, Simla.

With reference to your demi-official No. 188-F.-16 of 13th April 1918, on the subject of the location of the Boards of Directors of Indian Railway Companies in India, I am directed to say that, in the opinion of this Government both for the reasons stated in your letter and also owing to the fact in this country there is at present no available class of independent gentlemen having property or influence on any particular railway system, or of residents with wide railway experience such as one usually finds on railway Boards in England, it would be extremely difficult if not impossible to form Boards of sufficient strength and permanence in this country.

I am to reiterate, however, that His Excellency the Governor and the majority of his colleagues are strongly opposed to Board of Directors of Indian

Railways being domiciled in England, and are in favour of all the main Railway lines in India being brought under State management.

Demi-official letter No. 81-T.R., dated Darjeeling, the 25th May 1918.

Serial No. 3.

From—C. P. WALSH, Esq., Secretary to the Government of Bengal, Public Works Department,

To—The HON'BLE SIR ROBERT WOODBURN GILLAN, K.C.S.I., President, Railway Board.

Will you please refer to the correspondence ending with your demi-official No. 188-F.-16 of 30th April 1918 on the subject of a third alternative to State or Company management of Railways in India?

2. I am to say in reply that the statement in your letter of 4th April 1918 that the Bengal Government "appeared on the whole to be in favour of State management" hardly represents with sufficient precision what was stated in the official reply of this Government No. 282-R., dated 9th February 1917. It is rather that the Government of Bengal are in favour of the co-existence of the two systems of State management and Company management. At the same time His Excellency in Council realises that the existence of Home Boards of the more important Company managed lines does constitute a serious difficulty in railway administration in this country; in as much as these Boards are conservative, slow and inaccessible. As regards the alternative suggested in your letter, I am to say that this Government would have no objection to the constitution of any purely local Board, provided that it really takes the place of the Home Board, and is not simply the delegate of the latter. They are not blind however, to the probability that this arrangement might be resented by the large number of the sterling shareholders of leading trunk lines, who are usually resident in the United Kingdom. It is also believed that notwithstanding the fluctuations in the personnel of the commercial community in India, it would be possible to form such local Boards in this country.

3. In regard to the applicability of local Boards for light and feeder Railways floated on rupee capital the Government of Bengal are of opinion that where these are at present managed by Home Boards, the Companies should certainly be encouraged or induced to substitute responsible Boards of Directors resident in India.

No. 188-F.-16, dated 4th April 1918.

Serial No. 4.

From—The Secretary, Railway Board,

To—The Secretary, Bengal National Chamber of Commerce, Calcutta.

I am directed to refer again to the question of State and Company management of Indian railways which was raised in the Railway Board's letter No. 118-F.-16 of 27th June 1916. In your reply of the 8th November 1916 your Chamber expressed the view that both systems had their advantages as well as their disadvantages and that it is desirable to give a further trial to the present arrangement under which some lines are managed by companies and some by the State. At the same time they pointed out that as matters stand at present, since the Boards of Directors of various important systems are located thousands of miles away in England, difficulties of a very serious nature exist in the way of these Boards exercising the degree of control which is necessary for efficient management. The same objection was taken to the present system by several other authorities and to meet it the suggestion has been made that instead of retaining the existing system intact, or on the other hand of having recourse to State management, the best arrangement would be to have an Indian Company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto; for the rest of the Board there would be the commercial community, both European and Indian, in Calcutta and Cawnpore, on which to draw. A doubt, however, has been suggested whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a



strong enough Board could be constituted in India in the event of the control of the East Indian Railway being transferred to an Indian Company. I am to enquire the opinion of your Chamber on the question whether it would be possible, in the event of the control of the East Indian Railway being transferred to an Indian Company, to constitute a Board of sufficient strength and permanence in India. I am also to invite the careful examination by your Chamber of the relative merits of a Board in London and a Board in India having regard to the advantages and disadvantages of either system.

I am to ask you to be good enough to let me have the considered opinion of your Chamber on the questions raised in this letter before the end of May.

No. 188-F.-16, dated 5th April 1918.

Serial No. 13.

From—The Secretary, Railway Board,

To—The Secretary, Bengal Chamber of Commerce, Calcutta.

I am directed to refer again to the question of State and Company management of Indian railways which was raised in the Railway Board's letter No. 188-F.-16 of 27th June 1916. In your reply of 18th October 1916, your Chamber expressed their view as being strongly in favour of the continuance of the present system, namely management by a Company situate in London. The broad issue then placed before your Chamber was whether a system of State or Company management has the advantage under Indian conditions, and an endeavour was made in an enclosure to our letter to state the arguments on both sides. A third alternative has been suggested to the Government of India, namely, neither to retain the existing system intact nor to have recourse to State management, but to have an Indian Company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with power of veto; for the rest of the Board there would be the commercial community, both European and Indian, in Calcutta and Cawnpore, on which to draw. A doubt, however, has been suggested whether under Indian conditions, and particularly, in view of the fluctuations in the personnel of the commercial community, a strong enough Board could be constituted in India in the event of the control of the East Indian Railway being transferred to an Indian Company. I am to enquire the opinion of your Chamber on the question whether it would be possible, in the event of the control of the East Indian Railway being transferred to an Indian Company, to constitute a Board of sufficient strength and permanence in India. I am also to invite the careful examination by your Chamber of the relative merits of a Board in London and a Board in India, having regard to the advantages and disadvantages of either system.

I am to ask you to be good enough to let me have the considered opinion of your Chamber on the questions raised in this letter before the end of May.

No. 188-F.-16, dated 14th April 1918.

Serial No. 17.

From—The Secretary, Railway Board,

To—The Secretary, Indian Merchants' Chamber and Bureau, Bombay.

I am directed to refer again to the question of State and Company management of Indian Railways, which was raised in the Railway Board's letter No. 188-F.-16 of 27th June 1916. In your reply of 1st December 1916, your Chamber expressed themselves as being strongly in favour of State management. The broad issue, however, which was then placed before your Chamber was whether a system of State or Company management has the advantage under Indian conditions. A third alternative has been suggested to the Government of India, namely, neither to retain the existing system intact nor to have recourse to State management, but to have an Indian Company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto; for the rest of the Board there would be the commercial community, both European and

Indian, served by the particular system in question, on which to draw. I am to invite an expression of your Chamber's opinion on this suggestion. They will no doubt in this connection compare both the relative merits of Boards in London with Boards in India, and of an Indian Company having its Board in India with a system of State management. A doubt, however, has been suggested whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a Board of sufficient strength and permanence could be constituted in India; and the point is one that should not be overlooked in dealing with the proposal.

I am to ask you to be good enough to let me have the considered opinion of your Chamber on the questions raised in this letter before the end of May.

No. 188-F.-16, dated 4th April 1918.

Serial No. 18

From—The Secretary, Railway Board,

To—The Secretary, Chamber of Commerce, Bombay.

I am directed to refer again to the question of State and Company management of Indian railways which was raised in the Railway Board's letter No. 188-F.-16 of 27th June 1916. In your reply of 16th August 1916 your Chamber while realising that there are probable advantages in the simultaneous existence of both systems of management, favoured on the management by Companies in preference to management by the State. They supported also the location of Companies' Boards in London. At the same time they were apparently conscious of certain defects in this arrangement since they made various suggestions to ensure the London Boards being in closer touch with the management of their lines and with Indian conditions. By various other authorities who were consulted at the same time it was represented that the location of the Companies' Boards in London is a serious defect in the present system, and a definite suggestion has accordingly been made that instead of retaining the present system intact, or on the other hand of having recourse to State management, the better plan would be to have an Indian Company with a Board of Directors in India. The proposed Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto; for the rest of the Board there would be the commercial community, both European and Indian, served by the particular system in question, on which to draw. A doubt, however, has been suggested whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a Board of sufficient strength and permanence could in this way be constituted. I am to enquire the opinion of your Chamber on this point, and to invite the careful examination by them of the relative merits of a Board in London and a Board in India, having regard to the advantages and disadvantages of either system.

I am to ask you to be good enough to let me have the considered opinion of your Chamber on these questions before the end of May.

No. 188-F.-16, dated 5th April 1918.

Serial No. 19

From—The Secretary, Railway Board,

To—The Secretary, Upper India Chamber of Commerce, Cawnpore.

Please refer to Railway Board's letter No. 183-F.-16, dated 27th June 1916, and your reply of 23rd August 1916. Your Chamber unhesitatingly recommended a renewal of the contract with the East Indian Railway which is shortly to expire, but at the same time expressed their opinion that it would be in every way advantageous if the Boards of Company-managed railways could eventually be established in India and not in London. This solution of the problem has also been suggested to the Government of India from other quarters, but a doubt has been suggested whether under Indian conditions, and particularly in view of the fluctuations in the personnel of the commercial community, a strong enough Board could be constituted in India. The Board, it is suggested, would include, as the Home Boards do at present, a Government Director with a power of veto; for the rest of the Board

there would be the commercial community, both European and Indian, in Cawnpore and Calcutta, on which to draw. I am to enquire the opinion of your Chamber on the question whether it would be possible, in the event of the control of the East Indian Railway being transferred to an Indian Company, to constitute a Board of sufficient strength and permanence in India. I am to invite the careful examination by your Chamber of the relative merits of a Board in London and a Board in India, having regard to the advantages and disadvantages of either system.

I am to ask you to be good enough to let me have the considered opinion of your Chamber on the questions raised in this letter before the end of May.

Serial No. 74.

Dated Bombay, the 27th April 1918.

From—The Secretary, Indian Merchants' Chamber and Bureau,

To—The Secretary, Railway Board.

I have to acknowledge the receipt of your letter No. 188-F.-16, dated the 5th instant. In reply, I am desired by my Committee to say that they do not approve of the proposed third alternative, *viz.*, the Management by Companies with a Board in India. The proposed alternative will not meet the objections raised in paragraph 3 of my Committee's letter dated the 1st December 1916.

Serial No. 75.

Dated Cawnpore, the 18th May 1918.

From—The Secretary, Upper India Chamber of Commerce,

To—The Secretary, Railway Board.

I am directed to refer to your No. 188-F.-16, dated the 5th April, on the subject of the renewal of the contract with the East Indian Railway.

My Committee note that others have also advanced the suggestion put forward by the Chamber in my letter of the 23rd August 1916, to the effect that when renewing the contract of the East Indian Railway it would be advantageous if the Boards of Company-managed Railways could be established in India. It is observed however that a doubt is entertained as to whether, under Indian conditions, a strong enough Board could be constituted in India.

My Committee do not share this doubt. They have examined the relative merits of a Board in London and a Board in India, and the only advantage that occurs to them of the Railway having had a London Board is that it formerly facilitated finance. This advantage can no longer be claimed. With the changed conditions brought about by the war, any financial advantage attaching to an English Board has largely disappeared and the position is, if anything, reversed.

During the coming reconstruction period English capital will be fully occupied with English requirements, and there should be abundant capital available in India for application to Indian purposes. The transfer of the Board to India presupposes the creation of an Indian Company and the conversion of the capital to rupee capital. The financial condition of India is now such as to promise success in this conversion. Money is readily forthcoming for any sound business proposition, and in recent years the Indian investing public has shown a marked partiality for railway investments. The recent war loan proved that India was capable of thinking and giving in bigger figures. A few years ago, 3 crores was about the limit of India's annual contribution to Government loans, whereas last year this was increased fifteenfold. Doubtless there was a patriotic incentive to this effort, but it proved that the money was available.

My Committee consider that there will be no difficulty in constituting a Board of sufficient strength in India,

This Board would obviously be a mixed one, of Indians and Europeans. The Presidency Banks and the many large and prosperous joint stock undertakings afford abundant proof that highly efficient Boards can be constituted in India.

For the advantages of an Indian Board much may be said. It would be composed of men on the spot and in touch with constantly changing conditions, men who move about on the Railways and are cognizant, at first hand, of defects, and able immediately to remedy them to the advantage of the public. A Home Board on the other hand must in great measure be limited in their knowledge to what is disclosed in official reports, a system which, with the best of intentions, must be unsatisfactory.

The history of Indian undertakings goes to show that companies managed on the spot compare most favourably with the rapidly decreasing number of Indian companies managed at home.

In the case of the East Indian Railway an Indian Board will be of particular value when, after the war, the question of developments will have to be taken in hand.

It would be closely in touch with the financial, industrial and commercial interests of the country and the association of Europeans and Indians in the control of an important railway would have a good effect politically.

No. 456-101, dated Bombay, the 20th May 1918.

Serial No. 70.

From—The Secretary, Chamber of Commerce, Bombay,

To—The Secretary, Railway Board.

I am directed to acknowledge receipt of your letter No. 183-F.-16, dated the 4th ultimo, regarding the question of State and Company management of Indian Railways and inviting the opinion of this Chamber on the points raised therein.

2. In reply I am to state that this matter has again received very careful consideration, especially from the point of view of the location of the Boards of Directors, and that the opinion of the majority of my Committee is in favour of the establishment of these Boards in India for the following reasons:—

- (a) That the London Board system is out of date and the Directors are out of touch with the constantly changing conditions in this country and with the needs of the Railway staff.
- (b) Under the present system it appears to be almost impossible to avoid the serious delays caused by references to London; Agent's powers of sanction being limited.
- (c) Boards of Directors if located in India would have a closer knowledge of the need for improvements to meet the requirements of traffic and would, it is submitted, be in a better position to foster and develop the trade of the country than the London Boards. The obstructive attitude of some of the latter has militated against the development of this country by means of feeder lines.
- (d) The transfer of the headquarters of the Railway Companies from England to India would doubtless involve eventually the partial transfer of Capital into Indian hands and the view of the majority of my Committee is that it is eminently desirable to increase the financial stake held by the Indian in his own country and also that the field for investment in Indian Railway Securities should be extended. The demands of the London money market after the war will probably be such as to compel India to rely more on her own resources, or, in other words, Indian Railways, if more capital be required, will probably be compelled to borrow in India on a rupee basis rather than in London on a sterling basis. If this be so, it seems to the majority of my Committee to remove one of the principal arguments in favour of the location of the Boards in London. Following the argument that English capital is more likely to invest in Indian Railways if the Boards be located in England, Indian capital should and probably will be more attracted by the location of the Boards in this country.

(c) Such of the functions of the present London Boards as could not be performed directly by Boards located in India could, it is submitted, be adequately performed by Agents or Committees in London. It is contended, for example, that such Agents or Committees in London could do all that is necessary in the London financial market and in the purchase of stores, locomotives, etc. They could also arrange references to the Consulting Engineers on the subject of bridges and so forth and lastly they could approach the Secretary of State when necessary. With regard to the latter point the majority of my Committee are not convinced that the direct access of the London Boards to the Secretary of State has been an unmixed blessing as it must tend to weaken the authority and undermine the position of the Railway Board in India. Moreover it is believed that future developments will be in the direction of freeing the Government of India more and more from the detailed control of the Secretary of State, and if this be so any advantages which may be claimed for direct communication between the Board and the Secretary of State will tend to disappear. The foregoing appear to be the special functions of the existing Boards which local Boards could not directly perform.

3. As regards the latter part of your letter under reply, in which it is stated that there is some doubt as to whether under Indian conditions and particularly in view of the fluctuations in the personnel of the commercial community, a Board of sufficient strength and permanence could be constituted, it is admitted that difficulties do exist, but the view of the majority of my Committee is that these are not insuperable. It is true that at present, particularly in this city, a limited number of gentlemen hold a very large number of directorships; such gentlemen from the very multiplicity of their offices would be unable to give to the affairs of a large railway the time and attention which a seat on its Board would require. At the same time the majority of my Committee are of opinion that there are not a few competent business men who for one reason or another do not ordinarily accept directorships or accept very few, but who would be willing to accept a seat on a Company such as a railway. In order to secure the most suitable Directors it would be necessary to remunerate them on a scale similar to that obtaining in England and the Directors might then be subject to certain restrictions and limitations as to the number and nature of other Directorships which they might hold. If this were done, it is thought that competent Boards could be secured.

4. My Committee are not unanimous on the subject matter of this correspondence and, as has been pointed out, the foregoing represents the views of the majority. They feel, however, that the opinion of the minority on the Committee of this Chamber should also be put forward for consideration and the views of the latter, favouring the location of the Boards in London, are as follows :—

(a) The delays complained of when references are made to the London Boards could be minimized by the boards being required to delegate larger powers to their Agents in India. Investigation would show that the London Boards are not wholly responsible for the delays and in considering the Railway Board's position it should not be overlooked that its operations have been largely controlled by the money placed at its disposal in the yearly Budget.

(b) As regards feeder lines. If a Company refuses to give the necessary guarantee or rebate to these lines it is always open to Government to do so. The minority would here add that the intervention of the London Boards has often been of value and has prevented the construction of lines of little use. It is felt that the remedy, if one be needed, is not to bring the Boards to India, but for the Railway Board to put a clause in the contract, requiring Railways to whom lines are leased, to undertake the working of such feeder lines as they may decide are to be built, on such terms as Government may lay down.

- (c) The objection that the London Boards are out of touch with India probably arises because those interested have found that railway facilities have not kept pace with the traffic. This, it is submitted, is not due to want of knowledge but to want of funds, the responsibility for which rests on the Government of India and not on the London Boards. The latter have usually on their directorate gentlemen who have recently served in India and who are quite in touch with the requirements of this country and the practice of sending a Director periodically to India (and this the minority emphasize as essential), enables the Home Boards to keep in touch with the changing conditions. If, moreover, the London Boards are not considered sufficiently strong at present the minority of my Committee submit that there will be no difficulty in securing in England, Directors with special knowledge of Railway administration and that, if necessary, it might be insisted upon that a large proportion of the Directors of the London Boards should hold this special qualification.
- (d) A point in favour of the Boards being retained in London is the fact that the final arbiter of the Railway policy in India is the Secretary of State for India. The Boards by their location in London are in close touch with him, through his representatives, who attend the Board's meetings. With the location of the Boards in India, this advantage will be gone and the trade will be deprived of a very useful protection.
- (e) The proposed alternative to the London Boards is a Board in India composed of Europeans and Indians. The great drawback of such a Board would be (1) lack of essential knowledge of Railway working, (2) a comparatively limited number of men from whom such a Board could be selected and (3) frequent changes in the personnel, especially as regards Europeans, which must militate against efficiency. The Board would have to be selected from men who are mostly fully employed and who would have very little time to give to the working of the Railway. These conditions would make it extremely difficult to obtain a really efficient Board.
- (f) The minority of my Committee does not agree that the English financial market must necessarily in the future be considered closed to India and that therefore one of the advantages of having the Boards in London will disappear. No one can definitely say that this will be so and the minority therefore submit it will be unwise to do away with a channel which has admittedly been of great value in the past unless great compensations in other directions are forthcoming from the change.
- (g) The purchase of stores, etc., in England is by no means the least of the functions of the London Boards, and the co-operation of Boards with their Consulting Engineer situated in the same city, is of the greatest advantage in arriving at decisions such as are necessary in designing bridges, locomotives, etc. Such collaborations are of great value and enable railways to keep in touch with the latest practice in other parts of the world. If the Board of Directors were in India, it would be still necessary for them to have Agents in London. Railway Companies in the Argentine are controlled by Boards situated in London, exactly as is the case in India. Those railways have not been restricted in finance in the same degree as have the Indian Railways and they are accepted as some of the most go-ahead Railways in the world. If the system has answered well in that country, where conditions are very similar to those in India, it is difficult to conceive why it should be a failure in this country. The minority of my Committee therefore venture to suggest that it would be best to retain the present orga-

nization and remove the objections by protecting clauses in new contracts.

Serial No. 7.

Telegram No. 80, dated Simla, the 9th July 1918.

From—The Viceroy (Railway Department),

To—The Secretary of State for India, London.

Your telegram dated 5th June. East Indian Railway. Replies from both Chambers of Commerce, Calcutta, have been received copies of which go by next mail; they are in favour of company management in London with increased power to local Committees in India.

Serial No. 8.

No. 188-F.-16, dated the 15th July 1918.

From—The Secretary (Railway Board),

To—The Secretary, Public Works Department, India Office, London.

In continuation of this office telegram No. 80, dated 9th July 1918, I am directed to forward herewith six copies of the letters from the Bengal National and the Bengal Chambers of Commerce containing their views regarding the proposed location of the Boards of Directors of Indian Railways in India.

Serial No. 9.

No. 161, dated Calcutta, the 13th June 1918.

From—The Honorary Secretary, Bengal National Chamber of Commerce,

To—The Secretary, Railway Board.

I am directed by the Committee of the Bengal National Chamber of Commerce to acknowledge the receipt of your letter No. 188-F.-16, dated the 4th-5th April last, referring again to the question of State Company management of Railways in India. As a solution of the difficulties pointed out in our letter dated the 8th November 1916, arising out of the Boards of Management of several Railways in India being placed at a long distance in London, it has been suggested that the best arrangement would be to have an Indian Company with Board of Directors in India, constituted on the lines of the Home Board having a Government Director with the power of veto and members consisting of the representatives of the Commercial Communities both European and Indian in Calcutta and Cawnpore. A doubt is entertained, in view of the fluctuation in the personnel of the European Commercial Community, whether a sufficiently strong Board could be constituted in India, in the event of the control of the East Indian Railway being transferred to an Indian Company and the views of the Chamber are invited on this particular point as also on the relative merits of a Board in London and a Board in India having regard to the advantages and disadvantages of either system.

The question is beset with difficulties. The Committee have given their best consideration to the subject and desire to submit the following observations:—

For the purpose of efficient management of an important Railway, the Board of management should have amongst its members experienced administrators and financiers, businessmen and Railway experts of proved merit. In the matter of raising loans for Railways the Government will find it difficult to obtain that amount of help from the Directors in the proposed Board in India as they are getting now from the present London Board. The Committee, while they recognise the advantage of developing Railways in India with Indian capital, have doubts as to the present financial capacity of the country to undertake the task. They do not believe that there is any large unutilised wealth lying hoarded anywhere in the country and that Government will be able to raise loans in India sufficient for the proper development of Railways in the country at 3½ per cent or at such moderate rates of interest for a long time to come. Under the circumstances the restriction of connection with the London money market by the transfer of the Board of Control of Railways from London to India has its risks.

There is a paucity of Railway experts in the country. Experts for the Board, if it be formed in India, will have to be recruited from abroad. Such a course will involve additional expenditure.

Another argument in favour of the London Board is that it acts as an agency for purchasing Railway stores and equipment in the cheapest market. In the event of an Indian Board being formed an agency will have to be retained in London for the purchase of Railway materials which also will involve extra expenditure.

Finally the fluctuations in the personnel of the European commercial community will now and then raise difficulties in the way of maintaining the strength of an Indian Board up to a high level of efficiency.

On the other hand an Indian Board of management has its peculiar advantages. The formation of an Indian Board with representatives of Indian and European commercial communities will ensure in time a steady flow of Indian capital for Railway undertakings and may help to create a situation favourable for eventually obtaining the capital necessary for Railway development in the country. It will ensure proper representation of Indians in the higher administrative staffs of Railways and thereby make provision for a proper number of Railway experts being always available in the country for the successful administration of Railways at a less cost with indigenous agency. The Board being on the spot will be able to dispose of more expeditiously various cases of difficulties which frequently arise in the working of the Railway. The members of the Board, being mostly business men, representing both the Indian and European Commercial interests and having personal knowledge of local requirements and conditions, will be in a better position to conduct the administration and give directions as to the lines on which the Railways should be developed with a view to utilise the natural and industrial resources of the country.

The Committee think it will not be out of place here to quote from Mr. Bell's "Railway Policy in India" (page 32) a passage which is very relevant in this connection. He was not without hope that, "native capital would be induced to enter this field, and that he should regard such a movement as an important factor in the practical education of the people..... If ever the natives of this country are to be schooled in the first requirements of Self-Government, it is desirable that they should be encouraged to act for themselves in such matters, rather than they should rely always upon that coercive philanthropy which insists upon doing every thing for them."

In the event of Government deciding not to disturb the present arrangement the Committee would suggest the formation of Local Subordinate Boards with representatives of Indian and European Commercial Communities or constitution of Local Committees, like that of the East Indian Railway, which is now merely a consulting and advisory body, vested with power for controlling establishment, transportation of goods, passenger, traffic, rates, etc. Such a system is calculated to effect an improvement upon the present arrangement and make the Railway administration in various ways more popular and subservient to the interests of the country.

No. 1446, dated 3rd July 1918.

Serial No. 8.

From—The Secretary, Bengal Chamber of Commerce,

To—The Secretary, Railway Board.

I am directed to acknowledge the receipt of your letter No. 188-F.-16, dated 4th-5th April 1918, on the subject of the management of the Indian railways.

2. You refer to the previous correspondence on the question of the advantages of state as opposed to company management, and you indicate that a third alternative has now been suggested to the Government of India, namely, that they should neither retain the existing system intact nor have recourse to



state management, but that they should form an Indian Company with a board of directors in this country. And you go on to invite the Chamber to discuss the relative merits of a Board in London, and a board in India; and to state whether, in the event of the control of the East Indian Railway being transferred to an Indian company, it would be possible to constitute in this country a board of directors of sufficient strength and permanence.

3. The existing contract between the Secretary of State and the East Indian Railway will come to an end next year, and the question of whether it should be renewed, and if it is renewed, upon what terms and conditions, is closely associated with the present discussion. The Bengal Chamber of Commerce is very keenly interested in everything that affects the welfare of the East Indian Railway, and the views which I express in this letter should be understood as having reference primarily to that undertaking. When examining the question of the relative advantages and disadvantages of state, as compared with company management the Committee of the Chamber said—in my letter of the 18th October 1916 to your address—that they favoured the continued existence of the home boards, and they outlined the reasons upon which they based that conclusion. They have now examined the alternative proposal, to which you have drawn their attention, and they have given due weight to the arguments which can be advanced in support of it. These have not, however, convinced them that their previous conclusion was wrong, and they still hold that the railway companies ought to remain English companies under the management of boards of directors in the United Kingdom.

4. In explanation of this conclusion it is desirable, the Committee feel, for them to set out shortly the several arguments both for, and against, the new proposal. One argument which may be reasonably brought forward in its favour is that many large and important undertakings are already efficiently managed as Indian companies. The Presidency Banks may be cited as an example; and it has also to be remembered that the principal Indian ports are controlled by bodies analogous to boards of directors. Moreover, as the industrial development of India proceeds, it may be assumed that the number of large undertakings managed by local directors will greatly increase. Another point in support of the proposal is that the directors of the Indian companies would be more intimately acquainted with the every-day needs and requirements of the railways, and their constituents, than boards located in London can possibly be. They would have a better knowledge of current problems; they would be more up-to-date; and they would be in much closer touch with local conditions. Furthermore, the presence of Indians among them would no doubt do much towards removing the railways from the danger, in which they are now placed of becoming the subject of unwise political agitation.

5. Then again it may be argued, and the argument is not without force, that the war has so altered the position in the matter of finance that the principal reason for the existence of the home boards has more or less disappeared. And if finance is in the future to be found in this country it might be a good thing to have boards of directors here to represent the interest of the shareholders. But in this connection it must not be forgotten that the railways are to all intents and purposes Government-owned. This fact is known to all Indian investors; and Indian boards would not therefore have quite the same importance to Indian investors as the London boards have to home investors. It has been also urged that the Indian boards, being on the spot, would be able to deal with the current business more expeditiously than the London boards can do, as no time would be wasted in communicating with them. This might be a substantial advantage, although the Committee believe it to be the general experience of the company-managed lines that the gap which exists between the agent and the board does not lead to delays of any consequence.

6. The Committee of the Chamber admit, as you will have seen from what I have written, that there is something to be said for the new proposal. But the disadvantages which would attach to such a system appear to them greatly to outweigh the possible advantages. The most serious difficulty would be in connection with the personnel of the Indian boards. There are in the United

Kingdom many retired commercial men and railway officers with wide experience of Indian railway working and conditions, and with the leisure necessary to enable them to take office as directors of railway companies. It may be urged of course that these men are in many cases too old; that they belong to the past, and are behind the times; and that their control is altogether too conservative. Against this, however, it must be remembered that those of them who have had railway experience in India have the technical knowledge which some at least of the directors of a great railway company ought to possess. Directors with commercial experience might be found in India; but the Committee of the Chamber fail to see from where it would be possible to provide the required number of trained railway men. And, even as regards the commercial element, it would not be easy for the heads of large firms—from whom the commercial directors would naturally be recruited—to give the necessary time to their duties. For these duties, if they are to be efficiently performed, would make a considerable demand upon the time and attention of the directors. The boards in London usually consist of a chairman, and five or six members, of whom one is generally styled either deputy chairman, or managing director, and who is a fairly busy man, attending office on most of the days of the week. On all the railways at present either the chairman or the managing director, generally the latter, is a retired railway man, and in some cases both have had railway experience.

7. Another difficulty, which would arise in connection with the personnel of Indian boards, would be the changes that would be constantly taking place. This trouble is already experienced in all Indian concerns that are managed by boards of directors, or bodies corresponding to such. It is a serious obstacle in the way of efficiency, and it would be certain to be reflected in the general administration of so large a concern as an Indian railway. Then again one of the important duties of the home boards is the engagement of superior staff, both officer and subordinate. So far as regards Europeans there is no field in India upon which to draw, and there seems to be no doubt that for many years a large, though possibly a diminishing, proportion of the superior staff must be European. An Indian board would be in difficulties in this matter, and they would have no alternative, presumably, but to place themselves in the hands of the India Office, by whom such men are engaged for the state railways. To this extent, therefore, the control of the undertaking would pass from the board.

8. The question of the consulting engineers, to whom are referred all matters of engineering design whether of rolling stock, plant, or material, would also have to be considered. There are no engineers in India who could take the place of the home firms who are now employed; and the Indian board would have to refer to the consulting engineers to the India Office. It is true that this firm are also the consulting engineers to several of the Indian railway companies including the East Indian Railway. But there would be a great deal of practical difficulty in the case of a company which would then be forced to change its consulting engineers. Again, indents for all stores and materials, which have to be imported from the United Kingdom, would require to be dealt with by the India Office, as is now the case with the state railways.

9. Another point in favour of the boards being retained in London—and in the opinion of the Committee it is a point of great importance—is that the final decision on railway policy rests with the Secretary of State for India. By their location in London the boards are in close touch with the India Office, and were they to be located in India this great advantage would be gone.

10. The Committee have now set out the arguments, as they understand them, both for and against the proposal for the establishment of boards of directors in India; and, as I have indicated, they have come to the conclusion that the advantages of the existing system greatly outweigh any advantages that might attach to the proposed system. It follows that they answer unmistakably in the negative the enquiry whether, in the event of the control of the East Indian Railway being transferred to an Indian company, it would be possible to constitute a board of sufficient strength and permanence in India.

11. Although the Committee take this view they do not mean to suggest that they would not like to see greater control exercised in this country over the administration of the East Indian Railway. For they feel that the general public, and in particular the commercial community, may legitimately expect to have a voice in the control of a great railway. The function of a board of directors is to manage a concern in the interests of the shareholders, but in the case of a public utility, such as a railway the views of the public are also entitled to consideration. As regards the East Indian line this claim was really admitted as far back as 1890 when the then Chairman, the late General Sir Richard Strachey, established the local Consulting Committee. This body has not, it must be confessed, altogether realised the anticipations of those by whom it was constituted; and the reason for this is not difficult to understand. For the Committee—the members of which are drawn from the commercial community—is merely an advisory body, called together from time to time by the Agent of the line, for the discussion of any matter in respect of which he may require the advice of business men. It has no defined functions, no particular status, and no fixed duties or responsibilities. It consequently exercises but little influence, and it is certainly not a satisfactory link between the management of the railway and the public.

12. There seems, however, to the Chamber to be no reason why this Committee—now that the future control of the East Indian Railway is under discussion—should not become an integral part of the administration. It might be given a definite position and status, and to it might be assigned certain powers, duties, and responsibilities. It might be made definitely representative of the commercial community, and through them the general public, by empowering certain bodies, such as the Chambers of Commerce, to appoint its members. These members would then have constituencies to whose interests they would be required to look, and by whom they could be removed if necessary. They would be of course both European and Indian, and there would seem to the Chamber to be many matters in respect of which they might render useful service, both to the railway and to their constituencies. It is difficult to make anything approaching to a comprehensive list of the matters with which such a body might be empowered to deal. But there must, for example, be many questions coming under the heading of establishment and allowances to the staff of the line which might be dealt with by the Committee. And the important matter of the appointment of locally recruited men might also, it would seem, be handed over to them. The appointment of the home recruited staff would be of course left in the hands of the London board, and by them also the selection of the chief officers and heads of departments would naturally continue to be made. But the staff recruited in India whether Indian or European, might be selected by the Committee, in consultation of course with the agent and the other principal officers of the line. The difficult question of rates is one which might also come before the Committee. The actual fixing of rates is a matter for traffic experts. But there would seem to be no reason why the Committee should not be empowered to consider complaints, and applications for concessions having for their object the encouragement of local industries and trade. Changes in rates might likewise be discussed if necessary. The matter of the purchase of local stores, which is bound to be of increasing importance in the future, might also be left to the Committee. And, similarly, they might be authorised to deal with questions relating to sidings, powers in respect of which are now exercised by the agent. Then there must also be numerous matters connected with the welfare of the line, such as the provision of railway schools, and the improvement of the technical education of the staff, sanitation, etc., which might usefully occupy the attention of the Committee.

13. In this letter it is only possible for the Chamber to indicate, thus briefly and imperfectly, how the Consulting Committee might be changed into a body which would be enabled, by its constitution, to take a real and an effective part in the management of the railway. Such a Committee would not control the general policy of administration, nor would it seek to usurp the legitimate powers and duties of the board of directors, or of the agent. But it would be the means of bringing the public, both European and Indian, into closer touch with the management, for with its assistance grievances might be ventilated, and remedial

measures applied. And, as it would be required to perform useful and serious work, and to exercise real powers, it would be likely to attract the services of capable and public-spirited men who, while anxious to give all possible assistance, could not be expected to undertake the onerous duties which must necessarily fall to the board of directors of so great an undertaking as the East Indian Railway.

14. The question of finance has been mentioned in an earlier paragraph. It is generally anticipated that one of the results of the war will be to make the raising of capital, in the London market, for Indian railways a matter of great difficulty. If this anticipation prove to be correct the required capital will have to be raised in India, and the Committee of the Chamber have no doubt that this possibility will be considered in connection with the question of the renewal of the East Indian Railway Company's contract. They are inclined to the view that rupee capital entitled to a share in the profits might be issued, and they think such capital might be made attractive on terms somewhat similar to the branch line terms offered by the Government of India for the capital of branch lines. Indian railway traffic is developing, and it does not seem to be unlikely that East Indian Railway share or stock capital might be made attractive in this way.