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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

The Council met at the Council Chamber, Viceregal Lodge, Simla, on
Wednesday, the 8th September, 1920.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., O.M.S.I., G.M.I.E., G.C.M.G., G.C.B.E.,
Viceroy and Governor General, *presiding*, and 50 Members, of whom 42
were Additional Members.

STATEMENTS LAID ON THE TABLE.

The Hon'ble Sir William Vincent:—"My Lord, I beg to lay ^{11 A.M.} on the table a statement* showing the number of cases in which findings, etc., were recorded by summary courts in the Punjab disturbances, which was promised in reply to a question asked by the Hon'ble Pandit Madan Mohar Malaviya on the 10th September, 1919."

The Hon'ble Mr. Shafi:—"My Lord, I beg to lay on the table a statement† showing the money spent by Local Governments and Administrations in connection with the influenza epidemic during 1918-19, which was promised in reply to a question asked by the Hon'ble Rai Sahib Seth Nathmal on the 24th September, 1919."

* *Vide Appendix A.*

† Not included in these Proceedings.

[*Khan Bahadur Ebrahim Haroon Jaffer*; *Mr. W. M. Hailey*; *Rao Bahadur B. N. Sarma*; *Sir George Barnes*.]

[8TH SEPTEMBER, 1920.]

QUESTIONS AND ANSWERS.

11-2 A.M. **The Hon'ble Khan Bahadur Ebrahim Haroon Jaffer** asked :—

Financial
Relations
Committee.

1. "Is it proposed to give effect to the recommendations of the Meston Committee on Financial Relations without any modification?"

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

"The Hon'ble Member's attention is invited to the recommendations of the Joint Select Committee on the scheme for allocation of revenues formulated by the Financial Relations Committee, a summary of which has appeared in the newspapers. These recommendations have still to be laid before Parliament."

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

Sale of gold.

2. "Will Government state the total quantity of gold sold by them during the current official year?"

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

"The quantity of gold sold by Government from 1st April to 19th August 1920, is 12,786,725 tolas fine."

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

The co-operative
movement.

3. "Will Government consider the desirability of publishing an annual review of the progress made by the co-operative movement in the different provinces along with the statistics published each year?"

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

"The Government of India formerly issued an annual review of the progress of Co-operative Societies in India, the last one being for the year 1909-10, but it was discontinued in 1911 with the approval of the Secretary of State who agreed with the Government of India that the provincial reports and the proceedings of Key Strars' Conferences supplied sufficient information on the subject. The Government of India see no reason to reconsider this decision, particularly in view of the fact that under the reformed constitution Co-operation will be a Provincial transferred subject and the direction of the movement will be in the hands of local Governments."

"The subject of Co-operation is reviewed each year in the account of the moral and material progress of India which is compiled under the provisions of section 26 of the Government of India Act and is now issued in handy book form. The published statistics are also prefaced by an explanatory note."

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

Export
of sugar.

4. "Will Government state the total quantity and value of sugar exported out of India during the past seven months and the countries to which the exports went?"

The Hon'ble Sir George Barnes replied :—

"A statement* giving the exports of sugar from India (including both exports of Indian sugar and re-exports of foreign sugar) during the seven months ending July 1920 is laid on the table. I may draw the Hon'ble Member's attention to the fact that over 69 per cent of these exports represent re-exports of sugar of foreign manufacture."

* Not included in these Proceedings.

[8TH SEPTEMBER, 1924.] [*Khan Bahadur Ebrahim Haroon Jaffer; His Excellency the Commander-in-Chief; Mr. Shafi; Mr. W. M. Hailey; Rao Bahadur B. N. Sarma.*]

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

5. "(a) What has been done so far regarding the appointment of a Committee to consider the amendment of the Cantonment Code? Amendment of the Cantonment Code.

(b) Has the spade work promised in the speech of His Excellency the Commander-in-Chief to the deputation of the All-India Cantonments Conference been completed?"

His Excellency the Commander-in-Chief replied :—

"(a) and (b) Army Headquarters have been working at the necessary details in respect to the revision of the Cantonment Code since the deputation made their representation to me at Simla on the 19th April last.

When the preliminary work has been completed, the representative Committee will be assembled."

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

6. "Is it proposed to make any improvements in the particulars of information to be collected at the forthcoming census? If so, what?" The census.

The Hon'ble Mr. Shafi replied :—

"The information asked for by the Hon'ble Member is contained in the Government of India resolution of the 14th June last, which lays down the general lines on which the census will be taken, and in the appendices to that resolution which give the specific information which it is intended to collect. These papers are laid on the table."

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

7. "What is the total value of the Reverse Councils sold during the past six months and the amount of the total loss incurred on these sales?" Sale of Reverse Councils.

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

"The total value of the Reverse Councils sold in the six months from February to July 1920 is £40,988.0.0. If the Hon'ble Member will explain what he means by the word "loss", I will endeavour to supply him with the information he requires."

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

8. "What action have the Government of India and the Provincial Governments taken on the Resolution moved in this Council by the Hon'ble Mr. Shukul on the question of village economic inquiries about two years ago?" Village economic enquiries.

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

"The Resolution to which the Hon'ble Member refers was moved in this Council on 24th September 1918, but in view of the undertaking given by Sir Claude Hill to draw the attention of local Governments to the subject matter of the Resolution it was withdrawn by leave of the Council. A copy of the Resolution with a copy of the discussions which took place on it, was then forwarded by the Government of India to local Governments and Administrations, with the suggestion that when an appropriate time came and suitable circumstances presented themselves the local Governments might take into consideration the question whether enquiries of the nature contemplated in the terms of the Resolution should be held in particular areas. The Government of India have no information whether any local Governments have yet taken action in the matter."

[*Rai Sahib Seth Nathmal*; *Sir William Vincent*; *Mr. S. N. Banerjea*; *Colonel W. D. Waghorn.*] [27th SEPTEMBER, 1920.]

The Hon'ble Rai Sahib Seth Nathmal asked :—

Pay of the
Provincial
Civil Service
Officers.

9. "(a) What is the maximum pay sanctioned by the Secretary of State for the Provincial Civil Service :—

(i) for the ordinary grade; and

(ii) for the selection grade, with the percentage of appointments in this grade :

(b) What was the maximum pay of the officers of this service in the different provinces before the revised scale was introduced ?"

The Hon'ble Sir William Vincent replied :—

"A statement* is laid on the table giving the information asked for."

The Hon'ble Mr. Surendra Nath Banerjea asked :—

Disputes
between
Railways
and
mer-
chants.

10. "(a) Is it a fact that frequent disputes arise between Indian Railways and merchants and traders ?

(b) Do Government propose to consider the institution of a tribunal in each important commercial centre on which persons representing trade and industries can be appointed to determine questions of facts in connection with such disputes ?"

The Hon'ble Colonel W. D. Waghorn replied :—

"(a) It is not clear from the question what kind of disputes the Hon'ble Member has in mind, but if he refers to cases such as differences of opinion between traders and railway administrations regarding the liability of the latter for loss of, or damage to, merchandise the answer is in the affirmative.

(b) The answer is in the negative. Such cases are dealt with on their merits and questions of fact in connection therewith can be ascertained without institution of a tribunal.

In the event of a trader being dissatisfied with the reply given by the railway he has the option, if he so desires, of taking the case to court."

The Hon'ble Mr. Surendra Nath Banerjea asked :—

Indian
Railway
reorganiza-
tion.

11. "(a) Has the attention of Government been drawn to the recommendations which have recently been made by the Ministry of Transport in England, regarding the grouping of British railways on the basis of economy, elimination of competition and a thorough railway reorganization ?

(b) Do Government intend to consider these recommendations and adapt the same so far as practicable to the Indian Railway system ?"

The Hon'ble Colonel W. D. Waghorn replied :—

"(a) Government have seen the reports of recommendations referred to but have no information on the subject beyond what has appeared in the public press.

(b) As the Hon'ble Member is aware it is proposed to hold a comprehensive enquiry into Indian Railway policy by means of a Committee this cold weather and it is impossible therefore to consider usefully at present the desirability or otherwise of the proposals as applied to India."

The Hon'ble Mr. Surendra Nath Banerjea asked :—

Improve-
ment of
Indian
Miners

12. "With reference to the question on the subject put in the House of Commons by Mr. Swan in July last, have Government considered the question of the improvement of Indian Miners, and reported thereon to the Secretary of State ?"

* Not included in these Proceedings.

[8TH SEPTEMBER, 1920.]

[*Sir Thomas Holland; Mr. S. N. Banerjea; Rao Bahadur B. N. Sarma; Sir Debaprasad Sarbadhikari; Mr. Shafi.*]

The Hon'ble Sir Thomas Holland replied :—

"The question in the House of Commons referred to by the Hon'ble Member has only recently reached the Government of India. The question of the regulation of labour in Indian mines is already under consideration along with the Conventions and Recommendations of the Washington meeting of the International Labour Conference."

The Hon'ble Mr. Surendra Nath Banerjea asked :—

13. "(a) Do Government contemplate taking into consideration the question of the formation of a Canal Committee of the character recently formed in England to investigate the capacity of the various waterways in this country and their potentialities for purposes of trade ? Formation of a Canal Committee

(b) Do Government propose inviting Mr. Neville, the great expert on canals, to make a report on Indian waterways ?"

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

"(a) The question of the formation of a Waterways Board for India to deal with inland navigation was considered by the Government of India last year. It was decided and the decision was endorsed by the Secretary of State, that the formation of a central board was unnecessary and that the control of matters connected with inland navigation should be left to the local Governments concerned, who would also be responsible for the investigation of these waterways. The Government of India do not consider it necessary to appoint a central body such as suggested by the Hon'ble Member.

(b) The answer is in the negative."

The Hon'ble Mr. Surendra Nath Banerjea :—Has any communication been made to the local Governments to inquire whether any Committees for waterways have been appointed ?"

The Hon'ble Rao Bahadur B. N. Sarma :—"The Bengal Government, I believe, is the only one that is particularly interested at the present moment. The formation of a Waterways Board will be taken into consideration by the Bengal Government, I take it, should the need for it be felt."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

14. "Referring to the Hon'ble Mr. Sharp's letter to the Calcutta University No. 958, dated 26th July, received on 3rd August, and placed before the Senate on 14th August, will Government state if it is intended to appoint a Committee as suggested by the University ?" The Calcutta University.

The Hon'ble Mr. Shafi replied :—

"The letter from the Government of India, Department of Education, No. 958, dated 26th July 1920, to which the Hon'ble Member has alluded, was intended to convey to the University of Calcutta the intimation that the Government of India would not introduce the Bill for the re-organisation of that body during the current session of this Council. Before the Government of India consider the Resolution contained in the Registrar's letter No. G-624, dated the 31st March 1920, to the effect that a committee should be appointed for working out the details of a financial scheme, they desire to have before them the complete body of resolutions on the Calcutta University Commission's report which, it is understood, the Senate of Calcutta have still under consideration, and of which the Government of India have hitherto received only a first instalment."

[*Sir Debaprasad Sarbadhikari; Mr. Shafi; [8th SEPTEMBER, 1920.]*
Colonel W. D. Waghorn.]

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

Government
and for
Calcutta
University.

15. "Will Government state what financial aid, if any, is intended to be given to the Calcutta University for reconstruction according to the report of the Saddler Commission?"

The Hon'ble Mr. Shafi replied :—

"If the Hon'ble Member is referring to financial aid from Imperial revenues, the answer to his question is as follows :—The University of Calcutta has pressed for the postponement of the legislation necessary for the re-organisation of that body, which the Government of India had hoped to be able to introduce during the current session of this Council or earlier. Apart from the present financial position, no financial arrangement can be made until the Executive Commission proposed in the Report of the Calcutta University Commission has made its recommendations. As legislation cannot now take place until the new legislatures have been formed and the Executive Commission cannot at present be brought into existence, the propriety of a grant from Imperial revenues will be regulated by the new financial relations between the Imperial and Provincial Governments which will follow as a result of the introduction of the Reforms Scheme.

If the Hon'ble Member refers to financial assistance from provincial revenues, then the answer is as follows :—The amount of assistance given to the University will depend upon the report of the Executive Commission, the funds available and the allocation of these funds on which the Minister in charge of the portfolio of education in Bengal may decide between various branches of education."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari :—"By Executive Commission' does the Hon'ble Member refer to the Committee that the University has suggested or any other body?"

The Hon'ble Mr. Shafi :—"The Executive Commission mentioned is the Executive Commission recommended in the University Commission Report."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

Allotment
of wagons
for coal
under
"Special
Supply."

16. "(a) Has the attention of the Government been drawn to the letter of the Indian Mining Federation No. 309, dated 29th April, 1920, appearing in the *Englishman*, dated 2nd of August, 1920, and to the speech of Mr. W. C. Banerjee at the Annual General Meeting of the Indian Mining Federation held on the 30th July, 1920?

(b) Have Government any information regarding the alleged abuse in regard to allotment of wagons for coal under 'Special Supply' referred to in the above mentioned speech of Mr. W. C. Banerjee? If so, will Government lay such information on the table?

(c) Will Government state how many wagons (if any) were wrongfully appropriated by those guilty of the alleged frauds and the circumstances under which such fraud became possible?"

The Hon'ble Colonel W. D. Waghorn replied :—

"(a) The reply is in the affirmative.

(b) The irregularities referred to by Mr. W. C. Banerjee consisted of the alteration of Special Supply letters after issue by the Coal Transportation Office.

(c) Directly these irregularities came to light the matter was placed in the hands of the Criminal Intelligence Department and measures taken to prevent this form of fraud. Until enquiries are completed it is not possible to give the information for which the Hon'ble Member asks."

[8th SEPTEMBER, 1920.]

[Sir Debaprasad Sarbadhikari; Colonel W. D. Waghorn.]

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

17. " Will Government lay on the table a statement showing the number of wagons given for coal month by month from January to the 30th June 1920, (i) to the special public by Special Supply and the conditions under and reasons for which they were so allotted, and (ii) to the ordinary public on *pro rata* basis of allotment ? "

Number of wagons given for coal to the public by Special Supply.

The Hon'ble Colonel W. D. Waghorn replied :—

" A statement showing the number of wagons allotted for coal month by month from January to the 30th June 1920 giving the number of wagons allotted in the Special Supply Classes and the number allotted *pro rata* to collieries is placed on the table.

The reasons for which Special Supplies or X class assistance was given were that the larger industrial concerns in India were with difficulty being kept going while in many places smaller concerns were closing or about to close for want of coal."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

18. (a) Is it a fact that the Indian Mining Federation in its letter No. 309, dated the 29th April, 1920, to the Railway Board suggested that the allotment of wagons for coal should be placed 'in the hands of a Board or Committee consisting of the interests vitally concerned, *i.e.*, mining, railways and industrial, under the presidency preferably of a Member of the Railway Board ?

Placing the allotment of wagons for coal in the hands of a Board or Committee.

(b) Is it a fact that this proposal has not been accepted ?

(c) If so, what are the reasons for rejecting the proposal ? "

The Hon'ble Colonel W. D. Waghorn replied :—

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

As regards (c). After careful consideration Government decided that it was not practicable for the allotment of wagons to be carried out by a Committee. The Coal Transportation Officer is, however, in constant communication with and consults the various interests concerned."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

19. (a) When and under what circumstances did the present coal transport control system come into existence after the abolition of the 'Coal Control System' ?

Coal Transport control system.

(b) Will Government lay on the table a copy of the order by which the Coal Transportation Officer was authorised to give 'Special Supply' ?

(c) What are the conditions on which wagons for coal are being allotted by the Coal Transportation Officer under 'Special Supply' ?

(d) Is it a fact that the Coal Traffic Conference of 1912-13 decided to give Special Supply to an Industry only in cases of extreme emergency ? Are the rules in this connection still in existence ?

(e) Are the instructions given by the Coal Traffic Conference of 1912-13 for the purpose of allotting wagons by 'Special Supply' being followed by the Coal Transportation Officer in giving Special Supply ? If not, why not ?

(f) Is it a fact that the Coal Controller in his letter No. C.C.-10S-3, dated the 22nd April 1919, to the Indian Mining Federation declared 'After the withdrawal of the Coal Special Indent System, application for coal supplies in cases of extreme urgency may be made to the Coal Transportation Officer while his appointment lasts, but consumers, as a rule, must look to their collieries for their supplies, and not to the Coal Transportation Officer, who will intervene only in cases of extreme difficulty' ?

(g) Is this rule being followed ? If not, why not, and to what extent is the rule relaxed and for what reasons ? "

[Colonel W. D. Waghorn : Sir Debaprasad Sarbadhikari.]

[8TH SEPTEMBER, 1920.]

The Hon'ble Colonel W. D. Waghorn replied :—

"As regards (a), when the Coal Controller vacated his appointment, the system of control came to an end, but the Special Indent System continued up to the end of 1919. From the 1st January 1920 the majority of requests for Special Supplies received by the Coal Transportation Officer were declined and consumers informed that they must look to their supplying collieries for their coal. Unfortunately it was found that the wagon supply for the coal-fields was insufficient with the result that it was necessary to give assistance by allotting wagons in cases of urgency.

As regards (b) and (c), there is no written order, but the procedure for the allotment of wagons was agreed to at a meeting held on the 14th April 1913 at which Mr. Banerjee was present. At this meeting the granting of extra supplies to meet cases of emergency at the discretion of the railways was clearly laid down and this discretion is being exercised by the Coal Transportation Officer.

As regards (d), special supplies are granted by the Coal Transportation Officer in the majority of cases on recommendations from responsible authorities such as the Coal Certifying Authorities in Calcutta, Bombay, Karachi and Lahore; the Ahmedabad Millowners' Association, the Indian Tea Association, the Indian Jute Mill Association and the various Directors of Industries.

As regards (e), the answer to both parts of the question is 'yes.'

As regards (f), the reply is in the affirmative.

As regards (g), this rule is being followed but owing to the wagon supply in the coalfields being largely in defect during the first half of this year many cases of emergency arose."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari asked :—

Land acquir-
ed by the
East Indian
Railway
Co. in 1897, at
Lillooah.

26. "(a) What is the area of land now in the possession of the East Indian Railway Company at Lillooah and the dates and purposes of acquisition of those lands?

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

- (i) the area of the land actually built upon by the Railway Company since acquisition in about 1897;
- (ii) the number of houses and structures since then built thereon and their different purposes;
- (iii) the area of land lying vacant on which the Company intended erecting buildings but which has not yet been built upon;
- (iv) the area still available for building;
- (v) the scheme of building submitted by the Company at the time of acquisition;
- (vi) how far the same has been carried out; and
- (vii) what action Government took to see the scheme carried out within the contemplated time?

(c) Do Government intend requiring the Railway Company first to complete their scheme, for which they acquired land in Lillooah and Belur in or about 1897, before acquiring further village lands?

(d) Did the Government of Sir John Woodburn give the East Indian Railway Company, to understand at the time of acquiring lands at Belur, in or about 1897, that further acquisition of village lands that would encroach upon a portion of the towns of Belur and Bally (Indian villages), between the railway lines and the Grand Trunk Road, would not be allowed?

(e) Is it a fact that the Railway Company has stated in effect in their letter to the London Board of Directors as a reason for acquiring more lands at Belur and Lillooah that land values there were being affected owing to speculation in land and that the prices were going up which must have the effect of largely enhancing the value of the property in future and that delay would entail much higher cost and would probably render acquisition prohibitive at a later date when the necessity for acquisition would arise?"

[8TH SEPTEMBER, 1920.]

[Colonel W. D. Waghorn; Mir Asad Ali, Khan Bahadur; Mr. Shafi.]

The Hon'ble Colonel W. D. Waghorn replied :—

"In reply to (a). The area is a little over 187 acres. I place on the table a statement* showing the dates and the purposes for which the various portions of this area were acquired.

As regards (b), I place on the table the statement* asked for.

As regards (c), in the circumstances this question does not arise.

As regards (d), the Government of India are not aware that the government of Sir John Woodburn laid down any policy with regard to acquisition of more land in the neighbourhood of Lillooah for railway purposes.

As regards (e), the land now being acquired is required for building sites and the reason why the Board of Directors were asked to agree to its immediate acquisition was to prevent artificial enhancing of its value by speculative buying."

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

21. "(a) Have the Nizam's Government applied for sanction for the extension of the metre gauge railway line from Wanapadi Road to Kurnool ? Extension of railway line from Wanapadi Road to Kurnool.

(b) If the answer is in the negative, do Government contemplate drawing the attention of the Durbar to the question of its early completion ?"

The Hon'ble Colonel W. D. Waghorn replied :—

"As regards (a), the section from Wanapadi Road to Gadwal has already been sanctioned as part of the Secunderabad-Gadwal Railway, and His Exalted Highness the Nizam's Government have applied for sanction to its extension from Gadwal to Kurnool.

In reply to (b), the proposed extension is under consideration."

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

22. "(a) Is a broad gauge railway under construction from Warangal to Balharsha ? If so, will Government state when it will be opened for traffic ? Construction of railway line from Warangal to Balharsha.

(b) If the answer to (a) is in the negative, do Government contemplate asking the Durbar concerned to take the work in hand at an early date ?"

The Hon'ble Colonel W. D. Waghorn replied :—

"In reply to (a). The reply is in the negative.

As regards (b), proposals have been received from His Exalted Highness the Nizam's Government for the construction of this line of railway, and are under consideration."

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

23. "(a) Is it a fact that the steam-ship companies which ordinarily convey pilgrims from India to the Hedjaz have this year charged such high passage rates as to deter many pilgrims from undertaking the Haj ? Charges by steam-ship companies who convey pilgrims to the Hedjaz.

(b) If so, have Government taken any steps to meet this state of affairs and ameliorate the conditions under which the Haj is undertaken ?"

The Hon'ble Mr. Shafi replied :—

"(a) It is a fact that steam-ship companies can now obtain such high freights for cargoes that they insist upon higher rates for pilgrim tickets to and from the Hedjaz than formerly, alleging that otherwise it would pay them better to confine their attention to cargoes which would not necessarily be conveyed from the ports whence the pilgrims are accustomed to start. It is not known whether

* Not included in these Proceedings.

[*Mr. Shafi; Mir Asad Ali, Khan Bahadur;
Sir George Barnes; Mr. S. Sinha; Sir
William Vincent.*]

[**SEPTEMBER, 1920.**]

this has deterred intending pilgrims from undertaking the Haj. But, to judge from the large number of pilgrims who have sailed from Indian ports to Jeddah, it appears to be improbable that any large number have been so deterred. Reports to hand show that some 22,000 pilgrims have this year sailed from Indian ports, as against some 12,000 last year. These figures include a certain number of non-Indian pilgrims who travel to Jeddah via India.

(b) Last year, in view of the high rates which were probably in excess of what the poorer pilgrims could pay, Government defrayed a portion of the passage-money of pilgrims to the Hedjaz, so as to bring the rates to their pre-war level. This action of Government was highly appreciated in the Muhammadan press and, it is believed, afforded great relief. This year similar difficulties were not apprehended. But, in the course of the pilgrim season, the principal Steamship Company insisted on raising its rates, the alternative being the discontinuance of pilgrim traffic. Although Government considered this action on the part of the Company difficult to justify, the predicament was so serious for the large number of pilgrims who had already started on the journey, that they decided to give a concession somewhat similar to that given last year. It is expected that this concession will cost about 4 lakhs of rupees.

Moreover, in view of the paucity of shipping, Government obtained the release of a vessel which was being used by the Admiralty as a transport. Government has also despatched to Jeddah a large field-hospital under Captain Ahmed, for the convenience of pilgrims who are British subjects. The cost will be borne mainly by the Government of India. But the Governments of other British territories which send pilgrims are expected to contribute and one has already agreed to do so to an extent proportionate to the number of its pilgrims. Government are also prepared within reason to assist the repatriation of any Indian pilgrims stranded at Jeddah.

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

**Government
purchase of
sugar.**

24. "Is it a fact that Government are purchasing sugar on a large scale from the refineries in India? If so, will Government state whether the object of the purchase is for exporting to other countries or for controlling the present high prices or for any other purpose?"

The Hon'ble Sir George Barnes replied :—

"The military authorities are in the ordinary course purchasing a certain amount of sugar from refineries in India to meet the requirements of troops in this country and in Mesopotamia. No purchases are being made by Government for any other purpose."

The Hon'ble Mr. Sachchidananda Sinha asked :—

**Newspapers,
journals and
periodicals
dealt with
under the
Press Act,
1910 and the
Defence of
India Act.**

25. "Will Government lay on the table an up-to-date list of newspapers, journals and periodicals dealt with under the Press Act of 1910 or under the Defence of India Act or under both Acts, as the case may be, giving the name of each, the language or languages in which it appeared, the place where it was published, the name or names of the proprietor, editor or printer preceded against, the nature of the order and its effect on the particular newspaper, journal or periodical concerned?"

The Hon'ble Sir William Vincent replied :—

"The Hon'ble Member is referred to the statement laid on the table on the 22nd March 1920, relating to newspapers, journals, periodicals and presses dealt with under the Defence of India Act since its enactment.

In accordance with the promise made in reply to a previous question of the Hon'ble Member, a statement relating to newspapers, journals and periodicals dealt with under the Indian Press Act, 1910, during the years 1917-1919 is under preparation."

[8TH SEPTEMBER, 1930.]

[Mr. S. Sinha; Sir George Barnes; Sir William Vincent.]

The Hon'ble Mr. Sachchidananda Sinha asked :—

26. "(a) Is it a fact, that, in spite of Bihar and Orissa having a postal circle and a provincial postal organisation of their own, their Dead Letter Office is still located in Calcutta? If so, what is the reason of it?" Location of the Dead Letter Office for Bihar and Orissa.

(b) Had not Bihar till 1905 its own Dead Letter Office located at Dinapore? Was it abolished? If so, why?

(c) Are Government aware that the location of the Bihar Dead Letter Office in Calcutta inflicts great hardship on the Biharee clerks in service there?

(d) Do Government contemplate considering the desirability of removing the Bihar Dead Letter Office to Patna? If not, why not?"

The Hon'ble Sir George Barnes replied :—

"(a) The answer is 'yes' and the reason is that the Dead Letter Office in Calcutta is able to serve the circles of Bengal and Assam as well as that of Bihar and Orissa.

(b) The Dead Letter Office of Dinapore was closed on the absorption of Bihar into the Bengal circle in 1905.

(c) Government are not aware that the Biharee clerks employed in the Calcutta Dead Letter Office undergo any hardships greater than the clerks of other provinces employed in that Office. The total number of Biharee clerks employed in the Calcutta Dead Letter Office is 20. Of these no less than 15 were recruited in Calcutta.

(d) The question of establishing a separate Dead Letter Office for Bihar and Orissa has already been the subject of careful consideration. A separate Dead Letter Office at Patna is not desirable from an administrative point of view, and there would be no justification for the additional expenditure which would be involved. Further a Dead Letter Office at Patna would be of use for Bihar alone, for Orissa and Chota Nagpur are in quicker mail communication with Calcutta, than with Patna."

The Hon'ble Mr. Sachchidananda Sinha asked :—

27. "(a) Has the attention of Government been drawn to the statement of Sir Michael O'Dwyer, in his letter published in the *Englishman* of 29th June last, that 'his evidence before the Hunter Committee has not been made public, though he asked for its publication'? Is the statement correct?" Publication of Sir Michael O'Dwyer's evidence before the Hunter Committee.

(b) If so, will Government state the reason for their refusal to comply with the desire of Sir Michael O'Dwyer?

(c) Has publication of the evidence of any other witness or witnesses been withheld? If so, whose and for what reasons?

(d) Do Government propose now to publish them?"

The Hon'ble Sir William Vincent replied :—

"(a) to (d) Yes. The facts are that Sir Michael O'Dwyer was asked by the Government of India whether he had any objection to the publication of his evidence. He replied that he had no objection, but the Government of India eventually decided that none of the evidence taken *in camera* should be published, partly because its publication would be a breach of confidence, as the evidence was private and privileged, and partly because its publication in full would be in their opinion prejudicial to the interests of the State and the public safety. As these reasons still obtain, Government do not propose to publish the evidence now."

[Mr. S. Sinha : Sir William Vincent.]

[8TH SEPTEMBER, 1920.]

The Hon'ble Mr. Sachchidananda Sinha asked :—

Sir Michael O'Dwyer's statement re: the Indian members of the Hunter Committee.

28. "(a) Has the attention of Government been drawn to the statement of Sir Michael O'Dwyer regarding the composition of the Hunter Committee, in his letter published in the *Englishman* of 29th June last, that 'the Minority was composed of three Indian lawyers—gentlemen belonging to the very class which, as the records of the judicial proceedings establish, was largely responsible for creating the situation that led to the disorders, and which in several cases actively participated in the rebellion'?"

(b) Have Government in their possession findings of any judicial proceedings which support the above statement?

(c) If so, will Government lay them on the table?

(d) If the answer to (b) is in the negative, have Government taken or do they propose to take any steps to contradict the above aspersion?"

The Hon'ble Sir William Vincent replied :—

"(a), (b) and (c). Government have seen the letter. Government are not aware of the precise proceedings to which Sir Michael O'Dwyer refers. The records in their possession show that some of the persons convicted in connection with the disturbances belong to the lawyer class.

(d) Government have taken no steps to contradict the statements made by Sir Michael O'Dwyer. The statements represent his own opinion for which Government are not responsible."

The Hon'ble Mr. Sachchidananda Sinha asked :—

Delay in the commencement of the enquiry.

29. "(a) Has the attention of Government been drawn to the statement of Sir Michael O'Dwyer, in his letter published in the *Englishman* of 29th June last, that 'the delay of six months between the suppression of the disorders and the commencement of the enquiry.....gave opportunities of which the extremist agitators from outside made the fullest use to pervert the real facts, intimidate witnesses, and overawe the loyal supporters of the Government'?"

(b) Have Government in their possession any materials which support the above statement?

(c) If so, will Government lay them on the table?"

The Hon'ble Sir William Vincent replied :—

"(a), (b) and (c). Government have seen the letter. They decline to consider or discuss the accuracy of Sir Michael O'Dwyer's opinion in this matter."

The Hon'ble Mr. Sachchidananda Sinha asked :—

Examination of certain witnesses in connection with the Punjab disorders.

30. "(a) Has the attention of Government been drawn to the statement of Sir Michael O'Dwyer, in his letter published in the *Englishman* of 29th June last, that 'in Lahore.....several witnesses of high position and reputation, who had personal knowledge of the outbreaks and were ready to depose that these were the results of an organised conspiracy.....were not.....given the opportunity'?"

(b) Have Government in their possession any materials which support the above statement?

(c) If so, will Government lay them on the table, especially the names of these witnesses?"

The Hon'ble Sir William Vincent replied :—

"The Hon'ble Member is referred to the answer given to his previous question. The decision as to what persons should be examined was a matter within the discretion of the Committee. The Government of India believe that the Committee did not consider it necessary to examine certain persons who were prepared to give evidence."

[8TH SEPTEMBER, 1920.]

[Mr. S. Sinha; Sir William Vincent.]

The Hon'ble Mr. Sachchidananda Sinha asked:—

31. "(a) Has the attention of Government been drawn to the statement of Sir Michael O'Dwyer, in his letter published in the *Englishman* of 29th June last that the Government of India refused to accept his proposals, and scheme 'for keeping the administration of Martial Law under the control of the Civil authorities,' 'with the view of preventing.....irregularities by inexperienced officers,' and that Sir Michael 'had actually introduced them but had to cancel them under superior orders.' Is that statement correct?"

(b) If so, will Government lay on the table the detailed scheme of Sir Michael O'Dwyer, the reply of Government refusing it and the grounds on which Government declined to accept Sir Michael's proposals?

(c) Is it a fact, as stated by Sir Michael O'Dwyer in the same letter, that 'the Government of India appear to have overlooked this correspondence' in writing their Despatch to the Secretary of State on the Punjab disturbances?

(d) If so, how did it come about? But if it was not so, have Government taken or do they propose to take any steps to contradict the statement?"

The Hon'ble Sir William Vincent replied:—

"(a) After the proclamation of martial law on the 15th April the Government of India were informed by telegram of the 16th April that pending the receipt of rules for martial law administration from the Government of India the Lieutenant-Governor of the Punjab was issuing certain instructions prescribing offences and punishments and the courts which should try such offences, and that he proposed to issue a proclamation on the subject. This view was not accepted and the local Government was informed that as martial law had been declared subject to (a) the maintenance of the ordinary courts for ordinary offences and (b) the constitution of courts-martial (including special tribunals) for other certain offences, all further powers of prescribing offences, penalties, courts and procedure for trying the same were vested in the General Officer Commanding and could only be exercised by him. In the circumstances the Lieutenant-Governor had no power to take action on the lines proposed in his telegram; his orders would be inoperative and any action already taken would have to be ratified by the General Officer Commanding. It was further intimated that the Commander-in-Chief was directing the General Officer Commanding to act in consultation with the Lieutenant-Governor. On the 18th April the Commander-in-Chief issued telegraphic orders to the General Officer Commanding the Rawalpindi Division directing him, with a view to secure uniformity in the administration of martial law in the affected districts of the Punjab, to detail a staff officer to proceed immediately to Lahore to consult with the General, Division Lahore—and the Punjab Government, who were in possession of the latest instructions of the Government of India, and further directing him to act in close communication with the civil authorities. On the same date the Commander-in-Chief issued telegraphic orders to the General Officer Commanding the 16th Indian Division at Lahore directing him to act in close communication with, and on the advice of, the Lieutenant-Governor.

On the 19th April the Lieutenant-Governor of the Punjab telegraphed that the view taken by the Government of India was now being acted on and that, if necessary, ratification by the General Officer Commanding would be obtained, but the telegram of the Government of India had arrived in time to prevent the issue of the proposed proclamation by the Lieutenant-Governor.

(b) No detailed scheme was submitted to the Government of India.

(c) The Government of India did not overlook this correspondence but did not consider it necessary specifically to refer to it.

(d) In view of the above statement Government do not consider any further action required."

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[*Mr. Srinivasa Sastri ; His Excellency
the Commander-in-Chief.*]

[5TH SEPTEMBER, 1920.]

The Hon'ble Mr. Srinivasa Sastri asked :—

**The Indian
Defence
Force.**

32. “(a) What was the total strength, distributed among the provinces, of the compulsory section of the Indian Defence Force at the time of the Armistice ?

(b) What was the number of Commissioned Officers and their proportion to the strength of each battalion or other unit ?

(c) How many of the Commissioned Officers were Europeans and how many Anglo-Indians ?

(d) Will Government state the method or the methods of recruitment of the Commissioned Officers ? What were the qualifications required ? Was any particular social status or class distinction among the qualifications ?”

His Excellency the Commander-in-Chief replied :—

“(a) The total enrolled strength in November 1918 was 23,706. Returns by Provinces are not available.

(b) The number of Commissioned officers was 1,403, but this figure, includes many officers who were serving with the Army. Consequently the proportion of officers to the strength of each unit cannot be given.

(c) No information is available.

(d) The officers holding commissions in the Indian Volunteer Force were gazetted to the Indian Defence Force if recommended by the General Officer Commanding the Division. The latter authority recommended officers required for the completion of establishment. Regulation 10 lays down that officers commanding Divisions will first satisfy themselves that a candidate is by education, social position and personal qualities likely to make a good officer.”

The Hon'ble Mr. Srinivasa Sastri asked :—

**Number of
centres and
strength of
the Indian
Defence
Force in the
various pro-
vinces.**

33. “Will Government state the number of centres in the various provinces at which the compulsory units of the Indian Defence Force were trained, and the strength of each centre ?”

His Excellency the Commander-in-Chief replied :—

“Training was carried out at the headquarters of each unit and detachment as shewn in the Army List, and in camps. It is not possible to give the strength at each centre during training.”

The Hon'ble Mr. Srinivasa Sastri asked :—

**Training in
the volun-
tary section
of the Indian
Defence
Force.**

34. “(a) Is it a fact that it was stated on authority that the object of training in the voluntary section of the Indian Defence Force was to produce only soldiers, while the object of training in the compulsory section was to produce officers as well as soldiers ?

(b) If so, what was the reason for the difference ?

(c) Do Government propose to order that attention should be had in future to the production both of officers and soldiers in the arrangements for the training of the Indian section of the Auxiliary force ?”

His Excellency the Commander-in-Chief replied :—

“In reply to (a). The answer is in the negative. The Army Department Communiqué of the 27th March 1917 stated clearly that soldiers would be eligible for promotion and non-commissioned officers for further advancement, if qualified.

(b) This question therefore does not arise.

(c) It is not proposed to have an Indian Section of the Auxiliary Force. But, as explained in my speech introducing the Territorial Force Bill, the constitution of the Indian Territorial Force will provide for the production of officers as well as of soldiers.”

[8TH SEPTEMBER, 1920.]

[*Mr. Srinivasa Sastri; His Excellency the Commander-in-Chief.*]

The Hon'ble Mr. Srinivasa Sastri asked :—

35. "(a) Is it a fact that in the resolution of the Government of India dated 21st May, 1917, they recognised that there were conditions of service in the Indian Defence Force which were unsuitable to men who enrolled themselves in the new force and open to criticism, that Government were aware of Indian aspirations with reference to commissioned ranks and that the matter was engaging their earnest and sympathetic attention?"

Grant of commissions to Indians in the Indian Defence Force.

(b) Will Government state the result, if any, of such earnest and sympathetic attention?"

His Excellency the Commander-in-Chief replied :—

"(a) The reply is in the affirmative.

(b) It is understood that this question refers to the grant of King's commissions to Indians. The number of such commissions granted up to date is 51. In addition to this 193 Honorary King's commissions have been granted, and 10 cadets are admitted annually to the Royal Military College, Sandhurst, with a view to qualifying for King's commissions. The number now under training there is 14. These results show clearly that the attention paid by Government to Indian aspirations in regard to commissions has been both earnest and sympathetic."

The Hon'ble Mr. Srinivasa Sastri asked :—

36. "Do Government propose to arrange, in respect of the Indian Defence Force, at least for the organisation of Officer's Training Corps in connection with Indian Universities on lines similar to those obtaining in England?"

Organisation of an Officer's Training Corps for Indian Universities.

His Excellency the Commander-in-Chief replied :—

"The necessity for the adequate training of officers for the Indian Territorial Force is fully recognized and was referred to in my speech introducing the Indian Territorial Force Bill. It is hoped that the University Training Corps will in time supply a considerable number of qualified officers. Facilities will be granted to approved candidates to enable them to qualify at Schools of Instruction, for promotion, in accordance with the standards prescribed for corresponding ranks of the Regular Army."

The Hon'ble Mr. Srinivasa Sastri asked :—

37. "Is it intended to make the same or different arrangements for subsequent periodical training in respect of (1) the Indian and (2) the European and Anglo-Indian branches of the Auxiliary force?"

Training of the Indian and European branches of the Auxiliary force.

His Excellency the Commander-in-Chief replied :—

"The arrangements will be different. Beyond providing a limited number of officers as a Reserve, the European community cannot be regarded as a reserve to the Army in India except for the requirements of purely local service, and Military training must be restricted accordingly. The Indian Territorial Force is intended to be a second line to the Indian Army and, save as regards service overseas, will exist for the same purpose as the Territorial Force in Great Britain. It must, therefore, be organised and trained with that object in view."

The Hon'ble Mr. Srinivasa Sastri asked :—

38. "(a) Is it a fact that frequent complaints are made by Indians holding the King's Commission that they are not saluted by British soldiers and non-commissioned officers?"

Salute to Indians holding the King's Commission.

[*Mr. Srinivasa Sastri; His Excellency the
Commander-in-Chief; Mr. H. R. C.
Dobbs; Sir M. C. Nandi.*]

[8TH SEPTEMBER, 1920.]

(a) If so, will Government state whether any orders have been issued on the subject ?

His Excellency the Commander-in-Chief replied :—

“(a) One complaint has been received.

(b) Yes. Orders have been issued on the subject. A distinction in dress which is recommended by a Clothing Committee will remove these difficulties.”

The Hon'ble Mr. Srinivasa Sastri asked :—

Employment
of Indians in
Mesopotamia.

39. “(a) Is it a fact that an order was issued in the beginning of last year in connection with the Mesopotamian Expeditionary Force to the effect that no Eastern races need apply for post-war civil employment in Mesopotamia ?

(b) If so, is that order in force now ?

(c) Is it a fact that Indian officers of the Indian Medical Service who applied for civil medical posts in Mesopotamia were not given any ?”

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

“The answer to (a) is in the negative and (b) does not therefore arise.

(c) It is not the fact that Indian officers of the Indian Medical Service who have applied for civil medical posts in Mesopotamia have been refused appointments. The position is that owing to shortage of Indian Medical Service officers in India frequent applications by the Mesopotamian Administration for the services of Indian Medical Service officers, both British and Indian, have had to be refused, and for this reason and as their services are subject to withdrawal at short notice, there are now only two officers of the Indian Medical Service on the books of the Civil Administration, one of whom is on leave and the other has already served his full time for pension.

The total number of Indians of all classes now employed by the Civil Administration in Mesopotamia, exclusive of railways, is 2,216. Sir Arnold Wilson, the acting Civil Commissioner whose tenure is drawing to a close has asked that, with the permission of His Excellency the Viceroy an expression may be conveyed to this Council on behalf of the Civil Administration of Mesopotamia of his whole-hearted appreciation, admiration and gratitude, for the very notable services rendered to the Mesopotamian Administration during the past six years, and particularly during the past few difficult months, by Indian officials. He states that without the skilled assistance of Indians of all grades and of all Departments the Civil Administration could never have taken shape or been maintained. Their services ungrudgingly given in circumstances of great difficulty and danger have been invaluable, and they have by their example enhanced India's good name abroad. Both in executive and in administrative work they have proved their worth not merely to their departmental superiors but to the public. Particularly during the last few months Indian railway, telegraph, postal and other civil officials in Mesopotamia have remained and often died at their posts with a steadfastness which has commanded the admiration and respect of all. They have worked whole-heartedly for the common good, and have placed alike the people of Mesopotamia and the military and civil authorities under an enduring obligation.”

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

Financial
position of
provinces
under the
Meston
Committee's
recommendations.

40. “(a) Are Government in a position to state the extent of the modifications effected by the Parliamentary Joint Select Committee in the draft financial rules based on the Meston Committee's recommendations ?

(b) If so, will Government explain the financial position of each province thereunder, showing—

(i) the total revenue available for expenditure ;

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[Sir M. C. Nandi; Mr. W. M. Hailey;
Sir George Barnes.]

(ii) the amount of contribution to be made to the Central Government;
and

(iii) the total expenditure for provincial purposes, basing the statement on the budget figures for 1920-21?"

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

"The report of the Joint Select Committee has only just been received and is under examination. As soon as this examination has been completed, I will endeavour to provide the information for which the Hon'ble Member has asked."

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

41. "(a) Are Government in a position to state how far the prevailing high prices of sugar are due to general shortage of supply, and how far to any artificial causes, such as re-exports from India, cornering or holding up? High prices of sugar.

(b) Have Government taken any steps to prevent speculation in sugar in India or to control re-export thereof from India?

(c) Will Government state what steps have been taken in other countries, particularly in the United States of America and Great Britain, to ensure a proper supply of sugar for the people?"

The Hon'ble Sir George Barnes replied:—

"(a) The Hon'ble Member will find full information about the world's sugar supply in the Supplement to the "Indian Trade Journal" of the 12th March 1920. I shall be very glad to send the Hon'ble Member a copy if he so desires. The prevailing high prices of sugar are probably due to a largely increased demand from the United States combined with a general shortage of supplies throughout the world. The main cause of this shortage is the decrease in the beet crop. In 1913-14 beet supplied 46 per cent of the total sugar in the world; in 1919 it supplied only 27 per cent. The decrease in the beet crop is due directly and indirectly to the late war. The Government of India have no reason to think that the high prices of sugar in India are in any way due to cornering or hoarding of supplies.

(b) Government have not taken any steps to prevent speculation in sugar in India. The possibility of prohibiting the re-export of sugar from India has been considered, but the Government of India are of opinion that such action would have little or no effect in bringing down prices, and would very probably interfere with imports of sugar into India.

(c) A Royal Commission on Sugar Supplies was formed in the United Kingdom in August 1914 and is still in existence. It controls all imports of sugar into the United Kingdom and from the beginning of 1917 has also rationed the consumption of sugar. In the United States of America a Sugar Commission was appointed, which co-operated to some extent with the Royal Commission on Sugar Supplies in the United Kingdom, and in 1918 bought the whole of the Cuba crop and apportioned it between the Allied countries of Europe and the United States of America. Government have no further information on this subject."

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

42. "(a) Will Government state the principal terms of their agreement with the Darjeeling-Himalayan Railway, and the nature of control exercised by Government over its administration, particularly in regard to tariff regulations as affecting passenger and goods traffic? Darjeeling-Himalayan Railway.

[*Sir M. C. Nandi; Colonel W. D. Waghorn; Mr. Shah Nawaz Bhutto.*] [5TH SEPTEMBER, 1920.]

(b) What changes (if any) have been effected by the said Railway in their tariff rates and regulations at different periods since 1914?

(c) Were these changes introduced with the approval of Government?

(d) Is it a fact that the permanent-way of the said Railway runs over a portion of a district board road?

(e) If so, on what conditions was permission to thus utilise the said road given to the Railway?

(f) Was any compensation given to the district board by the Railway for this privilege?

(g) What have been the net profits earned by the Darjeeling-Himalayan Railway, during each of the last ten years?

(h) When is the present agreement with the said Railway due to expire?

(i) Do Government propose to consider the desirability of taking over the Railway from the hands of its present owners on the expiry of the agreement with them?

The Hon'ble Colonel W. D. Waghorn replied :—

"(a) The principal terms are given at pages 241 and 243 of the "History of Indian Railways constructed and in progress, corrected up to 31st March 1919" of which I shall be glad to lend the Hon'ble Member a copy if he so desires. Government exercise over this line through the agency of the Government Inspector, the general administrative control prescribed by the Railways Act. Government have sanctioned maxima and minima charges for passenger and goods traffic over the Darjeeling-Himalayan Railway and its extensions within which the Railway can vary rates and fares.

(b) and (c) In December 1917, sanction was given to the increase of the third class passenger fare over the Teesta Valley Extension from 4 to 9 pies per mile, the fare charged by mixed and local trains on the Darjeeling-Himalayan Railway main line.

(d) The reply is in the negative, and

(e) and (f) Therefore do not arise.

(g) A statement* showing the net Revenue earned by the Darjeeling-Himalayan Railway during each of the years 1910 to 1919-20 is laid on the table for the Hon'ble Member's information.

(h) May 1929 for the main line and March 1946 for the extensions.

(i) It is too early to consider the question."

The Hon'ble Mr. Shah Nawaz Bhutto asked :—

The Indian and Provincial Civil Services.

43. "(a) What steps, if any, are being taken for enlisting a larger proportion of Indians in the Indian Civil Service?

(b) Are Government adopting the recommendations contained in Chapter XI (i) of the Montagu-Chelmsford Report as the basis of their action towards this end? If so, has the attention of Government been drawn to the fact that those recommendations do not take into consideration the claims of the members of the Provincial Civil Service for more extended employment in the Indian Civil Service?

(c) What action do Government propose to take towards the satisfaction of the legitimate aspirations of the members of the Provincial Civil Service in the matter of more liberal and more extended employment in the higher appointments usually held by members of the Indian Civil Service?

* Not included in these Proceedings.

QUESTIONS AND ANSWERS; THE AUXILIARY FORCE 163
BILL; THE INDIAN TERRITORIAL FORCE BILL;
THE INDIAN COMPANIES (AMENDMENT) BILL.

[8th SEPTEMBER, 1929.]

[Mr. Shah Nawaz Bhutto; Sir William Vincent; Sir Alfred Bingley; Sir George Barnes.]

(d) Do Government propose to take into special consideration the case of those provinces where up to now even the one-sixth of the Indian Civil Service posts which the Aitchison Commission recommended should be open to members of Provincial Civil Service has never been given to the members of that Service?

(e) Do Government propose to take into special consideration the claims of those officers of the Provincial Civil Service who have been directly recruited before admitting more Indians into the Indian Civil Service?"

The Hon'ble Sir William Vincent replied :—

"The various points raised by the Hon'ble Member in (a), (b), (c), (d) and (e) of his question form *inter alia* the subject of a Resolution which will be issued by the Government of India on the subject. We are now in correspondence with the Secretary of State on this matter generally and hope to issue the Resolution at an early date. I am not therefore in a position to reply categorically to his questions but I can give the Hon'ble Member a general assurance that steps have been taken to increase the proportion of Indians in the Indian Civil Service, and that the percentage recommended in the Report on Indian Constitutional Reforms namely 33 per cent increasing by 1½ per cent annually, has been accepted and is being given effect to from the present year. In this percentage are included Indians recruited from all sources, and also officers promoted from the Provincial Civil Service. The prospects and status of the latter are being materially improved as under our proposals they will have equal opportunities of promotion, etc., with regular members of the services."

THE AUXILIARY FORCE BILL.

The Hon'ble Major-General Sir Alfred Bingley :—"My ^{11-35 A.M.} Lord, I beg to present the Report of the Select Committee on the Bill to constitute an auxiliary force for service in India."

THE INDIAN TERRITORIAL FORCE BILL.

The Hon'ble Major-General Sir Alfred Bingley :—"My Lord, I beg to present the Report of the Select Committee on the Bill to constitute an Indian Territorial Force, and to provide for the enrolment therein of persons other than European British Subjects."

THE INDIAN COMPANIES (AMENDMENT) BILL.

The Hon'ble Sir George Barnes :—"I beg, my Lord, to move for leave to introduce a Bill further to amend the Indian Companies Act, 1913.

"Our Indian Companies Act of 1913 is based on and for the most part is a re-enactment of the British Companies Consolidation Act which has been used as a model for company legislation in every part of the Empire. Section 91 (b) is an amendment of the Act of 1913 introduced in 1914. This section prohibits a director of a Company from voting on any contract in which he is interested. This is a very usual provision in articles of association which, of course, can be varied by a Company at will; but it was deliberately omitted

[*Sir George Barnes ; Sir Debaprasad Sarbadhikari.*]

[8TH SEPTEMBER, 1920.]

from the British Companies Consolidation Act and finds no place there or, as a matter of that, in any company legislation in any part of the Empire so far as I am aware. It has been represented, my Lord, to the Government that the operation of this section obstructs a parent company from promoting subsidiary companies, the management of which is to be carried on by a Board of Directors composed in part of the Directors of the parent company. We have consulted the Chambers of Commerce and other important mercantile communities in Bengal and Bombay with the result that, while full support is given to the present proposal to exempt private companies from the operation of the section, there are some who wish to go further and sweep away the section altogether. We have, however, my Lord, been satisfied to propose the smaller amendment only, namely, that the section shall not apply to private companies."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, I regret I am unable to agree to the principles of the amendment. I especially regret this in the face of what is said in the Statement of Objects and Reasons with regard to the difficulty that has been felt and is said to be genuine in certain quarters. But, my Lord, interest in these matters is not confined to those represented by Chambers of Commerce or organised mercantile interests. We are all glad that a large industrial development is in progress in this country and we expect that the development will be larger soon ; while that development is going on, we also feel that we are handicapped to an extent and in a manner from which probably other parts of the Empire do not suffer. Therefore, the analogy regarding this restriction not obtaining in other parts of the Empire will not apply to this country. As late as 1914 the legislature deliberately enacted this healthy provision and made it applicable to both private and public companies. The enactment did not rest with the disabling clause, and merely provides, that votes of the Directors interested in the contract should not count. The clause went so far as to say that every Director who contravenes the provision of sub-section (1) shall be liable to a fine not exceeding Rs. 1,000. Therefore I submit, my Lord, the enactment was deliberate and must have been thought necessary in 1914. Cases undoubtedly have come to light where private companies would like to organise subsidiary companies and are met with difficulties of the kind mentioned in the Statement of Objects and Reasons ; but I have in mind the larger class which is growing up with regard to which no ideal can be too high. My Lord, if this were not a practical question, I should not have troubled the Council with regard to what I feel it my duty to lay before it.

"Definition 13 in the Act provides that the number of members of a private company may be as large as 50 ; but, my Lord, there is another section—section 147, I think—which allows the number to be reduced to 2. The possibility of abuse in this state of things is not imaginary but is very real. Then, my Lord, if we look at section 154 we have a procedure provided by which a private company, by a very easy process, may be turned into a public company. Let us consider the case where a private company which is in existence enters into a number of contracts which may not hurt and may even be agreed to by those that are members of the company at that particular moment and which may have been entered into on full notice to all the members. Section 154 will enable that private company, after having incurred these obligations to change its character and be a public company without adequate notice to the public of the contracts and obligations that it has thus entered into. From these points of view, my Lord, it appears to me that a safeguard that was considered healthy both for private and public companies in 1914 should not be done away with except for very strong reasons which I fail to discover either in the Statement of Objects and Reasons or in the speech of the Hon'ble Member in charge of the Bill. My Lord, I want to be as jealous as possible with regard to the industrial development of my country. I want it to develop. At the same time I want to guard against evils and abuses that unfortunately are cropping up on all sides in the course of this industrial development. Whatever the reasons may be for amendment, hurried legislation like this with regard to a matter of this description ought not to go through. The Indian Companies Act is not an ideal Act, although it is based on the model of the British Act. There are many things in

**THE INDIAN COMPANIES (AMENDMENT) BILL; THE 165
PRESIDENCY BANKS (AMENDMENT) BILL; THE
IDENTIFICATION OF PRISONERS BILL.**

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[*Sir Debaprasad Sarbadhikari; Sir George Barnes; Mr. W. M. Hailey; Sir William Vincent.*]

it which require amendment and I submit that these should be more deliberately taken up and after consultation with all public bodies and not only those interested in organised trade and commerce or those represented in the Chambers of Commerce."

The Hon'ble Sir George Barnes:—"I think, my Lord, there is very little to say in reply. The really important fact is that there were no private companies before 1913. Private companies were created by the Act of 1913, and it is very possible that there were no private companies at all existing when the amending Act of 1914 was passed. The distinction between public companies and private companies was not therefore a question of practical importance at the time. 11-45 A.M.

"I think it would interest this Council and the Hon'ble Member if I told them in a little more detail than I did before the amount of support we have received from Chambers of Commerce in this matter. The Government proposal is supported by the Bombay Chamber of Commerce, the Bombay Trades Association, the Karachi Chamber of Commerce, the Bengal National Chamber of Commerce, the British Indian Association, the Bombay Under-Writers Association, the Indian Merchants Chamber and Bureau of Bombay and others. I think, my Lord, that that is very strong support for this amendment. I move for leave to introduce the Bill."

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 PRESIDENCY BANKS (AMENDMENT) BILL.

The Hon'ble Mr. W. M. Hailey:—"My Lord, I beg for leave to introduce a Bill further to amend the Presidency Banks Act, 1876. 11-46 A.M.

"I have no doubt the Council will wonder why, when we have the Imperial Bank Bill still under consideration, I should seek to introduce this measure. The explanation is a very simple one. Under the existing Presidency Banks Act, the Presidency Banks are not able to deal in securities of a Local Government. The Imperial Bank will, if the legislation is passed, be able so to deal; but meanwhile the Bombay Government is about to raise a loan. I pause, my Lord, here,—and I hope the Council, even on a busy morning like this, will pardon me for doing so,—to wish success to that loan. It is not only the first loan raised by a Local Government against its own revenues, but it is being raised for a purpose—the amelioration of the housing conditions in Bombay—which, I am sure, will command every sympathy and support here, just as, as I think I may venture to add, this Council can have nothing but admiration for the energy and courage which His Excellency the Governor has exhibited in attempting to find a solution for that difficult problem. This Bill will, to some extent, facilitate the operation of that loan, and that is my excuse for bringing it forward now. I beg, my Lord, for leave to introduce the Bill."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"My Lord, I introduce the Bill and move that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English."

The motion was put and agreed to.

THE IDENTIFICATION OF PRISONERS BILL.

The Hon'ble Sir William Vincent:—"My Lord, I move that the Bill to authorise the taking of measurements and photographs of convicts and others be taken into consideration. 11-49 A.M.

166 THE IDENTIFICATION OF PRISONERS BILL; THE INDIAN PASSPORT BILL; THE BASEL MISSION TRADING COMPANY BILL.

[*Sir William Vincent; Mr. H. R. C. Dobbs.*]

[8TH SEPTEMBER, 1920.]

"I explained the object of this Bill in some detail when I introduced it, and it has now been published in the Gazette. I have received no notice of amendment from any Member of this Council."

The motion was put and agreed to.

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

The motion was put and agreed to.

THE INDIAN PASSPORT BILL.

11-50 A.M.

The Hon'ble Mr. H. R. C. Dobbs:—"My Lord, I have to move that the Report of the Select Committee on the Bill to take power to require passports of persons entering British India be taken into consideration.

"The amendments suggested by the Select Committee are three only. First, in the definition of 'passport' in clause 2 it is proposed to omit the words 'and having attached to it a photograph of the person to whom it was issued.'

"I must explain that the suggested omission of these words does not mean that we hope to be able to dispense in ordinary cases with the attachment of a photograph to a passport. But it is obvious that the attachment of a photograph can be prescribed by rule and need not be included in the definition and it seems best to secure elasticity by leaving this point to the rules. We shall then always be able to dispense with photographs, where that may be advisable, without having to make formal amendments in the provisions of the Bill.

"Secondly, in clause 3 (3) it is suggested that the term of imprisonment which may be provided for the contravention of any rule or order under the Bill shall be reduced from six to three months. This needs no comment.

"Lastly, in clause 4 (2) it is suggested that there shall be a definite reference to Section 61 of the Code of Criminal Procedure, so as to make it clear that a person arrested cannot, without the special order of a Magistrate, be detained by the officer arresting him for more than 24 hours, exclusive of the time necessary for the going after arrest from the place of arrest to a Magistrate's Court.

"I beg to move, my Lord, that the report be taken into consideration."

The motion was put and agreed to.

The Hon'ble Mr. H. R. C. Dobbs:—"I beg to move, my Lord, that the Bill as amended be passed."

The motion was put and agreed to.

THE BASEL MISSION TRADING COMPANY BILL.

11-50 A.M.

The Hon'ble Sir William Vincent:—"My Lord, I beg to move that the Bill to validate certain indentures relating to property formerly held by the Basel Mission Trading Company, and to provide for the incorporation of Trustees and for other purposes be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

[8TH SEPTEMBER, 1920.]

[*Mr. W. M. Hailey; His Excellency the
Commander-in-Chief; Sir William
Marris.*]

THE INDIAN COINAGE (AMENDMENT) BILL.

The Hon'ble Mr. W. M. Hailey:—"My Lord, I beg to move that the Bill further to amend the Indian Coinage Act, 1906, be taken into consideration. 11-54 A.M.

"I cannot pretend, my Lord, that when I brought this Bill forward the other day, it received universal approval in this Council; and I will further admit that it has been criticised in the press outside this Council. But I do not think that the tenor of the criticism has been such as to cause us to regret our decision to bring the Bill forward. Our critics have attacked us, but they have suggested to us no alternative except, I believe, of allowing things to stand as they were. I devoted so much trouble the other day in Council in attempting to prove to Council the impossibility of leaving things as they stand, that I shall not attempt now further to defend the position which I then took up. There is one point however on which I think we can congratulate ourselves. Not even the keenest of our critics can say that anything has happened which could in the least justify the gloomy prophecy with which my Hon'ble friend, Mr. Tata, endeavoured the other day to curdle the blood of this Council. He spoke to us then of an early financial crisis; he told us that a starving peasantry would soon bring home to us the evils of the policy we were pursuing. My Lord, that view has found, I think, no support at all in the outside press, and I think for a very good reason; with the best of intentions in the world our critics have not been able to find arguments to support that reasoning. That, my Lord, is how the case stands. I do not intend to refer again to the general principles of the Bill or to discuss its merits or its demerits, unless I am forced to do so. I shall content myself with asking only that the Bill be taken into consideration."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"My Lord, I beg to move that the Bill be now passed."

The motion was put and agreed to.

THE INDIAN ARMY (AMENDMENT) BILL.

His Excellency the Commander-in-Chief:—"My Lord, I beg to move that the Bill further to amend the Indian Army Act, 1911, be taken into consideration. When I brought forward the Bill at the last meeting of Council I explained its objects fully. No criticisms have been received, and it does not seem to me that any purpose will be served by making any further observations on it." 11-55 A.M.

The motion was put and agreed to.

His Excellency the Commander-in-Chief:—"My Lord, I beg to move that the Bill be passed."

The motion was put and agreed to.

THE DEVOLUTION BILL.

The Hon'ble Sir William Marris:—"My Lord, I move that the Bill to relax the control in certain respects of the Governor General in Council over Local Governments and to transfer to such Governments certain powers now exercisable by the Governor General in Council be taken into consideration. 11-56 A.M.

"At a recent meeting of the Council, my Lord, when leave was given to introduce this Bill, I explained briefly the objects of this measure. No amendments or criticisms have been received from any quarter, and I therefore beg to move that the Bill be taken into consideration."

The motion was put and agreed to.

168 THE DEVOLUTION BILL; THE INDIAN ELECTIONS AND INQUIRIES BILL.

[*Sir William Marris; Sir William Vincent; Sir Debaprasad Sarbadhikari.*] [8TH SEPTEMBER, 1920.]

The Hon'ble Sir William Marris:—"My Lord, I beg to move that the entries in part I of Schedule I relating to the Prisons Act, 1894, be omitted. The reason for proposing this amendment in the Bill, my Lord, is as follows:—The Jail Committee who were appointed last year are even now on the eve of presenting their report, and it is hoped that from their deliberations important improvements in Indian Jail Administration will ensue. The Committee on the publication of this Bill represented to the Government of India that on the eve of the consideration of their report the time is inopportune for amending certain sections of the substantive Act, which make provision for various fundamental matters of jail administration, such as the classification and separation of prisoners and penal offences and the like. At least until such time as the recommendations of the Committee have been taken into consideration and it is clearly known what changes exactly in the law are required. That seems to the Government of India a very reasonable objection to take, and they propose therefore to omit for the present these particular changes in the law. They will be prepared after consideration of the Jail Committee's recommendations to undertake further legislation for the amendment of the Prisons Act, when it is known exactly what form these amendments should take. I beg to move, my Lord, therefore, that the entries relating to the Prisons Act of 1894 be omitted from part I of the First Schedule."

The motion was put and agreed to.

The Hon'ble Sir William Marris:—"My Lord, I beg to move that the Bill, as amended, be passed."

The motion was put and agreed to.

THE INDIAN ELECTIONS AND INQUIRIES BILL.

M. P. M. The Hon'ble Sir William Vincent:—"My Lord, I move that the Report of the Select Committee on the Bill to provide for the punishment of malpractices in connection with elections and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act, be taken into consideration. I do not propose to keep the Council any time over this motion as the principle of the Bill was explained when I introduced it and the changes introduced by the Select Committee are also explained in the Report which is annexed to the Bill as amended. Other points of importance are raised in the amendments which will be discussed to-day. The general principle of the Bill has been accepted by Council and as there is a great deal of business down for to-day, I am unwilling to waste the time of Hon'ble Members by a further discussion of those general principles."

The motion was put and agreed to.

13-2 P. M. The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, I beg to move the first amendment that stands in any name, namely:—

'That in the Preamble, after the word 'elections' where it first occurs the words 'to legislative bodies constituted under the Government of India Act' be inserted, the words 'the said' be substituted for the word 'legislative' and the words 'constituted under the Government of India Act' be omitted.'

"The effect of this amendment will be to confine the operation of the proposed law to elections for the forthcoming Councils as that is the immediate occasion for this piece of legislation. I must admit that with regard to elections that have been in force so far there have been reasons for the hope that some legislation of this kind would be undertaken. There is no getting away from that position. But, my Lord, some of the safeguards

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[*Sir Debaprasad Sorbadhikari; Mr. A. R. Murray; Sir William Vincent.*]

provided in this Bill with regard to election to the Legislative Councils would be wanting in the case of prosecutions regarding other elections. That is my principal reason for asking that we should confine ourselves for the present to the Legislative Councils alone. There will be an elaborate inquiry, an inquiry by the Election Commissioners which will afford materials to the authorities concerned for considering whether prosecutions should be allowed or not. That appears to be a very great safeguard and a necessary safeguard which will be altogether wanting in the case of other elections proposed to be covered by the Bill. That by itself would not be a reason for not providing at least the partial remedy that this Bill attempts to do. My apprehension is that we shall not have complete safeguards with regard to other elections such as we have in the case of elections to the Legislative Council—safeguards on the one hand, in the shape of providing for disqualification following malpractices and safeguards on the other, in the shape of inquiries by constituted authorities which will afford some basis of action by the prosecuting authorities.

"For this reason I desire to move this amendment. I have been looking through the opinions received; of course there is a natural variety. The Chamber of Commerce which would have the least to do with the other elections supports the Bill as a whole. We have on the other hand the Indian Association, the British Indian Association and the Marwari Association and other bodies who view it from another point of view. I shall not take up the time of the Council, by reading out these opinions at length particularly as I tried to explain my views on a former occasion, when the Bill was introduced.

"The question may arise later whether, having regard to the All-India character of some of the other elections it would be desirable to relegate future legislation to the Provincial Councils as has been suggested in some quarters. So far as I am concerned, I should be prepared, nay, I think, it is desirable to have imperial legislation with regard to a matter of this description, so far at all events as the bigger objects are concerned. We cannot, however, forget that that the Bill, if passed, will deal even with village unions, panchayats and bodies of that description and we may well pause."

The Hon'ble Mr. A. R. Murray:—"My Lord, I regret I cannot agree with my Hon'ble friend from Bengal in suggesting that this Act should be confined to 'legislative bodies constituted under the Government of India Act.' To my mind this is equivalent to moving an amendment to the effect that 'Thou shalt not sin in the case of legislative elections, but you can do as you please in regard to Municipal and other public elections.' I think it would be a great mistake to make invidious distinctions between election to legislative bodies and to Municipal and other public bodies. The Hon'ble Member suggests that such legislation might be left to Provincial Governments to deal with. In my opinion that also would be a mistake because you might have one practice in Bengal and another in Assam and yet another in Bihar and Orissa. For these reasons I cannot agree with the Hon'ble Member."

The Hon'ble Sir William Vincent:—"I congratulate the Hon'ble mover on his versatility and vigilance. Nothing comes amiss to him from Companies to Kutchi Memons; Auxiliary Forces or Elections all come within the scope of his activities. At the same time I am a little surprised that an Hon'ble Member who advocates with such vigour the purity of commercial transactions should object to a provision in the Bill which is intended to ensure the purity of what are politically more important, namely, elections to Municipal and other representative bodies. The general principle underlying this part of the Bill is that for a country which is on the eve of a new form of Government which is about to undertake the responsibilities of representative Government the purity of all elections is essential. The question of excluding Municipal elections was carefully considered in the Select Committee and I believe I am right in saying that both official and non-official members agreed as to the necessity for the present provision. I think further, that many will accept the view that political education must begin and has begun in the past in Municipal elections if India is now to take the first step towards represent-

[*Sir William Vincent; Sir Debaprasad Sarbadhikari; The President.*]

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ative Government and it is essential that two main principles of election law should be recognised, namely, that bribery and undue influence shall be strictly prohibited. That is really what the first part of the present Bill provides for. It has already been said by Mr. Murray that there is really no difference in the criminality of a man who takes a bribe at a Municipal election and that of a man who takes a similar bribe at a Council election. How are you to expect persons to act differently in one election more than another? How can you expect an ignorant elector to understand that he is quite safe in taking a bribe in a Municipal election even in a large Municipal election such as that of the Calcutta election, whereas if he takes a bribe in an election for a Legislative Council or Assembly he is liable to punishment? It seems to me that this is unreasonable. I am not quite sure whether the Hon'ble Member thinks that this question of corruption in Municipal election should be dealt with by Provincial legislation. Our view is that on main principles it is essential that the legislation should be uniform throughout India. There is, however, a great deal left for supplementary legislation in the local Councils, and I have no doubt that that supplementary legislation will be undertaken; indeed in some provinces this work is already being begun. But as I have said it is from our point of view all important, as elections will play in the future a much more important part in the political life of this country than they have in the past that the two main principles to which I have already referred should be part of the law equally in the case of elections to Councils and Municipalities and other representative bodies."

12-13 P.M.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, my admiration for the versatility of Sir William Vincent at all events has been always much greater than his has been in my case. I regret, however, that his versatility has in its monopolised fullness made him overlook a very important point, that I attempted to bring out, namely the exceedingly good safeguard that the Bill provides in the case of elections to the Legislative Council. Inquiry by organized authority which would afford materials upon which either Your Excellency's Government or the Provincial Government could proceed for the purpose of giving sanction for prosecution is absolutely wanting in the other cases and it is not indicated on which basis sanction is to be accorded in the other cases. My Lord, I am exceedingly sorry that what I attempted to put forward has been interpreted to be a plea for the continuance of corrupt practices in the other elections. This I repudiate for I attempted to make it quite clear that we felt that there was necessity for such legislation, and the pity is that the Government did not think of it earlier and in a more deliberate fashion on better materials.

"With regard to the question whether the necessary safeguards should be provided later in the Imperial or Provincial Councils, I did not, versatile as my friend has been good enough to call me, attempt to indicate whether the whole of that should be in this Council or whether the Chowkidari Unions and the District Boards could not be best relegated to the Provincial Councils which are going to have very large powers. After all is said and done, my Lord, we are wholly lacking in the safeguards with regard to other elections in the shape of any enquiry, and therefore the inclusion of the other bodies is objectionable in the present Bill and in the present manner.

"My Lord, we are entering upon a new era and no one can be more anxious for the success of the Reforms and for the purity of the elections than my countrymen who want the Reforms to be a thorough success from every possible point of view. But because we are obliged to legislate on lines indicated by the Joint Committee with regard to matters like these, there is really little reason why the opportunity should not be availed of for bringing in matters that require more deliberate consideration and safeguards such as I have indicated."

The motion was put and negatived.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, I am afraid the other* falls to the ground."

*That in Explanation 3 in clause 2 (1) the words "municipal or other public" be omitted.

His Excellency the President:—"Your next amendment falls through."

[8TH SEPTEMBER, 1920.]

[Sir Debaprasad Sarbadhikari ; Sir William Vincent.]

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"It is consequential, and therefore I do not move it."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, I beg to move that in new section 171-A(b) the words 'or nominating' be inserted after the word 'being' and the words 'nominating or' be inserted before the word 'voting.'"

"Here at all events, my Lord, I give some earnest of my desire for purity of the elections. I want the voter to be protected just as much as one that nominates a candidate. As has happened unfortunately, a man on the eve of putting in a promised nomination may be prevailed upon to change his mind and leave the candidate in straits which this Bill desires to avoid. From that point of view I think a clause more comprehensive with regard to interference with the voter as well as the nominator ought to be provided."

The Hon'ble Sir William Vincent:—"I submit to the Council that this is really an unnecessary refinement in the law. If Hon'ble Members will look at the rules which have been already promulgated, they will see that no provision of the kind now proposed is made there, and it is desirable, I think, as far as possible that the rules and the Act should coincide. In some respects it may not be possible however to effect this. Where a man seeks to be elected to any office, I can hardly believe he would not be able to find a single voter to nominate without bribery. Similarly, if a man sought to bribe a voter with a view to preventing him from nominating a particular candidate, surely if the candidate was a popular person with any chance of election, he would have no difficulty whatever in securing some other persons to nominate him. I do not dispute the general principle underlying the amendment, but I think it is really, as I said before, an unnecessary refinement. Indeed in most cases where corruption was practised to secure a nomination it would be practised also with the object of securing a vote and the person guilty of it would come within the law."

12-13 P.M.

The motion was put and negatived.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, I beg to move that in new Section 171-B (1) the words 'or not to exercise' be inserted after the word 'exercise' in both places where it occurs and the words 'or not exercising' be inserted after the word 'exercising'."

"My amendment really follows up, as I tried to explain before, the last amendment. If gratification for exercising electoral rights is objectionable, gratification for not exercising electoral rights is also objectionable. That would make for greater purity than the Bill provides."

The Hon'ble Sir William Vincent:—"My Lord, I think the Hon'ble Member has not quite realized the effect of the definition of 'electoral right', and I am sure that if he will read it again, he will not press this amendment."

"I cite the definition—

from being "Electoral right" means the right of a person to stand, or not to stand as, or to withdraw, drawing a candidate or to vote or refrain from voting at an election."

"The right of an elector to decline to exercise his right of franchise is by a drafting device already included in the Bill itself and the proposed addition would make no change of the law and indeed would, from a drafting point of view, expose us almost to ridicule."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, having regard to what the Hon'ble the Home Member fears I do not wish to press for the amendment."

12-13 P.M.

The amendment was by leave withdrawn.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"I move, my Lord, for the omission of the Proviso to new section 171-B(1). The proviso reads as follows:—

"Provided that a declaration of public policy or a promise of public action shall not be an offence under this section."

"I may have imperfectly understood the object of this provision in this place. I quite see that it is necessary after 171-C, although I do not follow why this provision is necessary in 171-B."

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[Mr. S. Sinha; Sir William Vincent.]

"I find in the papers that Sir P. S. Sivaswamy Aiyer of Madras who was Advocate General and is an ex-Member of the Madras Executive Council, also comments on this particular section and takes the same view. With reference to Clause 171-C. he says :—

'Here again the definition of undue influence as voluntary interference with the free exercise of an electoral right is dangerously wide. Compare the definition of undue influence in the Contract Act and the language of the English Corrupt Practices Act, 1883. The language used in the English Acts is definite and precise and quite sufficient for all purposes. The English definition practically covers all cases of undue influence against which protection is needed and under clause 171-C. it would be difficult to determine what would or would not be an interference with the free exercise of an electoral right. An important solicitation by a candidate for a vote may come within the scope of the section. It is inexpedient to encourage all sorts of psychological discussion as to the freedom of the exercise of the elector's will.'

"I will not take up the time of the Council much further but I will content myself by referring only to one more opinion and that is of the Hon'ble Mr. Allen who so worthily but silently represents on the Council the Province of Assam. He does not help us much by his observations but I am glad he has written something on this particular section, which is of assistance to me. His opinion as Commissioner is valuable. He says:—

'I agree with the Deputy Commissioner. The section seems very wide and of rather uncertain effect.'

"I think, my Lord, that these official opinions support my contention that the words are dangerously wide and should be replaced by the English section. I am not asking either the Council or the Hon'ble the Home Member to accept any phraseology of my own. The English section, I think, is based on a very long experience of hundreds of years and has worked well in England and I do not, therefore, see any reason why the Hon'ble the Home Member should not accept my amendment. If, however, he is not pleased to do so, I shall then move that the words be assimilated to the words used in the Rules which have already been sanctioned by Parliament and which place certain restrictions on the use of the word 'interference' by limiting its scope to restrain, fraud, violence or injury. I shall leave it at that, my Lord, for the present."

The Hon'ble Sir William Vincent :—"My Lord, I remember being in this Council on one occasion last year when one of my Hon'ble colleagues said that no argument would persuade the Hon'ble Mr. Sinha to give up a position he had once taken up but on this occasion, I hope to be able to satisfy the Council and the Hon'ble Member who has moved it that this amendment, in its present form, is one that the Council cannot possibly accept.

"If the Members of the Council will examine the drafting for one moment, they will see that it is taken almost *verbatim* from an English Statute and it is proposed to insert it in the Indian Penal Code, the language of which is entirely different. The mover has not considered either the different Statute of interpretation which prevails in England and in India. Not only that, but he has also overlooked the definition of the term electoral right in the Bill itself. Would Hon'ble Members again refer to this definition for a moment? It is very clear. 'electoral right' means the right of a person to stand or not to stand as, or to withdraw from being, a candidate. Yet, in spite of that definition, the Hon'ble Member has thought fit to repeat in the new section the words 'induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting' using the very terms which this definition is intended to avoid. Again, such words as 'duress' and 'abduction' are not commonly used in our law. 'Abduction' does of course occur in the Penal Code but not, in connection with elections. There is however a more material objection to accepting this amendment. Hon'ble Members will see that the amendment as drafted refers only to voting, whereas undue influence might well be exercised not only in relation to the right to vote but also in respect of the right to stand or not to stand as a candidate or to withdraw from candidature. I think the Hon'ble Member will see that this is a fatal objection to this particular amendment that he proposes. As to the authorities whom he has quoted I may say that, though undoubtedly they have criticised the drafting of the present Bill I cannot say they have

[*Sir William Vincent ; Mr. S. Sinha ;
The President.*]

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in any way supported the present amendment. I am quite prepared to discuss the question of drafting further with the Hon'ble Member when he moves the second amendment to which he has already referred ; but I am confident the present amendment will not commend itself to anyone in this Council."

12-33 AM.

The Hon'ble Mr. Sachchidananda Sinha :—" My Lord, the Hon'ble Sir William Vincent began his observations by quoting as an authority the Hon'ble Sir George Lowndes who said something last year about his being unable to persuade me to accept his views. Well, I venture to say that both Hon'ble Members are wrong on this particular point. I am always open to conviction and for this once the Hon'ble Sir William Vincent has succeeded in persuading me to drop this amendment, My Lord"

His Excellency the President :—" I understand the Hon'ble Member has withdrawn his amendment. There is therefore nothing more for the Hon'ble Member to say."

The amendment was by leave withdrawn.

The Hon'ble Mr. Sachchidananda Sinha :—" May I move the second amendment that stands in my name, my Lord ?"

His Excellency the President :—" Yes."

The Hon'ble Mr. Sachchidananda Sinha :—" My Lord, I did not want to make any lengthy observations on the first amendment because I was going to move a second one which runs as follows :—

That for new section 171-C, the following be substituted :—

(1) Whoever interferes or attempts to interfere by any of the means hereafter specified, with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector, commits the offence of undue influence at elections.

(2) The means above alluded to are :—

(a) any violence, injury, restraint, or fraud and any threat thereof :

(b) any threat to a person or inducement to a person to believe he or any person in whom he is interested will become or be rendered an object of Divine displeasure or spiritual censure,

but do not include any declaration of public policy or promise of public action."

" My Lord, the Hon'ble the Home Member had the candour to admit that his definition has been criticised by the Bihar Government and other competent persons. I give him credit for that candid statement. Having done that, my submission now to the Council is that the words in my amendment are not mine : they are almost entirely adapted from the words used, I believe, by the author of the Regulations—the Hon'ble Sir William Marris who was responsible. I think, for them unless I am mistaken ; at any rate, these are the words used in the rules framed by the Government of India and submitted to Parliament. I think there should be no objection, therefore, to accepting this amendment of mine. The only important difference is, that whereas in the section as it stands in the Bill, the word ' interfere ' is not at all limited in its scope and might lead, therefore, to results which may be far from desirable, my amendment embodies words containing the limits on the word ' interference ' adapted from the words in the Regulation.

" It will be granted also, as the Bihar Government point out, that it is an advantage to assimilate the section to the terms used in the Parliamentary Rules. I think, therefore, that this is a matter which requires the consideration of the Council and I hope the Hon'ble the Home Member will be able to accept this amendment of mine."

12-44 AM.

The Hon'ble Sir William Vincent :—" My Lord, here again I think the Hon'ble the Mover has overlooked the definition of the term ' electoral right ' in the Bill. Let me read the first part of the new section which he proposes to substitute for the section in the Bill as drafted. I

[6TH SEPTEMBER, 1920.]

[Sir William Vincent.]

find that here again he speaks of 'any person standing or not standing as a candidate.' As a matter of drafting—and it is a purely drafting point—the amendment does not fit in with the rest of the Bill.

"The Hon'ble Member went on to say that I had admitted that this portion of the Bill had been subjected to criticism. My Lord, this was not an admission that the present drafting was wrong, but the admission of a patent fact which must be clear to everyone who has read the papers. I did not wish to mislead the Council in the matter; the Bihar Government has thought fit to criticise the Bill, and I merely admitted an obvious fact.

"But the Hon'ble Member is, however, on stronger ground in this amendment, in so far as he states that it is in accordance with the Rules. But when he suggests that my Hon'ble friend Sir William Marris or any one in the Government of India was responsible for the drafting of this particular Rule, I think he is in error. It was, so far as I know, inserted by Parliament in England, and, as a matter of fact, it is one which the Government of India will have to consider very carefully. Indeed, I am not at all sure that we shall not have to send it back in the hope of securing an amendment without delay; or, if I am wrong in thinking it will have to go back to Parliament, that it may have to be amended here. In any case, whatever is the authority by which the Rule can be amended, the question of the amendment will have to be considered.

"I now wish to draw attention to the drafting of the amendment, and in particular to the words 'any violence, injury or restraint.' There are many lawyers in this Council, I know; I should like them to examine the use of the word 'injury' in between 'violence' and 'restraint,' and to say whether they are quite sure that, according to the *ejusdem generis* rule, the word 'injury' may not be interpreted as meaning injury to the body only, having regard to its juxtaposition to the two words 'violence' and 'restraint.' If it means injury generally, then it appears to me that the drafting of sub-rule (b) is wrong, as the threat of spiritual injury is certainly a threat of injury. But my objection to the amendment is based on much more general grounds than those which I have hitherto attempted to explain. We seek to ensure complete freedom of election, to secure to every man unfettered liberty in exercising his franchise. That is, as I understand the law, the basis of the English Common Law on the subject, and unless there is absolute freedom of election, an election is void under that law—and rightly void. There is of course no question whatever of preventing declarations of public policy or fair arguments or criticisms, however importunate the speaker may be. So long as the voter is left in the ultimate resort to vote as he pleases and to exercise his own discretion unfettered by force or by any improper influence from outside, then the law is complied with.

"But directly a man attempts either by promise of spiritual benefit or by threat of spiritual harm or by promise of any non-material advantage, which possibly might not come within the term 'gratification', to fetter the liberty of a voter in the use of his power of franchise then he commits the offence of undue influence. It would be impossible in my opinion to enunciate any comprehensive terms, which would include all the different forms of undue influence some apparently unsubstantial but in fact very real which can be brought to bear on an elector, more particularly in this country. I wanted to cite, if I might, one passage, if I may, from an English authority whom I have already quoted namely, Parker's Work on Election Agents on this point. Speaking on the question of spiritual and religious influence, the author citing authorities to support his contention says:—

'A priest must not pass the bounds of legitimate influence; he must exercise his influence justly and has no privilege to interfere with the rights and privileges of other subjects He may not appeal to the fears or terrors, or superstition, of those he addresses. He must not hold out hopes of reward here or hereafter and he must not use threats of temporal injury.....'

"I submit those principles are even more applicable in this country than they are in Ireland in which they were used, particularly at the present time when various influences of a particularly sinister character are at work in the country.

[*Sir William Vincent ; Mr. Srinivasa Sastri ;* [8TH SEPTEMBER, 1920.]
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The question which the Hon'ble Member now raises was very carefully examined in the Select Committee and those who have read the report will see that all the Indian Members have accepted the Bill as it stands after amendment ; the Hon'ble Member was himself nominated a member of that Committee, and I received no intimation from the Legislative Department that he was unable to attend. It seems to me that having such strong views as he has on these points it is unfortunate and a matter for regret that he was not able to assist us in the Select Committee ; that he was not able to treat us with more consideration and put forward his amendments then, and should now at this late stage of the proceedings propose these amendments. If he had attended the Committee we should have been able to explain the position to him—and I am sure that my Hon'ble colleague, Sir George Lowndes, would have been able to explain the reasons for this clause as now drafted to him far more satisfactorily than I can. In any case for the reasons I have given, my Lord, I am afraid I cannot accept this amendment, but I have asked my Hon'ble colleague, Sir George Lowndes, to examine the drafting of the clause to see if it can be in any way improved and made clearer."

12-45 P.M.

The Hon'ble Mr. Srinivasa Sastri:—"My Lord, I was a member of the Select Committee which not only considered this point, but agreed unanimously to add the words in italics in the second sub-clause of this clause—'without prejudice to the generality of the provisions of sub-section (1).'¹ The Select Committee deliberately intended to include more within the word 'interferes' than would be included in the enumeration which follows, namely, injury, restraint, fraud or any threat thereof, and inducements or attempts to induce a person to believe that he or any person, etc., etc. But after hearing Mr. Sinha it strikes me that perhaps it would be an advantage, if possible at this stage, to introduce specifically the additions we want, such, for instance, as the Hon'ble Sir William Vincent alluded to in commenting on the word 'injury.' Is it possible at this stage to make any further restriction on the generality of the words 'voluntarily interferes or attempts to interfere' in sub-section (1) ? I am afraid that it is impossible. But it seems a pity, if we want more in this section than is actually included in sub-section (2), to leave the words as they are—'voluntarily interferes or attempts to interfere'—without giving the courts any indication whatever of what we would like to be made penal. Perhaps we made a mistake ; I am not sure, in introducing the words 'without prejudice to the generality of the provisions of sub-section (1).'² The Hon'ble Sir William Vincent has thrown out a hint which may afford a solution of this difficulty. He said that the Government of India might not improbably address Parliament on the subject of amending the meaning of the word 'interferes.'³ If that attempt is made and Parliament does further amplify the meaning of that word, could we amend the Act later on in accordance with the decision of Parliament on the matter, meanwhile accepting Mr. Sinha's amendment and leaving the section exactly on all fours with the purport of the rules and then when Parliament has amended the rules, bring the Act again into line with the Parliamentary amplification ? I merely throw out a hint ; I am not clear myself how to get out of this difficulty."

12-45 P.M.

The Hon'ble Sir George Lowndes:—"My Lord, one feels that it is possible for Courts to interpret this clause unreasonably ; but we are setting up election Courts of a very high character to deal with election petitions, and under the Penal Code in the same way, we have very learned High Courts to revise any cases in which the lower magistracy may go wrong in their interpretation. Election law has been at all events before the English Courts for so many years now and we have so many decisions upon it which we hope to attract, that I do not think myself that there is any reasonable ground for apprehending that these words 'voluntarily interferes with the free exercise of an electoral right' will be construed even by a Magistrate as covering mere persuasion as I understand Mr. Sinha suggests. It is extremely difficult to find any other phrase which would make the intention clearer and it appears to me that the safest thing for the Council to do is to leave the words to be interpreted in the light of the vast body of English case-law on the subject, and if I may say so to the common sense of our magistracy in this country. Supposing we do find that these words are liable to what I fully admit would be a misinterpretation, supposing the Courts do bring ordinary persuasion within them, such as asking

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people to vote for you and so on, if we do find that is the effect of using these words, we shall probably have to amend. I suggest to the Council that if we attempt now to make any expansion of the clause to cover the real point which my Hon'ble friend has made, we shall be running a very great danger; and I should certainly prefer that these words, which have been very carefully considered in the Committee,—I wish they had received the able criticism of my Hon'ble friend who moved this amendment—should be retained. I think that probably it will be safer to accept them, at all events for the present. I can, frankly, devise no other words which would modify voluntary interference with an electoral right so as to show any more clearly what is meant than the reading of the section as a whole does. It must be remembered that the offence created is *undue influence*, which is a term very well known to the Courts, and it is quite open to them to say that this is what is intended by the section; and as I say, the case-law on the subject in England will help them to avoid the difficulty which has been suggested by Mr. Sastri. But on the other hand, my Hon'ble friend Mr. Sinha's amendment has led us to read this clause again very carefully. I confess I think it might be clarified and I have redrafted it in order to make the section a little clearer. I have not attempted to deal with it from the other point of view, from which Mr. Sastri dealt with it, namely, as to what voluntary interference means but I have modified the second part of the section. I have an amendment here which I am quite willing to move. I think myself that it is an improvement. It makes the section a little clearer, and it deals with some portion at least of what my Hon'ble friend Mr. Sinha has criticised. I suggest that the section should read as follows. I leave the first part of the section alone because, I understand, the Council to accept the principle that any interference such as can be called undue influence is to be an offence. When we come to sub-section (2) it would read as follows :—

'(2) Without prejudice to the generality 'of the provisions of sub-section (1)'.
'

"Then we divide it up into two sections, (a) and (b), (a) runs as follows :—

'Whoever :—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or'.

"We want to make it quite clear that it is not personal injury. Then (b) runs :—

'Whoever :—

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of sub-section (1)'.
'

"This expanded definition makes the meaning clearer, and gives a better idea of what is in the eye of the legislature. If we also look at the English case-law on the subject and take into consideration the name that we have given to the offence, namely, undue influence, I think myself that it will be sufficiently clear to a Court what is intended. I will only say that if this amendment, which I think makes the point a little clearer would meet the views of the Council, I shall be happy, with His Excellency's permission, to move it though I have not given notice of it; I have in fact only been able to redraft the clause very hurriedly this morning.

"I should like to say one word more on my Hon'ble friend Mr. Sinha's amendment. I think he overlooks altogether the different points of view from which the Joint Committee dealt with the question in drawing up the rules, and that from which we are dealing with it. I think it will be clear that what the Committee were doing in drawing up the rules was to lay down in what cases an election was to be avoided. They say an election is to be void if induced by any of the things mentioned here. What we are considering is not

[*Sir George Lowndes ; Mr. S. Sinha ; The President.*] [6TH SEPTEMBER, 1920.]

what is to avoid an election—that has been settled by the rules—but what acts Government is to penalise as offences. If I may put it shortly ; what the Committee says is that if anything which is an offence under the Indian Penal Code is done in order to induce a man to vote one way or the other, the election will be void. It seems clear, with due deference to my Hon'ble friend Mr. Sinha, that that is not what we have to deal with now. Nineteenths of these acts are already offences under the Indian Penal Code, though there are certain sides of them perhaps which are not within the Indian Penal Code. But surely it is not for us merely to adopt the definition in rules and in effect to penalise acts if committed in connection with an election, which are already offences under the Indian Penal Code. Then with reference to the amendment of the rules, the position is this ; when the Council has decided what form the Act is to be in, we shall have to reconsider the form of the rules and bring them into line with it. I am glad to have this opportunity of disclaiming from my place here, any responsibility whatever for the drafting of these particular rules which have been accepted by Parliament. I strongly suspect from a careful reading of them that they were drafted hurriedly in the precincts of the House of Commons, and that they were not criticised by those who should have had an opportunity of seeing them before they were passed."

10-55 P.M. The Hon'ble Mr. Sachchidananda Sinha :—"My Lord, I shall try to make my submissions as brief as possible. I am sorry I could not attend the meeting of the Select Committee to which reference has been made, but that would not take away from the fact that my amendment should be considered on its merits. I am very grateful to my Hon'ble friend Sir George Lowndes for the very lucid explanation he has given. I am prepared to accept his amendment, but I shall restate the reasons why I think still, in spite of the additions and expansions now made that the words as they stand at present do certainly amount to a very comprehensive interpretation of the word 'interference.' The Government of Bihar and Orissa have very justly said in the opinion sent up by them that 'interference might, however, be held to mean some kinds of moral suasion.' That is not my view alone but that of the Lieutenant-Governor of Bihar in Council. But apart from that, I think the best thing would be to assimilate the language of the section to the Parliamentary rule on the subject. Of course I did not know till now that the Parliamentary rule was framed on the terrace of the House of Commons while the Members were having tea. If the Government of India or Your Lordship's colleagues think so lightly of the Parliamentary rules that they want an amendment of them, then that is a matter for the future ; for the moment it is desirable to have the same form of language in the rule and the section. But if that is impossible then I am prepared to accept the amendment of my Hon'ble friend Sir George Lowndes as I think it will serve the purpose to some extent."

His Excellency the President :—"Do you withdraw your amendment ?"

The Hon'ble Mr. Sachchidananda Sinha :—"Yes, I accept Sir George Lowndes' amendment."

The following amendment was then put and agreed to :—

That for sub-clause (2) of new section 171-C. the following be substituted :—

- (2) Without prejudice to the generality of the provisions of sub-section (1), whoever—
 - (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
 - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of sub-section (1).

[8TH SEPTEMBER, 1920.]

[*Sir J. P. Sarbadhikari; Sir William Vincent; Mr. Rama Rayaningar.*]**The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—**

“My Lord, I beg to move that in the proviso to new section 171-C. (2) the words ‘or criticism’ be inserted after the word ‘declaration’.”

“The object of the amendment is to make the situation complete. The clause as drafted declares that a declaration of public policy or a promise of public action shall not be deemed to be interference. But after a man has made his declaration it may evoke criticism and legitimate criticism. What I want to provide for is that if that criticism is strong, as it is apt to be, that shall not amount to interference, protection is extended only to declaration of policy. I am in hopes that the Hon'ble Member in charge will be able to see my point of view and see his way to accept this small amendment.”

The Hon'ble Sir William Vincent:—“My Lord, I am entirely at one with the Hon'ble Member in thinking that criticism of public policy should be freely allowed, but I really cannot think that any one could say for a moment that to criticise the policy of a particular candidate is to put undue influence on a voter. There is really, therefore, no necessity for an amendment of this kind. I need hardly point out also that where a man criticises one policy he must nearly always enunciate another, but in any case I put it to the Council that criticisms of public policy could not possibly amount to bringing undue influence to bear on any reasonable interpretation of the law.”

The motion was put and negatived.

The Hon'ble Mr. P. Rama Rayaningar:—“My Lord, I beg to move the amendment that stands in my name that at the end of new section 171-C. the following be added:—

‘Provided also that the exercise of any legal right or resort to legal remedy, in the usual course, shall not be deemed to be interference within the meaning of this section’.

“The amendment proposes to add a proviso to clause 171-C., to the effect that the exercise of legal rights and the resort to legal remedies in the usual course, shall not be deemed to be interference within the meaning of the section. Clause 171-C., my Lord, is rather widely worded and seems to cover a far larger ground than the corresponding English law. The clause without the proviso added to it, will place an embargo on the candidature of business men and landholders who will invariably have legal relations with electors. The moment an election is notified, candidates from propertied class have to give up exercising their legal rights against the electors or other candidates competing in the election. They have to give up the exercise of even such rights which but for their connection with the election, they should have in the ordinary course freely and promptly exercised. Otherwise they will run the risk of prosecutions for offences of undue influence. In fact they have to choose between standing for election and freedom to exercise their legal rights. My Lord, is this state of things desirable? It may be contended that before a prosecution under clause 171-C. can stand, the intention to interfere with the electoral right of the electors will have to be proved; but, my Lord, how is this intention to be proved? At best it can only be guessed. The fact that one is interested in the election naturally warrants the presumption that one would have interfered with the electoral rights of the electors or other candidates. Therefore, as it is, I am afraid clause 171-C. exposes the candidates from the propertied classes who are bound to have legal relations with electors, to the danger of being maliciously dragged to criminal courts unless they are prepared to give up exercising their legal rights.”

“My Lord, I am not alone in apprehending danger from the wide definition of undue influence. Eminent lawyers and Judges have in no uncertain language expressed their fears of clause 171-C. Sir P. S. Sivaswami Iyer of Madras, and the Hon'ble Justice Mullick of the Bihar High Court, have, as my Hon'ble friend Mr. Sinha has already pointed out, pointedly recorded their opinions. They hold that the scope of the clause is dangerously wide. The Hon'ble Justice Mullick has particularly referred to the danger the landholders will be exposed to. In these circumstances, it is imperatively necessary that the proviso to clause 171-C. should be added. Without the safeguard of the proviso many of the desirable candidates from the propertied classes will

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feel reluctant to stand for election and as the result reckless bodies will swamp the Councils. For these reasons, my Lord, I press the amendment. I appeal to the Hon'ble the Home Member to accept the amendment, and save the situation."

1-7 P.M.

The Hon'ble Sir William Vincent :—" My Lord, I must repudiate the suggestion that we have proceeded beyond the English law in this clause ; as a matter of fact, there are many English decisions proving to demonstration that undue influence may be exercised by a person, although he professes only to be exercising a legal right. I cite here a passage from a leading text-book ' Parker's Election Agent ' on the subject. It is said there—

' A landlord is entitled to use influence with his tenants if he does so legitimately ; he has a perfect right to choose one who agrees with him in politics rather than one who does not and also to turn his tenant out ; but if he threatens to inflict, or does inflict, that turning out of his tenant for his vote, such conduct on his part is the inflicting of harm or loss within the meaning of the Act.'

" There are also numerous judgments of the English Courts dealing with this question of pressure upon tenants by a landlord to vote in a particular manner and it is a form of pressure, the Council will see, which might be very readily applied in this country in the form of a threat or a number of threats to distrain for rent, threats to bring suits for enhancement of rent against all tenants who do not vote for a certain candidate ; to allow such practices is not the way to secure purity in elections. At the same time, I appreciate the dangers which the Hon'ble Mr. Rama Rayaningar apprehends, and if an amendment in the following form would meet him, I should be very glad to accept it, namely, to substitute for the proviso a new sub-clause (3) running as follows :—

' A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this section.'

The Hon'ble Mr. P. Rama Rayaningar :—" My Lord, I accept it."

His Excellency the President :—" Do you withdraw your amendment ?"

The Hon'ble Mr. P. Rama Rayaningar :—" Yes, my Lord."

The motion that for the proviso to new section 171-C. (2), the following new sub-section be substituted was put and agreed to :—

' 2. A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this section.'

1-10 P.M.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari :—" My Lord, I beg to move that in new section 171-D. the words ' or other means of giving votes ' be substituted for the words ' or votes ' and the words ' or other means of giving votes ' be inserted after the words ' voting paper ' where they occur for the second time. This amendment is more or less a drafting matter, and all I want to point out to the Council is that the expression ' or votes ' does not convey a very clear meaning to many. The expression ' whoever at an election applies for a voting paper or votes in the name of any other person,' probably in the absence of a comma is intended as some means of giving or recording a vote. A man gives his vote, but nobody can apply for votes *benami*, at least not in the sense that it is being made an offence. Therefore it may be considered....."

The Hon'ble Sir George Lowndes :—" May I intervene ? The wording is not ' applying for votes ' but for ' a voting paper or votes '."

The Hon'ble Sir William Vincent :—" It is a verb not a noun !"

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[Sir Debaprasad Sarbadhikari; Sir William Vincent.]

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"From the point of view of this explanation, my Lord, I do not press it."

The amendment was by leave withdrawn.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My next amendment, my Lord, is that in the explanation to new section 171-E. for the word 'food' the word 'alcoholic' be substituted and merely gives effect to what I tried to enunciate in this Council when the Bill was introduced. I need not do more than refer to the collection of opinions which have been circulated. In many cases which I need not read out at length serious exception has been taken to certain things. I am not prepared to carry matters as far as some of the opinions go; but I suggest that the mere giving of food which to many is obligatory by their religion and tradition should not constitute a penal offence. We appreciate that the punishment in this case has been reduced and is now one of fine, but still the dread of conviction would be there. The rules about disqualification are very elaborate. The mere giving of that which is obligatory to the Hindu and Muhammadan householder under any circumstances, ought not to be made a penal offence. My Lord, it is just possible that a weary voter from the country might go to a candidate's house on the day or eve of the election not knowing what the situation was legally and if food is offered him it ought not to be a penal offence. That applies also to 'drink' which is not defined. It does not convey the meaning that it has in other countries to the people here and a drink of water or *shurbat* cannot be intended. Therefore to make precise what is objectionable I should like to confine the penalty to alcoholic drink on the lines mentioned in many of the opinions in our hands. These slight modifications have been suggested with reference to the general question of treating which has evoked a great deal of criticism."

The Hon'ble Sir William Vincent:—"My Lord, I hope the Council will not accept this amendment because it cuts at the root of the principle of the Bill and the rules relating to treating. Hon'ble Members may have different views with regard to the propriety of the consumption of alcoholic liquor but there is no reason in my opinion that a man should be penalised more severely for treating another to alcoholic liquor than he would be for treating him to anything else. If the Council seeks to penalise treating then let them do so in some reasonably comprehensive fashion. Do not make exceptions for what the Americans call 'soft' drinks and have a different rule for what are, I believe, called 'hard' drinks. Let us take the case of a Muhammadan. If you want to prohibit treating among Muslims what is the point of putting in a prohibition against the practice of treating with alcoholic liquors which would never come into force at all, in the case of a man who followed the principles of his religion strictly. What would be the ordinary form of treating out here in the case of a Zemindar or any rich person who wanted to secure a large number of voters by treating? He would probably invite them to his house and feast them, not on alcoholic liquor—that is not what we anticipate—but on *kalabs*, *pilau*, sweet-meats of various kinds and so on for days together. Is that to be allowed to go on, while a man who gave another a cup of *tari* is to be penalised? I think that is not a position which Hon'ble Members will support. As I said before, it is not right to treat alcoholic liquor as if it were something necessarily pernicious at elections or more pernicious because various Members of this Council feel very strongly against the consumption of alcoholic liquor, on general principle. It is true that in the United Kingdom alcoholic liquor has been largely used in treating in the past but even there treating is by no means confined to the use of alcoholic liquor—and you will find on examination of reported cases many instances of men having been given luxurious meals in order to influence their voting."

The Hon'ble Dr. Sir Debaprasad Sarbadhikari:—"My Lord, since I send in my amendment an inveterate smoker asked me what Sir William Vincent was going to do about costly *havasas* or for the matter of that *ganja* or *chandoo* which would throw a spell of influence on the voter which he could never resist. Unless you bring that in and include it in the Bill I am afraid the purity of election from Sir William's point of view will never be maintained."

The motion was put and negatived.

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2-19 P.M.

The Hon'ble Mr. P. Rama Rayaningar :—"My Lord, the second amendment which I propose to move runs as follows:—

"That in clause 3 (2) in the last column of the table headed 'Chapter IX-A offences relating to elections' the words 'Chief Presidency Magistrate or District Magistrate' be substituted for the words 'Presidency Magistrate or Magistrate' of the first class."

"The amendment, my Lord, is in regard to the adjective law. It proposes some changes in the procedure of the trials connected with election offences. These offences will be more or less associated with party politics. I think it is desirable that these offences should be tried by the Chief Presidency Magistrate or the District Magistrate because at any rate at present these officers happen to be Indian Civil Service officers and are expected to be above local prejudices and party politics. Parties will have greater confidence in them than in others. With these few words I move the amendment, my Lord: I trust the amendment will be accepted."

The Hon'ble Sir William Vincent :—"My Lord, I am very glad to hear such testimony to the merits of Indian Civil Service officers in their judicial work and I am sure the compliment will be appreciated by many Members of this Council. At the same time, I do not think that we should be justified in assuming that all First-Class Magistrates are not capable of dealing with offences of this kind.

"I am not going to suggest for one moment that the minds of any of our Magistrates would be tinged by party politics to such an extent that they would not give just decisions in cases of this character and I hope there are no grounds for the apprehension of the Hon'ble Member, certainly there are none, so far as Northern India is concerned. In Southern India, I am often told, the conditions are somewhat peculiar. May I point out also that very much more serious offences than those under examination are already triable by First-Class Magistrates. We are concerned with cases of bribing an elector, which the Hon'ble Member suggests should be tried only by the Chief Presidency Magistrate or the District Magistrate. But the offence of bribing any public servant, is an equally serious offence and is triable by a First-Class Magistrate at present. Another difficulty is that if by various special laws you multiply the duties of Chief Presidency Magistrates and District Magistrates you throw on them a burden of work which they cannot possibly carry out without injury to the public service and inconvenience to those affected. Take the case of a district in Madras where districts are very very large. It would be inconvenient to parties and unfair to the Magistrates to impose this additional burden on the latter. Similarly, Chief Presidency Magistrates have already more duties to carry out than they can do, and I suggest that the amendment is both unnecessary and inconvenient."

The Hon'ble Mr. P. Rama Rayaningar :—"My Lord, I withdraw the amendment."

The amendment was by leave withdrawn.

1-20 P.M.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari :—"My Lord, I withdraw my amendment that in clause 5 (g) for the words 'may summon and examine' the words 'summoning and examining' be substituted."

The amendment was by leave withdrawn.

The Hon'ble Dr. Sir Debaprasad Sarbadhikari :—"My Lord, I move that in clause 12 the words 'or business' be inserted after the word 'residence'. I desire to introduce the word 'business' in order to facilitate execution. I recognise that the words 'or cause it to be executed' in the last line but three in the draft has improved the situation to a certain extent, namely, that the Court may take steps for causing the order to be executed; but that may involve a somewhat circuitous process, whereas if the Court had authority to execute it either at the place of residence or business, where perhaps it could be better executed, there would be greater expedition."

The Hon'ble Sir William Vincent :—"My Lord, I am quite prepared to accept this amendment."

The motion was put and agreed to.

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[*Mr. Srinivasa Sastri; Sir William Vincent.*]

The Hon'ble Mr. Srinivasa Sastri :—" My Lord, I beg to move that the following new clause be added to Part II of the Bill :—

14. (1) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for any term not exceeding three months or with fine, or with both."

"A section of this kind is found in the English Statutes in the Ballot Act. I am not quite sure whether we should be so rigidly logical as to exclude relevant matter upon the ground that English practice puts it into another enactment. It appears to me that voting by ballot would be rendered practically useless if the secrecy of the ballot were not provided for in our election law. There are many who think, of course, that a voter ought to be a courageous person and be able to record his vote in public within the knowledge of all. We know of a great man who said that a voter is in the nature of a judge who must sit in the judgment seat and, as between candidates, say boldly within the hearing of the public 'so-and-so is the man I elect.' But it has been found that such heroism is not to be found in the ordinary voter. I think the experience of Western countries which have tried election methods for a long time has established one fact clearly, namely, that the secret vote is really the free vote. There is less bribery than before after the Ballot Act has established the secrecy of the voting; there is less undue influence and there is less pressure exercised on the man who comes under the influence of others. I believe it is necessary therefore that we should secure by some provision that the votes recorded at a poll will really be kept private. We have not forgotten this in other parts of our own election law. For instance, I would draw the attention of Hon'ble Members to the provision we make at the top of page 5 under clause 8 in Part II. We say there—'Provided that no person who has voted at an election shall be required to state for whom he has voted.' We recognise there that a man's vote is his own secret. Nobody else ought to be in a position to know it. It is no use saying that a man will be protected from revealing his own vote if we at the same time make it possible for others, who are in the know, to reveal that vote. In order to effect this therefore, we must enact some provision which will make it penal for those whose business it is to know to reveal how the voting has actually gone. We have a little precedent for this, although it is very recent. I find that in Madras they have recently been revising Local Self-Government Acts. In the shape that the Local Self-Government Acts have now taken in Madras there is a considerable body of sections, numbering 10 in all, in which election offences are enumerated and provided for. One of them is for the secrecy of the ballot. It is not therefore as if we were introducing something which in other places has not been thought of. A provision of this kind will soon be accepted, I believe, all over India in connection with all elections as a great necessity.

"The only other remark that I need make is that the English law makes the term of imprisonment six months; we provide only three months. In Madras, my Lord, they have adopted the English scale of punishment and introduced six months. Either way, therefore, I believe it will be accepted by the Council that our law is not more stringent, is not unnecessary and certainly is not something which it is proposed to introduce into the election law of the country for the first time. With these words I move the amendment."

The Hon'ble Sir William Vincent :—" My Lord, the Government are quite prepared to leave this amendment to an open vote, on which officials may speak or vote as they think fit. The principle of the amendment was discussed, in the Select Committee though not at great length, as it was brought up at a very late stage. The feeling among some Hon'ble Members was that it was undesirable to multiply offences under the Bill more than was

[*Sir William Vincent; Mr. S. N. Banerjee.*]

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necessary and I think that some Members thought at least, so far as Government servants were concerned, that the secrecy of the ballot might be adequately preserved by executive orders; and further that, as a matter of fact, experience shows that in this country it is very difficult indeed to keep anything confidential. Matters get out from some source or another and it is impossible to ascertain who is responsible for this. Some Members were also of opinion that even if this provision were inserted in the Bill any violation of the law would be impossible of detection. There were other Members of equal or possibly greater authority who thought that it was important that the principle of the secrecy of the ballot, which is a vital principle in the theory of modern election of England, should be clearly enunciated in the present Bill. That is the position of the Government; while however official Additional Members of Government may vote as they please. The Members of the Executive Council will not vote at all on this amendment."

The Hon'ble Mr. Surendra Nath Banerjee:—"My Lord, I was one of those who when this matter was broached at a meeting of the Select Committee—I hope I am entitled to communicate this fact to the Council and that it will not be regarded as a breach of confidence by my Hon'ble friend in charge of the Bill—when this matter was broached in Select Committee it formed no part of the original Bill, and great difficulties suggested themselves to my mind. In the first place, there is that great body of Indian public sentiment which views with concern and even apprehension the drastic provisions of the Bill which we are about to enact. If you look into the resumé of opinions which have been circulated I think that is the distinct note which is sounded in almost all the opinions that have been placed at our disposal. The Government of Bengal says in its letter covering the various opinions of the public bodies—'the outstanding feature of the correspondence is that it would appear that Indian sentiment in many quarters is not in favour of a very stringent Bill.' It is diffident about the creation—(this is the point to which I desire to call special attention)—of new penal offences and is averse from making the new provisions applicable to elections to local bodies other than the Legislative Council. That being the public sentiment I submit we ought to be very chary in adding to the number of penal provisions contained in this Bill. Evidently it did not occur to the framers of the Bill that there should be such a provision; they did not provide for it and Government has not undertaken the responsibility of suggesting a provision of this kind. It seems to me, therefore, that it does not lie in us to add to the accumulated pile of penal sections which are provided in this Bill. That is the first point which I take in this connection. In the second place, my Lord, I find that there will be serious difficulties in the administration of the Reform Act, at least so far as Bengal is concerned, if a provision of this kind found a place in the Bill. It is obvious, having regard to the large number of districts that we have in our province and their area, that it would be necessary for you to employ in a large measure non-official agency for the purpose of recording the votes. Non-officials will have to be appointed for this purpose. If any secrets are betrayed they come in under this penal clause. Suppose, my Lord, an application was made to me that I should be the polling officer, and there was this provision of three months' imprisonment maximum in case of conviction, I would shake my head and say: 'No, I shall have nothing whatever to do with a thing of this kind.' It may not be through any fault of mine that a secret may be disclosed; there may be wheels within wheels, machinations of my enemies; party spirit is rampant; there are village factions; all these will come into operation for the purpose of condemning an innocent man who practically has had nothing whatever to do with the betrayal of the secret. I put it to this Council, do you really want to enact a measure of this kind, a menace, a real menace to the successful operation of the Reform Act? That is the practical difficulty which suggests itself to me and it seems to me, my Lord, having regard to the trend of public opinion in the country, having regard to the practical difficulties which I have suggested, that I should as a matter of duty oppose my friend with whom I am generally in agreement, but on this occasion we have agreed to differ.

"There is another matter to which I desire to call attention. My friend has told us that the English Act provides six months' imprisonment and he has been kind enough to reduce it to three months. That again is a difficulty

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[Mr. S. N. Banerjee; Mr. A. H. Froom; Mr. S. Sastri; Sir William Vincent.]

in my way. Is a person to be sent to prison at the discretion of a Magistrate for three months, because a secret of this kind has been disclosed with which perhaps he was only indirectly connected? This threat of imprisonment will operate as a bar to the creation of non-official agencies for the purpose of recording votes, and you require them in Bengal and elsewhere. Therefore, my Lord, I feel it my duty to oppose this amendment."

The Hon'ble Mr. A. H. Froom:—"My Lord, in spite of the eloquent manner in which the Hon'ble Mr. Banerjee has opposed this amendment, I cannot say I feel satisfied that if it is adopted we are going to imprison the wrong persons on many occasions, or even on any occasion at all. Since Government has not introduced a clause to provide for the secrecy of the ballot, I think it comes with stronger force from one of the non-official Members of this Council, and I should like to say that I agree entirely with the views of the Hon'ble Mr. Sastri and I support his amendment." 1-37 P.M.

The Hon'ble Mr. Srinivasa Sastri:—"My Lord, when I listened to the Hon'ble Mr. Banerjee I was wondering why he kept quiet all this time and why he did not pour forth all his eloquence when other sections creating more serious offences and involving much more drastic consequences were put before us. It seems to me he is in the position of a man who has absorbed within his system several camels and now hesitates over a tiny little gnat....."

The Hon'ble Mr. Surendra Nath Banerjee:—"I knew, my Lord, that if I were to raise my voice it would have been of no use. It is just possible that in this case my voice would be influential in determining the vote of this Council. That is the real reason."

The Hon'ble Mr. Srinivasa Sastri:—"Well, I am afraid my Hon'ble friend is entirely mistaken. If public opinion is so strong against a good election law he ought to have opposed the introduction of this Bill altogether; and he ought to have introduced amendments softening the Bill at every stage. He has done nothing of the kind. He takes advantage of a little gap, left, I believe, really by inadvertence in the Bill by its original framers; I have brought it in merely to complete the edifice. I ask my Hon'ble friend whether really the ballot system is worth anything unless you provide that the secrecy of the ballot should also be maintained. It seems to me to ask, may I say, that there should be a wedding but that there need not be a bride. The secrecy of the ballot is the very essence of the electoral system as we understand it; and if we do not provide for it a man might as well be asked in open Court for whom he voted. If it is relevant to the inquiry at all, I do not see why we should prevent a judge who wants to award judgment on any particular matter from seeking to know the truth; why we should preserve the right of a man to keep his vote to himself and let everybody else tell the world how he has voted. It seems to me besides there is a very good answer which I might make to the charge which Mr. Banerjee brought forward, that we are now running counter to public opinion. If we are running counter to public opinion, will a Province like Madras, where public opinion is certainly strong, not less strong than in Bengal, have seriously allowed the enactment of a large number of election offences in both the District Municipalities Act and the City Municipal Act? I believe. Your Excellency, that the country is ripe for an enlightened system of election, and therefore also for an enlightened system of election law." 1-39 P.M.

"I believe the case for my clause is complete."

The motion was put and agreed to.

The Hon'ble Sir William Vincent:—"My Lord, I now move that the Bill as amended be passed." 1-41 P.M.

The motion was put and agreed to

The Council then adjourned for lunch.

[Mr. W. M. Hailey.]

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THE IMPERIAL BANK OF INDIA BILL.

The Council re-assembled after lunch at 3-30 P.M. The Hon'ble the Vice-President in the Chair.

3-38 P.M.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that the Report of the Select Committee on the Bill to constitute an Imperial Bank of India and for other purposes be taken into consideration.

"The principles and objects of the Bill were discussed very fully in this Council in March last. It received some criticism both in this Council and in the press, but I think the criticisms were directed rather to its details than to its principles. I do not, therefore, propose at this stage to enter into a general discussion on the Bill. The details have been considered, and very fully considered in the Select Committee. Indeed I may say that they have been considered by two Select Committees, for the changes which were made, unavoidably made, in the constitution of the original Select Committee at all events had this advantage, in that the Committee as reconstituted was able to look at the Bill from an entirely different point of view to that from which it was considered by the first Committee. They have come to a unanimous conclusion on all the details of the Bill. Those conclusions are set forth at considerable length in the report which is now in the hands of this Council, and I assume that the Council will desire to act on the advice of its Select Committee and accept its suggestions. I therefore merely ask, Sir, that the Bill be now taken into consideration."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move the first amendment on the list, namely:—

'That in clause 6 (2), after the words 'appointed day' the words 'has been granted or' be inserted; after the word 'superannuation' the words 'or compassionate' be inserted; and for the words 'shall continue' the words 'shall be entitled to be paid by and' be substituted.'

"This is an amendment of no great substance. We simply desire to provide by the addition of the words 'has been granted' for the cases in which by a resolution of the Bank pensions may have been sanctioned but have not yet been drawn. We also desire to provide for compassionate as well as superannuation pensions; the remainder of the amendment merely refers to consequential change of wording."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, the second amendment, that stands in my name is this:—

'That to clause 6 the following sub-clause be added, namely:—

'(3) For the Directors and officers of the Banks of Bombay and Madras who are at the commencement of this Act the respective trustees of the following funds, that is to say,—

(a) the Bank of Bombay Officers' Pension and Guarantee Fund, and

(b) the Bank of Madras Pension and Gratuity Fund, and the Bank of Madras Officers' Provident and Mutual Guarantee Fund,

there shall be substituted as trustees of those funds respectively, the members for the time being and the corresponding officers of the Local Boards of the Bank at Bombay and Madras; and if any doubt arises as to who are the corresponding officers to the officers who are trustees at the commencement of this Act, the decision of the Central Board shall be final.'

"There are at present in the Banks of Bombay and Madras certain funds, officers' pension and guarantee funds and also provident funds, which are now in the hands of trustees. Several of those trustees are *ex-officio* directors of the existing Banks. It is proposed to provide by this amendment that the corresponding officers of the Local Boards of the new Imperial Bank at Bombay and Madras shall take their places. It is therefore merely a provision for retaining the same personnel with a change of nomenclature."

The motion was put and agreed to.

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[Rai Sahib Seth Nathmal; Mr. W. M. Hailey.]

The Hon'ble Rai Sahib Seth Nathmal:—"Sir, I beg to move the amendment which stands in my name and which runs as follows :—

3-40 P.M.

'That to sub-clause (2) (b) of clause 10 the following proviso be added :—

'Provided always that regard will be had in such selection for those centres of business where there are yet no banking facilities.'

"As pointed out by the Hon'ble Mr. Tata when the Bill was under discussion in the Select Committee, there are hundreds of towns where no banking facilities are yet provided. Our country has an area of 18 lakhs of square miles and it contains 2,253 towns with nearly 3 crores of inhabitants and 720,342 villages with a population of 28 crores. On the 31st December 1917 the total number of banking offices in India was only 402, and many of them overlapped in the larger towns. In fact, on that date there were in the whole of India only 165 towns which had bank offices. The United Kingdom with a population of 4 crores, had 9,138 banking offices. Canada with a population of 84 lakhs, has about 4,000 branches of banks. Further there are 29 crores of illiterate people in India, and out of the 2 crores of literates there are only 16 lakhs of literates in English.

"The vast and scattered population of India has thus modern banking facilities at 165 stations only, and consequently the financial power of India is insufficiently mobilised. Money lies dormant in endless small hoards.

"This fact was brought to the notice of the Committee and it was suggested that the new branches which had to be opened in various places within five years should be located not in those places where we have got banking facilities already, but in those centres where there is none at present. This suggestion was made not because the Central Board would like always to start branches only in those places where we have already got some sort of banking facility in existence, so as to bring profits soon and have their task easy, but because the interests of the share-holders are likely to be served better by having their branches in those places where the soil is already tilled. It is why this proviso is suggested for the consideration of the Council. The Hon'ble Mr. Hailey might object to this proviso on the ground that Government has discretion to open 25 branches wherever they choose and this might safeguard public interests as against share-holder's interests. I am afraid I am not personally content with this provision in as much as Government has discretion only for 25 places while share-holders have discretion for 75 and this is not what we call a State Bank where the influence of the share-holders is chiefly consultation and advisory. Government will surely take into consideration the claims of various centres where we have already got some form of banking institutions in existence and where we still need more facilities to further their rapid expansion and progress as in the case of Rangoon and I do not see why further discretion should be given to share-holders for such selection. This Bank is what they call banker's bank and surely has to finance internal trade of India to a large extent. Even now most of the Banks rely on Presidency Banks in a season of active trade when their whole capital is fully employed. I am therefore not against starting the new branches in those places also where we have already some banking facilities, and where we will soon have business, but what I mean to suggest is that this discretion should be given not to share holders but to the Government. Government in their discretion can have 25 branches wherever they think necessary from the taxpayer's point of view as well as from the share-holder's point of view, but the remaining 75 branches must if possible be located only in such places where banking spirit has not yet been awakened and where we might have less profits to begin with, but where we might be able to do greater good to the public at large. In my amendment however I have not suggested that we should have all the new branches in places where there is no banking facility of any kind. What I suggest is that, regard should be had for such places where such selection is to be made. This is a moderate request and a useful hint for future organisers. With these few words I commend the amendment to the favourable consideration of this Council."

The Hon'ble Mr. W. M. Hailey:—"The Council will notice, Sir, that this amendment is in the nature of an instruction rather than of a precise regulation. That is to say that it will be either for the Government (as regards

3-45 P.M.

[*Mr. W. M. Hailey; Rai Sahib Seth Nathmal; Mr. A. P. Muddiman.*]

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the 25 per cent of the new Branches) or for the Central Board (as regards the remaining 75 per cent) to decide whether the requisition laid down is complied with. There is, therefore, no compulsion; there is nothing what, I think, the lawyers call a sanction behind this amendment. Now I have some objection in placing on the Statute Book what can only be a pious hope; but my objection does not end there. There really is very little to be said for this amendment on its merits. The Hon'ble Mr. Nathmal said—and I agree with every word he said on this point—that India needs a large extension of her banking facilities. One of our reasons for promoting this Bill was that we felt that extension of banking facilities in India was urgently required. But we do not look forward merely to the multiplication of banking branches. If the Imperial Bank is to be successful, that success has to be achieved by a consolidation of resources. The Bank will not achieve its full purpose unless it can come to the assistance of private banks in times of stringency, and, more than that—and perhaps this is one of its most important functions—unless it is able to effect that organisation of Clearing Houses which is necessary if private banks are to achieve their full utility. That is one of its primary objects, and if it attains that object then the following consequences will ensue. In the first place there will be a far less use of metallic currency or of notes for remittance. In the second place the population of India at large will become more habituated to the use of cheques. That will be a gain to Banking as a whole throughout the country, and the private banks no less than the Imperial Bank will partake in that gain. If we were to accept this amendment, Sir, and if it could be enforced, I maintain that one of the results that would follow would be that instead of consolidating, and thereby economising our financial resources, we should be dissipating them in places where they were not required. We should be locking them up in places where the Imperial Bank could not, in a time of need, be relied upon to come to the assistance of private banks. It is for that reason that I oppose this amendment. There is in India, in this great and undeveloped country, an indefinite field for the extension of banking, and I do not myself believe, and none of us here on the side of Government ever have believed, that the advent of the Imperial Bank will prove a source of danger to private banks."

3-40 P.M.

The Hon'ble Rai Sahib Seth Nathmal:—"Sir, I cannot insist upon the amendment being accepted by the Council and I think what I have said on the subject is quite enough. Having regard to what the Hon'ble the Finance Member has told us, I will withdraw my amendment."

The amendment was by leave withdrawn.

The Hon'ble Mr. A. P. Muddiman:—"Sir, I beg to move that in clause 31 (1) the words 'as soon as may be after the appointed day' be omitted.

"This is purely a drafting amendment. The Bill as drawn up states that bye-laws may be made 'after the appointed day' and if these words were not in the Bill it would be possible, under section 22 of the General Clauses Act, to make bye-laws before the Bill actually came into operation. I understand it is desired so to make bye-laws but these words might be construed as limiting the general powers conferred by the General Clauses Act. Therefore I have the honour to move that they be omitted."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that in sub-clause 1 (a) of clause 31 for the words 'and on the said security' the words 'the conditions under which advances may be made on the said security' may be substituted.

"The object of this amendment, Sir, is this. As the Bill stands at present it might be necessary for the Central Board to lay down the maximum amount up to which Local Boards could give advances on the securities mentioned, *viz.*, trustees securities and the like. Now there is one class of such securities—I mean Government paper—on which it might be incumbent for a Local Board to lend practically without restriction in times of stringency. If it were bound down to a prescribed maximum of these advances by the Central

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[*Mr. W. M. Hailey; Rai Sahib Seth Nathmal;
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Board, it might find that the restriction made it impossible for it to come adequately to the assistance of the money market in times of stringency. It is for that reason we propose that the Central Board should, instead of laying down a maximum, merely lay down the conditions on which such advances should be made, and I think the Council will agree that that is perhaps the safer line of the two."

The motion was put and agreed to.

The Hon'ble Rai Sahib Seth Nathmal:—"Sir, I beg to move amendment No. 6 which stands in my name. It consists practically of two parts, and I will take the first part first, namely:—

3-51 P.M.

"That in clause 1 sub-clause (a) (vi) of part 1 of Schedule 1 of the Bill after the words 'accepted bills of exchange and Promissory Notes' and before the words 'Endorsed by the payees' the words 'and Hundis' be inserted."

"The Council is fully aware that the present Presidency Banks already do a lot of Hundi business though this term has, I think, no where been properly defined yet. Big Shroffs, mahajans, chettis and others who either directly or by their relations with smaller banks of the same kind largely finance the movement of produce and of important articles of commerce such as piece goods in the up-country markets do rely on Hundi business for help. The Hon'ble Mr. Howard pointed out on the 23rd of September last that, on some occasions, the amount of Hundis held by the Banks of Bengal and Bombay alone had exceeded a third of their total advances and during the busy season the proportion is rarely less than a quarter. If I mistake not Hon'ble Mr. Gubbay also pointed out once that the Hundi transaction of the three banks sometimes went up to 9 crores in a day. It may however be said that Hundis might come under bills of exchange and hence there is no need of adding the word Hundi after it. Every bill of exchange is not a Hundi though some might say that it is a form of internal bill of exchange. Anyhow the term needs clear definition and as it finds no place in the clause of definitions and as large business is already done by Hundis, Mudatti as well as on demand, I think it would be better if we gave it a statutory recognition and no longer kept it vague. I may for the information of the Council here allude to section 26 of the Indian Paper Currency Act, 1910, where this word does find a place. With these few words, I commend the first part of my amendment to the acceptance of the Council."

The Hon'ble Mr. A. H. Froom:—"Sir, dealing with the first part of the Hon'ble Mr. Nathmal's amendment, I understand that the word 'Hundi' is a description in the vernacular of a bill of exchange. Its inclusion, therefore, in clause (a) (v) of Part I of Schedule I would thus be tautological and unnecessary. I therefore oppose this part of the Hon'ble Member's amendment.

"I did not quite hear whether the Hon'ble Member moved the second part of his amendment."

The Hon'ble the Vice-President:—"I did not gather whether the Hon'ble Member did or not. I propose to put the two parts separately and I shall give the Hon'ble Member an opportunity of moving the second part after the first part has been disposed of."

The Hon'ble Rai Sahib Seth Nathmal:—"May I move the second part of my amendment?"

The Hon'ble the Vice-President:—"I will give you an opportunity of doing that when we have done with the first part."

The Hon'ble Mr. A. H. Froom:—"Well, I have nothing more to say on the first part of the Hon'ble Member's amendment."

The Hon'ble Mr. A. R. Murray:—"Sir, this question was discussed in Select Committee. If I remember aright, what influenced the Committee to decide not to insert the word 'Hundi' in this clause was the fact that this particular sub-clause (a) (v) of the Part I of Schedule I is in identical terms with section 36 (a) (vi) of the Presidency Banks Act, 1876. That section refers only to accepted bills of exchange and promissory notes

3-53 P.M.

[*Mr. A. R. Murray ; Mr. W. M. Hailey ; Rai Sahib Seth Nathmal ; The Vice-President.*] [8TH SEPTEMBER, 1920.]

endorsed by the payees. Now, the Presidency Banks Act has been in force for nearly 50 years and during all that time there has been no question of the Presidency Banks' right to deal in Hundis. That being so, I see no reason why the amendment should be accepted. The absence of the word from the Presidency Banks Act did not limit the activities of the Presidency Banks, and the insertion of the word now will not, in my opinion, widen the scope of the Imperial Bank's operations. I therefore beg to oppose this amendment."

The Hon'ble Mr. W. M. Hailey :—"As the Hon'ble Mr. Murray has pointed out, Sir, the absence of the word 'Hundi' from the corresponding section of the Presidency Banks Act has never been felt as a loss before. If I understand the legal position correctly in regard to Hundis, it is this. Under the Negotiable Instruments Act, a Hundi is a bill of exchange unless it bears on its face some indication that it is not intended to be treated as such. If Hundis therefore were included in this section, the result would be that we should, by implication, include a certain number of documents drawn in the vernacular which were not proper bills of exchange. I have no very strong feeling on the subject. It is a matter on which we shall be glad to follow the opinion of those intimately acquainted with the actual working of the section. But though I have no strong feeling on the matter, I think that I would follow both the Hon'ble Mr. Froom and the Hon'ble Mr. Murray in advising the Council, merely as a matter of prudence, not to insert this word. It is always a mistake to make to a section of an Act which has worked well for a great number of years, an addition which may subsequently give rise to doubts and legal discussion. It is therefore simply as a matter of prudence that I would advise the Council not to include this word in the section."

The Hon'ble Rai Sahib Seth Nathmal :—"Sir, the chief argument put forward is that the absence of this term was never felt before ; but I must point out, that if there is an omission already, I do not see why it should not be supplied in future. Section 26 of the Indian Paper Currency Act, 1910, already enacts that 'no person in British India shall draw, accept, make or issue any bill of exchange, promissory note *Hundi*, etc.'

"In reading this section I wish to bring out before the Council the fact that the necessity for the separate insertion of this word 'Hundi' has been recognised in the Statute Book, and I do not see why, when we are doing crores of rupees of business in Hundis, we should not find the word in the present Act.

"With these few words, I trust the Council will accept this part of my amendment."

The Hon'ble the Vice-President :—"I will put the first part of the Hon'ble Mr. Nathmal's amendment separately."

The motion was put and negatived.

The Hon'ble Rai Sahib Seth Nathmal :—"Sir, the second part of my amendment No. 6 runs thus :—

'And that in the same clause before the words 'and joint and several' the words 'and approved bankers' be inserted.'

"My object in moving this amendment is to encourage private enterprise and also to safeguard share-holder's interests. What I suggest is that the Bank should not content itself only with the endorsement of the payees of accepted bills of exchange but, as is the practice now, should, before they accept such bills, secure the endorsement of approved bankers also. This might mean some profit to the approved banker and so much less to the Bank but in view of the additional security that this course implies and direct encouragement which it offers to the existing banks, I think, we should safeguard the interests of tax-payers if not of the share-holders by accepting the amendment that I have proposed.

"As the practice is, the Bank for some time to come at least might have a list of approved bankers and unless they get their endorsement on bills of exchange which have been accepted by the Bank and endorsed by the payees they should not, to keep them on the safe side, accept the same. In so doing we will be able to ensure the public that the Bank's business is not conducted in such a way as to be injurious to the public interests and this will also ensure an immediate progress also in the matter of increasing banking facilities. To

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[*Rai Sahib Seth Nathmal; Mr. A. H. Froom; Mr. A. R. Murray.*]

this it might however be said that this course gives undue advantage to certain bankers and shuts the door against many which goes directly against the fundamental principles of the Bill. This is what the Hon'ble Mr. Hailey might also say and the only reply that I can give is that we have to satisfy both shareholders as well as tax-payers. Less profits and greater security should always be the goal in such pioneer institutions and by following similar practice I hope, the existing Presidency banks have not shut the door against any sound business-man. A central institution of the character that we are proposing in the Bill which is to be entrusted with very great responsibilities in the matter of acting as Government's Banker should not in the interests of the tax-payer be allowed to engage in business which may be quite right and proper for an ordinary joint stock bank but which is not desirable for an institution which is meant to be pre-eminently a banker's bank. With these words I recommend this to the consideration of the Council."

The Hon'ble Mr. A. H. Froom:—"Sir, in moving the second part of this amendment I cannot think that the Hon'ble Member can have realised fully the extent to which his proposal would operate, were the words 'and approved bankers' inserted in the clause under discussion. The Imperial Bank would be placed in the position of being unable to discount bills of exchange or promissory notes unless the documents bore the signature of another bank. Now, it is well known that the Presidency Banks do a large business in discounting bills and notes accepted by firms of standing or by approved persons, both European and Indian; and by this amendment we are asked to deprive the Imperial Bank of a large portion of what will be its legitimate business. This business has been carried on by the Presidency banks for many years,—most successfully, I should say, from the results we have seen of the three Presidency Banks, and I see no reason why it should not be carried on equally successfully by the Imperial Bank. The Imperial Bank is being constituted to fill a long felt want by supplying banking facilities throughout India, and the suggestion to curtail these facilities at the outset of its career, to say the least of it, appears to me to be paradoxical in the extreme. Sir, I cannot support the Hon'ble Member's amendment."

The Hon'ble Mr. A. R. Murray:—"Sir, this amendment also was discussed in Select Committee, and considered to be undesirable. As it is, the names of two or more persons or firms unconnected with each other in general partnership are already required before the Imperial Bank is entitled to advance or lend money on bills of exchange or promissory notes. The insertion of the words 'and approved bankers' means the addition of yet another name. The ordinary bank is at liberty to advance money, if it wishes, on one signature only. It seems to me a sufficient handicap on the Imperial Bank that it should require two signatures; and if you are to make it necessary for the new Bank to have three signatures, I think you are putting very great obstacles in the way of the Bank doing business."

"As the Hon'ble Mr. Nathmal stated when speaking to the first amendment to this sub-clause, the Hon'ble Finance Member pointed out in a meeting of this Legislative Council on 23rd September of last year that on some occasions the amount of Hundis held by the Banks of Bengal and Bombay has exceeded one-third of their total advances, and during the busy season, the proportion is rarely less than one quarter. The addition of the words 'and approved bankers' as suggested by the Hon'ble Member, would have the effect of retarding the trade of India, instead of encouraging it, in so far that the addition of this extra name must mean additional expense to traders generally, for it may safely be taken for granted that no bank will attach its name to a bill of exchange except for a consideration. Even assuming that it was considered advisable to make the desired amendment, I would ask the Hon'ble Member how he would define 'approved Bankers.' I have seen 'an approved acceptance' described as 'an acceptance to which no reasonable exception can be raised.' And I assume an approved banker might be described as a banker to whom no reasonable exception could be taken. I shall be glad to know, however, who is to decide when a reasonable exception can be taken to any banker, and who is to be the authority to decide it. Under the head of bankers in India, we have, besides the Presidency Banks, which are to be replaced by the new Imperial Bank, Exchange Banks,

[3RD SEPTEMBER, 1920.]

[*Mr. A. E. Murray; Mr. W. M. Hailey; Rai Sahib Seth Nathmal; Mr. A. P. Muddiman.*]

Indian Joint Stock Banks, including industrial banks and mortgage banks, and we have savings banks and co-operative banks. Over and above these banks, we have the banias, mahajans and shroffs, some of whom would certainly consider themselves entitled to come under the head of 'approved bankers.' I think I have said enough, Sir, to show that the proposed amendment is not a feasible one, and should not be accepted by the Council."

The Hon'ble Mr. W. M. Hailey :—"My Hon'ble friends, Mr. Froom and Mr. Murray, Sir, have explained to the Council the exact effect of this portion of the amendment proposed by the Hon'ble Mr. Seth Nathmal. I would give the Council purely as information a figure from which they can conclude the extent to which this amendment if accepted might injure trade. I take it for granted, as Mr. Murray says, that if you are obliged to obtain the acceptance of a bank, that bank will not do it for nothing, and that your money must therefore cost you more. On the 30th of December of 1917 the amount of outstanding bills discounted by the three banks was 8 crores 15 lakhs; and it is to that amount of advances that this restriction would apply. Now, Mr. Nathmal said that this step was necessary in the interests of the tax-payer because if the acceptance of another bank were required it would obviate some potential risk of loss to the Imperial Bank. Since 1876 the Presidency Banks have been taking this risk. It is a complaint of some of my friends here that these banks have made too much money, not that they have not made enough; the risk—if it is a risk, cannot have involved them in any considerable loss. I think that they may be left to take that risk safely in the future; and that we need have no fears for the interests of the tax-payer. Again I say that risk is so small that we, as representing the tax-payer—and as tax-payers ourselves, might be very glad indeed to run it rather than place on Indian trade generally the great additional burden which Mr. Nathmal's amendment would involve."

The Hon'ble Rai Sahib Seth Nathmal :—"Sir, having regard to what the Hon'ble Mr. Froom and the Hon'ble Mr. Murray as well as what the Hon'ble the Finance Member have said I do not think I shall insist on the amendment being moved."

The motion was by leave withdrawn.

4-10 P.M.

The Hon'ble Mr. W. M. Hailey :—"Sir, I beg to move that in Schedule I, Part I, clause (d), for the words 'the discounting and buying' the words 'discounting, buying and selling' be substituted; and after the words 'and from' the words 'or to' be inserted. This is simply required, Sir, in order to allow the Bank to sell as well as buy bills."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey :—"I beg to move, Sir, that in Schedule I, Part I, clause (1) after the word 'administrator' the word 'executor' be inserted; and for the word 'or' where it occurs for second time the word 'and' be substituted. This amendment is required in order to allow the Imperial Bank to act as executor as well as administrator. The articles of several banks lately have, I understand, been amended in order to allow them to take up the work of an executor to wind up estates, and it is well that this power should be equally given to the Imperial Bank."

The motion was put and agreed to.

The Hon'ble Mr. A. P. Muddiman :—"Sir, I beg to move that in Schedule II, clauses 10, 11 and 12, for the words 'Central Board' wherever they occur the word 'bank' be substituted. This again is merely a drafting amendment. Those clauses in the Schedule which are mentioned in the amendment refer to the transfer and transmission of shares. It has been suggested to us, and we think rightly, that as the clauses stand they may be discrepant with the provision which enables local boards to recognise transfers and transmissions, and which is contained in clause 26 of the Bill."

The motion was put and agreed to.

[8TH SEPTEMBER, 1920.]

[Mr. B. D. Tata; Mr. W. M. Hailey; Mr. A. P. Muddiman; Rai Sahib Seth Nathmal.]

The Hon'ble Mr. B. D. Tata:—"Sir, I beg to move that in Schedule II, clause 23 (1) for the word 'place' the words 'at such town where there is a local head office of the bank' be substituted.

"I do not think I need say anything on this amendment as I am led to believe by my Hon'ble friend the Finance Minister that he will accept this amendment."

The Hon'ble Mr. W. M. Hailey:—"I am quite prepared to accept this amendment."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I move that in Schedule II, clause 24, for the words 'thirty days' the words 'sixty days' be substituted.

"We consider the period of thirty days too short a time for a previous notice of a special meeting—since the share-holders are scattered all over India and are not always resident in India itself. We therefore propose to substitute sixty for thirty days."

The motion was put and agreed to.

The Hon'ble Mr. A. P. Muddiman:—"This again is a purely drafting amendment*. It seems very complicated but really is very simple. Clause 33, to which the amendment is being made, applies *mutatis mutandis* all the procedure of general meetings to local meetings. When we examined this clause again we found that the corresponding authority in the Local Board, the Secretary, who corresponds to the Managing Governor on the Central Board had not been provided for. The first part of the amendment makes the necessary substitution, to apply the procedure to the Local Board. The second part of the amendment is to correct a drafting error; the reference made to a 'Local Board' is incorrect. The reference should be to special local meetings as defined in the relevant sections of the Bill."

The motion was put and agreed to.

The Hon'ble Rai Sahib Seth Nathmal:—"The fourth amendment which stands in my name runs as follows:—

'That in clause 39 sub-clause (2) of Schedule II of the Bill the paragraph beginning with the words 'if he holds the office of the director, etc.' and ending with the words 'in British India: or' in the seventh line be entirely expunged.'

"My object in moving this amendment is to enlist the co-operation of all experienced hands and those who are directors, etc.: in one bank do sit in other banks also and I don't see why we shut them out entirely by the introduction of this proviso in the Second Schedule dealing with qualifications and disqualifications of Governors. This Bank will offer to India an excellent opportunity for the extension of banking facilities by the amalgamation of the three Presidency Banks and as the number of trained bankers so far available is very limited in modern methods of banking, I think that the present proviso should be done away with. The progressive policy which we are going to initiate by establishing a hundred new branches in addition to those which we have already got is likely to be continued until at least in every district and eventually at every town of importance a branch of the Imperial Bank would be established. If this is so I do not see why share-holders should be prohibited from selecting the best man available. Of course Government has discretion to nominate four instead of two as provided in the original Bill and in their selection Government can do away with this unnecessary bar but personally I do not see why as a tax-payer one should be disqualified if one honestly means to do the work. I do not however insist on this and might withdraw the amendment if the Finance Member convinces the Council of the urgent necessity of this proviso as it finds a place in this Bill which is of course taken from the Presidency Banks Act."

* That in Schedule II, clause 38 in the first proviso after the word "Governors" the words "Managing Governors," and after the words "local board" the word "secretaries" be inserted and in the second proviso the words "of a local board" whenever they occur be omitted and after the word "special" the word "local" and after the words "in the case of a" the word "local" be inserted.

[*Mr. A. R. Murray; Mr. W. M. Hailey; Rai Sahib Seth Nathmal; Mr. R. D. Tata.*] [3TH SEPTEMBER, 1930.]

4-17 P.M.

The Hon'ble Mr. A. R. Murray:—"Sir, under the existing Presidency Banks Act of 1876, no person is qualified to serve as a Director, who is already a director or officer in another bank. The Presidency Banks wished this disqualification to be continued in the new Act, and the Bill was drafted to give effect to their wishes in this respect. The Government, however, have thought it desirable that this disqualification should not apply to their nominees as Governors of the Central Board, and provision therefore has been made for the Government nominating persons who may be directors of Joint Stock Banks. To this I take no exception for the reason that I consider Government should be unfettered in their selection of a Governor. It is different, however, as regards the other Governors, and I think the shareholders of the Presidency Banks and of the new Imperial Bank are quite justified in asking that no change should be made so far as they are concerned in the qualification for a Directorship in the new Bank. Sir, I do not quite see in whose interests the Hon'ble Member is putting forward this amendment. It cannot be on behalf of the general tax-payer, whose interests it is our primary duty to protect, for their interests are already safeguarded by the Government nominees. And if he is not moving in the interests of the tax-payer, he, presumably, must be moving in the interests of the shareholders. So far as I am aware, the shareholders of the Presidency Banks have indicated no desire to throw open their Directorship to Directors in other Banks. My information is all to the opposite effect, viz., that the existing banks object strongly to any amendment on the lines suggested by the Hon'ble Member. That being so, Sir, I do not think this Council has any justification for forcing the shareholders to dispense with a disqualification, which has served the Presidency Banks well. I, therefore, oppose the amendment."

The Hon'ble Mr. W. M. Hailey:—"The Hon'ble Mr. Murray, Sir, has explained the effect of the Hon'ble Mr. Nathmal's amendment; I wish to make it quite clear to the Council how Government regards this amendment. If it were carried we should remove the bar which at present exists to election as Director of a local board, not only of a gentleman who holds the office of Director in another bank, but of a gentleman who holds the office of provisional director, promoter, agent or manager of any joint stock bank. The amendment must I think be accepted as a whole, and if we accepted it as a whole it would mean that there would be, as I said, no bar to the election as a member of a local board of a gentleman who is manager of another joint stock bank. I maintain that this on the whole would be disadvantageous to the new bank. For what would be the consequence? We want to create a banker's bank; would it be possible that other banks would continue to keep their balances with the Imperial Bank if they knew that every detail of their reserves, was in the possession of a gentleman who was manager of a rival bank?"

"The inevitable consequence would be that they would withdraw their balances at once. Now that is not to the interest of the Imperial Bank, nor is it to the interest of the tax-payer, nor is it, I think, to the interest of anybody at all. I maintain, therefore, that it is advisable that this restriction, which has been in force since 1876, which we have never been asked to remove before, should continue to remain in force."

The Hon'ble Rai Sahib Seth Nathmal:—"Sir, I do not wish to insist on the amendment* being pressed, and in view of the following amendment* which stands in the name of the Hon'ble Mr. Tata, I may be permitted to withdraw it."

The amendment was by leave withdrawn.

The Hon'ble Mr. R. D. Tata:—"Sir, with your permission, I beg to withdraw this amendment*."

The amendment was by leave withdrawn.

*That in Schedule II, clause 39 (2), the word "Director" where it appears for the first time be omitted, and in the same sub-clause the proviso be omitted.

[8TH SEPTEMBER, 1920.]

[*Mr. W. M. Hailey; Rai Sahib Seth Nathmal; The Vice-President; Mr. A. H. Froom.*]

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that in Schedule II, clause 39 (3), after the words 'local board' the words 'or of the Central Board and a local board' be inserted. 4-22 P.M.

"The Bill as drafted contains a salutary provision that no two persons who are partners of the same mercantile firm or private company shall be eligible or qualified to serve as members of the Central Board or of a local board at the same time. We wish to add a provision, and the Council will, I think, agree as an equally salutary provision, that no such firm or company shall be represented by two members at the same time on the Central Board and on the local board."

The motion was put and agreed to.

The Hon'ble Rai Sahib Seth Nathmal:—"Sir, the only amendment which now remains and which stands in my name is this, *viz.*—that in clause 42 (3) of Schedule II for the word 'three' the word 'four' be substituted'.

"My object in moving this amendment is to safeguard the interests of the Bank by fixing the quorum for the transaction of business of the Central Board at four instead of at three. The Central Board or the Controlling body of the Bank, *i.e.*, the Governors will consist of 3 Presidents, 3 Vice-Presidents and 3 Secretaries of the Presidency Banks, 2 managing Governors to be appointed by the Governing body, one official, *i.e.*, the Controller of Currency (he will represent Government interests and will have some defined powers in this respect) and four Government nominees who will be non-officials and who will represent tax-payer's interests as they are to contribute a considerable portion of the Bank's resources in the shape of Government balances. Thus the total comes to 16 instead of 14 as was contemplated in the original Bill. The usual place of the meeting would be either Bombay, Calcutta or Madras where we are bound to have the presence of one managing Governor necessarily, one President and one Vice-President, and unless we have at least one Government nominee in the meeting who represents tax-payer's interests, transactions cannot be said to be fair. In order to safeguard their interests I have put forward this amendment and I hope the Council will see their way to accept in as much as it is quite possible, to have this number in every meeting of the Board and business is not likely to suffer for want of a quorum in any case."

The Hon'ble the Vice-President:—"I should like to hear Mr. Hailey on this question."

The Hon'ble Mr. W. M. Hailey:—"The exact number, Sir, who will be entitled to vote will be 12 or 13 in the event of the number of managing Governors being reduced to one. We took in drafting the Bill a proportion of one quarter roughly of the number. I have myself no very great feeling on the subject; it is a matter very largely for gentlemen who are acquainted personally with the working of institutions of this nature. If there is a feeling on the part of such gentlemen that there would be no obstruction to business by the substitution of four for three, I, for my part, should be very happy to accept the amendment put forward by Mr. Seth Nathmal. 4-25 P.M.

The Hon'ble Mr. A. H. Froom:—"Sir, I think we have now arrived at an amendment by the Hon'ble Mr. Seth Nathmal which the Hon'ble the Finance Member might well accept. When this Bill was introduced, the number of Governors on the Central Board was 10, and I take it that the quorum was then three. The number has now been increased to 12, and I do not see any objection to the number of the quorum being advanced to four. When a local board requires a managing Governor to convene a meeting of the Central Board at any time, say in Calcutta or in Bombay, there will be at hand presumably one of the managing Governors,—if not quite close at hand, very near at hand,—the President and the Vice-President, that is three, and of the remaining 9 Governors, and I do not think it is too much to expect that at least one of them should be present at the meeting."

The motion was put and agreed to.

[Mr. W. M. Hailey.]

[8TH SEPTEMBER, 1920.]

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that in Schedule II, clause 43(5), after the word 'President' the words 'Vice-President or in their absence the senior member of the board' be inserted.

"The Bill as drafted provides that a meeting of the local board shall be convened by the President whenever he thinks fit. We are advised that it is frequently necessary to call a meeting at short notice when the President may be absent, and we therefore propose that a meeting may be called by the Vice-President or, in the absence of the President and the Vice-President, the senior member of the board."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that in Schedule II, clause 45 (2), for the words 'or appointed' the words 'or when such member was appointed under this clause, from the date on which his mediate or immediate predecessor was elected or substituted' be substituted.

"Sir, as drafted, the Bill provides that on the occurrence of a vacancy the vacant place shall be filled up by the remaining members of the board who shall co-opt a duly qualified person for that purpose, and that in that case the member so co-opted shall be considered to have held office from the date on which the member in whose place he is appointed was elected or appointed as the case may be. This amendment is simply designed to provide for the case in which a member co-opted in this manner himself becomes disqualified or resigns, in which case the date of appointment the member chosen to take his place would be considered to be that on which the original member was appointed."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that in Schedule II, clause 49 (5), after the words 'local board' the words 'and the secretary' be inserted.

"The object of this amendment is simply to carry on the present practice by which the signature of the secretary is obtained as well as the signature of two members of the Bank to all documents which require such signature."

The motion was put and agreed to.

4-30 P.M. **The Hon'ble Mr. W. M. Hailey:**—"Sir, I beg to move that in Schedule II, clause 62, the words 'in British India and has not supplied to the Bank an address within British India for the giving of notice to him' be omitted.

"The Bill as drafted provides that if a share-holder has no registered address in British India, and has not supplied to the Bank an address within British India, then the notice shall be sent by post and also advertised in the Gazette of India. It will be seen that this applies only to the cases in which a share-holder has no registered address in British India. We propose to extend the practice of sending a notice by post and by advertisement in the Gazette of India to all cases in which a share-holder has not a registered address deposited with the Bank whether in British India or elsewhere."

The motion was put and agreed to.

The Hon'ble Mr. W. M. Hailey:—"Sir, I beg to move that the Bill as amended be now passed.

"We have come to the end of a somewhat long list of amendments, not important amendments in themselves, but mainly designed to make provision for some small points in procedure to which our attention was directed after the meetings of the Select Committee had concluded and its Report had been presented.

"In asking that the Bill be passed, Sir, I do so in the profound conviction that it will be of substantial advantage to India. I say here nothing of the

[8TH SEPTEMBER, 1920.]

[Mr. W. M. Hailey.]

need—the acknowledged need—for improved banking facilities. By that, I do not necessarily mean the mere multiplication of banking branches. Even more urgent is the need for the creation of a central banking institution which will provide for the consolidation and the more scientific distribution of our resources; the need of some such institution has long been admitted by all those interested in Indian Finance. The three Presidency Banks have had a long and honourable career, a career not less honourable because it has not been unprofitable to them. Some years ago when our thoughts were directed to an amalgamation of the three Banks in order to provide a central banking institution for India, we found that we were likely to be thwarted by the difficulties arising among the banks themselves. The hard lessons of the war did something to smoothe over those difficulties, but even more, I think, has been effected by the improved personal relations between the banks themselves and between the banks and Government, which is due to the good-will of the present directorate and management of the banks, a good-will which I heartily recognise. When those difficulties were surmounted and the project appeared to be ripe for legislation, it was criticised on two grounds. It was criticised on the ground that it made insufficient provision for the Indian element, and it was also criticised on the ground that the new Bank would prove so strong a competitor to private banks that it would be a danger to them. Well, Sir, I hope that the recommendations of the Select Committee will have met the first objection; and I am sure that time and experience will dissipate the apprehension that the new Bank will prove a danger to the private banks of this country. For my own part I have never been able to envisage the position that the new Imperial Bank is likely to serve the needs of one class of the community or of one section of bankers. (We ourselves have regarded it purely as a measure to extend banking facilities, and to render the money resources of India more accessible to the trade and industry of this country; thereby promoting that financial progress which is an indisputable condition of the social and economic advancement of India. It was in this belief, Sir, that we first set our hands to this measure; it was in this belief that, in spite of some opposition and misunderstanding of our motives, we continued to press it on the Council; and it is in the belief that the measure will give to us a great national institution having ample resources for the assistance of trade, constituting itself an example of sound banking to other banks, an institution which will assist not only the State, but the public, and all sections of the public—it is in the firm assurance in this belief that I now ask the Council to pass the Bill.

“I have referred to the honourable career of the Presidency Banks in the past. That chapter of their career is now about to be closed, but if our hopes are realized there will spring from their ashes, phoenix-like, a bank which while not unmindful of the honourable financial traditions of the past, will partake of a wider outlook, and a larger, a more beneficial sphere as a national Bank for India.”

The motion was put and agreed to.

The Council adjourned till the 9th September, 1920 at 11 a.m.

A. P. MUDDIMAN,

Secretary to the Council and all India,

Legislative Department.

SIMLA;

22nd September, 1920.

Appendix "A".

Statement showing the number of cases in which findings, etc., were recorded by Summary Courts in the Punjab disturbances.

- (b) The courts in question were not bound to record any reasons for their findings, though in a large number of the cases such reasons were recorded. The total number of cases was 552. In 469 of these cases a summary of the evidence often running to many pages was recorded by the trying officer.
- (c) In 67 of the cases the trying officer confined himself to recording reasons for his finding and made no record of the evidence.
- (d) There were only 16 cases in which no summary of the evidence was recorded and no reasons for the findings given.

NOTE.—During the winter session the information was not available, as most of the records of the cases decided by the Summary Courts which had been sent to the Disorders Enquiry Committee for perusal, were not returned by them till after the session was over.

Appendix "B".

Statement of wagon allotment for coal from January 1920 to June 1920.

Month.	R. I. M. (BOMBAY-KANAGUL, K. P. DOCK), SHIMLA—K. P. DOCK, BURNER COAL—HOWRAH (GARDEN REACH, SHALIMAR, K. P. DOCK).			Loco (INCLUDING LIGHT RAILWAYS AND ISLAND STEAM NAVIGATION COMPANIES).			SPECIAL PUBLIC. (X CHARG).				ORDINARY PUBLIC. (FIVE RATA).				Total.	
	East Indian Railway.	Bengal-Nagpur Railway.	Total.	East Indian Railway.	Bengal-Nagpur Railway.	Total.	Total Iron and Steel Company, Limited.	Other Supplies.			East Indian Railway.	Bengal-Nagpur Railway.	Total.	East Indian Railway.	Bengal-Nagpur Railway.	Total.
								East Indian Railway.	Bengal-Nagpur Railway.	Total.						
January 1920 ..	8,065	1,072	9,737	20,519	6,530	20,356	2,626	11,077	4,283	16,200	8,130		8,130	48,091	14,419	63,107
February ..	15,043	1,641	16,684	25,072	6,024	31,000	3,166	16,644	3,306	19,040	2,809	602	3,501	68,668	15,719	74,377
March ..	9,634	1,533	11,167	27,482	7,271	34,753	1,254	18,280	4,409	22,888	7,191	2,332	9,523	62,006	16,889	79,585
April ..	10,399	4,170	14,569	27,121	8,642	35,763	3,782	15,907	2,078	18,485	2,864	325	3,189	66,221	19,407	75,728
May ..	9,849	4,346	14,294	25,287	8,228	33,815	3,789	16,668	2,171	20,820	3,429	900	4,335	57,322	19,740	77,062
June ..	10,600	4,380	14,975	26,706	8,040	34,755	3,488	16,940	1,796	21,732	1,517	283	1,800	58,778	17,972	76,750