

**VOL. 56**

**Book No. 1**

**5 - 24 Sept. 1917**



**P L**

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

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

**LAWS AND REGULATIONS**  
**FROM APRIL 1917 TO MARCH 1918**

---

**WITH INDEX**

**VOL. LVI**

**PUBLISHED BY AUTHORITY OF THE GOVERNOR GENERAL.**



**PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING INDIA**

1918



GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

---

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

---

The Council met at the Council Chamber, Viceregal Lodge, Simla, on Wednesday, the 12th September, 1917.

PRESENT :

THE HON'BLE MR. G. R. LOWNDES, *Vice-President, presiding*, and  
58 Members, of whom 52 were Additional Members.

---

**STATEMENT LAID ON THE TABLE.**

**The Hon'ble Sir William Vincent** :—" Sir, I beg to lay on the table a statement\* showing the number of gazetted appointments above the rank of Registrar in the Government of India Secretariat and attached offices."

---

**QUESTIONS AND ANSWERS.**

**The Hon'ble Sir Dinshaw Wacha** asked :—

1. " Are the proceeds of the War Loan left with the Presidency Banks until they are actually required by Government for disbursement ?" The War Loan.

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

" The bulk of the loan proceeds paid into the Presidency Banks was left with the Banks for a considerable time and has been only gradually withdrawn. Advantage has however been recently taken of the easy money conditions which are now prevailing in this country to withdraw the loan proceeds at a somewhat more rapid rate than would have sufficed for the immediate necessities of Government. This course, which is clearly in the interests both of the Banks and of the money market generally was adopted at the

---

\*Vide Appendix A.

[*Sir William Meyer; Sir Dinshaw Wacha; Mr. R. A. Mant.*] [12TH SEPTEMBER, 1917.]

wish of the Banks whose convenience has been constantly consulted in effecting withdrawals." •

Export of  
linseed.

**The Hon'ble Sir Dinshaw Wacha** asked :—

2. "(a) Is it a fact that a large quantity of linseed is imported into the United Kingdom from Argentina for the purpose of manufacturing margarine and that the quantity of linseed imported into the United Kingdom from the countries within the British Empire, including India, is equivalent only to 64 per cent. of the total quantity imported ?

(b) If so, will Government be pleased to consider the question of so encouraging the cultivation of linseed in India as to diminish the imports of that seed from countries outside the British Empire ?"

**The Hon'ble Mr. R. A. Mant** replied :—

"(a) The answer is in the affirmative except that the purpose for which, Argentina linseed is imported into the United Kingdom is not, it is believed, the manufacture of margarine. The oil is understood to be used principally for paints and varnishes and the cake for fodder.

(b) In view of the improbability that sufficient freight will be forthcoming in the near future to convey the quantities of linseed already available for export from India, the Government of India do not consider it either necessary or desirable to take any special steps to encourage the increased cultivation of this crop at present."

**The Hon'ble Sir Dinshaw Wacha** asked :—

Agricultural  
roads.

3. "(a) Are there adequate agricultural roads in India for transporting the agricultural produce of the ryot from the field to the nearest market ?

(b) If not, will Government be pleased to give the names of the Provinces in which the want of an adequate number of such roads is still felt ?"

**The Hon'ble Mr. R. A. Mant** replied :—

"The subject matter of the Hon'ble Member's question is purely provincial and the information desired can best be obtained by questions in the Provincial Legislative Councils."

**The Hon'ble Sir Dinshaw Wacha** asked :—

Cultivation  
of wheat.

4. "(a) Is it a fact that the French Government some time ago resolved, to raise the premium granted to peasants from 3 to 5 per cent for increasing the area for the cultivation of wheat ?

(b) If so, will Government be pleased to consider whether stimulus cannot be given to cultivators in this country of all kinds of food-grains, specially wheat, in a similar way ?"

**The Hon'ble Mr. R. A. Mant** replied :—

"(a) The Government of India have no information.

(b) The Government of India have already asked the Local Governments of the chief wheat-growing Provinces to take special steps to stimulate the cultivation of wheat and other food-grains during the coming season"

**The Hon'ble Sir Dinshaw Wacha** asked :—

Financing  
of exports of  
commodities  
of national  
importance.

5. "(a) With reference to the *communiqué* summarising the results of the conference held on the 3rd January last between the Hon'ble Finance Member and various banking representatives, and to the statement therein made that "the fullest assurances were given by those present that the financing of exports

[12TH SEPTEMBER, 1917.]

[*Sir Dinshaw Wacha ; Sir William Meyer.*]

of national importance in connection with the war would have the first claim on the resources of the Exchange Banks,' will Government be pleased to state how far these assurances have been given effect to?

(b) To what extent have importers of produce co-operated with the Exchange Banks in order to secure that the proceeds of their imports are similarly made available, so far as they may be required, for the financing of export of commodities of national importance?"

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

" (a) The Government of India believe that the British Exchange Banks have scrupulously adhered to the assurances given at the Conference referred to by my Hon'ble friend in the matter of giving priority in finance to exports of national importance.

(b) With the co-operation of Chambers of Commerce, Trades Associations, etc., the attention of the mercantile public was drawn some months ago to the fact that it was essential in the national interest that importing, shipping and other firms should make the funds at their disposal directly available for the financing of such exports. The great majority of these firms have responded to the appeal in a very public spirited manner. A few instances have come to notice in which importers have disposed of their remittances direct to exporters of articles not on the preferential list at rates higher than those at which exchange business is now carried on under agreement with the Secretary of State for India. It is believed, however, that the Chambers of Commerce and Exchange Banks are taking such action as is possible to prevent transactions of this kind, and I may express the hope that any firms and brokers who deal in such business will discontinue it when they realise that it is detrimental to the scheme for the regulation of exchange which is now in force and to the financing of exports of urgent importance for carrying on the war. "

**The Honble Sir Dinshaw Wacha** asked :—

6. " (a) Is it a fact that the volume of Indian export trade has been materially curtailed by the restrictions which have been placed on the amount of the Secretary of State's weekly Council drawings? Indian export trade.

(b) Is it a fact that the export trade is at present more handicapped by difficulties in the way of freight than by those of an exchange?"

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

" (a) The answer is in the negative. The value of articles of private merchandise exported from India in the year 1916-17 amounted to 241 crores against 182 and 197 crores, respectively, in the years 1914-15 and 1915-16, and 249 crores in the pre-war year 1913-14. Thus, the value of exports last year was substantially in excess of their value in the two previous years and very nearly reached the figure attained in the record year which immediately preceded the outbreak of the war. It is true that restrictions on exchange only came into force during the last three months of 1916-17, but the figures for the first four months of the current year, *viz.*, April to July, show very similar features, the value of exports amounting to 74 crores against 61 and 73 crores in the corresponding months of 1915 and 1916, and 83 crores in the same period of 1915.

(b) It is necessarily impossible to obtain statistics to show the exact extent to which exchange considerations and the difficulties of obtaining freight, respectively, have impeded trade. From representations, however, which have been received by the Government of India it would seem to be the case that trade is at the present time more handicapped by shortage of tonnage than by exchange difficulties."

[*Mr. Srinivasa Sastri ; Sir C. Sankaran Nair ; Rai Sita Nath Ray Bahadur ; Sir George Barnes ; Sir Robert Gillan.*] [12TH SEPTEMBER, 1917.]

**The Hon'ble Mr. Srinivasa Sastri** asked :—

**Housing accommodation for the poorer classes in towns.** 7. " Will Government be pleased to state what steps, if any, have been taken in the different provinces of India by State or private agencies for providing proper housing accommodation to the poorer classes living in cities and large towns ?"

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

"The information will be obtained from the Local Governments."

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

**Employment of Indians in the Factory Inspection Department.** 8. "(a) Do the enquiries made by the Public Services Commission show that in the Factory Inspection Department at present, out of 21 Government officers in the various Provinces in receipt on the 1st April 1913 of salaries of Rs. 200 or more, 17 were returned as Europeans and 4 as Anglo-Indians ?

(b) If so, do Government propose to take necessary steps to employ qualified Indians of unmixed Asiatic descent in the Department ?"

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

"(a) The figures which are correctly quoted by the Hon'ble Member represent the Officers of the Factory and Boiler inspection departments collectively and not those of the Factory inspection department alone.

(b) All the recommendations made by the Public Services Commission are being carefully considered by the Government of India, and we are not yet in a position to state conclusions."

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

**Terminus of the Eastern Bengal Railway.** 9. "(a) Is it a fact that the Dacca-Narayanganj mail-steamer occasionally misses the Goalundo—Calcutta mail-train causing serious inconvenience to passengers ?

(b) Is it a fact that Goalundo is at present the terminus of the Eastern Bengal Railway, and that Faridpur is nearer Narayanganj than Goalundo ?

(c) If so, will Government be pleased to consider the question of extending the terminus of the Eastern Bengal Railway from Goalundo to Faridpur, with a view to shorten the time of the journey from Calcutta to Narayanganj ?"

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

"(a) It has been ascertained that during the last 12 months the Dacca-Narayanganj mail-steamer missed connection with the Eastern Bengal Railway mail train on one occasion only.

(b) It is a fact that Faridpur is nearer than Goalundo to Narayanganj, but it is not possible to adopt a fixed point in view of the varying conditions of the river. The present terminus which is called Goalundo is not a fixed station but is moved up or down the river within a distance of about ten miles.

(c) A proposal to move the terminus to Faridpur for the flood season only was considered by the Eastern Bengal Railway a few years ago : the proposal was abandoned as the *khal* giving access to Faridpur was found unsuitable for steamer traffic."

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

**Secondary and higher education in India.** 10. "(a) Did Mr. Chaubal, in his additional Note to the Report of the Public Services Commission, recommend the appointment of an Educational

[12TH SEPTEMBER, 1917.] [*Rai Sita Nath Ray Bahadur ; Sir C. Sankaran Nair ; Mr. R. A. Mant.*]

Commission which will take evidence and settle the proper lines on which secondary and higher education should be run under the altered conditions of the country and to suit the present time?

(b) If so, will Government be pleased to state if they intend taking any steps to appoint such a Commission?"

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

" (a) Yes.

(b) The Commission which will shortly enquire into the University of Calcutta will consider *inter alia* the qualifications to be demanded of students on their admission to the University. Their recommendations will primarily be applicable to those areas which fall within the jurisdiction of the University of Calcutta. But the Government of India do not propose to take any further action until their recommendations have been received and considered."

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

11. " (a) Have the Government of India frequently declared that in the Agricultural Department the object to be kept steadily in view is to reduce to a minimum the number of experts appointed in England and to train up indigenous talent so as to enable the country to depend on its own resources for the recruitment of its agricultural staff in the higher branches? Recruitment for the Agricultural Department.

(b) Did the Public Services Commission recommend that facilities should be offered to Indians to enter the higher branches of the Agricultural Department in India?

(c) If so, will Government be pleased to state what steps they intend taking to carry out this recommendation?"

**The Hon'ble Mr. R. A. Mant** replied :—

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

(c) This question is under consideration together with the other recommendations of the Commission affecting the Agricultural Department."

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

12. " (a) Did the Public Services Commission recommend that members of the I. O. S. should not be appointed as Directors in the Department of Agriculture? Directors of Agriculture.

(b) If so, will Government be pleased to make a statement as to the steps, if any, which they intend taking in regard to the recommendation?

(c) Did the Secretary of State for India recommend that officers of the Agricultural Department should be given an opportunity of proving their fitness for the post of Directors in that Department?

(d) If so, will Government be pleased to make a statement as to the steps, if any, which they have taken in regard to the recommendation? If no steps have been taken, will Government be pleased to state what steps they intend taking in the matter?"

**The Hon'ble Mr. R. A. Mant** replied :—

" (a) The reply is in the affirmative.

(b) The matter is still under the consideration of Government.

(c) The reply is in the affirmative.

(d) The Secretary of State's instructions have been communicated to Local Governments with whom it rests to give effect to them. So far as the Government of India are aware two officers of the Agricultural Department are at present officiating as Directors in their respective Provinces."

[*Rai Sita Nath Ray Bahadur ; Mr. R. A. Mant ; Sir George Barnes.*]

[12TH SEPTEMBER, 1917.]

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

Appoint-  
ment of In-  
dians to the  
Public  
Works and  
Railway  
(Engineering)  
Depart-  
ments.

13. “(a) Did the Public Services Commission recommend that in the Public Works and Railway (Engineering) Departments provision should be made for obtaining half of the staff from India ?

(b) If so, will Government be pleased to state what steps they intend taking to carry out this recommendation ? ”

**The Hon'ble Mr. R. A. Mant** replied :—

“ (a) The Public Services Commission have recommended certain changes in the manner of recruitment of engineers for the Public Works, and Railway (Engineering) Departments, the result of which would ultimately be to increase the proportion of appointments open to statutory natives of India from thirty-seven and a half to fifty per cent of the total strength.

(b) The recommendations are at present under the consideration of the Government of India.”

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

Employment  
of Indians  
in the  
Boiler  
Inspection  
Department.

14. “(a) Have the Public Services Commission pointed out in their Report that in the Boiler Inspection Department Indians of unmixed Asiatic descent do not appear to have obtained entry ?

(b) If so, do Government propose to take the necessary steps to remedy this state of affairs ? ”

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

“ (a) The answer is in the affirmative.

(b) I have already informed the Hon'ble Member that the recommendations made by the Public Services Commission are receiving the careful attention of the Government of India, and that the Government are not yet in a position to state conclusions.”

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

Enhance-  
ment of pay  
of branch  
post  
masters.

15. “(a) Is it a fact (i) that the Public Services Commission have expressed the opinion that the only safe criterion of salary is ‘that Government should pay so much and so much only to their employes as is necessary to obtain recruits of the right stamp and to maintain them in such a degree of comfort and dignity as will shield them from temptation and keep them efficient for the term of their service,’ and (ii) that the Calcutta High Court (in *Emperor vs. Haraset Bose*) has held that the pay of village post masters is inadequate ?

(b) Will Government be pleased to enhance the pay of branch post masters, and pending the development of the necessary scheme, revert to the old custom of granting them a small commission on the sale of stamps ? ”

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

“ The quotation which the Hon'ble Member has made from the Report of the Public Services Commission is quite accurate and it is also accurate to say that the High Court of Calcutta in the case mentioned commented on the low wages paid to a certain village postmaster.

I should point out that the duties of a village postmaster in this country as in other countries do not provide whole time employment for a man, and it is consequently the policy of the Government to secure village postmasters who have got other employments or emoluments and who are able to give part of their time to the work of postmaster. In the particular case in question, for instance, the postmaster had an income of Rs. 15 a month from other sources.



[12TH SEPTEMBER 1917].:

[*Sir George Barnes ; Bai Sita Nath Ray Bahadur ; Mr. R. A. Mant.*]

in addition to the postal allowance of Rs. 8 a month mentioned by the High Court.

The circumstances of each case and the total emoluments of each man are reviewed annually.

In answer to the last part of the Hon'ble Member's question, the Government do not propose to revert to the system of paying commission on the sale of stamps."

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

16. "(a) Have the Public Services Commission recommended that, with a view to introduce a system of direct recruitment to the Imperial Branch of the Forest Department Service in India, steps should be taken to establish at Dehra Dun a course of training in forestry up to the highest European standard? Recruitment for Imperial the Branch of the Forest Department.

(b) If so, will Government be pleased to state what steps, if any, they contemplate taking to give effect to this recommendation?"

**The Hon'ble Mr. R. A. Mant** replied :—

"(a) The reply is in the affirmative.

(b) The question is under the consideration of the Government of India, but they are not at present in a position to make any statement on the subject."

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

17. "(a) Did the Public Services Commission recommend that not less than one half of the vacancies hereafter arising in posts in the Customs Department in India, carrying salaries of Rs. 200 a month and more, should be filled by statutory natives of India? Appointment of Indians to the Customs Department.

(b) If so, will Government be pleased to state what steps, if any, they intend taking to carry out the recommendation?

(c) Did Mr. Chaubal in his minute regarding the Report of the Commission on the Customs Department point out that out of 246 posts in that Department carrying a salary of Rs. 200 and more, only 27 were held by Asiatic Indians and Burmans?

(d) If so, will Government be pleased to take steps to ensure a larger employment of Asiatic Indians?"

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

"The Public Services Commission recommended that not less than one-half of the vacancies hereafter arising in the Customs Department should be filled in India by statutory natives of India. This recommendation referred to appointments in the Imperial Customs Service. The Commission did not make any recommendation regarding the subordinate services, which are under the control of the Local Governments. It is, however, correct that Mr. Chaubal pointed out in his minute that out of 246 posts in the Department carrying a salary of Rs. 200 and more, only 27 were held by Indians.

The action to be taken on the Commission's Report is still under the consideration of the Government of India, and I cannot make any statement on the subject."

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

18. "(a) Have the Public Services Commission in their Report pointed out that there is a growing demand in various parts of India for the highest forms Veterinary training.

[*Roi Sita Nath Ray Bahadur ; Mr. R. A. Mant ; Captain Ajab Khan, Sardar Bahadur ; His Excellency the Commander-in-Chief ; Rao Bahadur B. N. Sarma ; Sir William Meyer.*] [12TH SEPTEMBER, 1917.]

of veterinary training, and it is of importance that the instructional facilities provided by Government should keep pace with the demand, and that steps should be taken to enable India to rely on her own resources in this as in other scientific services? And have the Commission recommended 'that as soon as possible classes teaching up to the highest standard should be established in India and that the passed students of these classes should constitute the normal field of recruitment for the Imperial branch of the Department (i.e., Civil Veterinary Department)?'

(b) Will Government be pleased to state what steps they intend taking regarding the establishment of classes teaching up to the highest standard?

(c) Have the Public Services Commission recommended that 'pending the development of a complete scheme of training in India, a system of State scholarships should be instituted by which likely young men would be enabled to proceed to Europe with the object of gaining the diploma of the Royal College of Veterinary Surgeons'?

(d) If so, will Government be pleased to state what steps they intend taking to carry out this recommendation?"

**The Hon'ble Mr. R. A. Mant** replied :—

"The answer to questions (a) and (c) is in the affirmative.

With regard to questions (b) and (d), no decision has yet been arrived at on the recommendations of the Public Services Commission, but Local Governments and Administrations will shortly be consulted regarding the recommendations referred to by the Hon'ble Member, and the whole question of veterinary education will be considered by the Board of Agriculture in December next."

**The Hon'ble Captain Ajab Khan, Sardar Bahadur** asked :—

**Barrack furniture.**

19. "What is the allowance of lamps and oil for lighting the barrack rooms of Indian units, and what other barrack furniture is provided them by the State?"

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

"Under existing rules, lamps and oil are only allowed to Indian units at Port Blair and in Burma; except to bodyguards, no furniture is supplied by Government to the barrack rooms of Indian units. The actual scales are shown in Army Tables, Miscellaneous Services.

The supply of lamps and of a suitable scale of furniture to Indian units generally is at present under the consideration of Government."

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

**Prohibition of export of gold and silver.**

20. "Will Government be pleased to state how much money due to merchants in India for goods exported by them is locked up in the United Kingdom by reason of the prohibition of the export of gold and silver and the lack of facilities for the sale of Council drafts?"

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

"The Government of India have no information as to the amount of money due to merchants in India for goods exported to the United Kingdom."

[12TH SEPTEMBER, 1917.]

[*Rao Bahadur B. N. Sarma ; Sir William Meyer ; Sir William Vincent.*]

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

**21.** "With reference to the constitution of Boards in the various provinces to encourage recruitment to the Indian army will Government be pleased to state— Recruitment for the Indian Army.

"(a) Whether the cost which will be incurred by additions to the regular forces will be paid from the Indian revenues or is to be borne by the British Exchequer ;

(b) Whether the increased cost by reason of casualties in the regular forces is proposed to be borne by the British Exchequer ;

(c) Whether additional allowances to officers or men are proposed to be met by the British Exchequer ;

(d) Whether the increased cost incurred in 1916-17 and the approximate additional cost estimated to be incurred in 1917-18 by reason of additions to the regular forces are proposed to be borne by British estimates."

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

"The replies to the Hon'ble Member's question are as follows :—

(a) Expenditure connected with special measures of recruitment undertaken in order to meet the needs of the Indian Expeditionary Forces is debitable under existing arrangements to His Majesty's Government.

(b) All abnormal non-effective charges arising from the occurrence of casualties with the Indian Expeditionary Forces will be borne by His Majesty's Government.

(c) Any additional allowances which may be granted to officers or men in connection with (1) the special measures of recruitment already referred to, (2) the despatch of the Indian Expeditionary Forces, and (3) service with these forces, will be debitable to His Majesty's Government.

(d) Any extra expenditure incurred in 1916-17, and likely to be incurred in 1917-18, in connection with temporary additions to the regular forces, which may be made in order to meet the requirements of the Indian Expeditionary Forces will be debitable to His Majesty's Government. Any expenditure on permanent additions to the regular forces in India, or on temporary additions which are unconnected with the requirements of the Indian Expeditionary Forces, will fall upon Indian revenues."

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

**22.** "Have the Government of India issued any instructions to Local Governments in the matter of prohibiting or regulating the holding of public meetings or conduct of processions in connection with propagandist work for the securing of constitutional reforms advocated by the Indian National Congress and the Moslem League and for marking public approval or disapproval of Government measures ?" Prohibition of public meetings.

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

"As stated in reply to a question asked by the Hon'ble Dr. Tej Bahadur Sapru confidential instructions were issued to Local Governments in connection with the Home Rule movement. Government have nothing to add to the reply then given."

[*Rao Bahadur B. N. Sarma ; Sir William Meyer ; Maharaja Sir Manindra Chandra Nandi.*]

[12TH SEPTEMBER, 1917.]

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

**Income Tax.** 23. "Will Government be pleased to state the total number of persons in 1916 (including firms, joint stock and other companies, etc.)

- (a) Who were assessed to income tax in British India for incomes—  
 (i) between Rs. 5,000 and 9,999,  
 (ii) between Rs. 10,000 and 24,999, and  
 (iii) of Rs. 25,000 and upwards, and  
 (b) who have paid the super tax ; and the total amount thus realized ? "

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

" I presume that by 1916 the Hon'ble Member means the financial year 1916-17.

(a) We do not receive information from Local Governments as to the number of assesses to income tax in an official year until the October following. As the Hon'ble Member was informed in July last, in response to a written enquiry made by him, the statistics for which he asks will be supplied to him as soon as they become available

(b) The Super Tax Act was not in force in 1916-17; consequently no one was assessed to super tax in that year. No statistics are as yet available for the current year."

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

**Currency legislation in India.** 24. " Will Government be pleased to state all the currency legislation and measures adopted in India since 1893 and the objects with which they were adopted ? "

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

" A summary of the principal currency legislation and measures adopted in India from 1893 until the Chamberlain Commission reported, and of the objects with which they were adopted, will be found in paragraphs 12 *et seq* of the Commission's Report which I have laid on the table. Full details with regard to subsequent legislation and measures will be found in my speeches introducing the last three Financial Statements. "

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

**Herschell, Fowler and Chamberlain Commissions.** 25. " Will Government be pleased to lay on the table the principal recommendations of the Herschell Committee, the Fowler Committee and the Chamberlain Commission on Indian Currency, and state how many of them have been so far given effect to and with what result ? "

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

" I place on the table a copy of the final report of the Royal Commission on Indian Finance and Currency presided over by Mr. Chamberlain. This summarises the principal recommendations made by the previous Committees referred to and the extent to which their recommendations were given effect to. I regret that spare copies of the reports of the earlier committees referred to are not available, but I shall be glad to lend the Hon'ble Member copies of them for perusal if he desires them.

The recommendations of the Chamberlain Commission's Report have been circulated to Local Governments, Chambers of Commerce, etc., for their opinions. Those consulted were, however, informed that the submission of their opinions might be deferred till after the war in order that they might,

[12TH SEPTEMBER, 1917.]

[*Sir William Meyer ; Maharaja Sir Manindra Chandra Nandi.*]

in replying, be able to take advantage of the further experience gained during the present crisis. Meanwhile, as explained in paragraph 93 of my speech introducing the Financial Statement for 1915-16, we have provisionally adopted two of the Commission's proposals by replacing the silver previously held in the Gold Standard Reserve in India by gold, and also by taking powers to make an increase in the fiduciary portion of the Paper Currency Reserve. With regard to the latter we have been obliged by circumstances, as a temporary measure, to go further than the Commission actually recommended with normal conditions in view. Since the Commission reported, however, there has, as the Hon'ble Member is probably aware, been a large increase in the circulation of our currency notes, owing mainly to the fact that we have in the meantime taken various steps in order to popularise them, this action also being in entire accordance with the recommendations of the Commission. We have also, as I explained in the speech just referred to, given a public and unqualified assurance of our determination to support exchange by all the means in our power, thus adopting another and a very important recommendation of the Commission with an emphasis which gives it a definite finality. Further, with regard to the question of a gold mint for India, which is discussed in paragraphs 69-73 of the Commission's report, His Excellency announced at the last meeting of Council that the Home Treasury has agreed as a provisional measure, subject to reconsideration after the war, to our undertaking the coinage of sovereigns at Bombay, a branch of the Royal Mint being established there for the purpose."

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

26. "What are the various Ordinances, if any, issued during the last five years for the restriction of the importation of gold and silver into India and for the regulation of the sale of Council Bills?"

Ordinances restricting the importation of gold and silver.

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

"The only Ordinances issued during the last five years for the restriction of the importation of gold or silver into India are the two Ordinances recently promulgated, copies of which I place on the table for the information of the Hon'ble Member. No Ordinance has been issued for the regulation of the sale of Council Bills, which is a matter entirely within the executive discretion of the Secretary of State."

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

27. "(a) Have His Majesty's mints been closed to the free coinage of silver? If so, what has since been the annual amount of the gold currency reserve in England and of the amount of silver coins reserved for the Indian paper currency?"

Gold currency reserve in England.

(b) How has the proportion of metallic reserve to the reserve in paper securities varied during the last four years?

(c) How has the amount of the gold currency reserve in England been utilised in England since 1900?"

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

"I understand that the Hon'ble Member's question relates to the Indian mints and to the silver and gold held in the Paper Currency Reserve. The Indian mints were closed to the coinage of silver in 1893. I place on the table a statement\* showing the gold held in the Paper Currency Reserve in England and silver coin held in this Reserve in India on the 31st March in each year since that date, and also the percentage of the total reserve held in the

\* Appendix B.

[*Sir William Meyer ; Maharaja Sir Manindra Chandra Nandi ; Sir George Burnes.*] [12TH SEPTEMBER, 1917.]

metallic and invested form, respectively, on the same date in each of the last four years.

As regards the last part of the question, the gold held in the Paper Currency Reserve in England has generally been employed for the purchase of silver or in order to assist the Secretary of State's treasury balances. In the latter case, the gold is transferred to the Home Treasury against an opposite transfer of coin or notes from the Treasury to the Currency Reserve in India."

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

**Imports of Gold and Silver into India.** 28. "What is the total respective value of the gold and silver imported into India for other than Government requirements since 1893?"

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

"I lay on the table a statement\* showing the value in rupees of the gross imports of gold and silver year by year into India on private account from 1893 onwards."

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

**Re-opening of the mints for the free coinage of silver.** 29. "Do Government intend to re-open the mints for the free coinage of silver?"

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

"The answer to the Hon'ble Member's question is in the negative."

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

**Duty on Salt.** 30. "Will Government be pleased to lay on the table a Statement showing year by year since 1900, the successive deductions in the duty on salt and the total amount of salt consumed in India since 1910 and the quantity imported and manufactured in 1912 and 1916?"

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

"The statements† asked for by the Hon'ble Member are placed on the table."

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

**Salt gambling.** 31. "(a) Are Government aware that the present arrangements for the sale of salt lend themselves to gambling which results in the periodic enhancement of the price of this commodity?"

(b) Will Government be pleased to consider the desirability of taking steps to put an end to speculative transactions in salt and to ensure that in every centre of trade and commerce throughout the country facilities are offered to the public for the purchase of salt at duly notified prices?"

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

"The Government of India are not of opinion that the arrangements for the supply of salt from Government sources lend themselves to speculative operations to a greater extent than in the case of many other articles of commerce, so far as the price to the consumer is concerned."

\* Appendix C.  
† Appendix D.

[12TH SEPTEMBER, 1917.]

[*Sir George Barnes; Maharaja Sir Manindra Chandra Nandi; Rai Bahadur B. D. Shukul; Mr. R. A. Mant.*]

Circumstances arising out of the war however have brought about a reduction in the quantity of salt imported, which has certainly rendered it possible for merchants to force up prices for short periods in certain limited areas. The Government of India recognise that, in the case of an article in the supply of which they possess a partial monopoly, it is undesirable in the public interest that speculation should take place to the injury of the consumer, and have in accordance with this policy taken steps, as explained in the Press Communiqué issued on the 16th February last, of which I will send my Hon'ble friend a copy. The Government of India have brought this arrangement to the notice of other Local Governments who will no doubt introduce them should circumstances necessitate such a course."

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

32. "(a) Will Government be pleased to consider the question of allowing salt to be manufactured on a larger scale along the sea coast of India, particularly in Bengal, under proper licenses and safeguards?" Manufacture of salt.

(b) Is it not a fact that salt was formerly manufactured very largely in Bengal and Orissa and that such manufacture has now been abandoned?

(c) If so, will Government be pleased to state why and under what circumstances the manufacture of salt was abandoned in these Provinces?

(d) From what sources does Bengal get its supply of salt at present, and how much of the salt consumed in Bengal is imported from England and Foreign countries?"

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

"The question of increasing the output of salt in India has been under the consideration of the Government of India for some time past and the Governments of Madras and Bombay, who are chiefly concerned, have recently been addressed on the question.

A memorandum\* by the Government of Bengal on the subject of salt production in that province is laid on the table for the Hon'ble Member's information, together with a statement shewing the sources from which salt was imported into Bengal in the year 1916-17."

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

33. "Will Government be pleased to order the publication of the following papers and documents regarding the economic condition of the people in this country and place the same on the table :—" Papers regarding the economic condition of the people of India.

(a) Papers in connection with the Cromer Inquiry of 1882.

(b) Papers in connection with the Dufferin Inquiry of 1887-88.

(c) Papers in connection with the Inquiry undertaken in 1891-92.

(d) The statistical memorandum and notes on the condition of the lower classes in the rural areas furnished to the Famine Commission of 1898 by the Provincial Governments.

(e) The official memorandum worked out from figures collected for the Famine Commission of 1898.

(f) The appendices to the report of the Famine Commission of 1901?"

**The Hon'ble Mr. R. A. Mant** replied :—

"(a) The Hon'ble Member apparently refers to an enquiry made by Sir D. Barbour, when Accountant General, Bengal, into the incidence of taxation in

\*Appendix E.

[*Mr. R. A. Mant ; Rai Bahadur B. D. Shukul.*]

[12TH SEPTEMBER, 1917.]

British India. The report on this enquiry was a departmental publication which is now out of date, and the Government of India see no advantage in publishing it.

(b) The attention of the Hon'ble Member is invited to the supplement to the *Gazette of India* of 20th October 1888 in which the papers he asks for were published.

(c) The Government of India regret that they do not know to what papers the Hon'ble Member refers.

(d), (e) and (f) The papers are voluminous and the statistical matter included in them is now out of date. For these reasons and because the expense of publication would be great and would not be justified the Government of India are not prepared now to order their publication."

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

**34.** "(a) Did the Decentralization Commission recommend the incorporation of the principles of assessment in the Land Revenue Codes of the different provinces ?

Incorporation of the principles of assessment in the Land Revenue Codes.

(b) If so, is it a fact that the Government of India have decided not to accept the above recommendations and that this decision is embodied in their despatch addressed to the Secretary of State, dated 30th June, 1910, and the reply thereto ?

(c) If the answer to (b) is in the affirmative, are Government aware that the above decision has caused keen disappointment amongst landholders, and will they be pleased to reconsider the question ? "

**The Hon'ble Mr. R. A. Mant** replied :—

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

(c) The Government of India are not at present prepared to reconsider the question."

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

**35.** "(a) Is it a fact that an experiment to demonstrate the economical use of water for irrigating wheat crops carried on by Mr. and Mrs. Howard in Baluchistan has met with success ?

Experiments demonstrating the economical use of water for irrigating crops.

(b) If so, will Government be pleased to advise the Agricultural Departments of the various provinces to try similar experiments wherever practicable, with a view to prevent the unnecessary waste of water in irrigation ? "

**The Hon'ble Mr. R. A. Mant** replied :—

"(a) The Government of India believe that, so far as Baluchistan is concerned, the experiments have been successful.

(b) A note on the saving of water in irrigating crops by Mr. B. Coventry, then Agricultural Adviser to the Government of India, was forwarded to Local Governments and Administrations, with Circular No. 10-121-1, dated 3rd May 1915, a copy of which is laid on the table, and they were advised to carry into effect the suggestions made therein as far as local conditions permit. At the Meeting of the Board of Agriculture in India to be held at Poona in December 1917, the following question will be discussed :—

'The necessity for further investigation into the water requirements of crops. The advisability of laying down proposed lines of investigation for different tracts of India, especially irrigation tracts.'



[12TH SEPTEMBER, 1917.]

[*Mr. R. A. Mont ; Rai Bahadur B. D. Shukul ; Sir C. Sankaran Nair ; Sir George Barnes ; Sir William Vincent.*]

Pending the decision of the Board on the subject the Government of India think it will be premature to take any further action in the matter."

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

36. "(a) Have Government received any definite proposals from the Government of the Central Provinces, regarding the establishment of a University at Nagpur, and if so, will such proposals be published for general information ? Establishment of a University at Nagpur.

(b) Will Government be pleased to state when a Bill for the establishment of a University at Nagpur is likely to be introduced in this Council ? "

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

"Proposals have been received from the local Administration for the establishment of a University for the Central Provinces, and are now under consideration. It is therefore undesirable to publish the proposals at present, and impossible to give a definite reply to the question when a Bill for the establishment of the contemplated University will be introduced."

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

37. "(a) Is it a fact that there has been an appreciable increase in the prices of refined sugar in India since the outbreak of war ; and that, notwithstanding such increase, there has been a decrease in the production of raw sugar in the year 1916-1917 ? Increase in the price of refined sugar.

(b) If so, will the Government be pleased to state the reasons of this decrease in production ?

(c) Do the Government propose to take any steps with a view to ensure a steady increase in the outturn of sugar ? "

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

"The answer to the first part of the Hon'ble Member's question is in the affirmative.

With regard to the second part, the estimate of outturn of raw sugar in India in 1916-17 shows a decrease of 0.3 per cent as compared with 1915-16, but an increase of 11.2 per cent over the average of the preceding five years. The slight decrease in 1916-17 is due to the fact that in certain parts of the United Provinces and Bengal the crop was damaged to some extent by excessive rainfall and floods.

The energies of the Agricultural Department are being steadily devoted to an increase of sugar production. The cane-breeding station at Coimbatore is investigating the possibility of finding a better cane suitable for the United Provinces and Northern India generally. Experiments are being conducted to test the possibility of growing cane on a commercial scale in Assam, while the Departments of Agriculture in other provinces of India where the crop is of importance are directing their efforts to increasing the area under the best varieties of cane."

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

38. "Is it under the contemplation of the Government of India to appoint a Lieutenant-Governor with an Executive Council, for the Central Provinces, and if so, when ? If not, do Government propose to take this matter into consideration, at an early date ?" Lieutenant-Governorship for the Central Provinces.

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

"The answer to the question is in the negative. But the Government of India are willing to examine the matter if any strong public opinion manifests itself on the subject."

[*Khan Bahadur Saiyed Allahando Shah ;  
Sir C. Sankaran Nair ; Sir William  
Vincent ; Mr. R. A. Mant.*]

[12TH SEPTEMBER, 1917.]

**The Hon'ble Khan Bahadur Saiyed Allahando Shah** asked :—

Communal  
representa-  
tion on  
municipali-  
ties.

**39.** "(a) Will Government be pleased to state in how many and in which Municipalities in India the system of communal representation is in force ?

(b) If the system is in force only in some of the Municipalities, will Government be pleased to state why the system is not extended to the others ? "

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

"(a) and (b) The existing law permits of communal representation on municipalities in all the Provinces except Bengal, Bihar and Orissa and Assam. But the Government of India have no recent information as to the number and names of the municipalities in which the system of such representation is actually in force."

**The Hon'ble Khan Bahadur Saiyed Allahando Shah** asked :—

Mahomedan  
representa-  
tion on local  
Councils.

**40.** "(a) Is it a fact that throughout India, excepting Sindh, Mahomedans are given the right of sending a separate representative to the Provincial Councils ?

(b) Will Government be pleased to state the reasons why no such separate representation is granted to the Mahomedans in Sind ? "

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

"(a) The Muhammadans in the Punjab, Burma and the Central Provinces do not elect any member to the local legislative council. In other provinces there is provision for the election of Muhammadan representatives.

(b) It was not considered necessary, at the time when the regulations were framed, to give separate representation to the Muhammadans of Sind, as it was anticipated that the community would be able to secure the election of Muhammadans to the District Boards seat, and the Landholders seat in that Province. This anticipation was justified, as the persons elected to the two seats have invariably been Muhammadans."

**The Hon'ble Khan Bahadur Saiyed Allahando Shah** asked :—

New canals  
in the  
Punjab  
and water  
supply of  
Sind.

**41.** "(a) Is it a fact that owing to the opening of new canals in the Punjab, the water supply of the Province of Sind has been adversely affected ?

(b) If so, will Government be pleased to state what steps, if any, they propose to take to remedy this state of affairs ? "

**The Hon'ble Mr. R. A. Mant** replied :—

"The matter referred to has been engaging the attention of Government for some time past and from the researches that have been made there is no indication that the water supply of the Province of Sind has been adversely affected by the opening of new canals in the Punjab."

**The Hon'ble Khan Bahadur Saiyed Allahando Shah** asked :—

Appoint-  
ments made  
to the post  
of District  
Superinten-  
dent of  
Police.

**42.** "Will Government be pleased to state how many Deputy Superintendents of Police have been permanently appointed to the post of District Superintendents of Police in India since the creation of the former appointments, and how many of these have been Hindus, Mahomedans, Parsees and Indian Christians ? "

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

"The information will be collected and communicated to the Hon'ble Member."

[12TH SEPTEMBER, 1917.]

[*Khan Bahadur Saiyed Allahando Shah ;  
Sir William Vincent ; Mr. M. B.  
Dadabhoy ; Sir William Meyer.*]

**The Hon'ble Khan Bahadur Saiyed Allahando Shah** asked :—

43. “ (a) Is it a fact that the question of appointing an equal number of Europeans and Indians on the Executive Councils is under consideration ? Appointment of an equal number of Europeans and Indians on the Executive Councils.

(b) If the reply is in the affirmative, will Government be pleased to state if they propose to take any steps towards Muhammadan representation on these Councils ?”

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

“ The question of the constitution of Executive Councils is under consideration, but it is impossible to make any definite statement on the point at present.”

**The Hon'ble Mr. M. B. Dadabhoy** asked :—

44. “ (a) Has any agreement been made with the Government of the Netherlands Indies for the supply of opium at an agreed fixed price ? If so, will Government be pleased to state this price ? Supply of opium to the Netherlands Indies.

(b) Is this price below Rs. 3,200 per chest ? If so, will the reasons for fixing it at a lower figure be stated ?

(c) Will Government be pleased to state the price or prices at which opium is now supplied to the Government of the Straits Settlements and Hongkong ?

(d) What are the periods for which the present agreements for the supply of opium to the Governments of the Straits Settlements, Hongkong and the Netherlands Indies hold good ?

(e) In fixing the upset price of opium to be sold by auction, have Government consulted expert opinion ?

(f) If the answer to (e) be in the negative, will Government be pleased to state why dealers and experts have not been consulted in the matter ?”

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

“ (a) My Hon'ble friend seems to have overlooked paragraph 10 (1) of my speech introducing the last Financial Statement in which I announced that we had concluded an agreement with the Government of the Netherlands Indies, with effect from 1st January last, similar to those which we already have with the Straits Settlements and Hongkong, under which that Government will now take from us at an agreed fixed price all the opium it requires from India.

(b) to (d) Subject to certain subsidiary conditions the agreements for the supply of opium to the Governments of the Straits Settlements, Hongkong and the Netherlands Indies remain in force for five years. The Government of India, as I told my Hon'ble friend when he raised the question in the final budget debate last March, are not prepared to publish any further details of the arrangements than have been given in the press *communiqués* issued at the time. I repeat here for convenience of reference what I said on the occasion in question :—

‘ I cannot divulge the secrets of these arrangements, but I can assure my Hon'ble friend that I drove good bargains and that we are not throwing away money. Of course he will understand that when you get an agreement for say five years with a country to take a certain amount of opium from you year by year, you naturally give it at a reduction in price as compared with what might be obtained at auction sales to-day, but which might not be obtained in another year.’

[*Sir William Meyer; Mr. M. B. Dadabhoy; Sir William Vincent; Mr. Kamini Kumar Chanda.*] [12TH SEPTEMBER, 1917.]

(c) and (f) I do not know to what expert opinion the Hon'ble Member refers. We naturally do not consult dealers in fixing the upset price of opium to be sold by auction; for as they are the persons who are primarily affected by our sales we could hardly expect their advice to be disinterested. I may say, however, that before we make any change in our opium arrangements we consider the circumstances very fully and consult confidentially with those whom we think best capable of giving us disinterested advice."

**The Hon'ble Mr. M. B. Dadabhoy** asked :—

**45.** " (a) Has the question of the appointment of a judge to a high executive office or of a high executive officer as a judge been considered by Government from time to time, and has it formed the subject of correspondence between the Government of India and the Secretary of State for India ?

Appoint-  
ment of  
judges to  
high execu-  
tive office.

(b) If so, will the papers relating to the subject be laid on the table ?"

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

"The whole question has been considered by the Government of India and has not been overlooked whenever it has been pertinent. The question of the appointment of judges to high executive office formed the subject of correspondence with the Secretary of State in 1910-11, the result of which is briefly summarised in the replies given in Parliament to Mr. Ramsay Macdonald's questions of March 14, 1911, copies of which will be supplied to the Honourable Member should he so desire. There has been no correspondence between the Government of India and the Secretary of State in regard to the question of the appointment of high executive officers to judgeships."

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

**46.** " (a) Has the Chiefs' Association of the Punjab submitted any representation to Government asking among other things (1) that India should be given her proper place in any scheme of Imperial Federation, and (2) that commissions in the Indian Army should be granted to Indians ?

Reforms  
asked for by  
the Punjab  
Chiefs' Association.

(b) Will the Government be pleased to state what classes of people in the Punjab are represented by the said Association, and whether such classes include what are known as the Military classes ?"

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

" (a) The answer is in the affirmative.

(b) It is understood that this Association has at present 161 members of whom 77 are Sikhs, 53 Muhammadans and 31 Hindus. The members belong almost exclusively to the land-owning aristocracy of the Punjab, though they include a member of Sikh and Muhammadan religious leaders. A number of the numbers are representatives of houses which once enjoyed sovereign powers and several of them are men of high education. About 20 or 30 belong to families which have or till recently had representatives in the Army. The Association also numbers among its members practically all the leaders of the Jat Sikhs, the Dogras and the Punjabi Muhammadans, who form a large proportion of our fighting forces."

[12TH SEPTEMBER, 1917.]

[*The Vice-President ; Mr. Krishna Sahay ; Mr. M. B. Dadabhoy.*]**USURIOUS LOANS BILL.**

**The Hon'ble the Vice-President** :—“ Further discussion on the motion by the Hon'ble Sir William Vincent that leave be given to introduce a Bill to give additional powers to Courts to deal in certain cases with usurious loans of money or grain will be continued.”

**The Hon'ble Mr. Krishna Sahay** :—“ The Usury Bill has been introduced into this Council none too soon and I welcome it. The Hon'ble the Home Member has instanced the province of Bihar and Orissa as furnishing cases of usurious loans. It is unfortunately too true that the evil exists there, and as a very flagrant instance of it I may mention a case in which for the principal sum of Rs. 25,000 the creditor put in a claim before one of the subordinate Courts at Patna for the recovery of 2 crores, 98 lakhs and some odd thousand rupees! However surprising it may appear, it is a fact, and this huge figure of the claim was arrived at because there was a stipulation in the bond in suit for the interest to run at 5 per cent. and the interest at the end of each month to be consolidated with the principal, and interest of 5 per cent. to run on that consolidated sum. The creditor took good care to institute the suit very many years after the execution of the bond. Happily this case was compromised in the Court of First Instance; but cases have cropped up before the Patna High Court in which interest at the rate of 75 per cent. per annum has been claimed and actually allowed by the High Court, on the ground ‘that the Court is not competent to rip up a contract merely because it considers the rate of interest high and unconscionable, and the debtor in such a case cannot be relieved except by showing that it comes within the four corners of sec. 16 of the Indian Contract Act,’ that is, unless undue influence is proved. This was a case from Bihar. In another case from Orissa the High Court has allowed interest at 37 per cent. taking the same view of the law and holding further ‘that the Indian law does not recognise the English principle of equity which gives relief to the rate of interest unduly high.’ These two are reported cases to be found in the Patna Law Weekly and I invite the attention of the Hon'ble the Home Member to the facts of those cases. They illustrate, in my opinion, the sheer inability of the Courts to give relief under the existing law or under the existing law as it is interpreted by them—their sheer inability, I say, to grant relief to debtors even in admitted cases of hard and unconscionable bargains.

“ It seems to me that the remedy for such a state of things must be elastic in its nature, must not only be a restriction on the amount of interest or the rate of interest, but a remedy which may be applied to all cases of vicious contracts and extortionate demands. I think the Bill under discussion goes far enough in that direction and for that reason I support the principle underlying it.”

**The Hon'ble Mr. M. B. Dadabhoy** :—“ Sir, as one of the representatives of the Central Provinces where this evil, if not widely prevalent, is by no means small, I rise to accord my whole-hearted support to this Bill. I may at the outset state that this Bill was long overdue. For the last 25 years people working in the law courts and administrators have all felt the propriety and the justice of some sort of legislation to cope with the growing evil of usury. Unfortunately there have been numerous difficulties in the way of Government in the matter of bringing forward legislation of this nature which would satisfy the requirements of all parties and which would meet the requirements of the whole of India generally; and I must congratulate the Government on this occasion and specially my friend, Sir William Vincent, for the manner in which he has grappled with the situation. His long judicial experience as well as his administrative knowledge have greatly helped him in framing a Bill which will meet the requirements of the present situation. In my province this evil is not rampant, but I know several instances in which it has been felt that some steps should be immediately taken for the suppression of the evil. My friend, Sir William Vincent, in his very exhaustive and illuminating speech the other day

[*Mr. M. B. Dadabhoy ; Rai Bahadur  
B. D. Shukul.*]

[12TH SEPTEMBER, 1917.]

quoted instance after instance showing the prevalence of this great evil, and I can multiply these numerous cases by giving several examples to which I have been an eye-witness in my thirty years' practice at the bar. I shall not detain the Council by quoting any of those illustrations, but I will content myself with referring to one instance in which I had the misfortune to appear for the creditor and got a decree to my great sorrow, because the courts were helpless in giving any relief to the debtor. In that case a loan of Rs. 50, which had been kept alive under section 20 of the Limitation Act for a period of 41 years, was ultimately enforced against the third generation; and the grandsons had to pay the money to the wily creditor who made them parties from time to time when the adjustment took place of the previous bonds. The difficulty in the present situation which the courts have to encounter is how to deal with bonds which have been previously settled. Under the ordinary law a settled account cannot be re-opened except on the ground of fraud, and though our courts of law have always been anxious to grant relief, they find themselves in a helpless predicament by the mere fact of the debtor having signed previous agreements, and made it almost impossible for the courts to re-open those transactions. This power which has been given now, will, therefore, be a very useful one. So far as the present Bill is concerned, I must state that it is not a perfect Bill, and it is almost impossible to have a perfect Bill in a matter of this sort. However, the provisions which have been made and the lines on which the Bill proceeds show that wide and comprehensive powers are to be given to our courts; and I have no doubt the hands of our courts will be considerably strengthened by the wide discretion allowed to them. I know in many cases there will be numerous difficulties. I know that the result of this Bill will be to prolong the duration of cases in many instances. There will be difficulties, but on consideration I do think that the balance of advantages outweigh the disadvantages in the present case. I have heard it contended often that the rule of *damdapat* which prevails in Berar and many other provinces would be a safe rule for legislation to go upon, and that a codified law in that direction might be introduced. There are advantages in this, but as this Council knows there are many cases in which the creditor has to wait at the request of the debtor and give him time. It will be unjust and unfair to the creditor in those cases that the rule of *damdapat* should be strictly enforced. It would cause hardship and in many cases severe injustice. I think, therefore, it is much better to allow our law courts wide and comprehensive discretion and leave them unfettered in the matter of opening up transactions and reviewing the situation from all points of view. This is not the time to discuss at length the details of the Bill. I shall have another opportunity of doing so; and in the meanwhile I shall content myself with giving this Bill my whole-hearted support."

**The Hon'ble Rai Bahadur B. D. Shukul :—**" Sir, as a representative of the landholders of the Central Provinces, a community which has already suffered much from the evils of usury, I rise to accord my support to this Bill and I trust that there is none here in this Council who will not accord a hearty welcome to this most urgent measure. In fact, my own feeling is that it has come not a day too soon, rather the evils of usury have run on their unchecked course far too long. And we must not shut our eyes to the fact that even when we have placed this measure on the Statute Book, as I hope we will do, it is merely the fringe of the question of general indebtedness that will be touched. For, the redemption of the masses, from their general indebtedness including both agriculturists and artizans, constructive and comprehensive measures of an altogether different kind will be needed. Measures such as restrictions of the powers of alienation of land, the Deccan Agriculturists' Relief Act and the present bill, howsoever good so far as they go, will never appreciably remedy the state of affairs that I have just indicated. Even in the matter of the prevention of usury this piece of legislation, I am afraid, will go but a small way towards the mitigation of the evil. As the statement of objects and reasons so modestly points out, the Bill, when passed into law, will chiefly prevent the civil courts from being used, hereafter, for the purpose of

[12TH SEPTEMBER, 1917.]

[*Rai Bahadur B. D. Shukul ; Maharaja Sir Manindra Chandra Nandi.*]

enforcing harsh and unconscionable loans carrying interests at usurious rates. But Sir, there will still remain a vast mass of usury, which will never come within the cognizance of the law courts. So long as capital is scarce and the needs of the small borrowers remain insistent and pressing and so long as the co-operative movement has not made sufficient progress, quite commensurate with the needs and requirements of the vast population of this country, till then, I am afraid, usury cannot be eradicated from the land. Yet, an attempt by the Government to do what is legislatively possible to check the evil, is what we welcome most.

“ Sir, as one connected with the co-operative movement of my Province for a long time and having had to do a lot with the co-operative societies there, I may be permitted to point out that in my dealings with them, I have met with a number of cases, where the necessity for such a measure has been keenly felt and with regard to which, I am sure, the enactment of this Bill would produce beneficent results. In our enquiries we often had occasions to deal with the question of old debts of the society members. It has been our experience that even when the amount of the principal originally borrowed had been repaid many times over, the creditors were still unwilling to come to any terms and would not agree to any reasonable debt conciliation proceedings. Under the present circumstances the creditors are fully conscious of the fact that if their cases are taken to courts, the courts would be bound to decree the full amount found due according to the terms of the contract. But, henceforth, especially so far as future transactions are concerned, the co-operators, whenever they want to compound the old debts of the members of the co-operative societies, will, I feel sure, be able to bring such unconscionable creditors to terms, as they will be now under the wholesome fear of the courts being able to re-open all transactions and go behind the bonds. And I have every reason to hope that this fear will make them take a more reasonable and sympathetic view of the case.

“ I am glad, Sir, that provision has been made in the Bill to cover cases of loans of grain as well as money, since, in most parts of the country loans in grain are made on terms as exorbitant and even more than those in cases where money alone is advanced. With these few remarks I beg to support this Bill.”

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

“ Sir, I don't want to inflict a speech on the Council on the Usurious Loans Bill at this stage. I have the fullest sympathy with the principle underlying this measure. I have, therefore, no objection whatever to leave being given to Sir William Vincent to introduce it into the Council today. If the large bulk of the agricultural, and lower middle-class population of India and in some provinces, as in Bengal, the landed aristocracy, deserve any protection at the hands of the Government against any class of men, it is certainly against the money-lenders and the class of men commonly known all over the country as the Mahajans and Sowcars. I will not repeat before the Council any stories of their cruelty or their inhuman exactions. Their usurious contracts and their treatment of the people who come into their grip have passed into a tradition of infamy and a byword of reproach. It is one of the highest duties of the State to save large classes of indigent population from running from poverty into distress and from distress into blank hopelessness. I, therefore, congratulate the Government on the step which they are about to take in protecting Indian poorer classes from what has now become perhaps the greatest trouble of their lives. But, at the same time, I think it my duty to utter a word of caution to the Government. In trying to protect one class of people, the Government ought not to be hard upon another. In preventing the Civil courts being used for the purpose of enforcing harsh and unconscionable loans carrying interest at usurious rates, the Government must be careful not to make money-lending a most discouraging business in the land. There can be no doubt that money will be always wanted by the Indian cultivators and artisans, and if the money-lender will not feel tempted to make any advances to them on account of the risks of law, the cultivator and the artisan will suffer more, and with them, the

[*Maharaja Sir Manindra Chandra Nandi ;  
Mr. Kamini Kumar Chauda.*]

[12TH SEPTEMBER, 1917.]

entire agricultural and other industries of India, than the money-lenders themselves. Say what we may, we cannot ignore the fact that the money-lender is only a necessary evil in the economy of Indian life. We cannot suppress him without paralysing and upsetting our entire social, industrial and commercial organisations, nor would it be wise or prudent to make his occupation impossible so long as facilities for popular banking or co-operative financing are not established all over the country. I would, therefore, very much ask the Government to define what excessive interest and unfair transactions should mean and to lay down a maximum rate of interest for all loans in cash or kind, and not to leave creditors entirely at the mercy of the Civil courts. All that I beg to suggest is that the discretionary powers of the Courts should be limited by law so far as possible. This done, the money-lender and the cultivator will know where they stand and how the land lies before them. This will also establish an uniformity of procedure and a common rate of interest in the different parts of the country and make for a civilised standard of living. If these safeguards are attached to this bill, the abuses of the sowcar and the mahajan will disappear in no time, and no grievance will be felt in any quarter if the courts will then investigate into the attendant and antecedent circumstances of the transactions in question and use their discretion so far as will be still left to them under the law."

**The Hon'ble Mr. Kamini Kumar Chanda** :—“ Sir, speaking for Assam and specially the Surma Valley Division of the Province from which I come, I respectfully submit that the Bill has not been introduced a day too soon. The state of things in Assam is not a bit better than the description which the Hon'ble the Home Member gave the other day. There is this difference only that, whereas my Hon'ble friend Mr. Sahay speaks of crores and my Hon'ble friend Dr. Sapru speaks of lakhs of rupees, the figures would be unintelligible in Assam which is a poor province; otherwise the proportion of profit is the same. Any practising lawyer will be able to quote any number of instances which are as startling as those given by Dr. Sapru and Mr. Sahay. We heard from the Hon'ble the Home Member that Local Governments were consulted in the matter in 1913, Government did me the honour of asking my opinion and in the note which I submitted I quoted a number of cases from my own experience. I will not trouble the Council by repeating these cases, I will however mention one case only. A man lent Rs. 18 and the rate of interest was Rs. 1 per Rupee a day in a few months the man ran a case for Rs. 3,000 after foregoing his claim to Rs. 1,000 or so, I confess to my shame that I was in the same boat as the Hon'ble Mr. Dadabhoy in this matter and like him so assisted the man in getting a decree. Mr. Anderson now a Reader in the Cambridge University was the Judge and most reluctantly passed a decree. Such cases are not rare even now. After my election to this Council I received numerous communications from a public Association in my Province called the Surma Valley Musalman Zemindars Association in which they urged me to bring this matter to the notice of Government and suggested that a maximum rate of interest should be fixed by law. There can be no manner of doubt that this is a crying evil and that something should be done at once—the question is what would be the best remedy. The Hon'ble the Home Member told us the other day that three alternative suggestions are made for the consideration of Government; in the first place the maximum rate of interest might be fixed by law; in the second place the maximum amount of interest to be realised might be fixed something on the lines of the law against Dandupat whereby no Hindu in the Presidency towns can recover interest more than the principal; thirdly the courts might be empowered to go behind any transaction in which interest or profit claimed appears to be unreasonable and extortionate, and after an investigation of the circumstances, antecedent and attendant, the courts might be given discretion to revise the transaction between the parties and if necessary to reduce the sum which would be recoverable as interest. Sir, the case is one of extreme difficulty although in the Note I submitted to Government in 1913, I accepted the third alternative which is the principle adopted in the Bill, empowering, in accordance with the English practice the courts to go behind any transaction, I confess



[12TH SEPTEMBER, 1917.]

[*Mr. Kamini Kumar Chanda ; Raja Sir Rampal Singh.*]

that I am not free from doubt in this matter. There was a suggestion that the rate of interest might be fixed and I have heard from gentlemen whose opinions are entitled to great weight that this would be a far better alternative than to leave the whole question to the discretion of the court.

“ But Sir, it would be an extremely arbitrary thing to fix a maximum rate of interest. What would be a moderate rate of interest, in one case and in one part of the country might be very excessive in another ; and there is the fear that if a maximum rate of interest was fixed by law all interest would tend to rise to that maximum. I submit, Sir, in my humble view, taking everything into consideration the alternative provided in the Bill seems to be the least objectionable of course, we cannot deny that a very large discretion is going to be vested in the Courts. It is a melancholy fact that as seen by experience where discretion is vested in a body of people in a large number of cases the discretion is mis-exercised, and it is also a fact to be borne in mind that the courts who are to go behind the transactions and reopen past ones will often be courts of the lowest grade and their decisions would not always be open to the supervision of the higher courts because cases below thousand rupees may be decided in the courts of small causes and there is no appeal there nor any right of revision by the High Court either, in such cases it being a pure question of fact. But still it will not be a mere matter of caprice but judicial discretion, and the Courts will have to take into consideration all the circumstances of the case, the risk which the money-lender took and the circumstance that the debtor perfectly understood the transaction and knowing the circumstances much better than the Court can possibly do agreed to pay the interest and after making due allowance for all circumstances the Courts will consider what would be a reasonable sum to allow. With these few remarks, Sir, I give my humble support to the introduction of this Bill.”

**The Hon'ble Raja Sir Rampal Singh** :—“ Sir, though I am not prepared to receive the Usurious Loans Bill with that unqualified approval with which it has been received by some of my Hon'ble Colleagues, yet the observations which I am about to make are not prompted by any hostile spirit to its main principle. It is undeniable that a decade or two before, the practice of usury was prevalent in most parts of India to an alarming extent and numerous families especially of land owning and agricultural classes fell victims to it. And even now it cannot be said that the evil has disappeared to an appreciable extent and there are not still good many black sheep amongst the money-lending classes whose over greediness for exorbitant rates of interest over their loans knows no bounds and whose cupidity and squeezing propensity for profits on the capital thus invested are not allowed to have free play only to be regulated by the present and future capacity of the debtor and his heirs to repay them. But, My Lord, as far as my knowledge and experience go I can confidently assert that there is marked improvement in the mitigation of the evil as compared with former times and this is due to the diminishing potency of the causes that were at work then in sustaining and maintaining the evil practice. The extent to which those causes have become less operative, the evil has diminished in proportion. So, My Lord, while providing a measure for the relief of the debtors from this evil, its causes should not be lost sight of, if its wholesale eradication is to be aimed at. The long delays which the money-lenders have to face in the recovery of their loans through the agency of courts, the enormous expenses—a good many of which being irrecoverable from the debtors—which they have to incur in that process, the risks and losses which they have to run and sustain in Mahajani transactions, the insufficiency of facilities for obtaining credit by needy persons whose proportion is always very large, want of regular Banks and co-operative societies to serve this purpose and above all the illiteracy and the general poverty of the people are all stimulating the practice of usury and taken advantage of by the money-lenders in pursuance of their self interest. If the above-mentioned causes disappear the evil is sure to die a natural death. The extension of the co-operative system and the establish-

[*Raja Sir Rampal Singh ; Sir G. M. Chitnavis ;* [12TH SEPTEMBER, 1917.]  
*Pandit Madan Mohan Malaviya.*]

ment of Land Banks and joint stock companies all over the country are sure to have a very salutary effect over the suppression of the evil. While fully sympathizing with the debtor class it is but just to be fair to the money-lenders as well. It is a matter of common knowledge that the agriculturists do not fully avail themselves of the system of Taqavi advances made by the Government for agricultural purposes. The main cause of this reluctance on their part is that the Government demands for repayment are peremptory and cannot be evaded or shirked while the Mahajan's demands are evaded and even shirked and sometimes with impunity. Such an attitude on the part of the debtor by itself serves the purpose of the money-lenders in the accumulation of the principal and interest to an enormous size and makes the debtor's position insolvent. Having all these considerations in mind I venture to observe that the provisions of the present Bill may affect injuriously the credit system of the country and unless some other machinery is provided to supply credit to the people, especially the agriculturists, no great relief will be afforded to them by it. I also fear that its provisions may make capital invested in such loans shy or may lead money-lenders to search loopholes to practice usury on simple minded persons in even more objectionable manner than at present. The wide discretion which the Bill provides to the courts to go behind any transaction and to award indemnity to the debtors is liable to cause an enormous increase of harassing litigation and to produce a state of things calculated to do more harm than the present evil to the benefit of third persons and at the cost of the parties involved. To a layman like myself it is unaccountable why the definition of usury has been left undetermined in the Bill to be evolved by courts afterwards. This want in the Bill will also make matters worse. Therefore I am of opinion that its provisions may be made more definite and explicit so that the money-lenders and their clients may know their positions for certain. By the above remarks I am not to be understood that I have little confidence in the courts to whom an additional discretionary power is being provided by the Bill. On the contrary I have implicit confidence in their sense of justice and I would not grudge any such power being given to them. All I desire to press is that no law is worth the name which stimulates litigation abnormally."

**The Hon'ble Sir G. M. Chitnavis** :—“ Sir, I beg to support the Bill. The evil of usury is not so rampant in the Central Provinces as it is, we are told, in other provinces of India. In the Central Provinces the provisions embodied in the Bill are already in a way given effect to in many of the Courts. Sometime ago Arbitration Courts were appointed by the Local Government to compound debts of agriculturists. The people there gladly agreed to arbitration and were quite willing to compound their debts. Much good has come out of the action of Government. The intentions of Government are good, but a great deal will largely depend upon the personnel of the Courts which will have to adjudicate and decide such cases. There are many risks, as pointed out by my friend the Hon'ble Raja Rampal Singh, in respect of the discretion given to the Courts, which will have to be guarded against, but we all hope that the advantages will very largely outweigh the disadvantages. The Co-operative Credit movement which has made good progress in this country will put a stop to many of the evils in the case of agriculturists. I am sure the Bill will put a stop to the evil outside that class. With these few words I beg to support the Bill.”

**The Hon'ble Pandit Madan Mohan Malaviya** :—“ Sir, I heartily support the principle of the Bill. It is a humane principle and if the Bill which is based on it is properly framed and worked, it will certainly lead to much good to the great mass of the people. But I think Sir, the bill requires to be examined very carefully. The entire circumstances connected with the situation of banking and credit as it is found in India require to be gone into before the measure is passed into law in order that the humane objects which the Government have in view may be fully realized.

There can be no valid objection raised against the principle of restricting the rate of interest in this country. That principle is as old as India is. Ages ago

[12TH SEPTEMBER, 1917.]

[Pandit Madan Mohan Malaviya.]

the sage *Vashishtha* laid it down that no man ought to take more than 15 per cent per annum on the amount he advanced. The ancient law-giver *Manu* said :— 'Let a money-lender take in addition to the principal the interest fixed by *Vashishtha*, viz., an eightieth part of a hundred in every month.' This meant 1¼ per cent by the month or 15 per cent per annum. *Vyasa* explained later on that this was to be the rate where a pledge was given : a sixtieth part was to be paid if there was only a security, and if there was neither pledge nor security two in the hundred might be taken, which meant 2¼ per cent per annum. In a subsequent *sloka* it was provided that in certain circumstances interest might run even at a higher rate. *Narada* lays down in great detail how in varying circumstances the rates of interest ought to be varied. But the approved rule was 1¼ per cent per mensem or 15 per cent per annum as the maximum, and in certain cases 2¼ per cent. It was laid down that the man who contented himself with that rate of interest 'would not be guilty of the crime of covetousness.' In commercial transactions the entire circumstances were to be considered and it was provided that in certain circumstances interest might be higher than the rate mentioned above. The rule of *dandupat* also has been in force in this country for a very long time.

"I should not be supposed to be in favour of the high rates of interest mentioned above which were regarded as reasonable ages ago. I am in favour of a much lower rate. I have mentioned these facts to show that the principle of the Bill, that the award of interest should be restricted by law, is a time honoured principle in this country and that it cannot be reasonably objected to. I do not know whether the exacting of exorbitant interest was so much in vogue a hundred years ago as it is now. Perhaps in certain parts of the country it was, but whether it was so generally is a matter open to doubt. The evil seems to have grown enormously in recent years. This seems to be due to the fact that when the Usury laws were abolished and even when the Money Lenders Act was passed in England the Indian Legislature did not enact a measure like the one which is now brought before the Council. The result was that English Judges and other Judges of our High Courts took their law from the English law and practice and they felt themselves bound to allow interest without any limit according to the stipulations between the parties. We have heard from the Hon'ble Home Member that in some cases over 200 per cent has been allowed. The Madras High Court I believe allowed 228 per cent in one case, the Calcutta High Court 75 per cent and so on. And it has long been necessary to provide against this state of things by law. The Government have not moved in this matter one day too soon. But the question remains whether the object about which we are all agreed can best be obtained by the measure in the form in which it has been proposed. We should remember that the Money Lenders Act of 1900, the main provision of which the Bill before us has copied, did not succeed in limiting interest even in England to the extent that it was hoped it would, for I find that in a number of cases even after the passing of that Act interest was allowed at very high rates, for instance, at the rate of 60 per cent per annum in the case of *Michaelson v. Nichols*, in the case of *Carringtons, Ltd. v. Smith* (1906) at the rate of 30 per cent, in the case of *Oakes v. Green* (1907) at 40 per cent, in *Wolfe v. Batters* (1909) at 25 per cent, in *King v. Barnett* (1908) at 60 per cent, in *Jackson v. Price* (1909) at 50 per cent, in *Fortescue Ltd. v. Bradshaw* (1911) at 50 per cent, and so on. So that there is no assurance that even when the present Bill is passed into law, the measure of relief which is desirable, which every man who has the right feeling for his fellowmen would desire to ensure by limiting interest to what would be regarded as a humane standard, will be given. For good reasons the bill does not lay down a standard rate of interest. It does not seek to define what excessive interest would mean. It leaves it to be determined by the Court after weighing all the circumstances surrounding a case, the risks involved, the poverty of the borrower, his inability to furnish security and so on and so forth. It naturally gives a large discretion to the Court. But, Sir, for that very reason the matter requires to be carefully looked

[*Pandit Madan Mohan Malaviya.*]

[12TH SEPTEMBER, 1917.]

into to find out what would best meet the special circumstances in which we are placed, to see whether the particular form of legislation which has been suggested and which as I have said before is a copy of the main provisions of the Money Lenders Act of England should be enacted as the law here, or whether the object can be attained by any other procedure, for instance by an amendment of section 74 of the Contract Act. If on careful examination it is found to be necessary, in order to meet the evil of exorbitant interest, to enact a measure which gives powers to the Court to the extent that this Bill proposes to do I shall certainly not oppose it. But I plead for a careful consideration of the matter as it seems to me to be of very great importance.

"I agree with my Hon'ble friend Raja Sir Rampal Singh that in the circumstances in which the country is placed the restriction of facilities for borrowing, the restriction of credit, will be a serious evil, which should be guarded against. My remarks relate only to the form of the measure. I have no alternative at present to suggest, but I hope that when the Bill is laid before the public it will be carefully considered whether the best way of dealing with the evil is to arm the Courts with the large discretion which is proposed by the bill or whether the object can be secured by any less drastic measure.

"There is one other point to which I must draw attention, and that is that we ought to remember what the root of the evil we are trying to contend against is. I agree with my Hon'ble friend Raja Sir Rampal Singh that the root of the evil is to be found in the poverty of the people and in the want of credit which prevails among the mass of the people. And I think, Sir, anxious as I am sure every member of the Government and every Member of this Council is to reduce this evil, the Government ought to find a solution for it in a larger measure than has yet been attempted in improving the circumstances under which people are constrained to borrow money at a high rate of interest. We have mainly three classes of persons to think of. There is the agriculturist. In his case much of the evil arises from the fact that the ancient system of payment in kind has given place to the system of payment in cash. There have not been wanting English and Indian statesmen who have urged that the system of payment in kind ought yet to be revived. The matter is worth considering. Much of the trouble of the agriculturist is due to the fact that when the time for the payment of rent or revenue comes he has to obtain money on what terms he can. He dare not delay payment, and he must pay in cash, and it is therefore that he is driven to the door of the village sowcar who is often described in very uncomplimentary terms.

"Secondly, there is the landholder. The landholders are a large body and they deserve well of the Government. But in many cases they too have to borrow money at high rates of interest in order to pay revenue. They have also to borrow for other purposes.

"As has been suggested by my friend there is a great need for hypothec banks, banks for land mortgages as exist in Japan and in Egypt. Hypothec banks, such as those in Egypt and Japan, would reduce to a minimum the necessity of the landowner going to the village sowcar and borrowing at high rates of interest.

"The third class is the commercial class. They cannot get on without borrowing money, and they must borrow at what rate they can. Where the water is scanty and the thirsty many each must try to have a portion of it at price he must if he can in order to sustain life. So also in the case of the industrialist. There are no Industrial Banks in the country. The need for them is great. Here too Japan has shown us an example. Germany has done so too, but I will not speak of Germany at present. Japan has its Industrial Banks. If industrial banks are established in different parts of the country a number of people who at present are forced to go to the money-lender would have no need for doing so and the attainment of the object which this Bill has in view would be much surer.

[12TH SEPTEMBER, 1917.]

[Pandit Madan Mohan Malaviya.]

“ I hope Sir, I have made my meaning clear, I think that the need of the situation is that, while we should undoubtedly pass a humane measure like this which will prevent the ruin of thousands of families and individuals, which will ensure a fair dealing between those who are in need of money and those who are able to help them in their need, while we should pass a measure like that, the Government ought to take steps early to promote the banking facilities of the country. As we know to our great regret, the general banking facilities here are very poor. The Government of Japan found in 1868 that they had to improve their system of banking. They asked a gentleman, I believe, it was Mr. Shand, who was recently a Director of the Paris Bank—to go to Japan and educate the Japanese in the art of banking. It was thus that they developed their banking business and it is a pleasure to see their financial annual now, which shows a tremendous growth of banking facilities and of credit. I submit, Sir, that that is the improvement which is needed in order to reduce this evil of usury.

“ I will draw attention to one other matter—the need for improving and developing the growth of co-operative credit societies. Government deserve credit and we are grateful to them for having started and encouraged the system of co-operative credit societies. The system has been growing, but what has been done is very small compared to what needs to be done in this matter, and I cannot do better than draw the attention of the Council and of Government to certain observations of Sir Daniel Hamilton who was the commercial member of Lord Curzon's Legislative Council. In an article reproduced in *New India* of August 1916, Sir Daniel Hamilton writing under the heading of *India. Her present and her future* wrote as follows :— ‘ One hundred and forty years ago the finger of Adam Smith pointed to the weak spot in British rule and the finger of Sir Edward Maclagan points to the same danger spot today. In 1775 Adam Smith wrote : ‘ In Bengal money is frequently lent to farmers at 40, 50 and 60 per cent and the succeeding crop is mortgaged for the payment..... Such enormous usury must in its turn eat up the greater part of the profits.’ In 1915 Sir Edward Maclagan wrote : ‘ The money lenders' rates we have found in many places to be as much as 38, 48 and 60 per cent per annum’. Financially, the people stand where they did at the commencement of British rule. Is it wise to leave them standing there any longer? The great industry of four-fifths of the Empire still without a banking system, 250,000,000 of people without credit or cash. The sowcar's reef is the rock on which India lies stranded, and until the ship of State with its huge living freight is afloat on the silver sea of Credit, India will never reach the haven of peace and plenty and power. We have given the people a railway system which removes their surplus crops, but we have not yet given them a banking system to bring back the price. The world takes the surplus crops, the sowcar and the trader take the money, and the devil takes the people.’

“ In another portion of this article Sir Daniel Hamilton said : ‘ The want of credit among the masses is, I believe, a chief cause of unemployment and unrest among the classes. Multiply credit among the masses and you multiply employment and peace for all. Credit is purchasing power, and an increase in the purchasing power of 315 millions of people will start the greatest trade boom the world has ever seen, and create employment for man and beast.’

“ I commend the whole article, Sir, to the attention of the Hon'ble the Home Member, the Hon'ble the Finance Member and the Hon'ble the Member for Commerce and Industry. The writer has drawn an instructive comparison between what has been done in the matter of co-operative credit societies in India and Russia. I will not take up time : by quoting all that he has said on that point, though it is very helpful, but I will quote one portion where, after showing how India lags behind Russia in this matter, he says : ‘ If India is to catch up and keep abreast of the world SEE AND GO must be her motto. ‘ Where there is no vision the people perish.’ For what is India waiting? Is it money from Whitehall? If Whitehall

[*Pandit Madan Mohan Malaviya; The Vice-President; Khan Zulfikar Ali Khan.*] [12TH SEPTEMBER, 1917.]

could not find money enough for India's needs in the green tree, when it was plentiful and cheap, how will she find it in the dry, when it is so scarce and dear? To look to Whitehall for money is to lean on a broken reed. India must develop her own financial system, and the only sound way to do so is to develop the finances of the people—to build from the foundation upwards. The way is plain. It only wants men. In Sir Edward Maclagan's report he gives the number of men employed on Co-operative Credit work as 267. Applying this figure to India's 750,000 villages, at least 10,000 men are wanted. Here is a grant outlet for the pick of India's youth. Will Government give the young men the chance? .....

**The Hon'ble the Vice-President** :—“ I would suggest to the Hon'ble Member that he is travelling rather far from the subject. The question before the Council is whether this Bill to deal with usurious loans should be introduced or not. We are not dealing with the whole question of the co-operative credit movement.”

**The Hon'ble Pandit Madan Mohan Malaviya** :—“ I bow to your ruling, Sir. I have only tried to show how usury can be combated effectively. So long as cheap credit is not provided for the great mass of the people, they will have to borrow at the high rates of interest which they do. I have quoted the views of an experienced ex-member of the Government to show that in addition to the efforts to introduce the present Bill or to bring in an enactment in some form or another like the Bill suggested, the great need of the situation is to develop the banking system and the co-operative credit system. Without some attempt to promote banking facilities, the efforts of the Government will fail to the regret of those who desire really and truly that the great mass of the people should be saved from the hardship of paying high rates of interest. In that view I urge that while promoting the measure before us the Government should be pleased to do all that lies in their power to further promote the co-operative credit system and to develop the banking system. If this is done, the Bill before us and the measures which I have suggested will usher in a new era of prosperity for India and will earn the deep gratitude of the people for the Government.”

**The Hon'ble Khan Zulfikar Ali Khan** :—“ Sir, on behalf of the Punjab landowners I give my emphatic support to the measure which is now before the Council. I have no hesitation in saying that this Bill will be a great boon to the agricultural classes all over the country and that it will afford the greatest relief to them. Instances of atrocious rates of interest have been adduced by practical lawyers and others and I need not adduce any more instances in support of them. All these instances afford us a realisation of the causes which led to the unkind treatment which the mild Jew received in the middle ages. I think in this country also the same fate might have befallen those who charge such exorbitant rates of interest had it not been for the just and merciful hand of Government which suppresses any outbreak of violence. Sir, historical houses and men worthy of honour from every point of view have been ruined on account of such rates of interest, and people whose deeds are described in histories and who rolled in wealth have been reduced to beggary. The miserable end which has overtaken them is an instance of the adverse fate which the continuance of this state of affairs might indefinitely threaten people. But the measure which the Hon'ble the Home Member has introduced I believe will save those unhappy people from such a miserable end. Sir, the question is whether the agricultural classes who suffer most from these calamities, and for whom Government has from time to time adopted measures of relief, are to be protected or not. I think there can be no controversy as to the urgency of this question. In the Punjab I have had personal experience of these agricultural classes, who suffered from the calamities I allude to before the Land Alienation Bill was passed. When Government passed that Bill, great relief was afforded to them and I have no doubt that the measure before us will come as a great boon in the Punjab.

[12TH SEPTEMBER, 1917.]

[*Khan Zulfiqar Ali Khan ; Rai Sitanath Ray Bahadur.*]

“ Sir, the rural classes, who are the backbone of the country and who have sacrificed so much in the service of the Empire, must be protected, and their self-respect and solvency maintained at any cost. It is not altogether devoid of interest that whereas any former Ruler would have made this measure a means of self-glorification—and stories of such merciful acts on the part of those Rulers would have resounded throughout the land—the Hon’ble the Home Member very quietly introduces this measure in a remarkably unobtrusive manner and certainly without any flourish or any idea of self-aggrandisement. These are civilised methods no doubt, and are characteristic of the present Government which works in the interests of the masses who suffer from the rapacious ways of the money lenders.”

**The Hon’ble Rai Sitanath Ray Bahadur:**—“ Sir, in the face of the general support which the Bill before us has received at the hands of most of the Hon’ble Members of this Council, it might seem somewhat of an anomaly that I should not be able to give my unqualified support to a measure apparently so full of benevolent intentions, breathing sentiments of sympathy for a class of a people called debtors. I must state at the outset that I am not opposed to the principle of the Bill. I am opposed to the Bill in its present form. But I must not be misunderstood. In order to avoid misconception, I may be permitted to state that I have every sympathy with debtors whose intentions are good and who honestly endeavour, by all reasonable and legitimate means, to pay off their just debts. I am not opposed to any measure intended to give relief to honest debtors, any measure intended to protect debtors from unconscionable bargains or unfair contracts, any measure intended to relieve them from the payment of usurious rates of interest.

“ If it is intended for the benefit of debtors to revive the Usury Law, I shall be only too glad to give my humble support to it. If it is intended to enact the law of *Damdapat* in some form or other please say so plainly. What I beg to say is that whatever your intentions are, please state them in plain definite and unequivocal words so that creditors may not be left in the dark, so that they may readily understand and realise their position and where they stand. It is, I say, hardly proper to pick up a few isolated cases of extremely unconscionable bargains from here and there and then, on the strength of these few stray cases, to proceed to frame a law which would be highly prejudicial to them. I may as well cite thousands and thousands of cases in which debtors have taken advantage of every possible flaw, every technicality, have in fact adopted every possible means, however dishonest, to avoid their just obligations.

“ The Bill in its present form is somewhat vague and indefinite, in as much as instead of indicating what its intentions are and what it wants, instead of formulating any rule or instead of laying down a standard or criterion by which a court may judge whether a transaction or contract is fair or unconscionable, whether the amount claimed is excessive or moderate, whether a rate of interest is usurious or not, it has left everything to the discretion or rather to the idiosyncracies of the presiding officers of the different courts of law and the probability is that even on the same point different courts may, according to the temperaments of presiding officers, arrive at different conclusions, one court holding the rate of interest at 10 or 12 per cent per annum as fair and another court holding the same rate as excessive. Here everything has been left to the discretion or rather to the sweet will of the court. If the court is to have the power of revoking contracts or agreements entered of free will, of reopening past transactions and taking a fresh account between parties, of unsettling all settled accounts settled, say, a decade or two ago, and, above all, if the court is to be invested with the power even to order the creditor to repay any sum which the court may consider to have been paid in excess, why, it will give so many handles to the debtor to evade payment of just debts, to harass his creditors for an indefinite period till he is coerced to forego a goodly portion of his dues.

“ If old accounts settled long ago are to be reopened there would be no finality and a heavy onus or burden would be thrown on the creditor which it will not be very easy for him to discharge.

[*Rai Sitantk Ray Bahadur; Rao Bahadur*  
*B. N. Sarma.*]

[12TH SEPTEMBER, 1917.]

“It was very aptly said by Sir Barnes Peacock that the troubles of a decree-holder begin after the decree. But if the present Bill is passed into law then I may say that the troubles of a creditor will begin as soon as he will enter the threshold of a court of law to obtain relief against his debtor.

“The Bill if passed in its present form, will not only be prejudicial to the interests of money-lenders, but will be likewise detrimental to the interests of debtors. It will go to restrict and hamper loan-transactions and thereby hamper business. It will go to accelerate the ruin of the debtor, for the creditor, for fear of his claim being considered excessive, would never give time or shew any indulgence or undue leniency to his debtor and would rather prematurely resort to a court of law for recovery of his money.

“Sir, in this connection it would be proper to consider what effect the proposed legislation would have on the inland trade of the country which is entirely financed by Indian capitalists.

“In conclusion I beg to urge another objection against this Bill. It has always been understood and acted upon that no contentious measure should be introduced or brought up for discussion in any council. The present Bill is I must say a highly contentious measure which is sure to foment agitation in the country. Then why throw this apple of discord in our midst?

“This is not an opportune moment for discussing a Bill like this.”

**The Hon'ble Rao Bahadur B. N. Sarma:**—“Sir, on behalf of Madras I cordially welcome this measure. I feel sure that the Government will follow up this measure by others intended to organise the capital of the country and to strengthen its banking facilities. I welcome it from the large national point of view because I have felt for a long time that the facilities afforded by law to money-lenders precluded them from bestowing their attention on the immense industrial possibilities of this country. Once those facilities are curtailed in a reasonable manner, I feel sure that money-lenders, who are some of the shrewdest men in the country, will devote their energies towards improving her manufacturing industries. The genius of the Hindu and Muhammadan laws, as has already been pointed out, are behind the Government in this measure. Some of my Hon'ble friends seem to have forgotten that this measure will be introduced only into areas where the Local Governments feel the necessity for such introduction. It is no doubt a Government of India Act, but if there be no grave evil in any part of the country I feel sure the Local Governments would not ask for its introduction and would not introduce it. But at the same time it is clear that we have gone in advance of the Money-lenders Act in England. The Act there is confined to habitual money-lenders; but I think it would not perhaps be possible here for the purposes of this Act to classify money-lenders in the way they have done in England; because if that distinction were drawn here, I feel sure that a large number of people especially cultivators would not be able to obtain the benefit of the Act. I know intimately some of the conditions of rural Madras; and the poor ryot who cannot obtain credit, especially in the matter of seed-grain, once he gets into the hands, it need not be of a money-lender, but of a rich opulent ryot, can never extricate himself, and ultimately his little holding passes into the hands of the richer ryot. In all these cases courts will be in a position to do justice between party and party. There is no doubt that the amount of discretion vested in the courts is somewhat large; but I do not think that it can be helped. Courts have exercised their discretion in the past rightly, and I feel sure that all classes of people have ample confidence in justice being meted out by the law courts. So far as Madras is concerned, the legislature there has anticipated us by the introduction of a somewhat similar measure confined to the Agency Tracts of Madras. I shall not quote any instances of hardship from my experience at the bar at this stage of the discussion, but I am sure that Madras as well as other provinces are labouring under the evil sought to



[12TH SEPTEMBER, 1917.]

[*Rao Bahadur B. N. Sarma ; Khan Bahadur  
Mian Muhammad Shafi.*]

be remedied. In fairness to the Judges of Madras it must be said that they have not allowed this evil to assume such large proportions as seems to be the case in other provinces. With these few words I welcome the measure."

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

" Sir, I did not come into this Council chamber with any intention of interfering in the discussion on the Bill which the Hon'ble Sir William Vincent has introduced. But the speech of my friend, the Hon'ble Rai Bitanath Ray Bahadur, has compelled me to say a few words. Two main arguments have been adduced by him in opposition to the motion which is now before the Council. One was that accounts settled ought not to be allowed to be reopened, for it would be unfair and unjust. Well, Sir, those of us who are familiar with what goes on between the money-lenders and their ignorant debtors with reference to the manner in which accounts are kept by these money-lenders and the manner in which the periodical settlements of these accounts are made can well judge of the validity of the argument which has been adduced by my Hon'ble friend. In 99 cases out of 100—I might have said in 999 cases out of 1,000—the accounts are kept in a language absolutely unknown to the debtor. He himself cannot read the Hindi words in which the accounts are written. When the money-lender and the debtor sit down, what is it that happens? The money-lender himself, after going through all the items as entered by himself in his own account book in a language which is unknown to the debtor, says ' Well, there you are; on this account, so much is due by you. Will you therefore, put your thumb-mark in acknowledgment of the amount which you, owe to me?' The poor ignorant debtor has no option but to put his thumb-mark by way of acknowledgment of the correctness of the account—an account the nature of which he has probably no knowledge whatsoever. During my somewhat extensive experience in the Punjab extending over 25 years and more, I have come across hundreds and hundreds of cases between money-lenders and agricultural debtors in which this sort of thing goes on. I wish to give to Hon'ble Members one instance. It is quite true that this instance is of the worst possible description, but it will at any rate illustrate the length to which some money-lenders can go. I was engaged in appeal in a case in which the Munsif had given a decree in favour of the money-lender for his claim in full. When I read the judgment I told my client that he had no case for appeal. The Munsif has stated that there was the account book, the sworn testimony of the money-lender was there, he had also produced one or two witnesses in support of one or two of the principal items, and there was the final balance struck to which the debtor had put his thumb-mark. But the client insisted on my lodging the appeal and I did so. When two days before the hearing of the appeal I looked at the account book in which the various items had been entered and in which the balance had been struck, I was surprised how any court could have given a decree without re-opening the account, nay, according to general principles of law that suit ought to have been dismissed.

" I found that in almost every single case the item as entered in the original had been tampered with and altered before the striking of the balance; it so happened that the entries were in Urdu, a language with which probably the debtor's friends were somewhat familiar. At the time of making the original entry the money-lender had entered one item and at time of the settlement when the balance was struck, the thumb-impression of the poor, ignorant zamindar was taken one or two days before, the original items had been tampered with. It is easy to alter 5 into 15, 1 into 10 and so on. When I pointed out to the Appellate Court what had been done the Court was compelled to dismiss the suit altogether because of material alterations made by the creditor. I do not think it is necessary for me at this stage to discuss either the principles or the details of this Bill. I quite agree with my friend Dr. Sapru and my friend Mr. Malaviya that the Bill does not go sufficiently far to eradicate the evil, it undoubtedly is a crying evil, which prevails in almost every province of India and particularly in the Punjab. This is a matter with which Hon'ble Members will be able to deal when the Bill is returned to this Council after publication

162 USURIOUS LOANS BILL; GOVERNMENT SAVINGS BANKS  
(AMENDMENT) BILL.

[*Khan Bahadur Mian Muhammad Shaif ; Sir William Vincent ; Sir George Barnes.*] [12TH SEPTEMBER, 1917.]

and after the opinions of Local Governments and the public have been obtained. On behalf of the Moslem community of the Punjab whom I have the honour to represent in this Council I offer my sincere congratulations to Government for having at last made up its mind to tackle this crying evil."

**The Hon'ble Sir William Vincent:**—"Sir, before the debate concludes I should like to express my gratitude to the Council for the very sympathetic manner in which they have received this Bill. Indeed I think that the support that has been accorded to it is sufficient to show that it can scarcely be called with any show of justice a controversial measure. I will not attempt to deal with the various criticisms of the Bill at this stage, far less do I think it necessary to enter into the large questions referred to by the Hon'ble Mr. Malaviya as they appear to me to be very indirectly relevant to the discussion; it is also not within my province to deal with the question which he has raised nor am I competent to do so. The Bill will now be circulated to all Local Governments and I think I may say that it will be carefully examined, as is the wish of the Hon'ble Pundit. The Council will also be given ample opportunity of discussing the general principles of the Bill on the motion to refer it to Select Committee and they will, if I may say so, then be in a better position to judge of its merits or demerits in the light of the opinions that have been received. I only ask the Council at present for leave to introduce the Bill with a view to its publication and circulation."

The motion was put and agreed to.

**The Hon'ble Sir William Vincent:**—"Sir, 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, and in the local official gazettes in English and in such other languages as the Local Governments think fit."

The motion was put and agreed to.

---

**GOVERNMENT SAVINGS BANKS (AMENDMENT)  
BILL.**

**The Hon'ble Sir George Barnes:**—"Sir, I beg to move for leave to introduce a Bill to amend the Government Savings Banks Act, 1873. The object of the Bill is set out in the Statement of Objects and Reasons and it is difficult for me to add to what is there said. The object is to increase the limit of Savings Banks deposits which may be paid to the heirs of deceased depositors without the formality of obtaining probate, letters of administration or succession certificates. The only operative clause of the Bill is the second which provides that in section 4 and section 8 of the Government Savings Banks Act, 1873, for the words 'one thousand rupees' the words 'three thousand rupees' shall be substituted. Under section 4 of the Government Savings Banks Act, 1873, only Rs. 1,000 could be paid over without the production of Probate or Letters of Administration. It is now proposed to increase the amount from Rs. 1,000 to Rs. 3,000. In the same way under section 8 of the same Act, a Savings Bank deposit which did not exceed Rs. 1,000 was excluded in computing the fees chargeable on Probates or Letters of Administration. It is now proposed to extend this exemption from Rs. 1,000 to Rs. 3,000. It is believed that the latter figure of Rs. 3,000 will cover a very large proportion of the Savings Bank deposits and the result of this Bill when passed into law will, I hope, be a great convenience to the families of deceased depositors."

The motion was put and agreed to.

**The Hon'ble Sir George Barnes:**—"Sir, I introduce the Bill and move that it 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.

---

PRESIDENCY SMALL CAUSE COURTS (AMENDMENT) BILL; 183  
REPEALING AND AMENDING BILL.

[12TH SEPTEMBER, 1917.]

[*Sir William Vincent; Rao Bahadur  
B. N. Sarma; Mr. A. P. Muddiman.*]

**PRESIDENCY SMALL CAUSE COURTS (AMENDMENT)  
BILL.**

**The Hon'ble Sir William Vincent** :—“ Sir, the Bill which I now seek to introduce relates to the amendment of the Presidency Small Cause Courts Act. The Bill is of a simple character and is not I hope likely to evoke criticism—it may be explained in a few words. Under section 7 of the Act the only persons eligible at present for appointment of the office of Chief Judge of a Presidency Small Cause Court are advocates of a High Court. In 1916 the Hon'ble Mr. Patel, a non-official member of the Legislative Council of Bombay, sought leave to introduce a Bill in that Council providing that vakils and attorneys who are eligible for appointment as Judges of these Courts should also be eligible for the office of Chief Judge. He pointed out that vakils were already eligible to be High Court Judges and there was no reason why they should not be Judges of the Small Cause Courts. He also stated that the restriction to which I have referred had in fact prevented the appointment of a vakil, who was otherwise suitable. The principle of the Bill was accepted by the Local Government and forwarded to the Government of India, who, in consultation with other Local Governments, found that the amendment proposed for Bombay was equally desirable in the other Presidencies. The Bill I now seek to introduce is based on Mr. Patel's Bill and it is proposed to remove the anomaly in the three Presidencies. As pointed out there is no reason why a vakil or attorney, if he is the most suitable person, should be excluded from the office of Chief Judge and the Government do not think it can be suggested that persons who are eligible for appointment as High Court Judges are not suitable for this appointment.

“ At the same time I wish to point out that it is not intended to modify the provisions of the law which provide that one-third of the Judges shall be Advocates of the High Court. I have told the Council that the authorities whom we have consulted on this Bill are unanimous in favour of the amendment and I hope that it will commend itself to this Council. If I am correct in my anticipation, it is my intention, at a future meeting of this session, to move that the Bill be taken into consideration and passed.

I now move, Sir, for leave to introduce the Bill.”

**The Hon'ble Rao Bahadur B. N. Sarma** :—“ Sir, on behalf of the Vakils of Madras and the Vakils in general, I wish to thank the Hon'ble Member for introducing this Bill.”

The motion was put and agreed to.

**The Hon'ble Sir William Vincent** :—“ Sir, 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.

---

**REPEALING AND AMENDING BILL.**

**The Hon'ble Mr. A. P. Muddiman** :—“ Sir, I move for leave to introduce the Bill to amend certain enactments and to repeal certain other enactments. The Bill, as will be seen, is a formal one, and I need not detain the Council with any lengthy remarks beyond saying that the operative part of the Bill is contained in the Schedules. The first schedule repeals certain spent or useless matter in the Statute Book and the second Schedule makes a few formal or unimportant amendments which are for the most part rendered necessary by recent legislation. The reasons for the proposed changes are explained in the notes in the last column of the schedules.”

The motion was put and agreed to.

207LD

184 REPEALING AND AMENDING BILL; SIR CURRIMBHROY  
EBRAHIM BARONETCY (AMENDMENT) BILL.

[*Mr. A. P. Muddiman; Mr. Kincaid.*]

[12TH SEPTEMBER, 1917.]

**The Hon'ble Mr. A. P. Muddiman** :—“Sir, 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.

**SIR CURRIMBHROY EBRAHIM BARONETCY (AMENDMENT) BILL.**

**The Hon'ble Mr. C. A. Kincaid** :—“Sir, I beg to move for leave to introduce the Bill to amend the Sir Currimbhoy Ebrahim Baronetcy Act, 1913. Sir, this Council, even including the Hon'ble gentleman who is sitting just below me, will probably admit that this is a non-contentious Bill; and as a statement of the facts underlying the Bill which I have the honour to introduce is given in the Statement of Objects and Reasons appended to the Bill, it will suffice for me briefly to recapitulate those facts. In the year 1911 His Majesty was pleased to confer on Sir Currimbhoy the honour of a Baronetcy. Now there are a good many Baronetcies in Bombay and a custom has grown up there that if any gentleman becomes the recipient of such an honour, he, in consultation with Government, settles a considerable property, so that the income of it may be enjoyed by his successors and the honour and dignity conferred on him properly kept up. It was in accordance with this custom that Sir Currimbhoy wished to set aside as a trust in perpetuity for himself and his successors considerable properties in Poona and Bombay valued at 20 lakhs. He desired that the bulk of the income of that property should be enjoyed by himself and his successors. But he also wished to create, by a somewhat complicated system of finance, two other properties to be known as the ‘Sinking Fund’ and the ‘Repairs Fund.’ In order to make the Sinking Fund Sir Currimbhoy desired that annually 00·61 per cent of 20 lacs during the period of 60 years should be invested in British and Indian Government stock at 3 per cent. It was calculated by the Actuaries consulted that if this was done for 60 years the property known as the ‘Sinking Fund,’ would amount to 20 lacs. The second property, namely the ‘Repairs Fund’ was to amount to 2 lacs and was to be created by putting aside 3·72 per cent of 2 lacs during a period of 20 years. The wishes of the Baronet were communicated to his Solicitors who prepared a draft Bill and that draft Bill was submitted to this Council and the Bill became law in 1913.

“Well, Sir, it might have been thought that at this point Sir Currimbhoy's cup of happiness was full and that he could look forward to a long period of ease and dignity for himself and afterwards to a long line of wealthy worthy and titled successors. Unfortunately, just after the Bill became law it was discovered that his Solicitors had made an extraordinary error in drafting the Bill. Instead of putting in sections 7 and 14 that Sir Currimbhoy's trustees were to pay annually the amount of Rs. 12,200 which represented 00·61 of 20 lacs and Rs. 7,440 which represented 3·72 per cent of 2 lacs, they had put in the draft sections that Sir Currimbhoy's trustees were to pay these two sums every six months. The trustees and Sir Currimbhoy took counsel together with the result that they took upon themselves the responsibility of only paying this sum annually until they could get the error corrected. Sir Currimbhoy approached the Government of Bombay. The Government of Bombay placed the matter before this Government. This Government in the interests of the remainder men thought that an enquiry should be held. It was held by the Advocate General of Bombay who came to the conclusion that the representations of Sir Currimbhoy were well founded. It is, therefore, now decided to introduce this Bill. Section 2 (1) is introduced with a view to make the correction, and section 2 (2)

SIR CURRIMBHOY EBRAHIM BARONETCY (AMEND- 185  
MENT) BILL; INDIAN REGISTRATION (AMENDMENT)  
BILL.

[12TH SEPTEMBER, 1917.]

[*Mr. C. A. Kincaid ; Pandit Madan  
Mohan Malaviya.*]

is enacted so as to cover the act of the trustees when they took upon themselves the responsibility of making the payments annually and not every six months."

The motion was put and agreed to.

**The Hon'ble Mr. C. A. Kincaid** :—“ Sir, 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.

### INDIAN REGISTRATION (AMENDMENT) BILL.

**The Hon'ble Pandit Madan Mohan Malaviya** :—“ Sir, I beg to move that the Report of the Select Committee on the Bill further to amend the Indian Registration Act, 1908, be taken into consideration. It is hardly necessary for me to explain at length again the reason for the proposed legislation as I fully did so when I asked for leave to introduce the Bill. Hon'ble Members will remember that in the case of *Jambu Prasad vs. Aftab Ali Khan*, their Lordships of the Privy Council decided that where the person who presented a document on behalf of the man who advanced the money for registration did not possess a power-of-attorney executed and authenticated in the manner laid down in section 33 of the Registration Act, the document had not been duly presented, and the document not having been presented according to law the Registering Officer did not have any authority to register the document and the registration effected by him was ineffective. In that view the claims of mortgagees to recover the amounts which they had secured by mortgages of property which had been registered on presentation by the agent of the creditor who did not hold a power-of-attorney as required by section 33 of the Registration Act, were defeated. This meant a manifest injustice to the creditor. And it was to remedy this injustice that the Bill was introduced. The original draft of the Bill suggested that notwithstanding anything contained in the Registration Act, the registration of a document registered before or after the commencement of this Act, shall not be deemed to be invalid by reason only of the fact that the document was presented for registration by an agent not duly authorised by a power-of-attorney executed and attested or authenticated under the provisions of any enactment in force. But it was pointed out that there were other courses in which the remedy needed might be provided. One of these courses was that the legislature may provide that a document which has been improperly admitted to registration in disregard of section 33 may be registered again on production of a proper power-of-attorney or on presentation by the parties themselves within a prescribed limit of time. After having considered the various suggestions the Select Committee arrived at the conclusion that the last course that I have mentioned was the most appropriate one to adopt in the circumstances of the case. This would not interfere at all with the general provisions of s. 33 of the Act, and it would provide relief in all cases excepting those in which a suit based on a document which had been improperly accepted for registration has already been decided. The bill as amended by the Select Committee seeks to embody that provision. It seeks to lay down that notwithstanding anything to the contrary contained in the Registration Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the

[*Pandit Madan Mohan Malaviya; Sir C. Sankaran Nair; Rao Bahadur B. N. Sarma.*] [12TH SEPTEMBER, 1917.]

same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed there for under Part IV, and all the provisions of the Registration Act, as to registration of documents, shall apply to such re-registration; and such documents, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration; provided that within three months from the day of the passing of this Bill any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.

“Hon’ble Members will see that the proposed law will not only fully meet the difficulties of those whose documents improperly registered before the Act comes into force have not yet been adjudicated upon, but it also provides for the rectification of any similar mistake in registration in the future. In all such cases the claims of justice will be fully met by the Bill.

“There was another provision in the Bill which sought to give retrospective effect to the measure of relief which was proposed to be enacted, in suits which had been dismissed by reason of such mistakes in registration in the United Provinces. But the Committee had no information before them as to the number of cases which might be involved and as to the desirability of reopening proceedings in them. Nor had they any information as to whether such cases had occurred in any other Province. They thought therefore that it might appropriately be left to the Government of the United Provinces themselves to deal with this question of retrospective effect being given to the provisions of the Bill and if they think it proper on the information they possessed, to introduce legislation to that effect.”

I move that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

**The Hon’ble Pandit M. M. Malaviya:**—“In the draft of the Bill before the Council, the date of the passing of the Act will, of course, be inserted later on. I beg to move that the Bill as amended be passed.”

The motion was put and agreed to.

## PATNA UNIVERSITY BILL.

**The Hon’ble Sir C. Sankaran Nair:**—“Sir, I move that the Report of the Select Committee on the Bill to establish and incorporate a University at Patna be taken into consideration. The Report of the Committee contains full information. It sets out the changes made in the Bill as originally introduced. I do not propose to detain the Council with any observations at this stage. I will only mention that the Select Committee contained all the Non-Official Members coming from the Province of Bihar and Orissa, all the official members coming from that Province and the representatives of the other Universities; and we have come to a unanimous conclusion on the questions which were under discussion.”

I move now, that the Bill be taken into consideration.

The motion was put and agreed to.

**The Hon’ble Rao Bahadur B. N. Sarma:**—“Sir, I beg to move the first amendment which stands against my name, and that is to substitute the words ‘shall be elected by the Senate’ for the words ‘shall be appointed by the Local Government’ in clause 6, sub-clause (1). The clause as it stands reads:—‘The Vice-Chancellor shall be appointed by the Local Government.’ As sought to be amended by me, it would read:—‘The Vice-Chancellor shall be elected by the Senate.’”

[12TH SEPTEMBER, 1917.]

[*Rao Bahadur B. N. Sarma.*]

“At the outset I may be permitted to explain my position in moving these amendments to the Bill as it has emerged from the Select Committee after the support of the members who formed the Select Committee, subject to certain conditions which are embodied in the Select Committee's Report. I have no desire to make this Bill a controversial measure. I heartily welcome this measure on behalf of the country and am deeply grateful to the Government as well as the members of the Select Committee and the Education Member in particular for making it so little contentious except in one or two important matters and for the large improvements which have been effected in the original Bill. We hope that the Council will see its way to accept these amendments which are not of a radical nature and do not substantially alter the principles of the Bill. I may also be permitted to state that the Bihar Provincial Conference adopted a resolution on the lines on which I have moved the amendments. They have also approved of the Bill as it has emerged from the Select Committee, but they hope to be able to see further improvements and have sent an appeal to the Government. It is in that spirit that I bring forward these amendments. Now the object of this amendment is to make the constitution of the University in Bihar at Patna, which is an advance in some respects on the Universities of the old model, more self-contained and less dependent on the Government, especially in view of the acceptance of the principle of election in its composition. We are grateful that the Select Committee has been able to make a large section of the members of the Senate elected members, and now the question is whether there are any valid reasons for denying them the privilege of electing their own Chairman. Of course the election of the Chancellor is out of the question. He corresponds to the visitor in other places; he represents His Majesty's Government and consequently we cannot take up the question as to whether the Chancellor of this University should be elected or not. He does not take any part in the discussions. The person most vitally concerned in the University is the Vice-Chancellor. The question is: are there any valid reasons why we should deny this largely elected body representing the educated Indians of Bihar and Orissa and consisting of the nominees of the Government, the power of choosing its own Vice-Chancellor? If we look to precedents in the United Kingdom I find authority for my position. The acts of 1858 and 1889 dealing with the Universities of Scotland make ample provision for that purpose.

“The practice obtaining in Oxford and Cambridge with regard to corresponding offices is the same. With regard to London Lord Haldane's report proposes that the Chancellor should be elected by the Convocation, that the Pro-Chancellor should be elected by the Court and that the Senate should elect the Vice-Chancellor. Therefore the precedent and the practice of the Universities in the United Kingdom amply support and justify the amendment which I place before you. Of course, when representative institutions are asked for in India, the general answer is that the vast majority of the people are not fitted for them. That, however, is a controversial question and I shall not go into it. But at any rate, so far as educated Indians are concerned, so far as the University composition is concerned, the objection cannot be urged the principle has been conceded and it cannot be said that we have an ignorant electorate. Therefore, Sir, I say that there is absolutely no danger whatsoever, but ample justification, in asking that the corporate body should be self-contained. There is a prejudice in the popular mind against higher education being made a department of the Government. The existing Universities are considered mere departments of the Government and, rightly or wrongly, are supposed to work at the will and pleasure of the Government. Here, in this measure, we see a substantial concession in favour of the people. Then, is there any danger in pushing that to its logical conclusion and making the University more independent? I respectfully submit that there are absolutely no valid reasons. If you say that the working of this act should be watched before the power of electing the Vice-Chancellor is given, my submission is that there is no necessity for it. Let us take the composition of the electorate of the Senate

[*Rao Bahadur B. N. Sarma ; Sir C. Sankaran Nair ; Dr. Tej Bahadur Sapru.*] [12TH SEPTEMBER, 1917.]

as it is. It contains a large majority of educationists. All sections of the community, the educated section, the teaching staff, Government servants, etc., are strongly represented therein, and it cannot be contended for a moment that such an eminent body will go wrong in choosing their Vice-Chancellor. I hope, therefore, that the Government will raise no objections whatsoever, but make the scheme of the University complete, perfect, and self-contained.

“ With these remarks I beg to move my amendment.”

**The Hon'ble Sir C. Sankaran Nair** :—“ Sir, I am unable to accept this amendment. I am glad to accept the assurance of the Hon'ble Member that he does not wish to make the Bill a controversial measure. He thinks apparently that his amendment would make only a very slight change ; I do not agree with him there. It is a very radical proposition which he has put forward. He thinks that the Vice-Chancellor is only a chairman of a meeting. That is not the case. The Vice-Chancellor has various duties to perform. He is an officer and servant of the University. He is the man to appoint and control every officer and servant of the University whose emoluments do not exceed Rs. 200 per mensem. He is also an officer who is entitled to inspect the colleges. He is not, therefore, simply a chairman of a meeting. The Hon'ble Mr. Sarma, instead of going into the precedents in India itself, goes to Scotland and to England for precedents. He forgets that in all the other Universities in India the Vice-Chancellor is not elected by the Senate. The fact that the majority of the members of the Senates are elected in this University and that this bill (thus) marks a great advance is not a reason, as he puts it, for going further in that direction. The Senate is a new body ; they are elected under new conditions, and we have to wait and see how the Senate works before we entrust them with further powers. In these circumstances, Sir, I am not prepared to accept this amendment.”

**The Hon'ble Rao Bahadur B. N. Sarma** :—“ Just a word, Sir. The precedent of London may not be altogether appropriate but still the proposed Vice-Chancellor under Lord Haldane's scheme is a permanent official and the chief administrative officer of the University. Therefore, he has to discharge functions almost akin to, if not wholly the same as, those of the Vice-Chancellor of our proposed University. The Commissioners had sufficient confidence in the Senate of the London University to give them the power of electing their Vice-Chancellor. I do not think, therefore, that argument has much force.

“ In regard to the other Indian Universities, we have been asking for a similar privilege in respect of these Universities, and the fact that the Government has not been able to confer the privilege hitherto is no reason for saying that we should not concede the privilege to the Patna University now.”

The motion was put and negatived.

**The Hon'ble Dr. Tej Bahadur Sapru** :—“ Sir, the amendment which stands against my name runs as follows :—

“ The first Vice-Chancellor shall be appointed by the Local Government and shall hold office for three years from the date of his appointment, but his successors shall be elected by the Senate subject to such regulations as may be framed by the Senate and shall hold office for three years from the date of election. Such appointment shall be subject to approval by the Local Government.”

“ It will be noticed that the amendment which I have the honour to put before the Council practically covers the same ground as that which has just been negatived, with his difference only that my amendment is much more moderate than the amendment of the Hon'ble Mr. Sarma was. I move this amendment in no spirit of hostility. I am perfectly alive to the fact that the Bill as it stands now is a very much more liberal measure than it was when it was



[12TH SEPTEMBER, 1917.]

[*Dr. Tej Bahadur Sapru; Mr. M. B. Dadabhoy.*]

originally introduced. But I see absolutely no reason why in a measure like this the Government should not be prepared to extend the principle of election which they have recognised in the Bill itself in the constitution of the Senate and which they have so willingly recognised in the case of the Benares Hindu University. It will be further noticed that the proviso which I have added to my amendment has been taken bodily from the Hindu University Act, so that there can be absolutely no danger of the Senate going wrong without being corrected.

“Now, Sir, my friend the Hon’ble Mr. Sarma has quoted examples of foreign Universities. I will not quote similar examples; I shall content myself by referring to the latest opinion which has been expressed on the subject in the Haldane Commission’s report. Even there it is recommended that the Vice-Chancellor should be appointed by the Senate. Now, Sir, so far as public opinion in Bihar is concerned, I am strongly persuaded that it strongly supports my amendment, and it is no reflection upon the members of the Select Committee that I, belonging to the United Provinces, should undertake to move an amendment which I know for a fact represents the general feeling in Bihar.

“I am afraid the task of my friends, the members of the Select Committee, was none too easy and I appreciate the spirit of compromise in which they have accepted the provisions of the Bill, as it stands at present. But with all due respect to my friends, the members of the Select Committee, and with every desire on my part to co-operate with them in the successful termination of this measure, I see absolutely no reason why opinion in Bihar as it has been expressed from time to time should not be put forward before this Council.

“Sir, I was just looking into the first schedule which has been supplied to us and I find that out of the 75 names there 33 are Europeans; I have not been able to calculate the number of officials. I venture to think that in future too the number of officials in the Senate and the number of English Professors would be sufficiently large to safeguard against any apprehension of the Indian members of the Senate going wrong. I therefore do not see any valid reason for denying this privilege to the Senate. If you will not trust a body of cultured and educated men like the members of the Senate with the privilege of exercising the right of election of the Vice-Chancellor, I for one cannot see which other electorate can safely be entrusted with the privilege of electing any officer to preside over its deliberations. It has been said that other Universities—the official Universities—have never had such a privilege given to them. Unfortunately this is too true; but I hope the day is not far distant when the other Universities will come into line with the Benares University. When you can entrust a non-official University like the Benares University with the right of electing a Vice-Chancellor, I see no reason why in a measure like this, hemmed in by so many safeguards and with a Senate so full of the official element, the same privilege should not be willingly accorded to the members of the Senate of the Bihar University. On those grounds I put my amendment before you.”

**The Hon’ble Mr. M. B. Dadabhoy:**—“Sir, I should have supported this amendment of my Hon’ble friend Dr. Sapru but for the fact that, as the Hon’ble Sir Sankaran Nair has just mentioned, it seeks to introduce a new principle in University matters. The older Universities of Calcutta, Bombay and Madras have not this privilege up to date, and I think in the case of a new University which we are just establishing and sanctioning, it would not be right and proper that this innovation should be introduced. I do admit and acknowledge very freely that there is a great deal of truth in what the Hon’ble Dr. Sapru has stated; but this Council have not had the opportunity of discussing the matter and also of taking the opinion of their constituents. Dr. Sapru was present when the Bill was introduced, and I remember he made a very strong speech criticising the Bill when it was introduced. . . .”

**The Hon’ble Dr. Tej Bahadur Sapru:**—“Sir, may I rise to a point of order? My Hon’ble friend is not right in saying that I made a speech opposing the Bill. I welcomed it.”

[*The Vice-President ; Dr. Tej Bahadur Saprū ; Mr. M. B. Dadabhoy ; Pandit Madan Mohan Malaviya ; Mr. H. Sharp.*]

[12TH SEPTEMBER, 1917.]

**The Hon'ble the Vice-President** :—“The Hon'ble Mr. Dadabhoy only says that the Hon'ble Member made a strong speech. My own recollection coincides with that of the Hon'ble Mr. Dadabhoy.”

**The Hon'ble Dr. Tej Bahadur Saprū** :—“Sir, I understood Mr. Dadabhoy to say that I made a strong speech opposing the Bill.”

**The Hon'ble Mr. M. B. Dadabhoy** :—“No, the Hon'ble Member is under a misapprehension. There is still another point. The University Commission which has been appointed by His Excellency Lord Chelmsford will begin its deliberations very soon. This is a matter which we should leave to the serious consideration of the University Commission, and I have no doubt it will be considered very carefully by the Commission. If among the other reforms which the Commission suggests, this reform is recommended, I shall be very glad to welcome it and give it my support ; and I have no doubt that in that case Government would bring in a Bill introducing such a reform. On the eve of such a Commission sitting in India, and considering that the change which my Hon'ble friend wishes to introduce is a very radical and a very important one, pregnant with many possibilities, I think it is advisable that it should not be introduced at this stage, especially in the case of a new University like the Patna University. For these reasons I request my Hon'ble friend Dr Saprū to withdraw his amendment, and I hope he will see the propriety of not introducing it at this juncture.”

**The Hon'ble Pandit Madan Mohan Malaviya** :—“Sir, I support the motion which has been introduced by my Hon'ble friend Dr. Saprū. I fully appreciate the position in which we are at present and I must say we owe gratitude to the Hon'ble Sir Edward Gait and the Hon'ble the Education Member—and I should like to add to the Director of Public Instruction in Bihar and Orissa—for the very liberal spirit in which they have received the suggestions of the public in regard to the constitution of the University.

“The Bill now before the Council is a very different measure from the Bill in its original form, and our thanks are due to these gentlemen no less than to the Members of the Select Committee, for what has been done. But that very fact supplies a strong reason for desiring that they would see their way to accept the suggestion put forward by my Hon'ble friend. It is a suggestion which is in entire conformity with the spirit of the times, with the most up-to-date recommendations which have been made by the University Commission presided over by such a distinguished educationalist as Lord Haldane. It is, I repeat, a suggestion in entire conformity with the spirit of the times for educational reforms and I feel certain—as certain as I am standing here—that within a short time in this very Council a Bill will be introduced which will seek to make the appointment of the Vice-Chancellor of every Indian University an elective appointment requiring that he should be elected by the Senate. I submit, Sir, that there can be no electorate more qualified, more competent, to decide who should preside over the deliberations of the University, than the Senate of the University ; and I am glad to find—and here again I offer my thanks and congratulations to all concerned particularly to Sir Edward Gait, the Hon'ble the Education Member and Mr. Jennings—from the excellent Schedules to the Bill that the composition of the first Senate and Syndicate leaves nothing to be desired. And that fact furnishes a strong reason why this suggestion further to liberalise the constitution of the University ought to be accepted. I hope the Hon'ble the Education Member will consider the matter favourably.”

**The Hon'ble Mr. H. Sharp** :—“Sir, I rise to deal with a minor point which has cropped up in the speeches of the Hon'ble Rao Bahadur Sarma and the Hon'ble Dr. Saprū. Both of them referred to Lord Haldane's Commission on the London University in support of their proposals. I should like to point out that I fear this is an example of the confusion which arises out of the use of terms without fully explaining their meaning. It is perfectly true

[12TH SEPTEMBER, 1917.]

[*Mr. H. Sharp; Rao Bahadur B. N. Sarma; Sir C. Sankaran Nair; Dr. Tej Bahadur Sapru.*]

that under the Haldane Commission's proposals for the London University, the Senate will elect the Vice-Chancellor. But the Senate which is proposed for that University will be as different from the Senate which is proposed for the Patna University as chalk from cheese.

"The two terms do not mean at all the same. The Senate of the Patna University will answer more nearly to the Court of the London University. The Senate as proposed in the Haldane Commission's Report for the London University will be a very small and very select body consisting—if I remember rightly—of not more than 15 persons, 5 of whom will be appointed by the crown.

"The election of the Vice-Chancellor by such a body is of course a totally different thing from his election by a large and heterogeneous body such as the Court of the proposed London University or the Senate of the proposed Patna University."

**The Hon'ble Rao Bahadur B. N. Sarma:**—"Sir, the ground of the distinction is this: Taking for granted that the Court there corresponds to our Senate, the recommendation is that the Pro-Chancellor who is to preside over the Court is to be an elected member. Therefore, even if there is a distinction in the office, I think the recommendation is in our favour."

**The Hon'ble Sir C. Sankaran Nair:**—"Sir, I oppose this amendment. My friends still seem to be under the impression that the main function of the Vice-Chancellor is to preside over the deliberations of the Senate. That is not his main function. He has other duties to perform.

"As to the case of the Benares Hindu University the reference is misleading. It is a denominational university, whereas the Vice-Chancellor in this case will have to deal with Government officials and with Government colleges and mission colleges. So we cannot go to Benares for an analogy. No doubt my friend's amendment is moderate compared to the one which was put forward by Mr. Sarma; but it is open to the same objection. It is also open to this further objection, that he is dealing with a matter which is to come three years afterwards. There is ample time before us, if this new experiment is justified, for him to come before the legislature again. As I have already pointed out, the fact that the Senate as now constituted is very different from the Senates of other universities and that the Bill is progressive in that respect is not a reason for now going much further, but is rather a reason for watching the results of the experiment before we make any further advance."

**The Hon'ble Dr. Tej Bahadur Sapru:**—"Sir, I shall deal with some of the important points raised by the Hon'ble Sir Sankaran Nair. He says that I am dealing with a matter which will arise three years hence. I can only say that I am following his own example. He did it in the case of the Benares Hindu University. Under the Hindu University Act the first Vice-Chancellor has been appointed by the Government. His successor will be appointed by election, so that I am not unique in this; I was only following the example set by Government.

"The second point was that we had misunderstood the functions of the Vice-Chancellor. The Hon'ble Member said that the Vice-Chancellor's function was not only that of a Chairman. As a member of the Allahabad University I know it too well. It is perfectly true that he has not got merely to preside over meetings, but has got to decide many things without coming into the meeting. Then he said that the Vice-Chancellor will have to deal with Government colleges and with officials. I fail to see how a man ceases to be effective by the mere fact that he is elected, when the very same man might have been entrusted with those duties if he had been nominated by the Government. Take any official in the Senate. He might be elected if he has got the confidence of the majority of

[*Dr. Tej Bahadur Sapru ; Rao Bahadur  
B. N. Sarma ; The Vice-President.*]

[12TH SEPTEMBER, 1917.]

the Senate. How will he cease to be effective if he is elected, and how will he be more effective merely because he has been nominated by the Government ?

“ Sir, then with regard to the argument of the Hon’ble Mr. Sharp that the analogy of the London University will not hold good in the case of the Patna University, I do not rest my case wholly on that. Whether the Vice-Chancellor there has got to preside over a body like the Senate of the Bihar University or a very much smaller body, the fact remains that he is going to be elected, and a Commission like that of Lord Haldane did not consider it necessary that he should be nominated by the Government in order that he might be really effective. So that, it seems to me, Sir, that the arguments which have been advanced in opposition to my amendment are not, with all due respect to Sir Sankaran Nair and the Hon’ble Mr. Sharp, convincing.”

The amendment was put and negatived.

**The Hon’ble Rao Bahadur B. N. Sarma:**—“ I request you to permit me to deal with all these alternative amendments in one speech so as to save time and not try the patience of the Council unduly.”

**The Hon’ble the Vice-President:**—“ I must warn the Hon’ble Member that he has got only a quarter of an hour left, and I doubt if within that time we should be able to deal with all these amendments. I suggest, therefore, that he should take them up in the order in which they appear on the paper.”

**The Hon’ble Rao Bahadur B. N. Sarma:**—“ Sir, the first amendment which I move is that sub-clause (5) of clause 7 be omitted. The scheme of the clause is to make the Senate supreme in the management and superintendence of all the affairs and concerns and property of the University, and it is to have residuary jurisdiction in all matters not otherwise provided for. This is provided for by sub-clause 4. Now a limitation is imposed upon those powers in certain cases which are specified in sub-clause 5. The question is as to whether there are any valid reasons for restricting this supremacy of the Senate, the complete control of the Senate, over the Syndicate in any manner whatsoever, as is provided for in sub-clause (5). Hon’ble Members will see that even in sub-clause (5) the jurisdiction of the Senate has not been altogether ousted, but is partially restricted in the manner suggested therein, that a minority of six Syndics disagreeing with the opinion of the majority shall have the right to move the Senate for an expression of its opinion which shall decide the question at issue between the minority and the majority. Now, the point at issue on this amendment of mine is as to whether there is any reason for restricting the powers of the Senate in the manner suggested by this Bill. I rely in this particular case upon the existing practice which obtains in the older universities. The Hon’ble Member in charge of the Bill quoted a precedent on a former occasion with some effect, and I hope I shall have equal good fortune on this occasion in appealing to the same precedent. These universities have been working with the supremacy of the Senate over the Syndicate for over fifty years without any friction whatsoever between the Senate and the Syndicate. The question is as to whether there is any valid reason for depriving the Senate of the powers which they have been competently and satisfactorily discharging during the last fifty years. If anything, we are trying to make the Senate more representative, more elective, and consequently any difficulties in the matter of cliques or minorities joining together because they have been nominated in a particular way would disappear under the new scheme.

“ One answer may be forthcoming, that is that in the matters referred to in clause 7 it would be preferable to introduce a smaller body because a smaller body would be more competent to deal with such matters satisfactorily. I know that in Lord Haldane’s recommendations he deprecates the unlimited review of the Senate in certain matters. There is a difference between the composition of the bodies suggested in the Report whose authority has been evoked in this respect and the composition of the Senate and Syndicate under Patna University Bill.

[12TH SEPTEMBER, 1917.]

[*Rao Bahadur B. N. Sarma; Sir C. Sankaran Nair.*]

We have not created any body exclusively academic competent to discharge functions which are specifically educational in character, but we have created two bodies which consist of administrative officers and educational officers. In the Senate the educationists can be supreme because out of 50, 20 are to be elected by the teaching Staff, there are 6 ex-officio educationists and other members who might be elected by other bodies, that is registered graduates and associations. It stands to reason that in the composition of the Senate you will have a large preponderating educational element. In the Syndicate you have the educational element giving a majority because under section 8 there must be at least 10 educationists out of 18; in the Syndicate you have a body in which there are 10 educationists and 8 non-educationists you have a large number of educationists, possibly a majority. Thus the two bodies are composed of practically similar lines; therefore it does not seem to me that there would be any danger in giving the right of review to the Senate. It is only in extreme cases where there was a feeling that the Syndicate was exercising its authority incorrectly that action proposed would be taken. In my view there is no reason for deviation from existing procedure. I would therefore ask the Council to take into consideration my amendment for the deletion of the clause."

**The Hon'ble Sir C. Sankaran Nair** :—" Sir, I am unable to accept the amendment, this and the succeeding amendments refer to the relations between the Syndicate and the Senate. My friend has strongly relied upon the existing law, the Act of 1904, according to which the Syndicate acts under the directions of the Senate which has a power of review. As a matter of fact under the existing Act of 1904 the graduates elect only 10 per cent of the total number of the members of the Senate, with the result that the elected members are not really represented by the Syndicate; the senate is composed of only 10 per cent of really elected members, naturally therefore the elected members desire that all the actions of the Syndicate should be subject to the criticism of the Senate, though they could scarcely hope to over-rule the actions of the Syndicate. Thus the criticism in the Senate is the only check so far as popular opinion is concerned to which the Syndicate is subject.

" I can therefore well understand the desire of the general public that the resolutions of the Syndicate on every question should be subject to consideration by the Senate. But what do we find here; we have got in the Senate a substantial majority of elected members, they elect the Syndicate, therefore the Syndicate really represents the elected members of the Senate also; If competent members are elected by the Senate, the occasions for interference must be very few. Further if the Syndicate members are found unsatisfactory the Senate need not elect those members again but might elect members who will carry out their behests. My friend also seems to assume that the Syndicate are independent. As a matter of fact the Syndicate can only act subject to the regulations of the Senate; whether the latter think fit to give latitude to the Syndicate or whether they wish to restrict them they can do either. Again, it is the Senate that passes the Budget, therefore in all those questions in which the finances are involved, the Syndicate is subject to the control of the Senate. The Select Committee have recognised the broad distinction that in all legislative questions, in all questions dealing with general principles, the Senate should have supreme control; in questions of executive government relating to academic matters only, a good deal of freedom is left to the Syndicate; the difference can be seen if Hon'ble Members will look at the matters left to the Syndicate for disposal and compare them with those left to the Senate alone for decision for instance, the courses of study are determined by the Senate, but the arrangement for teaching, etc., are left to the Syndicate. My friend has correctly stated that the Senate will interfere only in extreme cases. For such cases there is a provision in the Bill which enables six members of the Syndicate to bring before the Senate in appeal any decision of the Syndicate, therefore that so far as effective control in the management of the university is concerned, the Senate will have much larger powers than under the present Act of 1904.

[*Sir C. Sankaran Nair; Rao Bahadur B. N. Sarma; The Vice-President.*]

[12TH SEPTEMBER, 1917.]

“For these reasons I am unable to accept this amendment. I trust that my friend will withdraw not only this amendment but also the others. The alternatives which my friend has suggested were considered by the Select Committee who came to the conclusion that the provisions in the bill contained the best solution in the circumstances.”

**The Hon'ble Rao Bahadur B. N. Sarma** :—“I shall not take up the time of the Council with regard to this amendment. I shall only point out that Lord Haldane speaks of the danger of giving the Senate supreme authority. Speaking of the danger of giving Senates supreme authority, the Royal Commission on University Education in London said in their report ‘It is not to be supposed that a minority on the Senate would always appeal to the Court against the majority when the views of the Academic Council were disregarded, but the power to appeal would remove some of the dangers which we are aware beset the small and powerful growing governing bodies of American Universities and would we hope, afford a means of settlement from within for those controversies as to policy which seem from time to time to invade all Universities.’ It is for this reason, Sir, that I wanted to keep the power of the Senate supreme inasmuch as the Hon'ble Member said that there would be no danger in practice of the Senate misusing the powers.”

**The Hon'ble the Vice-President** :—“, I understand the Hon'ble Member wishes to withdraw his amendment.”

**The Hon'ble Rao Bahadur B. N. Sarma** :—“Sir, I have a point to make, and that is this. The Hon'ble the Education Member does not agree to the amendment.....”

**The Hon'ble the Vice-President** :—“I understand the Hon'ble Member will withdraw if the Hon'ble the Education Member opposes it.”

**The Hon'ble Rao Bahadur B. N. Sarma** :—“I think my point is important.”

**The Hon'ble the Vice-President** :—“Then I will put the amendment to the Council.

The motion was put and negatived.

The Council adjourned till Thursday the 13th September 1917.

SIMLA :  
The 19th September 1917. }

A. P. MUDDIMAN,  
Secretary to the Government of India,  
Legislative Department.