

Friday, 15th September, 1922

THE
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(Official Report)

VOLUME III
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COUNCIL OF STATE, 1922 "



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COUNCIL OF STATE.

• *Friday, the 15th September, 1922.*

The Council met in the Council Chamber at Eleven of the Clock.
The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

COST OF SURPLUS STORES.

105. The HONOURABLE MAHARAJA BAHADUR KESHAVA PRASAD SINGH : What are the proceeds from the sale of surplus stores, the property of the Government of India, up to the 31st March 1922 ? To which head of the budget are they credited ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : In order to obtain the information required by the Honourable Member, it would be necessary for each Controller of Military Accounts to undertake a special compilation involving an expenditure of time and labour which would not, in the opinion of the Government of India, be justified by the results. They regret, therefore, that they cannot furnish the figures asked for.

With reference to the second part of the question, I can only say that practically the whole of the proceeds of these sales have been credited to the Army Estimates.

GOVERNMENT SERVANTS AND MEMBERS OF LEGISLATURE.

106. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is it a fact that Government have issued some instructions to its employees in the different departments prohibiting them to supply any information, even though it may not be of confidential nature, to the members of the Indian Legislature ?

(b) If so, will the Government kindly state which departments have issued such instructions ?

(c) Will a copy of such instructions be laid on the table of this Council ?

The HONOURABLE MR. S. P. O'DONNELL : The attention of the Honourable Member is invited to the orders a copy of which I laid on the table on the 6th instant in reply to Question No. 60 by the Honourable Maharaja Sir Manindra Chandra Nandy.

• RAILWAY REVENUE FROM PASSENGER FARES.

107. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state :—

(a) what is the Railway revenue from passenger fares from 1st April to 31st July 1922, and how does it compare with

revenue from passenger fares in the corresponding period of the last year ;

- (b) what is the total number of passengers carried by rail from 1st April 1922 to 31st July 1922, and how does it compare with the number of passengers carried by rail in the corresponding period of the last year ;
- (c) what is the total Railway revenue from goods freight from 1st April to 31st July 1922, and how does it compare with revenue from goods freights in the corresponding period of the last year ;
- (d) what is the total weight of goods carried by rail from 1st April to 31st July 1922 and how does it compare with the total weight carried by rail in the corresponding period of the last year ?

The HONOURABLE MR. H. A. F. LINDSAY : All the information which the Honourable Member wants is not available, but it is hoped that the following will satisfy him.

On the 10 most important railways we carried, between the 1st April and the 12th August 1922, 131,638,000 passengers and 636,162,000 maunds of goods or about 1,600,000 passengers and 26,100,000 maunds respectively less than in the corresponding period of last year.

The earnings on the same lines from coaching and goods traffic were 13.40 crores and 17.58 crores, respectively, being 74 and 156 lakhs respectively greater than in the corresponding period of last year.

POSTAL REVENUE.

108. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state :—

- (a) what is the total postal revenue from 1st April to 31st July 1922, and how does it compare with revenue from this department in the corresponding period of the last year ;
- (b) what is the total number of articles carried by postal department from 1st April to 31st July 1922, and how does it compare with the articles carried in the corresponding period of the last year ?

The HONOURABLE MR. B. N. SARMA : It is regretted that it is not at present possible to reply to either portion of this question. The figures in respect of (a) are not yet available; while those referred to in (b) cannot be calculated as the complete figures for the August enumeration are not yet available.

RENTS IN CANTONMENTS.

109. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware of the fact that owing to the general rise in prices of material, etc., there was recently sanctioned a general increase in rents of bungalows in the cantonment committee areas of Rawalpindi, Peshawar and Ferozepur ?

(b) Have Government considered whether increase of rents on similar grounds in other cantonment areas in the Punjab is not called for ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) and (b). The Government have no information that a general increase has recently been sanctioned in the rents of bungalows in the cantonments named. I may mention that neither the cantonment committee nor the Government have any power to sanction, even in individual cases, an increase in the rent payable by a tenant to a landlord in a cantonment area.

SALT AGENTS IN PUNJAB.

110. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Will the Government kindly give for the information of this Council a statement showing the names of Salt Agents for all the districts of the Punjab, giving their occupations at the time of the grant of agencies ?

(b) Will Government also state the maximum prices for salt fixed in each district ? What is the margin of profits allowed to each of these agents ?

The HONOURABLE MR. H. A. F. LINDSAY : I will make over to the Honourable Member a list of salt agents in the districts of the Punjab. The Government of India have no information as to the previous occupation of the agents. District officers have instructions to appoint salt traders as agents, and it is believed this instruction has in general been followed except in the Hoshiarpur District, in which instead of salt traders four co-operative unions were appointed agents ; this was done with the consent of the Commissioner, Northern India Salt Revenue.

Agents are permitted to sell rock salt at a gross commission of 5½ annas per maund above the charges made by the Salt Department at the Salt Source (Rs. 1-7-6 per maund at Khewra and Warcha and Rs. 1-10-0 per maund at Kalabagh) *plus* actual railway freight : in the case of Rajputana salt the gross commission is 4½ annas. From this gross commission they meet the cost of bags, of unloading at destination, and of their shops, godowns, and staff : their net profit was intended to be about two annas per maund, but owing to the rise in the price of bags it has in some cases fallen below this figure.

Maximum wholesale prices are fixed by the district officers, and in accordance with the procedure outlined above must vary from locality to locality in accordance with the freight charges from the source. Government has no information as to the wholesale prices fixed for each locality ; retail rates of sale are not controlled.

SALT AGENTS.

111. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will Government kindly state what were the reasons which compelled them to introduce the new system of appointing agents for the sale of salt ?

The HONOURABLE MR. H. A. F. LINDSAY : The Honourable Member is referred to the answers given in the Legislative Assembly in reply to Questions Nos. 696 and 308 asked by Mr. J. C. Chaudhuri and Sardar Gulab Singh on the 28th March 1921 and the 20th March 1922, respectively, which give the necessary information.

I also invite his attention to the article on the subject in the Journal of Industries and Labour for February 1922.

LIFE AND PROPERTY IN FRONTIER PROVINCE.

112. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : (a) Is the Government aware that insecurity of life and property in rural areas in the Frontier Province has compelled large numbers of people in such areas to leave their homes and concentrate themselves in town ?

(b) Are they also aware that the insecurity of life and property in rural areas which has compelled people to move into the town of Kohat has caused great diminution in house accommodation in that town, and that consequently rents have gone up very high in the town ?

(c) Has the Local Administration received any representation from the people affected in the town regarding scarcity of house accommodation in the town ? If so, what relief do the Government propose to give them ?

(d) Will the Government also state when is the proposed town extension scheme likely to be taken in hand ?

The HONOURABLE MR. J. P. THOMPSON : Inquiry is being made from the Local Administration and a detailed reply will be furnished to the Honourable Member in due course.

RATES OF BENGAL TELEPHONE COMPANY.

113. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Has the attention of Government been drawn to the objections that have been raised in Calcutta to the recent increase in the rates of the Bengal Telephone Company ?

(b) If so, what steps do Government propose to take in the matter ?

The HONOURABLE MR. B. N. SARMA : (a) Yes.

(b) From clause (3) of the supplementary agreement dated the 11th April, 1922, a copy of which has been placed in the Members Library, it will be seen that the Bengal Telephone Company, Limited, may charge up to Rs. 350 a year for connections. This limit does not appear to have been exceeded. On the contrary, so far as the Government of India are aware, the Company does not propose at present to raise its maximum rate beyond Rs. 300.

The opportunity is taken to invite the Honourable Member's attention to the provisions in the same clause of the agreement to the effect that the rate, so far as it exceeds Rs. 300 is subject to revision upwards or downwards after 5 years, and that one-third of the net profits of the Company in excess of 12½ per cent. in any year is to be divided by way of rebate among the telephone subscribers. The Government of India do not propose to take any steps in the matter.

INCREASE IN POSTAL RATES.

114. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Are Government in a position to state the approximate financial result of the increase in the postal rates for the last few months ?

(b) How far has the number of correspondence been affected by the enhanced postal rates ?

The HONOURABLE MR. B. N. SARMA : (a) and (b). The Honourable Member is referred to the reply given on the 6th September 1922, to the Honourable Lala Sukhbir Singh's Question No. 13 on the subject.

FALLING OFF OF RAILWAY REVENUE.

115. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) With reference to the falling off of the Railway revenue, since the last revision of rates, are Government in a position to state approximately how far this is attributable to the enhancement of the rates, and how far to accidental or local factors, such as strikes ?

(b) How far has revenue and passenger and goods traffic, respectively, fallen below the budget expectations ?

(c) What remedies do Government propose to apply for the purpose of steadying the railway receipts in the different railways ?

The HONOURABLE MR. H. A. F. LINDSAY : (a), (b) and (c). There has been no falling off in railway revenue since the last revision of rates. On the other hand, the earnings for the current year have been larger than the actuals for 1921-22. There has, however, been a falling off of revenue as compared with budget expectations. Government attribute this mainly to the slump in trade. The information collected in regard to ten of the principal railways shows that up to 12th August last the enhancement of passenger rates had led to an increase of revenue amounting to Rs. 74 lakhs. There have been no strikes since the middle of April, and as I have already stated, the comparatively disappointing results of the railways up to date appear to be mainly due to the general slump in trade. The results of the 21 weeks from 1st April to 26th August show that the gross earnings are Rs. 364 lakhs below the budget estimate for that period. Government do not propose to take any action at present.

TRANSFER OF DACCA SECTION OF ASSAM BENGAL RAILWAY.

116. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) What stage has been reached in the negotiations with the Assam Bengal Railway for transferring the Dacca section of the Eastern Bengal Railway to its management ?

(b) Will Government be pleased to state whether they have consulted any public bodies about the desirability of this measure ? If so, will Government make a brief statement indicating the opinion of each of these bodies ?

(c) What steps have Government taken to consult the general public opinion in the locality served by the Dacca section of the Eastern Bengal Railway ?

(d) What are the financial and other advantages likely to arise from the proposed transfer of management ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The question of the transfer of the Dacca section of the Eastern Bengal Railway to the Assam Bengal Railway is still under consideration.

(b) and (c). Government have consulted the Local Government and various public bodies concerned as to the desirability of this measure but, pending a decision on the point at issue, they are not prepared to make any statement regarding the views expressed.

(d) The advantages as well as the disadvantages involved in the proposal are still under consideration, and the Government of India regret that no statement can yet be made on the subject.

PROJECTED RAILWAYS.

117. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : With reference to the statement laid on the table of the House in reply to my question No. 62 on the 6th September 1921, will Government be pleased to state what further stages have been reached in regard to the different projected railways referred to in the said statement ?

The HONOURABLE MR. H. A. F. LINDSAY : The only project in regard to which a decision has been arrived at is the Serajganj-Mymensingh Railway project which has been definitely abandoned.

TRANSFER OF IMPERIAL LIBRARY, CALCUTTA, TO GOVERNMENT OF BENGAL.

118. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that the question of transferring the Imperial Library, Calcutta, to the administrative control of the Government of Bengal, is under consideration ?

(b) If so, will Government be pleased to make a statement on the subject ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) and (b). The Council of the Imperial Library, Calcutta, suggested the transfer of the Library to the Government of Bengal. Their suggestion has been referred to the Local Government for opinion. No reply has as yet been received. In the circumstances the Government of India are unable to make any statement on the subject.

IMPERIAL LIBRARY, CALCUTTA.

119. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : What action has been taken in regard to placing the Imperial Library on an equal footing with the British Museum, in the matter of a statutory right to demand duplicate of publications from publishers, since the reply given by Sir Sankaran Nair to a question on the subject in the Indian Legislative Council on the 9th February, 1917 ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : The Local Governments were consulted and legislation empowering the Imperial Library, Calcutta, to demand copies of books published in India is now under the consideration of the Government of India.

INDIANISATION OF INDIAN GEOLOGICAL SURVEY.

120. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that the Indian Geological Survey is one of the departments which the Islington Commission recommended for Indianisation ?

(b) What was the total number of officers in the Imperial grade of the Indian Geological Survey, and how many of them were Indians, at the time when the Islington Commission reported ; and what are the corresponding numbers at present ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) It is impossible to summarize the conclusions of the Public Services Commission in my reply, and I would therefore ask the Honourable Member to refer to the Report itself.

(b) There were 20 officers at the time the Commission reported, of whom only one was an Indian. At present there are 22 officers, of whom 3 are Indians.

VACANCIES IN INDIAN GEOLOGICAL SURVEY.

121. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) How many vacancies are there in the Imperial grade of the Indian Geological Survey at present ?

(b) Do Government propose to take steps to have all these vacancies filled up by Indians as a step towards a complete Indianisation of the department ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) There are eight vacancies at the present moment.

(b) Owing to the financial stringency and in order to prevent a serious block in promotion in future it has been decided to fill the vacancies only gradually. The Government of India are very anxious to secure suitable and qualified Indian candidates for appointment in the Geological Survey of India, and with this view they intend, so far as the state of finances permit, to establish a School of Mining and Geology at Dhanbad at the earliest possible date. Pending the establishment of the School the Government of India have appointed a Selection Committee with the express object of giving facilities to candidates in India to apply for these posts.

SELECTION COMMITTEE FOR INDIAN GEOLOGICAL SURVEY.

122. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Was a selection committee appointed by Government recently for the purpose of recruiting Indian officers in the Imperial grade of the Indian Geological Survey ; if so, what was the number of applications received and what procedure was followed by the committee in disposing of them ?

(b) How many applicants were there for appointment as Assistant Superintendents, and what were their respective qualifications ?

(c) Were any of these applicants called by the selection committee for personal interview ?

(d) Were the Universities or the Colleges, teaching Geology, asked to nominate any candidates ; if not, why not ?

The HONOURABLE MR. H. A. F. LINDSAY : (a) Yes. A Committee has been appointed on which there are at present two Indian members. The fact was widely published in a Resolution of the Government of India, and applications were invited from all intending candidates. 16 applications were received and the Committee met in Calcutta in April last to scrutinize the applications and make their recommendations.

(b) 16 candidates applied for appointment as Assistant Superintendent. Of these two were graduates who had studied geology along with other subjects for their degree, nine were graduates but had not studied geology, and five held no university degree nor had any experience or training in geology.

(c) The Selection Committee interviewed one candidate, but scrutinized the applications and testimonials of all the candidates,

(d) It was hoped that all educational authorities interested in the subject had seen the Government Resolution I have referred to, but the Government of India have this year specially circularized all colleges in which geology is taught, and it is hoped that a better class of candidates will be forthcoming.

RECRUITMENT OF INDIANS FOR INDIAN GEOLOGICAL SURVEY.

123. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : What procedure do Government propose to follow hereafter for the purpose of recruiting Indians in the Imperial grade of the Indian Geological Survey ?

The HONOURABLE MR. H. A. F. LINDSAY : An answer to this question has already been given under (b) of Question No. 121.

ROCKFELLER FOUNDATION SCHOLARSHIPS.

124. The HONOURABLE MAHARAJA SHOSHI KANTA ACHARYYA CHAUDHURI : (a) Is it a fact that five scholarships from the Rockfeller Foundation have been set apart for Indian medical graduates this year ?

(b) If so, will Government be pleased to state the terms and conditions of the scholarships, the procedure followed in selecting candidates, and the subjects in which the selected candidates will carry on research ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) The answer is in the affirmative.

(b) The terms and conditions are that the fellowships be awarded to specially selected candidates for study in the field of public health and kindred sciences. The candidates should be either graduates or diplomates in Medicine or Science and should be young, keen and preferably holding salaried appointments. They should also be of respectable antecedents and good moral character. Selected candidates will receive a monthly stipend of \$100 from the Rockfeller Foundation, if single, and of \$166.66 if married, in addition to tuition, and travelling expenses to and from the United States. The first part of the training of holders of the fellowships will be in the United States, and the latter part in England or Europe. Local Governments have been asked to nominate candidates and, subject to the approval of the Government of India, the Scientific Advisory Board of the Indian Research Fund Association will make the final selection from amongst those thus recommended. The subjects for research have not yet been definitely settled.

POSTAL SUPERINTENDENTS.

125. The HONOURABLE MR. V. G. KALE : Will Government be pleased to state :—

- (a) What qualifications are insisted on in the case of men selected for direct recruitment of the grade of Superintendents of Post Offices and of the Railway Mail Service ?
- (b) How many appointments of Superintendents were made during the last five years and how many of them were filled with men directly recruited ?
- (c) Of the men directly recruited, how many had high University qualifications and what were the qualifications of the rest and what was their nationality ?

The HONOURABLE MR. B. N. SARMA : (a) Candidates intended for direct appointment as Superintendents of Post Offices and of the Railway Mail Service are generally required to join as Probationary Superintendents. An Indian candidate must ordinarily be a graduate of a recognised university, and in the case of other candidates the possession of adequate educational qualifications is insisted on. Special attention is paid to social standing and physical fitness. No one is confirmed as a Superintendent until he has justified his selection and has passed the prescribed departmental examination.

(b) 63 appointments, of which 26 were filled by direct recruits.

(c) Of the 26 direct recruits, 20 were Indians and 6 non-Indians. Of the 20 Indians 18 had high university qualifications and 2 were selected for good service in the Field. Of the 6 non-Indians, 1 had high university qualifications and 5 were selected as suitable candidates upon the recommendations of Postmasters-General. Of these 5 men, 3 have done good service in the Field since selection.

The HONOURABLE SIR ARTHUR FROOM : Will the Honourable Member be pleased to state whether one of the qualifications for the grade of Superintendent of a Post Office is that he should have a knowledge of telegraphy ?

The HONOURABLE MR. B. N. SARMA : I believe there is no such qualification insisted on.

POONA POST OFFICE.

126. The HONOURABLE MR. V. G. KALE : Will Government be pleased to state whether split duty still continues to be performed by the officials of the Poona Head Post Office where officials have generally to attend the Post Office from a distance of two miles or more ?

(b) If split duty still continues to be performed there, will Government be pleased to state how many officials are affected, what has been done so far to abolish split duty there and what further measures are contemplated in the matter for the immediate future ?

The HONOURABLE MR. B. N. SARMA : (a) Yes.

(b) One Assistant Postmaster, eleven clerks and one reader postman are affected.

The cost of abolishing the "split duty" system altogether in the Post Office was found to be prohibitive and the change would in many cases be unnecessary and in some cases unpopular with the staff. General instructions were issued to adopt all practicable necessary measures to prevent the occurrence of unnecessary inconvenience in the matter.

So far as the Poona Head Office is concerned it has been reported that by the readjustment of the hours of attendance and by strengthening the staff by 2 sorting postmen, it will be possible to abolish "split duty" altogether and arrangements are shortly being made to give effect to the changes.

STUDENTS AND NON-CO-OPERATION.

127. The HONOURABLE SIR AHMEDTHAMBY MARICAIR : (a) Will Government be pleased to lay on the table the number of Muhammadan students who have left schools and colleges on account of non-co-

operation and their percentage when compared to the number of Hindu students and their percentage ?

(b) Will Government be pleased to state the number of Muhammadan employees who have resigned their appointments in the service of the Central Government on account of non-co-operation, and how these vacancies were filled and by whom ?

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : (a) The information asked for as to students is not available, and could not be collected without the expenditure of a great deal of labour both by the Central and the Provincial Governments.

(b) As far as the Government of India are aware there have been no such resignations from the service of the Central Government, but if the Honourable Member wishes I will have further inquiries made.

PRESIDENT ON IRREGULAR QUESTIONS.

The HONOURABLE THE PRESIDENT : Before we proceed to the business of the day, I desire to draw the attention of the House to a matter arising out of a question which appeared on the notice paper of the 9th of September. It related to the export of wheat and stood in the name of the Honourable Lala Sukhbir Sinha. The question was framed with disregard to the rules and I have disallowed it. That in itself would not call for special comment. It contained, however, certain sentences which, as they have been given publicity to by publication in the notice paper, seem to call for some remarks from me as they raise questions of constitutional importance. The sentences in question were as follows :—

“ Is it a fact that the Resolution for removing the embargo on the export of wheat and other food grains was moved in the Assembly on the 7th instant after 4 P.M., the time at which the meeting is ordinarily to terminate under Standing Order No. 6, when it was not fully discussed and several Members who wanted to oppose the motion were not given an opportunity to express their opinion on the subject ? ”

Now, in the first place, it is quite clear that there has been an infringement of the well-established ruling that there can be no reference to debates in the current Session of the other House, with the well-known exception that speeches of Members of the Executive Council, who have the right to speak in both Houses, may be referred to. That is the first point.

The second point is a more serious one. The Honourable Member under the guise of a request for information is in fact making a complaint against the procedure adopted in another Chamber. I much regret that he should have thought it necessary to do so. Such a course, reflection would have shown him, is entirely undesirable. The domestic affairs of the two Chambers are their domestic affairs, and it might be regarded in some quarters as an impertinent interference with the right of privilege that the procedure of the other Chamber should be brought into question in this House.

I regret further that the Honourable Member has gone to the length of making an imputation—a distinct reflection—on the conduct of that Chamber and of my Honourable Colleague who so ably presides there.

This Chamber has made itself a well-earned reputation for preserving its own dignity. (Hear, hear.) It is essential that if we stand on our own dignity, we must respect the dignity of others. (Applause.) I trust the Honourable Member will see on reflection the error he has made in this matter.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I had no intention at all of making any reflection on that House. My object was, as the question was not fully discussed there, to learn from the Government whether they would take any action in the matter or not. That was my only object and I had no intention whatever, in asking that question, of making any reflection on the other House.

The HONOURABLE THE PRESIDENT : I am glad to hear the Honourable Member's disavowal. The incident may now be considered to be closed.

INDIAN EXTRADITION (AMENDMENT) BILL.

The HONOURABLE MR. J. P. THOMPSON (Officiating Political Secretary) : I beg to move, Sir, that the Bill further to amend the Indian Extradition Act, 1903, be taken into consideration.

As I explained in introducing this Bill a week ago, the amendment which it seeks to effect is little more than a formal one. Under the Schedule to the Act, desertion from any body of Imperial Service troops is an extradition offence. As the result of certain changes which have been made the term "Imperial Service Troops" is now an anachronism. The need, however, for extradition of deserters remains, and we have to find a substitute for it. The way in which the position has arisen is this. The Indian State Forces are now being reorganised and the Princes, with the spirited and generous loyalty of which they have given so many signal proofs, have asked us to assume for the purposes of reorganisation that not only those units which form the flower of their forces and which have for the past 30 years been known as Imperial Service Troops but all their forces and all their resources, so far as they are not required for purposes of State defence shall be at the disposal of His Majesty the King-Emperor in case of emergency. (Hear, hear.) I need not say the Government of India and the Secretary of State have been much gratified to receive this spontaneous assurance, and the reorganisation is now going forward on the assumption which the Princes have asked us to make.

Now several consequences arise from this changed position, and one of them is this—where all the forces of a State are at the disposal of His Majesty for purposes of imperial service, it is obviously illogical and invidious to particularise certain units of those Forces as Imperial Service Troops. We have consequently decided to abandon the use of the term "Imperial Service Troops", and we have to find a substitute because the entry in the Schedule has become meaningless. It is obviously impossible to find an exact equivalent. At the same time we must continue to the States the extradition privileges which they have enjoyed for so many years, and it has seemed to the Government of

[Mr. J. P. Thompson.]

India that the best way of effecting this is to give to the Governor General in Council the power of notifying these units of the State Forces, desertion from which will be in future an extradition offence. That is the proposal which is embodied in the Bill before the Council, and if it is approved, Government will notify those units which correspond approximately to the old Imperial Service Troops in character, in efficiency and in discipline.

I beg to move, Sir, that the Bill be taken into consideration.

The motion was adopted.

The HONOURABLE MR. J. P. THOMPSON : I now move, Sir, that the Bill be passed.

The motion was adopted.

INDIAN MUSEUM (AMENDMENT) BILL.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, I beg to move that the Bill further to amend the Indian Museum Act, 1910, be taken into consideration.

Honourable Members will remember that I explained the object as well as the provisions of this Bill at the introduction stage. The measure is a non-controversial one ; no amendments have been received ; and it is in consequence unnecessary for me on this occasion to add to what I said at the former stage. I beg to move that the Bill be taken into consideration.

The motion was adopted.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI : I beg to move that the Bill be now passed.

The motion was adopted.

HINDU CEREMONIAL EMOLUMENTS BILL.

The HONOURABLE MR. V. G. KALE (Bombay : Non-Muhammadan) : Sir, I beg to move that the Bill to amend the law relating to the right of hereditary Hindu priests to claim emoluments in respect of religious ceremonies, as passed by the Legislative Assembly, be taken into consideration.

The Bill has already been circulated to Members and it will be seen that it is a very short Bill containing only three clauses. Though the Bill is a very brief one, it is a very important one, because it involves the rights of an important class of the Hindu community and the relations of that class with the large mass of the Hindu population. Sir, I have taken it upon myself to move the Bill in this House because I have always sympathised with the general principle underlying this Bill. I have followed very keenly the discussion which has taken place in the public press and on the public platform, and I have watched with very keen interest the arguments

which have been advanced on the two sides, and I have felt convinced that the principle underlying the Bill is a sound one and the existing law on the question has got to be satisfactorily settled in accordance with that principle. The Bill affects only the Bombay Presidency, particularly certain portions of it, the Marathi speaking population of the Central Provinces and Berar. The law concerning the emoluments claimed by hereditary priests in these two provinces differs fundamentally from the law which governs those emoluments in other provinces. It is, therefore, necessary for me to explain at some length what the position is in the Bombay Presidency, what have been the rulings of the Bombay High Court, what is the trouble that these rulings of the Bombay High Court have given rise to, and how these troubles are sought to be set at rest by the Bill that is now before this House. In order to understand the Bill we have to consider the history of the village organisation in India. I am not myself a lawyer, but I have given some attention to the study of sociological and economic problems of the country, and from my study of Indian sociology, I find that Indian village communities were in the past, and to a certain extent are to-day, self-sufficing organisations. These organisations were administrative units which organised their administration, their social affairs, and their religious affairs on practically a democratic basis, subject, of course, to the consideration of the existence of castes in the villages. This village community being self-sufficient, required the services of a large number of artisans and other servants whose co-operation was necessary in the corporate life of the village community. There were thus village headmen or 'patels' as they are called in our part of the country, kulkarnis, or karnams as they are called in the southern parts of India; watchmen were required, goldsmiths, barbers and other servants were required. Among these servants of the community there were spiritual servants, the priests. And these priests, like the other servants of the community, were remunerated by the village community. As their services were indispensable, it had become necessary that security of tenure and security of reward for their labour had to be provided for. Most things in India have become hereditary. There has been a tendency towards all kinds of services becoming hereditary. They have become what are called 'Vatans,' and the services and the rewards have been inherited from generation to generation. Lands were some times given by communities and rulers rent free, or revenue-free as remuneration for those services, and in this way what are called 'Vatandar' priests or hereditary priests came into being. It will have been clear that hereditary priests, like other village servants, have also become hereditary and in the Deccan and in Madras for centuries they have been remunerated for their services by the members of the village community. That remuneration, therefore, became a claim upon the village community and those services and that claim have been confined to certain families, so that to-day a few families are well known for their possession of this right of performing certain functions and receiving certain rewards. Rulers in the past representing the community and as entitled to lay down the law, recognised this custom. It was a customary law and that custom was recognised by rulers. What are called 'Sanads' were often issued to these hereditary priests as to other hereditary servants, and on the strength of those sanads, the authorization given by the ruling powers

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families have been enjoying properties and also the rights of performing certain functions. Now, one of these rights is a right of officiating at religious ceremonies. Whatever the religious ceremonies are, the priest (the family priest or the village priest) has a right of officiating, and when he officiates, he has the right of receiving certain emoluments. Now, this hereditary right has in law become a property. In the Bombay Presidency the priest's right of performing religious rites and ceremonies and of receiving emoluments therefor, has been looked upon as a property right, and being a right of property it has been protected against invasion by others. If a priest is a hereditary priest or a vatandar priest, he can compel the villagers who want priestly services to engage him and him alone. Even though another priest is engaged, the hereditary priest is entitled to his own emoluments. He has got to be indemnified for the loss he has sustained because the *Yajman*, that is the patron, has engaged the services of another priest. Thus it has become a property, and like ordinary property, this so-called intangible property, this claim to emoluments, cannot be invaded. Two classes of cases have come up before the Courts in the Bombay Presidency. The first class of cases consists of those filed by priests against priests. There are priests who claim jurisdiction over a certain area and have a claim to perform the religious rites and ceremonies in that area. Another priest belonging to the same family, perhaps to another branch, might fight with the hereditary priest, dispute his right and may claim remuneration for himself. Numerous cases of this nature have come before the Courts in the Bombay Presidency. Now, these are cases involving the right of property, ordinary property rights and they have been recognised in the case of these emoluments to priests. But there is a second class of cases, I may say even more important, in which a villager may refuse to requisition the services of a priest who calls himself a village priest,—a hereditary priest or a vatandar priest. He may engage the services of another priest, but the hereditary priest files a suit against this *Yajaman* and says : “ You have no right to engage another priest. I am the hereditary priest. My family has been enjoying this right for generations together. That is our property. It cannot be invaded. If you engage the services of another priest, I am entitled to be indemnified. You must pay me what ordinarily I would have been entitled to if my services had been requisitioned.” Such claims have been put forward and in many cases they have been allowed by the Bombay High Court. The Bombay High Court has taken this view. It is a kind of what is called ‘ Nibandha ’ in Hindu law, namely, property, and as property it cannot be encroached upon. If it cannot be invaded, it has got to be protected and the Bombay High Court has protected hereditary priests against invasion by an intruder and also against the desire of the *Yajaman* or patron to engage the services of another priest. But the recent rulings of the Bombay High Court have taken the law to a further stage. The High Court has ruled that only in certain cases can the right of the hereditary priest be recognised, viz., in cases where Brahminical rites are performed.

Where Brahminical rites and ceremonies are performed, the Brahmin priests can legally claim emoluments, on the ground that they are hereditary priests. If rites and ceremonies, which are not Brahminical, are

performed, then the Brahmin priest is not entitled to anything. That is the legal position to-day. But it is not a very satisfactory position, as my Honourable colleagues will realize. It becomes only a question of fact, whether rites are performed, which are not Brahminical and whether the Brahmin priest is not entitled to anything. It is purely a question of fact, and it is very difficult to prove that the rights of the Brahmin priests have been infringed. Consequently, there is a lot of litigation, which has gone on for years and for very small sums, such as for Re. 1, or sometimes for Rs. 2 ; and for such small amounts cases have been taken to the High Court. It will be admitted that this litigation which has gone on for a number of years, is undesirable, and the law in the Bombay Presidency has to be clearly settled once for all, so that the rights of all parties concerned may be satisfactorily disposed of.

Now, it may be suggested that the Bill is the result not of the demand of the numerous people concerned, but of factious agitation carried on by a few non-Brahmins. There is, no doubt, a non-Brahmin movement in the Bombay Presidency, as in certain other Provinces, and it may be contended that some of the non-Brahmins have set up a cry that they do not want Brahmin priests, and wish to perform their religious rites and ceremonies themselves. That is an objection that might be raised. It so happens that I myself am a Brahmin, but I do not want to look at this question from the narrow point of view of caste. I want to take my stand upon principle. I admit that here there are vested interests concerned, which have been sanctioned by the High Court. I admit all that, but the question for consideration before us is this : are you going to repress individual liberty : are you going to compel individuals to engage the services of particular priests, if they do not want to ? The law, as it stands to-day, does compel a man to engage the services of particular priests, and if the services of another are engaged, he gets his remuneration, and the hereditary priest has, besides, to be compensated. This, to my mind, is an invasion of the rights of individual liberty, and consequently the hereditary priests should not be allowed to compel people to engage their services.

It may be said that it is open to the people to perform the rites and ceremonies which are not Brahminical, and then the hereditary priest does not come in the way of anyone ; he does not claim emoluments. But as to who should perform Brahminical rites and who should not, is the question in dispute in our Presidency. Many of those who are not Brahmins want the Brahmin rites and ceremonies to be performed in their houses, at marriage and other ceremonies. Now, can it be suggested for a moment that certain classes of the Hindu community should be prevented from performing Brahminical ceremonies ? It may be said that this is an attack upon religion, but I do not see where the attack upon religion comes in. Have we been able to preserve the Hindu community, its customs, its castes, its privileges, intact ? Have we been able to prevent non-Hindus and non-Brahmins from studying the scriptures ? Everybody is to-day studying the Vedas and other sacred books. The Brahmins at one time performed very important functions. The Brahmin was consequently venerated, venerated for his learning, venerated for his piety and sacrifice, and if the Brahmins want to maintain that position, they can do it by showing those qualities, not by going to

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a Court of law, and not by claiming certain emoluments against the wishes of other members of the community. It is not an interference with religion ; on the contrary, the Bill seems to concede religious liberty. This is how religious liberty is sought. Certain members of the Hindu community want to engage particular priests, priests of their own caste. They do not want the predominance of the Brahmin caste, and I do not see why this liberty should not be allowed to them. Already our village community and Hindu society have been disorganized. They do not stand where they did in the past. Important adjustments are absolutely necessary at the present time ; and we cannot say that because a certain village organization was found to be useful in the past, therefore, it must be found useful to-day. What do we find in the case of the village organization to-day ? Have you got the old village servants ? Do they perform the same old village services ? Do they receive remuneration in the old way ? The Government does not allow it, the Courts do not allow these village servants to claim by right, and legally, remuneration for services which people do not want to receive from them. For example, take the case of the barber (*A voice* : They have a right). My reply to this is, take the case of the barber, the goldsmith, the carpenter, and any other village servant, and you will find that there is no compulsion upon anyone to engage the services of these people and to remunerate them. We find that high caste Hindus, Brahmins, have displaced the services of barbers by shaving themselves. Can a barber claim that it is his duty to shave all people, Brahmins among them—and Brahmins who have now begun to shave themselves—and say that he has a right to emoluments on account of his services ? That is no longer the case. Now, the Government of Bombay have recognised the services of a few village servants. These services have been recognised in the Bombay Presidency as services which are required for purposes of administration. They are servants of the Government ; and the services rendered to the community have been transferred to the Government which represents the community now in the place of the old village community. If you want to maintain the village organization, as of old, you have not got it ; the British Government have changed the village organization, have adjusted it to new requirements and to new changes, and only certain servants who are useful to the village community have been incorporated into the administrative machinery. Other servants of the village useful to the public, have not been so recognised, and for obvious reasons. Under the circumstances, it cannot be contended that the priests shall be allowed to demand their emoluments, in spite of the desire of the people not to engage them. The general public opinion in the Deccan nowadays is that the Brahmins, as a class, should not oppose the demands of the other castes, and I would appeal, as I have appealed before this, to my Brahmin friends to concede to the other classes and other castes the liberties which they claim.

By the true Brahminical qualities of self-sacrifice, of piety, of learning, they can maintain their dignity and their prestige better than by going to the Courts of law and compelling people to give them what they are unwilling to give. That is the attitude that has been taken up in the Bombay Presidency itself by many thoughtful Brahmins. In their newspapers and on their platforms, these views are being advocated. In any

case, it must be confessed that the position to-day is unsatisfactory. How is that position going to be met? There are two ways in which it can be met. In the first place, it will be said: "There is not much demand for this legislation; leave things as they are." What will be the result of this? Discontent and bitterness of feeling between class and class and between caste and caste. (The *Honourable Mr. Lalubhai Samaldas*: "Will this decrease it?") Then, secondly, you can amend the law. My Honourable friend asked me the question whether this friction will be decreased by the amendment of the law. I am not a prophet and cannot say what the result will be; but this much I understand that, if a Brahmin says to the other classes, "Very well, you do what you like in these matters: we give you full liberty", certainly one cause of friction, one cause of bitterness, will disappear. I think that this bitterness will vanish if the conflict is minimised, and the only way in which it can be minimised is to allow the non-Brahmins to engage what priests they like and not to exercise, through law Courts, compulsion upon them.

Opinions have been elicited upon this Bill from all Presidencies. Lawyers, Judges and other people have been consulted and I may say, without going into the individual views, that the majority of those who have given their opinions, are in favour of the Bill. There are many who say that there is not much demand for this Bill; there are a few who say that the vested rights of the priests ought to be protected and should not be allowed to be infringed; but the majority are of opinion that this is an important question of public policy, this is an important question of individual right and liberty, and, consequently, by means of this legislation individual rights and liberties ought to be safeguarded. The Bombay High Court have been compelled to follow what they regarded as the custom and the law of the Province, and the position of that High Court does not seem to be very happy under the numerous cases that come up for decision before it. There are one or two gentlemen—I think one European official of high standing—who says that the Bill is not necessary and that the priests ought to be preserved; and he cites the analogy of the tithes which are paid in England. To whatever religious denomination a person may belong in England, we are told, he is compelled to pay the tithes. Similarly, whatever the dissenters in India may say, whatever non-Brahmins may have to say, they have got to pay for the maintenance of the Hindu religion. I must very humbly point out that this analogy does not hold good, because in England the priesthood is not hereditary but is open to all classes and communities. What is giving trouble in this country in the Hindu community is that the priesthood is restricted to a particular caste. Other castes have been roused to a consciousness of their own condition and of their own rights, and they want to do away with this monopoly of a particular class. This is a peculiar situation in India and, consequently, if there are the grievances, if there is this discontent, I should think that the Brahmin community itself should come forward and say: "Very well, if you want these rights, you can have and enjoy them." I do not think that the passing of this legislation will have any adverse effect upon the condition of villages. I must also frankly admit that the demand has not come from the majority of villagers. The majority of villagers will continue to requisition the services of priests, and this law does not prevent any man from requiring the services of

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these hereditary priests. Things will go on as they are for years to come. The only result of the passing of this Bill will be that hereditary priests will not be entitled to receive, through law Courts, remuneration from people who do not employ their services. That will be the only effect of this legislation. Otherwise, there will be perfect freedom, perfect liberty given to every one to engage the services of any priest, whether hereditary or not.

I think I have been able to explain what is the object and the scope of this Bill and what will be the results of the Bill, if it is passed. I appeal to the sense of fairness, justice and also individual liberty of Honourable Members of this House, and I ask them to support me in the proposal which I have placed before them.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU (Madras : Non-Muhammadan) : Sir, I have very great pleasure in lending my hearty support to the Hindu Ceremonial Emoluments Bill and to request the Council to pass it as has been done by the Legislative Assembly. It is urged by some people that this Bill affects religion and the religious rights of the Priests, but this is not at all true. The peculiar law of Bombay and some parts of the Central Provinces is that even if a Hindu does not require the services of a village Priest, the Priest can get a decree from a Civil Court for what he calls his fees for doing nothing. It is the right of every Hindu to have his religious ceremonies performed with the help of any one he likes ; in this age of freedom and liberty compulsion is out of place. Our Shastras clearly say that our gifts to the Priests must be purely voluntary and must be given to a Brahmin who, we think, is a pure and holy man. It is also said by our Shastras that if we pay a *Daxina* to a Priest who is in our opinion not a deserving man, we go to hell. If therefore our law Courts compel us to pay a Priest that we do not consider deserving, it is interfering with our religious duties. This is the view taken by the Madras, Bengal, Allahabad, and Punjab High-Courts. This Bill seeks to lay down the same law for the Maratha Provinces where hitherto the law Courts have held that the Priest can sue for fees even if he is not called to officiate at a religious ceremony. The grievance which the Bill seeks to remedy is a real one and has caused much friction in Hindu Society in the Maratha Country, and the fact that an eminent Brahman gentleman like our colleague the Honourable Mr. Kale supports this Bill, is enough to show that educated Brahmins fully admit the justice of the principle of this Bill. I request the Council to pass the Bill.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR (Madras : Non-Muhammadan) : Sir, this is not a question between Brahmins and Non-Brahmins. Even Brahmins are the victims of this priest-craft. The Honourable Mr. Kale has not convinced me quite fully as to the good points of the Bill he has taken up here.

There are two sides to the question. Considering the religious and the social points of view, it is really painful to see that the priest-craft has descended so low as to be classed with the other village crafts, such as the *karman*, etc. : It is very

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painful to see how degenerated this system has become and what the view point was with which such an institution had been established and been in vogue for such a long time. When we see the priest's position to-day and when we notice the degeneration that has crept into their class, it is really heart-rending and depressing to every nationalist and any one who loves the old system of our society. It is for the sake of the dignity of the Brahmins, and of the very priests, and also to avoid friction between the priests and those people for whom these ceremonies are performed, and for the sake of reasonableness that that office should not be thrust on unwilling parties, that this Bill should be supported. But one should see the other side also.

What was the point of view that brought this system in vogue? In former times the Brahmins were indissolubly connected for the valuable service they rendered to the other communities. It was as indissoluble as the marriage system of the Hindu community and as important as that. On this basis, how are we to do away with an undesirable priest? Supposing one wants to do away with an undesirable wife, he just institutes divorce proceedings and so also if one doesn't want a priest who is a bad character, he may be made to bring a suit to eject him from that position. This has to be done for he enjoys a right from time immemorial. That would be the proper form for the scope of the present Bill.

It is from other points of view also I am opposed to this Bill. The Honourable Mr. Kale has said that if a village wants a new karman or a village munsiff it has the power to throw out the old hereditary karman or munsiff and bring in a new karman or village munsiff—a karman is an accountant.....

The HONOURABLE MR. V. G. KALE : I never said that.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR : The hereditary posts have a right behind them. The officers are depending entirely on their profession and they have been neglecting other walks of life with the hope that they would go on earning this paltry remuneration in their hereditary nature. Now suppose a Bill is introduced with one stroke of the pen, what will the karman do or the priest do? He cannot find other works of life immediately. But if the Bill were to provide compensation for his rights and livelihood, then it would have been in a more acceptable form. The Honourable Mr. Kale says he is no lawyer and he is only doing it from the political and other points of view. But we must also consider the legal aspects of the situation. The priest has been enjoying these rights and these rights have been recognised by the Bombay High Court for a long time. That a Bill should all at once be enacted to deprive him of his livelihood, I feel is rather unjust.

My Honourable friend Mr. Naidu, and also the Honourable Mr. Kale expatiated upon freedom and liberty. I too concur with them on that point; but I do not know whether our friends would go to the extent of depriving a whole class of people of rights which they have hitherto enjoyed and bring forward a Bill to deprive them of these rights. Let me give an example. In Russia the new Bolshevik creed has enacted that the land should be nationalised. Would my Honourable

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friend, Mr. Naidu, agree that the immemorial rights enjoyed by the Zamindars should be done away with by a stroke of the pen? I don't think so; and in these days when the Government needs money it will be a good and proper thing if the permanent settlement of Bengal were done away with.....

The HONOURABLE THE PRESIDENT : Order, order. The Honourable Member must confine his remarks to the Bill.

The HONOURABLE MR. K. V. RANGASWAMY AYYANGAR : Now, considering the hereditary rights of these men, I am not in favour of this Bill being enacted, without compensation being given to those who will be affected by it. If the Honourable Mr. Kale should lead a movement to approach all these priests and other people to take to other walks of life and of their own accord they are made to discard this pernicious system for their livelihood, this obnoxious and disgusting livelihood that they enjoy, then it would be a great achievement for India. With these words, Sir, I oppose the Bill.

• The HONOURABLE MR. G. S. KHAPARDE (Berar : Nominated Non-Official) : Sir, I wish to oppose the introduction of this Bill into this House, and that for certain reasons which I believe are cogent. To save time I shall go on with the first, and the first is that the Bill has been based upon a misconception of three kinds,—misconception of law, misconception of fact, and misconception even of terminology. Take it as a battle of terminology. The Bill is described as the Hindu Priests Watan Act. The proposer originally among his grounds says : There are these Watandars and these Watandar priests are resented and they are not liked, and the law in other Provinces is different from the law in Bombay and the Central Provinces. Now all these three are misconceptions, I humbly point out. First of all, in the Bill itself you find these Watandars called hereditary priests. Now a Watandar is very different from an hereditary priest. Hereditary priest may mean that the father was a priest, his son became a priest and his son's son also becomes a priest, and then he is a hereditary priest. Whereas Watandar means that there are certain Watans or certain rights given to him either by the King or the community, or the ruling power. But he is a person to whom a certain thing has been assigned, just the same as a Jagirdar or an Inamdar. Therefore he has property rights. The proposer looked at this entirely from a different point of view. He regarded them merely as priests, and priests in these days, in the twentieth century, having fallen into contempt all over the world, (India is not the only place where a priest is in bad odour) have got no defenders. Therefore the priest has come to be looked down upon in the same way as an artizan. My Honourable friend there compared him to a barber. Somebody else might compare him to the Nama Sudra and so on. However, I should not mention these matters except to show that the proposer of this Bill had no clear notion himself of what a Watandar meant and what a hereditary priest meant.

Another thing about these hereditary priests. They are Joshis against whom this Bill is primarily intended. They are priests of villages

in virtue of certain grants made to them by the ruling power, by the community or by custom, and they are not to be described as merely hereditary priests. They are descended from persons to whom the ruling power at the time consigned certain rights, just the same as in England a man cannot say, "I will not pay any tithes, because I don't care for the established church in Great Britain." And, if in England it can be done like that, why is it possible for a man in India to say, "I don't believe in these things and I don't want to pay." Where did these people, the Indian Dissenters, acquire the right? There is such a right in England. . Priests are appointed under the right of advowson. And under that right priests were appointed. Sometimes the Crown appoints them, but generally the landlord, the Squire of the place has the right and he presents the priests to a living as the technical term goes. In India, the princes, the emperors and the zemindars who settled the land, and established these villages grant these rights. Now, if they exercised that right and if they appointed these people, to get up and say, "They are mere artisans, if I do not want their services, I can turn them out, they are like barbers, chamars, etc." That is not very sound, to say the least, coming as it does from my Honourable and learned friend, Mr. Kale. He should have known that these people are not artisans. These are not persons engaged for mere remuneration. They are the spiritual preceptors of the princes, of the zemindars and of the community and these grants were made to them in that capacity. The term hereditary priest has been described as Vatandar; there was confusion in the first Bill that was presented in the other House and the word Vatandar was introduced, and in the third section the words 'hereditary priest' were introduced, without explaining what the difference between the two was. However, the Committee has been working at it, and they have taken out the word Vatandar altogether and called them hereditary priests from beginning to end without defining what a hereditary priest means. In India, as the whole House knows, I believe there are people who worship in a particular temple and they have got the right to worship there, and whoever is there has got certain perquisites attached to that. Is it meant that all these worshippers and all these people are to be swept away? I cannot understand that. If that is so, the Muhammadan community will have something to say to it, because they have got their Mutwalis Kazis and Mullahs and they have their religious institutions and hereditary people doing the work. If that is the case, there is no knowing where it will lead us to. If you pass this for the Hindu community, to-morrow I suppose the Muhammadan dissenters—and there are dissenters in every religion—may get up and you may have to legislate for the Muhammadans, and then for the Parsi community and then for all the communities taken together. That is to say this will be the beginning of the disestablishment of all the religions in India. This is a serious thing to do and I cannot approve of attempting to do this in this light-hearted manner.

Turning to the subject-matter of the Resolution, there are several misconceptions. The first is a misconception with reference to a question of fact. The Mover in his first Statement of Objects and Reasons said that the Non-Brahmin Hindus resent this being enforced against them. Where did he get this idea that this happens in all the provinces and that the Non-Brahmins hate the Brahmins? Where did he get this peculiar idea

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from ? In my province I have lived for 69 years now and I have never come across any ill-feeling of this kind. On the contrary we move hand in hand with them. There is no trouble at all. But the mover says that they resent.....

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan) : There is such a feeling in Belgaum and other places.

The HONOURABLE MR. G. S. KHAPARDE : He should have said so. He seeks to foster this idea upon the whole of India or upon the whole of the Maharashtra. People read their thoughts in books, and the Honourable Mover, judging by his own feelings of antagonism imagines that the whole world hates the Brahmins. That is a very common misconception and I am unwilling to say anything. There is no resentment of this kind as mentioned by the Central Provinces Government, none as mentioned by Sir B. K. Bose who is an eminent lawyer practising there for 50 years and upwards. He was knighted by Government and he officiated as the Judicial Commissioner. Then there is Mr. Kincaid who was a Member of our House and who used to sit by my side. He has written a history of the Mahrattas and also the life of Shivaji. He is against the Bill and he says that there is no such thing, Mr. Kale's reference to the resentment is just like the Non-co-operation. The Non-co-operators imagine that the whole world is for Non-co-operation. They say that the whole of India is populated with Non-co-operators, and they say that they have succeeded. This is similar to that. What is the proof ? None. They say that they are in a majority. Their position is as Shakespeare puts it : " I am Sir Oracle. When I speak, let no dogs bark." That is the method adopted by the non-co-operators, and this has also been adopted by the learned Mover of the Bill, Mr. Kale. Therefore, I dispute the proposition, first that these are Vatan-dars and not hereditary priests. Secondly, I dispute the fact that in the whole of the Maharashtra there is an anti-Brahmin feeling and that the Brahmins are hated and that the Non-Brahmins resent it. Thirdly, I say that the law has been also misunderstood. It is said that the law is different in other parts of the country. In the other parts no such custom ever existed. Therefore the Courts had no occasion to declare the law. Here the law was declared. It is therefore very inaccurate to say that the law is different in parts of the country. This is a peculiar practice of the Maharashtra. Nowhere does this custom obtain. If a Judge is transferred to Bombay from the United Provinces or other provinces, he will look at the precedents and say that such and such thing is the custom of the province. You cannot say that the law is different. There is no law on this point in any other part of the country, because that custom does not obtain in other parts of the country. The law in my part of the country gives that as the custom, hallowed by the ruling authorities including Muhammadan emperors, Peshwas and great Jagirdars and Inamdars. All law is customary in the beginning. The common law of England is a bit of a custom and everywhere law is based upon custom. There are the general customs and there are some local customs, and this is the local custom of the Maharashtra, and why is that to be condemned in that particular

manner without going into its antecedents, without looking at the interests involved ? I submit that my friend did not examine the law on that point. These things are being taken very lightly. The third misconception is that they can change the law without having to render compensation. The Honourable the Mover begins by saying that he does not want to deal with vested interests. I wonder what he means by vested interests. If lands are given to me by the sanad of the emperor and if the customs have been recognised and the High Courts have recognised, what else is vested interest, I would like to know. Here is a person who sets up a quarrel to do away with the rights that have been conferred by Sanads and recognised by Courts, and yet he says he does not deal with vested interests. At this rate, there are no vested interests in the world. That is not so. These are vested interests of a very cogent type. Some of the sanads go back to the times of Akbar. For centuries people have made a living by these rights. You take away their right of living and their bread, and yet you say, 'I am not interfering with vested interests.' This is very good. It reminds me of a story of an incident that occurred in England, in the days of King Henry VIII. I forget the date, but the story is true. A certain courtier appeared before the King and said, "Sire, I beg to be pardoned." "For what ?" asked the King. "I was walking and displaced the cap from a Bishop's head." "Did you ?" said the King. "I shall certainly grant you a pardon." "But, Sire," said the courtier "the head also went with the cap." Similarly, Sir, behind this Resolution, I see a hidden attempt to take away all the vested interests that have accrued to these priests for generations and generations. This reminds me of the story I have related. How the incident ended, I don't know, and whether the courtier ultimately received pardon from the King. The head of the Bishop went with the cap, and this is the kind of thing that is attempted to be done here under the specious cry of curtailment of individual liberty and the confiscation of proprietary rights. You say, I will confiscate your proprietary rights. This is my individual liberty to employ what barbers I like, and similarly what priests I like. In reply, I would say, "My friend, you are very much mistaken." A similar case was discussed very lately, and went up to the House of Lords. There used to be a hotel in London, on the Embankment, which was called the "Kaiser" Hotel. When the war broke out, the Government took possession of the hotel and converted it into a convalescent home for officers. Ultimately, the owners of the building made a claim for compensation which the Government were inclined not to grant. The Government stated that they had sovereign rights, and under their rights they had taken possession and would give them nothing. Thereupon this matter was taken to the House of Lords, and it was there decided, as the House will see on a reference to Law Reports, 1920, page 508. It is a very elaborate judgment in which the doctrine propounded by the Lords was to the effect that even a Sovereign acting under a Statute cannot take away private property and decline to give compensation. Such action would ultimately lead to anarchy, and these fundamental rights are necessary in the interests of society itself. In this Bill, Sir, we see such rights treated quite lightly, and no reference is made to them in the Bill at all. They are ignored completely, and

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yet this Bill is sought to be carried through this House. If this judgment which I have referred to was more widely known, that the King even could not take away property without compensation, it will be admitted that such legislation was *ultra vires*. You no doubt have got the power, but it would be unwise to exercise it in a case of this nature, as it would only lead to disobedience, anarchy and the violation of fundamental rights on which society is based. In the first place I would say that this Bill is defective, in so far as it pretends not to deal with vested rights, while it actually seeks to take away such vested rights. In the second place, it is defective in its nomenclature, and defective all through, because it is based on misconceptions. In the next place, there was a committee appointed to consider this Bill, and their opinion was not unanimous. It is significant to find that two of the Members dissented, and they put forward this matter of compensation, but it does not appear to have attracted much attention at the time. One of them said that no such situation existed in his part of the country; that there was no trouble; and inquired why they wanted this piece of legislation, and thus create quarrels and set one community against the other, which is about the worst thing that could happen. I therefore contend that there is no use in setting a bad precedent in this manner and pressing this Resolution.

The dissenting Minute shows that Dr. Gour was one of the dissentients, though he has not signed the Minute, so that I cannot cite him as an authority. Anyhow there are two people who signed the Minute and who dissented from the report of the majority of the Committee.

Then arises the question of opinions, and my Honourable friend opposite explained that there was a majority of opinions in favour of this Bill. I accordingly analysed it this morning and found that Calcutta and Bengal say that as the custom was not prevalent in their provinces, they had no opinion to give. Punjab, the United Provinces, Bihar and Orissa, Assam and the North-West Frontier Province say the same thing. Then comes Bombay, which I have analysed rather more, because Bombay and the Central Provinces are centres of attack, and the Bill is to be made applicable, in the first instance to Bombay and the Central Provinces, but is not applicable to other provinces, which, if they think fit, can get it introduced into their provinces with the concurrence of their Legislative Councils. I ask why is the Central Provinces punished; what offence have they committed that, while other provinces can get their Legislative Councils and local bodies to look into it, the Legislative Council of the Central Provinces have no voice in the matter. This is rather a peculiar situation. In Bombay 22 gentlemen were consulted, and of these 7 are for the Bill, 12 are against it, and 2 are partly in favour and partly not. They do not seem to quite know their minds. One gentleman says that he wishes to remain neutral, and does not want to take part in the controversy at all. If votes were taken we should carry the day. The Bar Association in my province is against it. There were 9 people consulted. Seven were found against it and two in favour; so out of 9, seven are

in my favour. The House will therefore see that there is by no means a majority in favour of the Bill, and that the other provinces do not care to take any interest in it. To say, therefore, that the majority is in favour of the Bill seems to me (to put it mildly) rather an exaggerated claim to make.

Therefore, the legal aspect of it is that it is defective because it does not provide for vested interests. The terminology is bad and the object of it is harmful and based upon misconception.

My friend went on to say that this Bill is very inoffensive, that it will lead to no trouble at all, and that all it wanted was that priests need not be paid for services which they had not rendered. This is very specious when it is put in that way, but when you remember that these priests are the donees of Government and the holders of *watans* the proposition takes on a very different character altogether. In my province, at any rate, it will introduce a quarrel where none exists at present. In my constituency there are hardly more than three or four Brahmins and the rest of them are non-Brahmins. Yet they all voted for me, notwithstanding the fact that the non-co-operators went to their houses and asked them not to vote. Therefore, that feeling is not existent there, at any rate. But this will introduce a quarrel where no quarrel exists, and it is the thin end of the wedge in disestablishing all religions that exist in India. The people might say "these Brahmins are no good at all; these fellows do not understand to read or write, turn them out of their *jagirs* and everything else" just as the monks were turned out of their monasteries in England at the time of the Reformation without any compensation. Well, I think we have progressed now and that cannot be done, and that kind of wholesale confiscation could not be permitted in the present state of India. When there is already a great deal of difference of opinion and quarrelling going on and when we have different communities working in different ways and of different habits, I do not think it would be wise to throw a further bone of contention amongst them, divide them still further and make it still worse. That is from the point of view of expediency.

Then, my friend dwelt upon the anti-Brahmin feeling. I do not want to dwell upon that because that anti-Brahmin feeling is very much like the quarrel related in Aesop's Fables between the different members of the body, where the hand said "I do not want to work while the stomach does nothing," the foot said "I carry the man while the stomach does nothing." Ultimately they decided that the stomach should get nothing. The consequence was that the body began to die and they then realised that the stomach did nothing but distribute food; it carried nourishment to every limb and was, therefore, a very essential part of the body. So these poor Brahmins may be hated, these priests may be hated, but they perform a very great function. Under the British Government there is a Meteorological Department and in every place there is an instrument set up with a clerk to watch it and see in what way the wind blows, what its strength is and when the monsoon is to be expected. In the villages these Brahmins are the meteorological officers of Government and they make their own almanacs, cast their own horoscopes and so forth. I assisted at a ceremony a few days before coming here. They selected a hill, the highest you could get near the village and set up a flag there

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and watched in what direction the flag was flapping. If it was to the south it meant good rain, if it was to the north-east, it meant bad rain. They watched the flag and they predicted results. They do not write meteorological reports, and meteorological reports, if it is not disrespectful to say so, are not very reliable. I remember reading one which said "rain will be either excessive or it may be deficient or it may be normal." Well, I say where is the difficulty of making a prophecy of that kind? If you give me Rs. 1,000 I shall always write out this prophecy for you. Well the poor old Brahmin does not write out reports in that way. He says "Saturn is in this quarter, Jupiter is in that quarter" and he makes predictions on which the whole village depends and acts. These are meteorological officers and to them these grants were given that knowledge of astrology may be maintained and astronomy may be studied, and that object has been served.

Then, the Honourable the Mover says it is not a question of religion. By this statement I think he cuts the ground from under his feet. If it is not a question of religion, then it is a local question and it is better to decide it in the local Council. It has come here purely because it is regarded as a religious question, and under the Government of India Act religious questions have to come here and be decided by the Central Legislature. Otherwise, I am very willing that the matter should go to the Bombay Legislative Council and to the Central Provinces Legislative Council, and if a majority of people favour it I shall be very glad to know it. They say it is not a religious question and yet they claim it to be a religious question and bring it here to the Central Legislature. These are contradictory grounds and are difficult to understand.

Then the Honourable Mover says civilisation is going on and adjustment should be made. I say, "Yes, make adjustment," but adjustment is not made by killing one of the parties. You have got to give something to him if adjustment is to be made, and, if these people are to be turned out, they must get something else. You may call this an adjustment, but it is not. Adjustment means that both of the contending parties should get something out of it as a solatium and thus to restore peace. This is not the way to do it.

Then the Honourable Member speaks about the general feeling in the Deccan. I do not know the sources of his information he has, but you have these opinions which have been collected, and, if you take these opinions and analyse them, you will find in the Punjab a very able lawyer maintaining that this is a good right and ought to be allowed. I have come across that opinion in the Punjab. I have come across Muhammadan opinion, of Parsi opinion too. Many people who have nothing to do with Hinduism have given opinions to the effect that this Bill was unnecessary and therefore not permissible. I could read these opinions, but I do not think it necessary to do so. They are in print and every Honourable Member has got them. This is not a question on which there is such a great majority as the Honourable Member has claimed.

Then as to the last proposition put forth. I have not the advantage which my Honourable friend has, because, though he is a Brahmin, he says the matter must be looked at impartially. Unfortunately, I am a Brahmin, though not a priest, and I have inherited the civilization which encourages all these things, and, therefore, I claim to know more about

them. I think it would be about the greatest evil if this Bill is allowed to pass, because then quarrels will invade peaceful places, there will be any amount of trouble, and Government will be sorry for having permitted the measure to be brought in.

The HONOURABLE MIAN SIR MUHAMMAD SHAFI (Education Member) : Sir, the position of the Government in so far as the Bill now before the House is concerned can be summed up in a few words. The Government have no objection to the Bill in the form in which it has come up to us from the Legislative Assembly being adopted by this House, should the House so desire.

Now, let us for a moment examine exactly what the nature of the Bill before the House is. The essence of this measure is to be found in clause 3. What that clause proposes to do is this :

“ No suit shall lie in any Court of law for the recovery of any ceremonial emoluments from any person by or on behalf of an hereditary Hindu priest unless such priest has, at the request or with the consent of such person, performed or assisted in the performance of the ceremony in respect of which the emoluments are claimed.”

Now, Honourable Members will notice that the clause in so far as its language is concerned, does not seek to put an end to any custom, if such a custom does actually exist, in any part of the territories with which we are concerned and is recognised by the people living in those territories. This Bill does not seek to extinguish or put an end to any such custom. What the Bill does lay down is this. No suit shall lie in a Court of law at the instance of or by an hereditary priest for the recovery of any ceremonial emoluments unless that priest has actually performed those ceremonies or has assisted in the performance of those ceremonies.

In other words, where the priest has actually presided over some ceremonies or assisted in the performance of those ceremonies with the consent of the parties concerned, he may go into a Civil Court and institute a suit for the recovery of his emoluments ; but not having performed those ceremonies nor assisted in the performance of those ceremonies, such a priest cannot come before the Court to recover remuneration for something which he has not done, or in the performance of which he has rendered no assistance. In other words, if the ceremonies have been performed at the request and with the consent of the parties concerned, then only can he go to Court to recover remuneration for his services, not otherwise.

I should have thought that the provision embodied in clause 3 being based obviously on principles of equity, justice and good conscience, being broad-based also on principles of liberty and freedom, would be readily agreed to and accepted by an enlightened gentleman like my Honourable friend, Mr. Khaparde. It must be remembered that I am now giving expression only to my individual views. I have already said that so far as the Government is concerned, they leave it to this House to enact this measure into law or not. As I was saying, I should have thought that this being the case, my Honourable friend Mr. Khaparde would have readily agreed to the principle embodied in clause 3. I for one can find no explanation whatever for his opposition except that he himself is a Brahmin, and I understand that this is a Brahminical institution. I can well imagine a priest having a vested interest in property attached to a

[Mian Sir Muhammad Shafi.]

temple of which he may be the hereditary manager. I can also understand a priest having a vested interest in the offerings which may be made by the devotees of the temple of which he is the manager. Further, I can well understand his having the right to preside over the ceremonies, religious ceremonies, which are performed in that temple—that is to say, the temple of which he is manager. But I can find no ground whatever to support this right, this customary right (for after all, the Honourable Mr. Khaparde himself does not place it any higher than that)—the customary right for which, so far as I am aware, there is no religious sanction in Hindu law. I say I can find no justification whatever for a priest demanding remuneration for services which he has not rendered, which somebody else has rendered, and which his client did not want him to render. My Honourable friend said that all religion would be destroyed in this country if such a law as this were passed. I for one entirely fail to see how the passing of this law will result in the destruction of either the Hindu or any other religion. It may destroy monopoly, a customary monopoly not based on any principle of justice or good conscience, but it can in no way whatever result in the destruction of any of our religions in this country. These are in a very few words my own personal views with regard to the measure now before the House. So far as the Government is concerned, they are entirely neutral in this matter.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras : Non-Muhammadan): Sir, in this modern democratic age, the age of liberty and justice, religion has been in most cases the choice of the individual, an affair of the heart and a concern for the welfare of the soul which does not allow of dictation from outside. All the religious ceremonies should therefore be determined by the party performing the ceremony—all the details of the ceremony, the kind of priest to officiate, the form, Brahmin or non-Brahmin, to be observed, and the amount of the fees or charity on the occasion, should depend wholly on the free choice of the individual. In the present state of Indian society, there have been a number of deviations from the old world routine. In the grading of society, in the respect given to various ranks by other ranks, in the qualifications and functions of the different grades, great changes have come. These changes have resulted in a desire, on the part of certain sections of society, to throw off the old yokes where they are most irksome.

(At this stage the Honourable Sir Maneckji Dadabhoy took the Chair.)

I welcome this Bill, Sir, and give my whole-hearted support ; it gives every Hindu in India freedom in matters of religion. In Bombay and in the Central Provinces, one can see from a study of the cases in the Courts, that among the non-Brahmins, there is no desire to utilise the services of Brahmin hereditary priests. Possibly they have their own objections to that class of priests. They desire to get rid of a system which forces on them a priest not of their own choice. It is but right that the law should permit the non-Brahmin freedom in the choice of his priest, whether Brahmin or non-Brahmin, the form of ceremony and the fees or charity to be given to him. Such rights are most essential and it is a pity that a class of people should have had to suffer so long, and it is a greater

pity that they should continue to suffer now by legal force. It is therefore high time, Sir, to remedy this state of things. Sir, it is gratifying to note that this Bill is moved by the Honourable Mr. Kale, who is a Brahmin himself, and a Brahmin from the Province of Bombay. It shows how just is the cause of the non-Brahmins.

It is a happy augury for it proves that the better sense of both the communities is in favour of the Bill and is a sign of the harmony in which the two communities will work after the Bill is passed. Sir, much has been said by my friends, the Honourable Mr. Kale and the Honourable Mr. Ayyangar about the vested interests of the Brahmin priests. They have told us that the Brahmins' vested rights on which they depend for their livelihood and on which they counted when they prepared themselves, their sons and their grandsons for the work of priests, should not be interfered with. But this vested right of a small class of people slowly changing for new walks of life should not stand against the primary right of freedom of religion for the majority of the Hindu population. Again, Sir, the Honourable Mr. Khaparde has told us that this is a piece of class legislation and it would tend to alienate class from class and set them against each other. But, I submit, in truth that it is to avoid a class war, a war by the priest with his hereditary monopoly on the modern victims of an old world custom that this Bill is now brought in

The HONOURABLE MR. LALUBHAI SAMALDAS : Who started the war ?

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR : It may be the non-Brahmins, why ? because they did not like such sorts of priests. Sir, this Bill will not, if passed, I submit, create a class war, but would pave the way for amity and concord between the several classes of the society.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, let me premise by saying that I am a Brahmin ; but mine is I believe the only community that cannot be priests nor can it receive any alms or *dakshina*. I am therefore indifferent personally as regards myself or as regards my community whether this Bill is passed or not. Coming to the general constitutional question raised by my Honourable friend, Mr. Khaparde, I also do not understand why the Mover of the Bill has not adopted the straight course of taking it in the Local Council. In the Local Council people know what the actual state of affairs is. There they would have been able, if they had a right, to get the support of the local people and they could have carried this Bill. Perhaps it is the fear that they would not be able to carry it through in the Local Council that has induced my friend to bring it up here. But what I object to in the procedure is that it is taking away the rights of the Bombay Legislature. It practically takes away the right both of the local Legislature of Bombay and that of the Legislature in the Central Provinces, while the Bill allows that right in the case of the other local Legislatures. That is the first reason for my opposition to the Bill.

The Honourable Mr. Kale referred to the village organisation. I am not as capable a student as he is, but I have somewhat studied the question of village economy and village organisation. I would like to take the Council to the original times when there was no organisation and it was necessary

[Mr. Lalubhai Samaldas.]

for the rulers of those times to establish villages and to start village communities. I am now talking of my part of the country, Gujarat, to which this Bill does not apply. But, I believe, the village organisation system is the same in the Deccan as it is there. Whenever a village is established or started or whenever people congregate together, they want certain services, such as Takurdwara, that is the place of worship and a Brahmin to perform their religious ceremonies, and other services such as those of artisans, barbers, and others whom my Honourable friend referred to. These people were brought from outside the village and given assurances that they would get those perquisites either in the form of Vatana or in the form of certain cesses from the village community. They came and established themselves there and they performed these duties for years together. The village community, my Honourable friend, Mr. Kale, says is disorganised. But I think on the whole the village organisation should be revived and not destroyed. My friend, Mr. Khaparde suggested that adjustment does not mean killing. I say adjustment does not mean further disorganisation. If my Honourable friend, Mr. Kale's Resolution wants that the village community should be reorganised, wherever it is disorganised, then it is up to him to suggest methods of organisation and not of further disorganisation: Sir, much has been said about the feeling between the Brahmin and the non-Brahmin. It is a sad thing, Sir. It was unfortunately started in my Province, not in British India, but in an Indian State, because a priest would not perform a Vedic ceremony. In the chief it was then that this movement was started. It has spread to all parts of my presidency, all over the Madras presidency and Mysore also. As a Brahmin, I regret it as much as any non-Brahmin would do. There ought to be as much harmony as possible between these communities if India is to progress in peace and happiness. But if this sort of feeling between the Brahmins and the non-Brahmins is to continue or is to be increased by this Bill, I would ask my Honourable friend, Mr. Kale, to withdraw it.

(At this stage the Honourable the President resumed his seat.)

My friend, Mr. Chettiyar, said that it will bring more harmony. If

1 P.M.

I had believed it—if I could honestly believe that this Bill will lead to more harmony in the villages, I would surely support it. I moreover believe that it will, on the contrary, lead to a breach of the peace, and it is because of that that I want to oppose it. I recognise that from the point of view of individual liberty the Bill may be fully justified, but we are talking not of individual liberty but of village communities, and the village community is an organization that ought to be continued and ought not to be destroyed. This Bill will further disorganize village communities, and on that ground I oppose it.

The HONOURABLE SIR LESLIE MILLER (Madras : Nominated Non-Official): Sir, I will not detain the House long. I am not a Brahmin but I agree with the Honourable Mr. Khaparde that this House should not take this Bill into consideration as it stands. I should not have spoken, but that I entertain some apprehension as to the effect of some of the words spoken by the Leader of the House. He seemed to me to be rather lightly inclined to accept the principle that you can sweep away a customary monopoly without making compensation to the holder. Now,

I believe it is the position of the mover, that at least is how I understood him, that the right of the Vatan priest to collect fees and emoluments for certain ceremonies, whether he has performed them or not, provided they are performed within the locality to which his monopoly extends, is a legal right recognised by the law in places in which these *vathans* are found ; and if that is so, then it seems quite clear to me that this measure is a measure of confiscation as it stands. It may be that there are monopolies which are so vicious, so demoralizing, and so economically unsound that legislation may be justified for sweeping them away without compensation. I venture to think that this ancient monopoly so to call it is not one of these. It is, I understand, found, in the places where it is met with, for a long time past. It is a privilege attached to one of those who may be called the village servants. It may be—and I have nothing to say against it—that any one who desires to employ the services of someone other than the person, whom I may call the village priest, has a perfect right to do so. But while the priest's monopoly exists, and while the law enforces it, he must pay the customary fee to the person who is entitled to demand it. Now, this Bill says that they shall not be required to do that ; that the law shall not enforce a demand of that kind. It seems to me clear that in those circumstances the Bill is a measure of confiscation, and I venture to think that the House will not take it into consideration as it stands, without a provision for some sort of compensation to those persons who are losers by it.

THE HONOURABLE MAHAMAHOPADHYAYA DR. GANGA NATH JHA (United Provinces : Nominated Official) : There are two points in connection with this dispute that need consideration ; *viz.*, that this right has existed for a long time, which is indisputable. There were two parties to this understanding that certain duties had to be performed, and certain dues had to be paid. Under the circumstances if a penalty is to be inflicted, it should be inflicted on the party who is not prepared to carry out its own part of the undertaking. Capital has been made of the proviso, and it has been said that if the man has not performed the ceremonies, he is not entitled to his dues. What this proviso means is that if a man refuses to have the priest, the priest will not be paid. I could have understood this if the priest refused to perform a ceremony, but it is the other party who does not want the priest to perform the ceremony. Under these conditions is it the priest that is to be penalised ?

The other point to be considered in this regard is that this right of the hereditary priest in the Bombay Presidency seems to stand on a different footing. It does not stand on the same footing as the rights of the village barber or other artisans, as is quite clear from the fact that these rights have been enforced by the highest Court of law in the Presidency. Under the circumstances, Sir, it seems somewhat out of the way to ask this House, consisting of 60 members, and of whom barely half a dozen know anything of these rights, or the effect of the present custom upon the people, to pronounce judgment on this question. Most of us don't know really in what way these rights are being exercised ; how far they are unpopular ; how far they are resented. We have got contradictory opinions from the two members from Bombay and the Central Provinces, and under those circumstances it does not seem to me

[Dr. Ganga Nath Jha.]

fair to ask us to deprive people of rights which they have enjoyed for generations, and which have been enforced by the highest Court of law. The Honourable Mover asked us, "Are we to invade the liberty of the individual?" In the same way I would ask him, "Are we to invade the rights which have been granted for generations and have been enforced by the highest Court of law?"

The HONOURABLE MAJOR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : Sir, as a Muhammadan I ought not perhaps to speak on a Hindu Bill ; I had therefore no intention to participate in the debate, but I would say that what has been styled here the hereditary rights seems to me not quite clear. I do not understand how they could be hereditary rights as the property and other emoluments were originally given for the performance of certain religious services. The land was not given to these people with hereditary rights for not performing their religious services. The land was granted to them on the condition that they would perform some sort of religious service. If the priests do not perform the service, the purpose for which the land was given to them does not exist, and I do not see how this constitutes the confiscation of property. (*A voice* : They don't refuse to perform). Some of them may not refuse. I don't know about Hindu Brahmans, but among the Muhammadans there are certain Mullahs and Peers who refuse to perform their duties and look upon the property as hereditary one in spite of doing no religious service to the community. I think therefore that I can support the proposer of this motion in his attempt to secure individual liberty. In the Muhammadan religion there is the Wakf property, which is a religious endowment, and according to the Muhammadan religion, it is quite permissible that if a priest does not perform his religious duties, the property can be taken away, and he is given only a livelihood. I support the Resolution strongly. I don't know what is the Hindu law about it, but according to us, Muhammadans, the property can be taken back from the priest if he refuses to perform his religious duties.

The HONOURABLE SIR BENODE CHANDRA MITTER (West Bengal : Non-Muhammadan) : Sir, I rise to support this Resolution. Sir, I support it on the short ground that every one should have the utmost liberty of choosing his own preceptor in religious matters. Sir, I think that a fee which is paid by the disciple to the priest or preceptor is a voluntary contribution. It ought merely to be a question of conscience between the disciple and the priest, and it is a matter worthy of consideration that this custom which is said to obtain in Bombay does not obtain in any other province in India. The other High Courts have not recognised this custom. In the Madras Presidency which one may say is the great seat of Brahminical learning the High Court has characterized this custom as being against public policy. Sir, I venture to think that all services should be voluntary ; there should be no compulsion upon a person to employ any other person. Sir, in matters spiritual this is of even more importance, because spiritual slavery is very often one of the worst forms of slavery. (Hear, hear.) I will give you an illustration. Supposing it is the custom in a particular village that a particular family should

serve as servants another family. Supposing that custom had gone on for centuries past, are we here to sanction such a custom. (*A voice* : "Yes.") My Honourable friend says "yes." I emphatically say "no," because such a custom recognises in effect the validity of slavery. It is of the utmost importance that individual liberty of action should be given in every sphere of life so long as that liberty is not subversive of the well-being of the community at large, and I ask again what form of slavery is more tyrannical than the form of spiritual slavery? What form of undue influence is more subtle, is more cruel, is more difficult to withstand than the influence that the priest often exercises over his disciple?

Sir, then it has been said that the demand for this Bill has not come from the majority of the people concerned. Is that a sufficient argument? May I remind this House that the demand for the reforms in the Legislatures did not come from the masses who are vitally concerned. Are not the persons who lead the masses the right persons to inaugurate reforms? Almost every reform in its initiation has been stoutly opposed by those who were most vitally concerned.

Then, Sir, there seems to be a misunderstanding in this matter. Some of my Honourable Colleagues seem to think that there is a grant of land to the priesthood and that the land has been taken away. There is no question that any land has been granted by the ruling powers at any time and that that land is being sought to be taken away, and, therefore, compensation must be given. It is a question whether this Council is to recognise the right of the priest to this monopoly. Whether he is a good man or a bad man; whether he is a religious man or an irreligious man; whether he is a drunkard or not; he has got to be retained by his disciple, and, if the disciple should be bold enough to say "no, I have no faith in your instructions, I believe you are a bad man," the law will continue to tell him "You must pay adequate compensation before you can get your proper religious instruction." Supposing a man is poor, and unable to pay adequate compensation is he to be deprived of his religious instruction simply because, in the name of vested right, an appeal is made to this enlightened Council that the Bill is a confiscation Bill. What is this vested right? When and how did the right come into existence? The vested right analysed is this that, whether the disciple wishes to retain the priest or not in his service, he must retain him. Is this a right which this Council is going to recognise as being a custom that is consistent with morality? The Madras High Court has said it is opposed to public policy. The fact that none of the other High Courts have found the existence of such a custom is a significant fact.

Then, we are told that it is a Statute of confiscation and that, as a matter of fact, compensation must be given. On what scale, on what basis? Is it to be paid by the individual or out of the national revenue? We have not heard a word about it. Well, if that matter is discussed later on, we shall form our judgment, but we have not heard yet upon what basis compensation is to be assessed.

Then, Sir, it has been said that the rights of the individual have also got to be taken into consideration, namely, the rights of the priest. That puts the question merely in another form. What is the right, I ask?

[Sir Benode Chandra Mitter.]

The right is simply this that the priest shall go and officiate at the ceremonies of the disciple whether he wants him or not. And how are you going to assess that compensation ? Nothing practical has yet been suggested.

Sir, then it has been asked why not go to the Bombay Council ? Now, in the first place, we find that the Bill has already been passed by the Assembly. In the next place I say there may be a question as to whether the Bombay Legislature will have ample jurisdiction over the matter. It has been suggested—I have not looked at the Act—but it has been suggested that it is a question which has some sort of connection with religious matters. Well, I do not desire to express any opinion without studying the section as to whether the Bombay Legislature would or would not have jurisdiction ; but in any event the matter has come before us. The matter has not come before us in the first instance at all. It has already been through another place and it has now come to us. We certainly have jurisdiction—why defer the introduction of this reform indefinitely.

Sir, with these remarks I submit that this is a very beneficent piece of legislation. It secures to the individual the right of choosing his own preceptor, a right which certainly this Council ought not to deny.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I quite agree with my Honourable friend, Mr. Lalubhai Samaldas, that this is a local question which should have been discussed in the Bombay Legislature. But anyhow the Legislative Assembly has considered this Bill and has passed it, and now it has come to us for consideration.

The Bill, so far as I understand it, is based on the general principle of justice and fairness. As I am not aware of the rights of Brahmin priests in Bombay, in the Central Provinces or in Madras, I am not going to say anything about them. They may have these rights or not, but so far as my knowledge goes, this is the practice all over the country, that wherever in a village any Brahmin or any other class of people render any services to the Zamindar or to the village community, they are given either some land or paid in cash. In the United Provinces also, I find the same custom in vogue. The Brahmins and high class people are called Dohildars while other people are called Bhondedars who are supposed to do some service to the Zamindars or to the community ; but when they don't do any service they may either have rents fixed on their lands, or they may be ejected. Such cases have been brought to the notice of the High Court of the United Provinces, and it has been ruled that where a Brahmin, or a Non-Brahmin has refused or does not do any service to the Zamindars or to the people of the village, the Zamindars have a right either to eject them or to have some rent fixed on their lands through the Revenue Courts. This is the principle on which this Bill seems to be based, and therefore I give my support to the motion that the Bill be taken into consideration, and I think if this Bill is passed it will be found to be appreciated by the Zamindars and the village communities because they will then be able either to get service from these men or get rid of them. With these words I support the Bill.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I move that the question be now put.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muham-madan) : Sir, it has been well said that in the West religion exists for man, and in the East man exists for religion. Nowhere in the world perhaps does feeling run so high as regards matters of religion as in this country. Here is a Bill of which we have notice which when I saw it I thought was so innocent looking that I was sure it only required to be introduced and would be readily accepted by the House. Instead, we have had several speakers advancing different views. So many differing views have been placed before the Council, including those of my Honourable friend, Sir Leslie Miller, that I am sure those of us who do not understand the question would like to know somewhat more of it. I feel sure the House will like to take into consideration the views advanced particularly by both the Honourable Sir Leslie Miller and the Honourable Mr. Knaparde, which they can only do if they are given more time. I therefore move that the consideration of this Bill be postponed till next Session. It will only mean a delay of six weeks, if a Session is to be held in November. I am sure if that is done those of us who are in disagreement with the Bill may come here with amendments which might prove acceptable to the whole House.

The HONOURABLE THE PRESIDENT : To the motion under consideration an amendment has been moved by the Honourable Mr. Sethna that the further consideration of this Bill be adjourned till the next meeting of Council at Delhi. That amendment is now before the House.

The HONOURABLE SIR MANECKJI DADABHOY : My Honourable friend, Mr. Sethna, has moved his amendment on the ground that many of us are not conversant with the details of this Bill and the propriety of the Bill, and therefore it would be advantageous to appoint a Select Committee.

The HONOURABLE THE PRESIDENT : That of course is not possible. The Honourable Member will see that the Bill has already been to Select Committee in the other Chamber, and once it has been to a Select Committee, it cannot be referred to a Select Committee again. I refer the Honourable Member to Rule 29.

The HONOURABLE SIR MANECKJI DADABHOY : I am entitled to speak on the original motion.

The HONOURABLE THE PRESIDENT : The Honourable Member is not entitled to speak on the original motion. The only question before the House is the Honourable Mr. Sethna's amendment that the further consideration of this Bill be postponed till the next meeting of Council when Honourable Members meet again in Delhi.

The HONOURABLE MR. PHIROZE SETHNA : Yes, Sir.

The HONOURABLE SIR MANECKJI DADABHOY : Am I to understand that the further discussion of this Bill will be taken up at Delhi ?

The HONOURABLE THE PRESIDENT : The Honourable Member is to understand that there is an amendment now before the House proposing that the present discussion stands adjourned. If that is carried, the present discussion will stand adjourned till the Delhi Session. If it is

[The Honourable the President.]

not carried, then we come back to the original motion on which the Honourable Member will then have an opportunity of speaking.

THE HONOURABLE SIR MANECKJI DADABHOY : I submit, Sir, that it will serve no useful purpose to postpone further consideration of this Bill. I think the matter has been fully discussed, and it should be disposed of one way or the other. I personally think that a Bill of this nature ought not to have been moved in this Council, ought not to have been brought up either before the Legislative Assembly or the Council of State. My Honourable friend, Sir Benode Mitter, has said.....

THE HONOURABLE THE PRESIDENT : The sole matter before the Council, I may explain again, is the motion for postponement of the present discussion. The Honourable Member must confine his remarks to that.

THE HONOURABLE SIR MANECKJI DADABHOY : Then I have nothing further to say on that point.

THE HONOURABLE MR. C. M. BAKER (Bombay : Nominated Official) : Sir, I support the amendment. I am not very much impressed by other arguments against the Bill, but the argument as to compensation is a serious one, and the question of how compensation is to be arranged is a very difficult question indeed, on which we cannot possibly form any opinion on to-day. It may very likely end in a request to the long-suffering Bombay Government to pay the compensation out of the land revenue. They already spend about a crore on that sort of compensation, and I do not think this House can possibly form any decision on this subject without at least consulting the Bombay Government.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, when my Honourable friend, Mr. Sethna moved this amendment I noticed he said that the postponement of this discussion would be for a few weeks only. I think I am right in saying, Sir, that there has been no decision as to a meeting of this Council in November or at any other date.

THE HONOURABLE THE PRESIDENT : The Honourable Member is perfectly correct.

THE HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY (West Bengal : Non-Muhammadian) : I support the motion for postponement.

THE HONOURABLE THE PRESIDENT : To the original motion an amendment has been moved by the Honourable Mr. Sethna that the further consideration of this Bill be postponed till the Council meeting in the cold weather.

The motion was adopted.

THE HONOURABLE THE PRESIDENT : That disposes of the motion under consideration and also of the Honourable Mr. Kale's next motion* on the paper.

* That the Bill as passed by the Legislative Assembly be passed.

RESOLUTION *RE* AMENDMENTS IN ELECTORAL RULES.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move the following Resolution :

“ This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the electoral rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers.”

As Honourable Members will remember, the Joint Parliamentary Committee on the Government of India Bill recommended that the franchise as settled by the rules should not be altered for ten years. The Committee, however, proposed by this Resolution is not to be concerned with questions relating to the franchise, but rather with the electoral machinery set up by the rules. The existing rules were drawn up after the passing of the Government of India Act, 1919—that is, after December 1919 ; and those rules had to be passed by Parliament and passed in time to enable the elections to be held in November 1920. It will therefore be realised that the time available for drafting them was strictly limited. I think, Sir, that those of us who were concerned with the drafting of those rules may congratulate ourselves on the fact that on the whole they have stood very well the test of the first elections. Nevertheless, as we anticipated, experience has disclosed certain defects and deficiencies, and it is desirable that these should be removed.

It is also desirable that a decision should be arrived at, as early as possible, as to the precise amendments that are required. The amendments must be laid before Parliament, and also, it must be remembered, some of the defects disclosed are in the Regulations made under the Rules, and obviously the amendment of the rules must precede the amendment of the regulations. Then, of course, time must be allowed also for the preparation of the electoral rolls, which must be in accordance with the amended rules. For these reasons, it is very desirable that an early decision should be arrived at as to any amendments that may be required. Local Governments have already been consulted in the matter and their opinions have been examined by my friend the Honourable Mr. Hammond, who has an unrivalled knowledge of this subject. At the same time, Government are anxious to have the opinion also of the elected Members of the Legislature. Members of the Legislature are directly interested in this matter and they have to look to personal experience of the elections. It is therefore proposed that a Committee should be appointed to examine the amendments needed, and that this Committee should include Members of this Council and of the Legislative Assembly. It will also include the Honourable Mr. Hammond, and an officer of the Home Department, and perhaps an officer of the Legislative Department. I hope the Council will see its way to accept the Resolution.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, I heartily support this Resolution, and I think it has been

[Sir Maneckji Dadabhoy.]

moved in this Council none too soon. It is a very important matter, and in view of the forthcoming elections next year, it should be taken in hand at once. I would also suggest that this Committee when examining the present rules should also give their attention to the several election petition reports. We have had several petitions made during the last 18 months contesting the various elections, and some of the pronouncements of the committees are essentially important. Many irregularities have been brought to light, and I think the Committee will do well therefore to give their very best attention to the reports of committees which were appointed to decide election disputes. I, therefore, support this Resolution.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, I heartily support this Resolution, because I find from experience that a lot of changes are required to be made in the election rules. For instance, in the last election we found that the polling stations were not as many as there ought to have been. The second point is that the voters do not receive any notice that there names are registered and do not know what they have to do. There are many such things that require consideration, and I therefore strongly support this motion that a Committee should be appointed to consider all the rules and suggest changes in them.

The HONOURABLE MR. PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, I would also like to support this Resolution. I hope the Committee will give some attention to one particular question, namely, the question of residential qualification. I am sure the provinces at whose instance this rule was introduced will be the first now to get that rule altered, which, if done, the Legislative Councils of those Provinces will be greatly strengthened as compared with what they are to-day.

The HONOURABLE SIR AHMEDTHAMBY MARICAIR (Madras : Muhammadan) : Sir, I also support the Resolution, because I have my own experience in the last election. It is the custom for a number of undeserving candidates to oppose the deserving candidates. I suppose the Committee appointed will make such a rule as to prevent such undesirable people who are unnecessarily opposing and causing unnecessary expenditure in the election from standing. After all, I know many instances in which a candidate stood for 4 or 5 constituencies for nothing at all but simply with a view to—I do not want to express it here. I will explain it to the Committee. I hope the Committee will rectify all these defects in the near future. I support the Resolution.

The HONOURABLE THE PRESIDENT : The question is :

“ This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee to examine and report to him on the amendments which are desirable in the electoral rules relating to the Council of State, the Legislative Assembly and the Provincial Legislative Councils apart from questions affecting the franchise and the constituencies of the various Chambers.”

The motion was adopted.

PANELS FOR ADVISORY STANDING COMMITTEES.

The HONOURABLE MR. S. P. O'DONNELL (Home Secretary) : Sir, I beg to move :

“ That this Council do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August, 1922,

a panel of four members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated :

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and

‘ a panel of four members from which the members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated ’.”

As the Council is doubtless aware, in January last a Resolution was passed by the Assembly recommending that Standing Committees be associated with the Departments of the Government of India, except the Army and Foreign and Political Departments. That recommendation has since been very carefully considered. It will be remembered that the Joint Committee of Parliament on the Government of India Bill recommended that the rules regarding the appointment, composition and rules governing the procedure of these Committees should be matters exclusively within the discretion of the Governor General. The decision of His Excellency the Governor General has been announced in the rules which were recently published and of which I think all Honourable Members have copies. The main features of these rules are that Committees are to be appointed to advise on certain subjects in the Home Department, the Department of Revenue and Agriculture, the Department of Commerce and Industry and the Department of Education and Health. Each Standing Committee is to consist of five members, of whom two are to be members of the Council of State and three members of the Legislative Assembly. The Members are nominated by the Member in Charge of the Department with the approval of His Excellency the Governor General from panels elected by the Chambers. The subjects to be laid before the Committee are indicated in the rules, and I do not think that I need recapitulate them. The motion I have brought forward is that the Council do proceed to elect these panels, and I hope that it will be accepted. It is recognised of course that Honourable Members who are willing to serve on the Committees, will have to give up a good deal of their time for this purpose, but it is hoped that members will be found who will be willing to serve on them and assist the Government with their advice.

THE HONOURABLE THE PRESIDENT : The question is :

“ That this Council do proceed to elect in the manner described in the Rules published in the Home Department Notification No. F-49, dated the 22nd August, 1922, a panel of four members from which the members of the Standing Committee to advise on subjects in the Home Department will be nominated :

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Departments of Commerce and Industries will be nominated ;

‘ a panel of six members from which the members of the Standing Committee to advise on subjects in the Department of Revenue and Agriculture will be nominated ; and

‘ a panel of four members from which the members of the Standing Committee to advise on subjects in the Department of Education and Health will be nominated ’.”

The motion was adopted.

NOMINATIONS FOR ELECTION TO PANELS.

The HONOURABLE THE PRESIDENT : I propose in connection with the motion which has just been passed by the Council to fix Monday as the last day on which nominations for election to these panels should be received. Honourable Members therefore will kindly send in to the Secretary before 11 A.M. on Monday any nominations which they wish to make. When those nominations are received and if it is necessary to hold an election, then the election will be held as the last piece of business on the agenda at the meeting on Wednesday, the 20th. Nominations must be in writing, legibly written and signed.

DISPOSAL OF FURTHER BUSINESS.

The HONOURABLE THE PRESIDENT : With reference to the remaining piece of business on our list to-day, I am informed by the Honourable Mr. Moncrieff Smith that it will be possible to give an early date, and thus avoid an afternoon sitting. I leave the matter with the Honourable Mr. Kale. If he prefers to go on, we will go on.

The HONOURABLE MR. V. G. KALE : I agree to the proposal provided the question is taken up at an early date.

The HONOURABLE THE PRESIDENT : Perhaps the Honourable Mr. Moncrieff Smith will say approximately when it will be possible to take up the matter.

The HONOURABLE MR. H. MONCRIEFF SMITH (Legislative Secretary) : I am almost certain, Sir, that time will be found for the Honourable Mr. Kale's motion on the 20th.

The HONOURABLE MR. V. G. KALE : Under those circumstances, I accept the suggestion of the Honourable the President.

The Council then adjourned till Eleven of the Clock on Monday, the 18th September, 1922.
