Friday,
20th March, 1903

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

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OF

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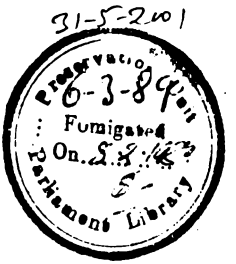

CALCUTTA
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1904

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 20th March, 1903.

PRESENT:

His Excellency Baron Curzon, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Mr. J. A. Bourdillon, C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. T. Raleigh, C.S.I.

The Hon'ble Sir E. FG. Law, K.C.M.G., C.S.I.

The Hon'ble Major-General Sir E. R. Elles, K.C.B.

The Hon'ble Mr. A. T. Arundel, C.S.I.

The Hon'ble Sir Denzil Ibbetson, K.C.S.I.

The Hon'ble Mr. Gopal Krishna Gokhale.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. L. P. Pugh.

The Hon'ble Sayyid Husain Bilgrami.

The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

The Hon'ble Sir M. C. Turner, Kt.

The Hon'ble Mr. G. C. Whitworth.

The Hon'ble Mr. R. F. Rampini.

The Hon'ble Mr. G. F. T. Power.

The Hon'ble Rai Sri Ram Bahadur.

The Hon'ble Mr. A. W. Cruickshank, C.S.I.

His Highness Raja Sir Surindar Bikram Prakash Bahadur, K.C.S.I., of Sirmur.

His Highness Agha Sir Sultan Muhammad Shah, Agha Khan, G.C.I.E.

The Hon'ble Mr. C. W. Bolton, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. BILGRAMI asked:—"Will the Government be pleased to state in what way the Superior Educational Service of the Government of

India is recruited in England:—whether applications are invited before nomination when vacancies occur in Indian Colleges, or whether nominations are made privately without a previous public invitation to apply; and what steps, if any, are taken to secure that none but University men of the highest ability shall be selected to fill chairs in Indian Colleges?"

The Hon'ble SIR DENZIL IBBETSON replied:—"Recruitment for the Indian Educational Service is entirely in the hands of His Majesty's Secretary of State for India, and the Government of India have no information as to the precise steps taken by him in exercising his discretion in the matter."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU asked:—

"I. Are the Government aware that specific allotments are made in some and not in all raiyatwari villages for pasturage, as appears from the printed Settlement Registers belonging thereto?"

"II. Are the Government supplied periodically with any statements, compiled specifically in view to show whether in the villages where such allotments have existed, they have remained intact or have been, within the past twenty years, enlarged or materially abridged, or absorbed into cultivated areas?

"III. If they are in possession of any such statements, will the Government be pleased to place them on the table?

"IV. If no such specific statements exist or are not ready for production, will the Government be pleased to direct them to be made available at a practicably early date and place the same on the table when made available?

"V. Will the Government be pleased to issue specific directions for yearly or periodical compilation of statements explanatory of such allotments?

"VI. If they see fit to issue such specific directions as are suggested in the next preceding question, will the Government be pleased to place them on the table at a date which to the Government may seem convenient after their issue?"

The Hon'ble SIR DENZIL IBBETSON replied:—"The Government of India have examined the Land Revenue laws and rules of the various raiyatwari provinces, and find that in all cases provision is made for the setting apart, where necessary, of land for the purposes of village pasture.

"They have no detailed information as to the action which has been taken under these provisions, nor are they supplied with statements such as are described in the questions. They do not propose to direct their preparation, which would in any case involve considerable labour. If the statements contemplated merely gave totals for each province, they would convey but little useful information; while details for each raiyatwari village in India would be so bulky as to be useless."

INDIAN WORKS OF DEFENCE BILL.

The Hon'ble MAJOR-GENERAL SIR EDMOND ELLES moved that the Report of the Select Committee on the Bill to provide for imposing restrictions upon land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions be taken into consideration.

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDMOND ELLES moved that the Bill, as amended, be passed. He said:—"With your Lordship's permission, I will make a statement with regard to the Bill.

"The necessity for some power to place restrictions upon the use and enjoyment of land in the vicinity of works of defence has been long ago recognized by most of the States of Europe. It stands to reason that the value of a defensive position cannot fail to be diminished, and may be entirely destroyed, if building and other operations, which result in affording cover to an attacking enemy, can be conducted without hindrance within a few feet of the parapet. Perhaps the most complete appreciation of the expediency of providing by law for satisfying the requirements of military defence with the minimum of hardship to individuals is to be found in the French legislation on the subject. By an enactment of the 10th July, 1791, the principle was accepted of drawing round fortresses and military positions three concentric 'zones' within the limits of which restrictions of varying degrees of stringency are imposed upon buildings and other obstructions and are enforced by extensive powers of demolition. The details of these arrangements were modified by subsidiary legislation, and eventually the whole question was treated in a most comprehensive manner by an imperial decree of the 10th August and the 23rd September, 1853. This decree formulates, with minute detail, the precise restrictions attaching within the limits of each zone and makes provision for compensation. At the same time, it is expressly declared that no compensation is to be awarded for any damage occasioned by an 'act of war.'

"In the United Kingdom, our long immunity from warfare within the realm had the result that, for many years, questions of internal defence did not engage much attention. When, however, public opinion was aroused by the Crimean War, a Royal Commission was appointed to inquire into the sufficiency of the defences of the realm; and one effect of its recommendations was the passing, substantially without discussion, of the Defence Act, 1860 (23 & 24 Vict., c. 112). By this enactment the Secretary of State was given very drastic powers. He was authorized to make a declaration that lands in the vicinity of works of defence should be kept free from buildings and other obstructions, and thereupon, at any time within a period of six months, he may issue notices to owners and occupiers. At any time after the expiration of fourteen days from the service of such notices, he is at liberty, by the demolition of buildings and the removal of trees and other obstructions and by the performance of similar acts of devastation, to reduce the land in the vicinity of the works to a condition which, in his opinion, is appropriate to defence. This liberty continues for the period of three years from the date of making the preliminary declaration, and then terminates except for the purpose of maintaining the land in the condition to which it has been reduced. The erection of all buildings and other structures, except wooden barns and hovels, is absolutely prohibited. In the meantime, if the owners and occupiers do not, within a period of fourteen days from the service of the notices, agree to the amount of compensation tendered, the matter is referred to a jury according to the procedure prescribed by the Defence Act, 1842 (5 & 6 Vict., c. 94), as amended. Where the claim for compensation does not exceed two hundred pounds, it may, on the application of either party, be summarily determined by two justices.

"The question of taking similar powers in this country has, during the last twenty years, repeatedly engaged the attention of the Government of India. It was sought, however, to avoid legislation by the expedient of entering, as occasion arose, into private agreements with owners and occupiers for the restraint more particularly, of building rights; but, in the event, it had to be recognized that the defensive value of a position cannot be left dependent upon the accident of isolated transactions to which owners and occupiers have often declined to become parties, and the binding effect of which as against transferees is exceedingly doubtful. In these circumstances, the present Bill was prepared by the Government of India and the guiding principle has been, so far as possible, to adapt to Indian conditions the results of the experience obtained from the legislation in France and England. The French model was followed, for example, by incorporating a minute statement of the restrictions capable of being imposed within three specific zones as recommended by the Defence Committee, in pre-

ference to the bare prohibition, contained in the English Statute, of all buildings and other structures with the exception of wooden barns and hovels. On the other hand, it was sought to shorten proceedings and to enable compensation to be paid with the least delay by restricting the period, during which all acts of demolition must be completed, from three years, as permitted by the Statute, to six months. The procedure relating to compensation was adapted from that contained in the Land Acquisition Act, 1894 (I of 1894), on the principle that, if possession of the site of a work of defence is obtained under the terms of a specific enactment, restrictions upon the use and enjoyment of land in the vicinity should not be imposed without equal safeguards for the protection of rights and interests affected.

"The opinions collected after the Bill was published for criticism have disclosed that the principle of the measure is generally accepted as reasonable and expedient. On the other hand, many valuable suggestions in regard to the details of the procedure to be followed have enabled us still further to soften the effect of proposals already shown to be, in many respects, milder than the English Statute. The original draft of the Bill followed the Statute in recognizing no distinction between ordinary and emergent cases and contemplated, in both cases alike, that the demolition of buil dings and other obstructions should precede the assessment for the purposes of compensation. The disappearance, however, of a building or other obstruction before assessment must necessarily increase the difficulties encountered by the Collector in appraising, and by the owner or occupier in proving, the real value. In all ordinary cases, moreover, there is no necessity for performing any act of demolition until after the land has been completely surveyed and the Collector has made an award on the basis of a full investigation of claims. We have proposed, therefore, to depart from the Statute by making express provision to this effect.

"To this provision, however, there must be one exception. The Land Acquisition Act, 1894, distinguishes the case of urgency; but when it is a question of recourse to the powers conferred by this Bill, a more pressing urgency is required; and we would dispense with the preliminary survey and award only when the circumstances can fairly be described as an 'emergency' serious enough to warrant a notification of the Governor General in Council. The English Statute, which merely gave effect in peace to the recommendations of a Commission, did not contemplate such an occurrence; and the original Bill followed its terms by requiring, in all cases alike, the lapse of fourteen days before any act of demolition could be performed. The Members of the Select Committee are unanimous in considering that, in view of the conditions of

military defence in this country, the expiration of this period should not be declared to be a condition precedent to action in cases of emergency. The Hon'ble Mr. Gokhale, while concurring in the principle accepted by the Committee, has suggested the express enactment of a provision to the effect that 'such previous notice as under the circumstances may be practicable' should be given before an inhabited building is demolished. Assurance is hardly needed that, as a matter of course, such notice as the Hon'ble Member contemplates will always be given under executive instructions; but the objection to any attempt to embody his suggestion in the Bill is that it would impose, in necessarily most indefinite terms, a very stringent liability at law upon an officer acting under the pressure of extreme emergency. It may, in the very rare cases of resort to emergent action, be inconvenient to a householder to have to vacate the premises at short notice; but it seems far more inexpedient to hamper the responsible officer at such a moment with anxieties in regard to the question whether a Court may not hold that, upon the evidence before it, the notice might have been prolonged by half an hour. It must be recollected that the necessity for such action would, in practice, arise only under conditions when, according to the law of France, summary demolition would be carried out as an 'act of war' without even compensation; and it may safely be predicted that, if the Commanding Officer of a work of defence considers the danger of attack to be so imminent as to preclude him from giving more than an hour or two's notice before demolishing a building in the firing-zone, the owner or occupier, unless he is weary of life, is most unlikely to feel the slightest desire of postponing his departure for a moment.

"The proposal to defer the commencement of demolition in ordinary cases until after the making of the award removes the necessity for fixing six months as the period after which notice for the presentation of claims must be issued. At the same time, it is not anticipated that, save in very exceptional circumstances, anything like the period of three years, which the Statute allows for the completion of all acts including those of demolition, is likely to be required for survey and assessment. The Bill, as revised by the Select Committee, proposes that notices preliminary to the making of an award shall issue before the expiration of eighteen months or, with the previous sanction of the Governor General in Council, three years from the date of the original publication of a declaration of the necessity for imposing restrictions. Where any damage has already been occasioned in the exercise of emergent powers, it is desirable that the notice should issue as soon as possible because, after the disappearance of the building or other obstruction, any delay in the investigation would disproportionately increase the difficulty of proving the value. The proposed

departure from the term of six months, while it will afford persons interested a better opportunity for prosecuting their claims, will also have the effect of materially increasing the period during which, although no compensation has yet been awarded, restrictions already attach under the initial declaration. During this period, which might extend to several years, an inhabited building, which the owner is restrained from 'maintaining,' might, in the absence of a power of repair, fall into absolute ruin; and we have accordingly proposed, by the insertion of a definition of the expression 'maintain,' to render it clear that the owner or occupier is not precluded, during such a period as has been described, from carrying out all ordinary repairs.

"There is only one other point to which attention need be directed as indicating a departure from the English Statute. The restrictions there imposed and the powers there granted are of an absolute and unqualified character; and the notice to owners and occupiers, therefore, simply specifies the lands affected and intimates the Secretary of State's willingness to treat for compensation. Our Bill, on the contrary, merely describes the nature of possible restrictions of which only those actually specified in the notice of the original declaration of the necessity for imposing restrictions will apply. In fact, if only for financial considerations, it is extremely unlikely that, at any rate in any thickly-inhabited area, the restrictions permitted by the Bill will ever be imposed in their entirety. Now, however, that we propose to postpone all acts of demolition until after the award, the preliminary survey will, in most cases, enable us to give precision to the investigation by specifying in the notice itself such acts of demolition as it is intended to perform. Of course, it is not always possible to foretell, before demolition commences, every single item requiring removal. On the contrary, it may well happen that the removal of one obstruction first discloses the existence of another or, at any rate, shows the necessity for its destruction. According to the revised Bill, acts of demolition must still be completed within a period of six months, though this period is now to date, save in emergent cases, from the making of the award instead of the initial notice. Provided that this time-limit is not exceeded, it would be neither necessary nor convenient, in the cases contemplated, to recommence by a fresh declaration of the necessity of imposing restrictions, and we propose, therefore, to declare that, in such circumstances, it will be sufficient to issue a supplementary notice upon which a subsidiary award will follow."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"This Bill, when it becomes law, will confer a giant's power. It is the besetting sin of

such power to be tempted to use it tyrannously like a giant; for, after all, most men are despots at heart. Against measures such as this, two courses are open: (1) to refuse the power and (2) to confer it but provide adequate safeguards to keep it in check and to prevent its exercise, except when a *real* emergency arises and within the strict limits of such emergency—and not merely to gratify notions of symmetry. The authorities, competent to speak on the subject, say that the power is needed; and I for one find myself unable to see a clear case to the contrary. The first course is therefore out of the question. Then there is left the second alternative to take. It is not enough that statutory safeguards are provided. It is not the law so much as the manner of administering it that produces most evil. Good laws may be administered harshly and be rendered ineffectual in practice. Bad laws are often robbed of the sting by tempering them with mercy and due and sympathetic regard for what suffering, mental and material, they may inflict. Military men are pre-eminently men of action. With them to think is to believe, and to believe is to act. By their very training, all sentiment and consideration outside the limits of the duty before them are out of the question and rightly too. They are disciplined to look on one and not on both sides of questions. Herein lies the secret spring of danger.

"I trust that it will never become necessary to use the power taken under this piece of legislation and that, if ever an occasion should arise for its exercise, recourse would be had to it as the last resort and by men, who might feel the full sense of the homes it would efface and the property it would demolish, regardless of associations and affections of years."

The Hon'ble MR. GOKHALE said:—"My Lord, I desire to say just one word about this Bill before it is passed into law. In signing the Report of the Select Committee, I appended a few observations of dissent in regard to the provision introduced by the Committee for cases of emergency. My position was this:—under the Bill as originally drafted, fourteen days' previous notice was obligatory in all cases—emergent as well as ordinary—before a house could be entered and demolished. Now it was felt that though such notice was sufficient to enable the occupier to remove his family and moveable property to another place before the demolition of his house, there was no justification in ordinary cases for Government claiming the power to demolish a building and practically destroying all trace of it before the amount of compensation was determined. And Government have recognized the force of this objection by modifying the original provision as far as it was applicable to ordinary cases, and the Bill, as

amended by the Committee, requires the amount of compensation to be determined by the Collector before demolish can take place. But while the original provision has thus been made more liberal and reasonable in ordinary cases, it has at the same time been made more stringent in cases of emergency where the fourteen days' notice as originally contemplated has now been dropped. And my contention was that, if the framers of the Bill were at one time satisfied that there was no objection to providing a fortnight's notice even in cases of emergency, no fresh reasons were adduced for doing away entirely with the notice in the amended Bill. I think, my Lord, that even in cases of emergency it ought to be possible for the Military authorities to give some notice to the occupier before he is turned out bag and baggage and his house demolished. For even under the amended Bill the previous sanction of the Governor General has to be obtained and a notification in the local Government Gazette issued before demolition can take place; and these steps would surely take some time; and if the emergency can wait for these preliminary steps being taken, surely it may also admit of a few hours' previous notice being given to the occupier. However, I recognize that it is extremely difficult and may sometimes prove extremely inconvenient to provide in express terms any particular period of notice as obligatory in all cases of emergency, and I have therefore refrained from moving any amendment on the present occasion. But I earnestly trust that in the rules which Government will frame under this Act, as in any general instructions which they may issue to the Military authorities in the matter, care will be taken to ensure the giving of some previous notice to an occupier before he is turned out of his house in exercise of the powers conferred by this Act. With these few words I support the motion that the Bill, as amended by the Select Committee, be passed."

The motion was put and agreed to.

PROBATE AND ADMINISTRATION BILL.

The Hon'ble SIR DENZIL IBBETSON said:—"Before I move that the Report of the Select Committee upon the Probate and Administration Bill be taken into consideration, I think it well to offer a few words of explanation upon a purely technical point, regarding which there has been, and apparently still is, a certain amount of misunderstanding.

"The Chamber of Commerce at Karachi were anxious, and I think naturally and rightly so, that the power of granting probates with effect all over British India which is at present enjoyed by Chartered High Courts, and by some others, and which we now propose to extend, within certain narrow limits, to District Judges, should be enjoyed by the Sadr Court of Sindh in the same

way as if it were a Chartered High Court. This proposal was supported by the Bombay Government; and we not only accepted it, but extended it. It seemed to us that every Court which is the highest Court of civil appeal for the province within which it exercises jurisdiction should have the same extended powers in this matter which are enjoyed by Chartered High Courts, and we made proposals to that effect in Select Committee, and the Bill was amended accordingly.

"But we do not seem to have made the nature and effect of our amendments as clear as we might have done in reporting them to Council; and we have received a telegram from the Bombay Government reminding us that a mere alteration of the preamble will not affect the substantive law, and asking us either to define a High Court so as to include the Sadr Court, or to make some other provision with equivalent effect in the actual body of the enactment. It becomes therefore necessary to explain more fully what we have done, and its effect.

"We had two Acts to deal with, the Probate Act and the Succession Act. The proviso to section 59 of the Probate Act (V of 1881) provides that probates granted by a High Court established by Royal Charter, or by the Chief Court of the Punjab, or by the Court of the Recorder of Rangoon, shall take effect throughout the whole of British India. For this proviso we have, by clause 3, sub-clause (*1*), of our Bill, substituted another, which directs that all probates granted by a High Court shall so take effect. The original Succession Act (X of 1865) made no provision for any probate having effect outside the province. But the effect of two amending Acts, Act XIII of 1875 and Act II of 1877, the later of which defines the expression 'High Court' as used in the earlier, is to provide that probates granted by a High Court established under the 24 & 25 of Victoria, Cap. 104, or by the Chief Court of the Punjab, or by the Recorder of Rangoon, shall take effect throughout the whole of British India. We have, by clause 4 of our Bill, repealed both these amending Acts, thus restoring the main Act of 1865 to its original state. We have then, by clause 2, sub-clause (*2*) of our Bill, added a proviso which directs that all probates granted by a High Court shall take effect throughout the whole of British India.

"We have thus brought the two Acts into correspondence, both providing that a probate granted by any High Court, but by a High Court only, shall take effect throughout British India; and the only question that remains is, what is to be understood by the expression 'High Court' as used in both of them as thus amended by us, now that we have repealed the Act of 1877 which gave it a special meaning? The answer is to be found, as regards the Succession Act,

in section 3 of the original Act, and as regards the Probate Act, in section 3, sub-section (*24*), of the General Clauses Act (X of 1897), both of which define 'High Court' as meaning the highest Civil Court of appeal in any particular part of British India. But, by section 1 of Bombay Act XII of 1866, the Sadr Court is declared to be the highest Civil Court of appeal in Sindh, and is thus included within the expression 'High Court', and will be invested with the extended powers that are desired for it if the Bill is passed into law.

"I am sorry to have had to inflict such a long and technical explanation upon the Council; but it seemed only right, in courtesy to the Bombay Government and to the Karachi Chamber of Commerce, to show that their very reasonable recommendation had been accepted and acted upon.

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

The motion was put and agreed to.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INDIAN TEA CESS BILL.

The Hon'ble SIR MONTAGU TURNER moved that the Report of the Select Committee on the Bill to provide for the levy of customs duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894, be taken into consideration. He said:—"I will refer briefly to the alterations which have been made by the Select Committee.

"It is recommended that one of the Members of the Tea Cess Committee, to whom will be entrusted the management of the funds, shall be nominated by the Madras Chamber of Commerce, while clause 5 of the Bill, referring to the application of the proceeds of the tea cess, has been amended so as to allow of monies received from the Native States of Cochin and Travancore being dealt with by the Committee of Twenty. It has been provided that an appeal shall lie to the Governor General in Council should the Government Auditors disallow any item of expenditure by the Committee, and finally it has been laid down in clause 7 that rules to be made under the Bill shall be referred to the Committee for their remarks before being passed into law.

"I regret that our Hon'ble Colleague Mr. Bolton has found it necessary to record a note of dissent on this last proposal on the grounds—

first, of inconsistency with the new sub-clause (*2*) of clause 7, which provides for the making of rules relating to the nomination and appointment of members of the Committee;

second, that it is undesirable to introduce an amendment which might seem to place the Governor General in Council in some degree of subordination to the Committee, and that such a precedent may be embarrassing in the future.

"But I contend there is no inconsistency. The Tea Cess Committee must first come into existence before they can be consulted. They will, in terms of clause 4, be appointed by the Governor General in Council on the recommendation of various public bodies referred to in sub-clause (*2*) of that clause. After the Committee has been appointed the necessary rules for the working of the Bill will have to be considered, and amongst them the rules for nomination and appointment of members to fill up vacancies in the Committee as they may occur.

"Further, the suggested procedure of referring proposed rules to the Tea Cess Committee before publication only follows out the idea already adopted in the case of the Mines and Electricity Acts, where it has been provided that rules to be issued by the Government of India or by the Local Governments shall first be considered by the Boards appointed under those Acts respectively.

"The intention in both cases is to take advantage of the expert knowledge or experience of the members of the Boards or Committees as the case may be. The idea of subordination need not come into consideration at all."

The motion was put and agreed to.

The Hon'ble SIR MONTAGU TURNER moved that the Bill, as amended, be passed. He said:—"It has been argued that this Bill, which I hope will now pass into law, will form an awkward precedent for the taxation of other industries by the Government of India, and that possibly the Government of India at some future date may attempt to divert the proceeds of the tea cess to Imperial purposes. As regards the latter point, before this could happen, a new Bill would have to be introduced, and an opportunity would be given to those interested to express their views on the subject. As regards the forming of a precedent for similar legislation, it has been made

clear by the Government of India, in their correspondence with the Committee of the Tea Association, that they only agree to the legislation in view of the very special circumstances attaching to the case, one such circumstance being an assenting majority of over three-fourths of the payers of the levy. Nor is it likely that exactly similar circumstances will arise in regard to other industries. The Bill simply gives the active support of Government to the co-operative principle of advertisement and other measures tending to the advancement of an industry affording employment to a considerable number of Europeans and to native labourers, some 650,000 of whom are employed in the tea districts. This principle and these measures are not new in themselves and the novelty—novelty to India but not to the Empire—of which so much is made is confined to the method of collecting the tax.

"The effect of the operation of the Tea Cess Fund, it is hoped, will be the opening out of new markets and further developing the areas already occupied, all of which will be effected not at the expense of the general tax-payer, but by collections made from the members of the industry concerned.

"The part to be played by Government is simple enough. It will be to collect the funds and return them to the Tea Cess Committee. The object is simple and so are the provisions of the Bill, and further there is this advantage, the legalised cess being shared in by all will be much fairer than the voluntary fund which has been made at the expense of only a proportion of those engaged in the tea industry, although the benefits arising from the working of that Fund have been shared in by all. The legalised cess will secure a regular revenue for the working of foreign markets; it will enable the Committee to lay down definite lines on which they can shape their forward policy, and at the end of the term for which the Bill will be passed into law, it will show, I trust, that the results of the working of the Tea Cess Committee have fully justified those who have memorialised the Government to pass this Bill and Government in meeting the prayer of the memorialists.

"On a previous occasion I referred to the advantage gained in Ceylon by the imposition of a similar tea cess in that Island, and I may perhaps quote a few words from a letter addressed some months ago by a Ceylon Merchant to the Committee of Thirty when the question was discussed as to whether the rate of the cess should be increased. This gentleman wrote as follows:—

"'Dealing with the further argument that no increase in the Ceylon Cess should be made until India gets her cess, Ceylon's reply to this should be, the longer India is short-sighted enough not to have a cess the better Ceylon men should be pleased. Instead of being partners, India and Ceylon are competitors, and the present advantage

held by Ceylon is entirely due to its cess. Why therefore ask your competitor to share in this trade rather do what we can to prevent their having a Cess.'

"Now that the cess will be introduced into India, may we not express the hope that India and Ceylon should join hands, and work together for the development of the tea industry both of India and Ceylon in all parts of the world?"

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"There is indeed a considerable plausibility about this measure, I may even say a seductiveness, promising, as it does, the development of an industry in a country where, seeing what a pass it has come to, growth and multiplicity of industries seem to be at a tremendous discount and yet the only saving grace. But I must confess to serious misgivings as to this particular industry and as to the particular form of stimulating it. To develop is rather an ambiguous phrase, and results might follow which are of dubious benefit. If it be to put tea in the place of what Your Excellency forcibly called the vile stuff which goes down the throats of men, it would do decided good. It might do a still greater good and even prevent crimes and brutal misdemeanours, if it would materially minimise the use of the viler stuff which may or may not soothe but, too surely, inebriates. I am quite clear that every encouragement should be given to quicken consumption in both these two ways. But if action is to be taken to throw tea broadcast so as to make it to insinuate itself excessively into village life and into places where neither the vile stuff nor the viler stuff is now the fashion, then the result will be the reverse of beneficial; for it would introduce expensive habits by necessitating an additional jug of milk and an additional lump of sugar—possibly to these articles being stinted where they are more necessary and in respect of members of family for whom they are primarily essential. There is already a growing disposition to be-little the credit which has traditionally belonged to masses of this country—the credit for thrift, which in many cases is carried to the borders of parsimony. The acquaintance with, and the taste for, this fresh beverage may emphasise that disposition, and lay them open to a real charge of extravagance. I will not speak here of its enervating effects and the danger of its bringing in its wake, by insensible degrees, other and more expensive and deleterious potations, which are unhappily coming into fashion with a few but happily beyond the ken of many as yet. Thus, it seems to me that, so far as pushing tea into the country internally is concerned, the result will be either meagre or harmful. As to extending its range outside this country, the bulk of exporters will have but a modest share in it, and they will have to pay all the same, possibly for the

benefit of those who are smitten with a more speculative spirit of enterprise and who have overproduced or may overproduce and may yet grudge that all the cost of forcing it into distant and yet unopened markets should come from them alone, as it should rightly do. If the modest and unambitious exporters are to be laid under contribution towards a cost of *this* sort, they will naturally demur if left free to agree or disagree. In such a case, a tax upon them would virtually be to coerce the cautious many into paying for the benefit of the adventurous few. I cannot, do what I may, get rid of these objections, to which the Bill seems to me only too open. But I should indeed be glad if this Bill, which is to become law to-day, would, in practice, undo my fears and prove me to have been a false prophet."

The motion was put and agreed to.

VICTORIA MEMORIAL BILL.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill to provide for the erection and management of the Victoria Memorial at Calcutta be taken into consideration. He said :—" No objections to, or criticisms upon, our proposals have come to my notice, either in the Press or elsewhere; and I think we may safely conclude that they commend themselves to the public which is concerned."

The motion was put and agreed to.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Wednesday, the 25th March, 1903.

CALCUTTA;
The 24th March, 1903.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

Government of India Central Printing Office.—No. 1094 L. D.—26-3-1903.—350.—A. R.