

THE INDIAN LEGISLATIVE COUNCIL

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PROCEEDINGS

OF

THE INDIAN LEGISLATIVE COUNCIL

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

From April 1919 to March 1920

WITH INDEX

VOL. LVIII

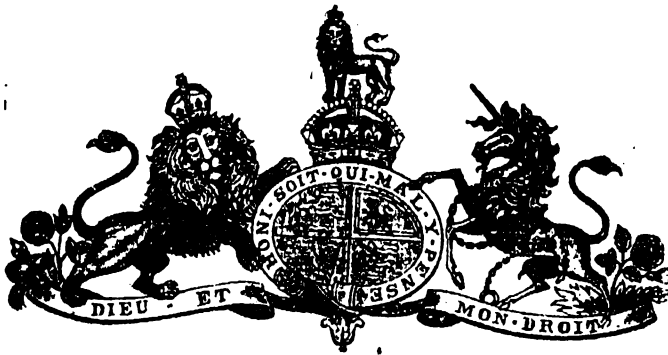
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1920



GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

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

The Council met at the Council Chamber, Viceregal Lodge, Simla, on
Wednesday, the 17th September, 1919.

PRESENT :

His Excellency BARON CHELMSFORD, P.C., G.M.S.I., G.M.I.E., G.C.M.G., G.O.B.E.,
Viceroy and Governor General, *presiding*, and 52 Members, of whom
44 were Additional Members.

The President:—" Before we commence proceedings to-day I wish to call the attention of Hon'ble Members to the two specimen tablets which have been placed in the entrance hall to the Council Chamber. They have been prepared under the directions of the Indian Soldiers Board, and it is intended to erect a replica of one or other of the specimens, with the appropriate numbers inserted, in every village throughout British India which has contributed any considerable number of recruits to the war, leaving it to Local Governments to arrange for the appropriate setting. The two specimen tablets have been made, one in marble and the other in cast iron. They have been exhibited here in the hope that Hon'ble Members will criticise them from the point of view of material, design and inscription, and that any such criticisms will be conveyed to the Secretary of the Indian Soldiers Board. If Hon'ble Members would like to meet and discuss the matter, my Colleague, Sir George Lowndes, will be glad to arrange for this. 11 A.M.

I think there is one matter in connection with the tablets which Hon'ble Members might consider. They will notice that on the tablets the dates are 1914-1919. I would suggest for consideration whether, instead of these dates, we should not insert the actual date of the commencement of hostilities, *i.e.*, August the 4th, 1914, and the date of the Armistice in 1918.

We will now proceed with the business of the day."

[*Mir Asad Ali, Khan Bahadur; Sir Arthur Anderson; Mr. H. F. Howard; Rai Sita Nath Ray Bahadur.*]

[17TH SEPTEMBER, 1919.]

QUESTIONS AND ANSWERS.

11.5 A.M.

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

Express train service between Madras and Manmad, etc.

1. " Do Government propose—

- (a) to abolish the Express train service between Madras and Manmad, and
(b) to add Intermediate class carriages to the G. I. P. mail train between Bombay and Delhi ? "

The Hon'ble Sir Arthur Anderson replied :—

" (a) The Express train service between Madras and Manmad was discontinued in 1917. The question of its re-introduction will be considered when the present shortage of engines on the Madras and Southern Mahratta Railway has been made good by replacements from England.

(b) It is not proposed to attach Intermediate class carriages to the Bombay Delhi Mail the load of which is strictly limited. Such accommodation is, however, provided on the fast Express between Bombay and Delhi."

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

Subordinate Accounts Service (Posts and Telegraphs.)

2. " Do Government propose to consider—

(a) whether any reasonable saving in public expenditure cannot be effected by abolishing the present distinction between junior and senior Accountants among the members of the All-India Subordinate Accounts Service (Posts and Telegraphs) ; and

(b) whether a proportion of the vacancies on the staff of the Subordinate Accounts Service cannot be reserved for the members of the backward provinces and the depressed classes, and whether such members will be exempted from the operation of the rules for departmental examinations ? "

The Hon'ble Mr. H. F. Howard replied :—

" The answer is in the negative to both portions of the question."

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

Restoration of train services in India.

3. " Have any steps been taken to restore the train services in India to what they were in pre-war days ? "

The Hon'ble Sir Arthur Anderson replied :—

" The Hon'ble Member's attention is drawn to the reply given on the 1st March last, to a similar question asked by the Hon'ble Rai Sita Nath Ray Bahadur.

Some of the pre-war services have been restored, but a return to the full normal standard can only be gradual, as the replacement of engines and rolling stock from England must necessarily take some time."

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

Coal supplies:

4. "(a) Is it a fact that on the 22nd April last, the Coal Controller declared, with the approval of the Government of India, that no coal special indents would be certified on and from the 1st July, 1919, and all coal special indents

[17TH SEPTEMBER, 1919.]

[*Rai Sita Nath Ray* (Bahadur ; *Sir Arthur Anderson*.)]

would cease to be valid on and from the 1st August 1919, from which date coal consumers and dealers would have to arrange to draw their coal supplies from collieries by the ordinary methods which were in force prior to the introduction of the special indent system, and that the post of Coal Controller would be abolished early in May, but the work would continue to be carried on by the then Deputy Coal Controller under the designation of 'Coal Transportation Officer,' Railway Board ?

(b) Will Government be pleased to lay on the table a statement showing the maintenance charges of the Coal Transportation Officer and his establishment ?

(c) Is it a fact that the Coal Controller suggested to Government that the post of the Coal Transportation Officer might be abolished towards September, 1919, if not earlier ?

(d) If so, do Government intend to give effect to the suggestion of the Coal Controller ? If not, why not ?

(e) Have Government received any scheme or notes from the Coal Transportation Officer with regard to the wagon supply for coal and with regard to the maintenance of his post and his establishment ? If so, will Government be pleased to lay those schemes or notes on the table ? "

The Hon'ble Sir Arthur Anderson replied :—

" (a) The facts stated by the Hon'ble Member are substantially correct.

(b) A Statement* is laid on the table.

(c) The answer is 'yes,' but the Coal Controller recognised the possibility of the continuance of the appointment being necessary should the shortage of rail transport continue.

(d) The Government are anxious, and intend to put an end to the control of coal transportation at the earliest moment consistent with safety.

(e) Except as regards estimates of cost for which figures are given in reply to (b) above the answer is in the negative. "

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

5. "(a) Is it a fact that in the orders regarding accommodation at old Delhi issued in 1913, it was stated that officers drawing Rs. 1,000 and under and clerks, European and Indian, who were to be accommodated in tents, would have the free use of tents, furniture, water and lighting; and that hitherto such officers and clerks have not been charged for the use of tents, furniture, water and lighting ?

(b) Do Government now propose to revise this order, and are these officers and clerks to be charged for the use of furniture, water and lighting ?

(c) Is it not a fact that there has been a tremendous increase in the cost of living and that the officers and clerks mentioned above have memorialised Government for increase of salary, etc. ?

(d) If the replies be in the affirmative, will Government be pleased to give the reasons for departure from a definite promise ?

(e) Do Government propose to stay the enforcement of the order for payment of rent, etc., so long as the men have to be accommodated in tents ? "

*Vide Appendix A.

[*Mr. R. A. Mant ; Sir Dinshaw Wacha ;* [17TH SEPTEMBER, 1919.]
Sir George Barnes ; Sir Alfred
Bingley.]

The Hon'ble Mr. R. A. Mant replied :—

“(a) The answer is in the affirmative, but the orders issued in 1913 applied only to the cold seasons of 1912-1913 and 1913-1914.

(b) The answer is in the affirmative.

(c) There has undoubtedly been a great rise in the cost of living since 1914. Memorials from the ministerial establishments of the Government of India, praying for an increase of salary, are now under consideration and it is hoped will be disposed of without delay.

(d) No definite promise has ever been made that officers and clerks drawing Rs. 1,000 a month or less accommodated in tents at Delhi will have the free use of the tents, furniture, water and lighting for future seasons. The latest orders on the subject, issued in October 1914, merely continued the concession until further orders. It is now being withdrawn, except as regards the free use of tents, because it is essential that quarters in New Delhi should be occupied as soon as they are completed, and that the amount of tent accommodation provided should be reduced to a minimum. It is considered that officers and clerks will be reluctant to occupy these quarters if they are allowed to occupy tents on unduly favourable terms.

(e) The answer is in the negative. ”

The Hon'ble Sir Dinshaw Wacha asked :—

6. “ Will Government be pleased to state who enjoys the privilege of—

(a) manufacturing cement in the Punjab ; and

(b) importing spirits and industrial alcohol into that province ? ”

The Hon'ble Sir George Barnes replied :—

“(a) There are no restrictions on the manufacture of cement in the Punjab.

(b) The classes of persons who can import spirit into that Province, as laid down in the Punjab Excise Manual, are :—

(1) all persons who import it within the limits of private possession,

(2) all licensed vendors, and

(3) all persons holding passes and permits granted by the authorities concerned.

The Government of India have no information as to the names of persons authorised to import spirits, and if that is the information which the Hon'ble Member requires, he should apply to the Local Government.”

The Hon'ble Sir Dinshaw Wacha asked :—

7. “ How do Government propose to sell surplus military stores ? ”

The Hon'ble Major-General Sir Alfred Bingley replied :—

“ It is understood that the term ‘ surplus military stores ’ means engineering and textile stores which were purchased to meet actual or estimated military demands and are now surplus to requirements.

Manufacture
of cement
and
importation
of spirits
in the
Punjab.

Sale of
surplus
military
stores.

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[*Sir Alfred Bingley; Sir Dinshaw Wacha; Sir George Barnes.*]

"The Hon'ble Member is referred to the three Press Communiqués* copies of which are laid upon the table."

The Hon'ble Sir Dinshaw Wacha asked :—

8. "Will Government be pleased to state the programme of post-war trade ^{Post-war trade.} with enemy countries?"

The Hon'ble Sir George Barnes replied :—

"I would invite the Hon'ble Member's attention to the Department of Commerce and Industry Notifications Nos. 2030, 3563, 4207, 5715 and 6403, dated respectively, the 26th April, the 31st May, the 21st June, the 2nd August and 23rd August, 1919, and published in Part I of the Gazette of India of the same dates. Copies of these Notifications have been laid on the table for the Hon'ble Member's convenience. It will be observed that, subject to certain restrictions, trade with the countries which were recently our enemies is now permissible. I cannot at the present moment give any detailed statement explaining in full the policy which may be adopted with regard to trade with the Central powers, but I may say that, while it will be necessary both in our own internal interests and in those of the Empire as a whole to continue to control to some extent and for some period the import or export of certain commodities, we hope that these restrictions may be in course of time removed, so that the trade of the country may resume its normal course."

The Hon'ble Sir Dinshaw Wacha asked :—

9. "(a) What was the amount of Savings Banks deposits on 31st March 1919 and the average amount of deposit per head of depositors on that date? ^{Savings Banks deposits.}

(b) Has there not been a marked decline in the average amount per head since 1913 (when it was 141.88) as shown by the following figures?

1914-15	...	...	...	...	Rs. 90.58 per head.
1915-16	..	...	...	..	" 92.27 "
1916-17	...	...	...	...	" 100.73 "
1917-18	...	...	...	...	" 101.27 " "

The Hon'ble Sir George Barnes replied :—

"(a) The amount of Savings Banks deposits on the 31st of March 1919, was Rs. 18,82,44,748.

The average amount of deposit per head of depositors on the same date was Rs. 112.22, which as the Hon'ble Member will observe is a marked increase on the figure for the previous year.

(b) My Hon'ble friend will have noticed that there is a marked decline in the first two years of the war on the figures for the year immediately preceding the war, and that this decline is gradually being made good. The decline in the first year of the war was very likely due to alarm among the big holders. In later years the comparatively low average of deposits per head is probably due to the fact that some people who would have made deposits in the Savings Bank invested their money in the War Loan and others in like manner invested their money in Post Office Certificates, and some withdrew their money from the Savings Bank for that purpose. The War Loan and the Post Office Certificates both of course offered a higher rate of interest than the Savings Bank."

* Not included in these proceedings.

[*Rao Bahadur B. N. Sarma ; Sir Arthur Anderson ; Khan Bahadur Ebrahim Haroon Jaffer ; Mr. H. F. Howard.*]

[17TH SEPTEMBER, 1919.]

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

Purchase of rails, wagons, etc.

10. "Will Government be pleased to state (a) the number of rails, wagons (passenger and goods) and other railway materials purchased or agreed to be purchased with the money sanctioned in this year's budget, (b) their pre-war and present costs, and (c) the countries in which, and the names of firms with which, orders have been placed ?"

The Hon'ble Sir Arthur Anderson replied :—

"(a) The total purchases of railway rolling stock and materials during the current financial year both on Capital and Revenue accounts are expected to amount to Rs. 4120·98 lakhs, of which 2227·99 lakhs will be in England, 323·05 lakhs in America, and the balance of 1569·94 lakhs in India.

The numbers of rails, wagons, etc., to be purchased with funds allotted in this year's budget are as follows :—

				Miles.
Rails	...	...	...	878
Carriages	...	...	...	1,136
Wagons	...	...	...	17,738
Brake vans	...	...	...	1,267
Engines	...	...	...	670

together with large quantities of miscellaneous railway materials.

(b) It is not possible to give exact figures for pre-war and present costs of railway materials, but the rise in prices has been approximately :—

				Per cent.
Rails	...	...	...	100
Carriages	...	...	...	120
Wagons	...	...	...	120
Brake vans	...	...	...	120
Engines	...	...	...	125

(c) A list* showing the countries in which and the names of firms, so far as known, with whom orders in respect of State-worked railways have been placed, is laid on the table."

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

Increase of pension to officers retained on account of the war.

11. "Will officers whose services were continued owing to the exigencies of the war, though they had attained the age of 55, be entitled to an increase of pension on account of such extension of service ?"

The Hon'ble Mr. H. F. Howard replied :—

"In the case of officers whose service before they had reached the age of 55 had entitled them to the maximum pension admissible to officers of the service to which they belong, it is not under contemplation to grant any increase of such pension. In the case of officers who had not qualified for the maximum pension, service during extension will, following the ordinary practice, be taken into account for determining the amount of pension admissible."

* Not included in these proceedings.

[17TH SEPTEMBER, 1919.]

[*Khan Bahadur Ebrahim Haroon Jaffer ;
Mr. Shafi ; Mr. H. F. Howard.*]

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

12. "(a) What action has been taken by Local Governments on the letters Nos. 585-595, dated 3rd April, 1913, addressed to them on the subject of ^{Muham-} Muhammadan education?

(b) Have local committees been appointed to consider the question of Muhammadan education as suggested in those letters? If so, in what Provinces?

(c) What recommendations have been made by these committees?

(d) To what extent have such recommendations been carried out?

(e) Have all the recommendations been carried out yet? If not, will Government state the reasons?"

The Hon'ble Mr. Shafi replied :—

"The circular letter referred to by the Hon'ble Member was issued on the 3rd April 1913, commending the whole question of Muhammadan education to the careful attention of Local Governments, and suggesting the advisability of convening local Committees. Local Committees were accordingly convened in some provinces. The Governments of Bengal, Bombay, Bihar and Orissa, and the United Provinces issued resolutions dealing with the recommendations of their respective Committees. The United Provinces' resolution of 25th August 1914 among other things dealt with the position and needs of the Muhammadan community in the matter of primary education. It is not specifically known to what extent these recommendations have been carried out, but for further information the Hon'ble Member is referred to Chapter XVII of the 7th Quinquennial Review which deals with the subject of Muhammadan education and to the heading IV—Education of special classes in the annual narrative 'Indian Education' in 1917-1918."

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

13. "(a) Are Government considering the desirability of raising the rate of interest that is at present allowed on the General Provident Fund for State servants? ^{The General Provident Fund.}

(b) Is it a fact that higher rates of interest than before are now prevalent in the country and are also allowed on Government loans?"

The Hon'ble Mr. H. F. Howard replied :—

"The answer to both portions of the question is in the affirmative."

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

14. "Will Government be pleased to state how many Indians have recently been admitted into the Indian Educational Service in the whole of India and give figures as to the different Provinces and the creeds of the men so admitted?" ^{Number of Indians admitted into the Indian Educational Service.}

[*Mr. Shafi ; Maharaja Sir Manindra
Chandra Nandi ; Mr. R. A. Mant.*]

[17TH SEPTEMBER, 1919.]

The Hon'ble Mr. Shafi replied :—

" A Statement* giving the information is laid on the table. It omits certain appointments very recently made whose confirmation is conditional upon medical examination, also the case of three Indians who have recently been appointed in temporary posts on pay analogous to that of the Indian Education Service.

The statement which I am now placing on the table supplies the information asked for for the last 20 months province by province. The net result is that 29 Indians have been appointed, of whom 25 were Hindus, one Muhammadan, one Sikh, one Parsi and one Christian. "

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

Export of
food-grains
from India.

15. "(a) Will Government be pleased to state the exact nature of their understanding with the Royal Commission on wheat supplies, in regard to the export of rice and other food-grains, and how far the same has been carried out ?

(b) Is it a fact that there has been a rationing arrangement under which India has to send out food-grains to certain foreign countries ? If so, will Government be pleased to state full particulars thereof ? "

The Hon'ble Mr. R. A. Mant replied :—

" (a) The Royal Commission on wheat supplies was appointed in England in October, 1916, to purchase and control the delivery of wheat on behalf of the British Government. Its operations in India were controlled by the Government of India through the Wheat Commissioner in respect of such matters as the quantities of wheat to be purchased in given periods and the prices to be paid for the wheat. This control was exercised both with the object of safeguarding the internal situation in India and also of co-ordinating purchases by different Government departments. The Secretary of State was warned on the 21st of July 1918 that it would probably be necessary still further to cut down the Royal Commission's programme which had already been reduced, and, as was announced at the time, the purchase of wheat for export overseas to all destinations other than Mesopotamia was definitely stopped in the beginning of October 1918. The purchase of lentils and peas by the Royal Commission was continued on a small scale till the middle of November 1918 but was then stopped.

In October 1917 when the price of paddy in Burma had fallen to a very low level the Royal Commission undertook to purchase large quantities of Burma rice at a price considerably above the market rate then ruling, and to provide freight for its carriage to European destinations. Their requirements of Burma rice for 1919 were stated at one million tons, but they were informed in December last that not more than 300,000 tons could be spared, and subsequently the offer of this quantity was also withdrawn by the Government of India. As a result no rice of the 1918-19 crop has been exported by or to the order of the Royal Commission on Wheat Supplies. The Government of India's understanding with the Commission does not extend, so far as rice is concerned, beyond permitting the export of rice of the 1917-18 crop purchased prior to December 1918, of this 66,821 tons have been shipped since the 1st January 1919 and a balance of 13,829 tons remains to be shipped.

(b) It is a fact that in restricting exports of food-grains from India the Government of India have recognised their obligation not to withhold supplies

*Vide Appendix E.

QUESTIONS AND ANSWERS; THE SEA CUSTOMS (AMENDMENT) BILL; THE PROVIDENT FUNDS (AMENDMENT) BILL; THE CALCUTTA HIGH COURT (JURISDICTIONAL LIMITS) BILL. 251

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[*Mr. R. A. Mant ; Sardar Sundar Singh Majithia ; Sir William Vincent ; Mr. Shafi.*]

altogether from certain territories normally dependent on India for food. Strictly limited allotments have, therefore, been made to these territories, and in framing these allotments the chief consideration has been the extent to which supplies were required for the consumption of Indian pilgrims and Indians resident abroad. By far the greater part of the territories benefiting by this scheme have been British. A Statement* is placed on the table showing how far foreign countries have participated."

The Hon'ble Sardar Sundar Singh Majithia asked :—

16. "(a) Is it a fact that Government servants in the Provincial services have been hard hit by the rise in prices? If the reply be in the affirmative, will Government be pleased to say when they propose to consider the question of increase of pay of those services?"

Increase of pay in the Provincial Services on account of rise in prices.

(b) Has necessary relief by increase of pay been afforded in the case of certain other services on the recommendation of the Public Services Commission?"

The Hon'ble Sir William Vincent replied :—

"Members of the provincial services have doubtless been seriously affected by the rise in prices, like all other persons on fixed incomes. In regard to the remaining portions of the question the Hon'ble Member is referred to the answer given on the 15th instant to a similar question by the Hon'ble Rai Sahib Seth Nathmal."

THE SEA CUSTOMS (AMENDMENT) BILL.

The Hon'ble Mr. Shafi :—"My Lord, I beg to move that the Bill 11-30 A.M. further to amend the Sea Customs Act, 1878, be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

THE PROVIDENT FUNDS (AMENDMENT) BILL.

The Hon'ble Mr. Shafi :—"My Lord, I beg to move that the Bill further to amend the Provident Funds Act, 1897, be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

THE CALCUTTA HIGH COURT (JURISDICTIONAL LIMITS) BILL.

The Hon'ble Sir William Vincent :—"My Lord, I move that 11-23 A.M. the Bill to declare and prescribe the limits of the ordinary original Civil

252 THE CALCUTTA HIGH COURT (JURISDICTIONAL LIMITS) BILL; THE INDIAN NATURALIZATION (AMENDMENT) BILL; THE LAND ACQUISITION (AMENDMENT) BILL; THE REPEALING AND AMENDING BILL.

[*Sir William Vincent ; Mr. R. A. Mant ;
Sir George Lowndes.*]

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jurisdiction of the High Court of Judicature at Fort William in Bengal be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

THE INDIAN NATURALIZATION (AMENDMENT) BILL.

11-24 A.M. **The Hon'ble Sir William Vincent** :—" My Lord, I move that the Bill further to amend the Indian Naturalization Act, 1852, be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

THE LAND ACQUISITION (AMENDMENT) BILL.

11-26 A.M. **The Hon'ble Mr. R. A. Mant** :—" My Lord, I beg to move that the Bill further to amend the Land Acquisition Act, 1894, be taken into consideration."

The motion was put and agreed to.

The Hon'ble Mr. R. A. Mant :—" My Lord, I beg to move that the Bill be passed."

The motion was put and agreed to.

THE REPEALING AND AMENDING BILL.

11-28 A.M. **The Hon'ble Sir George Lowndes** :—" My Lord, I beg to move that the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

The motion was put and agreed to

The Hon'ble Sir George Lowndes :—" My Lord, I beg to move that the Bill be passed. We have received no amendments and no suggestions with regard to this Bill, which consists of but a number of small amendments. I may mention that nearly half the amendments embodied in the Bill are owing to the establishment of a High Court of Judicature in the Punjab, and I am quite sure that some of my Hon'ble friends who represent that Province will be gratified with the leading part that their Province has played even in so innocent a Bill as this."

The motion was put and agreed to.

[17TH SEPTEMBER, 1919.]

[*Sir George Barnes ; Rao Bahadur B. N. Sarma.*]**THE INDIAN TARIFF (AMENDMENT) BILL.**

The Hon'ble Sir George Barnes:—"My Lord, I beg to move 11-30 A.M. that the Bill further to amend the Indian Tariff Act, 1894, be taken into consideration."

The motion was put and agreed to.

The Hon'ble Rao Bahadur E. N. Sarma:—"My Lord, I beg 11-31 A.M. to move:—

'that in column 4 in clause 3 for the words and figures '15 per cent' the words and figures '20 per cent' be substituted.'

"My Lord, we agreed to the introduction of this Bill with great alacrity because we were assured that the object of the Bill was to protect the Indian tanning industry, and the Indian leather industry, and that the Government felt it incumbent upon them to bring forward the present Bill in order to effect that purpose. We were also told that the imposition of this duty would not in any manner be calculated to prevent or hamper the export trade of India in hides and skins, and it was on that assurance that we consented gladly to the introduction of this Bill. There were certain clauses which we felt would operate in the direction of giving India a favourable position. Even prior to the war there was a steadily growing increase in the quantity and value of the exports of raw hides and skins. The war makes a certain difference also, because a large number of cattle have, I believe, been slaughtered for the purpose of furnishing food to the population and to the soldiers in Europe and elsewhere, and the demands for hides and skins from India is not likely to diminish therefore in the future. On that assurance and basis the question would be as to whether we should have a duty of 15 per cent or 20 per cent. I remember reading recently in books dealing with war finance and trade that a duty of 20 per cent could be levied without the duty being of a protectionist character, merely as a revenue duty, and I believe some of the recommendations of the London Chamber of Commerce are in partial support of this view. Therefore, even looking at the question from the revenue standpoint, I do not think that 20 per cent is likely to hamper trade. If I am told that the result of levying a duty of 20 per cent would be to prevent any countries from taking the raw hides and skins of India, or that it would prejudicially affect the trade by reason of a large reduction of the trade, certainly I shall not press this amendment, but I think having regard to the manufacturing profits in other countries, and having regard to the remarks made by the Hon'ble Member for Commerce as regards the world requirements it would not have that effect and even from the strictly revenue point of view, it would be justifiable to levy a duty of 20 per cent provided it would not be a hardship upon the agriculturist and other exporters of these hides and skins. During recent years no doubt on account of reduced shipping facilities and prohibition orders, the price of raw hides fell considerably, but having regard to the enormous inflation of currency and the growth of prices in almost every country, I think that the exporter of hides and skins would get, and has been getting, a very large increase over his pre-war profits and pre-war prices, and that is so notably in the case of skins, and consequently an export duty of 20 per cent would not unduly diminish the price to the exporter and the agriculturist.

"Then, my Lord, there was another point to which I wish to allude, and it is this. The object of this duty is, if possible, to divert the trade in raw hides and skins from the enemy countries, Germany and Austria-Hungary, which have in the past largely taken our raw hides and skins, in favour of the British Empire and possibly the Allies. Well, I think, I am justified in saying that the Government have thought that the measures that they are bringing forward will be able to effectuate that purpose. If they are able to effectuate that purpose by the proposals of the Government, Hon'ble Members

[*Rao Bahadur B. N. Sarma ; Sir George Barnes.*]

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will see that we shall collect an export duty of only 5 per cent, because every one of the countries from which the trade is intended to be diverted is either a country foreign to the British Empire or an Allied country for which, I am sure, the League of Nations would ask for favourable treatment, and, consequently, the net result of the proposals of the Government might be—I hope I shall be shown to be wrong—if they really divert the trade from foreign countries, to impose a duty of only 5 per cent in favour of India. Well, from the revenue point of view, a 5 per cent duty would certainly be an extremely small duty having regard to the enormous growth of prices in raw hides and skins. We must remember that we pay an export duty on several articles, that we have an *ad valorem* import duty of $7\frac{1}{2}$ per cent. on other articles, and a third of 20 per cent which would be collected from the rest of the Empire would give us only $6\frac{2}{3}$ per cent

The Hon'ble Sir George Barnes:—"I think the Hon'ble Member is under the impression that the rebate is to extend to the Allies as well as to the Empire. That is not the case; that is not proposed by the Bill."

The Hon'ble Rao Bahadur B. N. Sarma:—"I was under that impression. Column 4 of clause 3 says 'or of any territories under the protection of His Majesty or in respect of which a mandate of the League of Nations is exercised by the Government of any part of His Majesty's dominions.' I am wrong, but that does not make any very great difference in respect of my argument for the simple reason that, excepting in the case of skins to America, I will not say the whole, but a large portion, of the trade is confined to the United Kingdom. On an analysis of the figures, Hon'ble Members will find that the enemy countries were taking in 1913-14 nearly 5 million pounds worth of raw hides and skins, and other countries, in so far as that portion of the trade is concerned, were not taking very large quantities. Now, I take it that the object is really to divert the trade, as I have said, if possible, from foreign countries to the British Empire and to the other countries forming the British Empire, and I shall proceed upon that supposition. If that object is achieved, and, I think, it is an object which ought to be achieved, then, from the point of view which I have suggested, the duty on exports to the rest of the Empire would be only really 5 per cent— $\frac{1}{3}$ of the general rate 15 per cent. If the general rate be 20 per cent, the duty would be only $6\frac{2}{3}$ per cent and cannot by any means be said to be protectionist. For the reasons that I have mentioned the agriculturists would not be hit hard by reason of the enormous growth in prices. There is also another point which I also had in mind when I brought forward this amendment, which would be more pertinent really in speaking on the other amendment, but which has some bearing upon this, and, therefore, I shall mention it. Hon'ble Members will find, if they turn to page 72 of the Review of Trade for India for 1917-18, that on dressed and tanned skins the United States of America imposes an import duty of 15 per cent and Japan 51 per cent. Therefore, the United States have felt that a duty of 15 per cent was necessary to protect their tanning trade against the Indian industry, because almost all the skins imported are, I believe, from India. They have got no import duty whatever on raw hides and skins; they have got an import duty on dressed hides and skins. And Hon'ble Members will find, turning to the figures for the United States' revenue, that this duty was not levied for revenue purposes, because the revenue has been steadily decreasing up to the year 1915, and the total revenue also is about 2.6 million dollars on manufactured leather and about a few thousand dollars (97,004) in respect of raw hides and skins. The duty was levied therefore for the purpose of protection, and that the protection was effectual is seen from the fact that the revenue was decreasing from year to year. I took it therefore that, in order that protection may be effectual, the duty would range somewhere between 15 and 51, and, therefore,

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inasmuch as we have started with the assumption that the Indian tanning merchants would have to be protected in order that the trade may not disappear, we must make our duty run between 15 and 51 per cent in respect of all countries whether belonging to the Empire or not. I hope I shall be shown to be wrong and that a smaller duty would effectuate the object of protecting India against other countries. There is a larger question raised upon the other amendment, but I will take it that the object of the Government is to protect India as against other parts of the Empire, showing a preference to the other parts of the Empire no doubt *some preference*, but at the same time so as not to defeat the object in view. If that be so, I would ask how an export duty of 5 per cent in favour of the rest of the British Empire would effectuate that object. I therefore thought that a slight increase might do the work a little more effectually than the 5 per cent that has been suggested, and, so far as the present

The Hon'ble Sir George Barnes :—" My Lord, the Hon'ble Member is speaking to the second of his amendments. If he could take his amendments separately, it would be a great convenience. "

The Hon'ble Rao Bahadur B. N. Sarma :—" If my second amendment is not carried I have suggested a rebate of one-third in favour of the rest of the British Empire. I find from the report of the proceedings of the House of Commons of the 30th April at page 126, that the Empire Preference is stated to be one-third: Assuming a 20 per cent duty and one-third rebate, the net duty $13\frac{2}{3}$ would be the duty as against the rest of the Empire. It would be nearer the 15 per cent which has been imposed by the United States. Therefore, if there be a rebate of $\frac{1}{3}$ unless you raise the duty from 15 per cent to 20 per cent, you would not effectuate the object which the Indian Government and all of us have at heart, namely, the protection of Indian industries. Mr. Austen Chamberlain speaking on the British Budget said :—

'As I have said, the range of our existing duties is small. It falls mainly into three classes : (1) There are the new Customs duties imposed . . . which carry with them no corresponding Excise duty on cinematograph films, clocks and watches, motor cars and musical instruments. On these duties I propose to fix the preference at one-third, which is what I may call the general Empire rate, in so far as a general Empire rate exists.'

Then he goes on and cuts it down to $\frac{1}{4}$ th in case of tea. Therefore, taking the Empire rate to be one-third, if my amendment be accepted the duty would be 20 per cent and the rest of the Empire would pay $13\frac{2}{3}$ per cent; that is not much. It will not cause any hardship to the Colonies or the rest of the Empire. When we are told that we have a practical monopoly and when 20 per cent may be levied as a revenue duty, I think that there is no harm whatsoever in accepting my amendment asking for an increase to 20 per cent. I may also invite the attention of Hon'ble Members to the fact that for purely revenue purposes the United Kingdom as well as other countries are imposing duties to a very much larger extent than I have proposed in my amendment. For instance the duty imposed by the United Kingdom on coffee is 18 per cent and on tea it is 60 per cent; on sugar it is equivalent to 18 per cent. We know that England was a free-trade country until recently, and these duties were imposed purely for purposes of revenue, and therefore a 20 per cent export duty cannot be complained against by any countries, whether included in the British Empire or not on the ground that it is excessive or prohibitive in its incidence. "

The Hon'ble Mr. W. E. Crum :—" My Lord, I beg to oppose this amendment. It is very difficult to say what would be the effect of this amendment to increase the export duty. But the position is that at present it is admitted that India cannot tan all her own hides and skins. Therefore, I consider it very important that any duty of this sort should be imposed gradually. I may say that I have telegrams from several raw hides and

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skins export associations asking that the duty may be considerably reduced. Well, I do not propose to support that. I think that probably this 15 per cent duty is a fair duty, and I do not think that the Hon'ble Member is right when he suggests that the net result would be a protective duty of very much less than 15 per cent, if I understood him rightly. Certainly other countries like America, and, probably as soon as we trade with the Central Empires, they also, will continue to take our hides and skins, probably in decreasing quantities, but at any rate in very considerable quantities for a number of years. As regards what the Hon'ble Member said about the American import duty on tanned hides and skins, I would just like to say that the duty was removed in 1914. There is no duty into America now on tanned hides and skins. I suggest that what America did was, as I said when the motion was first made to introduce the Bill, to build up her industry by a protective duty on leather, but as soon as she fairly well established her position she then removed the duty."

The Hon'ble Sir George Barnes :—" My Lord, this amendment proposes directly to increase the proposed duty from 15 to 20 per cent. We fixed the figure of 15 per cent after making inquiries in every possible direction, and after taking the advice of the best expert advisers that we could find in India. We believe that this figure of 15 per cent is the right figure as between the various interests concerned. Yesterday I listened with great interest to the speech of the Hon'ble Mover of this amendment when he pleaded for an all-India view. That was in relation to Burma rice. He wanted to get cheap Burma rice into Madras. I would ask him whether he is taking an all-India view to-day. He is now, I take it, looking at the case through Madras spectacles, and through the spectacles of the Madras tanners. I have in my hands a telegram from Rangoon asking that no duty be imposed at all. Surely, we have the exact reverse of yesterday's picture. Yesterday the Hon'ble Member wanted to get cheap rice into Madras ; accordingly he then said ' I am all for the unity of India '. To-day he wants to enlarge the duty in a way that may prejudice the hide producers of Rangoon and Burma. Here apparently the Hon'ble Member is for the interests of Madras as against the interests of Burma and is consequently opposed to view that India is one. I regret, My Lord, that I cannot accept the Hon'ble Mover's amendment. "

The Hon'ble Sir Dinshaw Wacha :—" My Lord, it is certainly time when we are on the threshold of a new industrial evolution to protect the young industries of India, particularly leather. But while we attempt to impose duties for the protection of these young industries, let the duty be neither too exorbitant so as to arrest the rate of progress of the industry nor too small as not to be worth our while at all to impose. Therefore, in a matter of this kind, when India is just entering upon a new industry of great promise which has to be temporarily protected though not against the sound principles of free trade, it is far better that we go by the golden mean. That golden mean is the one suggested by the Hon'ble Sir George Barnes, and I consider it to be very good. In fact it conforms to the principle of how young industries should be started as recommended by free trade experts, of whom Professor Tanssig is not the least ; and at the same time is one which will heartily commend itself to all members of this Council. I therefore oppose this amendment of Mr. Sarma."

11-47 A.M.

The Hon'ble Rao Bahadur B. N. Sarma :—" My Lord, I can assure the Hon'ble the Commerce Member, whom I thank for the policy underlying this Bill, that I have not in the least the Madras interest or any sectional interest in view in putting forward this amendment. I have no interest in it except as part of the general trade problem of the whole of India. I am not

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concerned with the Madras trade as such. If the Commerce Member had shown that in this respect the interests of Madras are opposed to the rest of India, I would certainly have nothing more to say; the interests of Madras cannot have any consideration whatsoever at the hands of this Council as against all-India interests. But the only argument which the Hon'ble Sir George Barnes has advanced as to this being a peculiarly Madras view is, that he has received a telegram that the Rangoon people object to it. Is it the Rangoon tanners who object to it, or is it the Rangoon raw hides and skins merchants? I am sure that the raw hides and skins merchants will always object to it, as the Hon'ble Mr. Crum has told us, whether they belong to Madras, Bengal, Rangoon or elsewhere. Therefore, if we are to look to their profits as such, then certainly this Bill may be unsound. The fact that Rangoon objects does not convince me that the interests of the rest of India are opposed to the particular amendment which I seek to bring forward. Then the Hon'ble Sir Dinshaw Wacha said that we should adopt the golden mean. There is no question of a golden mean here. The question is one of the practical effect of the duty. Are we giving effect to our policy? Hon'ble Members will remember that we are here beginning to wage an economic war against particular countries, which may retaliate against us; it is a very large question. We have begun the war in hides and skins; we do not know exactly what effect this war which we have commenced would have upon our other export trade and upon our import trade. It may lead to monopolist concerns which would reduce the prices of our export articles. Therefore when we are risking that, we shall have to see that the object with which we have set out is effectuated, namely, protecting the Indian tanning industry.

"If the United States felt it necessary to fix the rate at 15 per cent and Japan at 51 per cent, I do not see how I am wrong in the suggestion put forward in my proposal. The Hon'ble Mr. Crum said we must remember that we cannot tan all the hides, and the rest of the Empire will take them, exactly, but how does my proposition prevent that? If it can be shown that a 20 per cent duty would restrict the export trade, the opposition to my amendment would have some force, but I maintain that no valid reasons have been urged against my proposition.

The motion was put and negatived.

The Hon'ble Rao Bahadur B. N. Sarma :—"My Lord, I beg to 11-53 A.M.
move that :—

'in col. 4 in clause 8, the proviso be omitted.'

"My Lord, this relates to the question of rebate or preference between the various parts of the Empire. It is a very large and important question. It has been raised indirectly by this proviso which was introduced by the Government. The Hon'ble Pandit Madan Mohan Malaviya objected to this clause when the Bill was introduced. I made no statement on that date and even now I am of opinion that it is just and right that we should do whatever we can to consolidate the Empire and the conditions of trade within it, and if this is the only way in which we can do so, certainly we should not interpose any obstacle in achieving that object unless Indian interests should grievously suffer. Now, my Lord, as I said a little while ago by introducing this clause we have thrown out a challenge to other countries, allies as well as enemy countries. We have by the imposition of 15 per cent duty expressed our determination to effectuate our object, the protection of our industries against other countries. Other countries have been doing the same and cannot complain, neither the Allies nor Germany and Austria-Hungary can complain against the action of India protecting her own interests. But we go further and give preference to countries which form no doubt part of the British Empire, but which have hitherto always been treated for financial and commercial purposes as distinctly separate. We have thrown out a challenge and we cannot complain if other countries, enemies as well as allies, discriminate in their markets and in their tariff policies against us in favour of

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other countries. They may have been doing that in the past, perhaps some have, and we shall have to be prepared for more of that in the future. The question is whether the relations between India and the rest of the Empire have been so arranged as to enable us to work on a common policy and with a common goal. There is no assurance whatever that the United Kingdom, Canada, Australia, South Africa or any other part of the Empire would not resort to protective duties or heavy revenue duties as against India. There is no inter-allied programme as to the rest of the Empire as to what the future policy should be as to trade and commerce. There has been a suggestion that India should be treated for fiscal purposes on exactly the same footing as the dominions and the United Kingdom, and it has been recommended to His Majesty's Government that where the Government of India and the Legislative Council are agreed upon any common policy, upon a definite line of action no obstacle should be placed in its way. I have every confidence that the Government of India, if left to itself, will do justice to the Indian people and I know as a matter of fact that several of my European colleagues, especially members of the Indian Civil Service, would fight for Indian commercial interests as against the rest of the Empire. I have every confidence that the Indian Government would act in this manner. We are all working to attain this end that India should have fiscal freedom to adopt its own policy when such a policy is not opposed to Imperial policy. There has been no pronouncement on this question as to whether India should be allowed to treat itself commercially, industrially on exactly the same footing as the rest of the Empire, and until that question is solved by the Empire or the League of Nations, it would be wrong to throw out a challenge to the rest of the world. My Lord, a good many of us have been characterised as protectionists; we are no doubt that in a sense, we believe that, where there is an industry which is peculiarly Indian and suited to India, requiring encouragement and help, it should be protected against being killed in its infant stages. But in all other respects we are free traders. The question is whether in throwing out this challenge to the rest of the world we are wise without taking adequate steps to protect our own interests. If there is any trade which is of extreme importance to India and which can be encouraged in India, it is the cotton industry, and recent events have shown how important that industry is to us, and how depending upon other industries many people had to go half naked. Therefore, if there is any industry in India which requires to be encouraged, it is the cotton industry. But the Indian Government and His Majesty's Government alike have met with very hostile criticism in the British Parliament, and we must be thankful to the Indian Government and the British Parliament for the courageous way in which they have taken up our cause to the extent they have done. Well, we find that it would be impossible even for His Majesty's Government much less the Indian Government to protect India as against the United Kingdom. I am not now considering the question whether it is right or wrong, but as a practical proposition it would be an absolutely impossible thing. Therefore, in respect of the largest imports into India, namely cotton, there can be no question of protection.

"Another large item which figures in the import trade is sugar. That is an essential food of the people, and some of us will be very slow indeed to impose any duty on sugar unless we are clearly convinced that we can start the industry here without detriment to the people. Well, if we go through the other articles of the import trade, we find that there are very few articles which could be taxed without our coming into conflict with either the Allies or the British Empire. Therefore, my submission is, that this question should not be tackled in a piece-meal fashion. Of course it is always open to the Imperial Government, once the Imperial policy is settled, to bring in a proposition like that, but I submit at the present stage it would be very inconvenient to do so, having regard to the effects which it would have with regard to jute, cotton, and several other things in respect of which the Committee on

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Industries in England has made specific recommendations. There is no use of taking a leap in the dark. The Committee on Commercial and Industrial Policy after the War which submitted its recommendations to His Majesty's Government, say at page 18 of their Report, paragraphs 77 and 78 :—

' Jute. The value of the exports of jute yarns in 1913 was £ 781,000, of piece-goods and other manufactures of jute 3·8 million £ and of bags and sacks something over one million £.

The Hon'ble Sir George Barnes:—" I do not quite follow the Hon'ble Member. We do not propose this duty as part of any general scheme of Imperial Preference, but we propose it because we believe that this particular duty is in the interests of India. It is in the interests of India, that the hides and skins produced in India should be tanned in India, if possible, or within the British Empire, if it is not possible to tan them in India. No general scheme of Imperial Preference in which India is to join is at present suggested. "

The Hon'ble Rao Bahadur B. N. Sarma:—" I am thankful for the assurance that any acceptance by this Legislative Council of the principle involved in this Bill would not commit them to any large policy in respect of other articles either of import or export, and that it is open to take up each question on its merits and discuss as to whether it is for the convenience of India or not.

" Then the sole point would be, whether we should ask for this rebate duty to be omitted from the provisions of the Bill. Well, I start with this proposition, either a 15 per cent duty is necessary in the interests of the Indian tanner or it is not. If it is necessary in the Indian tanning trade interest, then if we impose an export duty of only 5 per cent in respect of the other countries in the British Empire, how would it affect us? There would be no real protection. Hon'ble Members will see that there is a large tanning industry in Great Britain, and I hope it will grow, because it is not from India alone that raw hides and skins are imported, but from various other parts of the world as well. The value of the trade in raw hides and skins of the United Kingdom was between £5·9 millions in 1914 and £11·9 millions in 1918. But Indian export up to 1913-14 ranged in value only £166 thousand. It was only during the period of the war when there was a limitation of freight and when there were several other restrictions and a large demand that they went up to £857 thousand, whereas other countries were taking to the extent of £3·6 millions. Therefore the United Kingdom up till now has not been taking very large quantities of raw hides and skins from India. She has been taking raw skins to the extent of £149,000 before the war, and the value was £136,000 in 1914-15, £130,000 in 1915-16, £287,000 in 1916-17 and £387,000 in 1917-18 during the course of the war out of a total for 1917-18 of £3·2 millions. Therefore raw hides and skins from India were not largely tanned in the United Kingdom—as a matter of fact the United Kingdom has been actually exporting a portion of the hides which she has been importing. In 1914, she exported again to the value of £6 millions; in 1915, £4·8 millions, in 1916 £6·1, in 1917 £8·7 and in 1918 £2 millions. Therefore, the United Kingdom exported a larger quantity of raw hides than she imported from British India. Of course this argument of mine is a double-edged weapon. It shows that we need not at present

The Hon'ble Sir George Barnes:—" I think I can help the Hon'ble Member if I explain the position. He is under the impression that rebate is to be payable in respect of re-exports. I tried to explain, as clearly as possible, that our proposal is that no rebate shall be granted in respect of re-exports of raw hides and skins."

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The Hon'ble Rao Bahadur B. N. Sarma :—“ I knew, my Lord, that no rebate would be granted on re-exports. My point is that the skin and tanning trade of Great Britain would not be hit at present by our export duty, because the exports to the United Kingdom have been very small, and as a matter of fact there has been a large re-export trade in the United Kingdom. That was the way how I introduced that subject. My point is that we would not in any way prejudicially affect the existing condition of things by the imposition of this export duty of 15 per cent all round, and therefore we shall not be interfering with vested interests.

“ Now with regard to the future, I think we have as much right to take effectual measures here which will protect our industries against new industries in the United Kingdom as elsewhere. In respect of new tanning industries which may grow up in the United Kingdom, we should not discourage them, but my contention is, if 15 per cent be necessary to protect our industries, why not have it all round ? If 15 per cent is not necessary to protect our industries, reduce the rate, unless it be required for revenue purposes. As a matter of revenue policy we may fix a duty of 5 per cent, but for protectionist purposes a duty of 15 per cent would be necessary. What does it matter from where the competition comes so long as the Indian tanning trade is concerned ? Therefore the argument is that we shall have to be protected against everybody if we adopt a protectionist policy. We shall not be hitting any one in the United Kingdom at present ; we will be encouraging the Indian trade, and every country can take hides and skins from us equally paying the 15 per cent export duty. It is on these grounds, my Lord, that I advocate the acceptance of my amendment. I know full well that the United Kingdom have been so gracious as to give us a 2*d.* rebate in respect of tea, 2*d.* out of a pound, 1-6th, but whereas, it is necessary that we should have 15 per cent protectionist duty there was no question of protection involved but only revenue when the United Kingdom granted a rebate on tea. The reduction also helped the British tea drinker. If it was only a question of revenue, I would certainly not object to this 10 per cent reduction, or even a larger reduction, but when it is a question of protection, my Lord, let us secure our object and not reduce the duty by granting a rebate. ”

12-14 P.M.

The Hon'ble Mr. W. E. Crum :—“ My Lord, I must oppose this amendment. I think the Hon'ble Member has wandered somewhat from the reasons for which this Bill was brought in. It was brought in for two reasons, first, because the tanning of hides was a key industry, that is to say it is an industry which must be protected because tanned hides are required during war. It is therefore absolutely necessary that we should try to conserve the tanning of hides within the Empire.

“ Secondly, it was brought in because it was considered that India is particularly suitable for the tanning of hides, and therefore that the tanning of hides should be protected as far as India is concerned. It seems to me perfectly clear that since, as I said before, India cannot at present tan all her hides, we must go back to the other reason for which we impose this duty, namely that it is a key industry, and try and arrange that all those hides, or as large a number as possible of those hides which India cannot tan are tanned within the Empire. ”

12-15 P.M.

The Hon'ble Sir George Barnes :—“ My Lord, Mr. Crum has left very little for me to add. The Hon'ble Member's amendment is to the effect that the 10 per cent. rebate which we proposed shall not be given. In my opening speech and again just now I tried to make it clear why we imposed this duty and why we gave the rebate. The rebate is given primarily in the interests of India. Only a small proportion of our hides and skins can be tanned in India, and it is entirely in the interests of India that the hides and skins should be tanned within the Empire. If war should again unfortunately

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break out in future years, it is of the highest possible importance to us that we should not be again in the same position that we were in at the beginning of this war. At the beginning of this war a large proportion of the tanneries which were capable of dealing with the hides which were necessary for army equipment were unfortunately situated in Germany. If war should break out again in future, we must not again be found unprepared in this respect. We must be able in one part or another of the Empire to make the leather which is needed for the equipment of our army.

"Now the greater part, certainly all the first part of the Hon'ble Member's speech I should like to claim as a speech in favour of the rebate, for he expressed himself as proud of belonging to the Empire, and of believing that we ought to do all that we can to bind the Empire together. All that part of his speech I welcome with all my heart. The latter part of his speech I confess that I did not follow altogether, and I was unable to gather from it any arguments which need a reply. My Lord, I cannot accept this amendment."

The Hon'ble Pandit Madan Mohan Malaviya:—^{12-18 P.M.} "My Lord, there are two points which are involved in the amendment proposed by the Hon'ble Mr. Sarma. One is the question whether India will be better benefited by the proposal in the Bill or by the proposal of Mr. Sarma. The second is, are we so well off that we can share our benefits with the other parts of the Empire? The Hon'ble Sir George Barnes has said that we should consider the situation which would arise if another war breaks out. We ought to hope that another war is not going to break out very soon. But if it should unfortunately break out, then I doubt not India will do as it did on the recent occasion and better, and the British Empire will do as it did on the recent occasion and better. We were able during the war to utilise a lot of our hides and skins, and I think that with the advance in the tanning trade which she will have made within the time, however unfortunately soon that time may come, when another war will break out, India will be immensely better prepared to utilise its own hides and skins for the purpose of the war, and the British Empire will be even better helped by it than it was during the last war.

"There is one question which I wish to ask and which is to me of the deepest concern. Is it in the interests of India that you propose to make the sacrifice involved in the grant of a rebate of 10 per cent on hides and skins? If India were rich, I should be delighted to share some of its superfluous riches with the other members of the Empire, though unfortunately they have not yet set an example to us in that direction. But what I say is, accepting what was said about tea, which I consider to be a matter of small importance, what I say is that India needs every pie of the money she can raise by her export duties. If you can levy an export duty of 15 per cent on hides and skins, I say let the whole of it come to India. If other parts of the Empire find it to their advantage to take in Indian hides and skins, let us find out whether they do not find it profitable to do so even with the export duty that is proposed. Are we sure that even after taking Indian hides and skins with the export duty of 15 per cent they will not be making a good profit on the business? If it is proved that, even with the export duty proposed, our hides and skins which will be imported into the United Kingdom will bring those who deal with them a fair profit, then I say no case is made out for asking India to make this sacrifice. If the experience of a year or two should show that 15 per cent is too much to ask tanners of other parts of the Empire to pay, and that it affects India's export trade, that hides have to rot, as one Hon'ble Member suggested they will if we did not encourage their export, it will be time enough for the Government to reconsider the question.

"As I said the other day, unfortunately India does have a large quantity of hides and skins to export. Well, then let us make all that we can out of it for the benefit of those who are injured by such a large quantity of hides and

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skins being produced in the country. For these reasons I say that the proposal of my friend is a reasonable one and that the Government should accept it for the present. We ought to remember that there are not many other parts of the British Empire which produce as many hides and skins as we do, and as every part of the British Empire does generally take all that it can out of other parts of the Empire for its products and manufactures, I do not see why India should be deprived of the money which it so badly needs for promoting the welfare of its people in so many directions. I remember the correspondence that took place between some British tanners and the Secretary of State, which was forwarded to the Government of India. As a Member of the Industrial Commission I was privileged to see that correspondence. And I do not at all feel doubtful that, even with the export duty which it is proposed to impose upon our hides and skins, the British tanners will be able to make a good profit out of the business, and, therefore, I say there is no occasion to start with granting them a rebate. There is no justification for the sacrifice of India's interests, no overpowering reasons in the interests of the Empire, why that sacrifice should be made for the benefit of other parts of the Empire.

"For these reasons I wish that the Government would see their way to reconsider their position. I support the Hon'ble Mr. Sarma's amendment."

12-23 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—"My Lord, practically the sole reason that was given in favour of the Government view is that we shall have to tan the hides somewhere in the British Empire in Imperial interests. India is unable to tan all her hides and skins, and, therefore this policy has to be embarked upon. The Hon'ble Sir George Barnes forgets that my argument was that the United Kingdom is equally unprepared at present to tan all the additional hides that would be diverted to it, from the fact that although its tanneries take a certain number of hides and skins, it re-exports some. I quite grant that the tanneries can be expanded enormously, but, as things stand, the tanners in the United Kingdom are in the same position as the tanners in India, namely, neither can meet the additional demand. Therefore, I do not see any reason why we should not start all the tanneries that are required in India for tanning the rest. Why cannot you do it to-day? Is it that you have not got experts? Is it that you have not got the money for it? I submit there is no reason whatsoever why our tanneries cannot be so expanded as to meet the additional requirements. Well, assuming for the sake of argument, that India cannot tan all her hides, we estimate that even a 5 per cent duty would divert the trade to the Empire. Well, if it does, the United Kingdom would start her tanneries on a favourable footing. We are not placing her in any disadvantageous position as against others—India and the United Kingdom—because the others do not count for much in this matter—can do the work between them equally. I, therefore, submit that, in carrying out the protectionist policy in favour of India, you will encourage the tanning industry equally in India and in England by giving only 5 per cent rebate instead of 10 per cent, having regard to the difference in the conditions."

The motion was put and negatived.

The Hon'ble Rao Bahadur B. N. Sarma :—"The next amendment which I wish to move, my Lord, is that in column 4 in clause 3 the following further proviso be added :—

'Provided further that no rebate shall be granted to any dominion, state or territory . . .

The President :—"The Hon'ble Member has got another amendment down before that. I have no doubt the Hon'ble Sir George Barnes will be grateful to him if he does not move it."

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[*Rao Bahadur B. N. Sarma ; Sir George Barnes.*]

The Hon'ble Rao Bahadur B. N. Sarma :—“ My Lord, my next amendment is that in column 4 in clause 3 for the words ‘two-thirds’ the words ‘one-third’ be substituted. 12-25 P.M.

“ I hope I shall have better luck on this amendment than on the previous two amendments. I shall try to be as clear as I can. My Lord, I said I was in favour of encouraging the Imperial connection, and that is the reason why I will take it that some sort of preference would be shown to the Empire as against the rest of the world. Now the question is whether the preference is to be 10 per cent or 5 per cent. That is the only question. Here, following the analogy of Great Britain, I think we would be justified in making it 2½ per cent, because the rebate granted in favour of Indian tea so far has been two pence in every shilling or one-sixth. I think that is not controverted. Mr. Austen Chamberlain in his speech on the Financial Statement on the 30th April last said :

‘ On a consideration of the facts I have come to the conclusion that one-sixth would be an effective preference on these articles, and I hope it will be satisfactory to those concerned ’

“ I have suggested one-third for the reason that in the earlier paragraph Mr. Chamberlain seems to suggest that, as at present advised, the general Empire rate of preference would be one-third. I have read that passage on a previous occasion. ‘ On these duties I propose to fix the preference at one-third which is what I may call the general Empire rate, in so far as a general Empire rate exists. ’ I submit that there is no reason why the Government of India should go further than what His Majesty's Government have proposed to do, namely, to give a preference to the extent of one-third.

“ Then, the only other point would be as to whether one-third would not be effectual for the purposes which the Government have in view, namely, diverting the trade to the United Kingdom, I mean to the rest of the Empire, and encouraging tanneries there. I have already argued, my Lord, that we have very great difficulties in respect of this general rebate policy, and that the Government hoped that by means of this they would be able effectually to divert the enemy trade into Great Britain. I think they can do that with 5 per cent preference as well as 10 per cent preference. I have already shown that even a 10 per cent duty would hardly help the Indian tanneries to struggle with their small resources as against the capitalist countries both within the British Empire as well as elsewhere. I hope the Government and Hon'ble Members will not forget that our concerns are very small, that they are struggling, and that they are slowly rising in importance, and the Government have felt it incumbent upon them to protect them. If they are to be protected, by all means protect them properly, give them effectual protection, and not merely nominal protection. That is my prayer. We would not be transgressing the policy of His Majesty's Government, we shall be effectually protecting our industries, while at the same time diverting trade to the rest of the Empire and giving some preference to the United Kingdom. All these objects would, I submit, be met by a one-third rebate duty and I, therefore, press my amendment upon the attention of Government and the Council.”

The Hon'ble Sir George Barnes :—“ My free-trade friend, my Lord 12-31 P.M. the Mover of the amendment has apparently no difficulty in accepting the measure of protection offered to him by the Bill ; in fact he asks for a bit more. He reminds me of a constituent of Sir Robert Peel, a story concerning whom is recorded in the life of Sir Robert Peel. Sir Robert when he was sitting for a seaside constituency received a letter from a constituent who was a fisherman stating that he was a strong free-trader, but that he thought there ought to be a small duty on herrings. I think that is the view the Hon'ble Member really takes. He feels that the Madras tanner is not sufficiently protected if the 10 per cent rebate is conceded, and he wants to reduce that rebate to 5 per cent. Let us go therefore into the protection which we are giving to him.

[*Sir George Barnes ; Rao Bahadur
B. N. Sarma.*]

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With regard to foreign countries the protection by the export duty is 15 per cent. With regard to countries within the Empire the protection afforded by export duty alone is 5 per cent. Apart from the protection afforded by the export duty there is in each case the natural protection afforded by the cost of the freight, insurance in sending the hides and skins from India to the country where they are to be tanned; then there is further protection in the cost of freight and insurance on the manufactured article,—that is the leather; then on entry of the leather into India there is an import duty of 7½ per cent. Now that surely is sufficient protection for anybody. We do not want to make it impossible that foreign leather shall be sold in India. We do want to set the Indian tanners on their feet and to give them a fair chance; but we do not want to make it impossible that any foreign leather shall be sold at all in India. If we did this the result would presumably be that the price of leather would be raised unduly, and the consumer would suffer accordingly. For these reasons, my Lord, I cannot accept this amendment."

12-33 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"My Lord, if I were the first to advocate a slight departure in favour of India from the free-trade principle, the Hon'ble Sir George Barnes' remarks would be very weighty; but I am afraid that he stands in exactly the same position as myself. Both of us wish to depart and do depart from the strict free-trade principles and try to give some protection in favour of India. The only difference is as to the measure of protection that shall be afforded, and I think that my suggestion is reasonable. I quote the precedent of the United States which thinks 15 per cent is necessary; I quote the precedent of Japan which thinks 51 per cent is necessary, after taking into account the insurance freight and other charges mentioned by the Hon'ble Member; if in addition to these charges other States consider 51 per cent to be necessary, and it is also granted that the United Kingdom and the other countries forming the Empire are capitalist countries, much richer than India, I do not think I shall be pleading wrongly in favour of the reduction of the rebate."

The motion was put and negatived.

12-35 P.M.

The Hon'ble Sir George Barnes:—"My Lord, before Mr. Sarma rises I should like to make an appeal to him not to move his amendment. It may do us infinite harm if he does move it. We are at the present time sending a deputation to South Africa, and the moving of this amendment cannot do us any good. It will embarrass Sir Benjamin Robertson on his mission, and I do appeal to the Hon'ble Member not to move it for that reason. Pin-pricks are doubtless amusing to the person who handles the pin, but a pin is not a good instrument of diplomacy. I do appeal to the Hon'ble Member not to move the amendment."

12-36 P.M.

The Hon'ble Rao Bahadur B. N. Sarma:—"My Lord, I understand the spirit in which the Hon'ble Sir George Barnes has made these remarks and I appreciate them. But I find this difficulty that we can move no amendment whatever at a later stage without the permission of Government. If the efforts of Government are unsuccessful and India should be treated exactly as at present, if your Excellency would permit me to move this amendment to the Act at the Delhi Session after the negotiations are completed, I have not the slightest objection to dropping it now in the interests of harmony. But if it is not permissible for me to do so at a later stage I shall have to press it."

The Hon'ble Sir George Lowndes:—"My Lord, may I point out something which might help the Hon'ble Member to drop his amendment? Under the wording of the proviso we have powers as a Government to grant this rebate only to such parts of the Empire as we wish and to refuse it to any part of the Empire. The amendment would only make compulsory the

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

powers which are to be given to the Government. The Hon'ble Member has perhaps not discovered that."

The Hon'ble Rao Bahadur B. N. Sarma :—" I want that this should be provided for by the Legislature. It is one thing for the Government to have discretion to grant or refuse rebate ; it is another thing altogether for the Legislature to lay down that rebate shall not be granted to certain parts of the Empire. It is the united voice of the people of India that pleads that the policy should be laid down clearly. I know that Government have already got these powers ; but I think there is greater force in the Legislature of India, acting on behalf of the people of India, giving expression to that view. Therefore, I have not the slightest objection to dropping this amendment now and bringing it up again at a later date if the Government will permit me to do so. But if they do not, if they cannot give me permission at any stage, then I shall have to move this amendment. The motion is only conditional. If any country should treat Indians in the way I have described in the amendment, it is incumbent on the Government to grant no rebate. If, on the other hand, as a result of these negotiations the other countries should treat us fairly, then the proviso would be inoperative. It would have no application whatever. Therefore, I shall not be prejudicing the progress of the negotiations in this case. It is only optional, conditional. But I am willing to drop it if the Government would permit me to move this in case of necessity, of course after due notice to the Government."

The Hon'ble Sir George Lowndes :—" It would be possible for the Hon'ble Member to move a Resolution in this Council that the Government do put these powers in force against any particular country he likes or the Legislative Assembly might do so."

The Hon'ble Pandit Madan Mohan Malaviya :—" May I draw attention ? "

The President :—" On a point of order ? "

The Hon'ble Pandit Madan Mohan Malaviya :—" No, my Lord ; but the point has to be considered."

The President :—" I do not really see how the Hon'ble Member can. We do not know yet whether the amendment is going to be moved or not. Until that question is settled there is no point for the Hon'ble Member. He may later on when this Bill is to be passed address the Council."

The Hon'ble Pandit Madan Mohan Malaviya :—" May I submit my point for your Lordship's consideration ? "

The President :—" On a point of order."

The Hon'ble Pandit Madan Mohan Malaviya :—" The language used in the Bill is ' shall '—' rebate shall be granted.' I would invite the attention of the Council to this because the Hon'ble the Law Member has said that the Government will have the option to grant a rebate or not to do so ; it will not have the option. The language is ' Provided that subject to such conditions as the Governor General in Council may . . . prescribe, a rebate shall be granted.'

The President :—" The Hon'ble Member reads rather fast and that is why perhaps he has passed over the words there referred to—' subject to such conditions as the Governor General in Council may by notification in the Gazette of India, prescribe.' Those are the governing words."

The Hon'ble Pandit Madan Mohan Malaviya :—" Do they take away the force of the word ' shall '—' the rebate shall be granted' ? "

[*Rao Bahadur B. N. Sarma ; Sir George Barnes ; the President.*]

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The Hon'ble Rao Bahadur B. N. Sarma :—“ If His Excellency would give me an assurance that I may bring it up next Session, if necessary, I shall drop the second portion of my amendment ; the first portion will stand, it is inoffensive.”

The Hon'ble Sir George Barnes :—“ The position is that Government will have full powers under the Act when the Bill has become law, and it will be open to the Hon'ble Member at any time in the future, if circumstances necessitate it, to move a Resolution asking the Government of the day to use the powers but I really think that that meets the Hon'ble Member entirely.”

The Hon'ble Rao Bahadur B. N. Sarma :—“ Resolution, but not legislation. No Revenue Bill can be modified by a private member without the sanction of Government.”

The Hon'ble Sir George Barnes :—“ The powers are here ; the Resolution will be to put those powers into effect.”

The Hon'ble Rao Bahadur B. N. Sarma :—“ I shall not press that portion, my Lord, under these circumstances. But I may be permitted to move the first portion, namely, ‘ that no rebate shall be granted to any dominion, state or territory which discriminates against Indian tariff policy.’ That has nothing to do with this inconvenient question.”

The Hon'ble Sir George Barnes :—“ Will not the Hon'ble Member drop it altogether ?”

The Hon'ble Rao Bahadur B. N. Sarma :—“ It is perfectly harmless ; it merely says any state, etc., which discriminates against our tariff policy.”

The President :—“ If the Hon'ble Member wishes to move his amendment, let him move it. I understand that he does not wish to move the latter part, but that he wishes to move the former part. I think we shall get on quicker if he does move it.”

The Hon'ble Rao Bahadur B. N. Sarma :—“ I cannot move it without your Excellency's permission to omit the second part.”

The President :—“ But I have given you permission to omit the second part.”

12-40 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—“ Then I move that in clause 3, column 4 to the proviso the following be added :

‘ Provided further that no rebate shall be granted to any dominion, state or territory which discriminates against Indian tariff policy.’

“ My Lord, I think many words are not needed to support this amendment of mine. All I desire to say is that if any country acts unfairly then the Government of India *shall* act in the manner suggested. It is only fair that when we grant a concession we should be treated in the same way by other countries. Therefore I submit that if any country adopts a policy of discrimination against India, then this clause which I propose should be applied to that country in regard to its tariff policy.”

12-41 P.M.

The Hon'ble Sir George Barnes :—“ My Lord, the Bill already gives full powers to the Government of India in the direction desired by the Hon'ble Mr. Sarma. Should any part of the British Empire discriminate against the Indian Tariff policy, which I hope will never occur, and of which there is not the slightest sign at present, I hope the Council will leave the Government of India of that day to deal with the question.”

THE INDIAN TARIFF (AMENDMENT) BILL; THE WORK- 267
MAN'S BREACH OF CONTRACT (AMENDMENT) BILL.

[17TH SEPTEMBER, 1919.]

[*Sir Dinshaw Wacha ; Rao Bahadur
B. N. Sarma ; Sir George Barnes ;
Sir William Vincent.*]

The Hon'ble Sir Dinshaw Wacha :—“ My Lord, the question raised by the Hon'ble Mr. Sarma seems to relate to that of a retaliatory policy. Is this Council at present discussing the general question of tariff policies? If this were a general question then the Hon'ble Mr. Sarma would be in order in raising it, but we are not discussing at present the merits of the whole tariff system but simply a minor point. Therefore, I think, the Hon'ble Member's point is superfluous. He is simply wasting the time of the Council.” 12-43 P.M.

The Hon'ble Rao Bahadur B. N. Sarma :—“ My Lord, there is the possibility that a discriminating policy against India might be adopted by Australia, South Africa or any other country. Why therefore should not the Legislature say that no rebate shall be granted. What is the objection to that? I do not see any reason why the Legislature should not lay down clearly what should be done in certain circumstances; this action can only be taken if other parts of the British Empire do not behave rightly. It is the direction of the Legislature which must be obeyed by the Executive Government. It would not leave any option in the matter.” 12-43 P.M.

The motion was put and negatived.

The Hon'ble Sir George Barnes :—“ My Lord, I move that the Bill be passed.” 12-45 P.M.

The motion was put and agreed to.

THE WORKMAN'S BREACH OF CONTRACT (AMENDMENT) BILL.

The Hon'ble Sir William Vincent :—“ My Lord, I move for leave to introduce a Bill further to amend the Workman's Breach of Contract Act, 1859. I do not know how far Hon'ble Members of this Council are familiar with this law. I may say very shortly that it is an old Act of 1859, which originally applied to Presidency-towns only and was intended to penalise fraudulent breaches of contract by artificers and workmen. It has, however, since been extended to other parts of India outside Presidency-towns. Under the Act labourers and artificers who take advances from their employers on certain undertakings and wilfully neglect to perform their contracts are liable to imprisonment. 12-46 P.M.

“ In February, 1917, the Hon'ble Mr. Malaviya gave notice to the Government of his intention to introduce a Bill repealing this Act, and the Government were prepared to allow his motion to be carried and his proposal submitted to public criticism. He, however, postponed introducing the Bill because he wished to secure certain information which was not readily available. Local Governments were addressed in order to obtain this information and at the same time the Government of India, which had some reason for thinking that the Act was misused in certain places, took the opportunity of consulting Local Governments as to whether the Act should be repealed altogether and, if not, what amendments, if any, should be made in it. On the 22nd March, 1918, the information called for by the Hon'ble Mr. Malaviya was laid on the table, but, so far as I am aware, no further action was taken by him in the matter of his Bill. The replies to our inquiries from Local Governments indicated that the majority of them thought that the total repeal of the Act was inadvisable, but that it required modification in certain respects to prevent abuse or misuse of its provisions. In order to meet the defects brought to our notice by different Local Governments, this Bill has been introduced. I think I can explain it best by taking clause by clause, dealing of course only with important clauses.

[*Sir William Vincent.*]

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"Clause 2 makes a modification in section 1 of the Act and limits its application to cases in which the money advanced does not exceed Rs. 300. That was the sum fixed roughly after inquiry as to what was a reasonable maximum for cases of this kind: The clause makes also another important change in the law by providing that before issuing a process on the artificer or labourer, the Magistrate shall examine the complainant and that the Magistrate may if in his opinion there are no grounds for proceeding further dismiss the application altogether. Under the existing law, I think, I am right, once a complaint is made, the Magistrate has at once to issue process on the workman or labourer.

"Clause 3 makes another important change. Under the present Act, if a Magistrate to whom an application is made is satisfied that the labourer has received an advance and is wilfully refusing to perform the contract, the Magistrate has no discretion, but at the option of the employer must either order the labourer to refund the money or perform the work. Under the Bill the discretion is vested not in the employer but in the Magistrate. Further, where an order is made for repayment of an advance the Magistrate will have power to order that the return should be made in instalments. Finally, there is an obligation cast on an employer who wishes to make a complaint under the Act that he must do so within a reasonable time; three months has been provisionally chosen as a suitable period within which such complaints should be made. There is no such limitation in the Act at present.

"I now come to sub-clause (2) of this clause. At present for refusal either to repay an advance or perform his contract a Magistrate has to sentence a man to rigorous imprisonment. We propose to leave it to the Magistrate to decide whether imprisonment should be simple or rigorous. There is one other small provision. In making an order of repayment of money a Magistrate has power to extend the period or vary the instalments, and in no case can an order under the Act operate to force an employé to work for a longer period than one year. That is a very important change, because under the present law there is no limitation at all for the period for which a man may be ordered to work, and in my own province I have known of cases in which agricultural labourers are bound for very long periods who might come within the scope of this Act. I am referring to what Members from Bihar are familiar with, the *Kamiouti* system.

"Then comes another provision in the Bill which allows a Magistrate the option to refuse to enforce any contract which he thinks is unfair. That is also a clause which, I think, will commend itself to Council on general principles.

"Finally, the Magistrate is given power to award compensation to any labourer against whom a false or frivolous or vexatious complaint has been made under the Act. Well, these are, I think, all the important provisions of the Bill, and I need not explain them any further at present. I only want to make one thing clear, and it is this, that the whole principle of this Bill is to make the provisions of the Act less stringent as regards labourers and artificers than at present, and the Bill is directed to prevent any possible abuse of the existing law. I am aware that the Bill may not go as far as some Hon'ble Members of this Council may wish. I can only say that the Government have gone as far as they consider that the opinions which they have received from the Local Governments justify. If, however, the Hon'ble Mr. Malaviya will after this Session send me a copy of the Bill which he at one time proposed to introduce for the total repeal of this Act, I shall be very glad to have it circulated for opinion, together with the present Bill. In regard to this Bill all that the Government seek to do at present is, to obtain leave to introduce it in the hope that it will be effective in preventing the abuse or misuse of the Act. If the views of Local Governments and other persons interested in this matter are that we ought to go further, the Government of India will have to consider the question again."

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[*Pandit Madan Mohan Malaviya.*]

The Hon'ble Pandit Madan Mohan Malaviya:—"My 12-55 P.M.
Lord, I thank the Hon'ble the Home Member for the sympathetic manner in which he has put forward the motion for leave to introduce the Bill to amend the Workman's Breach of Contract Act. My Lord, I frankly say at once that while I welcome the advance which the Government propose to make, in my opinion the total repeal of the Act is what is necessary. The reason why I did not take action is very simple. My Lord, I regret to say that, constituted as the Council is at present, I have given up all hope of carrying any important legislative proposal or even an important Resolution in this Council unless I was sure that I would have the support of the Government, and I was waiting for the time to which we are all eagerly looking forward when the Legislative Assembly will contain a majority of the elected representatives of the people, for I thought I would have a better chance then. I therefore welcome the attitude which the Hon'ble the Home Member has indicated in the matter of this Bill.

"Now, my Lord, the reasons why I suggested a total repeal, and why I still suggest a total repeal of the Act are very simple. My attention was drawn to this Act when I toured about the country as a member of the Industrial Commission. I found that in several places the Act was in force, and it seemed to me from all that I heard that this Act had outlived its period. The Act was passed in 1859, when railways had not come into existence—the first railway was constructed, I think, in 1854—and communications were very difficult. Conditions of life in the principal cities of Calcutta, Madras and Bombay, the towns which are mentioned here, were very different from what they are now. People did not find it so easy to go to Calcutta, Madras or Bombay from the mofussil; they did not find the conditions of life quite so satisfactory as now. In 1859, it might have been found necessary to empower Magistrates to enforce contracts against artificers or labourers in certain circumstances, but the tremendous changes which have taken place since then clearly point out that this legislation has outlived its utility, even if it was found necessary at the time it was enacted. My Lord, we are now in the 20th century. We are in the post-war period. A great International Labour Conference is going to sit at Washington. Labour problems are to the fore. The welfare of labour is engaging the attention of British and other Statesmen in all parts of the Empire. Even in this country the Industrial Commission has recommended that in towns in which industries are more predominant than in others more attention should be paid to the welfare of labour. I am surprised, therefore, that while the Government recognised the desirability of amending this Act, they did not decide upon its total abolition. What will those gentlemen, representatives of various Governments including our own, who are going to meet shortly in the interests of labour at Washington, think of a proposal like this when it goes before them, that in a matter of a purely social contract,—a man should be liable to be sentenced to imprisonment if he fails to perform the contract? I am sure they would decline to accord their support to such a proposal. Hitherto it has been understood that failure to carry out a simple agreement can be compensated by certain recognised processes. It is not a case of failure to perform a specific contract. We are not dealing with the case of individuals or men who are experts or who possess great technical skill and who fail to perform some work which they alone can do. It is the case of ordinary artificers, workmen and labourers. If one man does not do it, another man may easily be found to do it, it may be at a little higher cost; the rule which governs the enforcement of specific performance of contracts does not come at all into play here. In this case, if a man fails to perform his contract

[*Sir William Vincent : Pandit Madan Mohan Malaviya.*]

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The Hon'ble Sir William Vincent:—"May I interrupt the Hon'ble Member for one minute? I did not say for failure to perform a contract, but a fraudulent breach of contract."

The Hon'ble Pandit Madan Mohan Malaviya:—"I beg your pardon. I did not hear the Hon'ble Member. Will the Hon'ble Member speak to this side. I could not hear him, my Lord."

The Hon'ble Sir William Vincent:—"I thought it was customary to address the Chair in this Council."

The Hon'ble Pandit Madan Mohan Malaviya:—"If the Hon'ble Member had spoken clearly I could have understood him."

The Hon'ble Sir William Vincent:—"I said that the Act does not apply to all failures to perform contracts, but to fraudulent breaches of contracts."

The Hon'ble Pandit Madan Mohan Malaviya:—"Thank you."

"My Lord, the preamble to the old Act which it is proposed to amend says:—

'Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency-towns of Calcutta, Madras and Bombay, and in other places from fraudulent breach of contract on the part of artificers, workmen and labourers who have received money in advance on account of work which they have contracted to perform.'

"Now, my Lord, that preamble is retained. It is left to the Magistrate to decide whether the breach was a fraudulent breach or not, and then he is to pass judgment either that the person defrauded should be compensated, or that the labourer should perform the contract, or if he fails to do so, that he should suffer rigorous imprisonment for a term which used to be three months before but which the Bill now proposes to reduce.

"My Lord, in section II of the old Act it was laid down that:—

'If it shall be proved to the satisfaction of the Magistrate that such artificer, workman, or labourer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such artificer, workman, or labourer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract.'

I am glad that in the amending Bill that objectionable clause 'at the option of the complainant' is omitted and that the matter is left to the discretion of the Magistrate. I am glad also that it is proposed to do away with rigorous imprisonment. For the amending Bill says: 'If an artificer, workman, or labourer who has been ordered to perform the contract or repay the money advanced, shall fail to comply with such an order, the Magistrate may sentence him to imprisonment for a period not exceeding three months, or, if the order be for the repayment of a sum of money, for a period which may extend to three months or until repayment is made, whichever period is shorter.'

"Now, I submit, my Lord, that it is not right at this time of day to enact a provision like this. It is bad enough that the Act of 1859 was allowed to remain so long on the Statute-book, but when the attention of the Government has been drawn to it and Government have decided to deal with it, they ought to deal with it in a healthy way, in the way which will appeal to all those who are interested in the welfare of labour, and repeal this Act altogether. My Lord, we must not ignore the changes that have taken place. I have seen what facilities have been provided for labour in the important

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towns of Calcutta and Bombay. Bombay has to do more. It is unfortunately true that Bombay has not done as much as Calcutta has done; but I have seen that the Jute mills round Calcutta, and the Buckingham Mills in Madras and the Nagpur Mills have made most excellent provision for the accommodation of their labour. At Jamshedpur too, at the Tata Iron Works, they have made very satisfactory provision for such accommodation and it is going to be improved still further. Labourers willingly go to these places. There are thousands upon thousands of persons willingly working at Calcutta, Madras, Bombay, Jamshedpur and Nagpur. I have seen the very excellent provision made for the accommodation of labour at Cawnpore by the Elgin Mills and the Muir Mills. Now I am certain that if the state of things which exist to-day existed in 1859, nobody would have thought of enacting Act XIII of 1859. Therefore taking the reverse of it, now that such a state of things does exist, the Government ought to repeal that Act. With the advantages that have been created, it seems to me such a pity to present the spectacle to the labour world and to the rest of the world interested in labour, that of proposing that if an artificer, workman or labourer fails to perform a contract for labour, according to the terms which are preserved in the Act, he may be sentenced to imprisonment. My Lord, as I have said before, I quite recognise the liberalising elements which have been introduced into the Bill. I note that the Government recognise that in its present form Act XIII of 1859 is unsuited in many respects to modern conditions. They also recognise that it has been found capable of abuse by employers. I have not got before me the statement which the Government was good enough to supply to me in answer to a question of mine, but that showed that there are many places in this country where workmen are sentenced to imprisonment under Act XIII of 1859, and that this Act is abused. It is necessary therefore that it should be done away with altogether.

“ Another modification which has been introduced is, that it will be only in cases where the advance does not exceed Rs. 300, that the Magistrate will interfere, but this will not to my mind very much alter the situation, though it slightly will. Why should a person who has received something less than Rs. 300 as an advance, be liable to be sentenced to imprisonment, when a person who has received Rs. 400 in advance is not liable to such imprisonment? I fail to see any reason for it. The suffering which the one may be subjected to will be felt by him quite as keenly as the suffering which might have been undergone by the man who contracted for larger wages would have been.

“ My Lord, the modification that ‘ the Magistrate may in his discretion refuse to make an order under section 2 where in his opinion the contract in respect of a breach of which the complaint has been made was substantially unfair ’ is a good provision and I have nothing to say against it. If the Act must continue, this is a provision which I welcome. As regards the change proposed in the nature of imprisonment, whereas the old Act provides that wherever imprisonment is inflicted it must be with hard labour, the present Bill proposes to give the Magistrate the discretion to inflict imprisonment of either description, simple or rigorous. I submit it is a pity that the Government should still think of retaining rigorous imprisonment even as an alternative punishment. In any event the very least the Government might have done was to cut out rigorous imprisonment altogether, and to say that if any imprisonment must be inflicted, it must be simple. My Lord, if a man fails to pay his debt, he is subjected to simple imprisonment only; I do not see why a person who fails to perform a civil contract should be put in a worse position. These are my reasons, my Lord, for the view which I have submitted. I recognise that the Bill makes an advance and a welcome advance, to the extent that it goes, on Act XIII of 1859; but it does not go far enough, and at this time of day the

[*Pandit Madan Mohan Malaviya ; Mr. W. E. Crum ; Sir William Vincent ; Mr. Sachchidananda Sinha.*]

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welfare of the labourer, and fairness to him demand that this Act should be obliterated from the Statute-book. The labourer, my Lord, has suffered a great deal in the past owing to the operation of this Act and of some other enactments and practices which have prevailed in different parts of the country, out of which the capitalists have made much at his expense. I hope the Government will now take the step which is demanded, which is dictated by the interests of the labourer and help him to live and breathe as a free fellow subject."

1-9 P.M. **The Hon'ble Mr. W. E. Crum** :—" My Lord, I am not conversant with the workings of this Act and I do not know to what extent any of the amendments may affect the interests of the members of the Bengal Chamber of Commerce. Am I right in understanding that this Bill will not be proceeded with at present, but that it will be circulated to all bodies concerned through the Local Governments ? "

The Hon'ble Sir William Vincent :—" Certainly."

1-10 P.M. **The Hon'ble Mr. Sachchidananda Sinha** :—" My Lord, I rise to give my support to the principle of this Bill. It is certainly an improvement on the Act which it seeks to amend. As the Hon'ble the Home Member has said, the old Act is out-of-date and relates to conditions of life which are obsolete and, therefore, it requires amendment. The Hon'ble the Home Member has explained very lucidly the conditions which this Bill seeks to introduce, and the five important points in which it tries to amend the old Act are, to my mind, very important and of a, on the whole, liberalising character.

" The limitation of three months now introduced for bringing a complaint against an offender ; the limitation of the amount involved to Rs. 300 ; the option given to the Magistrate to refuse to proceed on a complaint, if he thinks the contract unfair ; the option conferred upon him to throw out a complaint if he finds, after examining the complainant on oath, that no case is made out ; and lastly, the power now vested in him to award the workman compensation, if the complaint is found to be false or frivolous—all these, my Lord, are to my mind great and useful improvements. I am glad to give my support to this Bill, particularly because it is of a humanitarian character. The Government of India, during the last ten years, have had to pass so much of coercive legislation, that I am gratified to find that they are in a position to-day to bring in a measure before this Council which is of a humanitarian character. At the same time, I regret that the Hon'ble the Home Member has not seen his way to go a little further. I am not asking him at present to repeal the old Act, but to take one more step forward in the direction of liberalising the Bill still more by abolishing imprisonment for the offences which this Statute maintains.

" My Lord, the infliction of imprisonment, whether simple or rigorous, for breach of contract, goes against my grain, and I hope in this particular matter the Hon'ble the Home Member—who, I understand, is open to conviction so far as this Bill is concerned—will be pleased to consider our suggestion when it comes before the Select Committee in due course. I shall be very happy if he can see his way to abolishing imprisonment altogether, both rigorous and simple, for the offences specified. But if, unfortunately, he cannot do that, I shall be happy if he will meet us half-way, at any rate, by abolishing rigorous imprisonment and keeping in only simple. With these words, I give my support to the provisions of this Bill."

1-11 P.M. **The Hon'ble Sir William Vincent** :—" My Lord, I have endeavoured to be as fair as possible to the Hon'ble Pandit Madan Mohan Malaviya

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[*Sir William Vincent ; Pandit Madan Mohan Malaviya ; the President.*]

in connection with this Bill. I have invited him to put in his proposed Bill to repeal the Act, and I have said that I would circulate it for opinion with the present measure. That is feasible even now, because a Bill may, as Hon'ble Members will remember from last year, be published before introduction. I must, however, object to the statement that the Bill was not introduced before by the Hon'ble Mr. Malaviya because he knew that such a motion would not be accepted. I put it to the Council that he had no reason whatever to suppose that the Government would oppose the introduction of his Bill, and he never took the trouble, as far as I am aware, either by letter or personal communication, to ascertain what the views of the Government on this question were. The Government were quite prepared to allow his Bill to be introduced and to be circulated, and I am more than a little sceptical as to whether the reason given was the real reason why he did not introduce his Bill.

" My Lord, it has been said that there is a considerable volume of opinion in favour of a total repeal of this Act, but there is also a great volume of opinion in favour of it, and we must move carefully in this matter. The Hon'ble Mr. Crum said that he did not know whether it affected the Bengal Chamber of Commerce. Well, my Lord, this Bill will affect the tea industry and the labour employed by the tea industry very considerably. Before considering the question of repealing the Act, various important interests will have to be very carefully consulted. The Hon'ble Mr. Malaviya went on to say that this Bill penalised any breach of contract. I think that is an impression which should be corrected at once. What it does penalise is not a mere breach of contract, but a fraudulent breach of contract, which is a very different matter. His omission to make this point clear and another mistake he made indeed created a suspicion in my mind that he was getting up his brief as he went along and that he had not read the Bill or the Act recently

The Hon'ble Pandit Madan Mohan Malaviya :—" My Lord, I had read the Bill this morning before I came to Council. "

The President :—" Order, order. "

The Hon'ble Sir William Vincent :—" Then the Hon'ble Member must have read the Bill very carelessly, because one of the things he said was that the Bill reduced the period of imprisonment that could be awarded under the Act

The Hon'ble Pandit Madan Mohan Malaviya :—" That was a mistake."

The Hon'ble Sir William Vincent :—" The Bill does nothing of the kind. It may be advisable for us to do that, but the point I wish to make is that these mistakes created in my mind what was apparently a mistaken impression that he did not know much about the subject on which he was speaking.

" We were then attacked because of the restriction of the application of the Act to advances of a certain amount. My Lord, the sole object of Government in making this proposal was to restrict the application of this Act as much as possible. People to whom larger sums are advanced are generally men of some substance, and it is the cases of persons to whom small advances are made and who fraudulently fail to perform their contracts which afford the only justification for an Act of the present character.

" There is one other question, which I was asked in a written communication received from one Member of this Council, namely, whether there is a right of appeal against an order of imprisonment. My Lord, I am afraid I can only

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say that I am not certain whether this is an appeal or not, but I will have the point examined and, if necessary, referred to Local Governments."

The motion was put and agreed to.

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

The motion was put and agreed to.

The President :—"The Council will now adjourn until 11 o'clock to-morrow.

" I think it may be for the convenience of Members if I state what I propose to do to-morrow. I propose to sit till half past one. We shall then have an adjournment until 3 o'clock. As regards Friday, until to-morrow's sittings are ended, I will not make any announcement, but it may be necessary perhaps to sit longer on Friday."

The Hon'ble Pandit Madan Mohan Malaviya :—" May I submit that it will be convenient not to have two sittings for this important discussion on the Indemnifying Bill."

The President :—" I am afraid that is a matter which I must decide. I have decided the other way."

The Hon'ble Pandit Madan Mohan Malaviya :—" I have only submitted the reasons for your Lordship's consideration."

The Council then adjourned till Thursday, the 18th September, 1919 at 11 A.M.

H. M. SMITH,

SIMLA :
The 25th September, 1919. } *Offg. Secretary to the Government of India,*
Legislative Department.