

THE



Bombay Government Gazette.

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THURSDAY, 26TH MAY 1898.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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

The Council met at Government House, Calcutta, on Monday the 21st March 1898.

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MEMON BILL.

The Hon'ble SIR JOHN WOODBURN presented the Report* of the Select Committee on the Bill to render it permissive to the members of the Memon community to declare themselves subject to Muhammadan law. He said: "As the Report of the Select Committee is a somewhat exceptional one I think it is advisable to explain that report in a few words. The Memons of Bombay are a small community of about 3,000 souls who have been governed up to the present time in the matter of their inheritance by a customary law which has been expounded in a series of decisions of the Bombay High Court. The question of defining and specifying the law by which their inheritance should be guided has been before the Local Government and the Government of India for many years. Two years ago we were advised by the Bombay Government that the general feeling of the Memon community was that this customary law should govern the inheritance of members of the community as a general rule, but that power should be given to particular members of the community who so desired it to differentiate themselves and by a formal registered declaration pronounce themselves and their families subject to the ordinary Muhammadan law of inheritance. On that understanding a Bill was prepared and introduced into this Council. When the Select Committee sat upon that Bill last year we were informed that the Memon community, if it had originally possessed those desires upon which the Bill had been framed, had now altered their opinion, and that the desire of the great body of the community now was that it should be altogether governed by the Muhammadan law and not by the customary law which had previously governed it. On this it was considered necessary to consult the community in a very formal way, which has been done through the Bombay Government, and the community has now by a very large majority indeed declared its desire that the general law of inheritance to govern them shall be the ordinary Muhammadan law and not the customary law. In a matter of this kind Government only seeks to give effect to what is the general wish of a community of the kind, but the Committee felt that it was impossible to change the Bill round so completely as the new expressions of their desires would have compelled us to do. Under the new statement of the opinion it was no longer to be a special act of a special member of the community that he should declare himself subject to Muhammadan law, but it was to be a specific and individual act of a member of the community that he should

* This Report and the Bill as amended by the Select Committee were published at pages 30 to 32 of Part VI of the *Bombay Government Gazette* dated 31st March 1898.

declare himself subject to the customary law. Now in framing a fresh Bill upon these new lines the difficulty presented itself to us that, if the general body of the community was to be subject to the Muhammadan law, any dissenter from that proposition making a declaration that he wished his family to be subject to the customary law would have practically to write himself down a dissenter from the general Muhammadan law, to proclaim himself unorthodox, and in other words an infidel. This was a position so serious that the Select Committee considered for some time what possible alternative might be suggested to overcome the natural unwillingness of the dissenters of the community to carry out what they felt to be most suited to the circumstances of their own families. The suggestion which was eventually made is a very important one, and that is that the Bill should take the shape of giving the Muhammadan law to the whole community, but allowing anybody who wished to remove his own particular family out of the general law to carry out his purposes by a testamentary disposition. Testamentary dispositions under the strict Muhammadan law are very limited, indeed, and it is a proposition which we felt we could not carry through without once more consulting the Memons of Bombay. This is the purport of the advice that has been given by the Select Committee, and we now recommend that the Government of Bombay should be once more formally consulted in the matter."

THURSDAY, 26th MAY 1898.

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