

17th September, 1925

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

THIRD SESSION

OF THE

SECOND LEGISLATIVE ASSEMBLY, 1925



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LEGISLATIVE ASSEMBLY.

Thursday, 17th September, 1925.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

QUESTION AND ANSWER.

SMUGGLING OF SACCHARINE.

Mr. Jamnadas M. Mehta : With your permission, Sir, I will ask certain questions of which I have given private notice to the Honourable the Finance Member who has consented to reply to them. They are as follows :

1. (i) Are Government aware of loud and frequent complaints by saccharine merchants of the extensive smuggling of that article ?
- (ii) Are Government aware that the price of saccharine in the market has always been below Rs. 10 per mensem in spite of the duty of Rs. 20 per pound levied in 1923 ?
- (iii) Are Government aware that *bonâ fide* trade in saccharine is feeling paralysed owing to this state of things ?
- (iv) What steps have Government taken to protect the honest saccharine merchants and their own revenues against the smugglers ; what further steps do Government propose to take in the matter ?
- (v) Will Government be pleased to give facilities to saccharine merchants by way of extension of time for the clearance of saccharine that is now stocked in the bonded warehouses in Bombay ?

The Honourable Sir Basil Blackett : (i) and (iii). The answer is in the affirmative.

(ii) The Government are aware that in many cases saccharine has been sold at prices considerably below the duty.

(iv) A land customs frontier has been established between Siam and Burma. Saccharine imported by that route is liable to full duty now and no drawback of duty is allowed in respect of re-export of saccharine to China. But there are large stocks of saccharine in Burma which came into Burma without paying duty before the land customs line was established on the Siam frontier ; and to prevent these stocks getting into India proper, the export of saccharine from Burma has been prohibited. The Land Customs Act passed last year has strengthened the hands of the Customs Department on the Pondicherry frontier ; and the staff has also

been augmented. The Government are closely watching developments but are not prepared to disclose what further steps they intend taking in the matter.

(v) The Government of India have already informed the Bombay Government, who addressed them on the subject some time ago, that the Central Board of Revenue is prepared to consider favourably applications for the extension of the usual time limit of bonding, if such applications are submitted through the Collector of Customs.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Secretary of the Council of State :

“ I am directed to inform you that the Council of State have, at their meeting held on the 16th September, 1925, agreed without any amendments to the following Bills which were passed by the Legislative Assembly on the 14th September, 1925 :

A Bill to provide for the fostering and development of the bamboo paper industry in British India.

A Bill further to amend the Indian Limitation Act, 1908.”

THE INDIAN PENAL CODE (AMENDMENT) BILL.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I move that the amendments made by the Council of State in the Bill further to amend the Indian Penal Code be taken into consideration.

Sir, the motion refers to the Bill which was recently passed by this House after a long debate and which has been generally referred to—though the title has been objected to—as the Age of Consent Bill. At a very late stage of the proceedings on the Bill in this House it was brought to my notice—I think by my Honourable friend Dr. Lohokare—that some protection was necessary for what I might call “ vested interests ”. (Laughter.) The Council of State have, with their usual regard for such interests, inserted a clause in the Bill which I think will commend itself to this House universally. The clause runs as follows :

“ Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date.”

I need say nothing in explanation of the clause which is self-explanatory. It will be noticed that it is not in form an amendment of the Indian Penal Code. It will only be put into the Bill and when the period has elapsed will drop out of the law. I think I hardly need say anything more in commending this motion to the House.

***Sir Hari Singh Gour** (Central Provinces Hindi Divisions : Non-Muhamadan) : Sir, I feel that I shall be leading a forlorn hope if I resist the motion of the Honourable the Home Member, but I cannot refrain from making a few observations on the general policy which has dictated the acceptance of this amendment in another place. When the Indian Penal Code was enacted in 1850 Lord Macaulay's Committee for

* Speech not corrected by the Honourable Member.

the first time created and penalised several offences which were not then offences at all. When the age of consent or so-called consent was fixed in the Bill of 1850 there was no reservation of vested interests. Later on, in 1891, after a prolonged and heated controversy which gathered round the question of age when the Government at last did raise it from 10 to 12 there was no attempt at any reservation of vested interests. And, Sir, on the last occasion when I introduced a similar Bill this House considered it clause by clause and passed the various stages after such amendments as it considered necessary. But there was no saving clause. It is true that on the third reading of the Bill it was defeated, thanks to the whip applied at the last moment by the Honourable the Home Member ; but even then there was no question of reserving any vested rights. We are introduced to this for the first time after the Bill has been passed by a record majority in this House. But what is the underlying principle of it all ? The underlying principle of it all is, Sir, that husbands have got a vested right to ravish girls between the ages of 12 and 13 if forsooth they were married to them before this Bill comes into force.* I understood that the protagonists of orthodoxy in this House indignantly repudiated that they ever had recourse to their wives before they attained the age of puberty ; and we were assured that public opinion throughout the country would have revolted against any idea of a husband ravishing his wife when she was a girl of 12 or 13. That I submit, Sir, was the fulcrum of the opposition led by the orthodox wing of this House, and it is for that reason that nobody suggested the addition of a saving clause. But we live and learn. In another place we have been presented with a legislative proposal in favour of the husband where the wife is in the concept of law relegated to the position of a chattel or inanimate thing. The husband, if he marries her, of which she has probably no real consciousness, is entitled to defy her in spite of her refusal and despite the fact that he has laid in store an everlasting disease of which she may die, or beget children who will probably die before they are many months old. In spite of the risk of infanticide and matricide the pillars of orthodoxy in another place have chosen to make a proposal which I venture to submit is an insult to the intelligence of this House. Sir, I would have resisted it with all my might and main were it not for the fact that this is the last day of the Session and I have no doubt that if I had taken upon myself to oppose this measure my friends in this House would have rallied to my support and given me that generous support which I have always received from them here in spite of the opposition to which social reform in this House has been subjected from certain quarters. But even they have admitted to me in the privacy of their confidences that I was right and they were wrong but that they had to do it because the masses were not yet prepared for legislation of the kind for which I had made myself responsible.

Sir, before I close I thank them and the Honourable Members of this House who with their support and votes have made this reforming measure a near possibility after the lapse of thirty-four years, and I cannot refrain from thanking the Government and the Honourable the Home Member that he has reciprocated the sentiments expressed by this House and by the Select Committee by giving us half the loaf. I hope he will remember that I am still crying and crying aloud for the other half, which I hope he will not deny to me in the next Session after the public and the provinces have been consulted upon my Bill.

Dr. K. G. Lohokare (Bombay Central Division : Non-Muhammadan Rural) : Sir, I am not of that orthodox type that my friend Dr. Gour would think me to be, since he knows well that at the last time I voted with him on every one of his amendments. It was just with an idea to remove an anomaly which I thought did exist, that I suggested a remedy and put in an amendment in this House which unfortunately was out of order on account of the time limit. I know of instances where consummation has already taken place in cases of marriages between 12 and 13 and yet the raised age limit is not reached by the time this Act comes into operation. This being a recurring offence it is just possible that persons who did not dream of the Act being applied to them would be thus sent to jail under the new Act that is being passed. It is with a view to remove that anomaly that I suggested an amendment preventing this retrospective effect and if that could be called a contribution to infanticide and the killing of mothers, well, I am sorry my friend is either mistaken in understanding the situation or has misunderstood me. I think such a provision ought to have been made and I am thankful to the Honourable the Home Member for paying attention to this matter.

Mr. President : The question is :

“ That the amendments made by the Council of State in the Bill further to amend the Indian Penal Code be taken into consideration.”

The motion was adopted.

Mr. President : The question is :

“ That this House do agree to the following amendment made by the Council of State :

‘ That the following clause be inserted after clause 3 :

‘ 4. Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date.’

The motion was adopted.

Mr. President : The question is :

“ That this House do agree to the following amendment made by the Council of State :

‘ That clause 4 be re-numbered clause 5.’

The motion was adopted.

THE COAL GRADING BOARD BILL.

The Honourable Sir Charles Innes (Commerce Member) : Sir, I beg to move that the amendment made by the Council of State in the Bill to provide for the grading of coal and for the grant of certificates for coal intended for export be taken into consideration.

I must apologise to the House for having to trouble them with this small amendment. The fact is that in the Bill as passed by the Legislative Assembly we made a small mistake which I very much regret. In clause 12 (2) (a) of the Bill we made a reference to section 4 of the Bill ; that reference should have been to section 3, and the mistake

has been rectified by the Council of State. I ask the House to agree to this amendment.

Mr. President : The question is :

“ That the amendment made by the Council of State in the Bill to provide for the grading of coal and for the grant of certificates for coal intended for export be taken into consideration.”

The motion was adopted.

Mr. President : The question is :

“ That this House do agree to the following amendment made by the Council of State :

‘ That in clause 12 (2) (a) for the word and figure ‘ section 4 ’, the word and figure ‘ section 3 ’ be substituted.’”

The motion was adopted.

THE CRIMINAL TRIBES (AMENDMENT) BILL.

Mr. H. Tonkinson (Home Department : Nominated Official) : Sir, I beg to move that the Bill to amend the Criminal Tribes Act, 1924, as passed by the Council of State, be taken into consideration.

The provisions of this Bill are explained at length in the Statement of Objects and Reasons, and I do not think it necessary for me to add much to what is stated there. Briefly, the Bill proposes to add provisions to section 10 on the lines of the provisions of section 15 of the Act. The intention is that if a Local Government under section 10 has passed orders requiring members of a criminal tribe to report themselves or to notify their places of residence, then if such members move to a district other than that in which they were registered, whether that district is in the same province or another, they should still be required to report themselves, and if the second district is in another province that they should be governed by the rules of that province. Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Preamble and Title were added to the Bill.

Mr. H. Tonkinson : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE COTTON TRANSPORT (AMENDMENT) BILL.

The Honourable Sir Charles Innes (Commerce Member) : Sir, I beg to move that the Bill to amend the Cotton Transport Act, 1923, as passed by the Council of State, be taken into consideration.

Sir, this is a very small Bill the object of which is explained in the Statement of Objects and Reasons. The House will remember that in 1923 we passed the Cotton Transport Act to enable Local Governments,

[Sir Charles Innes.]

after consulting their Legislative Councils, to regulate the import of cotton by rail, road, river or otherwise into what are called notified areas. Section 3 of that Act states that a Local Government may for the purpose of maintaining the quality or reputation of cotton grown in any area in that province by notification in the local official Gazette prohibit the import of cotton or of any specified kind of cotton into that area save under and in accordance with the conditions of a license. The intention was to give Local Governments the discretion to regulate the import of cotton into that area either by rail or by road or by river or by all or any of these methods of transport. But the Bombay Government after consulting their legal advisers have found that, as the section is now drafted, if they issue a notification of that kind, they must prohibit the import of cotton by all these methods, and they have no discretion to prohibit the import of cotton except under a licence by rail, and to leave the import of cotton by road free. The object of this small Bill is to give the Local Governments the necessary discretion in that matter. It is rather a serious difficulty, because, unless we give Local Governments that discretion, they will not be able to notify all the areas which otherwise they would notify. That is a serious difficulty. Our information is that this Act has been extremely successful where it has been applied. Sir, I move that the Bill to amend the Cotton Transport Act, 1923, as passed by the Council of State, be taken into consideration.

The motion was adopted.

Clauses 2, 3, 4, 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Charles Innes : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) BILL.

Mr. H. Tonkinson (Home Department : Nominated Official) : Sir, I move :

“ That the Bill to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, as passed by the Council of State, be taken into consideration.”

Sir, perhaps one of the most important points in regard to this Bill is that it will enable the Indian Legislature to be associated with the measures which have been passed in three provincial Councils for the protection of children. Those measures, Sir, contain one or two provisions affecting the jurisdiction of the respective High Courts of Judicature, and it is therefore necessary, as such provisions cannot, we hold, be enacted by the local Legislatures, for us in the Indian Legislature to validate them. Sir, I move.

The motion was adopted.

Clause 1 was added to the Bill.

Clause 2 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. H. Tonkinson : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE INDIAN PORTS (AMENDMENT) BILL.

The Honourable Sir Charles Innes (Commerce Member) : Sir, I beg to move that the Bill further to amend the Indian Ports Act, 1908, as passed by the Council of State, be taken into consideration.

This is another small Bill, Sir, which is designed to remove a small difficulty which has arisen in the working of the Indian Ports Act. Section 31 (1) of the Indian Ports Act prohibits vessels of the measurement of 200 tons and upwards entering, leaving or being moved in a port to which the section has been extended without having on board a pilot, harbour master or assistant of the Port Officer or harbour master. By sub-section (4) of the Act, Bombay has been specially exempted from the operation of sub-section (1) of section 31. Now representations have been made to us from one of the Chambers of Karachi, the Buyers' and Shippers' Chamber I think, to the effect that the operation of this section, as it stands, is unfair to Karachi and that many sailing vessels of less than 500 tons but more than 200 tons coming from the Persian Gulf are diverted from Karachi to Bombay, because of the restriction imposed by this section. The Karachi Port Trust and the Bombay Government both agree that such improvements have been made in the Karachi Port that Karachi can legitimately be treated in the same way as Bombay in respect of sailing vessels of less than 500 tons in this matter. We have other ports which are being improved in India, and as we think that the present section is a real restriction, we should amend it so as to enable us to exempt from the operation of section 31 (1) sailing vessels of specified dimensions. Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Charles Innes : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE REPEALING AND AMENDING BILL.

Mr. L. Graham (Secretary, Legislative Department) : Sir, I beg to move that the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Council of State, be taken into consideration.

The object of this Bill, Sir, is to make necessary amendments of a purely formal nature in certain enactments and to repeal certain other unnecessary enactments. I think it requires no explanation, because it is composed entirely of details which are fully explained in the Statement of Objects and Reasons. Sir, I move.

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

The first and second Schedules were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. L. Graham : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

THE GOVERNMENT TRADING TAXATION BILL.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I ask for leave to introduce a Bill to determine the liability of certain Governments to taxation in British India in respect of trading operations.

This Bill arises out of one of the recommendations of the Imperial Economic Conference in 1923. It was to the effect that, if one Government is carrying on something in the nature of a commercial or trading concern within the territories of another Government, it should be treated for the purposes of income-tax and other taxation as if it were a private concern. The purpose of this Bill is to give effect to this Resolution which has already been brought into effect in the United Kingdom by a clause in the British Finance Act of this year, on which this Bill is modelled. Sir, I move.

The motion was adopted.

The Honourable Sir Basil Blackett : Sir, I introduce the Bill.

THE INDIAN FACTORIES (AMENDMENT) BILL.

The Honourable Sir Bhupendra Nath Mitra (Industries Member) : Sir, I move for leave to introduce a Bill further to amend the Indian Factories Act, 1911.

The object of the Bill is to remove certain administrative difficulties which have been experienced in connection with the working of the Act. The position is explained in detail in the Statement of Objects and Reasons and I do not propose to take up the time of the House by dilating further on the matter.

Dr. K. G. Lohokare (Bombay Central Division : Non-Muhamma-Jan Rural) : Sir, I beg to draw the attention of the House to the fact that this Bill provides not only for the administrative difficulties but it includes other elements too, such as a limit to the number of workers in a factory which will bring more factories under the operation of the Indian Factories Act. I beg to draw the attention of the House to this point only.

The motion was adopted.

The Honourable Sir Bhupendra Nath Mitra : Sir, I introduce the Bill.

Sir, I move that the Bill be circulated for the purpose of eliciting opinions thereon.

The motion was adopted.

DEMANDS FOR SUPPLEMENTARY GRANTS.

CAPITAL OUTLAY ON SECURITY PRINTING PRESS NOT CHARGED TO REVENUE.

The Honourable Sir Basil Blackett (Finance Member) : Sir, I beg to move :

“ That a supplementary sum not exceeding Rs. 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1926, in respect of ‘ Capital outlay on Security Printing Press not charged to Revenue ’.”

There is no need for me to explain to the House the circumstances in which this estimate is introduced. The Government of India have taken into careful consideration the views expressed in this House two days ago. They understand that those views were intended not to challenge the principle that departmental buildings should normally be charged against revenue and borrowing should take place only for purposes that are strictly reproductive, but that the view of the House was that this case is one of a building which should be regarded as being for reproductive purposes. That, I think, was the view actually expressed by some of those who opposed the motion for a supplementary grant when it was proposed to charge it to revenue. The Government attach very great importance to that principle and they desire it to be understood that, in accepting the view of the House in this particular matter, they are simply accepting the view that this case is one which can be regarded as the case of a building which is for reproductive purposes, and the general principle that buildings for departmental purposes should be charged to revenue is not infringed.

Sir, I beg to move.

Mr. Devaki Prasad Sinha (Chota Nagpur Division : Non-Muhamadan) : Sir, may I ask if it indicates a change in the policy of the Department presided over by my Honourable friend, showing that, so far as revenue-earning departments are concerned, buildings will be charged to capital now ?

The Honourable Sir Basil Blackett : I have already specifically stated that it does not.

***Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber : Indian Commerce) : I am sure, Sir, the House will welcome this compliance by the Honourable the Finance Member with the opinions expressed by the House two days back.

The Honourable the Finance Member made it very clear that this would be restricted only to departments conducted on commercial lines, I understood. Is that correct ?

The Honourable Sir Basil Blackett : I did not go beyond this particular case.

***Sir Purshotamdas Thakurdas** : Even if there is no inference to be drawn from this and if this is not to create a precedent, all the same I need not quarrel with it. We can apply it to each case as it comes up. But, I thought this principle would be applied to every department which was conducted on commercial lines by the Government of India, and I do hope, now that the Post and Telegraphs Department is being put on commercial lines, the buildings there will also be charged to capital. But

* Speech not corrected by the Honourable Member.

[Sir Purshotamdas Thakurdas.]

if the Honourable the Finance Member is not prepared to agree to this, I do not think we need follow up the question at all. I wish to express the appreciation of the House of the ready manner in which the Honourable the Finance Member has seen his way to comply with the opinions of the House expressed two days back.

Mr. Jamnadas M. Mehta (Bombay Northern Division : Non-Muhammadan Rural) : Sir, I also welcome this compliance on the part of Government with the declared wishes of the Assembly and if it is not to be logically followed up, I hope, that in the next Session Government will at least investigate this question with the help of the Assembly and come to a decision thereon. I know Government are not prepared to commit themselves at this stage to any definite line of action but the Honourable the Finance Member is aware that the House has strong views on this matter. The beginning made to-day is good, but let us have something more than a mere isolated case, the differences do not begin and end merely with this Security Printing Press. They are vital and they relate to various things not merely in this matter but in railway matters as well as in other departments. The question as to what should be charged to capital and what should be charged to revenue has been a matter of keen controversy and the House feels and the country feels that the complaint of the Incheape Committee—I think it was—that capital is getting undue relief is not merely confined to railways but it extends to other departments of Government also. And a comprehensive inquiry should be undertaken which will settle once for all what should be charged to capital and what should be charged to revenue, so that the present generation will not be compelled to bear the burden which posterity should bear; the matter should be taken up next Session, thoroughly investigated and a permanent settlement found. I hope, Sir, the Honourable the Finance Member will at least agree to that. In that case only will I agree that he has given proof of having a heart.

The Honourable Sir Basil Blackett : Sir, I have only to say that I disagree entirely with Mr. Jamnadas Mehta and I have already said so, Sir.

Mr. President : The question is :

“ That a supplementary sum not exceeding Rs. 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1926, in respect of ‘ Capital outlay on Security Printing Press not charged to Revenue ’ ”

The motion was adopted.

RESOLUTION RE PAYMENT OF BOUNTIES UPON WAGONS.

The Honourable Sir Charles Innes (Commerce Member) : Sir, I beg to move :

“ That this Assembly recommends to the Governor General in Council that legislation be undertaken to amend section 4 of the Steel Industry (Protection) Act, 1924, so as to empower the Governor General in Council to pay by way of bounties upon wagons a sum not exceeding 21 lakhs during the three financial years commencing on the 1st day of April 1924, 1925 and 1926, instead of a sum not exceeding 7 lakhs in each of these financial years.”

The explanation of this Resolution, Sir, is that section 4 of the Steel Industry (Protection) Act as now drawn up limits us to the payment of

not more than Rs. 7 lakhs in any one year during the life of the Act in payment of bounties upon wagons. No sooner had the Act been passed last June than we called for tenders for wagons and we placed orders in August last. We had of course lost 4 months of the financial year and it takes wagon firms a considerable time to collect materials. The result is that though we placed orders for 2,300 wagons in August of last year, we were only able to pay in the way of bounties Rs. 2,85,000 in the financial year ending the 31st March last. Consequently, out of the Rs. 7 lakhs allotted for bounties in the current year upwards of Rs. 5 lakhs are due for wagons for which orders were placed last year, and for our wagon orders this year we have got only one lakh and so many thousand rupees. We have placed orders this year, and the result is that next year's bounty will largely be spent in paying the bounty on wagons ordered this year and we shall only have about 3 lakhs for fresh orders next year. That is the reason why I am asking the House to agree that we should make the policy of the Legislature effective by allowing us to spend 21 lakhs in three years instead of not more than 7 lakhs in each year. The reason why I am taking this rather peculiar procedure of putting a Resolution before the House instead of suggesting an amendment of the Steel Industry (Protection) Act is this. One of the questions that was inquired into by the Tariff Board at its recent inquiry was not only steel manufactured by the Tata Iron and Steel Company but also the question of wagons and other subsidiary steel. We expected their report and we delayed this matter until we got their report. But we got that report so late that it was quite impossible to do anything with it this Session. In the meantime, if I do not get this altered, we shall be in great difficulties in placing orders in November next for the year 1926-27. That is why I am asking the House to agree to this proposal on the understanding that I will bring in a Bill to amend the Act next Session. Sir, I move.

Dr. K. G. Lohokare (Bombay Central Division : Non-Muhammedan Rural) : Sir, at the time of the first Resolution when these bounties were proposed I had drawn attention to the necessity of a provision and I want again to lay before the House the same provision that in placing contracts for wagons in India, in the years the bounties are allowed, Government will pay attention to the necessity of Indian produced steel being utilised by such companies. That is one of the foremost conditions which should be satisfied before bounties are permitted by this House. Last time I invited the attention of the House to this matter, and I again take the opportunity of doing so. I hope the House as well as the Member in charge will accept this provision.

The Honourable Sir Charles Innes : The Honourable Member knows, I think, that there are certain classes of steel which cannot be obtained in India at present, but I think the House may rest assured that the firms building these wagons do buy Indian steel wherever Indian steel can be suitably procured in India.

The motion was adopted.

RESOLUTION RE APPOINTMENT OF STANDING COMMITTEES TO DEAL WITH BILLS RELATING TO HINDU AND MUHAMMADAN LAW.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I beg to move the Resolution which stands in my name on the paper.

[Sir Alexander Muddiman.]

With your permission, Sir, and with the permission of the House I will take it as read.

“ This Assembly recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows :

- (a) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammadan Law, shall be appointed :
- (b) appointments to these Committees shall be made by a Committee of Selection the members of which shall be appointed at one of the first meetings of the Assembly to be held in each year and should hold office for one year from the date of nomination :
- (c) the Committee of Selection shall consist of the President, the Deputy President and the Leader of the House supplemented up to a total number of 12 Members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House :
- (d) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Assembly, and 30 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community :
- (e) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 20 Muhammadan Members for the 30 Hindu Members :
- (f) the Members of each Standing Committee shall hold office for one year but may be re-nominated by the Committee of Selection in successive years :
- (g) a Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House :
- (h) as soon as leave is given to introduce a Bill other than a Government Bill and, subject to paragraph (g), as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law, it shall be referred to the Standing Committee concerned without further motion :
- (i) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Assembly :
- (j) the further procedure in the Assembly after the report of the Standing Committee is received shall be the same as the procedure on receipt of the report of a Select Committee.”

Diwan Bahadur M. Ramachandra Rao (Godavari *cum* Kistna : Non-Muhammadan Rural) : Sir, I beg to move :

“ That the consideration of this Resolution be adjourned till the beginning of the next Session.”

It seems to me, Sir, that this Resolution.....

The Honourable Sir Alexander Muddiman : Let the Honourable Member hear my speech before he makes that motion. I shall not detain the House very long, I can assure him. Sir, this is a Resolution which arises out of paragraph 120 of the report of the Reforms Inquiry Committee. My object in bringing it before the House is merely to elicit the opinion of the House on it. Paragraph 120 of the Report of the Reforms Inquiry Committee pointed out the undoubted anxiety that was felt in many quarters regarding legislation affecting the social

rights of the various and numerous communities in this country. We had particularly memoranda both from Hindus and Mussalmans, and in this connection I would refer the House to paragraphs 40 and 41 of the Report. Amongst other proposals that were brought forward, we were supplied with a very interesting note by a former Member of this House, Mr. Jogendra Nath Mukherjee, and the proposals in my Resolution very generally follow the lines suggested therein. As I understand my Honourable friend is about to ask the House to postpone consideration of this Resolution, I will not take the House further into the merits. I will merely say, that this Resolution has been on the paper for a long time. The House has had ample notice of it.....

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : No time.

The Honourable Sir Alexander Muddiman :and, as far as I know, only two very small amendments have been put down on the paper. Therefore, I did not personally expect a motion of that kind. However, I will hear what my Honourable friend has got to say.

Diwan Bahadur M. Ramachandra Rao : Sir, I beg to move :

“ That the consideration of this Resolution be adjourned to some day next Session.”

It is true, Sir, that this Resolution has been on the agenda for a little time, but I think this is one of those matters which require very careful consideration as it introduces a new procedure in regard to non-official Bills relating to both Hindu and Muhammadan law. I think the Honourable the Home Member is anxious himself that he should receive the considered opinion of this House in regard to this very important matter. I do not wish to take up the time of the House by criticising any of the clauses at this stage, and I trust that the Honourable Member will consent to have this matter put off as I suggest. It seems to me, Sir, that even if this Resolution is carried, nothing can be done to bring about the new procedure and the new Standing Committee as suggested in this Resolution until the beginning of the next Session. In these circumstances, Sir, I trust the Honourable Member will consent to my suggestion.

Mr. M. S. Aney (Berar Representative) : Sir, I rise to oppose the amendment which my Honourable friend Diwan Bahadur Ramachandra Rao has moved. He wants the consideration of this question to be adjourned. I do not think he has advanced any very cogent reasons for this. The motion has been before the House for some time. To me, it seems that the consideration which he has in mind is what the minority has written about this recommendation. It has been written in the minority report that this question has not been sufficiently considered and therefore, they have not subscribed to the recommendation of the majority on this point. I feel, Sir, having carefully gone through the volumes of evidence recorded by the Committee that the question has been categorically brought to the notice of the Committee in the two important memoranda submitted to that Committee by the *Hindu Mahasabha* and *Sri Bharat Dharma Mahamandal* and there was also a Resolution of the Moslem League. I also find in the volume of evidence that Mr. Barkat Ali has been more than sufficiently cross-examined on that point by the Committee.

[Mr. M. S. Aney.]

So, with that material before the Committee it could not be reasonably said that the question was not sufficiently considered by the Committee, and therefore, I submit that the minority was not justified in making any observation to the effect that the question has not been properly considered and sufficient materials have not been placed before them. There should have been no recommendation to that effect. The question is one which is before the public of this country for years together. Those who have subscribed to the Congress-League Pact of Lucknow know that with regard to matters of this kind the necessity of some sort of safeguard has been keenly felt. Therefore, when the question is now being brought for consideration before the House by the Honourable the Home Member I do not think that he has taken the House by surprise. He is only asking you to give your deliberate verdict upon a question that has been before the country for years together. Honourable Members will see in the list of Resolutions that have been admitted by the Honourable the President on the 24th August 1925 there is a Resolution of which I gave notice and which runs as follows :

“ This Assembly recommends to the Governor General in Council to accept and take all necessary steps to give effect to the recommendations in paragraph 120 of the majority report of the Reforms Inquiry Committee proposing additional safeguards on legislation affecting the religion, religious rites and usages of the Hindus and Muhammadans, as well as any questions affecting the Hindu and Muhammadan law.”

Sir, the one thing that struck me in the majority report was that this question which had been agitating the minds of the Hindu and the Muhammadan communities for a long time and particularly after the introduction of the reforms had received adequate consideration at the hands of the Reforms Inquiry Committee, and I thought that when that report would come up for consideration this question would also be duly considered. But in view of many other points involved in that report it did not become possible for this House to pay attention to this particular point when that report was before the House for consideration. I therefore thank the Honourable the Home Member for having brought this question up for the consideration of the House, and I think that the House will be removing considerable apprehension in the minds of the people about the reformed Legislature in regard to matters affecting customs and usages of the particular communities. There has been considerable apprehension to that effect in the minds of the people and that is one of the reasons why efforts for a further concessions of political reforms are more or less looked upon in certain quarters with a good deal of apprehension. We shall be doing justice to the cause of Indian reforms and helping the pace of the political upheaval of this country if we take the proper step at this time, when we are asking Government to give due consideration to the question of reforms, and assure the public of this country that there is no likelihood of their inherent rights being jeopardised by any action of the Legislature when it may be turned into a responsible Legislature. It is necessary for us to create that sort of atmosphere in the country and I believe we shall not be doing justice to our cause by postponing the consideration of this question at a time like this. I do not wish to speak further on that point. at this stage, but I think we shall not be acting wisely by adjourning the consideration of this question. I therefore oppose the amendment and support the motion which has been put forward before the House by the Honourable the Home Member.

The Honourable Sir Alexander Muddiman : Sir, I am not going to delay the House on the question of the motion that the debate be adjourned. I place myself in the hands of the House and shall accept its decision.

Mr. President : The original question was :

“ That the Resolution* moved by the Honourable the Home Member be accepted.”

Since which an amendment has been moved :

“ That the consideration of this Resolution be adjourned to some day next Session.”

The question that I have to put is that that amendment be made.

The motion was adopted.

RESOLUTION RE FRANCHISE FOR WOMEN.

The Honourable Sir Alexander Muddiman (Home Member) : Sir, I beg to move the following Resolution :

“ That this Assembly recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos. 8 and 9 in the majority report of the Reforms Inquiry Committee.”

Those recommendations are contained in paragraphs 66 and 67 of the Reforms Inquiry Committee report. They deal with the question of woman franchise and the disabilities of women to be members of the Legislature. I need not tell the House that in the Government of India Act there is no statutory disqualification of women. The question of women as voters was deliberately left by the Joint Committee to the Local Governments themselves in the first place, and left to the Assembly. Though a Resolution was passed by the Assembly in favour of woman franchise it does not operate in any province unless that province has voted in favour of the franchise either before or after the Assembly Resolution. This is as regards the voting by women. I understand that Madras, Bombay, the United Provinces, and Bengal have removed the bar on women voting. In Burma women have the right to vote but no Resolution has been passed allowing them to stand as candidates. Election and nomination stand on the same basis—they are dealt with rule 7 and rule 22, I think it is, of the Rules. Rule 22 is the rule dealing with nominations, and rule 7 is the rule regarding the right to elect. The disqualifications in regard to being elected are contained in rule 5. At present there is no provision in rule 5 which allows the sex disqualification to be removed even after a Resolution by the Legislature. What this Resolution proposes to do is to amend rule 5 on the lines of rule 7. It will require the same Resolutions to be passed and similar notices to be given as are required now in the case of an amendment giving the franchise to women.

There is one other matter that is dealt with in the recommendations, that is, in regard to the bar against women being registered as electors of the Delhi and Ajmer-Merwara constituencies. The Resolution therefore—I think I have made it clear to the House—places before the House the question of the grant of the franchise to women in Ajmer-Merwara, and the House also, if it accepted this Resolution, would be committing itself to what might perhaps be considered the possibly serious problem of “ lady Members.” It would be recommending to the Government that powers should be provided enabling the Legislatures to bring this about by an analogous procedure to that by which the franchise can be conferred on women. I merely bring this Resolution in order that we may have the

* Vide page 1468 of these Debates.

opinion of the House on the matter. I think, Sir, that is all I need say at present.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I should like to know from the Honourable the Home Member what the effect of passing this Resolution will be in the first instance—whether by reason of passing this Resolution it would *ipso facto* become possible for women, or whether this House should proceed to pass another Resolution to enable women, to stand as candidates under the existing rules. That is one thing I wanted to know. The other thing that I want to state is that, so far as the Party to which we belong is concerned, we have been in favour of women franchise, we have been in favour of women being qualified to represent electors in this country, since the time when the reforms were demanded and were introduced, so that so far as the principle and this particular proposal are concerned, we have been committed to it all these years, and there is therefore no question of opposing this reform, which ought to have been introduced long, long ago. But we desire, Sir, to be understood that in passing this motion and in allowing our ladies to have their right to vote and to represent us, we do not by any means accede to the proposition that we are here prepared to take steps to carry out the recommendations of the majority report of the Reforms Enquiry Committee—(Laughter)—and therefore, Sir, with that statement of our position, I say, Sir, that we are entirely in favour of the motion.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I rise to give my cordial support to the Resolution which the Honourable the Home Member has moved. Sir, we get very small mercies from the Home Member in matters of Reforms Legislation. However small the mercy is that has come in the way of women, I welcome the proposition.

Mr. K. Ahmed : You will not be returned next time.

Mr. President : Order, order.

Mr. B. Das : This House, Sir, and every other Legislature will welcome the advent of women into the Legislature, and it is for no other reason than that of the opposition in certain quarters in this House to every piece of social legislation, every measure that is introduced for the welfare of women and children in this House. We have seen how opposition in certain quarters was aroused against the social legislation which was introduced by my Honourable friend, Sir Hari Singh Gour, and also when the Honourable the Home Member introduced similar legislation of a modest scope. We have seen how a certain section of this House opposed it. Had there been some representatives of the women of India in this House, we would have had the view point of women as regards this legislation before us, and they would have shown that man-made laws are not always conducive to the interests of women and that women have got their own views in matters of legislation. Sir, almost all the difficulties that the women of the West have had to go through in the matter of their franchise has disappeared and I need not dilate up them here. Since the conception of manhood and womanhood in the West—(Laughter)—the people in the West thought that all the mistakes were committed by woman and that it was Adam that was tempted by Eve. (Laughter.) Sir, that is not the conception of the East. In the East, woman has got equal status with man, and in India, we Indians have always allowed women equal status in our homes, in our social life and in our political life. In India at present there is Her Highness the Begum of Bhopal, whose rule is as beneficent as the rule of Queen Victoria of revered memory, ruling over

a large territory. There are two or three Maharani-Regents—in Travancore and I think also in Gwalior; and I believe that whenever women came to rule over any territory, whenever women brought their influence to bear upon social or public life, they have infused a great degree of compassionate feeling into our lives, they have brought justice tempered with compassion. But we have found that whenever man has legislated for woman, he has always been hard on woman. (Hear, hear.) The other day in another place an eminent speaker (Sir Frederick Whyte) said that the time will soon come when my friend, Pandit Sham Lal Nehru, will be replaced by a very competent lady who happens to be his own spouse. I hope, Sir, the time will come when we will have ladies like Mrs. Sarojini Naidu and Mrs. Uma Nehru here, assisting us in the legislation of this country. I do not want ladies, Sir, to take part in platitudes of politics, but I want them to participate in social legislation affecting the women who form half the population of India and the millions of children whose interests are not properly looked after by the legislation made by hard-hearted man. It is women that must influence us in this social legislation, and also in legislation for women—women who are being sweated and overworked in the factories of Bombay and Calcutta and in the tea gardens of Assam. The other day, Sir, we remember that when my friend, Mr. Joshi, introduced his Maternity Benefit Bill in this House, this House threw it out. Sir, we, being men, did not understand the woman's viewpoint and woman's troubles; and had there been women in this House, they would have placed their view in the matter of that Bill before us. Well, I began by saying that I thank the Honourable the Home Member for the small mercy that he has shown to us, and, accepting the little mercy that he has shown in the matter, I welcome the proposition. Sir, I have got one doubt. Going through the speeches that were delivered in the Council of State, I do not find it mentioned that women will be eligible for election to the Council of State. I may be incorrect; I have not properly understood the speeches, but I hope the Home Member will make it clear that women will be eligible for election to this House as well as to the Council of State. Another point is this. Why should Resolutions be passed in the local Councils for giving votes to women or the right of election to women? Why should not the Central Legislature pass legislation and give votes to all the women in India, so that they may be eligible for election and for voting for the local Councils as well as for the Central Legislature, including the Council of State? Although some of us do not want the existence of that House, yet, so long as that House exists, let women be there to moderate their judgment. The presence of women in that House will bring a little bit more of sense in the legislation of that House and it will be better for the country and they will legislate better.

Khan Bahadur Sarfaraz Hussain Khan (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, I congratulate the Honourable the Home Member for having brought up this Resolution before this House for consideration, though it is rather late. What is the Resolution? (Laughter.) I quite support the Resolution, and it is now too late in the day to discuss what the proper sphere of woman is, as it has been recognised throughout the civilised world that women, simply because of their sex, are not inferior to men. It will only be a social tyranny if women are not allowed to vote or to stand for the Councils; and so the Resolution which has been moved quite meets the requirements. I do not know much of the Hindu social custom or the Hindu law. But so far as I have read I can say that in the

[Khan Bahadur Sarfaraz Hussain Khan.]

Hindu religion no sacrifice is valid unless the man has his wife with him to participate in the religious function; and I think the wife participates in all religious functions. Such is the case. Even under the present law, women are allowed to manage their own affairs. I do not know much about Hindu law; but according to Muhammadan law, women have their share in the property; they manage their landed properties sometimes themselves, and sometimes by giving a power of attorney to their husbands or servants; they thus manage the whole thing themselves. They manage their own household affairs. They pay taxes and I do not understand how by merely exercising their vote or getting themselves elected to councils they would not be able to do their work properly, as they do in their own houses. There may be some people who think that women are uneducated and not quite fit to exercise the franchise in India. I shall be much surprised if I hear that argument. The Begum of Bhopal and Mrs. Sarojini Naidu are examples. Almost all the Congress Committees have recommended Mrs. Sarojini Naidu for the Presidentship of the Congress, which is the highest honour which it is in the power of Indians to confer on any man or woman. At the present time almost all the Congress Committees have elected her to be the President of the Congress, and nothing could be better and more appropriate at this stage than to acknowledge the rights of women here in this House. That is so far as the Resolution goes. Now, my amendment is simply this

.....

Mr. H. Tonkinson : On a point of order, Sir, I should like to ask for your ruling as to whether the amendment standing in the name of my Honourable friend is in order.

Khan Bahadur Sarfaraz Hussain Khan : I could not hear the Honourable Member.

Mr. N. M. Joshi : He has asked for a ruling as to whether your amendment is in order or not.

Mr. President : Order, order. Mr. Tonkinson.

Mr. H. Tonkinson : Sir, I submit for your ruling that the amendment standing in the name of my Honourable friend is quite outside the scope of the Resolution which is before us.

Mr. K. Ahmed : The Honourable Member from Bihar has made his remarks on the question in general. I suppose he is coming to *pardah* ladies and will ask the Honourable the Home Member to set apart a portion of this Assembly Chamber for them here. Sir, let us have some views of his own on the subject from the experience of the old gentleman of this country.

Mr. President : There can be no doubt that the question raised by the amendment has nothing to do with the subject matter of the Resolution. The question of special facilities for women voters is a question to be settled by rules and is not dealt with in the recommendations Nos. 8 and 9 of the majority report, with which we are at present concerned. The amendment of the Honourable Member is therefore outside the scope of this Resolution.

Khan Bahadur Sarfaraz Hussain Khan : May I proceed? (*An Honourable Member* : "The amendment is outside the scope of the Resolution"). Very well, I do not move the amendment; that is all. I

would ask the House to accept the Resolution unanimously. I want to tell the House that India is not behindhand in respect of the capability of women. That is all I have got to say and nothing more. I support the Resolution.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I do not know if the small amendment of which I gave notice is.....

Mr. President : The Honourable Member will understand that it is also outside the scope of the Resolution.

(Mr. M. K. Acharya did not resume his seat.)

The Honourable Member must know that he has to resume his seat when the President rises. (The Honourable Member then resumed his seat.) The Honourable Member's amendment is outside the scope of the Resolution. He can speak on the general question.

Mr. M. K. Acharya : I thank you, Sir, for your kind ruling. I presume my amendment was out of order. I shall make a few general remarks upon the motion before the House. I want to preface my remarks by just this one statement, rather one explanation, that I would like to be judged by some of my friends opposite by what I say rather than by what I may appear to be in their eyes. We have already listened to more than one attack, very undeserved attack, on orthodoxy, or upon supposed orthodoxy, from both Sir Hari Singh Gour and my friend Mr. B. Das. But to come to the motion before us one or two things struck me when reading this motion about woman franchise as part of the recommendations of the majority report of the Muddiman Committee. Thus I thought it was given out, Sir, that that Committee was appointed for some very grand purpose : to investigate into the way in which the reforms are worked, to find out the inherent defects of dyarchy, and to suggest ways and means for removing those defects, and so on and so forth. I am wondering whether, as a result of these mighty investigations, we are now having once more an example of what the old adage says of a mountain being in labour and bringing forth an insignificant mouse. I wonder whether the giving of the vote to a number of ladies in this land or, for the matter of that, having a number of lady Members in the various Legislatures, would remove the defects inherent in dyarchy ; whether 20 additional lady Members in Bengal or the Central Provinces would have avoided the creation of a deadlock there. I likewise wonder whether, if to my own uncouth voice the very plaintive tone of some lady Member were added in support of the unfortunate railway employees, the Honourable Sir Charles Innes and the Honourable Mr. Sim would give a more favourable and more sympathetic hearing. However, I shall presume that such will be the case hereafter. No ?—I see that Mr. Sim is shaking his head ! So, if I had any hopes that at least when advocated by the fair sex, the cause would prevail of the Railway subordinates I seem to be warned that I am mistaken. Be that as it may, Sir, and very orthodox as I am supposed to be, and very uncouthly bearded as I perhaps am,—(Laughter)—I am still chivalrous enough to appreciate the Resolution brought by the gallant Leader of the House. I have cultivated a sufficient love of what is beautiful in nature and in art. (Laughter.) In the old days, before the non-co-operation movement came in, when I had not given up studying for spinning, I had read plenty of books on what are called the

[Mr. M. K. Acharya.]

Rights of women. And I certainly remember the famous lines of the poet :

“ Woman’s cause is man’s ; they fall or rise
Together, dwarfed or god-like, bond or free.”

I suppose these are the lines. So that I am not altogether ignorant of the great part played by the fairer and, I am ready to confess, the better sex in the moulding of the world’s destinies. I am certainly not standing in this House to oppose the motion before us. I really wanted to plead on behalf of the women ; and that was the object of my amendment which you, Sir, have ruled out of order. Therefore I will not move my amendment. My view is that women should not be subjected to all the hardships such as we men have to undergo by going from village to village, *taluk* to *taluk* and place to place canvassing in an electorate consisting of 20,000 or 30,000 voters. I would like to say, when the time comes for any of my sisters to be present in this House, that the rules that would be made then should provide for their coming to this House in a much easier way. For the rest I have absolutely nothing to say against the Resolution. It would certainly be very much more artistic and more varied to have both gentlemen and ladies sitting in this House ; I dare say it will be very pleasant if to our masculine sports here we have some feminine pastimes added. Therefore, I welcome on its own merits the suggestion made ; I am not at all up for opposing it. For once, I shall disappoint my friends on the opposite side of the House—the so-called champions of women’s freedom and women’s rights and so on ; I shall disappoint them by lending my own very orthodox support to the measure before the House. Indeed, Sir, according to orthodox Hinduism also even the male Deity is in some respects subordinate to the female Deity :

“ *Shivas-haktya yukto yadi bhavati shaktah prabhavitum.*”

“ Shiva united with Shakti alone is capable of becoming the Lord of Creation.”

Be that as it may, I wish to lend in my very, very humble way, my warm support. Let those people, who talk so much of women’s franchise and all that, know that we, old people also, have great love, great regard and great reverence for women. And I, for one, certainly think that, in deciding the great problems that will affect the future progress and destiny of this land, women’s wisdom will be quite as precious as, indeed more precious than, the talents of my most talented friends on the heterodox side of the House.

The Honourable Sir Alexander Muddiman : Sir, I have only a few words to say. In the first place, it seems to me that there has been a slight misunderstanding as to the effect of the Resolution. It is possible that some Members may be considering the question of an election. (Laughter.) If so, I should like to make it quite clear that this Resolution is merely a recommendation to the Governor General in Council to amend the rules and will therefore not operate till those rules are amended. I wanted to make that point clear.

Some of the Honourable Members asked me as to the rules regarding the Council of State. The rules are the same *mutatis mutandis*. It was I think Mr. B. Das who suggested that the Council of State was backward in gallantry. I may inform him that the Council of State has already passed a Resolution similar to that before the House. My

Honourable friend Mr. Acharya felt bound to reflect on the tiny mouse that the majority report has produced. All the same, he seemed to welcome it, once he had indulged in the necessary depreciation of anything from these Benches. I am sure he will find it is quite a big mouse. I really must congratulate him and also Mr. Rangaswami Iyengar on their ungrudging and enthusiastic welcome to this Resolution.

Mr. President : The question is :

“ That this Assembly recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos. 8 and 9 in the majority report of the Reforms Inquiry Committee.”

The motion was adopted.

THE INDIAN TRADE UNIONS BILL.

The Honourable Sir Bhupendra Nath Mitra (Industries Member) :
Sir, I move :

“ That the Bill to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India, as reported by the Select Committee, be taken into consideration.”

When I introduced this Bill in this House on the 22nd January last and later on.....

Mr. President : Will it not be more convenient if I allow the motion for adjournment, which I understand is going to be moved, to be disposed of, before the Honourable Member makes his speech? He might formally move his motion. He will have ample opportunity to make his speech later on. This procedure will probably save a good deal of the time of this House. Will the Honourable Member formally move his motion?

The Honourable Sir Bhupendra Nath Mitra : I leave the matter to the Chair. I formally move my motion.

Mr. Devaki Prasad Sinha (Chota Nagpur Division : Non-Muhamadan) : Sir, I beg to move :

“ That the consideration of this motion be adjourned to some day next Session.”

Sir, my reasons are that this is a very important measure and, if we take it up at the fag end of the Session when everybody is anxious to go away, it is very likely that we shall not devote to it that consideration and attention which a measure like this demands. Sir, I only hope that my Honourable friends will realise that this is one of the most important measures affecting the rights of millions of workers in this country and, therefore, it is necessary that we should consider this Bill in an atmosphere of patience, an atmosphere which undoubtedly does not exist to-day when everybody is anxious to get away. I therefore move that the consideration of the Bill be adjourned till the next Delhi Session of the Assembly.

The Honourable Sir Bhupendra Nath Mitra : Sir, I submit that this is a dilatory motion. The matter has been before this House for quite a long time. The Select Committee's Report too has been before the House for quite a long time. This motion reminds me of a similar

[Sir Bhupendra Nath Mitra.]

demand made on a previous occasion before the Select Committee for the postponement of the consideration of the matter, to which my friends on the other side of the House took exception. Government have on several occasions been taken to task for the delay which has taken place in carrying through this measure. That being the position, Sir, I cannot support my friend Mr. Devaki Prasad Sinha's proposal.

***Mr. N. M. Joshi** (Nominated : Labour Interests) : Sir, I rise to support the motion made by my friend Mr. Devaki Prasad Sinha. The Honourable Member in charge of Industries stated that the Bill had been before the House for some time and was postponed for consideration. That is no reason why, if there are valid grounds to-day for postponing consideration of the Bill, the motion should not be carried. The Honourable Member admits that it is an important Bill, and if it is an important Bill, it must be taken into consideration at a time when the House will be in a mood to give its best consideration to it. He himself will admit that it is unfortunate that his Government have not treated him well. The Leader of the House ought to have put the Bill in at an earlier stage of the Session. Unfortunately he has put this motion at the end of the Session. In addition to the arguments placed before the House by my friend, I say that the attendance of this House is very thin, and if you consider the Bill at a time when the attendance is not full, I apprehend grave danger to the amendments which we propose to move. Sir, it is on account of this consideration—and it is a very important consideration—that I support the motion that an important Bill like this should be considered by a full House. If Government think that their Bill is a very good Bill, and our amendments are wrong, let the Bill and the amendments be considered when the House is full, then we shall have satisfied the whole House on the matter, but if you defeat our amendments to-day, I think you will have no credit for doing so. Then, Sir, the whole atmosphere is surcharged with political excitement, so that this is not a time when an important Bill like this should be taken into consideration.

Mr. Chaman Lall (West Punjab : Non-Muhammadan) : Sir, I rise to make an appeal to the Honourable Member in charge, and it is this that in view of the limited time at our disposal to discuss the very delicate problems involved in this Bill, he should take the views of those Members here who are for an adjournment into due consideration. I have not the slightest doubt that he himself will realise that due care should be given in considering and discussing a measure of this importance. But that is neither here nor there. My main point is that this important measure is a landmark in the history of the labour movement in this country. If we are going to discuss such an important measure in the course of a few hours, and pass it or reject it, it will not be doing justice either to those who represent the labour movement or to the Government. I have not the least doubt that it was just a mere coincidence which led to the placing of this measure on the agenda on the last day of the Session when we find we have not sufficient time to discuss it.

Further, there is a very important principle involved, and the amendments that have been placed on the agenda are of a very far-reaching character. I have no doubt that the Government have their majority, but I am convinced that the Honourable Member in particular

* Speech not corrected by the Honourable Member.

will be the last person to take credit for passing this measure merely on the assured strength of a definite majority on his side. I am sure he does not want to do us an injustice. I am convinced of that and because of that I appeal to him not to leave an impression on the minds of Honourable Members that injustice might be done to them if the measure is discussed to-day. I appeal to him once more to give weight to the views of those of us who are very anxious that adequate consideration should be given to this measure. I can see the difficulty in adjourning it. We have been pressing often that a measure of this kind should be placed on the Statute-book as soon as possible, but the difficulty I have pointed out of the lack of opportunity to discuss the measure ought to induce the Honourable Member to accede to the request of the House.

I appeal once more to the Honourable Member to accept our motion for adjournment.

Mr. C. B. Chartres (Associated Chambers of Commerce : Nominated Non-Official) : Sir, I would like to point out in regard to this motion for delay that this legislation has been before the country for the last four years and has been considered in very great detail by all the interests concerned, and the draft Bill considered by a very big Select Committee of this House, and I think that the motion to delay the matter still further should not be accepted.

The Honourable Sir Bhupendra Nath Mitra : Sir, I have very carefully considered the remarks which fell from Mr. Joshi and Mr. Chaman Lall. But as Mr. Chartres has said, this matter has received very careful consideration from the Select Committee which had on it prominent representatives of various parties in this House. My friends, Mr. Joshi and Mr. Chaman Lall, were also appointed to that Select Committee, but unfortunately they could not find it possible to make time available to attend the deliberations of the Committee. That being the position I still adhere to my view that this is a dilatory motion and I cannot agree to it.

Mr. President : The original question was :

“ That the Bill to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions registered in British India, as reported by the Select Committee, be taken into consideration.”

Since which an amendment has been moved :

“ That the consideration of this motion be adjourned to some day next Session.”

The question is that that amendment be made.

The Assembly divided :

AYES—47.

Abhyankar, Mr. M. V.
Acharya, Mr. M. K.
Ahmad Ali Khan, Mr.
Alimuzzaman Chowdhry, Khan Bahadur.
Aney, Mr. M. S.
Bhat, Mr. K. Sadasiva.
Chalmers, Mr. T. A.
Chaman Lall, Mr.
Chanda, Mr. Kamini Kumar.
Das, Mr. B.
Datta, Dr. H. K.
Duni Chand, Lala.

Ghazanfar Ali Khan, Raja.
Govind Das, Seth.
Gulab Singh, Sardar.
Hans Raj, Lala.
Hussanally, Khan Bahadur W. M.
Iyengar, Mr. A. Rangaswami.
Joshi, Mr. N. M.
Kartar Singh, Sardar.
Kasturbhai Lalbhai, Mr.
Kazim Ali, Shaikh-e-Chatgam Maulvi
Muhammad.
Kelkar, Mr. N. C.

Lohokare, Dr. K. G.
 Maguire, Mr. L. T.
 Majid Baksh, Syed.
 Mehta, Mr. Jammadas M.
 Misra, Pandit Shambhu Dayal.
 Misra, Pandit Harkaran Nath.
 Mutalik, Sardar V. N.
 Nehru, Dr. Kishenlal.
 Nehru, Pandit Motilal.
 Nehru, Pandit Shamlal.
 Neogy, Mr. K. C.
 Phookun, Mr. Tarun Ram.

Rangachariar, Diwan Bahadur T.
 Ranga Iyer, Mr. C. S.
 Reddi, Mr. K. Venkataramana.
 Samiullah Khan, Mr. M.
 Sarfaraz Hussain Khan, Khan Bahadur.
 Singh, Mr. Gaya Prasad.
 Sinha, Mr. Ambika Prasad.
 Sinha, Mr. Devaki Prasad.
 Svamacharan, Mr.
 Venkatapatiraju, Mr. B.
 Yakub, Maulvi Muhammad.
 Yusuf Imam, Mr. M.

NOES—43.

Abdul Mumin, Khan Bahadur Muhammad.
 Abdul Qaiyum, Nawab Sir Sahibzada.
 Abul Kasem, Maulvi.
 Ahmed, Mr. K.
 Ajab Khan, Captain.
 Akram Hussain, Prince A. M. M.
 Ashworth, Mr. E. H.
 Ayyar, Mr. C. V. Krishnaswami.
 Bajpai, Mr. R. S.
 Bhole, Mr. J. W.
 Blackett, The Honourable Sir Basil.
 Bray, Sir Denys.
 Burdon, Mr. E.
 Chartres, Mr. C. B.
 Clow, Mr. A. G.
 Cocke, Mr. H. G.
 Cosgrave, Mr. W. A.
 Crawford, Colonel J. D.
 Fleming, Mr. E. G.
 Gordon, Mr. E.
 Gordon, Mr. E. G.
 Graham, Mr. L.

Gurner, Mr. C. W.
 Hira Singh Brar, Sardar Bahadur Captain.
 Innes, The Honourable Sir Charles.
 Langley, Mr. A.
 Lindsay, Sir Darcy.
 Lloyd, Mr. A. H.
 Malaviya, Pandit Madan Mohan.
 Mitra, The Honourable Sir Bhupendra Nath.
 Muddiman, The Honourable Sir Alexander.
 Muhammad Ismail, Khan Bahadur Saiyid.
 Naidu, Mr. M. C.
 Panduranga Rao, Mr. V.
 Raj Narain, Rai Bahadur.
 Roy, Mr. G. P.
 Sim, Mr. G. G.
 Singh, Rai Bahadur S. N.
 Stanyon, Colonel Sir Henry.
 Sykes, Mr. E. F.
 Tonkinson, Mr. H.
 Vijayaraghavacharya, Diwan Bahadur T.
 Webb, Mr. M.

The motion was adopted.

THE TRANSFER OF PROPERTY (AMENDMENT) BILL.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move that the Bill further to amend the Transfer of Property Act, 1882, as passed by the Council of State, be taken into consideration.

Sir, I do not propose to detain the House for more than a few minutes. This Bill was sponsored by the Honourable Mr. Sethna and was passed by the Council of State only last week. It seeks to clarify certain provisions of the Transfer of Property Act with regard to which some doubts have been raised in certain quarters. The point is whether transfer by way of gift of an actional claim can be effected by an instrument without registration. Section 130 of the Transfer of Property Act, which deals with the transfer of an actionable claim, runs as follows :

“ The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer, as is hereinafter provided, be given or not.”

Then there is a proviso and other provisions which do not bear on the question with which we are now concerned. Sir, the question is

whether section 123 controls the provisions of section 130 which I have just read out. Section 130 deals with transfers generally, but section 123 deals with only one kind of transfer, namely, gifts of immoveable and moveable property. I propose now to read out to the House the language of section 123 :

“ For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.”

Sir, as intangible property of the nature of an actionable claim is not susceptible of physical delivery, the question has been raised as to whether it is necessary that gift of such a claim is to be effected by a written instrument which has got to be registered. The practical importance of this question arises from the fact that in a very large number of cases, life insurance policies are assigned by the assured in favour of near relations, and insurance companies have all along accepted written instruments without any registration as a valid instrument of transfer in such cases. So far no doubt has been thrown upon the validity of such transfers in any court of law, but eminent counsel, who have been consulted by the insurance companies, have held that the point is not altogether free from difficulty. It is therefore with a view to remove all possible doubts in this matter that this Bill was brought forward in the other House. As I began by saying, this Bill merely seeks to clarify the provisions of the Transfer of Property Act, and I think that, in passing this Bill, we will only be giving effect to the intentions of the Legislature. Sir, I move.

The Honourable Sir Charles Innes (Commerce Member) : Sir, I should just like to make it clear on behalf of Government that we support the Honourable Mr. Neogy's motion. In the Commerce Department we have had continual references from life insurance companies on this point and we agree that the best plan is to amend the law so as to bring out quite clearly what the intention of the law was.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

Mr. K. O. Neogy : Sir, I move that the Bill, as passed by the Council of State, be passed.

The motion was adopted.

The Assembly then adjourned *sine die*.

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