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JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1926

The Insolvency (Amendment) Bill

3624 (4)
30-3 17

Act & Bills section

FB-60, PLB

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1926.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Naturalization (Amendment) Bill.	28.1.26.	
2.	The Insolvency (Amendment) Bill.	2.2.26.	
3.	The Indian Registration (Amendment) Bill by Dewan Bahadur T. Rangachariar.	9.2.26.	
4.	The Code of Civil Procedure (Amendment) Bill (Section 102 and 103).	9.2.26.	
5.	The Legal Practitioners (Amendment) Bill.	9.2.26.	
6.	The Hindu Religious and Charitable Trusts Bill by Dr. Hari Singh Gour.	10.2.26.	
7.	The Coparceners Liability Bill. by Dr. Hari Singh Gour.	19.2.26.	<i>Copy not available.</i>
8.	The Indian Tariff (Amendment) Bill.	23.2.26.	
9.	The Transfer of Property (Amendment) Bill by Sir Hari Singh Gour.	4.3.26.	
10.	The Indian Factories (Amendment) Bill.	8.3.26.	
11.	The Indian Income-tax (Amendment) Bill.	8.3.26.	
12.	The Indian Bar Councils Bill.	18.8.26.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Paper No. I. Bill to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

We have carefully considered the provisions of the Bill which deal with the trial of offences committed in connection with insolvency, that is to say, the proposed new section 104 in the Presidency-towns Insolvency Act, 1909, and the proposed new sub-sections (1) and (2) of section 70 of the Provincial Insolvency Act, 1920. We are of opinion that the trial of these comparatively minor offences by the High Courts and District Courts is a waste of the time of those Courts, and that in any case it is undesirable that the Court dealing with the insolvency proceedings should itself try offences of this kind in regard to which it may reasonably be supposed to have formed an opinion prejudicial to the alleged offender. We have accordingly provided that all such cases shall be tried by Magistrates, on complaints preferred by the Insolvency Courts, under the same procedure as is laid down by section 476 of the Code of Criminal Procedure, 1898. Our redraft of these sections removes the ambiguity which has been pointed out in some of the opinions as to the stage of the trial at which the Court was, under the Bill as introduced, to frame a charge.

Apart from the correction of one clerical error we have made no other alteration in the Bill.

3. The Bill was published as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	29th August, 1925.
Fort Saint George Gazette	22nd September, 1925.
Bombay Government Gazette	8th October, 1925.
Calcutta Gazette	17th October, 1925.
United Provinces Gazette	10th October, 1925.
Punjab Government Gazette	18th September, 1925.
Burma Gazette	26th September, 1925.
Central Provinces Gazette	12th September, 1925.
Assam Gazette	18th November, 1925.
Bihar and Orissa Gazette	23rd September, 1925.
Coorg District Gazette	1st December, 1925.
Sind Official Gazette	15th October, 1925.
* North-West Frontier Province Gazette	2nd October, 1925.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	6th October, 1925.
	Telugu	6th October, 1925.
	Kanarese	27th October, 1925.
	Malayalam	27th October, 1925.
Punjab	Urdu	27th November, 1925.
Burma	Burmese	26th September, 1925.
Sindh	Sindhi	29th October, 1925.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. P. MUDDIMAN.

L. GRAHAM.

W. M. HUSSANALLY.

W. F. HUDSON.

HARCHANDRAI VISHINDAS.

T. RANGACHARIAR.

M. C. NAIDU.

S. C. GHOSE.

H. TONKINSON.

The 2nd February, 1926.

[Words printed in italics indicate the amendments made by the Committee.]

A

BILL

TO

*Amend the Presidency-towns Insolvency Act, 1909,
and the Provincial Insolvency Act, 1920.*

WHEREAS it is expedient to extend the operation of the Presidency-towns Insolvency Act, 1909, III of 1909, to the town of Karachi and to amend the said Act and the Provincial Insolvency Act, 1920, for the V of 1920, for the said purpose, and for the further purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Insolvency Short title and commencement. (Amendment) Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In the preamble to the Presidency-towns Insolvency Act, 1909 (hereinafter referred to as the said Act), for the words "town of Rangoon" the words "towns of Rangoon and Karachi" shall be substituted. Amendment of preamble to Act III of 1909. (here- III of 1909.

3. After clause (b) of section 2 of the said Act the following clauses shall be inserted, namely:— Amendment of section 2, Act III of 1909.

"(bb) 'judge' includes a Judicial Commissioner and an Additional Judicial Commissioner;

(bbb) 'limits of the ordinary original civil jurisdiction' means, in respect of the Court of the Judicial Commissioner of Sind, the limits of the municipal district of Karachi as from time to time constituted under the Bombay District Municipal Act, 1901, the Port of Karachi, the Cantonments of Karachi and Manora, and any area within the original civil jurisdiction of the said Court notified in this behalf by the Local Government."

Bom. Act III
of 1901.

4. In section 3 of the said Act,—

Amendment of section 3, Act III of 1909.

(a) in clause (a), for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted; and

(b) for clause (b) the following clause shall be substituted, namely:—

"(b) the Court of the Judicial Commissioner of Sind."

5. In section 4 of the said Act, for the words

Amendment of section 4, Act III of 1909. "Chief Judge" the words "Judicial Commissioner" shall be substituted.

6. In sub-section (1) of section 6 of the said Act, for the words "Chief Judge" the words "Judicial Commissioner" shall be substituted. Amendment of section 6, Act III of 1909.

7. In sub-section (1) of section 77 of the said Amendment of section 77, Act III of 1909. Act, for the words "and Bombay, and the Chief Judge of the Chief Court of Lower Burma" the words "Bombay and Rangoon and the Judicial Commissioner of Sind" shall be substituted.

8. In sub-section (8) of section 90 of the said Amendment of section 90, Act III of 1909. Act, for the words "Chief Court of Lower Burma" the words "Court of the Judicial Commissioner of Sind" shall be substituted.

9. For section 104 of the said Act the following Substitution of new section shall be substituted, section 104, Act III of 1909. namely :—

"104. (1) Where the Court is satisfied, *after such preliminary inquiry, if any, as it thinks necessary,* that there is ground for inquiring into any offence referred to in section 103 and appearing to have been committed by the insolvent, *the Court may record a finding to that effect and make a complaint of the offence in writing to a Presidency Magistrate or a Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898.* V of 1898.

(2) *Any complaint made by the Court under sub-section (1) may be signed by such officer of the Court as the Court may appoint in this behalf."*

10. Any proceedings under the Provincial Insolvency Act, 1920, pending in the Court of the Judicial Commissioner of Sind at the commencement of this Act, shall continue, and all the provisions of the said Act shall apply thereto as if this Act had not been passed. V of 1920.

11. In the Provincial Insolvency Act, 1920,— V of 1920. Amendment of Act V of 1920.

(a) in the preamble, for the words "Town of Rangoon" the words "Towns of Rangoon and Karachi" shall be substituted;

(b) in clause (b) of sub-section (1) of section 2, for the words "and of the Town of Rangoon" the words "the Town of Rangoon and the limits of the ordinary original civil jurisdiction of the Court of the Judicial Commissioner of Sind as defined in section 2 of the Presidency-towns Insolvency Act, 1909" shall be substituted; and III of 1909.

(c) for sub-sections (1), (2) and (3) of section 70 the following shall be substituted, namely :—

"70. (1) Where the Court is satisfied, *after such preliminary inquiry, if any, as it thinks necessary,* that there is ground for inquiring into any offence referred to in section 69 and appearing to have been committed by the insolvent, *the Court may record a finding to that effect and make a complaint of the offence in writing to a Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898.* V of 1908.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill to amend the Presidency-towns
Insolvency Act, 1909, and the Provin-
cial Insolvency Act, 1920, with the
Bill as amended.