

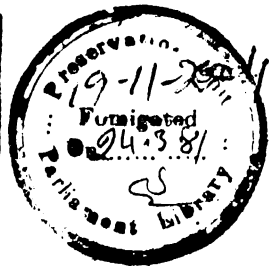
Thursday, 15th September, 1927

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1927

(29th August 1927 to 21st September 1927)

THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927



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COUNCIL OF STATE.

Thursday, 15th September 1927.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, a Bill further to amend the Cantonments Act, 1924, for certain purposes, and of a Bill to amend the Indian Emigration Act, 1922, for a certain purpose, which Bills were passed by the Legislative Assembly at its meeting held on the 14th September 1927.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, the following message has been received from the Legislative Assembly :

“ I am directed to inform you that the Legislative Assembly have, at their meeting held on the 14th September 1927, agreed without any amendments to the following Bills which have been passed by the Council of State :

- A Bill to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.
 - A Bill to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India.
 - A Bill further to amend the Indian Succession Act, 1925, and the Married Women's Property Act, 1874.
 - A Bill further to amend the Presidency-towns Insolvency Act, 1909, for certain purposes.”
-

HINDU FAMILY TRANSACTIONS BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, owing to the unavoidable absence of the Honourable the Law Member, I beg to present the Report of the Select Committee on the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments.

(1201)

INDIAN LIMITATION (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, I beg to present, on behalf of the Honourable the Law Member, the Report of the Select Committee on the Bill further to amend the Indian Limitation Act, 1908.

RESOLUTION *RE* INSPECTION OF EMIGRANTS AND THE PROTECTION OF EMIGRANT WOMEN AND GIRLS ON BOARD SHIP.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, I beg to move the following Resolution that stands in my name:

"That this Council having considered the draft Convention and Recommendation adopted by the International Labour Conference at its eighth session held at Geneva between the 26th May and 5th June 1926, concerning respectively the simplification of the inspection of emigrants on board ship and the protection of emigrant women and girls on board ship, recommends to the Governor General in Council that he should ratify the draft Convention and accept the Recommendation."

Sir, as the subject-matter of this Resolution is somewhat technical, I shall attempt, with your permission and that of the House, to explain briefly the relevant features connected with it and the circumstances which have led up to this motion. In 1924, the International Conference on Emigration and Immigration met at Rome. India was represented at this Conference by Sir P. Rajagopalachari, then Member of the Council of the Secretary of State for India. One of the Resolutions unanimously adopted by the Conference advocated simplification of measures of inspection in vogue on emigrant ships. The Resolution related primarily to emigration from Europe to the two Americas in which ships of different nations are engaged—ships on which nationals of different countries frequently travel together as emigrants. The President of the Rome Conference was also Italy's representative on the governing body of the International Labour Office. On his proposal, that body decided to include the simplification of existing systems of inspections on board emigrant vessels in the agenda of the Eighth Session of the International Labour Conference.

A preliminary questionnaire regarding methods of inspection already in force, and proposals which would secure effective co-operation among States for simplifying systems that were complicated, were sent out by the Office to State Members. In replying to this questionnaire, the Government of India explained that emigration from India was at present permitted only to two countries, Malaya and Ceylon, and took place in ordinary passenger ships which did not carry emigrants of any other race. No special system of inspection on board these ships was in force; and no duplication or disputes regarding competence to inspect had arisen. The problem which the Conference was to solve did not exist for India. It was, therefore, suggested that the Conference should adopt a recommendation which might be applicable to all States maintaining systems of inspection, India's representatives at the

Conference, which met at Geneva in May 1926, reiterated this position. But the Conference decided to adopt a Convention regarding the appointment of inspectors on board emigrant ships, and a recommendation regarding the appointment of women inspectors in certain contingencies. As it was explained by the Committee of the Conference which examined this matter that the Convention aimed at simplifying the existing system of inspection, and not at setting up new systems, and the recommendation to appoint women inspectors was unexceptionable in principle, the delegates of India did not oppose the decision of the Conference.

As the conditions to which the Convention is intended to apply do not at present affect emigration from India, the Government of India were at first doubtful whether they should ratify the Convention or accept the Recommendation. They thought that it might be more suitable to ratify the Convention when the conditions contemplated by it actually arose in connection with the flow of population from India to other countries. Article 9 of the Convention gave them the option to postpone ratification of the Convention until circumstances required it. As they had made their attitude clear to the International Labour Office, when replying to the questionnaire, and their delegates to the Conference had explained the position at the Conference, the decision to postpone ratification could have created no misunderstanding. Before, however, coming to a final conclusion, they decided to seek the advice of the Standing Emigration Committee of the two Houses of the Indian Legislature. The consensus of opinion in the Committee was in favour of immediate ratification and, after full consideration of the advice tendered by the Committee, the Government of India have decided to accept it. The present Resolution is the result of that decision. India has an acknowledged reputation among the nations of the world for the honourable promptitude with which she has given her adherence to international arrangements made under the aegis of the League of Nations or the International Labour Office. In supporting the Resolution which I have now moved, the Government of India are animated by the sole desire to ensure that India's proud eminence as an advocate of international co-operation and amity may be enhanced. Honourable Members of this House are no less jealous of India's place in the comity of nations and no less ardent in their support of the policy, of which the Resolution is a fresh but not the first proof. Sir, I beg therefore to commend it to the House in the full confidence that it will be carried with unanimity.

Honourable Members will observe that Article 11 of the Convention requires each Member ratifying it to bring the provisions of Articles 1, 2, 3, 4, 5, 6 and 7 into operation before the 1st January 1928. If the House adopts the Resolution which I have just now moved, it is proposed to undertake the necessary legislation this Session to amend the Indian Emigration Act, No. VII of 1922, so as to enable the Governor General in Council to carry out such or all of the provisions of the Convention as circumstances may require.

THE HONOURABLE THE PRESIDENT : The question is :

“That the following Resolution be adopted:

‘This Council having considered the draft Convention and Recommendation adopted by the International Labour Conference at its eighth session held at Geneva between the 26th May and 5th June 1926, concerning respectively the simplification of the inspection of emigrants on board ship and the

[The President.]

protection of emigrant women and girls on board ship, recommends to the Governor General in Council that he should ratify the draft Convention and accept the Recommendation'."

The motion was adopted.

RESOLUTION RE CENSORSHIP OF CINEMATOGRAPH FILMS.

THE HONOURABLE MR. H. G. HAIG (Home Secretary); Sir, I beg to move the following Resolution which stands in my name :

"That this Council recommends to the Governor General in Council that he be pleased to appoint a Committee to examine and report on the system of censorship of cinematograph films in India and to consider whether it is desirable that any steps should be taken to encourage the exhibition of films produced within the British Empire generally and the production and exhibition of Indian films in particular."

Sir, I need not apologise for bringing this subject before the Council. This Council has in recent years shown a very special interest in the question of the control of cinematograph films. In 1925, my Honourable friend Sir Ebrahim Jaffer raised the question and suggested to the Government of India that they should consider some change in the system of censorship; and I need hardly remind the House of the interesting debate which we had only last March when my Honourable friend Mr. Ramadas Pantulu moved a Resolution which I had the pleasure of accepting on behalf of the Government, recommending the Government to adopt adequate measures to prohibit the exhibition of films calculated to corrupt the morals of the people. I was on that occasion in the happy position of being in agreement—I think I may say in full agreement—with my Honourable friend opposite. Indeed, I do not think that this is a question, at any rate at this stage, in which much disagreement is probable. I think we all agree that the cinematograph is an influence with great potentialities for good or evil, an influence that requires to be watched very carefully. I think we are probably all agreed that in some respects at the present time that influence is not good, and we want to see whether we can eradicate the evil aspects of the cinematograph and improve the good. For that purpose the obvious method open to Government is to examine the question of the censorship. I explained last March the great difficulties that must beset the censorship of cinematograph films, and the difficulties under which the censoring authorities must always labour. I also tried to impress upon the House the care and attention that the existing authorities are devoting to this difficult problem. But it is clear from the criticisms that have been made and from the considerations advanced by my Honourable friend and others that the time has come when we have got to re-examine fundamentally our system of censorship and come to a conclusion as to whether it is sound or not, and, if it is not, whether it can be improved in any respects. Faced with this problem, Sir, the Government very soon came to the conclusion that they must advance by means of appointing a Committee. The problems of the censorship have been under discussion by correspondence for years and very little progress has been made; and we anticipated that if we continued the same methods the same results were likely to follow. We thought that we had reached the stage at which we must abandon the method of correspondence and proceed by the method of personal discussion and consideration

such as a Committee is able to afford. That, Sir, is our main object in proposing the constitution of a Committee. I should like to indicate briefly to the House, but in a little more detail than I have been able to put in the Resolution, the main problems which we hope that the Committee will consider. In the first place, there is the fundamental question of method, whether the censorship should remain as at present on a provincial basis or should be centralised. As the House is aware, at the present moment we have four Boards at Bombay, Calcutta, Madras and Rangoon, all of which are entitled to give a certificate of all-India validity, though each province can further apply its own check if it so chooses. The Government of India, though they are, I think, held responsible in a general way for the censorship, and I am sure they are held responsible by this Legislature, really are not in a strong position at present to deal with the question.

They get only occasional complaints and when they get complaints, all they can do is to refer them to the particular Board which may have passed that particular film. They really have no direct means of impressing their own ideas, if they have any, on the various censoring authorities. I do not suggest that the Government of India have made up their mind on this subject, but it is quite clear that it is high time that we considered whether this system of censorship by a number of independent and unco-ordinated authorities is in the best interests of the country. That will be the first and perhaps the main problem that the Committee will have to consider.

Then, they will also have to consider the constitution of whatever censoring authority they may decide is required, and in particular, how non-official opinion should be brought to bear on this work of censoring. It is recognised under the existing system that non-official opinion must be consulted and great weight must naturally be attached to it. They will have to consider what is the best means of associating such non-official opinion with the decisions.

Then, again they will have to consider what I might call the mechanism of the censoring authority. In England, for instance, I understand that the Committee which conducts the censorship—that certain members of the Committee at any rate—view every single bit of film that is passed. Though I believe that the same system is carried out by some of the censoring authorities in India, yet I think I am right in saying that others consider that that is not practicable, and that it is safe to work through a system of Inspectors, paid Inspectors, who examine all the films and call the attention of the Committee to any portions or any particular films which they regard as doubtful. Then, the members of the Committee come and give their decisions. That is clearly an important matter which the Committee should consider and decide which is the best system.

Then, again, the Committee will have to consider whether the existing standards of censorship are generally satisfactory. I daresay they will find that the standards so far as they are expressed in rules and principles are satisfactory. The difficulty always is in applying in practice those standards. Finally, I hope they will consider the question of the finance of the censorship. To some extent I think the censorship has hitherto been handicapped by the principle—I am not sure whether it is being applied absolutely—but the

[Mr. H. G. Haig.]

general principle by which the Government have expected the trade to pay for the censorship. Well, that means that either you cannot spend very much on censorship, or else you have to put a considerable burden on the trade. It is a matter for consideration, whether this is not a subject of sufficient general importance for Government itself to take over, at any rate, a larger share of the expenditure on the censorship.

That represents what I might call the first and primary group of problems which this Committee will have to consider. But there is also a second group of problems, connected with the production and exhibition of films, which I think that any Committee constituted at the present time must inevitably look into. Two factors coinciding render this decision, I think, almost inevitable. The first is the one which I mentioned in this Council in March last. One of the great difficulties in my opinion of a censorship is that the scenes represented in a very vivid manner are frequently not really comprehensible to the audiences in this country, and I suggested then that the problem of censorship would be largely simplified if we could increase the number of Indian films showing Indian stories in an Indian setting. In that way, we should develop an effective, and, I hope, healthy public opinion. Moreover, in a matter of this kind which has influences so powerful and so widespread, it seems desirable that the audiences in this country should have presented to them pictures which give them their own social conditions, their own culture. In that way, the cinema may become an instrument of great educational and social value. We think, therefore, that the Committee should look into this question, how far it is possible (at present we really do not know), how far it is feasible to develop the production and exhibition of Indian films. That is one factor. Simultaneously there is another factor, really based ultimately on the same ideas which I have just explained. The Imperial Conference which met last year was impressed by very much the same ideas in regard to the Empire as I have been trying to develop in regard to India. They said that it was much to the advantage of the Empire from the cultural and social point of view that films exhibited in the Empire should show Empire manners and customs, and should acquaint the various parts of the Empire with what is being done in other parts. The Imperial Conference attached so much importance to this that they passed a resolution commending this principle to the consideration of all the Governments within the Empire. Therefore, the Government of India, in any case, will have to consider this question, and it seemed to them obviously the most convenient thing, as a preliminary measure, to refer this matter to the Committee which was being constituted to examine the cinematograph problem in general, a Committee, I may mention, which will have a non-official majority. I have heard rumours that in another place certain suspicions have been aroused by this suggestion, but I do not think the Government can really be accused of any nefarious official plot to further the trade interests of the Empire at the expense of India. I do not think the Imperial Conference really had mainly in view trade interests at all. I think they had mainly in view—as I have already said—the cultural and social side, and certainly the Government of India have not any trade interests in view. Their interest in the matter, so far as they have any interest at all, is simply that the proportion of films showing Empire conditions, Empire manners, should be increased.

But the Government of India have come to no conclusion on this matter. They have been asked to consider the problem, and they remit the problem for the consideration of a Committee with a non-official majority and themselves express no opinion.

I think, Sir, that is a very harmless and non-committal proposal. In fact, more suspicion might have been aroused if we had decided to deal with this matter in the recesses of our own offices. Finally, we hope that the Committee will be able to give us some information about the organisation of this important industry as a whole. We are very ignorant of the details of its working, and we hope that the Committee will be able to give us some needed information on this point.

Well, Sir, these, I hope the Council will agree, are all questions of real importance to the country. They are questions which cannot be solved by further noting and writing. If we want to come to conclusions, we must invite the co-operation of a Committee, and we hope, if the Legislature agree, to constitute a small Committee with a non-official Chairman and a non-official majority; we hope it will start work in October and, if they work very hard, finish their labours in about three months. We hope that they will tour—in fact, that seems essential, if they are to get information and views from the various up-country provinces, whose interests are sometimes neglected in this matter, as well as the views of the censoring authorities, the trade and the general public in such large centres as Bombay and Calcutta. The Government of course could have constituted this Committee without consulting the Legislature; but, Sir, we thought, considering the interest which the Legislature, and particularly this Council, has always taken in this matter, that it would be more courteous to inform the Council of what we propose to do and to seek to obtain its concurrence and approval; and this, Sir, is what I ask for this morning.

THE HONOURABLE SIR EBRAHIM JAFFER (Bombay Presidency: Muhammadan): Sir, I rise cordially to support the Resolution moved by my Honourable friend Mr. Haig. The question raised by him is of great importance from the point of view of public morals and social reform. I am glad the Government of India have now practically accepted most of the views which I expressed in my Resolution moved by me in 1925 for the purpose of a more effective and rigid control over the production and exhibition of cinematograph films in India. Sir, the views I then expressed still hold good with greater force, and my experience of cinematograph shows in India since then has confirmed me in my view that a very careful and judicious censorship is necessary on the films imported from countries outside the British Empire and exhibited in India. It is true, Sir, that there are some provincial arrangements for censoring films, but these do not seem to have helped to any considerable extent in the attainment of the object which such censorship should have in view, and even to this day in India there are films exhibited which one would like either to be improved or supplemented by suitable catch lines so as to place the historical scenes and characters portrayed in them above all misunderstanding by an Indian audience. Those engaged in the moral and social uplift of the country consider the exhibition of undesirable films a menace which threatens the efforts of their good work. I hope, Sir, that the terms of reference of the Committee proposed by the Honourable the Mover will be wide enough to enable

[Sir Ebrahim Jaffer.]

the Committee to report after thorough investigation as to the further measures that are necessary to reject objectionable films and to improve the others so as to make it possible for Indians to have a true and clear picture of culture and society. With these words, Sir, I support the Resolution.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, I thought that a Resolution of this nature would be acceptable to non-official Members irrespective of the parties to which they belong ; but I found from the conversations that were going on in the lobby in another place that there was some sort of suspicion attached to the Resolution and to the object of the Government in bringing forward this Resolution.

Sir, I see this Resolution merely gives effect to, merely wants to take prompt action on, the Resolution which was put forward in March last in this Council ; and it has been made abundantly clear and it is generally agreed that, judging from the results of censorship at present exercised, there is very much to be desired in the system of censorship. I believe a systematised and centralised form of censorship with an effective control would be better than the sort of censorship which is being exercised, and I find actually from the films exhibited in very many places, specially in Burma, that those films which are most objectionable always find very large audiences in picture theatres. It is high time that steps were taken to find out ways and means for effective censorship.

Then, as regards the second part of the Resolution, *e.g.*, the encouragement of films produced within the British Empire, it is a very laudable object. I quite endorse the opinion of the Home Secretary that the second part of the Resolution is not for the purpose of the furtherance of trade, but only for the purpose of making the people living in this Continent of India better acquainted with the conditions in other parts of the British Empire because it is necessary that there should be a better understanding of the conditions, the culture and the social and moral environment in various parts of the Empire so that the feeling of the entity of the Empire may be very much increased. I think, Sir, it is not on the trade side of it but on the cultural, social and moral side of it, that the Committee will be asked to concentrate its attention ; and I think if that is done, a good deal of misunderstanding which exists as regards conditions here and as regards our social and moral environment specially in the minds of people who inhabit other parts of the British Empire would be removed and it would lead to a spirit of harmony and co-operation.

I believe, Sir, that is an object which has everything to commend it, and I think that people who regard this attempt with suspicion deserve to be told that suspicion breeds suspicion and nothing will come out of it. As regards the development of the film in India, I find the film industry, though it is fast developing in places like Burma and Bombay, is in a very crude condition and it deserves considerable help and support in the matter of getting their products finished. If that is done, there is a great future for the film industry in India, and I think the Committee which is proposed to be appointed should look into the matter and see what sort of help can be given to the indigenous film industry which is fast developing. With these words, I heartily support this Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I am glad to find myself in the same position in which my Honourable friend Mr. Haig found himself last March, namely, of being able to be in agreement with what he has said. I listened, really, with great interest to the scope and functions of the Committee to be appointed with regard to the censorship. The terms of reference, if I may so call them, are wide enough to include almost every aspect of censorship and to give the Committee full and ample scope to make useful recommendations on that head. I have nothing more to add on that part of the Resolution.

Coming to the second part of the Resolution, I am glad that the Honourable the Home Secretary made it very clear to us that the object is to promote social and cultural interchange of thought and its expression by means of the exhibition of these Empire films and that there is no commercial purpose underlying the proposal. I hope it is true. (*An Honourable Member* : "No") I am also suspicious, I admit, but, at any rate, no purpose is served by being suspicious in advance. Let us see what the Committee is going to do. On this occasion, I am inclined to believe in the statement made by the Honourable the Home Secretary for this reason. If the cinematograph is to become a world force, all parts of the British Empire and also countries outside the British Empire ought to be encouraged to produce and exhibit films, so as to make it a real world force. America and certain other countries have now a virtual monopoly of production and exhibition of films. We obviously go without the advantage of having the benefit of films produced by other countries. Therefore, I welcome the idea that other parts of the British Empire and India would be encouraged to produce and exhibit films. Encouragement of British and Indian films, I take it, will not amount to discouragement of films of other countries. We wish to have also the exhibition of cultural and social environments and the physical environments and thought of other countries, like Japan, China, Russia, Germany, etc. I hope nothing will be done to prevent the importation of films from those lands into this country. Therefore, Sir, I cordially agree also with the second part of the scope of the Committee's functions. The League of Nations' scheme is apparently to encourage the production of archaeological and historical films. We now have some British films of archaeological, historical and educational interest produced in our cinematographs. But we find that in most cinematographs American films have the greatest patronage in India. The reason for that is not far to seek. I think Americans, on the whole, have more imagination than other countries have. Production was defined, by a cinematograph critic, recently in the *Madras Mail*, as the "art of making the impossible credible." But we know by experience that British historical films do the opposite, namely, they make the truth incredible. The American historical films have 90 per cent. of production and 10 per cent. of historicity. They have realised the fact that direct film propaganda is not a success. Therefore, they add a story to propaganda; the story is mostly imaginary and that is the cause of their success. Educational propagandists always add a story to propaganda. But we all wish that the story were sacrificed and we had more of production. It is true that when a film produces a scene underlying which there is a huge false assumption, there will sometimes be a protest; that is true. One part of the country may not understand the

[Mr. V. Ramadas Pantulu.]

assumption underlying a film which another part of the country understands. A film which was well appreciated throughout India, depicting the life of Buddha, was greatly resented in Burma, because the assumptions underlying the life of Buddha were better understood in Burma. Some of us know that there was a great outcry against the exhibition of the American war film known as "The Big Parade." There was nothing wrong with the film. It was a very interesting film, but the reason for the outcry was its underlying assumption that America won the Great War. In most films the assumptions are less obvious. When a film is impressively presented, we forget the fact that the cinematograph lies. As a matter of fact it does lie. But the thing that creates interest is the convincing way in which the film is exhibited and when so presented, the assumptions underlying the film insidiously enter into our minds and act in some subtle manner, and we come to believe in the truth of the scene thus presented. That is the secret of the great success of the American cinematograph. I hope British and Indian films will follow the American example, and that they will be able to produce useful and culturally and socially instructive shows.

One more warning, Sir, I wish to convey. This Committee will also have to recognise the religious and the social sentiments of the people, before they allow the free flow of films into this country. Some of my European friends told me that they felt very greatly oppressed by the exceedingly wrong way in which European customs and habits are exhibited to the people of this country. I quite sympathise with them and I realise what it is to have one's religious customs and social habits misrepresented in an objectionable manner in a foreign country. I hope Europeans will reciprocate that sentiment and see that they pay a similar respect to the religious and the social sentiments of the people of this country when they import films to be exhibited here. What makes a profound devotional appeal to a Hindu may appear ludicrous to a Christian. There is that difference in sentiment and thought for which we must make allowances. I hope the Committee will recognise this factor in their investigation into the social and religious value of the films.

I have not much more to say, except to point out that the statement of the Honourable Mr. Haig that the Committee will consist of a majority of non-officials is somewhat disingenuous. In the other House I know an amendment was moved that the Committee ought to consist of a majority of Indian non-officials. But my friend has very carefully omitted the word "Indian." I associate myself with the amendment moved in the Assembly, but I have not myself thought fit to bring a similar amendment in this House because I wanted to give it a chance at least in another place. If that amendment is carried by the Assembly, I have no doubt, that in a matter like this, where the Government is anxious to show courtesy to the Legislature and also to respect Indian sentiment they will be able to respect the views of that House. If that amendment is passed, I hope they will see their way to have a non-official Indian majority on the Committee. With these words, Sir, I accord my support to the Resolution moved by the Honourable Mr. Haig.

THE HONOURABLE MR. H. G. HAIG : Sir, I think I owe it to the House to thank them for the very favourable way in which this Resolution has been

received and the support which the speakers have accorded to the Government proposals. With regard to what my Honourable friend Mr. Chari said about the development of the industry in India, I know personally nothing about the prospects and possibilities, but I do feel that it is important from the point of view of the country, and if anything can be done to develop the industry in India it is very well worth doing. That, of course, will be one of the principal things for the Committee to consider. My Honourable friend Mr. Ramadas Pantulu said that he hoped that nothing would be done to prevent the films of other countries coming into India. I do not think he need be anxious that any possible measures the Committee might suggest, if they do suggest any, will stop American films coming in, and personally I should be very sorry if it did. Though there are bad American films, there are also exceedingly good ones, and America has shown the world the way in the production of cinematographs. I do not think anybody wants to impose an absolute bar on films produced by America.

As to the composition of the Committee, I am afraid I can say nothing definite because nothing definite has been decided. The view of the Government was that if we gave a majority of non-officials, the racial question was not of any great importance in this connection. However, that perhaps will be a matter for further consideration in another place.

THE HONOURABLE THE PRESIDENT : The question is :

“That the following Resolution be adopted :

‘This Council recommends to the Governor General in Council that he be pleased to appoint a Committee to examine and report on the system of censorship of cinematograph films in India and to consider whether it is desirable that any steps should be taken to encourage the exhibition of films produced within the British Empire generally and the production and exhibition of Indian films in particular.’”

The motion was adopted.

BAMBOO PAPER INDUSTRY (PROTECTION) BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) : Sir, I move that the Bill to amend the law relating to the fostering and development of the bamboo paper industry in British India, as passed by the Legislative Assembly, be taken into consideration.

The primary object of this Bill is to remove certain difficulties that have arisen in the recent interpretation of the Bamboo Paper Industry (Protection) Act, that was passed by this House in September 1925. Altogether the Bill makes three separate amendments. These amendments are enumerated in the Statement of Objects and Reasons. But the difficulties that have arisen are rather technical and complex and require perhaps some further explanation. I will try to be as brief as possible.

The first amendment is this. The Tariff Board, which in 1925 investigated the claim of the Paper industry to protection, recommended that the protective duty should not be imposed on “newsprint.” I need not detain the House at this stage by explaining the reasons for this recommendation. It is sufficient to say that the representatives of the paper

[Sir Geoffrey Corbett.]

industry themselves withdrew their claim to a protective duty on newsprint. The Board then considered how newsprint should be defined for tariff purposes. I must here explain that the wood pulp from which paper is made may be of two kinds. First, there is chemical wood pulp which is made by a chemical process ; and, secondly, there is mechanical wood pulp which is made merely by grinding the wood without the use of any chemicals. The more chemical pulp that is used in making the paper, the better and stronger the paper is. The greater the proportion of the mechanical pulp, the weaker and more inferior the paper is. In fact, paper containing a large proportion of mechanical pulp is only used for ephemeral purposes, such as the printing of newspapers.

The Tariff Board then found that the newsprint commonly imported into India contained about 70 per cent of mechanical wood pulp. Following this finding and allowing a small margin for error in the analysis, the Act of 1925 limited the protective duty on printing paper to paper containing less than 65 per cent of mechanical wood pulp. In other words, paper containing 65 per cent or over was to continue to pay only the revenue duty of 15 per cent *ad valorem*. And paper containing less than 65 per cent was to pay the protective duty of one anna per lb. This seems a fairly simple and straightforward division, but I am afraid we reckoned without the lawyers. It was recently held that paper containing no mechanical wood pulp at all could not be said to contain less than 65 per cent within the meaning of the Act. The ordinary man might perhaps be pardoned for thinking that nought, or zero, was less than 65. But we can only accept the decision of those who are competent to interpret the law.

The effect of this interpretation is that paper which is made entirely of chemical pulp—that is, the best quality of printing paper which cannot be described as newsprint, — is not liable to the protective duty, but only to the revenue duty. And it is this quality of imported paper that particularly competes with the paper manufactured in India. In other words, the Act of 1925 to a very large extent fails of its intended purpose. Obviously, the Government were bound to take the earliest opportunity of amending the Act so as to bring under the protective duty paper which contains no mechanical wood pulp at all.

But an early amendment of the Act is not enough. In the first place, for nearly two years duty has been collected in good faith at the protective rate, and it is necessary to validate these collections. Secondly, when we became aware of the legal interpretation of the Act as now worded, we had no option but to administer it according to that interpretation. We could not go behind the actual wording of the Act to its obvious intention. On the other hand, there was a very real danger that paper importers might take advantage of this flaw in the Act, and in the interval which must elapse before the Act could be amended they might import very large quantities of paper containing no mechanical wood pulp at the revenue rate of duty. These imports might seriously affect the paper industry in India, which the Legislature in 1925 had decided to protect. In these circumstances, the Government felt that they were justified in having recourse to the unusual procedure of amending the Act with retrospective effect, so as to give it the meaning which it was clearly intended to

bear with effect from the date on which it was passed. And in their communiqué on the first July, in which they stated the legal interpretation

12 Noon. of the Act as now worded, they also announced their intention of making the necessary amendment with retrospective effect, in order that importers might be deterred from importing large quantities of this kind of paper during the interval which must elapse before the Act could be amended. Clause 3 of the Bill gives effect to this intention. The Report of the Select Committee of the Assembly to which the Bill was referred, states very clearly the reasons for which they considered this unusual proposal to be justified. These reasons were accepted by the Assembly and I have no doubt they will also be accepted by this Council.

So much for the first amendment. The second amendment is this. I must explain that in addition to wood pulp, printing paper ordinarily contains a certain amount of "loading" or sizing, which is largely China clay. This loading may amount to as much as 20 per cent. of the total weight of the paper. Now, until last January the customs authorities, following what they believed to be the ordinary trade usage, interpreted the words "65 per cent. of mechanical wood pulp", as meaning 65 per cent. of the *total wood pulp or fibre content* of the paper. But here again the lawyers intervened. Last January they told us that, as the Act was worded, this 65 per cent. could only mean 65 per cent. of the *total weight* of the paper, including the loading. I will try to make clear the effect of this interpretation. Let us suppose that the mechanical wood pulp in a certain consignment of paper is 75 per cent. of the fibre content, and the loading is 20 per cent. of the total weight. It would follow that the mechanical wood pulp would then be only 60 per cent. of the total weight. And this consignment, instead of being admitted at the revenue rate of duty, would have to pay the protective rate. It was at once represented by the importers that large quantities of newsprint, which under the previous customs procedure had been liable only to the revenue duty, had under this new interpretation become liable to the higher protective duty. At the same time, trade usage was not absolutely certain, nor had the Tariff Board in their 1925 report definitely stated whether the percentage should be calculated on the fibre content or on the total weight. In this case, therefore, the Government decided to refer the matter again to the Tariff Board for a clear decision on this specific point. The Board has now reported that the percentage should be calculated on fibre content and not on the total weight. The second amendment made by the present Bill gives effect to this recommendation.

The third amendment is a smaller point. By the Act of 1925 the old revenue duty of 15 per cent. *ad valorem* was also changed to a specific duty of one anna a lb. on writing paper, including ruled or printed forms and account and manuscript books and their binding. It is quite clear from the Preamble to the Act that its intention was to *increase* the duty. But some time after the Act had been passed, it was represented by the printing and allied trades in India that the effect of the Act had actually been to *reduce* the duty in the case of many kinds of printed stationery, account books and so on. For instance, a ledger weighing, say, 14 lbs. and valued at Rs. 150, would only pay a duty of 14 annas at one anna a lb. instead of a duty of Rs. 22-8-0 at 15 per cent. *ad valorem*. The printing trade represented very strongly that this protection

[Sir Geoffrey Corbett.]

Act actually diminished the assistance which it had previously enjoyed under the old revenue tariff. Incidentally it is causing an unnecessary loss of revenue, amounting to about a lakh of rupees a year.

The third amendment, therefore, is to make the duty on printed stationery and account books one anna a lb., or 15 per cent. *ad valorem*, whichever is higher. The effect of this alternative duty will be, firstly, to retain for the Indian paper industry the necessary protection against the cheaper qualities; secondly, to restore to the Indian printing industry the tariff assistance which it previously enjoyed in respect of the more expensive kinds; and thirdly, to safeguard the State against an unnecessary and quite unintended loss of revenue.

To sum up, the three amendments effected by this Bill are as follows:

Firstly, printing paper containing no mechanical wood pulp at all is made liable to the protective duty of one anna a lb., instead of the revenue duty of 15 per cent. *ad valorem*.

Secondly, for the purpose of defining newsprint, the percentage of mechanical wood pulp is calculated on the fibre content instead of on the total weight.

Thirdly, the duty on printed stationery and account books, which is now one anna a lb. becomes one anna a lb., or 15 per cent. *ad valorem*, whichever is higher.

Sir, I move.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the law relating to the fostering and development of the bamboo paper industry in British India, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: The question is:

"That this be the Schedule to the Bill."

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, I wish to draw the attention of the Honourable the Commerce Secretary to what appears to be a slight omission in the Schedule to this Bill. I would draw his attention to item 156 under the heading "Writing Paper". I contend, Sir, that added to the "writing paper" should have been some phraseology to provide for the inclusion of envelopes of all sorts. I believe, Sir, this point was raised in another place and that the Honourable the Commerce Member held that writing paper included envelopes. Sir, we have heard with interest the Honourable the Commerce Secretary explaining to the House this morning how lawyers ingeniously and successfully have contended that printing paper which contained no mechanical wood pulp did not come under the category of printing paper which contained less than 65 per cent. of mechanical wood pulp. I cannot help thinking that lawyers might with equal success point out that writing paper does not include envelopes. (Laughter). If I wrote to some establishment in Bombay or in Calcutta to send me a supply of writing paper, I do not think that establishment would send me envelopes with the paper. I had instructions from my Constituency to move an amendment

But unfortunately these instructions arrived rather late and I felt sure, in fact I ascertained, that the amendment would not prove acceptable to Government, because it would entail delay in the passing of this Bill and would necessitate its going back to the Legislative Assembly. I do, however, wish to bring forward this point to the notice of the Honourable the Commerce Secretary and perhaps he will bring in even another amending Bill in the future if he finds it necessary to do so. It would be somewhat similar to the Income-tax Amending Bills. We get any number of amending Bills to that Act, and I suppose there is no objection to a small amending Bill being brought forward on some future date to this Act.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Perhaps they would send executive instructions to the customs authorities to this effect.

THE HONOURABLE SIR GEOFFREY CORBETT : Sir, I fully sympathise with the attitude of the Honourable Sir Arthur Froom on this subject ; and I must say that I should await with some apprehension a reference of this item in the Schedule to the lawyers. At present we are bound by a ruling of the Central Board of Revenue, that is Ruling No. 26 of 1925, in which they lay it down that envelopes made of writing paper are assessable to a duty of one anna per lb., under Statutory Tariff No. 156, as writing paper. That is how things stand at present. Of course that ruling might be challenged. And, if lawyers have a chance, I quite agree that it is possible that they might deny that writing paper includes envelopes. As my Honourable friend Sir Arthur Froom has said, this point was raised in another place, and at that time the Honourable the Commerce Member pointed out that he could not accept the amendment for he did not know what the implication would be, but he said that he would examine the question and have the thing made water-tight at the next general amendment of the tariff.

THE HONOURABLE THE PRESIDENT : The question is :

“ That this be the Schedule to the Bill.”

The motion was adopted.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR GEOFFREY CORBETT : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to amend the law relating to the fostering and development of the bamboo paper industry in British India, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

ADEN CIVIL AND CRIMINAL JUSTICE (HIGH COURT JURISDICTION AMENDMENT) BILL.

THE HONOURABLE SIR JOHN THOMPSON (Political Secretary) : Sir, I move for leave to introduce a Bill further to amend the Aden Civil and Criminal

[Sir John Thompson.]

Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay.

The object of this Bill is to extend the powers of the High Court in respect of the proceedings of the local Courts at Aden and, in particular, to confer a right of appeal to the High Court in the more serious criminal cases.

Sir, I move.

The motion was adopted.

THE HONOURABLE SIR JOHN THOMPSON : Sir, I introduce the Bill.

THE HONOURABLE SIR JOHN THOMPSON : I move, Sir, that the Bill further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay, be taken into consideration.

Up till the present year the administration of civil and criminal justice at Aden has been governed by an Act of 1864. That Act did not recognise the right of legal practitioners to practise in the Aden Courts. It gave no right of appeal beyond the highest local Court in criminal cases, and it provided for the administration of justice entirely, or almost entirely, by officers who had had no special training in law. It has long been felt, both by officials and non-officials, that that system was hardly suited to the conditions of Aden, which is not only a pivot of Empire but also an important port and a considerable commercial centre. For various reasons into which I need not enter it was not found possible to take any steps to remedy that state of affairs until last spring. In February of this year a Bill was introduced into the Bombay Council which, after a certain amount of discussion, was referred to a Select Committee. The Select Committee made a number of additions and amendments, and when the Bill was returned to the Council, it was found that some of the clauses in the form in which they had been returned were *ultra vires* of the local Council. The local Council, however, on an assurance being given that the Government of India would be moved to introduce a Bill in the Central Legislature, as soon as possible, in regard to those clauses which were *ultra vires* of the Bombay Council, passed the remaining clauses of the Bill ; and it is in pursuance of that promise then given that this Bill has been introduced in the Council of State. I need waste little time in explaining the provisions of the Bill. Clause 2 extends the power of reference to the High Court, which at present exists only in respect of suits, also to appeals : and clause 3 provides for an appeal to the High Court in criminal cases of a serious nature. Clause 4 is purely consequential.

I move, Sir, that the Bill be taken into consideration.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I should like to ask one question. Has this Bill any connection with the transfer of the administration of Aden from the Government of India to the Colonial office ?

THE HONOURABLE SIR JOHN THOMPSON : No, Sir, I do not think it has any connection with that. The civil and internal administration of Aden will remain with the Government of Bombay ; but the Honourable Member is right to this extent, that one of the factors which made it difficult to

introduce legislation before the present year was the uncertainty in regard to the future of Aden.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay, be taken into consideration.”

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR JOHN THOMPSON : Sir, I move that the Bill be passed.

The motion was adopted.

INDIAN SECURITIES (AMENDMENT) BILL.

THE HONOURABLE MR. A. F. L. BRAYNE (Finance Secretary) : Sir, I beg to move that the Bill to amend the Indian Securities Act, 1920, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, this Bill is in reality a very simple measure though it deals with a highly technical subject. Clause 2 of the Bill deals with a drafting amendment. Section 10 of the Indian Securities Act provides for the issue of duplicate security certificates when the original has been lost or destroyed ; but no provision is made for cases in which the original has been stolen, and the amendment provides for that. Sub-section (4) is a natural addition to provide that if the original security is subsequently found, the orders passed in regard to duplicates shall be cancelled.

Clause 3 is necessary for the following reasons. Under section 18 of the Securities Act, Government remains liable to pay the principal as well as the interest on a discharged loan up to the date of the demand by the holder, and it is optional with the owner of a promissory note to defer the demand as long as he likes without entitling Government to plead limitation. The difficulty arose in connection with a judgment by a full bench of the Madras High Court in what is known as the Bapuli case. The Judges held that, in the case of promissory notes which are declared to be payable on demand, although the loan to which they relate may have been notified for discharge, Government remains liable to pay the principal and interest up to the date of the demand even if it be 100 years after. I may say that this difficulty arises only in the case of non-terminable loans. In the case of terminable loans—the bulk of our loans—there is no trouble as a definite date is announced on which repayment will become due after which no interest will be paid.

In these cases Government's liability, both for payment of interest and principal, is extinguished by section 120 of the Limitation Act six years after the loan becomes due for payment.

It is with non-terminable loans that the difficulty arises. Perhaps, Sir, I might shew the nature of the amendment by way of a homely example. Suppose, when times are bad, I borrow from Mr. X a lakh of rupees with the option to repay at my convenience. After a year or so I come into funds

[Mr. A. F. L. Brayne.]

unexpectedly and wish to repay the loan. It would be, I think the House will agree, a distinct grievance to me if Mr. X avoided taking my money and continued to charge me interest for a loan which I did not want or, if I still needed accommodation, when I might be able to get the money at a much lower rate of interest.

The original Bill, Sir, provided a limitation also in respect of the principal of the loan, but this has disappeared in the course of the Bill because it was felt that in the case of certain non-terminable loans the holders regard their securities as permanent pieces of property and it might therefore operate unfairly if a time-limit were imposed for payment of the principal. But the case of interest stands on a totally different footing, and it was realised that it was in the interests of Government and the tax-payer that loans bearing high rates of interest should be converted into loans bearing lower rates and that such operations would be defeated if any holder of securities could continue to hold on to them and claim higher rates of interest for longer periods after the loans had been notified for discharge. For these reasons, Sir, I commend the amendment which appears as clause 3 of the Bill for the acceptance of the House.

Sir, I move.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to amend the Indian Securities Act, 1920, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. F. L. BRAYNE: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House): Sir, I have to inform the Council that, as a result of the previous disposal of certain of the Resolutions balloted for Monday next and of the receipt of information that certain other Resolutions will not be moved, only two Resolutions remain for disposal on that day. In these circumstances we propose, with a view to avoid undue congestion of business on Tuesday, to put down certain items of official business for disposal on Monday after the two Resolutions to which I have referred. The business in question will include the consideration and passing of the Bills laid on the table to-day, all of which will, we believe, be uncontentious, and motions arising out of the Reports of the Select Committees which have been laid on the table to-day.

The Council then adjourned till Eleven of the Clock on Saturday, the 17th September, 1927.