

Friday, 21st September, 1928

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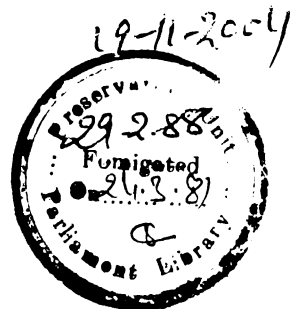
(11th September to 26th September 1928)

FIFTH SESSION

of the

SECOND COUNCIL OF STATE

1928



CALCUTTA: GOVERNMENT OF INDIA
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COUNCIL OF STATE.

Friday, 21st September, 1928

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

QUESTIONS AND ANSWERS.

QUALIFICATIONS REQUIRED FOR THE REGISTRATION OF MEAT CONTRACTORS BY THE ASSISTANT DIRECTOR OF SUPPLIES AND TRANSPORT, BOMBAY.

121. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

- (a) The qualifications which are required for the registration of the name of a meat contractor in the list of approved contractors, kept by the Assistant Director of Supplies and Transport, Bombay?
- (b) The names of the approved contractors at present on the list of the Bombay District?
- (c) Out of these how many are (a) professional butchers, (b) ordinary suppliers?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: With your permission, Sir, I will answer questions Nos. 121, 122 and 123 together. A report has been called and the Honourable Member will be informed in due course.

CONTRACTORS OF THE SUPPLY AND TRANSPORT DEPARTMENT.

*122. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

- (a) Whether a contractor of the Supply and Transport Department whose name is registered at Madras, Poona, Bangalore and Bolarum, is not eligible for the Bombay District?
- (b) Is it true that such a contractor whose head office is in the city of Bombay itself was refused registration without assigning any reason?
- (c) If so, why?

TENDERS FOR THE SUPPLY OF BEEF AND MUTTON FOR TROOPS IN THE BOMBAY DISTRICT.

*123. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

- (a) How many contractors tendered for the supplies of beef and mutton for the year 1928-29 for the Bombay District?
- (b) What were the rates of the accepted tender and the lowest of the rejected ones?

* For answer to this question, see answer to question No. 121.

- (c) What was the loss suffered by Government by not accepting the lowest tender ?
- (d) What were the special reasons for accepting the higher tender ?
- (e) What steps do Government intend to take to avoid such loss in future ?

TOMB OF THE *ex*-KING BAHADUR SHAH OF DELHI AT RANGOON.

124. THE HONOURABLE SIR EBRAHIM H. JAFFER: With reference to the information supplied to me in reply to my questions Nos. 129 and 130 by demi-official No. 73-B., dated 28th June last by the Army Secretary regarding the tomb of the *ex*-King Bahadur Shah of Delhi at Rangoon, will Government be pleased to state :

- (a) Whether the land in question has been handed over to the Government of Burma by them ?
- (b) Has the land been resumed from the present occupant by the Government of Burma under the Bengal Rules, and has a public garden been made therein ?
- (c) Do they intend to ask His Excellency the Viceroy to open this public garden during his visit to Burma in November next.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Not yet, Sir. But the transfer of the land to the Local Government has been sanctioned and they intend to take it over soon, together with other areas of the cantonment.

(b) From my reply to (a) above it will be seen that this has not yet been possible.

(c) I am afraid I do not know the intentions of the Burma Government in the matter.

INCREASE OF THE GRANT TO PRINCESS ROUNAC ZAMANI BEGUM, GRAND-DAUGHTER OF THE *ex*-KING OF DELHI.

125. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state :

- (a) Whether the grand-daughter of the *ex*-King of Delhi named Princess Rounac Zamani Begum was asked by the Commissioner of Police, Rangoon, under Political Department memorandum No. 72-P.P.-42 Part II, 24th January 1928 to vacate her house ?
- (b) To whom does this house belong ?
- (c) What assistance is the Government giving to this old lady ?
- (d) Did she apply for the grant of a motor car ?
- (e) Was it refused and if so, why ?
- (f) Does she sublet parts of her house ?
- (g) What are the conditions attached to the grant for the maintenance of the descendants of the *ex*-King of Delhi ?
- (h) Will Government lay them on the Council table ?
- (i) Have Government considered increasing the grant in consideration of the rise in the cost of living ?

THE HONOURABLE MR. B. J. GLANCY : The information is being collected and will be furnished as soon as possible.

REMARKS CONTAINED IN A RECENT JUDGMENT OF THE CHIEF JUSTICE OF THE PATNA HIGH COURT REGARDING THE GIVING OF FALSE EVIDENCE.

126. THE HONOURABLE MR. MAHENDRA PRASAD : (a) Has the attention of the Government been drawn to a passage in the recent judgment of the Chief Justice of the Patna High Court wherein he says "Having regard to the habits of the people in this particular part of the world where the giving of false evidence, however deplorable it may be, is not considered an offence which is fatal to a man's reputation to say the least of it."

(b) If the answer to (a) be in the affirmative, do the Government propose to take any action in the matter ?

THE HONOURABLE MR. H. G. HAIG : (a) Yes.

(b) No.

REMARKS MADE BY THE CHIEF JUSTICE OF THE PATNA HIGH COURT IN A CASE AGAINST BABU JAGAT NARAYAN LAL, M.A., LL.B., M.L.C.

127. THE HONOURABLE MR. MAHENDRA PRASAD : (a) Has the attention of the Government been drawn to the following remarks made by the Chief Justice of the Patna High Court against Babu Jagat Narayan Lal, M.A., LL.B., M.L.C., and Secretary of the All-India Hindu Sabha, in his judgment against him in the case under section 124-A. of the Indian Penal Code ?

(i) "The subject of the charge is a silly little article in an insignificant little paper written by a silly little noisy man."

(ii) "..... and I have no doubt myself from the tone of the article that that was the intention of this foolish writer."

(b) If the answer to (a) be in the affirmative, did the Government propose to take any action in the matter ?

THE HONOURABLE MR. H. G. HAIG : (a) Yes.

(b) No.

RAISING OF THE PLATFORM AT MIDNAPORE ON THE BENGAL-NAGPUR RAILWAY, ETC.

128. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Will the Honourable Member in charge of the Railway Department be pleased to state what action, if any, has been taken to raise the railway platform at Midnapore on the Bengal Nagpur Railway in Bengal ?

(b) Will he be pleased to state what steps, if any, have been taken to provide two intermediate class waiting rooms for gentlemen and ladies at Midnapore station on the Bengal Nagpur Railway in Bengal ?

(c) Will he also be pleased to state what steps, if any, have been taken to construct sheds over the platforms at Midnapore and Kharagpur on the Bengal Nagpur Railway in Bengal ?

THE HONOURABLE SIR GEOFFREY CORBETT : (a) From the proceedings of the meeting of the Bengal Nagpur Railway Advisory Committee, the

Government learn that the question of raising the platform at Midnapore is under investigation, and an estimate of cost has already been called for.

(b) They also learn from the proceedings of another meeting of the local Advisory Committee that the Agent was proposing to provide one intermediate class waiting room at Midnapore.

(c) At the third meeting of the local Advisory Committee, the Agent explained that it would cost at least 4 lakhs to cover the platforms at Kharagpur, and that for this reason he could not deal with the matter immediately, but he would bear it in mind and take up the work piecemeal when funds permitted. The Honourable Member will see that all the three matters mentioned in his question have been very properly the subject of discussion in the local Advisory Committee, and I venture to suggest that the question of providing small facilities or amenities of this kind at individual stations might very well be left to Local Committees.

OFFICE HOURS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.

129. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Honourable the Home Member be pleased to state what are the actual working hours of the Government of India offices (including attached and subordinate offices) and what amount of overtime pay, if any, clerks, duffarries and peons get if they are required to work after the usual office hours ?

THE HONOURABLE MR. H. G. HAIG : The question of office hours is within limits, one for each Department to decide for itself, but generally the office hours in the Government of India offices are from 10-30 A.M. to 4-30 P.M. As members of the office staff are wholetime Government servants no remuneration is paid to them if they have to work extra hours owing to the exigencies of the public service.

LOCATION IN A SEPARATE BUILDING OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

130. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Is the Wireless Branch part of the Director General, Posts and Telegraphs' camp office ? If so, will the Government be pleased to state why that Branch is located in a separate building since the date of its formation ?

THE HONOURABLE MR. A. G. CLOW : The Wireless Branch is a part of the Director General's office. It is located in a separate building because sufficient accommodation for it is not available in the same building as the remainder of the Director General's office.

POSITION OF DIRECTOR GENERAL, POSTS & TELEGRAPHS' OFFICE.

131. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Honourable Member in charge of the Industries and Labour Department be pleased to state what is the present position of the Director General, Posts and Telegraphs' Office. i.e., whether it is Subordinate, Attached or Secretariat proper ? If it is one of the three classes mentioned above whether the rates of pay of the clerical staff are fixed accordingly ? If not, why not ?

THE HONOURABLE MR. A. G. CLOW : The Honourable Member's attention is invited to the reply given on the 19th March 1928, in the Legislative Assembly, in response to the same question which was asked by Mr. Anwar-ul-Azim.

LOCATION IN SIMLA DURING THE WINTER MONTHS OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

132. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Will the Honourable Member in charge of the Industries and Labour Department be pleased to state whether the Wireless Branch is part of the Director General, Posts and Telegraphs' Office in all respects? If so, what is the reason or reasons for leaving that Branch in Simla during the winter months?

(b) Will he be pleased to state the actual expenditure involved up to March 1928 by locating the Wireless Branch in Simla during winter months?

THE HONOURABLE MR. A. G. CLOW : (a) The Wireless Branch is a part of the Director-General's Office in all respects. It has been retained in Simla during the winter months since its formation for reasons of administrative and executive convenience.

(b) The actual expenditure involved (under winter allowances) is Rs. 9,200. If the Wireless Branch had migrated to Delhi every season an expenditure of approximately Rs. 18,700 would have been incurred in travelling allowances; therefore a saving of Rs. 9,500 has been effected up to March 1928 by locating the Wireless Branch in Simla during the winter months.

REFUSAL TO GRANT TO 17 CLERKS OF THE NON-MIGRATORY PORTION OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS OF THE CONCESSIONS GRANTED IN CONNECTION WITH THE TRANSFER OF THE HEAD-QUARTERS FROM CALCUTTA TO DELHI.

133. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is it a fact that 17 clerks of the non-migratory portion of the Director General, Posts and Telegraphs' Office, have been deprived of the concessions granted in connection with the transfer of the headquarters from Calcutta to Delhi on the ground that they were recruited for service in Simla/Delhi only, *i.e.*, in the migratory portion of the Director General's Office? If so, will the Honourable Member in charge of the Industries and Labour Department be pleased to state what alternative concessions have been granted to these clerks and why they are not attached to the migratory portion of the said office?

(b) Is it a fact that most of the 17 affected clerks are non-Bengalis?

THE HONOURABLE MR. A. G. CLOW : (a) No. The Honourable Member's attention is invited to the reply given by the Honourable Sir Bhupendra Nath Mitra to starred question No. 482 in the Legislative Assembly on the 19th March last. Actually the concessions referred to were not granted to 19 clerks the majority of whom formed part of that portion of the Director-General's office staff which migrates between Simla and Delhi, the others being stationed at Simla. As these clerks were unaffected by the transfer of the Director General's main office from Calcutta to Delhi they have no reasonable claim to any concession in connection with that change.

(b) The majority of the clerks concerned were not Bengalis.

NUMBER OF MUSLIM AND NON-MUSLIM GAZETTED ENGINEERS, PROVINCE BY PROVINCE.

134. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Government be pleased to state the number of Muslim and non-Muslim gazetted engineers, province by province, with their percentage to the total in each case ?

THE HONOURABLE MR. A. G. CLOW : The information required is given in the statement which I lay on the table.

Statement showing the number of Muslim and Non-Muslim gazetted engineers, province by province, with their percentage to the total in each case.

Province.	Gazetted Engineers.			Percentage of Muslims.	Percentage of Non-Muslims.
	Muslims.	Non-Muslims.	Total.		
Madras ..	1	148	149	0·67	99·33
Bombay ..	8	262	270	2·96	97·04
Bengal ..	1	98	99	1·01	98·99
United Provinces ..	16	183	199	8·04	91·96
Punjab ..	27	287	314	8·60	91·40
Burma ..	1	152	153	0·65	99·35
Bihar and Orissa ..	5	57	62	8·06	91·94
Central Provinces ..	4	92	96	4·17	95·83
Assam ..	2	34	36	5·56	94·44

The above figures do not include temporary engineers.

ELIGIBILITY OF PANDIT UDHO RAM, SUB-DIVISIONAL OFFICER, PUBLIC WORKS DEPARTMENT, DELHI, FOR THE RANK OF ASSISTANT ENGINEER OR EXECUTIVE ENGINEER.

135. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is it a fact that Pandit Udho Ram, Sub-Divisional Officer, is at the top of the list of temporary Upper Subordinates, Delhi Public Works Department, in respect of pay and service ?

(b) Is he a Roorkee hand (Overseer class) ?

(c) Is he eligible for the post of Assistant Engineer or Executive Engineer ?

THE HONOURABLE MR. A. G. CLOW : (a) and (b) Yes.

(c) Assistant Engineer is a rank confined to officers borne on the cadres of provincial services in Governors' provinces, and Executive Engineer is a rank confined to the Indian Service of Engineers. As the officer in question does not belong to any of the services mentioned, he is not eligible for either rank.

CRACKS IN THE NEW SECRETARIAT AND OTHER BUILDINGS IN NEW DELHI.

136. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is it a fact that all jack arches of buildings in New Delhi leak in the rains and soffits get wet ?

(b) Is it a fact that cracks occurred in the New Secretariat and many other buildings in New Delhi ?

(c) Is it a fact that ceiling plaster is continually falling from the roofs in the Bodyguard Lines, etc., in New Delhi ?

(d) If so, will the Government be pleased to state the reasons for the cracks in the newly built edifices, leaking of roofs and falling of ceiling plaster ?

THE HONOURABLE MR. A. G. CLOW : (a) No.

(b) Cracks occurred in the New Secretariat and certain other large buildings.

(c) No.

(d) I understand that in very large buildings, particularly where they do not rest on uniform foundations, cracks are inevitable.

PAYMENT OF CONTRACTORS' BILLS BY THE PUBLIC WORKS DEPARTMENT, DELHI.

137. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (i) Is it a fact that contractor's bills are prepared and paid according to entries made in the Measurement Books in the Delhi Public Works Department ?

(ii) Are the Delhi Public Works Department Measurement Books recorded according to rules and works measured according to specification ?

THE HONOURABLE MR. A. G. CLOW : (i) and (ii) The practice is as stated by the Honourable Member.

GRANT OF CONVEYANCE ALLOWANCE TO CLERKS OF THE GOVERNMENT OF INDIA NOT PROVIDED WITH QUARTERS IN NEW DELHI.

138. THE HONOURABLE MR. MAHENDRA PRASAD : (a) Will Government be pleased to say whether the Roshanara Gardens, Safdarjang, Nizamuddin and Delhi Shahdara are within the Notified Area for the purposes of granting conveyance allowance to the clerks of the Government of India ?

(b) If the answer to (a) is in the negative, will Government be pleased to define the areas included in the Notified Area ?

(c) Will Government be pleased to state whether conveyance allowance is granted only to clerks living in the Notified Area or to those also who live at a distance greater than the Notified Area ?

(d) Have Government fixed any limit of mileage for the purposes of granting conveyance allowance for those who are not provided with Government quarters and who live on any side of New Delhi except the Notified Area ? If not, why not ?

THE HONOURABLE MR. H. G. HAIG : (a) No.

(b) The Honourable Member is referred to the Notification issued by the Chief Commissioner, Delhi, dated the 16th January 1913, which was published on page 122 of Part II of the Gazette of India, dated the 18th January 1913.

(c) The allowance is granted only to those living in the Notified Area.

(d) No. The whole question of the justification of these conveyance allowances will be re-examined.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA : A supplementary question, Sir. Will the Government be pleased to state the reason why conveyance allowance is allowed only to clerks living in the Notified Area and not to those who live far off ? What is the reason why this distinction is made ?

THE HONOURABLE MR. H. G. HAIG : The reason, Sir, is historical arising from the time when the Government of India offices were in Old Delhi and certain clerks were living out in Raisina. But the whole position seems somewhat illogical and it will now be re-examined, not necessarily for the purpose of extending these allowances.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA : Will the Government be pleased to state when it is intended to revise the scheme ?

THE HONOURABLE MR. H. G. HAIG : As soon as possible, Sir.

GRANT OF CONVEYANCE ALLOWANCE TO CLERKS OF THE GOVERNMENT OF INDIA NOT PROVIDED WITH QUARTERS IN NEW DELHI.

139. THE HONOURABLE MR. MAHENDRA PRASAD : (a) With reference to the Honourable the Home Member's reply to Sir Hari Singh Gour's starred question in the Legislative Assembly No. 535, parts (c) and (d), dated the 26th March, 1928, will Government be pleased to say whether distance or suitability of accommodation is the consideration for granting conveyance allowance to those clerks of the Government of India who are not provided with Government quarters in New Delhi and have to attend office after traversing a distance of 5 or 6 miles ?

(b) If distance is the consideration for granting conveyance allowance, why is it withheld from clerks living near or about the Roshanara Gardens, and granted to those living near the Swiss Hotel (Alipore Road) ?

(c) Do Government propose to fix some limit of distance beyond which such allowance may be granted ?

THE HONOURABLE MR. H. G. HAIG : (a), (b) and (c) I refer the Honourable Member to the answer which I have just given to his question No. 138.

HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

THE HONOURABLE SIR SANKARAN NAIR (Madras : Non-Muhammadan) : Sir, I beg to present the Report of the Select Committee on the Bill

to alter the order in which certain heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, with the Bill as amended.

I also beg to move, Sir, that you may be pleased to suspend the rule that seven days must elapse before the Bill is taken into consideration under Standing Order 43, Appendix III to the Manual of Business, page 98.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : I also support the request of my Honourable friend, Sir Sankaran Nair.

THE HONOURABLE THE PRESIDENT : With regard to the Honourable Member's application that I should suspend the Standing Orders and enable the Bill to be taken into consideration, I would point out to him that, so far as I am aware, the Governor-General has not allotted any further day in this Session for non-official business.

THE HONOURABLE SIR SANKARAN NAIR : It was my intention, Sir, to apply to the Honourable the Leader of the House to allot a day, as early as possible, for the consideration of this matter as there is no non-official day. I thought I could make that application after you agreed to suspend the Standing Orders.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, Government are not at present in a position to place any further business before the Council. They are, however, anxious that two Bills, which are still outstanding in another place, should be passed into law during the course of the present Session, and it may be hoped that one, if not both, of these Bills will be passed elsewhere in time to admit of the laying thereof in this Council on Wednesday next. Government will be happy to give time for the Honourable Sir Sankaran Nair's Bill on that or any other official day.

THE HONOURABLE THE PRESIDENT : The Bill in regard to which the Honourable Sir Sankaran Nair has made an application is one which I know is regarded as of great importance by a considerable section of the House. From that point of view, I should certainly be reluctant to shorten the statutory period of seven days to any considerable extent. On the other hand, the Bill has been in Honourable Member's hands now for some time ; it is of no considerable length ; and I think I may say that the amendments made in Select Committee can hardly be described either as drastic or as numerous. In view of these facts, I propose to fix a meeting for Wednesday next, the 26th of September. There is a further matter of convenience in that date, in that I gather from what the Leader of the House has just stated that before that date there will be no further Government business to put before the Council, and should I fix an earlier day for the consideration of Sir Hari Singh Gour's Bill, I should have to fix a subsequent date on which I gather there would be no business for the Council to dispose of, except possibly the laying of a few Bills passed in the other place on the table of the House. I shall therefore fix a meeting for Wednesday, the 26th instant, on which day it is open to Government to put down the Honourable Sir Sankaran Nair's motion.

ELECTIONS TO THE PANEL FOR THE STANDING COMMITTEE FOR THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT : Nominations to the panel from which members of the Standing Committee for the Department of Commerce have to be nominated closed at 11 o'clock this morning. The following nominations have been received :

The Honourable Sir Phiroze Sethna,
The Honourable Sir Arthur Froom,
The Honourable Sir George Godfrey,
The Honourable Rai Bahadur Lala Ram Saran Das,
The Honourable Mr. G. S. Khaparde, and
The Honourable Sardar Bahadur Shivdev Singh Uberoi.

As the number of nominations coincides with the number of vacancies for the panel, I declare those six Honourable Members duly elected.

ELECTION OF MEMBERS OF THE COUNCIL OF STATE ON THE CENTRAL COMMITTEE TO SIT WITH THE INDIAN STATUTORY COMMISSION.

THE HONOURABLE THE PRESIDENT : Honourable Members will have received by this time a circular issued yesterday by the Secretary of the Council informing them that the election of three members of this Council on the Central Committee to sit with the Indian Statutory Commission will take place to-day after the disposal of the legislative business on the paper. They will have also received the list of Honourable Members who had been nominated up to the hour of noon yesterday. They were :

The Honourable Sardar Charanjit Singh,
The Honourable Sir Maneckji Dadabhoy,
The Honourable Mr. P. C. Desika Chari,
The Honourable Mr. G. S. Khaparde,
The Honourable Sir Sankaran Nair,
The Honourable Sir Arthur Froom,
The Honourable Mr. Mahmood Suhrawardy,
The Honourable Prince A. M. M. Akram Hussain Bahadur,
The Honourable Sir Haroon Jaffer,
The Honourable Sardar Bahadur Shivdev Singh Uberoi,
The Honourable Raja Nawab Ali Khan, and
The Honourable Major Nawab Mahomed Akbar Khan.

I have to inform the House that two Honourable Members have withdrawn their nominations. They are the Honourable Mr. Mahmood Suhrawardy and the Honourable Major Nawab Mahomed Akbar Khan. That for the present leaves 10 Honourable Members standing for the election.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : I am very grateful to my Honourable colleagues for nominating me for election on the Central Committee, but I have decided to withdraw from the contest for certain reasons. I have also communicated my decision early yesterday morning to the Home Department. My reasons are simple and easily intelligible. It is going to be a very important Committee, and I am of opinion that the two large communities in India, the Hindus and the Muhammadans, ought to receive the fullest representation on this Committee. I am also of opinion that there are very large, varied and comprehensive European interests and there ought to be at least one Member representing European commerce and trade in this country on the Committee. My community, the Parsi community, is a very small one and is proverbially loyal, and their co-operation with Government in all right directions is a matter of common knowledge and experience. I apprehend I may perhaps come in the way of Muhammadan representation, and, in order to avoid that contingency, I have decided to withdraw from this contest. This action of mine is also in accordance with the wishes of the Simon Commission that the composition of the Committee should be, as far as possible, representative of British India as a whole.

THE HONOURABLE PRINCE A. M. M. AKRAM HUSSAIN BAHADUR (Bengal : Nominated Non-Official) : Sir, I also for certain reasons into which I do not wish to go desire to withdraw my name as a candidate for this Committee.

INDIAN TRADE UNIONS (AMENDMENT) BILL.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary) : Sir, I move that the Bill to amend the Indian Trade Unions Act, 1926, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

The Bill proposes to alter only one section of the Indian Trade Unions Act. That is section 11 which relates to appeals from the orders of the Registrar. At present if the Registrar's office is situated within the jurisdiction of one Judge who has been authorised to hear appeals and the head office of the Trade Union is situated within the jurisdiction of another such Judge, it is doubtful to which Judge the appeal lies. The new section will make it clear that the competent Court is that of the Judge for the area within which the head office of the Trade Union is situated.

The second purpose of the Bill is to clarify the law in respect of appeals within the Presidency-towns and Rangoon. The appeal lies at present to a Judge of the principal Civil Court of original jurisdiction and there is a second appeal to the High Court. But the principal Civil Court of original jurisdiction in these areas is the High Court, and it was not intended that in these areas there should be two appeals. The new section will make it clear that there is only one appeal in such areas and that that lies to the High Court.

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 MR. A. G. CLOW : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN INCOME-TAX (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary) : Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

The purpose of this small Bill is extremely simple. Section 5 (3) of the Income-tax Act, 1922, requires the Government of India to consult the Local Government concerned before it makes an appointment to a particular Commissionership of Income-tax. This provision was never intended to be permanent. It was adopted merely for the purpose of smoothing the initial stages of the process of the Government of India's taking over the administration of the Income-tax Act. The taking over by the Government of India of the administration of the Act is now far advanced, and accordingly it is proposed to create an all-India cadre of Commissioners of Income-tax and to abolish the provision to which I referred at the commencement of these remarks. The proposal has received the assent of all the Local Governments, except one. That particular Local Government, in reply to a reference made to all Local Governments on the subject, said that it would retain the existing practice under which the Local Government is consulted by the Government of India before any officer is posted as Income-tax Commissioner to a province. Hitherto, they went on to say, the Income-tax Commissioner has always been a member of the Indian Civil Service of this province and has remained in fairly close touch with the Local Government, and the Governor in Council thinks that there is a danger that a Commissioner from a strange province, who would naturally be lacking in local knowledge and experience, might administer the Act without due regard to the local prejudices and to the interests of the Province.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : May I ask which is that Provincial Government ?

THE HONOURABLE MR. E. BURDON : It is the Government of the Punjab. Since then as a matter of fact the Government of the Punjab have found themselves unable to provide an Indian Civil Service officer to be Income-tax Commissioner of the Punjab, and I think therefore that their dissent on this question may for practical purposes be disregarded. I do not think that my proposition requires any further remarks. I therefore move it.

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 MR. E. BURDON : Sir, I move that the Bill, as passed ' by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN SUCCESSION (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. H. G. HAIG (Home Secretary) : Sir, I move that the Bill further to amend the Indian Succession Act, 1925, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

This is a small amending Bill arising out of a piece of legislation undertaken in 1926. In that year, on the recommendation of the Civil Justice Committee, the provisions of section 57 of the Indian Succession Act, whereby Hindus, Buddhists, Sikhs and Jains were required to reduce their wills to writing in certain areas only, were extended to all members of the communities. It was not intended, however, at the time that the provisions relating to wills other than reducing them to writing should be extended to members of these communities outside the areas to which the full provisions apply. It was not observed at the time that under section 213 of the Indian Succession Act it was laid down that wills made by any Hindu, Buddhist, Sikh or Jain, where such wills are of the class specified in section 57, would be governed by the requirement of probate or letters of administration. The object of this Bill is to withdraw that necessity and to state in section 213 that its provisions should apply only to Hindus, Buddhists, Jains, etc., who are specified in subsection (I) of section 57.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

“That clause 1 do stand part of the Bill.”

THE HONOURABLE MR. H. G. HAIG : Sir, I beg to move :

“That in clause 1 for the brackets and word ‘(Amendment)’ the brackets and words ‘(Second Amendment)’ be substituted.”

This is a purely formal amendment. I was surprised at the last meeting of the Council to observe my Honourable friend, Mr. Narayan Prasad Ashthana, rising to move an Indian Succession (Amendment) Bill, and at first I suspected that he had purloined my Bill. I discovered afterwards that two Bills of this nature were coming before the Council this Session ; and the object of this amendment is merely to differentiate this Bill from the Bill moved by my Honourable friend, Mr. Ashthana.

THE HONOURABLE THE PRESIDENT : The original question was :

“That clause 1 do stand part of the Bill ”

Since which an amendment has been moved —

“That for the brackets and word (Amendment)’ the brackets and words ‘(Second Amendment)’ be substituted.”

The question is that that amendment be made.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. G. HAIG : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA : 'As amended by this House.'

THE HONOURABLE MR. H. G. HAIG : Yes, Sir, as amended by this House.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Indian Succession Act, 1925, for a certain purpose, as passed by the Legislative Assembly and amended by the Council of State, be passed."

The motion was adopted.

INDIAN INSURANCE COMPANIES BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) : Sir, I move that the Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business, as passed by the Legislative Assembly, be taken into consideration.

This Bill, Sir, has two distinct objects. The first is to remove a defect in the existing law. The point is rather complicated, but I will try to make it as clear as possible to the House. The intention of the Indian Life Assurance Act is that the life fund should be absolutely the security of the life policyholders, and should not be applied, directly or indirectly, for any other purposes than those of life assurance. That, I think, is clear from section 6 of the existing Life Assurance Act. But it happens, Sir, that the law relating to the liquidation of life companies assumes that the company will be *insolvent*, and consequently the liability of the company to the policyholders is determined by a procedure that does not take into account the possibility of a surplus in the life fund. Hence it follows that if a *solvent* company were to go into voluntary liquidation, this surplus would all pass into the hands of the shareholders, and the policyholders would be deprived of their legitimate share in the surplus, which has been actually contributed by them and may legitimately be regarded as part of the real value of their policies.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Has there been any such case ?

THE HONOURABLE SIR GEOFFREY CORBETT : There has not yet been any such case. This is a prophylactic measure (Laughter). But if there were such a case of a large and successful life company which had a large surplus, it would come to a very big amount, and the temptation to the shareholders might be very great to take what the law, as it now stands, undoubtedly allows them to take. And if this were to happen—it has not happened—but if it were to happen, I think the Honourable Member will agree that it

would be a very severe shock to public confidence in insurance in India generally ; and therefore it is desirable to amend the law so as to remove, as early as possible, all temptation from the shareholders of large and successful companies. I think this defect in the law, as far as I am aware, was in the first instance noticed by the Departmental Committee appointed by the Board of Trade, under the chairmanship of Mr. Justice Clouston, which recently examined the English Insurance Companies Act, on which the Indian Act is largely based : and the amendment which I now propose in this Bill follows closely the wording of the amendment which the Clouston Committee recommended.

Sir, that is the first object. The second object of the Bill is to provide for the collection of statistical information in respect of all kinds of insurance business. In this respect, the Bill does not apply only to life business, but to all insurance business. I want to make that clear. The first object applies only to life business, and the second to all. The Bill then, as stated in the Statement of Objects and Reasons, requires every Insurance Company transacting any class of insurance business in British India to submit annual statements showing the details of its business both in and outside India. Well, Sir, there has for some years been a demand for this information, and in the opinion of the Government it is desirable that this information should be available for the use of the Government and of the public. The reasons for this are three. In the first place, there is a special need for publicity in insurance business. An Insurance Company, as actually defined in this Bill, means "any person who transacts in British India the business of effecting contracts of insurance against any risk". But, Sir, the risk is not all on one side. There is also the risk to the person insured that the company might not be able to pay his claim if and when it arises. And so it is necessary in order to inspire public confidence in insurance, and consequently it is necessary in the true interests of Insurance Companies themselves, that their financial position should be published in as clear a form as possible.

That is the first reason for requiring these statistics. The second reason is the social and economic interest in insurance generally. The growth of the insurance habit is of great importance in the social and economic life of the country, and I think the Government and the public should be in a position to watch its growth and to know its extent. This is the reason why it is of special importance that the companies operating in India, whether Indian or non-Indian companies, should state separately their business in India and outside India.

The third reason for requiring these statistics is to provide data for any future legislation that may be undertaken to regulate insurance business. There is a general, and I think a quite proper, demand that our law relating to insurance should be revised and brought up-to-date. This is being done now in England ; and the English Act, which, as I have said, is the parent of the Indian Act, has been scrutinised by an expert Committee presided over, as I have said, by Mr. Justice Clouston, and a Bill was drafted by them and is likely to be considered by the British Parliament at an early date. I should like to say that the Government is definitely of the opinion that we ought not to undertake any general comprehensive revision of our Insurance Act until the English

[Sir Geoffrey Corbett.]

Act has been revised. It is very desirable that insurance law, subject to local considerations, should be kept as far as possible on the same basis in different countries, because Insurance Companies operate in many different countries; and particularly in the matter of statistics it is desirable that there should be common and uniform forms. But when the time comes for the amendment of our law, it will be of great value for us to have before us the statistics for which the present Bill provides. At present when we are dealing with insurance problems, when we are considering what measure of control over insurance business may or may not be required, we are to a large extent working in the dark. We really are not in a position to consider legislation to regulate insurance until we know the requirements. We cannot know the requirements until we know the facts. This Bill is designed to give us the facts.

Sir, I move.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, the commercial community in this country, and in particular the Indian section of it, will greatly welcome this Bill. I say advisedly the Indian section of the commercial community for the reason that the Indian Merchants' Chamber of Bombay have now for some years past been requesting Government not only to amend the existing Insurance Act, known as the Indian Life Assurance Companies Act of 1912, but also to undertake legislation in regard both to Indian and non-Indian companies doing insurance business of any kind in this country. As the Honourable Sir Geoffrey Corbett has told the House, Government recognise the value of this recommendation, but they are not yet able to accede to the request in full. The Bill which we are considering to-day deals only with two matters referred to by the Honourable the Commerce Secretary. Sir, if there is delay on the part of Government, there is perhaps reason for it as was explained by Sir Geoffrey. The Indian Life Assurance Companies Act of 1912 is based on the English Act, and as he also pointed out, faults were found in the English Act with the result that the Board of Trade appointed a Departmental Committee, known as the Clouson Commission. The report of that Committee was made public over a year ago. Till now, however, because of more pressing business, Parliament has not been able to consider the amendments made by that Committee, and consequently, the English Act has not yet been amended. Because the Indian Act is based on the English Act, and because of the recommendations of the Clouson Committee it is possible that Parliament may introduce several amendments in the English Act, it would not do to tinker with the Indian Act from time to time and therefore it is proposed that we should wait until the English Act is amended. That, I take it, is the reason for the delay so far. However, there are two important matters which could not be postponed, and that is why this Bill has been now introduced. The first of these two points is referred to in clause 3 of the Bill, and the other relates to the collection of data in regard to premiums, claims paid, etc., which are to be found in clauses 2, 7, 8 and 9 of the Bill.

Now, Sir, whilst this Bill deals with only these two matters, its passage will assure the general public that Government have now taken this matter in hand, and that as soon as Parliament amends the English Act, they will

introduce a further Bill dealing with all important matters relating not only to life insurance but to every kind of insurance in this country, and particularly as to the deposits to be paid both by Indian and non-Indian companies, and also the investment by them of a portion of their reserves in Indian securities as well as many other kindred matters. In this connection I would like to point out that the name of the Indian Act, namely, the Indian Life Assurance Companies Act, 1912, because it will now deal not only with life insurance but other kinds of insurances, and also because it will deal not only with Indian but also with non-Indian companies, is a misnomer, and I hope, therefore, that when Government bring forward a further Bill to which I have referred, they will consider by what new name to designate this Act in the future. As I have said, there are only two changes contemplated in the present Bill. The first is in regard to a matter which, as the Honourable Sir Geoffrey Corbett explained, is somewhat difficult and complicated. In short, it is to prevent shareholders of a prosperous Indian Life Insurance Company to voluntarily wind it up and thereby secure to themselves, namely, the shareholders, very large gains by taking away the greater portion of the surplus and not giving it to the policyholders from whose moneys such surpluses have been built up. My Honourable friend Mr. Rama Prosad Mookerjee inquired whether there has been such a case. May I inform him that there was very nearly going to be such a case only a few months ago? And if that had happened as was likely in the case of this very prosperous Indian Life Assurance Company, the result would have been that the shareholders would have walked away with 60 times or more of the par value of the shares of that company. It is therefore but right that Government should intervene and introduce such a section as Section 26A as proposed in the Bill whereby the shareholders will be prevented from walking away with the bulk of the surplus to their own benefit and to the detriment of the policyholders.

The savings of the middle class of every progressive country are very largely invested in life insurance policies, and I am glad to say the same is becoming the case in India as well. It is therefore the bounden duty of Government to see that the moneys of these policyholders are well secured. I quite realise that in the beginning of the history of any Life Insurance Company, a share capital is necessary as security to the policyholders. But once what we may call the danger zone has been passed, which generally is after about 20 years, or so, then there is no more necessity for that share capital. In fact, that share capital is but a small fraction of what funds the company by the time has accumulated. I admit the shareholders have taken a certain amount of risk in the earlier years for which they require to be adequately compensated. But I also believe that once such a concern is in a very prosperous condition, it is not fair that the shareholders should profit beyond reason and beyond all reasonable proportion. I would suggest to Government the consideration of a point that I am making, namely, whether in the case of companies well established and prosperous as, for example, the one which was likely to be voluntarily wound up recently, Government would assume powers to enable them for the benefit of the shareholders to mutualise such a life company not of course without adequately recompensing the shareholders who took the risk in the earlier years. This is merely a suggestion for Government to consider when they introduce the fuller Bill hereafter.

[Sir Phiroze Sethna.]

As regards the recommendations regarding the furnishing of figures which have been made, the primary object of asking for these details is to ascertain whether insurance business in India is on the increase or not, and secondly, whether the business of Indian Insurance Companies is also on the increase or not. Such statistics are required first under clause 2 of the Bill which deals only with life insurance business. Now, I may explain to the House that every Life Insurance Company fixes a retention for itself. Supposing an Honourable Member proposes to a company for a policy of say Rs. 60,000. Supposing that company has fixed its own retention at only Rs. 50,000, then it follows that it will reinsure the excess of Rs. 10,000 with another office or offices.

In the case of life insurance policies, however, the percentage of its re-insurances to its entire business is comparatively very small and consequently I have no suggestion to make in regard to clause 2.

The case, however, is different in regard to clause 8 where statistics are required of the premium income received and the claims paid by companies doing other than life insurance business. As Honourable Members are aware re-insurance in Fire and Marine business is very large particularly in the case of smaller and younger companies. Now clause 8 (i) requires a statement showing :

“In respect of premium income for which credit is taken in the revenue account, the amount of premium derived from business effected in India.”

The amount shown in the revenue account will be the net retention and consequently the purpose for which these figures are wanted will not be served. I can best explain my meaning by an illustration. Suppose there are two companies A and B, A being an old established company and B a younger concern. Say for example the annual premium income of both Companies A and B is alike, viz., Rs. one lakh per annum. Now the older company A will be able to retain more, say, half the business and re-insure the other half with, say, companies not in India. Therefore this Company in its returns will show a premium income of Rs. 50,000. Now take Company B which is smaller and younger. It cannot retain as much as A and decides to retain, say, only a fourth and re-insures three-fourths again, say, with companies outside India. Therefore Company B in its returns to Government will show a premium income of only Rs. 25,000. The entire premiums of Rs. 2 lakhs between these two companies is on Indian business but according to clause 8 (i) they will submit in their returns premium incomes of only Rs. 50,000 and Rs. 25,000, respectively, and Government will not have a record of the remaining premium income of Rs. 1,25,000 paid out as insurances by these two companies to companies outside India. That was not what was contemplated. What we want to know is the total amounts of premiums on the Indian business.

Again in the illustration I have just given I assume that after holding their own retentions the companies A and B would re-insure the balance in companies outside India. It is open to them, however, to re-insure as well in Indian or non-Indian companies in India itself and this is invariably done. If they do so then such Indian or non-Indian companies working in India in their returns must under clause 8 (i) show what premiums they

have collected by way of re-insurance from companies A and B. This is satisfactory. Companies A and B might have re-insured both in companies working in India and also in companies not working in India, and these latter companies are not required to submit their returns in respect of re-insurance premiums they have received on Indian business. The object of the Bill in consequence would be frustrated. The solution of this difficulty therefore is so to alter clause 8 (1) that companies are required to show gross premiums obtained in India deducting only re-insurances effected in India. This will bring in the premiums which are paid out by way of re-insurance on Indian business to companies not working in India and Government will get figures of the full premiums on the Indian business.

Similarly in clause 8 (2) companies are required to show separately the amounts of claims paid to claimants (a) in India as also to claimants (b) outside India. This to my mind is not necessary. It will quite suffice if the "claims paid" were shown under one heading, whether claims paid on Indian business were paid in India or paid outside India.

Presumably Government are aware that the "claims paid" will not be the claims debited in the revenue account to which the statement will be attached since in the case of Fire and Accident business (and in many instances, Marine business also), the claims debited in the revenue accounts are "claims paid and outstanding", and not "claims paid". It may be preferable to adhere to "claims paid" as this will ensure that each company submits similar figures.

I am glad the Select Committee have altered the words throughout the Bill from "British India" to "India". They have certainly done so because we require figures of premiums, claims, etc., of all Indian and non-Indian companies on the business done by them throughout the whole of India. It is for this very reason that I contend that clause 8 (1) as drafted in the Bill will not help to obtain full particulars as Government expect and as the commercial public desire.

I know the time has passed for me to give notice of amendments and I must take the blame for it on myself; but perhaps you, Sir, with the concurrence of the Honourable the Commerce Secretary might be disposed not to insist on the time limit. If therefore I am permitted to move such amendments when the Bill is considered clause by clause I will do so. On the other hand if the Honourable the Commerce Secretary thinks it is too late at this stage to accept amendments, I shall certainly not oppose the consideration of the Bill if an assurance is given by the Honourable Sir Geoffrey Corbett that the points I have raised will be duly considered, and if there is substance in them he will give effect to them by amendments preferably from himself at the next Delhi Session of the Council.

I would also like Sir Geoffrey Corbett to assure the House if under the definition of ('insurance company') as given in clause 6 (b) a person or firm representing Lloyd's in this country will be similarly required to furnish the figures of his or their business.

Again, there is one other means of carrying on insurance business and particularly life insurance business and that is by post. There is a certain retired member of the Indian Civil Service who writes a fair amount of life

[Sir Phiroze Sethna.]

insurance business in India and does so by correspondence. As his business is done by correspondence I will not be surprised that neither he nor the company he represents are paying any income-tax in this country, and I wonder if it would be possible to get from this Insurance agent figures of the business that he writes in India and the premiums he collects from people in India. Perhaps the Honourable the Commerce Secretary will enlighten us on this point as well.

THE HONOURABLE SIR GEOFFREY CORBETT: Sir, I shall deal as

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briefly as possible with the points raised by the Honourable Sir Phiroze Sethna. I should first of all like to acknowledge the courtesy with which he discussed these matters with me yesterday, and I am only sorry that I did not get notice of them earlier than I did, so that we might have been in a position to consider whether we should introduce an amendment elsewhere before the Bill came to this House. In regard to the amendment of clause 8, I think the House will recognise that there is great force in the Honourable Sir Phiroze Sethna's argument and the view he has taken. The question whether the amendment should or should not be made really depends upon the extent to which re-insurance is effected with companies not operating in British India. As the Honourable Sir Phiroze Sethna is aware, if the company with which the re-insurance is effected is operating in British India, then the premiums will be shown in the revenue account of that company. If it is a fact that there is a very large or a substantial amount of re-insurance effected with companies not operating in British India, then I quite recognise that this amount would be lost sight of, and to that extent the Bill would be defective. That is a question of fact which will be most carefully considered and gone into at an early date. I am personally always a little nervous about making any hasty amendment in commercial law without full opportunity of discussion with all the interests affected. Of course, it is quite obvious that the statistics we now propose to collect will not be altogether complete, and the only question is, whether it will be worth while imposing additional obligations on Insurance Companies. I can assure the Honourable Member that we will thoroughly examine his proposals, and if we find the Bill is seriously defective, we will undertake amending legislation at the earliest convenient opportunity.

With regard to the other points raised by the Honourable Sir Phiroze Sethna, he wanted to know whether the definition of "Insurance Company" covers Lloyds. Well, the definition given here is "any person who transacts in British India the business of effecting contracts of insurance against any risk." I presume it will be a matter for the Courts to decide what "transacting business" means, but I can assure the Honourable Member that the intention of this Bill is to apply to agents who transact business in India, and would include agents who pass cover notes; and therefore I think it would ordinarily apply to Lloyds. The Honourable Member will correct me, if I am wrong.

With regard to the distinguished member of my service (retired), who conducts insurance business through the post, I feel that the Honourable Member will agree with me that we cannot take power to open letters which

are suspected of dealing with insurance business. So I think we shall have to let insurance by post go. We cannot get at that. I think I have now covered all the points raised by the Honourable Sir Phiroze Sethna.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business, as passed by the Legislative Assembly, be taken into consideration.

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: Part III.

THE HONOURABLE SRIJUT RAMA PROSAD MOOKERJEE (West Bengal: Non-Muhammadan): In clause 12 we find that the time mentioned within which an Insurance Company is to submit certain returns from the commencement of this Act is one month and you will find in sub-clauses (d) and (e) certain information is asked for from companies who may not be originally registered in India but outside India. Is it possible for such companies to give the information within one month from the commencement of this Act? Was that point considered by the Government when this period was fixed in the Bill? In other places I find that opportunity is given to Government to extend the time but no such thing is mentioned here. If a company does not submit a return within one month, will they not be liable to prosecution under this Bill?

THE HONOURABLE SIR GEOFFREY CORBETT: I think, Sir, all I can say is that in the administration of the section we will allow a reasonable latitude, and we certainly shall not prosecute a company which, having regard to considerations of time and space, is unable to comply with the requirements of the section within one month.

Clauses 6 to 20 were 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: I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

REPEALING AND AMENDING BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir I move that the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration.

This is the usual Amending and Repealing Bill. Its object is to make a few necessary amendments of a formal nature in certain enactments and to repeal certain spent or useless matter in the Statute-book.

Sir, I move.

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: The question is:—

“That the First Schedule be a Schedule to the Bill.”

THE HONOURABLE SRIJUT RAMA PROSAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, if you refer to the First Schedule, the last but one item there, you will find that it is proposed to add the following sub-section to section 98 of the Code of Civil Procedure:—

“nothing in this section shall be deemed to alter or otherwise affect any provision of the letters patent of any High Court.”

Section 98 of the Civil Procedure Code, among other things, deals with cases where there is a difference of opinion between two Judges of the High Court. The Letters Patent which allowed appeal from such difference of opinion and also provided for appeal from the judgment of a single Judge has recently been modified in January last.

In the Statement of Objects and Reasons it is mentioned that “the amendment states in precise terms the fact, implicit in section 4 of the Code, that the Letters Patent of the High Courts override the provisions of section 98 of the Code.” As regards section 4 of the Civil Procedure Code, that was explained by the Judicial Committee sometime ago, and there it was mentioned that “any special form of procedure” included Letters Patent that might be passed by His Majesty in Council. Now if it be so that the Letters Patent here override the provision of the Civil Procedure Code under section 4, as explained in that case by the Judicial Committee, what is the necessity of putting in this additional sub-clause? My further objection to the acceptance of the superiority of the Letters Patent in an Act of the Legislature of this description is that the power which the Crown exercises under the Letters Patent in modifying any part of the jurisdiction or any power of the High Court, is a derivative power which has been given to the Crown under section 106 (1) (a) of the Government of India Act. It is not a power which is exercised under the prerogative of the Crown. As that power has been limited by the Government of India Act, it is open to the Indian Legislature to modify many of the sections including sections 106, 108 (I), etc., relating to the High Courts in the Government of India Act, and so modify the Letters Patent also. And because the Letters Patent are issued by the Crown under those sections of the Government of India Act, I do not think it is right in principle to incorporate in the Act itself any provision which gives the Letters Patent a higher position than an Act passed by the Indian Legislature. I may mention in this connection that there was some difference between the provisions of section 98 and the Letters Patent as it was in vogue before January last, but after the amendment in January last there is very little difference between the provisions of the Civil Procedure Code and the Letters Patent. The Government may be apprehensive that if any further amendment of the Letters Patent is made, the question may be raised whether such an amendment of the Letters Patent would override the provisions of the Civil Procedure Code or not. If and when such an amendment of the Letters Patent is made, that would be the proper occasion for the Government to come up before the Indian Legislature for having that amended form of the Letters Patent being passed by the Indian Legislature. I would therefore

submit that this is not the time when any new provision should be added in the Civil Procedure Code by which the powers of the Indian Legislature would by specific words be curtailed. If on any future occasion the Indian Legislature has to modify any provision of the Civil Procedure Code which in any way contravenes the powers that are given under the Letters Patent, then it would be necessary to repeal this portion of the section before that amendment could be made. On these grounds, I submit that it is not necessary to have this sub-clause added to section 98 of the Civil Procedure Code, and I therefore formally move the amendment that stands in my name.

THE HONOURABLE MR. S. R. DAS : Sir, I oppose the amendment. The reason for this amendment of section 98 is very simple. As the Honourable Mr. Mookerjee has pointed out, the Privy Council held that under section 4 of the Civil Procedure Code a provision in the Letters Patent overrode any provision in the Civil Procedure Code. Therefore, a new provision in the Letters Patent would, in the ordinary course according to the judgment of the Privy Council and under section 4 of the Civil Procedure Code, override the provisions of section 98 of that Code. Unfortunately, recently, in 52 Cal. will be found the judgment of Mr. Justice Page who has attempted to distinguish that finding of the Privy Council and has succeeded in throwing a certain amount of doubt as to whether, when there is a conflict between a provision of the Letters Patent and the Civil Procedure Code, the Letters Patent would prevail or the Civil Procedure Code would prevail. It is to clear that doubt and to make it clear that the law is as laid down by the Privy Council that those words are proposed to be added, *viz.* :

“nothing in this section shall be deemed to alter or otherwise affect any provision of the Letters Patent of any High Court.”

This is the simple reason for this amendment, and I do not see any reason why the Council should accept the objection which has been raised by the Honourable Mr. Mookerjee.

THE HONOURABLE MR. V. RAMADAS PANTULU : Is there any difference between the Letters Patent and section 98 of the Civil Procedure Code ?

THE HONOURABLE MR. S. R. DAS : There is, as the Honourable Mr. Mookerjee has pointed out very little difference, but there is a difference.

THE HONOURABLE THE PRESIDENT : The original question was :

“That the First Schedule should be a Schedule to the Bill.”

Since which an amendment has been moved :

“That in the First Schedule the proposed amendment to section 98 of the Code of Civil Procedure, 1908, be omitted.”

The question is that that amendment be made.

The motion was negatived.

The First Schedule was added to the Bill.

The Second Schedule was added to the Bill.

Clause I was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

MADRAS SALT (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary) : Sir, I move that the Bill further to amend the Madras Salt Act, 1889, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Section 49 of the Madras Salt Act empowers certain officers to arrest persons found committing an offence under that Act. The provisions of the Act, however, are such that if the officer making the arrest be not an inspector, he has not the power to admit to bail the person arrested, but must forward the person arrested to the Inspector of the Circle in which the arrest is made, or, if that officer is more than ten miles from the place of arrest, to the nearest police-station. It is now proposed to incorporate in the Act provisions enabling any officer making an arrest under section 49 to grant bail, provided he has been empowered in that behalf by the Central Board of Revenue. Sir, I think the Council will readily agree that the change which it is proposed to make is very desirable and will be to the convenience of all concerned.

Sir, I move.

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. E. BURDON : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

MATCH INDUSTRY (PROTECTION) BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) : Sir, I move that the Bill to provide for the protection of the match industry, as passed by the Legislative Assembly, be taken into consideration.

Tariff Bills are sometimes complicated and controversial, but I am glad to say this Bill is simple and short. Members no doubt have received the Tariff Board's Report on the match industry which was sent to them on the 1st of this month, and they have also read the Resolution of the Government of the same date. This Bill is designed to give effect to the recommendations of the Tariff Board as accepted in the Government Resolution. Briefly, the position is this. In 1922, a duty of Rs. 1-8-0 per gross of boxes was imposed on matches purely for revenue purposes, and at first it brought in a very substantial revenue. But the effect of it has been to create an important match industry in India. It came about rather curiously,—if Honourable Members who have been present at previous Sessions will throw back their minds, they will remember—

that at first, when the duty was imposed for revenue purposes, the match companies imported splints and veneers and made them into matches and match boxes in India. Well, we circumvented that by putting a corresponding duty on splints and veneers. Then the match companies went one better and set up a machinery for making matches in India and imported logs. They imported logs for this purpose, chiefly the aspen from Siberia and from Scandinavia. But the veneer, I think, is now made from Indian woods. Some matches too are made from wood grown in India. However that may be, the match factories in India are now capable of supplying the whole of India's requirements. The growth of the industry in these few years has really been quite astonishing. There are now 27 factories in India capable of producing 500 gross of boxes a day or over, and the total capacity is 18 million gross per annum against a total consumption of 17 million gross. At the same time, imports have declined from $13\frac{1}{2}$ million gross in 1922-23 to $3\frac{1}{2}$ million gross in 1927-28, with a result that is very gratifying from the point of view of the development of the new match industry that has been started in India, but of course the duty, as a revenue proposition, has become less and less valuable every year. In these circumstances, we thought it advisable to have the whole position inquired into by the Tariff Board. An entirely new set of circumstances had arisen from those in which the revenue duty was imposed, and we thought it advisable that the whole matter should be inquired into and cleared up. Sir Padamji Ginwala and his colleagues have made a very patient and interesting inquiry, and I think their report is good reading. The substance of their report is that the present duty of Rs. 1-8-0 per gross should be continued, as it stands, no longer for revenue purposes but for protective purposes. They find that the industry fulfils all the requirements laid down by the Fiscal Commission for protection. At the same time, they are of opinion that the consumer is not being put to any loss, because the internal competition is sufficient to keep prices down. There are several match companies making matches in India. At the same time, if the duty were reduced or removed, this new industry would be exposed to attack from the Swedish Match Company which would probably wipe it out in the course of a very short period. As long as the duty remains at the present rate, it is hardly a practical proposition for the Swedish Match Company to dump matches in India. They may be able to sell below cost price to a certain extent in India, and of course they now manufacture in India themselves. But they cannot carry on dumping so as to destroy this new industry which has sprung up. The point of this Bill is merely to declare that the existing duty of Rs. 1-8-0 per gross is no longer a revenue duty but is a protective duty; that is, it simply removes the present duty from the revenue part of the Schedule to the protective part of the Schedule, and it will give this new match industry an assurance that the duty will be continued for its protection for the present and for so long as the Legislature considers it to be required, and that it is not liable to be reduced or removed at any time for revenue or other considerations.

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

The motion was adopted.

PROCEDURE FOR THE ELECTION OF MEMBERS OF THE CENTRAL COMMITTEE TO SIT WITH THE INDIAN STATUTORY COMMISSION.

THE HONOURABLE THE PRESIDENT : The Council will now proceed to the election of 3 members of the Central Committee to sit with the Indian Statutory Commission.

THE HONOURABLE SIR HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, I beg to raise an objection to the nomination paper of Raja Nawab Ali Khan. While he was here he told me that he was unwilling to stand as a candidate for this Central Committee. I believe his nomination paper was sent without his consent. I understand from my friend Nawab Sir Umar Hayat Khan that he nominated him on getting his consent by telegram from Mussoorie. I saw the telegram, Sir, which is in his possession, and it runs thus :

“Thanks. No objection provided majority Members support.”

“Thanks, no objection” means that the consent was not previously taken. That is quite clear. “Provided majority members support” shows that it is a conditional consent. No one knows who will come out in the election ; who will get a majority or a minority of votes cannot be said. In these circumstances, I submit that the nomination of my Honourable friend, Raja Nawab Ali Khan, may be declared by you as null and void.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : My Honourable friend, Raja Nawab Ali Khan, told me that he wanted to stand, and as I knew this, I put in his nomination before 12 o'clock yesterday. Therefore I submit that his nomination is in order. He was present in this Session and I do not think that there is anything against him. Since he has also confirmed his desire to stand by telegram I think all that is needed has been done.

THE HONOURABLE THE PRESIDENT : In view of what has been said, I think I have to hold the nomination of the Honourable Raja Nawab Ali Khan to be in order. The Honourable Member who nominated him has provided me with the original of the telegram which he has received from the Honourable Raja. I take that to give his consent.

I have, however, to announce to the House that the number of candidates is still further reduced by one by the withdrawal of his nomination handed to me a short time ago by the Honourable Sardar Bahadur Shivdev Singh Uberoi. There remain, therefore, 7 candidates for the 3 vacancies.

I have been asked by some Honourable Members before the meeting today to explain, as far as possible, the system under which this election takes place. Members will receive a ballot paper shortly from the Secretary if they will remain in their seats and they will see at the foot of the ballot paper certain

instructions for their guidance. The first of those instructions says that each Member has one vote and one vote only. I think perhaps that might be said to be slightly misleading. It really means that each Member has one vote only for his first choice, but in this case the Council has to elect three Members. Therefore, the procedure in this election is that in the column provided in the ballot paper Honourable Members will mark No. 1 against their first choice. They can stop there if they like. If they have a second choice, they can mark No. 2 against their second choice, No. 3 against their third choice. There is nothing to prevent Honourable Members from marking against the whole list until they have indicated from No. 1 to No. 7 the order of their preference for the candidates. The ballot papers will now be distributed.

(The ballot papers were then distributed and Honourable Members filled them in and handed them to the Secretary of the Council).

THE HONOURABLE THE PRESIDENT : Honourable Members may probably be aware that the result of the election cannot be announced at once. It has to be worked out according to a somewhat complicated procedure. It is the custom in elections of this kind for the result to be announced from the Chair ; but as I shall not be in a position to make any announcement with regard to the election before Wednesday next, I think on this occasion, at all events, it will be more suitable if, as soon as the result is known, a circular is issued to Honourable Members. That circular will probably go out this afternoon. I mentioned the complicated procedure. I should think it is quite possible that there are, if any, very few Honourable Members of this House who have any idea how election by means of the single transferable vote is made. The results of the election will be worked out by the Secretary in one of the rooms of the Legislative Department in Gorton Castle, and I am sure that he will only be too pleased to allow any Honourable Member who likes to attend at the procedure to see the way in which the election is conducted. He will probably be beginning his work at about 2-30 P.M. this afternoon.

The Council now stands adjourned till 11 o'clock on Wednesday, the 26th September, 1928.

The Council then adjourned till Eleven of the Clock on Wednesday, the 26th September, 1928.