

# LEGISLATIVE ASSEMBLY DEBATES

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WEDNESDAY, 21st JANUARY, 1931

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## OFFICIAL REPORT



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# LEGISLATIVE ASSEMBLY.

*Wednesday, 21st January, 1931.*

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

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## THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

**The Honourable Sir George Rainy** (Member for Commerce and Railways): Sir, I move that the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, be referred to a Select Committee consisting of Mr. S. C. Sen, Lala Rameshwar Prasad Bagla, Mr. B. Das, Mr. L. V. Heathcote, Mr. K. Ahmed, Mr. Muhammad Anwar-ul-Aziz, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraju, Dr. R. D. Dalal, Mr. J. A. Shillidy, and the Deputy President, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

This Bill, Mr. President, might be described to a certain extent as an omnibus Bill, that is to say, it seeks to give legal effect, so far as that may be necessary, to the decisions which the Government of India have arrived at regarding a series of International Labour Conventions and Recommendations. It is not very easy, without being unduly lengthy, to explain in a speech the large number of points that emerge in connection with these Conventions and Recommendations. For that reason, we have tried in the Statement of Objects and Reasons to explain the matter fully and the Statement itself is supplemented by the notes on clauses. I think therefore I may be justified if I deal with the various conventions with which we are concerned somewhat summarily and do not attempt any very lengthy explanation. The first of the Conventions with which I have to deal is the Convention fixing the minimum age for admission of children to employment at sea. When this Convention came before the Legislature some years ago, the suggestion was made—this was in the early days of the International Labour Organisation—that the Government of India should ratify, subject to two reservations. It was very soon discovered, however that the Treaty of Versailles, establishing the International Labour Organisation, did not permit of ratification subject to reservations and that it was necessary to ratify “simpliciter” or not at all. It will not be possible if these two reservations are adhered to, for the Government of India to ratify that particular draft Convention, but we desire to go as far as we can, and by the provisions of the Bill it is proposed to incorporate in the law what the Legislature decided a good many years ago. The first reservation which was made was, in respect of home trade ships of a burden not exceeding 300 tons. These small home trade ships are usually sailing ships engaged in the coasting trade of India, and practically it would not be possible to enforce the Convention in their case. The other reservation was proposed with the object of safeguarding

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the present practice whereby *scranga skannies* and other Indian seamen are allowed to take with them on board the ship their young sons or nephews. That system is in fact a sort of system of apprenticeship. It was thought, and I think rightly, that there were no sufficient reasons for bringing that system to an end. I understand that actually apart from the small home trade ships, and apart from these quasi apprentices, very few children indeed are actually employed on Indian ships, and that is why we did not attempt to legislate in the matter sooner. Now, that a natural opportunity has occurred, it was thought right to embody in the law the decision which had been arrived at.

Of the next two draft Conventions to which I have to refer, one fixes the minimum age for the admission of young persons to employment as trimmers or stockers, and the second concerns the compulsory medical examination of children and young persons employed at sea. These two Conventions also were placed before the Legislature a considerable time ago. Up till now, we have been able to enforce them by executive instructions, but here again it was thought right, when we were amending the law as regards such matters, to regularise the position fully by incorporating the necessary provisions in the law.

The next of the draft Conventions which I have to mention is the draft Convention concerning the seamen's Articles of Agreement. That was before this House in the year 1927, and at that time I said that we thought there were three articles of the Convention which would require legislation. The result of a closer examination of the whole subject has been that there is only one article of the Convention about which it is necessary to legislate. The rest of the Convention we can give effect to under the law as it exists at present. The particular article about which it is proposed to legislate is that which entitles a seaman, on his discharge, to a separate certificate of his conduct and character. At present under section 43 of the Indian Merchant Shipping Act a seaman is entitled to receive a certificate of discharge, and in practice it is customary to enter on what is known as the "Continuous Discharge Certificate" remarks as to his conduct and character. If the Bill is passed into law, it will still be possible for those who prefer it to have that system continued. If, on the other hand, a seaman wishes to have both a certificate of discharge and a separate certificate as to his character and conduct, then he will be entitled to have that separate certificate.

The next of the draft International Conventions which we have to consider is that concerning unemployment indemnity in the case of the loss or foundering of ships. That draft Convention was placed before the Legislature in 1921. It was then recommended that it should not be ratified, but that inquiry should be undertaken to ascertain whether the Indian Merchant Shipping Act should not be amended so as to provide that any Indian seaman, whose service was terminated before the period contemplated in his agreement by reason of the wreck or loss of his ship, should be entitled to his wages until he was repatriated to the port of his departure from India, and secondly, that he should be paid compensation for the loss of his personal effects up to the limit of one month's wages. The result of the inquiries made in pursuance of the

Assembly's Resolution was to satisfy the Government of India that this change in the law should be made, and it finds a place in the Bill now before us.

Finally, there is the Recommendation concerning the general principles for the inspection of the conditions of work of seamen. It was impossible to legislate about this until the inspection of the work of seamen was brought under a single control by the amendment of the Indian Merchant Shipping Act so as to centralize its administration. That has now been done, and the administration of the law is under the direct control of the Central Government. At one time we thought that we could give effect to the Recommendation without any further legislation, but it appears there are two articles in it with which we cannot comply until we have made the changes proposed in this Bill.

I must confess that I had some hesitation in deciding what motion I should bring before the House in connection with this Bill. The choice lay between a motion for circulation and a motion for reference to a Select Committee. On the one hand, some might argue that it was desirable that these changes in the law should be made as early as possible. On the other hand, others might think that in a matter affecting the well-being of seamen it would be desirable that there should be full opportunity for consultation. Eventually I came to the conclusion that it might be possible to obtain the views of Members of this House as to which method would ultimately be the best. As my motion stands, I have not proposed to fix any time-limit within which the Report of the Committee is to be submitted; and under the Standing Orders of this House, the effect of that will be that it will not be open to the Committee to report until after the lapse of three months. What I propose to do is to ask the Committee to meet and consider the Bill and to ascertain what the views of the Members are on the question whether we should proceed with it at once, so as to pass it this Session, or whether we should take the opportunity to circulate the Bill to Local Governments. In the former case, that is to say, if the Committee think we ought to go on with the Bill at once, I would then, with your permission, Sir, at some suitable opportunity move for the fixing of a time-limit, and the Committee would then report within the period which might be fixed. If, on the other hand, the Committee considered it advisable that we should get opinions about the provisions of this Bill, then it would be quite possible to circulate the Bill by executive order and the Bill would not again be brought before the Committee until we had received replies and were in a position to place all the opinions expressed before the Committee. I am anxious in this matter, on the one hand, to give all reasonable opportunities for discussion and on the other hand to make it possible to proceed expeditiously, if that is the wish of Honourable Members. I hope, Sir, that that will show that I am anxious to meet the wishes of the House as far as I can. Sir, I move.

**Mr. Abdul Matin Chaudhury** (Assam: Muhammadan): Sir, I move that the name of Kumar Gopika Romon Roy be added to the Committee.

**The Honourable Sir George Rainy**: Sir, I am quite ready to accept the addition.

**Mr. President:** The question is :

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, be referred to a Select Committee consisting of Mr. S. C. Sen, Lala Rameshwar Prasad Bagla, Mr. B. Das, Mr. L. V. Heathcote, Mr. K. Ahmed, Mr. Muhammad Anwar-ul-Azim, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraja, Dr. R. D. Dalal, Mr. J. A. Shillidy, Kumar Gopika Romon Roy and the Deputy President, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

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### THE SUPPRESSION OF COUNTERFEITING CURRENCY (INTERNATIONAL CONVENTION) BILL.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to move that the Bill to give effect to the International Convention for the suppression of counterfeiting currency be taken into consideration. This is a measure of some complication in form, but I think I may say that it is of a non-controversial nature. I should like to inform the House, however, at the outset that as I have seen that there is a motion for reference to a Select Committee on the paper, if the House so desires I shall be perfectly prepared to accept that motion. I, therefore, before ascertaining whether that is the wish of the House, only propose to say a very few words on the subject of the Bill. The object of the Bill is to give effect to the terms of the International Convention for the suppression of counterfeiting currency. The object of the Convention is to ensure co-operation between the signatories of the Convention in stamping out the offence of counterfeiting coin and currency. There are, I think, three points of substance to be considered. In the first place, if we ratify the Convention and alter our legislation accordingly, the counterfeiting of notes will be made an extraditable offence; at present only the counterfeiting of coin is an extraditable offence. That is the first point of substance. Then, the second point of substance is that we should equalise the penalties for counterfeiting foreign coin with the penalties for counterfeiting Indian coin. At present the penalties for counterfeiting foreign coin are somewhat less severe. In the third place, and this is not a matter for legislation, we should undertake to set up an Intelligence Bureau on the lines laid down in the Convention. That would not involve this Government in any expenditure, for the work is to be performed by the Office of the Director of Intelligence Bureau, which is already in existence and quite capable of dealing with this question. Those, I think, are the three points of substance which require consideration. There are a number of minor points which necessitate technical alterations in the present Act, but as I have already said, if, because of the technical complication of this measure, the House should desire that it should be considered in the Select Committee, I am perfectly prepared to accept that motion, and pending an expression of the views of the House on that point, I do not propose to give any further explanation.

Sir, I move.

**Mr. President:** Sardar Sant Singh.

(The Honourable Member was not in his seat.)

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): There is no particular desire on the part of any Member to move the amendment standing in the name of Sardar Sant Singh.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Can any other Member move the amendment?

**Mr. President:** With the permission of the President, he can.

**Dr. Ziauddin Ahmad:** I beg to move that this Bill be referred to a Select Committee.

**Mr. President:** Amendment moved:

"That the Bill be referred to a Select Committee."

**The Honourable Sir George Schuster:** I am prepared to accept this motion.

**Mr. President:** The original motion was:

"That the Bill to give effect to the International Convention for the suppression of counterfeiting currency be taken into consideration."

To which the following amendment has been moved:

"That the Bill be referred to a Select Committee."

The question is that that amendment be adopted.

The amendment was adopted.

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#### THE INDIAN PORTS (AMENDMENT) BILL.

**The Honourable Sir George Rainy** (Member for Commerce and Railways): Sir, I move that the Bill further to amend the Indian Ports Act, 1908, for a certain purpose, be taken into consideration.

Sir, as I explained when I introduced this Bill, it is intended to clear up a small point of interpretation. The provision of the existing law, section 6 (1A) of the Indian Ports Act, 1908, requires that the Local Government shall make rules prohibiting the employment of children at piers, jetties, landing places, wharves, quays, docks, warehouses and sheds when engaged in the handling of goods. The difficulty which has led to this Bill originated, I think, at the time when the Members of the Royal Commission on Labour were at Karachi. It appeared that children were employed there in loading coal in vessels not from the quay but from lighters on the other side of the ship, and the question was then raised whether it was *intra vires* for the Local Government to make rules prohibiting the employment of children in that particular way. The Government of Bombay referred the point to the Government of India, and the reply which we gave them was that, as far as we could see, it was clearly the intention of the law to prohibit the employment of children in that way, and that it was consistent with the wording of the Statute as it stands to hold that the Local Government were in fact empowered to prohibit the employment of children in loading coal not only from the quay side but also from lighters. At the same time we were advised that there was room for doubt, and that it was not quite certain what view the Courts might take if the question ever came before them. It is for this reason that we propose to make this small change in the law so that

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for the future there may be no doubt on the point. As the section stands at present, the prohibition applies to employment at piers, jetties, landing places, wharves, quays, docks, warehouses and sheds. If the Bill is passed, the words "in any port subject to this Act" will be substituted. That will clearly cover the doubtful case with which this Bill originated.

Sir, I move.

**Mr. President:** The question is:

"That the Bill further to amend the Indian Ports Act, 1908, for a certain purpose be taken into consideration."

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir George Rainy:** Sir, I move that the Bill be passed.

The motion was adopted.

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### THE INDIAN PARTNERSHIP BILL.

**Sir Lancelot Graham** (Secretary, Legislative Department): Sir, I beg to move for leave to introduce a Bill to define and amend the law relating to partnership.

Sir, if Honourable Members will kindly turn to the paper which is laid on the table in relation to this Bill, they will find first a copy of the Bill and then one line of Statement of Objects and Reasons, which might seem rather brief except for the fact that it is therein stated that, "The Bill is sufficiently explained in the Report of the Special Committee printed below".

One word, Sir, as to the Special Committee. The Committee was constituted by a Resolution of the Government of India, which is printed as Appendix A to these papers. The Committee was constituted to examine a draft Bill regulating the law relating to partnership, which had been prepared by the Legislative Department under the directions of the Honourable the Law Member. That Committee, which I think might be correctly described as a committee of experts, was composed as follows: the Honourable the Law Member as the Chairman, and Sir Dinshah Mulla (since elevated to the Privy Council), Mr. Alladi Krishnaswami Ayyar, Advocate-General, Madras, and Mr. Arthur Eggar, Government Advocate, Rangoon, as members. The Bill prepared in the Legislative Department was examined by this Committee and the Report of the Committee is appended to this Bill in lieu of the usual Statement of Objects and Reasons. In addition to that Report, Honourable Members will find a very full statement which is placed as Appendix C to this paper, and which constitutes the notes on clauses. I trust that with this information before them, Honourable Members will be able to give the Bill due consideration. At this stage I move for leave to introduce.

The motion was adopted.

**Sir Lancelot Graham:** Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 22nd January, 1931.