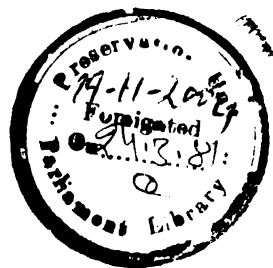


Thursday, 9th February, 1928

THE
COUNCIL OF STATE DEBATES
(OFFICIAL REPORT)
VOLUME I, 1928

(1st February 1928 to 22nd March 1928)

FOURTH SESSION
OF THE
SECOND COUNCIL OF STATE, 1928



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CONTENTS.

Pages.

Wednesday, 1st February, 1928—

Members Sworn	1
Message from His Excellency the Governor-General	2
Committee on Petitions	2
Governor-General's Assent to Bills	2
Deaths of Lala Sukhbir Sinha, Syed Alay Nabi and Diwan Tek Chand	2-6
Indian Territorial Force (Amendment) Bill—Introduced	6-7
Auxiliary Force (Amendment) Bill—Introduced	7
Burma Salt (Amendment) Bill—Introduced	7
Congratulations to the Honourable Rai Bahadur Pandit Shyam Bihari Misra	7-8
Statement of Business	8

Thursday, 2nd February, 1928—

Address by His Excellency the Viceroy to the Members of the Council of State and the Legislative Assembly	9-14
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Monday, 6th February, 1928—

Member Sworn	15
Questions and Answers	15-20
Message from His Excellency the Governor-General	30
Chittagong Port (Amendment) Bill—Introduced	31
Indian Limitation (Amendment) Bill—Re-committed to Select Committee	31
Hindu Family Transactions Bill—Passed ✓	31-40

Wednesday, 8th February, 1928—

Questions and Answers	41-47
Resolution <i>re</i> Imposition of a prohibitive import duty on artificial ghee—Negatived	47-64
Resolution <i>re</i> Publication of the Correspondence on the subject of the Statutory Commission	64-71

Thursday, 9th February, 1928—

Indian Territorial Force (Amendment) Bill—Passed	73-76
Auxiliary Force (Amendment) Bill—Passed	76-77
Bodies Corporate (Joint Ownership) Bill—Withdrawn	77
Statement of Business	78

Monday, 13th February, 1928—

Member Sworn	79
Questions and Answers	79-83
Statement regarding the Liquor Bill in South Africa	83
Resolution <i>re</i> Appointment of Trade Commissioners or Commercial Attachés in the Colonies and in Europe and America—Adopted	83-102

COUNCIL OF STATE.

Thursday, 9th February 1928.

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

INDIAN TERRITORIAL FORCE (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill further to amend the Indian Territorial Force Act, 1920, for certain purposes, be taken into consideration.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: As usual, I shall put the clauses of the Bill to the Council in groups. If any Honourable Member wishes to speak on any particular clause, I hope he will rise immediately when I mention the number of that clause.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official): What about those Honourable Members, Sir, who wish to speak on the Bill as a whole?

THE HONOURABLE THE PRESIDENT: The Honourable Member had better wait for the next motion that the Bill be passed.

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

Clauses 6, 7, 8 and 9 were added to the Bill.

Clauses 10, 11, 12 and 13 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, as my friend the Honourable Colonel Nawab Sir Umar Hayat Khan wishes to make some remarks, perhaps I might explain shortly the salient features of this Bill. This Bill, Sir, as I explained when moving for leave to introduce it, is the outcome of those recommendations of the Auxiliary and Territorial Forces Committee which require legislation. It is thus merely the legal embodiment of proposals which have been before the Indian Legislature and the public for a considerable time. The Committee's report was published in January 1925 and the final decisions of His Majesty's Government and of the Government of India were published in a resolution in August last at the beginning of the Simla Session. Government have not received any criticism of the Committee's recommendations or of the decisions taken upon them from any quarter of the Legislature. The correspondence with Local Governments, which has been made public in the Gazette of India, will have shown Honourable Members that the proposals of the Committee were generally commended by Local Governments. I think I may assume therefore that the House will not desire me to deal now with broad questions of policy; and I will only touch upon one such question in which the Government of India disagreed with the Committee.

[H. E. the Commander-in-Chief.]

As explained in the Statement of Objects and Reasons, we are not providing that urban units of the Territorial Force should be liable to general military service, but are confining the liability to local service only. I think the main desire of the Committee was that the Auxiliary Force and urban units of the Territorial Force should be on the same level in this respect. The Government of India decided after consultation with the Local Governments that to impose upon either Force the liability for general service would tend to make membership unpopular, and might prejudice recruitment. Although we are rejecting the Committee's proposals in this matter, we are still maintaining what, as I have said, is one of their main objects, namely, complete equality as between the Auxiliary Force and the future urban units in the Indian Territorial Force.

Apart from this, there was only one recommendation of the Committee affecting the Territorial Force which the Government of India rejected, and that was a very minor one, relating to exemption from capitation tax in Burma. In this the Government of India followed the recommendation of the Local Government.

The notes on the various clauses I think explain sufficiently their respective purposes. Several of them are only drafting points. I will not delay the House further, but will now move that the Bill be passed.

THE HONOURABLE THE PRESIDENT: The question is :

"That the Bill further to amend the Indian Territorial Force Act, 1920, for certain purposes, be passed."

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Sir, as I have been the President of the Territorial Forces Advisory Committee, I have had the opportunity of seeing their work nearly every year. One of the greatest demands of the soldiers in the units has invariably been their retaining fee. These soldiers are poor people and if they do not get any money, naturally when they leave the regiment and return to their homes, they find their work at home absolutely dislocated. It has been said again and again in our reports that the amount that is paid to them as their retaining fee is not sufficient. We know, Sir, that urban units will not undergo the same amount of liability as the rural ones, and therefore it is but natural for the members of the rural units to think that, although they are asked to defend the country and go outside their province, they are not shown the same kindness as is shown to the members of urban units who have not to go even far from their homes for their training. Now, Sir, most of the members of these urban units are the very men who create troubles by making the innocent people observe *hartal* and also take prominent part in riots, as the House would have observed in the recent events that took place in Calcutta. Is this a bait to be given to those harmful men? Are we justified in giving them arms when we know that they are creating so much trouble without arms? During the troublous times in the Punjab I happened to know a Company which was composed of such classes and lots of facts came to light against these people. When some of the cities were being burnt, some of these soldiers were heard to remark: "Wait, let me patrol a little further up and then you can burn the things." Sir, it had been known on the civil side that if a man wanted the Judgeship of a High Court, all that he had to do was to criticise the Government and then he got it. I would strongly urge upon the Government that such a practice should not be allowed in the Army. It would certainly not be right if Government were to place arms in the custody of a man who was against it simply as a bait

so that he might desist from doing wrong. It would be much better if that money were spent on actual fighting material which, in case of need, would be a good second line of reserve and could, with a little better training, be good enough for the first line.

I think, Sir, all this money will be spent on the wrong material, and in the wrong direction, when it can be spent in the right direction.

I have only said this thing because if I did not, I would be lacking in my duty, and I have always been asked by these actual good soldiers about whom the reports of the British officers as well as the Committee have always been that they are the best material and can be used whenever needed. When they ask and we do not help them but help unruly people and all those who have hitherto stood against Government, I think we are not working in the right direction, but they call it the popular voice, though it is not the voice of the country and of the rural masses but only the voice of a few agitators who talk a lot, and the Committee which reports for such units have had to bow down to them. If the House wants it they can have it, but they will see I have protested against it.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA (United Provinces Northern : Non-Muhammadan) : Sir, I welcome the Bill which has been introduced and which is, I hope, with the consent of the Council shortly to become law. The discordant note which has been sounded by my friend, the Honourable and gallant Tiwana, about the bad material upon which the Bill will work, I suppose will not find support in this Council. The Bill is the outcome of the deliberations of a very competent Committee, which was formed on the recommendation of the Legislature, and the correspondence which has been published lately in the Gazette of India shows to us how carefully the scheme propounded by that Committee has been examined by all the Local Governments and by the Central Government, and also by the Secretary of State, and that it has received the support of all the Governments so far as the present recommendations contained in the Bill are concerned. The Honourable Member, the gallant Tiwana, has referred to the material. I ask him the question how did his good material come out. Was it created ? Did it come out of a divine source, or was it the result of the training in arms ? If that material had come out of a divine source, that is quite a different thing but if it is the outcome and the result of military training, then I suppose the material upon which this Bill will work will also prove good material after a short time. I am particularly glad that the Bill will extend the functions and the scope of the University Corps. I being connected with two of the Universities in the United Provinces do welcome this Bill on behalf of those Universities, and I suppose more money will be spent upon the University Corps and urban corps which are now proposed to be formed under the provisions of this Act.

Sir, I support the Bill and hope that this Bill will be passed with unanimous consent by this Council.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I am afraid I do not altogether follow exactly what my friend the Honourable Colonel Nawab Sir Umar Hayat Khan wants. I think his chief point is that he wants a retaining fee to be given to all the men in the Territorial Forces throughout the year, even when they are not in training. As the House will realise, during the time they are called out they are paid at the rates which we pay our men in the regular army, and beyond that it is quite impossible to go. If we had to give them a retaining fee during the time they are not in training, the whole of our grant would be swallowed up.

[H. E. the Commander-in-Chief.]

The other point of my Honourable friend was the material on which we have to work. All that I need say is that we have the fullest confidence in the Local Governments. The Local Governments have made recommendations to us in regard to the urban and University Corps, and we are quite content to follow out those recommendations, and as the last speaker said, with training and experience we hope they will turn out useful and valuable corps to the country.

I move that the Bill be passed.

THE HONOURABLE THE PRESIDENT: The question is :

"That the Bill further to amend the Indian Territorial Force Act, 1920, for certain purposes, be passed."

The motion was adopted.

AUXILIARY FORCE (AMENDMENT) BILL.

Hrs EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill further to amend the Auxiliary Force Act, 1920, for certain purposes, be taken into consideration.

I have already explained in detail, speaking on the Indian Territorial Force Bill, the one important matter of policy in which the Government of India disagreed with the recommendation of the Committee, namely, the question whether the Auxiliary Force should be liable to general service. After much consideration, and in deference to the opinions of the Local Governments who are most deeply concerned, the Government of India came to the conclusion that it would not be justifiable to extend the liability of the Auxiliary Force in the direction proposed by the Committee. The Force consists, in great part, of Government servants, who, at a time of general mobilization, would be required to carry on their ordinary official duties. Many of its non-official members, also, are individuals who are liable to frequent changes in their place of business, and whose stay altogether in India may not be a very long one. A Force composed of elements like these cannot to any real advantage be utilized as a second line army. It has been decided therefore to confine the liability of the Auxiliary Force, as at present, to local limits.

I do not think I need occupy the House with details of the clauses. There is one small point, however, on which I should like to touch, to avoid any misunderstanding hereafter. In one of their minor recommendations on page 54 of the report, the Committee recommended that units of the Auxiliary Force, provincial units of the Indian Territorial Force and, if and when formed, urban units of the Territorial Force, when embodied for training, should all be subject to military law, that is, to the Army Act in the case of the Auxiliary Force, and to the Indian Army Act in the case of the Indian Territorial Force. The position at present is this. The units of the Territorial Force, when embodied for training, are subject, for purposes of discipline, to the relevant sections of the Indian Army Act, as modified and adapted by statutory rules. Units of the Auxiliary Force are subject to disciplinary provisions which are incorporated in the Auxiliary Force Act. These provisions are, however, in themselves an adaptation of British military law. The Act has been in force for about 7 years, and its provisions are by this time clearly understood. We have not, therefore, thought it worth while, as a matter of drafting, to amend the Auxiliary Force Act so as to render units liable to the Army Act modified

by statutory rules, which we should have to frame for the purpose. In the matter of discipline, there are now no serious discrepancies in the treatment of members of the Auxiliary Force and those of the Territorial Force during periods of training. When on actual military service, the rank and file of both Forces are of course subject to military law; and the officers of both Forces are always subject to military law whenever they are on duty, whether on active service or for training purposes.

In paragraph 21 of their Report, the Committee laid great stress on the necessity for the removal of racial distinction as between the Auxiliary Force and the Indian Territorial Force in regard to liability for service, the form of commission, facilities for training, and general treatment in the matter of pay and allowances. Their recommendations and the decisions of Government, including those which have been incorporated in these two Bills are all designed with that main object in view. I feel sure, Sir, that when these Bills have become law, and the recommendations of the Committee have been put into effect, there will no longer be any cause for complaint on the score of racial discrimination in the administration of the two Forces.

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

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Auxiliary Force Act, 1920, for certain purposes, be taken into consideration."

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill be passed.

The motion was adopted.

BODIES CORPORATE (JOINT OWNERSHIP) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move for leave to withdraw the Bill to enable bodies corporate to hold property in joint ownership.

This Bill was introduced in the Simla Session, with a view to introduce in this country the English law with reference to the succession of property held jointly by a body corporate and an individual. It was discovered after the Bill was introduced, due mainly to an amendment of which notice was given, that the Bill would introduce a good deal of confusion into the law here. In England it is practically a joint tenancy, whereas here it is a joint tenancy and a tenancy in common. Having regard to that it was decided that the Bill should not be proceeded with, and when it came on on the last occasion I asked the leave of the House not to move on that occasion. I now ask leave to withdraw the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That leave be given to withdraw the Bill to enable bodies corporate to hold property in joint ownership."

The motion was adopted.

THE HONOURABLE MR. S. R. DAS: Sir, I withdraw the Bill.

STATEMENT OF BUSINESS.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, as Honourable Members are aware our next meeting will be held on Monday, the 13th, for non-official business. Thereafter meetings will be held on Tuesday, the 14th, Wednesday, the 15th and Thursday, the 16th. The business for the 14th will include motions for leave to introduce a Bill to amend the Indian Securities Act, 1920, for a certain purpose, and for the reference to a Select Committee of the Chittagong Port (Amendment) Bill, which was introduced on Monday last ; and on the 16th, so far as can be foreseen at present, the only business will be motions for the consideration and passing of the Burma Salt (Amendment) Bill, which was introduced on Wednesday, the 1st. Wednesday, the 15th, will be devoted to non-official business.

The Council then adjourned till Eleven of the Clock, on Monday, the 13th February, 1928.