

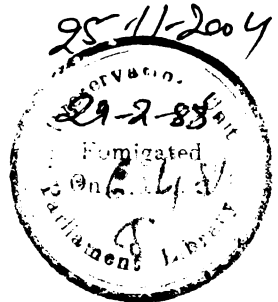
Thursday, 5th February, 1925

THE COUNCIL OF STATE DEBATES

Volume V

(20th January to 26th March 1925)

FIFTH SESSION OF THE COUNCIL OF STATE, 1925



DELHI
GOVERNMENT OF INDIA PRESS
1925

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COUNCIL OF STATE.

Thursday, 5th February, 1925.

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

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

THE SECRETARY OF THE COUNCIL: Two Messages have been received from the Legislative Assembly. The first message runs as follows:

“ I am directed to inform you that the Message from the Council of State to the Legislative Assembly desiring their concurrence in a motion to the effect that the Bill to consolidate the law applicable to intestate and testamentary succession in British India be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 12 members, was considered by the Legislative Assembly at their meeting to-day, and that the motion was concurred in by the Assembly.

The following Members of that body were nominated to serve on the Joint Committee, namely :

The Honourable the Home Member,
Diwan Bahadur M. Ramachandra Rao,
Rai Sahib M. Harbilas Sarda,
Mr. K. C. Neogy,
Mr. Abdul Haye, and
Sir Hari Singh Gour.”

The second message runs as follows :

“ I am directed to inform you that the Message from the Council of State to the Legislative Assembly desiring their concurrence in a motion to the effect that the Bill to amend the provisions of section 27 of the Indian Succession Act, 1865, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 12 members, was considered by the Legislative Assembly at their meeting to-day, and that the motion was concurred in by the Assembly.

The following Members of that body were nominated to serve on the Joint Committee, namely :

The Honourable the Home Member,
Diwan Bahadur M. Ramachandra Rao,
Rai Sahib M. Harbilas Sarda,
Mr. K. C. Neogy,
Mr. Abdul Haye, and
Sir Hari Singh Gour.”

THE HONOURABLE THE PRESIDENT: With regard to the first message, there is for the moment no Honourable Member in charge of the Bill referred to therein. It was in charge of the Honourable Sir Alexander Muddiman who is no longer in this House. I shall therefore consult the Honourable the Home Secretary and arrive at a decision as to who is to take charge of the Bill in this House. With regard to the second message I understand that the Honourable Sir Arthur Froom will give notice of a motion for the constitution of the Committee.

INDIAN PAPER CURRENCY (AMENDMENT) BILL.

THE HONOURABLE MR. A. C. MCWATTERS (Finance Secretary): I beg to move:

“ That the Bill further to amend the Indian Paper Currency Act, 1923, as passed by the Legislative Assembly, be taken into consideration.”

This Bill, as the House will observe, is a short Bill with a single operative clause. The essential portion of the Bill gives to the Government of India the power to increase the paper currency to the extent of 15 crores of rupees against the backing of securities held in the reserve. I wish to emphasise two points, first, that the Bill is purely permissive, that is to say, that it does not follow that, if the Bill is passed into law, the whole of this increase will necessarily be made, but the Government will make such increase, if any, as is required in accordance with the needs of trade. In the second place, the Bill is one which is not asked for by Government owing to any financial exigencies of their own. It is one put forward solely in the interests of trade. At this stage I should like to refer for a moment to the second portion of the operative clause which represents an amendment moved in the other House and accepted by Government restricting the amount of the created securities held in the reserve to 50 crores of rupees. Government have had no hesitation in accepting that amendment because they recognise that in normal times it is right that a limit should be placed on the amount of securities of this kind in the Paper Currency Reserve. For an emergent occasion emergent action may be necessary, but in normal times it is quite proper that there should be some limit of this kind. It will be evident from the Statement of Objects and Reasons that Government had in fact no intention of making any increase in the paper currency against the backing of these created securities. The procedure which Government would adopt is mentioned quite clearly in the Statement of Objects and Reasons, and in fact during the last four years Government's policy has been directed to reducing the amount of created securities held in the reserve. Four years ago the amount of these created securities was slightly in excess of 60 crores. The present figure is below 50 crores, which represents a very substantial reduction of over 10 crores of rupees in these created securities. I may explain further that the reason why this amendment took the particular form which it has taken, namely, a definite figure of 50 crores, is because these created securities are held in the reserve at their cost price which is variable. The figure of 50 crores does in fact practically prohibit Government from increasing the present amount of these created securities, but the amendment is not framed in those words because the purchase price is variable and therefore a fixed figure would have been inappropriate.

Such in brief is the substance of the Bill. I quite recognise that questions of currency are very much in the air just now and I realise that different views are held, and quite legitimately held, as to the direction which currency reform in this country should take. But with regard to this present Bill I ask the House to accept two postulates, first, that this Bill is a limited measure of a practical kind which is intended to deal with the trade situation as it exists to-day, and second, that fundamental questions of currency reform cannot be rushed. The view of Government on this question was clearly expressed by His Excellency the Viceroy in his address to the Members of the Legislature on the 20th January. Government's view definitely is that before any new policy is embarked upon, it is essential that these questions should be considered by an authoritative committee. His Excellency the

Viceroy also held out an expectation that if world conditions continue to improve as they have been doing recently the time is not so very far off when such a committee may be appointed. If the House accepts these two postulates, as I am sure they will do, they will not expect or desire me to enter into a discussion of fundamental questions of currency and exchange. What they will require me to do is, I think, to prove to their satisfaction that this Bill is in the first place beneficial and necessary and, in the second place, safe and unobjectionable.

With regard to the first point whether the Bill is beneficial, I think my task is an easy one. The principle of the Bill is based upon a fundamental proposition, which is in fact axiomatic, that increasing trade requires an increase of currency. We are, I think, undoubtedly able to say that trade in this country is improving. We have had the benefit of four good monsoons in succession, and whether we consider the increased value of our imports and exports or the value and volume of the various crops which are being marketed, it is evident that trade is now definitely improving and that increased means of payment are necessary. I might perhaps be allowed to compare currency to the oil which lubricates the machine of trade. If that machine is under-oiled you get all the symptoms of engine trouble, and those symptoms are well recognized by the commercial community in high bank rates and in restriction and dislocation of trade. As a practical method of envisaging the problem I would ask the House to consider the history of the last two years. During the last year and during the first half of the present busy season Government have added to the currency 18 crores of rupees—12 crores last year and 6 crores this year—in accordance with the method which is contemplated in this Bill. I ask the House to consider what the position of trade and the bank rate would be to-day if those 18 crores had not been added. I can appeal here to commercial opinion in this country. We had at the beginning of the present busy season, very lively apprehensions expressed both from Bombay and Calcutta of what the course of the present busy season would be, and I think I may say, without being contradicted, that the announcements made by Government and their promise to take such action as might be proved necessary and the mere fact that they did begin, fairly early in the present busy season, to increase currency, relieved almost entirely the very serious apprehensions which were expressed.

The next point which the House will ask me to explain is why the Bill is necessary. We have still a margin of about $7\frac{1}{2}$ crores which can be added to the currency against securities, and the Imperial Bank has still a margin of 8 crores of the emergency currency which it can take against the security of internal trade bills. I do not say that it will be necessary for Government to utilize the provisions of this Bill, but I would ask the House to remember that currency stringency when it comes is apt to be sudden and intense, and therefore I think it only a wise precaution that these powers should be placed in the Government's hands to meet any contingency which may arise.

I now turn to the second point, whether the Bill is safe and unobjectionable, and I would ask the House to consider this from two aspects. First, with regard to the possible effect of this Bill upon prices. Inflation of currency is admittedly a great evil and leads to increase of prices and other disasters. But increase of currency is not necessarily inflation. It only becomes inflation if that increase is out of proportion to the requirements of trade; in other words, if there is an increase in the means of payment beyond the needs of business. Now Government have no

[Mr. A. C. McWatters.]

intention of making any increase beyond what is actually required. As I have said, the Bill is not required on account of any financial exigencies of their own. It is not a question of covering a deficit in the budget. The increase will be made solely on the basis of value and not on the basis of debt. And therefore I can confidently say that no apprehensions need be felt by any Honourable Member as to the adverse effect of this Bill upon prices.

The second aspect from which I wish the House to regard this question of safety is with reference to the metallic backing in our currency reserve. On the 15th January last the gross circulation of currency notes in India was 178½ crores; and against that we held in the reserve 101½ crores of gold and silver coin and bullion, making a percentage of 56.86. And even these figures understate the position, because the figures which I have given for circulation are of the gross circulation and include the currency notes held in Government treasuries and by the Imperial Bank as its cash reserve. Further, they understate the position because, as the House is aware, the gold and sterling securities in the reserve are at the present moment under-valued. If these securities were revalued at the present market rate, the value of the metallic backing would be 61 per cent., the securities would be 19.4 per cent. and the created securities 19.6 per cent. This is a position which most countries in the world would envy. I have taken the trouble to examine from the latest publication of the League of Nations the corresponding figures for 38 of the principal countries in the world which supply returns to the League of Nations, and I find that 8 countries only in the world are in as good or a better position, and of these only two are European countries, Spain and Switzerland, while in England itself the latest figure for metallic backing for Bank of England and Treasury notes is only 39 per cent. I think therefore, if we consider it either from the point of view of the possible effect on prices or its effect in reducing the proportion of metallic backing in the Paper Currency Reserve, the House will agree that this Bill is both safe and unobjectionable.

I do not think that I need trouble the House with any longer explanation. I have asked Honourable Members to consider the Bill as a limited measure of a practical kind; I have tried to prove to them that the Bill is beneficial and necessary and also that it is safe. I beg to move.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill further to amend the Indian Paper Currency Act, 1923, as passed by the Legislative Assembly, be taken into consideration.”

THE HONOURABLE MR. J. W. A. BELL (Bengal Chamber of Commerce): Sir, I desire strongly to support the Bill which has been introduced by my Honourable friend, Mr. McWatters.

The financial position in India, for some time has been one which has given cause for anxiety on account of the shortage of currency available for the financing of the trade of the country. What the position would have been but for the action of Government in increasing the amount of currency issued against trade bills, and in making that currency more readily available, it is difficult to estimate. But I do not think I am exaggerating when I say that it would have been serious.

The present measure will still further ease the situation, and remove any cause for anxiety, in the direction which I have indicated, for some considerable time to come. The additional financial assistance to the trade of the country which the Bill will make possible, if it be passed, will, I feel certain, be very warmly appreciated by the whole commercial community.

I understand that in some quarters there has been a certain amount of opposition to this Bill, possibly from persons who consider that it does not go far enough and who in fact consider that the time has now come for an entire change in the policy of Government. These persons, I understand, believe that by the immediate appointment of a Commission the whole problem of exchange and currency, as it presents itself in India, will be solved. They seem to think that, in some mysterious way, the appointment of such a Commission would dispel the darkness and uncertainty in which the currency and exchange position is at present enveloped. I almost wish that I could share their faith. I feel that the time has not yet come for any drastic change in the direction indicated. In fact I feel—although I hope that I am wrong—that that time is much more distant than some people seem to imagine, and that the financial position in Europe and throughout the world is still too uncertain and too unsettled to make it possible for any Commission to arrive, unless by accident, at a correct solution of the currency problem. I feel also that any premature action on the part of Government would be very harmful indeed.

The best course for Government to follow in the meantime, it seems to me, is to proceed cautiously, and take what steps seem best in order to meet each emergency as it arises.

The Bill now before the House is such a step. It will not solve the currency and exchange problem, but it will remove, for a long time to come, what has been a menace to the trade and prosperity of the country. As such, I trust, and I feel sure, that it will receive a welcome and support from the Members of this House.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General): Sir, I rise to endorse what has fallen from my Honourable Colleague, Mr. Bell, in this connection. Our Honourable friend, Mr. McWatters, has very lucidly explained this morning the real object and scope of this Bill. He has discussed the Bill from two standpoints, one of necessity and the other of safety, and I beg to express my fullest concurrence in both the propositions he has laid down in the course of his speech. Sir, I am sorry to notice that the real scope of this Bill has been misunderstood and ill-comprehended in certain quarters. The greater questions of currency and exchange, which no doubt require our consideration and perhaps the early attention of Government and re-examination, have been unfortunately mixed up with the simple scope of this Bill. The real object of this Bill is only to raise the permissible limit in order to avoid an excessive monetary stringency by creating additional currency. Sir, the Honourable Sir Basil Blackett has laid the commercial community of India under a deep debt of gratitude since he has taken charge of the portfolio of finance. You are all aware of the financial chaos that prevailed before he assumed his office. He has by a most judicious, skilful and tactful management of the finances of the country extricated the

[Sir Maneckji Dadabhoy.]

country from a deplorable financial position. He has come to the rescue of the important commercial communities in this country. But for the substantial aid given in the matter of the raising of nearly 18 crores of currency during the last two years, the trade of the country would have been thoroughly ruined. It is perhaps not fully recognized that during the last three years on account of a good harvest, due to good monsoons, the country's trade has slowly but consistently and steadily increased, with the result that large sums of money have been rendered necessary for financing the various crops, such as the jute, cotton and the wheat crops. But for the timely assistance and the alteration in the Paper Currency Act, this would not have been achieved. Sir, I quite appreciate that though the Bill only seeks an alteration in a figure, by the conversion of one figure, 850, into another figure, 1,000, a big and important principle is involved beneath the provision which is contained in this Bill. I quite see that the time has now come when these makeshifts, when this temporary avoidance of difficulties, will not help the country. I fully believe that nobody realizes this position more acutely than the Honourable the Finance Member himself. The present ineffective, unnatural ratio of ten rupees to the pound has greatly contributed to our difficulties, and unless that problem of exchange is tackled at an early date with the help of all the information that is available on the subject, and unless our currency legislation is placed on a more effective and sounder basis, we shall always be confronted with trouble and difficulty. I am very pleased to notice the Finance Member himself realizing the gravity of the situation. The other day in another place he made some very pertinent remarks in this connection. He said:

"I have said more than once both here and outside that the Government of India regard the two shillings ratio which is on the Statute-book as entirely fictitious. It has become entirely fictitious. There is no intention to continue our exchange policy with a view to recovering the two shillings ratio. If the two shillings ratio still remains on the Statute-book, it remains because the time has not yet come at which we can usefully fix some other ratio and be sure that we can maintain it."

Sir, these words are pregnant enough, especially the last statement which is embodied in the speech, that the time has not yet come when this ratio can be attained and can be maintained. I have heard a great deal said during the last few days about the manipulation of our exchange in such a way as to bring down the ratio to 1s. 4d. But the point as made out by the Finance Member is that whatever we do in the matter, whether we will be able to maintain that ratio. I share entirely his difficulty. There are world factors to be taken into consideration. The exchanges of different countries have a great deal of influence on our own currency and exchange policy, though local conditions also materially direct the movements of exchange. We have been fortunate in having three or four good monsoons. One single bad year, one failure of the monsoon, one famine, might upset all our calculations and render all our efforts fruitless. In a matter like this we cannot move with inconsiderate celerity and swiftness. We have to move with extreme caution and circumspection. We have to watch the diverse factors that surround the commercial conditions in this country. We have to watch carefully the large imports of gold and silver in this country. We have to watch with great determination our exports from this country. All these factors, though each of these may not have any effect

taken singly on our exchange policy, have when combined a great influence on the currency policy of this country. Till an economic stability has been reached or at least it is within sight, it would be hazardous in my opinion, it will be practically dangerous, to meddle with exchange and I am glad to hear the decision announced by His Excellency the Viceroy that if during the next 12 months a position of economic stability is reached, a fully representative committee will be appointed. I feel sure that if these conditions happily set in earlier action will be taken by Government at no distant date to re-examine the entire fiscal policy of the Government of India, and I have no doubt that the marked ability, the influence and the knowledge which the Finance Member particularly possesses in connection with international currency will be of extreme value to this country. I am glad, however, to notice that the Finance Member has rightly recognised the limitation to be placed on the created securities or what are commonly known as *ad hoc* securities. These securities, as perhaps the Council is aware, are nothing short of demand drafts or I. O. U.'s given by the Government of India to the Currency Department to be liquidated at some future date. Unfortunately this method of currency has not been favourably received. It does in my humble opinion incalculable injury to the credit of Government and to the credit of the country, and I am very pleased to notice the decision now arrived at to enforce a rule of limitation and not to allow these created securities to extend over 50 crores of rupees. Our financial position to-day is exceedingly sound. Our friend the Honourable Mr. McWatters has assured us this morning that our currency is to the extent of 178 crores and it has got a metallic backing of 101 crores, which is more than 58 per cent., and he has by a comparison of the figures of other countries demonstrated in a very lucid manner that our metallic backing to-day is on a much sounder footing than the metallic backing even in England. With this financial position we have nothing to despair of. We have every reason to hope that our financial policy with the sound guidance of Sir Basil Blackett will steadily inspire greater credit and will be not only in a stronger position, but will excite the envy of European and other nations. For these reasons I support this Bill heartily and I repeat again that the commercial communities of India are exceedingly grateful for this far-sighted measure which will give them great and much needed pecuniary relief.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Paper Currency Act, 1923, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clause 1 was added to the Bill.

Clause 2 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. C. MCWATTERS: I beg to move:

"That the Bill, as passed by the Legislative Assembly, be passed."

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): On behalf of my constituency, I wish to express in a very few

[Sir Arthur Froom.]

words that I heartily welcome this Bill. Previous speakers have pointed out that the Bill is not intended to be an exposition of exchange or a revelation of the Government's exchange policy. Nor is it intended to explain the various operations of Government in exchange. If that were so, it would require a larger document than this Bill. But this Bill is a very simple one and those Members of this Council who have not an intimate acquaintance with the higher realms of finance will readily understand the objects of the Bill when it is explained that it is aimed at keeping the bank rate down. It is generally accepted that a high bank rate is not good for the trade of this country, its external trade or its internal trade. The object of this Bill is to render funds accessible for the movement of produce and for general trade purposes, without labouring under the very serious difficulties of a high bank rate. That, Sir, is the chief object of this Bill and it can be readily understandable by all of us. Sir, I extend a hearty welcome to the Bill and I congratulate the Finance Department on bringing it forward.

THE HONOURABLE SIR BASIL BLACKETT (Finance Member): I wish to express on behalf of Mr. McWatters and myself and of the Finance Department our thanks to those Members who have spoken to-day for the very kind words which they have said about myself and about the policy of the Government of India during recent years. I feel sure that this Bill which is a purely temporary measure for dealing with an immediate difficulty is one which is for the benefit of every one in India (except possibly, if it is going to reduce money rates, to the money-lender). I thank Sir Maneckji Dadabhoy in particular for the unduly flattering expressions he has made use of in regard to myself. I am glad to find from its attitude to this Bill that this House, as it often does, quickly realises when it has got a good thing.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Paper Currency Act, 1923, as passed by the Legislative Assembly, be passed."

The motion was adopted.

WORKMEN'S BREACH OF CONTRACT (REPEALING) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I beg to move:

"That the Bill to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law, as passed by the Legislative Assembly, be taken into consideration."

I do not think that I need detain the House very long in explaining the object of this small Bill. Honourable Members will observe that the operative parts of the Bill are the repeal of the Workman's Breach of Contract Act, XIII of 1859, and two cognate sections of the Indian Penal Code. The Act with which we are concerned is an old Statute which was passed in circumstances very dissimilar from those which prevail to-day, and the equity of its application has in recent years been more than once called into question. In 1920 an amending Act was passed which had the effect of removing some of the provisions of the Statute which it was considered

might be specially liable to result in hardship in individual cases; and since then the whole question of the principle involved in the Bill has come under careful consideration on more than one occasion. On the last occasion an undertaking was given by the Honourable the Home Member that the Government of India, after having considered opinions received after consultation with the Local Governments, would introduce a measure to repeal this Act. It is in fulfilment of that assurance that I now make this motion. It has generally been recognized that under modern conditions such a measure as Act XIII of 1859 is unsuitable for retention on the Statute-book, at any rate as a measure of universal applicability. It is possible that in certain tracts where special conditions operate some measure of this kind may conceivably be necessary. But it is obviously appropriate that if any such measure is necessary it should be undertaken by the Local Governments in whose jurisdiction such special conditions are found to subsist. While the Statute, Act XIII of 1859, was under consideration, the Government of India took the opportunity of consulting Local Governments and public bodies of various descriptions regarding the two cognate provisions in the Indian Penal Code, section 490 which deals with the breach of contract of servants during a voyage or journey and section 492 which deals with breach of contract to serve at distant places to which a servant is conveyed at the master's expense. Section 490 is practically a dead letter, and I have hardly been able to discover a single instance in recent times in which it has been put into effect. Section 492 is so similar in substance to Act XIII of 1859 that any decision to repeal Act XIII of 1859 would almost, as a matter of logical consistency, involve the repeal of section 492 of the Indian Penal Code. Honourable Members will observe that it is intended that this Bill if passed should be brought into operation on the 1st of April 1926. The object in fixing that date is to enable all the interests affected to adjust themselves to the conditions which will supervene on the repeal of the enactment which I have mentioned, and also to enable any Local Government which finds reason to believe that in its jurisdiction or any portion of its jurisdiction some substituted measures are necessary, to undertake at leisure such legislation as they may consider necessary.

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

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law, as passed by the Legislative Assembly, be taken into consideration."

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, I rise to lend my support to this Bill but not without a tinge of sorrow and some disappointment. Sir, this Bill has taken its birth in the two Resolutions that were moved by Labour Members in the Assembly. A new spirit has now arisen in some parts of the country and particularly in the Assembly, a spirit which I am sorry to say is destructive of all privileges of capitalism and a spirit destructive of all industrial progress and activity. This spirit if kept within safe and limited bounds will be helpful to the country in the matter of maintaining the health and safety of the working classes and to the general progress of the country. But, if this spirit, which has now arisen, is allowed to be carried beyond limits and oversteps the boundary of moderation, this country will regret the day and that too very sadly. The Government of India have unfortunately

[Sir Maneckji Dadabhoy.]

in a moment of righteous weakness given way to the blandishments of the Movers of those two Resolutions. My friend the Honourable Mr. Crerar has to-day informed the Council that a pledge was given by Government that the opinions in the country would be obtained and, if there was a consensus of opinion with reference to its repeal, the Government would bring forward a Bill for the repeal of this measure. But my friend Mr. Crerar did not tell this Council that the opinion which the Government obtained were in the main adverse to the repeal of this Act. The Bengal Government gave its half-hearted support; the Madras Government agreed to the repeal; but every other Provincial Government set its face against the repeal and advised the Government of India not to dispense with this measure. I should have strongly opposed this Bill to-day but for the fact that the operation of this Bill has been postponed to 1926 and an opportunity has been given to Provincial Governments to adjust their labour conditions during the interval and pass such local Bills as may be required. Sir, I do not for a moment deny that in some parts of this country there have been abuses under this Statute. I would not for a moment deny that some unscrupulous employers have exacted unlawful arrests and have deceived Courts, and in order to carry on their work have even violated the provisions of this Act. But at the same time I cannot minimise the importance of this Act and the great service it has rendered to this country during the 66 years of its existence. Originally this Bill was framed at the instance of the Calcutta Trades Association and subsequently extended to various parts of the country. India is now industrially making rapid progress. Labour is required from all parts of the country, from distant lands, to migrate to industrial centres for the purpose of carrying on the ordinary work. You are aware, Sir, that employers of labour do not obtain their labour without undergoing much risk, without making large advances. If they make these large advances for the purpose of carrying on the every-day work in industrial centres and to provide maintenance for a large body of people, it is equally right that there should be some protection from Government for the risk which industrial enterprise undertakes. The original idea of the Act of 1859 was only to make penal those violations of agreements which were deliberately, fraudulently and intentionally committed. The Courts sometimes in their zeal in interpreting the Statute have dispensed with the necessity of requiring independent proof and have accepted the mere fact of an advance having been made and of the subsequent bolting of the workmen as evidence of guilt and have convicted the parties. Sir, I am very sorry at any rate to observe that in this Bill Government have attempted also to include sections 490 and 492 of the Indian Penal Code. In giving the reasons for asking for the repeal of these provisions, Government have stated that an opportunity has at the same time been taken of repealing sections 490 and 492 of the Indian Penal Code which deal with cognate matters, as their repeal seems to be a logical development of the repeal of the Act of 1859. Logicality is an exceedingly charming expression and is an ideal certainly to be coveted, but there has never been either logicality in the law or a consistency in the procedure of the Government of India. I submit that those provisions which are embodied in Chapter XIX of the Indian Penal Code were absolutely independent of the provisions contained in the Act of 1859. I admit that when the Penal Code was drafted by Lord Macaulay a year later, he might certainly have had the knowledge of the provisions of the Act of 1859, but I firmly dis-

believe that the mere existence of the Act of 1859 influenced him in drafting this Chapter XIX of the Penal Code. Sir, I can understand the anxiety of the Council, the anxiety of the people, to see that poor workmen are not oppressed, that they are not unduly harassed. I can quite appreciate the anxiety of Government in that respect, but I cannot appreciate the anxiety of the Government to repeal these provisions and to destroy a most important weapon of protection which the Legislature gave. I shall give you two simple illustrations. Take, for instance, the case of an invalid who is sent home in charge of a nurse who has received payment for her services in advance for the voyage. When the boat arrives at a certain place, the nurse leaves her employer because she has meanwhile obtained some better appointment. What becomes of her patient? Is there any justification for the repeal of such a salutary provision? Take for instance, the case of a person who has specially engaged a nurse or a party for the protection of a minor, to take him to England or to take him to any other place overseas. Suppose the party fails, and commits a breach of contract. Is there any justification for according that party any immunity from prosecution? You do not compare the criminality involved in a case like that with the criminality of the workman who has received wages, shuts up his work and leaves the service. Sir, it is an unfortunate piece of legislation. I will not oppose it because the Government is fulfilling its pledge, as Mr. Crerar has pointed out. The Secretary of State has unfortunately given his sanction to the repeal of this Act. The Government of India have agreed to it, and the Legislative Assembly has accorded its seal of approbation for the repeal of this measure. There is only one consideration which weighs with me in coming to the decision to support this Bill. We have taken up a certain position in relation to the Colonies; our own Indian labour is being largely recruited in the various parts of the world; we are insisting on the Colonies abolishing the penal clauses connected with emigration of labour, and that fact has heavily weighed with me in assenting to the repeal of this measure. But I hope the Local Governments in the short time at their disposal will frame suitable measures for affording some protection to industrial enterprises, while at the same time protecting the interests and liberty of the workmen as a body. With these words, Sir, I support this Bill.

THE HONOURABLE SAYID RAZA ALI (United Provinces East: Muhammadan): Sir, even at the risk of being charged with entertaining those tendencies which in certain quarters are considered extremely dangerous, namely, labour tendencies, I rise to say a few words on this motion. Sir, the country seems to be divided, if I understood the last speaker correctly, between two classes so far as labour *cum capita* questions are concerned. There is a class of politicians who want to push forward the interests of labour by all legitimate and proper means. Then again we have a school of thought which may be termed the protagonists of capitalism, to which class I dare say the last speaker belongs, who are not able to see the hardships and the injustice to which labourers are exposed. Sir, what after all is the scope of the Bill that is before this House, which it seems has given considerable offence to my Honourable friend, Sir Maneckji Dadabhoy, who would not have been prepared to support this Bill, but for the exceedingly happy and fortunate circumstance, or for the exceedingly unhappy and unfortunate circumstance from his point of view, that the Secretary of State in a weak moment has given leave to introduce a measure of this character, and that the Government of India have on their part fallen into line with

[Saiyid Raza Ali.]

the views of the Secretary of State? Sir, I am not one of those who would tolerate any one class of people encroaching upon the rights of any other class of people, but at least let us be clear in our views as to what those rights are. Is it fair to say that by passing this measure we would be in any way cutting down or encroaching on the rights of that exceedingly powerful class, namely, the capitalist? I for one have carefully gone through the four corners of this Bill, and I cannot find in it any thing which will injure the rights of capitalists. Sir, this question has been before the country during the past four years and it owes its origin, as this Council knows, to a certain Bill that was introduced in another place by Mr. Neogy on the 20th February, 1923. On that occasion after a full discussion of the principles of the Bill the following announcement was made by the Honourable Mr. Chatterjee on behalf of Government:

"It is therefore the view of Government that it would be better that a considered Bill should be introduced by them after full consideration of all the circumstances and they would undertake to repeal the present measure with effect from say, about 1926."

What has been done in the meantime? It appears that Government in conformity with their established practice put themselves in communication with the Local Governments and such bodies as are interested in the subject and the result is the present Bill, which far from cutting down the rights of the capitalists only takes away certain serious disqualifications to which the labouring classes are subject. I need hardly say much about the provisions of Act XIII of 1859 which was amended in 1920 or of the provisions of Act XIV of 1897. As Honourable Members are aware, the provisions of these Acts enable capitalists to proceed against labourers in Criminal Courts and the labourers, on actions being instituted against them before Magistrates, are liable to be punished by the Magistrates. The Bill proposes that these provisions should be done away with. Then there are two sections in the Indian Penal Code which also very properly and wisely have been included by the Government among those laws which are going to be repealed, namely, section 490 and section 492. In the excess of his enthusiasm to run down the Government my Honourable friend Sir Maneckji Dadabhoy put a strange interpretation. . . .

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I am being misrepresented. I have not run down the Government.

THE HONOURABLE SAIYID RAZA ALI: Sir, people do suffer from confusion of thought at times. Nobody has proposed that section 491 of the Indian Penal Code should be repealed. The Government have never proposed it and nobody in this Council has yet suggested it. In fact most of the remarks which were made by the last speaker about the inequity of doing away with section 491 do not in fact apply to the provisions of this Bill. It is but meet and proper that sections 490 and 492 should be repealed, and I have heard nothing from the last speaker which would go to show that it is necessary any longer to keep these two sections even in the interests of that half-celestial human being, namely, the capitalist. Sir, unfortunately logic was trotted out across the floor of this House. I do not propose to say much on the beauties of logic, but according to some it appears that logic, though a charming and beautiful thing, loses all its charm and beauty the moment it tends to result in something which is likely to take away what the capitalist has quietly put in his pocket. I did not propose to make any speech on this motion which I think is one on which the country should congratulate the Government as I thought that

this Bill would be passed into law without any discussion. But in view of the discordant note struck by my Honourable friend Sir Maneckji Dadabhoy, I have deemed it my duty to place these considerations before the House which I hope and trust will give to it its unanimous support or unanimous support with one dissentient. (*The Honourable Sir Maneckji Dadabhoy*: "I am supporting the Bill".) I stand corrected and I am happy in the thought that even my Honourable friend is going to support this Bill whole-heartedly and not in the half-hearted manner which was indicated by his speech. Sir, I support the motion.

THE HONOURABLE MR. R. P. KARANDIKAR: (Bombay: Non-Muhamadan): Sir, I had no intention of taking part in a debate on a small measure like this, for really speaking no discussion was needed if there was assent on everybody's part. Even if it was a grumbling assent as it should be from capitalism, it would have been quite sufficient for the Bill to pass through this House. It is a matter of surprise, some times agreeable or otherwise, according as one has time at his disposal to listen to a debate of this kind, and I do trust that this House has enough of time really. It should be enough to point out for the safety of those who want to guard capitalism that capitalism is already guarded much more by the poverty of the people than by industrialism. Take for instance the Provident Fund Bill. You have got several provisions which enable the Provident Fund to lay down for the benefit of the fund the subscriber, the workmen, the people who are supported by industries. It can dictate terms and I say capitalists can dictate terms to labour and from that point of view if industrialism has to supply facts, over poor labour capitalism has the upper hand. The Act of 1859 is as old as myself and I have been at the Bar for nearly 40 years and more and I have never found many instances which appertain to the exercise of the enactment of 1859. It has not been of any use practically, no cases whatsoever. Possibly there may have been a few here and there, and my Honourable friend on the left who belongs to the judicial bench will bear me out that there were very few cases indeed. Nothing is to be lost really by deleting a provision of law which stands for nothing, which is of no use practically. And as has been pointed out, sections 490 and 492 also have not been of any use really and there is no point in retaining them. Then if they in a manner affect the spirit of the people which was encouraging labour, I know now-a-days capitalism and labour do not wish to agree so much as perhaps in the palmy days of capitalism when it enabled labour to come forward and help itself. But now labour is getting the upper hand and consequently capitalism fears that the whole thing may go to labour. I find that ideas of moderation must change. Having lived sufficiently long I have been marking the march of events and the spirit of moderation. It is no use of one House pointing out to the other House that the spirit of moderation is wanting in some place. We lay ourselves open to the same charge and I do not like the idea at all. I think it would be much better and to the advantage of us all if we refrained from passing any comment on what takes place in another House by reason of the moderation or otherwise of particular Members. I wholeheartedly support this motion.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

[The President.]

Clause 2 was added to the Bill

Clause 1 was added to the Bill.

The Schedule was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move:

“ That the Bill, as passed by the Legislative Assembly, be passed.”

In doing so I should like in a very few words to thank the Honourable Members who have spoken in the debate for the support which they have given to this Bill. I think perhaps my thanks are specially due to my Honourable and learned friend Sir Maneckji Dadabhoy. The Honourable Saiyid Raza Ali and the Honourable Mr. Karandikar spoke with evident warmth and conviction. The terms of the benediction which my learned friend from Nagpur gave the Bill were of so extremely frigid a character in themselves that I do feel that some acknowledgment is due from me of the fact that he should ultimately or initially have made up his mind to support this measure. I only desire to dissent very strongly from one observation which the Honourable Sir Maneckji Dadabhoy made. He suggested that the Government of India had undertaken this measure in weak compliance with blandishments or perhaps intimidation, either in another place or from higher authority. I must entirely repudiate any suggestion of the kind. The Government of India after having carefully considered all the opinions which were obtained—and I frankly admit that the majority of those opinions were adverse to this measure—the Government of India having considered all those opinions and having taken a survey of the whole situation as it presented itself to them, deliberately decided to proceed with this measure. And I think perhaps my Honourable and learned friend, after having taken a survey of the whole situation and having come to the same conclusion, will perhaps agree that the Government of India arrived at that conclusion on equally unimpeachable grounds. I move, Sir, that the Bill as passed by the Legislative Assembly, be passed.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, one or two observations that have fallen from my Honourable friend behind compel me at this stage to occupy the time of this Council only for a few minutes. First, let me assure my Honourable friend Mr. Crerar that, when I said the Government in a moment of righteous weakness succumbed to blandishments, I did not intend at all to say that the Government gave way either to intimidation or to pressure. I used the expression generally in connection with the spirit of the times, and particularly that displayed in the Assembly, and I meant that the Government thought that the Bill as it existed on the Statute-book was either an anachronism or an anomaly. As regards the observations made by my friend the Honourable Mr. Karandikar that no Member of this House ought to make any reflections against the other House I entirely agree. But I am afraid my Honourable friend has either entirely misunderstood my remarks or inadvertently misinterpreted them. When I referred to the spirit which is now prevalent, a spirit destructive of industrial progress, I did not make any reference and

I did not intend to make any reference to individual Members of the Assembly, but I certainly spoke of the general spirit of opposition to capitalism which is now beginning to show there. I hope my Honourable friend Mr. Karandikar will accept that explanation. As regards my Honourable friend Mr. Saiyid Raza Ali's baseless criticisms I need only say that I have the misfortune as a rule to disagree with him. I am extremely sorry to notice that he has in a great measure misinterpreted me in the Council to-day. I do not wish to occupy the time of the Council. Honourable Members have heard me and the line which I took up in connection with this measure, and I leave Honourable Members to form their own judgment.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law, as passed by the Legislative Assembly, be passed."

The motion was adopted.

CONSTITUTION OF THE SELECT COMMITTEE ON THE AMENDMENT OF THE STANDING ORDERS.

THE HONOURABLE THE PRESIDENT: I am now in a position to constitute the Select Committee to which the Honourable Sir Narasimha Sarma's motion for the amendment of the Standing Orders was the other day referred. The House has to elect seven Members to serve on that Committee, and as exactly seven nominations have been received, there will be no necessity for an election. I therefore declare that the Honourable Sir Narasimha Sarma, the Honourable Saiyid Raza Ali, the Honourable Mr. J. W. A. Bell, the Honourable Mr. R. P. Karandikar, the Honourable Mr. D. T. Chadwick, the Honourable Mr. G. S. Khaparde, and the Honourable Sardar Charanjit Singh are duly appointed to that Committee. Under Standing Order 55 I am required to complete the Committee by nominating to it as a Member one of the panel of Chairmen, and I therefore with his consent have pleasure in nominating the Honourable Sir Arthur Froom to serve on the Committee. I think it would be convenient for the Members of the Committee if the Select Committee should meet on Monday morning at the conclusion of the day's business. I will have notices sent to Honourable Members to that effect.

The Council then adjourned till Eleven of the Clock, on Monday, the 9th February, 1925.