

Wednesday, 10th September, 1924

THE

COUNCIL OF STATE DEBATES

(Official Report)

Volume IV, Parts II & III.

(3rd September to 23rd September 1924.)

FOURTH SESSION

OF THE

COUNCIL OF STATE, 1924.



CALCUTTA : GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1925

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COUNCIL OF STATE.

Wednesday, 10th September, 1924.

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

QUESTIONS AND ANSWERS.

NUMBER OF MUHAMMADAN REGISTRARS IN THE GOVERNMENT OF INDIA SECRETARIAT.

369. THE HONOURABLE MR. YAMIN KHAN: (a) Will the Government be pleased to say how many Registrars there are altogether in the Government of India Secretariat, including the Military Department?

(b) How many of these Registrars are Muhammadans?

THE HONOURABLE MR. J. CRERAR: (a) Two.

(b) None.

NUMBER OF MUHAMMADAN SUPERINTENDENTS IN THE GOVERNMENT OF INDIA SECRETARIAT.

370. THE HONOURABLE MR. YAMIN KHAN: (a) How many Office Superintendents are there in the Imperial Secretariat, including the Military Department?

(b) How many of these are Muhammadans?

THE HONOURABLE MR. J. CRERAR: (a) Fifty-two.

(b) Two.

SIMPLIFICATION OF NEW RAILWAY FORMS FOR THE DESPATCH OF FRUIT.

371. THE HONOURABLE MR. YAMIN KHAN: Do Government propose to simplify the new forms required to be filled in by persons sending a parcel of fresh fruit by railway?

THE HONOURABLE MR. G. L. CORBETT: Government are not aware of the introduction of any new forms for the despatch of parcels of fresh fruit by railway.

EXTENDED USE OF SEARCHLIGHTS ON TRAINS.

372. THE HONOURABLE MR. YAMIN KHAN: (a) Is it a fact that the Oudh and Rohilkhand Railway is the only railway which employs a strong search-light at the head of engines of passenger trains?

(b) Do Government propose to advise other Railway administrations to adopt this practice?

THE HONOURABLE MR. G. L. CORBETT: (a) No.

(b) Most of the principal railways are using search-lights on certain trains, and the possibility of their more extended use is under investigation.

GRANT OF SCHOLARSHIPS TO MUHAMMADAN STUDENTS FOR STUDY ABROAD.

373. THE HONOURABLE MR. YAMIN KHAN : (a) How many scholarships were granted last year and this year by the Government of India and Local Governments to students going for study outside India ?

(b) How many, if any, of these were granted to Muhammadan students ?

THE HONOURABLE SIR NARASIMHA SARMA : (a) and (b). The information is being collected and will be supplied to the Honourable Member in due course.

INTRODUCTION OF A RAILWAY INTO ETAH.

374. THE HONOURABLE MR. YAMIN KHAN : (a) Is it a fact that the residents of Etah district have been demanding for a long time the introduction of a railway in Etah town ?

(b) Did the residents of Etah present an address to His Excellency Sir William Marris in October 1923 in which they asked for the railway to be introduced in Etah ? What steps, if any, have the Government taken towards this scheme ?

THE HONOURABLE MR. G. L. CORBETT : (a) and (b). Government are aware that there have in the past been demands for railway from Kasganj to Agra, which would pass through Etah, but the project, as indicated in the reply given to Lala Girdhari Lal Agarwala in another place on the 10th January 1922, cannot at the present time be considered a remunerative project, and Government do not therefore propose to take any further action in the matter.

PROVISION OF SHADE ON THE BRIDGE AND THE TWO PLATFORMS AT MEERUT CITY RAILWAY STATION.

375. THE HONOURABLE MR. YAMIN KHAN : Is it a fact that there is no shade on the bridge connecting the main and the island platforms at Meerut City railway station and no shade on the greater portions of the two platforms ?

THE HONOURABLE MR. G. L. CORBETT : Inquiry is being made and the information will be furnished to the Honourable Member in due course.

APPOINTMENT OF INDIANS TO THE INDIAN (IMPERIAL) POLICE.

376. THE HONOURABLE MR. YAMIN KHAN : (i) In what Gazette of India did Government make the separate announcement, referred to in their notification, dated the 12th June 1919, and published in the Gazette of India of the 14th June 1919, on the subject of the appointment of Indians to the Indian (Imperial) Police during 1919 ?

(ii) How many appointments were made of Indians in the Indian (Imperial) Police in 1919 according to that announcement ?

(iii) Will the Government furnish a list of all such appointments in all the provinces, quoting the notifications in the Gazette of India or the Provincial Gazettes in which these appointments were notified, and the exact date from which each officer was appointed to the Indian (Imperial) Police ?

(iv) If any or all such appointments announced to be made in 1919 were not made in 1919, or were made from any dates other than in 1919, will the Government be pleased to state the reasons ?

(v) Is it a fact that the making of the appointments, with effect from a date in a year subsequent to 1919, caused loss to the Indians so appointed by reason of the conversion, with effect from the 1st January 1920, of part of the former pay of the Indian (Imperial) Police into overseas pay ?

(vi) Do Government propose to treat the persons appointed for purpose of pay as though they had been appointed in 1919 ?

THE HONOURABLE MR. J. CRERAR : (i) The announcement was made in a Communiqué issued on 21st November 1919. No notification was published in the Gazette.

(ii) None.

(iii) Fifteen appointments were made in 1920 under the terms announced in the Communiqué. I shall be glad to give the Honourable Member a list of these appointments, with the dates showing when they were sanctioned and when announced. The dates from which the appointments actually took effect are not readily available.

(iv) Appointments were not made in 1919 because the preliminary arrangements were not completed in time.

(v) A candidate appointed in 1919 would have been in a more favourable position as regards pay than the candidates appointed in 1920, but no candidates had a claim to appointment in the former or can be said to have suffered loss.

(vi) The answer is in the negative.

THE HONOURABLE MR. YAMIN KHAN : Are the Government of India aware that certain representations have been made by certain of the candidates in the United Provinces that they have not been getting the proper pay which they ought to have got if their appointment had been considered as made from 1919, as they were originally supposed to have been appointed, because their appointment was delayed up to the 2nd of February 1920 ?

THE HONOURABLE MR. J. CRERAR : I am not aware, Sir, that any such representations have been made. But a candidate is only entitled to emoluments with effect from the date on which he actually enters the service. The suggestion that he should be granted emoluments on a hypothetical basis which did not exist is to my mind untenable. A candidate is only entitled to emoluments paid from the public revenues when he discharges the duties in respect of which those emoluments are due. That appears to me to be a perfectly clear proposition.

THE HONOURABLE MR. YAMIN KHAN : Are the Government aware that persons appointed in 1920 are getting less pay than persons appointed in 1921 ?

THE HONOURABLE MR. J. CRERAR : It is certainly a fact that a change was made in the pay of the Police service during 1919 and 1920. Candidates who came in in 1920 did not obtain in certain respects in regard to overseas

pay concessions which they would have obtained had they been appointed in 1919. That is a fact.

THE HONOURABLE MR. YAMIN KHAN: I am not referring to the persons who get overseas allowance. I am referring to the persons who do not get overseas allowance. Are the Indian Superintendents of Police appointed in 1920 getting less pay than Indian Superintendents of Police who were appointed in 1921 because their period of officiating service was allowed to be counted along with their period of appointment? Is it a fact or not?

THE HONOURABLE MR. J. CRERAR: It is certainly a fact that certain Indian members of the Indian Police Service who were in that service in the year 1919 were allowed and are still allowed to draw overseas pay. At a subsequent stage the Secretary of State examined the basis on which overseas pay should be granted, and he decided that it should be granted on the basis of domicile. There were certain adjustments in consequence of that ruling, and the consequence has been, as the Honourable Member has pointed out, that Indian officers appointed to that service in 1920 did not obtain the benefits which would have accrued to them on the old basis if they had been, as they were not in fact, appointed in 1919.

THE HONOURABLE MR. YAMIN KHAN: Are the Government ready to redress this grievance so that the persons appointed in 1920 may get at least as much salary as the persons who got their appointments in 1921?

THE HONOURABLE MR. J. CRERAR: Government are not prepared to admit that there is any grievance. Officers appointed in 1919 certainly get a special benefit or privilege. Government do not propose to withdraw that privilege.

ELECTION OF THE EXTERNAL CAPITAL COMMITTEE.

THE HONOURABLE THE PRESIDENT: The Council will now proceed to the election of Members to serve on the External Capital Committee.

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): May I rise to a point of order? May I ask whether all the Members whose names appear on this paper have signified their willingness to serve on this Committee?

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay: Non-Muhamadan): I understand that the Right Honourable Srinivasa Sastri does not wish to serve.

THE HONOURABLE THE PRESIDENT: I must assume the fact that when they were proposed they had signified their willingness to serve.

THE HONOURABLE SIR ARTHUR FROMM: I took the point because the Honourable Mr. Lalubhai Samaldas has not been up here and his name appears on the paper.

(The Ballot was then taken.)

THE HONOURABLE THE PRESIDENT: The Council will now proceed with legislative business.

THE PROVIDENT FUNDS BILL.

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

"That the Bill to amend and consolidate the law relating to Government and other Provident Funds be taken into consideration."

At the stage of introduction I gave a fairly comprehensive account of the objects of this legislation and the main features of the Bill before the House. I do not therefore intend to detain the House unnecessarily by mere recapitulation. I will only call attention to the fact that probably the most important provision in the Bill is the institution of a new class of dependants. Under the existing law the widows and children of deceased depositors are protected in this manner that the account to the credit of the deceased depositor vests in them absolutely, that is to say, it does not form part of the deceased's estate. Subject to certain reservations we have extended the protection now allowed to widows and children to this class of dependants. The class of dependants has been defined on practically the same basis as has been adopted in the recently passed Workmen's Compensation Act. The dependants in that category, that is to say, those who are neither widows nor children of the deceased, will be protected except in respect of the assignments made before the commencement of the Act. As regards nominees the protection extended to them is more restricted, and is subject to the rights of third parties. The amount to the credit of the depositor does not vest in them as it vests in dependants. The monies so paid over to a nominee other than a dependant nominee will still continue to form part of the estate of the deceased depositor and any creditor of the deceased has his normal legal remedies against that portion of the estate. I do not think I need detain the House any further. There are questions of some importance which might probably be considered during the detailed consideration of the Bill. But that, Sir, is the most important new feature of the Bill in pursuance of the general principle of giving protection, so far as is reasonably consistent with the rights of third parties, to the dependants of depositors in the Provident Funds.

The motion was adopted.

Clauses 2 to 10 were added to the Bill.

The Schedule was added to the Bill.

Clause 1, the Title and the Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: I move:

"That the Bill to amend and consolidate the law relating to Government and other Provident Funds be passed."

The motion was adopted.

THE OBSCENE PUBLICATIONS BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): I move:

"That the Bill to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications, be taken into consideration."

[Mr. J. Crerar.]

I would again observe that in speaking at the introduction stage of this Bill I went fairly comprehensively into the genesis of the Bill and into its particular provisions. It is really a small Bill because the existing penal law in India approximated very closely indeed to the standard which the Conference considered proper. We accept however the proposition that specific legislation should be enacted to bring our law relating to obscene literature and obscene objects into strict conformity with this standard. We propose to accept the recommendation that, when an offence is committed in respect of a minor, there should be an enhanced punishment. We propose to accept the recommendation that in the matter of powers of search the authorities should be given similar powers in respect of obscene literature and obscene objects as exist in the case of materials used in forgery, counterfeiting of coins, etc., involving an amendment of section 98 of the Code of Criminal Procedure. The other amendments of the law contained in the Bill are purely consequential.

I move that the Bill be taken into consideration.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY (West Bengal : Non-Muhammadan) : There is just one matter which, though it may be considered a matter of detail, is probably one more of principles, to which I desire to draw attention. The Objects and Reasons set out among other things that cinema films are intended to be excluded. In clause 2 (a) the word "film" does not appear. Of course it may be covered by the term "other obscene object" in the clause. But, considering how important a part films play in the entertainment world now, probably it will be desirable to add the word "film" specifically there.

Then, Sir, I desire to draw attention to the repetition of the *Exception* to section 292 of the Indian Penal Code. That is a matter upon which we congratulate the framers of the Bill, because in a country like India, where there are so many diversified religious beliefs, it is necessary that an exception of this kind should be provided. The only thing which to my mind is a matter for consideration and to which I should like to draw attention is the use of the word "idol" occurring in the *Exception*. I know it finds a place in the previous *Exception* in the Indian Penal Code which was framed when people were not very particular about the use of the word. Now, however, the use of the word "idol" or "idolatry" is not looked upon in the same complacent fashion as it used to be before and those of us who are supposed to be idol worshippers or idolaters are beginning to take exception to that term which has come to be regarded as offensive. The substitution of the word "images" would probably meet the requirements of the case better.

THE HONOURABLE MR. J. CRERAR : Sir, I think the points raised by my Honourable friend are rather for detailed consideration, but, as he has raised them, I shall very briefly reply. With regard to the question of cinema films it is undoubtedly recognised, as my Honourable and learned friend pointed out, that there is no case in which action of the kind contemplated by the Bill is likely to be more necessary or more effective ; but that is a pure question of drafting and the words contained in sub-clause (a) of proposed new section 292 are of the widest description. The word "representation" will certainly

cover cinema films. We have been advised as a matter of fact in the course of drafting that it would cover cinema films.

As regards the other point raised by my Honourable friend, we have of course used the language of the Indian Penal Code. There is no intention, as I have explained on a former occasion, to modify in any fundamental way the substantive law relating to obscene productions. It has been suggested that we ought to attempt to define somewhat more closely what "obscene" means. That point was very fully considered, and it was decided that it was unnecessary and undesirable to do so. We do not propose to alter the substantive law in any material respect. We merely intend to extend it in the directions indicated by the Convention. I would be reluctant therefore to go back on the wording of the law which we do not in essence attempt to change and which has now been in operation for 60 years.

THE HONOURABLE MR. R. P. KARANDIKAR (Bombay : Non-Muhammadan) : I am happy to find that the expression "representation" is to include cinema. All educationists are agreed that great harm is done to the student world in consequence of cinema representations not being properly used. It is better that the law is invoked at once with reference to these cinema representations. When I turn to the *Exception* I see that representation is excluded. If it is meant thereby that it is only the representation mentioned in the body of the main clause that is excluded and not any painting nor any drawing nor any figure, I am led to think that perhaps it might occasion difficulty in the way of the construction of the clause, inasmuch as it is very likely that there may be paintings, there may be drawings and other figures which may be intended to be a part of things used for religious purposes. I am only inviting attention to the fact that the expression "representation" must not be limited to the actual wording appearing in the first part of section 292. It might include and ought to include all the paintings or drawings or figures provided they are for the purpose mentioned in the *Exception*. If it is covered I have nothing more to say, but if it is otherwise and if it is not to cover the cases of paintings, drawings, etc., used for religious purposes, then there must be more attention paid to the necessity of covering those cases. The point might be taken up as the Bill is considered clause by clause.

THE HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : May I ask, if I am in order, what becomes of these obscene publications after they are seized by the Government? I remember many years ago some obscene productions and cards were seized by the Bombay Customs House, which afterwards somehow came into public hands. I am only drawing the attention of the House to this matter.

THE HONOURABLE MR. J. CRERAR : As regards my Honourable friend's inquiry, the normal procedure, after the judicial purposes for which they were seized have been satisfied, is to destroy these representations. A certain number of them which are likely to be of permanent value are retained, but they are not open to the inspection of the public and are recorded in the proper department.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, 'Obscene Publications' be taken into consideration."

[The President.]

The motion was adopted.

(The Council then proceeded to the detailed consideration of the Bill commencing with clause 2.)

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces : Nominated Official) : May I know if the word "idol" is to be replaced by the word "image." ?

THE HONOURABLE MR. J. CRERAR : I tried to explain why we did not intend to make any change in the wording of the old *Exception*. But, as the matter is partly one of etymology, perhaps I may be permitted to remind my Honourable and learned friend and the Honourable Pandit that the word "Eidolon" in Greek and the word "imago" in Latin have precisely the same significance.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Sir, as the Honourable Member has taken the trouble of informing the House regarding the etymological and derivative meaning of the term, for which I am sure we are much obliged, he may have as well brought in "ikon" also.

THE HONOURABLE MR. J. CRERAR : I was merely reminding my Honourable friend and not endeavouring to inform him.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : But, Sir, these words have unfortunately meanings and a significance now attached to them that affects holders of some religious beliefs in a painful way, which my Honourable friend, belonging to what he would deem a reformed creed, cannot possibly realise. "Iconoclasts" had a terrific meaning in the past and "idolatry" has been steadily looked down upon in a way that those who are worshippers of images for their own reasons are not prepared to put up with. What was done 60 years ago is not necessarily good for society to-day, and religious feelings and beliefs and creeds change. If it is permissible, Sir, for me, and if the House and you will give me permission, I should like to move an amendment. Unfortunately I have not sent it in. But, if I have your leave and the leave of the House, I propose that the word "images" be substituted for the word "idols" in the *Exception*.

THE HONOURABLE THE PRESIDENT : If the Honourable Member wishes to move an amendment he must write it out and hand it in. It will then be seen whether it is in order.

(The written amendment was handed in to the Honourable the President.)

The Honourable Member desires to move as an amendment :

"that the word 'images' be substituted for the word 'idols' in line 4 of the *Exception* in clause 2".

Under the Standing Orders, if notice of a proposed amendment has not been given two clear days before the day on which a Bill is to be considered, any Member may object to the moving of the amendment and such objection shall prevail unless the President exercises his power to suspend this Standing Order and allow the amendment to be moved. Does any Member object ?

THE HONOURABLE MR. J. CRERAR: Sir, when I reminded the Honourable Member just now of the etymology of the word, I admit that he made a perfectly valid reply to me when he said that etymology does not always coincide with connotation; and with reference to the Honourable Member's proposed amendment I see much force in that contention. The word "idol," whether or not it has a connotation offensive to refined susceptibilities, certainly in its place in this Bill has a signification much more restricted than the word "image". If this amendment is accepted I must point out....

THE HONOURABLE THE PRESIDENT: What I asked was whether any Member objected to the admission of the amendment.

THE HONOURABLE MR. J. CRERAR: I was endeavouring to explain, Sir, why I did object to the admission of the amendment and why I propose to stand upon notice. My point is this, that if we accept this amendment, I think we shall be doing a very serious injury to the Bill. The word "image" without any limiting words suggesting that it is an image used solely and exclusively for religious purposes would permit objects of an undoubtedly obscene character without the slightest religious connection or significance to be carried about in cars.

THE HONOURABLE THE PRESIDENT: I take it the Honourable Member objects?

THE HONOURABLE MR. J. CRERAR: I object.

THE HONOURABLE THE PRESIDENT: The objection will prevail.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA: May I suggest, Sir, that instead of the word "images" the words "religious images" be substituted.

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): With your permission I would like to point out to the House that the *Exception* in the Bill is a verbatim reproduction of the *Exception* already in the Indian Penal Code and forms part of the statutory law of the land, and has been there for many decades. I do not see any reason why the Honourable Members should be so sensitive about it now.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1, the Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, it is hoped that the discussion on the Lee Commission's recommendations

[Sir Muhammad Shafi.]

will terminate in the Legislative Assembly by the end of the present week. Should those expectations be realized, a Resolution on this subject, of which the Honourable Mr. Crerar has given notice, will be moved and discussed on Monday, the 15th; and the discussion, if not concluded on that day, will be resumed on Tuesday, the 16th. On Friday, the 19th September, motions will be made that the Bill further to amend the Indian Post Office Act, 1898, for certain purposes, which has been passed by the Legislative Assembly and laid on the table in this Chamber, be taken into consideration and passed, and it is hoped that the Bill to amend the Imperial Bank of India Act, 1920, will be passed by the Legislative Assembly and laid on the table in this Chamber in time to permit of a similar motion being made with regard to that Bill.

• THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY :
On the 19th ?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI : Yes.

THE HONOURABLE THE PRESIDENT : Do I understand that it is not desired to hold any meeting on the 18th ?

THE HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI : That is the idea, Sir, if that proposal is accepted by the House.

THE HONOURABLE THE PRESIDENT : The Council now stands adjourned till 11 A.M. to-morrow morning.

The Council then adjourned till Eleven of the Clock on Thursday, the 11th September, 1924.
