

Tuesday, 15th February, 1927

**THE
COUNCIL OF STATE DEBATES**

VOLUME I, 1927

(8th February 1927 to 29th March 1927)

**THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927**



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COUNCIL OF STATE.

Tuesday, 15th February, 1927.

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

QUESTIONS AND ANSWERS.

ARMY IN INDIA RESERVE OF OFFICERS.

70. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state:—

- (a) whether the scheme for the Army in India Reserve of Officers has been successful in the provision of officers;
- (b) whether any adverse criticism has been received on the scheme;
- (c) the number of Indians who have taken advantage of the scheme; and
- (d) if the result so far achieved is disappointing as regards the anticipated number, what steps they intend taking in the matter?

THE HONOURABLE MR. H. G. HAIG: (a) Yes, Sir, progress so far has been satisfactory. The scheme was inaugurated in August 1926 and up to the 1st February, 1927, 379 officers and officers designate have been accepted for the Reserve.

- (b) None as yet, Sir.
- (c) Ten.
- (d) Does not arise.

THE PARASNIS COLLECTION OF HISTORICAL RECORDS AND PICTURES AT SATARA.

71. THE HONOURABLE SIR HAROON JAFFER: Will Government please state:—

- (a) what steps they have taken to retain the Parasnisi historical collection of records and pictures at Satara in this country;
- (b) whether the Government of India intend to secure the pictorial collection as a nucleus of a national gallery in New Delhi;
- (c) whether any part of that collection has already left India; and
- (d) whether arrangements will be made for the above records to be made available for all students?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH SAHIB BAHADUR: The whole matter is at present under the consideration of the Government of India.

SLAVERY CONVENTION.

72. THE HONOURABLE SIR HAROON JAFFER: Will Government please lay on the table the papers relating to the recent Slavery Convention, together with details of the objections raised by Sir William Vincent to signing Articles 2 and 8 of that Convention?

THE HONOURABLE MR. H. G. BAIG (*on behalf of the Honourable Sir John Thompson*): The information asked for by the Honourable Member is contained in the Final Report of the Delegation of India to the Seventh (Ordinary) Session of the Assembly of the League of Nations (1926), which was published in Part I of the Gazette of India, dated the 5th February, 1927.

DISCOVERY OF SILVER IN THE KANGRA VALLEY AND THE KULU VALLEY.

73. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state:—

- (a) whether it is a fact that a valuable vein of silver ore was recently found in the Kangra Valley and the Kulu Valley;
- (b) how this find has been verified; and
- (c) whether any steps have been taken to work it on a commercial basis?

THE HONOURABLE MR. A. C. MCWATTERS: (a) Inquiries made from the Geological Survey and the Local Government have failed to elicit any confirmation of the alleged discovery.

(b) and (c). Do not arise.

GRIEVANCES OF WORKMEN OF THE GREAT INDIAN PENINSULA RAILWAY REGARDING SERVICE GRATUITIES.

74. THE HONOURABLE SIR HAROON JAFFER: Will Government please state:—

- (a) whether their attention has been drawn to the grievances of workmen of the Great Indian Peninsula Railway regarding service gratuities;
- (b) whether foreigners are paid higher wages than Indians;
- (c) whether the Agent has been memorialised more than once;
- (d) what action he has taken in respect to the complaints; and
- (e) what action, if any, Government intend taking to redress these grievances?

THE HONOURABLE MR. G. L. CORBETT: (a) Government have not received any representation on the subject from the workmen of the Great Indian Peninsula Railway.

(b) to (e). If the Honourable Member refers to certain Chinese workmen employed on the Great Indian Peninsula Railway, I would refer him to the reply given to starred question No. 257 asked by Mr. R. K. Shanmukham Chetty in the Legislative Assembly on the 31st August, 1925.

If, however, the Honourable Member refers to Great Indian Peninsula Railway subordinates generally, I may inform him that there is no distinction as regards pay on racial grounds.

RESEARCHES BY A NORWEGIAN METEOROLOGIST REGARDING WEATHER FORECASTS.

75. THE HONOURABLE SIR HAROON JAFFER: Will Government please state:—

- (a) whether it has received authentic information from the Home Government as to the recent investigations by a famous Norwegian meteorologist regarding the possibility of weather forecasting; and
- (b) whether the results of those researches will be taken into consideration in the erection of the new meteorological observatory now under construction at Pcona?

THE HONOURABLE MR. A. C. MCWATTERS: (a) No; but the Meteorological Department is already fully informed on the matter, and a senior meteorologist of the Department was recently placed on deputation to Bergen in Norway to study the details of the method of weather forecasting in that country.

(b) Yes.

FORMATION OF AN EMPIRE PALACE OF ARTS IN LONDON.

76. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state:—

- (a) whether it has been approached with regard to the formation of an Empire Palace of Arts in London; and
- (b) whether it is Government's intention to participate in such a scheme along with the other Dominions?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH SAHIB BAHADUR: (a) and (b). Presumably the Honourable Member is referring to the forthcoming exhibition at the Imperial Gallery of Art, London, to be held from April to June 1927. The Government of India have been asked to participate in this exhibition and have issued a press communiqué explaining the arrangements which they have made for the selection of representative works of art by living Indian artists.

SETTLEMENT OF THE FAMILIES OF MOPLAH CONVICTS IN THE ANDAMANS.

77. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state:—

- (a) if it is a fact that the families of several Moplah convicts, who recently returned to their villages, have decided to accompany the convicts back to the Andamans to settle down permanently;
- (b) if so, how many such villagers are thus settling in the penal establishment;
- (c) under what conditions are they allowed to settle down; and
- (d) what special concessions, if any, are granted by Government?

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

(b) The number of free Moplahs, including men, women and children now residing in the Andamans with their convict relatives, is 846.

(c) and (d). I would invite the attention of the Honourable Member to the Home Department Resolution No. F.-184/24-Jails, dated the 4th October 1926, which was published in the Gazette of India of the 9th October 1926.

ACTION TAKEN ON RESOLUTIONS PASSED BY THE HISTORICAL RECORDS COMMISSION.

78. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state —

- (a) what resolutions have been passed during the past three years by the Historical Records Commission;
- (b) what action has been taken on each;
- (c) the cause of the delay in cases where no action has so far been taken; and
- (d) the total expense of this Commission during that period?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH SAHIB BAHADUR: (a) to (c). The Honourable Member is referred to Volumes VI, VII and VIII of the printed proceedings of the Indian Historical Records Commission which have been placed in the Library of this House. A summary of the Resolution passed with the action taken thereon will be found in Appendix A of each Volume.

(d) The total expenses of the Commission during the years 1923-24 to 1925-26 are as follows:—

	Rs.
1923-24	3,277
1924-25	2,577
1925-26	4,000 revised estimate. Actual figures are not at present available.
1926-27 Budget estimate	4,000 plus 2,000 for the historical exhibition in connection with the meeting of the Commission.

VISIT OF THE ROYAL COMMISSION ON AGRICULTURE TO ENGLAND DURING THE SUMMER.

79. THE HONOURABLE SIR HAROON JAFFER: Will Government be pleased to state:—

- (a) if it is the intention of the Royal Commission on Agriculture to make an official visit to England during the summer;
- (b) if so, what will the extra expense be;
- (c) when the final report of the Commission is to be expected; and
- (d) whether a progress report will be published when the Commission adjourns for the hot weather?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH SAHIB BAHADUR: (a) Yes.

(b) The visit to England will entail little, if any, extra expenditure as the cost of passages, etc., will be balanced by savings in allowances and

cost of establishment which would have to be incurred if the Commission stayed in India.

(c) It is not at present possible to state when the final report will be ready.

(d) The Commission as at present advised does not propose to publish any progress report.

MOTION RE ELECTION OF A PANEL FOR THE STANDING COMMITTEE ON EMIGRATION.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH SAHIB BAHADUR (Education, Health and Lands Member): I beg to move:

"That this Council do proceed to elect in the manner described in the Department of Education, Health and Lands Notification No. 114, dated the 7th February, 1924, a panel of 8 members from which the members of the Standing Committee to advise on questions relating to Emigration in the Department of Education, Health and Lands will be nominated."

Sir, it is not necessary for me to add any remarks in explanation of this motion. Honourable Members will remember that these elections have become an annual feature. The term of office of the members of this Committee which was elected last year will expire on the 24th of this month, and hence the necessity for fresh elections.

The motion was adopted.

MOTION RE ELECTION OF A PANEL FOR THE STANDING COMMITTEE TO ADVISE ON SUBJECTS IN THE DEPARTMENT OF INDUSTRIES AND LABOUR.

THE HONOURABLE MR. A. C. McWATERS (Industries and Labour Secretary): I beg to move:

"That this Council do proceed to elect in the manner described in the rules published in the Home Department notification No. F-49, dated the 22nd August, 1922, as amended by the Home Department notification No. D-794-C., dated the 30th January, 1924, a panel consisting of 6 members from which the members of the Standing Committee to advise on subjects in the Department of Industries and Labour will be nominated."

In this case also it is not necessary for me to add anything further to commend this motion to the House. The position is the same as was described by the Honourable the Leader of the House with reference to the last motion.

The motion was adopted.

MOTION RE ELECTION OF A PANEL FOR THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

THE HONOURABLE MR. G. L. CORBETT (Commerce Secretary): I move:

"That this Council do proceed to elect in such manner as may be approved by the Honourable the President a panel consisting of 8 members from which 6 shall be selected to serve on the Central Advisory Council for Railways, as provided for in clause 6 of the Resolution adopted by the Legislative Assembly on the 20th September, 1924, on the subject of the separation of Railway Finance."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: With reference to the three motions just adopted by the House, I fix for the nominations to the panels of the three Committees referred to in the motions Friday, the 18th February, up to the hour of noon. Nominations for the panels of the three Committees should be handed in to the Secretary of the Council before that hour.

HINDU FAMILY TRANSACTIONS BILL.

[REFERRED TO SELECT COMMITTEE.]

THE HONOURABLE MR. S. R. DAS (Law Member): I move that the Bill to provide that partitions and separations of interest among the members of Hindu undivided families, and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments, be referred to a Select Committee, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.

Since the Bill was introduced on the last occasion the Bill has been circulated and a number of opinions have been received on the provisions of the Bill.

There has been a certain amount of opposition expressed in the opinions received with regard to some of the transactions which under this Bill are required to be effected by written and registered documents. The grounds put forward for objecting to those matters will be considered in the Select Committee, and I would ask the House now to agree to the motion which I have made.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS: I move that the following members be nominated to serve on the Select Committee, namely:

The Honourable Mr. H. G. Haig, the Honourable Sir C. Sankaran Nair, the Honourable Sir Maneckji Dadabhoy, the Honourable Mr. Ramadas Pantulu, the Honourable Mr. Khaparde, the Honourable Lala Sukhbir Sinha, the Honourable Mr. Kumar Sankar Roy Choudhuri and the Honourable Mr. Manmohandas Ramji.

The motion was adopted.

INDIAN LIGHTHOUSE BILL.

[REFERRED TO JOINT COMMITTEE.]

THE HONOURABLE MR. G. L. CORBETT (Commerce Secretary): I move that this Council do recommend to the Legislative Assembly that the Bill to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India be referred to a Joint Committee of this Council and of the Legislative Assembly and that the Joint Committee do consist of 12 members.

I will first explain why I am taking the somewhat unusual course of moving that this Bill be referred to a Joint Committee of this House and of the Legislative Assembly. The lighting of the coasts is a matter in which shipping and commercial interests are primarily concerned. It is now the policy of the Government of India that

the lighting of the coasts should be self-supporting, and that the cost should be borne by light dues levied on shipping. It is, no doubt, ultimately in the interests of the general public that the coasts of India should be made as safe as possible for ships trading to and from Indian ports and along our coasts, but their interest is indirect. The principles of this Bill have been under discussion for a long time, and it is believed that they are generally acceptable. But the details require careful consideration in consultation with the representatives of commerce and shipping, who will have to pay the cost. There are representatives of shipping and commerce in both Chambers of the Legislature. And if the principles of the Bill are accepted, I think that the most satisfactory and expeditious way of getting the details settled will be to discuss them in a Joint Committee of both Chambers, on which the interests primarily shall be fully represented.

I think I can best explain the need for this Bill by giving the House a brief account of the present system of lighthouse administration in India, by indicating its defects, and then by showing how the defects will be remedied or removed by the Bill. The subject is rather technical, and I will try not to bore the House too much. I can only hope that Honourable Members are not altogether insensible to the call of the sea.

The present system of lighthouse administration in India, as in some other countries, has grown in a haphazard sort of way as necessities have arisen. The result has been a series of local arrangements, with varying methods of administration and finance, operating independently of one another, without any co-ordinating scheme or control. Starting from the west, we have the two lighthouses on the Island of Perim, at the southern entrance of the Red Sea, which are administered by the Political Resident of Aden, through the Port Officer, Aden. The whole cost of these lights is borne by the Government of India from central revenues, and nothing is paid by shipping.

Next come the lights of Aden, which are administered by the Aden Port Trust. The cost is borne partly by the Port Trust and partly by central revenues. Here again nothing is paid by passing trade which uses these lights.

The coast lights of Sind are administered by the Government of Bombay through the Commissioner in Sind and the Port Officer, Karachi, and are financed from light dues, levied under the Sind Coast-lights Act, on all ships which arrive at, or clear out of any port in, Sind. Dues are collected by the Customs authorities in Sind and paid into central revenues, and expenditure is met by grants from the Central Government.

Next come the Indian States of Cutch and Kathiawar. On their territory, there are lighthouses of great importance to passing trade, notably Dwarka Point and Diu Head. These lights are administered and financed by the Darbars, and nothing is contributed by passing trade.

In the Bombay Presidency proper, apart from the lights of Bombay port and its approaches, which are under the control of the Port Trust, all lights are administered by the Government of Bombay through the Collector of Salt Revenue, and they are financed from the somewhat scanty resources of the Bombay Minor Ports Funds. Nothing is contributed by passing trade which uses the lights but does not call at any minor port.

[Mr. G. L. Corbett.]

In the Madras Presidency a more effective and equitable system has been developed. All lights in the Madras Presidency, and also the coast lights in the Southern Indian States, are administered by the Government of Madras through the Presidency Port Officer. And all coast lights, both in British India and in State territory, are financed from light dues levied under the Madras Coast-lights Act. There are separate dues for the western and for the eastern groups of lights; and dues are collected by the Customs authorities at any port in British India other than Aden, and are thus levied on passing trade as well as on ships calling at ports in Madras. All dues, wherever collected, are credited to a separate Madras Coast-lights fund, which is self-supporting.

On the Orissa coast, there is only one light of any importance, namely, at False Point. This is administered by the Government of Bihar and Orissa and financed by grants from central revenues.

In Bengal, the lights fall into two groups,—the lights of the Hooghly and its approaches, and the lights of Chittagong and its approaches. The former are administered and financed by the Calcutta Port Commissioners. The latter are administered by the Chittagong Port Commissioners, who receive a grant from the Burma coast-light dues for the light vessel at South Patches outside the entrance to the port.

The lights along the Burma coasts and at the entrance of some of the Burma ports are administered by the Government of Burma, and should be financed from light-dues levied under the Burma Coast-lights Act, which are collected by the Customs authorities at any port in British India, including Aden, and are thus levied on passing trade as well as on ships calling at Burma ports. Dues wherever collected are credited to central revenues, and expenditure is met by grants from the Government of India. The accounts, when shown on a commercial basis, do not balance, and a substantial annual deficit is being made good from the general revenues of the Government of India.

The defects in the present system are both administrative and financial. Lighthouse engineering is a science which is developing and improving very rapidly. It is a far cry from the old fashioned oil lamp to modern acetyline lights and wireless direction giving signals. And modern developments are directed towards cheapness and economy as well as efficiency of service. Up-to-date technical supervision is required to enable India to take advantage of these developments. But the Local Governments and local administrations, which are now each responsible for a section of the coast, cannot individually afford the necessary technical staff. Again, with the greater range of lights and signals and the greater speed of ships, the lighting of a coast can no longer be treated in local compartments, but should be conceived as a whole, so that adjacent lights do not clash. Each station should have its appropriate and distinctive place in a single system for the protection of the coast line.

The financial aspect of the present system is also unsatisfactory. It has been seen that the cost of lighting considerable sections of the coast is not borne by light-dues at all, but is a charge either on central revenues or on local port funds. And even where light-dues are levied, they are sometimes not enough to cover the cost of the lights for which they are

intended to provide. As I have already said, it is the policy of the Government of India that lighthouse expenditure should be covered by dues levied on shipping. But if the present system of administration continues, it is certain that effect cannot be given to this intention without a substantial enhancement of existing dues, and the imposition of additional dues where nothing is now being paid. There are also obvious difficulties of assessment, collection and accounting in a system of numerous local light-dues, which are frequently paid at distant ports and must then be transmitted to the local lighthouse authority.

The remedy for these defects lies in the Devolution Rules framed under the Government of India Act, under which lighthouses are a central subject. The old system of local administration has hitherto continued under the agency provisions of the Government of India Act. It is now proposed that the lighting of the coasts of India should be administered as a single unit under the direct control of the Central Government, and the object of this Bill is to vest in the Governor General in Council the statutory powers necessary for the discharge of his constitutional responsibilities.

The organisation which is proposed is outlined in the Statement of Objects and Reasons. All lighthouses will be classified as general (that is, coast) lighthouses, or local (that is, port) lighthouses. The superintendence and management of all general lighthouses will be vested in the Governor General in Council. Local lighthouses will be administered by a local authority, which will ordinarily be a port authority. Certain powers of inspection and control over local lighthouses are reserved to the Governor General in Council, as being the general lighthouse authority.

For the purposes of lighthouse administration, it is proposed that the coasts of India should be divided into districts based on the major ports. The Port Officer of the major port would ordinarily be the Superintendent of Lighthouses in the district, and would be in executive charge of the general lighthouse administration within his jurisdiction. For technical supervision, the Bill provides for the appointment of a Chief Inspector of Lighthouses in British India, and also for the appointment of District Inspectors, who would be engineers with practical experience of lighthouse engineering.

For finance, the Bill provides for the levy of light-dues on every ship arriving at, or departing from any port in, British India, subject to a maximum of two annas per net register ton, and subject also to a periodical limit of thirty days. It is intended that dues should ordinarily be a flat-rate, and should not take into consideration the exact number or the exact cost of maintenance of the particular lights which each ship passes. I need not here examine the respective merits of the so-called flat-rate system and the toll system of assessment. The former is administratively far more convenient, and in practice not less equitable. Provision, however, is made for a lower scale of dues for exceptional voyages on which very few lights are passed. This provision is necessary for ships, for instance, which call only at Aden, and which might be diverted altogether if they were compelled on calling there, to pay the full rate of Indian light-dues.

Provision is also made for the complete exemption, according to existing practice, of Government ships and of all ships under thirty tons.

[Mr. G. L. Corbett.]

It has been roughly estimated, on the figures available, that the total cost of the proposed administration, including overhead charges, will be covered by a flat-rate of $1\frac{1}{2}$ annas per net register ton. In addition to this, it will be necessary to make provision for depreciation and reserve. This cannot be exactly calculated until a valuation of present assets has been made. This valuation is now being undertaken. We have been so fortunate as to secure for this purpose the services of Mr. Alan Stevenson, a member of the distinguished Edinburgh firm who act as Engineers to the Commissioners of Northern Lighthouses. Mr. Stevenson is now touring the coasts of India, and he will be in a position during the early summer to furnish us with a valuation of our present assets, and a general appreciation of our requirements.

The Bill further provides for the maintenance of a separate account of lighthouse receipts and expenditure, and it is intended that this account should be maintained on commercial lines, showing that expenditure is covered by dues, and that receipts from dues are spent on lighthouse services. The Bill also provides for the appointment of a Central Advisory Committee, which will consist of persons representing the interests affected or having special knowledge of the subject. This Committee will correspond in constitution and functions to the Advisory Committee on New Lighthouse Works in the United Kingdom. The annual accounts and budget will be placed before it, and it will be asked to advise on new works, the position and character of existing lighthouses, the rates of light-dues, rules, and on the lighthouse system generally. District Advisory Committees to advise on local questions may also be appointed, if desirable.

There is only one other point in the Bill to which I need refer, and that is its extent. As explained in the Statement of Objects and Reasons, the Bill extends to the whole of British India, which is the limit of the legislative power of the Indian Legislature. But the wording has been framed so as to permit the expenditure of light-dues levied in British India on lighthouses beyond the limits of British India. I need not explain here in detail the terms and conditions on which the Government of India already administer the island lighthouses at the southern end of the Red Sea, the Persian Gulf lights and the lights in certain Indian States. Nor need we consider now the terms on which we might possibly be invited to administer the Ceylon coast lights, the Great and Little Basses, and the important lighthouse on the little island of Minicoy, between the Maldives and Laccadives, which is picked up by every ship passing between Aden and Colombo. All I wish to say now is, that there is no intention whatever of making these lights a charge on those ships only which call at Indian ports. Such shipping will not be asked to pay more than a fair share of the cost, and satisfactory financial arrangements in respect of other shipping will be required before our liabilities are in any way extended. I may say here that we now have an arrangement with the Government of Iraq for the levy of light-dues at Basra for the Persian Gulf lights, which is in every way satisfactory.

In conclusion, I should explain that this Lighthouse Bill should be regarded as the first instalment of a larger scheme for the transfer of the administration of the Shipping Acts and of mercantile marine affairs generally from the Local Governments to the direct control of the Commerce Department of the Government of India. The intentions of the Government of India in this matter, as Honourable Members are aware, were

announced by His Excellency the Viceroy at Cawnpore in December last. Thus the Chief Inspector of Lighthouses, for which this Bill provides, will not be an isolated appointment. He will be a member of the small staff of technical advisers, with which the Commerce Department will be equipped to enable it to undertake this important extension of its duties.

When launching this large scheme of administrative reorganisation, I cannot refrain from gratefully acknowledging the assistance that I have received in working out the general principles of the scheme and in filling in the details. As stated in the Statement of Objects and Reasons, this Bill is based on the sound principles of the Merchant Shipping Acts, and the Board of Trade and the Elder Brethren of Trinity House have freely given us their invaluable help and advice. In India, the whole question has been fully discussed with the maritime Local Governments, with Port Trusts, with Chambers of Commerce and representatives of Shipping Companies, both British and Indian, and all have been most helpful. Every effort has been made to consult all authorities and interests concerned, and this Bill, which is the first fruits of those deliberations, will, I hope, receive general support.

I now move that the Bill be referred to a Joint Committee of this House and of the Legislative Assembly. I may explain that it is not desired to hurry through the proceedings of the Joint Committee. It would obviously not be advisable to come to a final decision on all details until we have Mr. Stevenson's Report before us. Sir, I move.

THE HONOURABLE THE PRESIDENT: The question is:

"That this Council do recommend to the Legislative Assembly that the Bill to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India be referred to a Joint Committee of this Council and of the Legislative Assembly, and that the Joint Committee do consist of 12 Members."

The motion was adopted.

INDIAN FOREST BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move that the Bill to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce be taken into consideration.

This Bill was introduced at a previous Session by Mr. Raza Ali who was a Member of the Statute Law Revision Committee which had prepared the Bill. On that occasion Mr. Raza Ali fully explained the objects of the Bill, and, as Honourable Members will remember, the Bill is intended merely to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce. It is not intended to make any alteration in the law relating to those matters as it at present prevails, but merely to bring together the different provisions in the different Acts and to consolidate them. The Bill has been circulated, and I now move for consideration of the Bill. As Honourable Members will have noticed from the agenda paper, I shall have to move certain amendments if this motion is accepted by the House, but those are more or less merely drafting amendments. I move, Sir, that the Bill be taken into consideration.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I think that the Bill has not received such consideration as it ought to, having regard to the very important provisions embodied therein. It is true, as the Honourable the Law Member has stated, that the measure introduced by Mr. Saiyid Raza Ali is essentially a consolidating measure. But the Indian Forest Act was passed in 1878, that is half a century ago, and since then it has been found to be defective in very many particulars, and its working has given rise to a great deal of hardship to the poor agriculturists who happen to be residents of villages near the forest areas or owners of lands adjoining the forests; and the "forest" grievances are grievances which are well known to all people who are interested in the agricultural population of this country. The Bill, I think, has not received that measure of due consideration at the hands of those whose rights are affected and also of the public in general. Since Mr. Raza Ali introduced it in August 1926 of the Simla Session, I do not think that much has been done to elicit the opinion of persons interested in examining the measure carefully.

I find, Sir, that this Bill is a very drastic one notwithstanding the fact that it is a consolidating measure. I will only refer to two or three provisions because I do not wish to enter into any detailed discussion of the provisions of the Bill. If the House will kindly refer to clause 6, the House will find from clause (c) that the Forest Settlement Officer may fix a period of three months within which persons having rights in forest lands are to make their claims, and if they do not make the claim within three months, clause 9 says that the rights are extinguished. If persons do make claims, the person who is to investigate the claims is the Forest Settlement Officer, an executive officer of the Government, and all private rights, however valuable they may be, have got to be decided upon by him alone. Against his decision an appeal is provided by clause 17, which says that the appeal shall be presented to an officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner. The proviso says that the Local Government may, by notification in the local official Gazette, appoint a forest court consisting of three members to hear appeals from such orders. The proviso does not however say that the persons to be appointed are to be judicial officers; the Government may appoint Deputy Collectors or other executive officers. They may be merely executive officers of the Government to hear appeals against the order of another executive officer of the Forest Department. Clause 25 says that the Forest Officer may stop any public or private way or water-course in a reserved forest and so on. I also find that the Bill takes away the jurisdiction of civil courts over very important matters. If you turn to clause 69 you will find a very curious provision. When a man is prosecuted or proceeded against for being in possession of what the Government considers to be "forest produce", the clause lays down:

"When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce *shall* be presumed to be the property of the Government until the contrary is proved."

and the man has got to make out his innocence. And what is forest-produce? It includes:

"The following, whether found in or brought from, a forest or not, timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish . . ."

and so on—things which may be found in the possession of any person. If I am found in possession of charcoal or timber or things of that kind,

there is nothing to prevent the Government from running me in and asking me to prove my innocence and that it is not forest produce, except probably the fact that I am a Member of the Council of State. These are very drastic provisions, and an archaic law which was enacted in the year 1878, half a century ago, does require very careful revision when it is again placed permanently on the Statute-book in a consolidated form. Since the Forest Act was enacted various village-panchayat organisations have been working and the people are now familiar with the working of the forests; these and other things have not been taken into consideration in consolidating this Bill. I therefore very respectfully move for an adjournment of this question for a short time to enable the House to consider it more carefully or, to enable the Honourable the Law Member, if he is so inclined, to refer it to a Select Committee and bring it again before the House. I am sure that the Bill in its present form will not find acceptance in the other Chamber. I have not ventured to bring forward any amendments in this Council because I felt, and my feeling was one of very great depression, that in this House any amendment which the Government opposes has not the slightest chance of being passed. Owing to that feeling of helplessness, to which I own with some amount of humiliation, I have not done so. But at the same time I must request the Member on behalf of Government to see that the Bill does not go from this House in a form which is sure to evoke a large measure of opposition in the popular Chamber. We ought not, I think, to deal with a measure of this importance which affects the weal and the prosperity of a large section of agriculturists in this unsatisfactory manner. After all, the Government will not lose much by agreeing to this course because there is the Indian Forest Act in force and this is only a consolidating measure, as the Honourable Member himself put it, and there is no hurry for it. Therefore I would appeal to my Honourable friend to consent to an adjournment of the discussion for a short time to enable him to bring the Bill before a Select Committee or to give us more time to consider this matter. If he so desires he may bring up the Bill at a later date in this Session, some time in March, so that we may consider the measure a little more carefully. I do not wish to say more by way of detailed criticism, because I think it is out of place on a motion like this, and therefore I once more earnestly appeal to the Honourable Member in charge to give us a little more time to consider over a measure of this great importance.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Though I admit that I am in some sympathy with many of the observations made by my Honourable friend, Mr. Ramadas Pantulu, I am still unable to see the relevancy of his remarks on this occasion. The object of the present Bill is only to bring the existing laws within the scope of one single enactment. It is a purely consolidating measure. It brings the various Acts, which have been passed from time to time since 1878, within the scope of one Statute. I quite appreciate that many of the provisions of these various enactments which are about to be consolidated by this Bill are in some way or other unsuitable or objectionable. We may find fault with some of the provisions of this Bill, but that point is not affected by this enactment. There is nothing to prevent my Honourable friend Mr. Ramadas Pantulu, after this Bill has been passed, from bringing in an amending Bill asking for the amendment of certain provisions of this Bill which are defective, unsuitable to the present times, unnecessary or unjust in his opinion. But I do not see any force in his

[Sir Maneckji Dadabhoy.]

plea for the postponement of this measure at this stage or reference to a Select Committee, because this is a Bill which is purely of a consolidating character. Honourable Members will have abundant opportunities of bringing in private Bills for the purpose of amending the unreasonable provisions, if any, of this Bill, and I do not see that there is any force in his argument for the adjournment of the consideration of this Bill. My Honourable friend has also complained of want of adequate time. This Bill was brought forward by my Honourable friend, Mr. Raza Ali, last August in the Council of State. Surely the many months that have passed since that occasion were in all conscience quite enough for the consideration of this Bill or any other relevant matter connected with this measure.

THE HONOURABLE SIR C. SANKARAN NAIR (Madras: Non-Muhamadan): Sir, I support this request for adjournment for a short time, or if that is not possible, I would ask my Honourable friend to consider whether he cannot see his way to refer the Bill to a Select Committee. At first I was under the impression that the Bill does not apply to Madras, because in terms it does not and applies only to the rest of India under clause 1. But I find that there is a provision in the Bill itself which says:

"The Local Government of any other province may, by notification in the local official Gazette, extend this Act to the whole or any specified part of the province."

It at once takes away the whole force of the argument that this is a consolidating measure, because the Madras Act passed after the Act now being repealed is materially different from this Bill in many particulars. It is different, and where it is not different, where the provisions are practically one and the same, then those provisions have been found in practice to work great hardship and therefore they require consideration. I own that I would have moved amendments if I had felt at first that this Bill may be operative in the Presidency of Madras also.

I will just draw the attention of the Honourable the Law Member to some of the provisions of this Bill which in practice I have found—because I have worked the Madras Act whose provisions are very similar in many respects to those of this Bill both at the Bar and on the Bench—to work hardship. First of all, when the Forest Settlement Officer proposes to act, he issues not a notice to the individuals but a notice generally to the villages in the neighbourhood. I am speaking with particular reference to Malabar where it has been worked—it is a hill country and there are forests extending miles and miles north and south, east and west. You may issue a notice to the villages in the neighbourhood of a tract of forest, say five miles to 10 miles, and 6 miles to 8 miles. The result very often is that it does not reach the owners. There are Maharajahs and Rajahs who own these tracts all round and very often they have found themselves after three months' time deprived of their right. Then it is within three months' time that all the objections have to be put in. Very often there are minors. A still greater hardship is this. The Forest Settlement Officer is to inquire into the case. He is not bound by the rules of the Civil Procedure Code. The trial is not carried on—I speak from experience—in accordance with the provisions under which trials are held in the civil courts. The whole thing is a gross confusion, and the result of that is that pleaders who appear before him do not know where they are. They do not know the documents which have been filed in the court. They do not know the

documents which have been filed on behalf of the Government, and they do not know the documents and exhibits which have been filed by the various parties. For there are often many conflicting claims. The result of that is that the inquiry is imperfect. Now comes the great distinction. In Madras the appeals from the Settlement Officers do not lie to any revenue officer. They do not lie to the Collector or Deputy Commissioner. They lie to the District Judge. Now if this Bill is extended to Madras it takes away that very great and valuable right of trial by a judicial officer. The result will be that it will go to a Collector. I would say that the provision which allows an appeal from a Settlement Officer to a judicial officer, namely, the District Judge, is the right provision and it ought to be the provision for all India. One of the reasons why I am asking the Law Member to refer the matter to a Select Committee is, that it is probably not a case for amendments because I do not know the conditions in the other provinces. Now, after the appellate officer has decided the appeal from the order of the Settlement officer, it may go under this Bill to the Governor in Council whose decision shall be final. There again in Madras, it is not so. After a good deal of doubt, the High Court in Madras have held that they are empowered to receive a second appeal. That is certainly opposed to the provisions of this Bill. I should like the Select Committee to consider that also. I would also suggest to the Law Member whether it is not far better to have the provisions of the Madras Act incorporated in this, that is to say, the appeal from the Settlement Officer to lie to the District Judge and from the District Judge to the High Court. Even the first decision of the Settlement Officer is not satisfactory. All the High Courts in India have pointed out the great difficulties in settling rights relating to waste land and forest land. The presumption of ownership and possession is an extremely difficult question in connection with waste land and forest land. I venture to put it to the Law Member whether these are not questions that could be threshed out in the Select Committee. In Madras we have wanted to go further. We wanted that the decision of the Forest Settlement Officer should only be a preliminary summary trial. All these are very important matters which could be settled by the Report of the Select Committee. I put it to the Law Member whether it will not be the right thing to refer the matter to the Select Committee, even if he cannot see his way to adjourn the discussion.

THE HONOURABLE MR. S. R. DAS: I regret very much that I am not able to comply with the request of the Honourable Mr. Ramadas Pantulu and Sir Sankaran Nair either for adjournment or for referring the matter to a Select Committee. I should like to make it clear, however, that I say so not because I do not think that the observations which have fallen from them are not worthy of consideration. On the contrary, what they have stated shows that probably the Forest Acts require revision like many other old Acts, such as the Transfer of Property Act, the Contract Act, and so on. But I would like to point out that there is no question of revision in this Bill. What we are putting forward is merely a consolidating Bill. If this Bill were not put forward, the law would remain exactly as it is, and it is not intended by this Bill to alter or revise the law as it now stands. It is only for the purpose of getting together the provisions of the different Acts and different enactments.

THE HONOURABLE SIR C. SANKARAN NAIR: Would you not apply this to Madras?

THE HONOURABLE MR. S. R. DAS: I will only point out that sub-clause (3) of clause 1 to which the Honourable Sir Sankaran Nair referred is merely a re-enactment of section 2 in Schedule I of Act XXXVIII of 1920. The provision that the Local Government of any province may, by notification in the local official gazette, extend this Act to the whole or any specified part of the province is not a new provision. It is a provision which now exists. There is nothing new in this. My friend Mr. Ramadas Pantulu pointed out that there are many objectionable features in this Bill and that it may not be accepted by the other House. The effect of that will be not to change the law but to leave it as it stands now in different Acts. All that we are trying to do is to bring together the various provisions. A Select Committee for the purpose of revising the laws as it now stands would not be in conformity with the object of this Bill, which is merely consolidation. As I said, I do not want to repeat myself; it may be that the laws relating to forests seriously require revision and I have no doubt that if a Resolution is moved in this House that the Act should be revised, the matter will be seriously considered by the Government, but it does not arise on this Bill. I would therefore make it clear that if I cannot agree to adjourn the matter or the matter being referred to a Select Committee, it is not because Government thinks that the Act does not require revision, but that they are not relevant so far as the present Bill is concerned, which is merely consolidation.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: I shall put the clauses in groups and if any Honourable Member wishes to speak on any particular clause, I hope he will stop me when I mention the number of the clause.

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

THE HONOURABLE MR. S. R. DAS: I move that in clause 6 for the words "the vernacular" the words "the local vernacular" be substituted.

This is merely a drafting amendment to make it quite clear that it is the vernacular of the particular district.

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clauses 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 17.

THE HONOURABLE MR. S. R. DAS: Sir, I move as an amendment that 12 noon. in clause 17 the words "or Deputy Commissioner" be omitted.

This is again a mere drafting amendment because under the General Clauses Act the Collector includes a Deputy Commissioner.

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clauses 18, 19 and 20 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 21.

THE HONOURABLE MR. S. R. DAS: Sir, I move as an amendment that in clause 21 for the words "the vernacular" the words "the local vernacular" be substituted for the reasons which I have already mentioned.

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clauses 22, 23, 24, 25, 26, 27, 28, 29 and 30 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 31.

THE HONOURABLE MR. S. R. DAS: Sir, I move as an amendment that in clause 31 the words "of the district" be omitted, and for the words "the vernacular" the words "the local vernacular" be substituted.

The words "of the district" are unnecessary. The clause runs:

"The Collector of the district shall cause,etc."

It is unnecessary to use the words "of the district" and that is why I am moving this amendment.

The motion was adopted.

Clause 31, as amended, was added to the Bill.

Clauses 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, and 86 were added to the Bill.

The Schedule was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 1.

THE HONOURABLE MR. S. R. DAS: Sir, I move as an amendment that in sub-clause (2) of clause 1 for the words and brackets "(except the District of Hazara), and the Central Provinces" the words and brackets "the Central Provinces and the North-West Frontier Province (except the District of Hazara)" be substituted.

The sub-clause as it stood was:

"That it extends to Bombay, Bengal, Bihar and Orissa, the United Provinces, the Punjab (except the district of Hazara), and the Central Provinces."

The District of Hazara as a matter of fact is not in the Punjab now although it was when the original Bill was passed, but is a part of the North-West Frontier Province. It is to make that quite clear that this particular amendment is moved.

The motion was adopted.

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

The Title and Preamble were added to the Bill.

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

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, in supporting this motion of the Honourable the Law Member I merely wish to remind Honourable Members of this House that this is no new departure. We have had Bills before to consolidate various Acts

[Sir Arthur Froese.]

and we have found that such action on the part of Government has been most helpful. I refer, Sir, to the Indian Merchant Shipping (Consolidation) Bill and also the Indian Succession (Consolidation) Bill. The Indian Merchant Shipping (Consolidation) Bill comprised Acts which dated back over 50 years, and it was of the greatest advantage to have all those old Acts consolidated into one Act. I would point out to my Honourable friends Mr. Ramadas Pantulu and Sir Sankaran Nair that the object, as I understand it, of Government on this occasion is to adopt a similar procedure. Now, Sir, if I wanted to amend any of the Indian Forest Acts,—suppose I had half a dozen amendments,—I would much rather bring forward an amendment motion dealing with one Act, whereas, but for the Bill now before us, I might have had to bring in several Bills to amend the various Acts now existing. I contend that there is nothing sinister in the action of Government in bringing in this very useful measure.

THE HONOURABLE THE PRESIDENT: The question is:

“That the Bill to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce, as amended, be passed.”

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 16th February, 1927.