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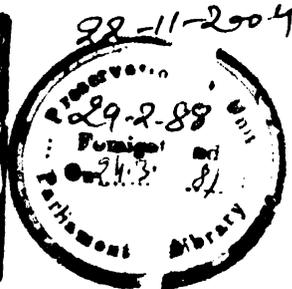
(9th July to 18th July, 1930)

NINTH SESSION

OF THE

SECOND COUNCIL OF STATE, 1930

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COUNCIL OF STATE.

Thursday, 17th July, 1930.

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

QUESTIONS AND ANSWERS.

RECOMMENDATIONS OF THE FORESTRY COMMITTEE.

114. THE HONOURABLE SIR PHIROZE SETHNA : Have Government taken any decisions on the recommendations of the Forestry Committee ? If they have, are they prepared to give an opportunity to this House to discuss the proposed reorganisation scheme before it is put in force at the Forest Research Institute, Dehra Dun ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : The report of the Forestry Committee covers wide ground and includes a large number of recommendations, some of which relate to important points of principle, while others are of comparatively minor importance. It was received by the Government of India in May, 1929 and has been under consideration since. Some of its suggestions have actually been carried into effect, a decision has been reached as regards others, while a few points are still being considered.

TRANSLATION OF THE REPORT OF THE INDIAN STATUTORY COMMISSION INTO FOREIGN LANGUAGES AND THE VERNACULARS OF INDIA.

115. THE HONOURABLE SIR PHIROZE SETHNA : (a) Has the attention of Government been drawn to Reuter's telegram, dated London, June 30th, in which the Secretary of State is reported to have stated that the translation of the Simon Commission Report into foreign and the principal Indian languages is being considered ?

(b) In what different foreign and Indian languages is it proposed to translate the Report ?

(c) Has any estimate of the cost been arrived at ?

(d) Will the cost be borne by the Government of India or by them and the Home Government and if the latter, in what proportions ?

THE HONOURABLE MR. H. W. EMERSON : (a) Yes.

(b) No information has reached the Government of India regarding the foreign languages, if any, into which the Secretary of State may propose to have the Report of the Indian Statutory Commission translated. The Government of India do not propose to make any official translations of the Commission's Report in any of the Indian vernaculars. Their view is that such translations are best left to private enterprise. Applications received from private translators will be freely granted subject to conditions which will ensure the accuracy of the translation.

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

INDIAN LAC CESS BILL.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce Secretary): I beg to move that the Bill to provide for the creation of a fund for the improvement and development of the cultivation, manufacture and marketing of Indian lac, as passed by the Legislative Assembly, be taken into consideration.

Under the existing Lac Cess Act, which was passed in 1921, a small cess is imposed upon the exports of lac and the proceeds, after deducting the cost of collection, are paid to the Indian Lac Association for the purpose of being spent on the promotion of improved methods of manufacture and cultivation. The expenditure is actually controlled by a Committee of the Lac Association which at present consists of three representatives of Calcutta shippers, two of Indian manufacturers, two of Indian brokers, one of European manufacturers and one of European brokers. The Association has established a Research Institute near Ranchi in Bihar and Orissa, at which a considerable amount of valuable work has been done in regard to the discovery of suitable host trees for the lac insect, the cultivation of the best types of lac and the prevention of parasites which destroy lac.

The attention of the Royal Commission on Agriculture was drawn to the question of research into problems affecting lac, and in their report they emphasised the importance of bringing together all the various interests in the lac industry somewhat on the lines of the Indian Central Cotton Committee, and they further recommended that the body entrusted with the control of the proceeds of the lac cess should include nominees of the Government of India and of the Government of Bihar and Orissa and an official representative of the interests of the cultivators.

In August, 1929 the Government of India received a communication from the Indian Lac Association in which they said that the Committee of the Association had for some time past felt that they are not in a position to control effectually and to the best advantage the future conduct of research in the lac industry, and in particular they felt their inability to carry the result of the research home to the cultivator. They went on to say that the industry is unlikely to recommend a continuance of the Act in its present form after 1931 and suggested that the Government of India should take steps to effect a thorough organisation of the whole scheme of research so as to bring it under effective Government control and so that the organisation at the disposal of Government, an organisation which the Lac Association did not possess, might be used to improve the present methods of cultivation and manufacture. At the same time they said they thought the trade would not be averse to the continuance of the cess on the understanding that the funds were utilised for the attainment of the objects in view.

The export trade in lac is of considerable importance. The value of the lac trade during 1929-30 was in the region of seven crores of rupees. The competition of synthetic substitutes is becoming keener and if this important trade, which provides for the agriculturist a subsidiary occupation throughout a large area, is to be maintained, it is essential that improvements in cultivation and manufacture should be effected.

In these circumstances it appeared clear to the Government of India that they must take steps to place the administration of the lac cess fund on a more permanent and satisfactory footing. A Bill was accordingly drafted,—the Bill is practically the same as that now before the House. The Bill was circulated to the Local Governments concerned and all without exception accepted the principles underlying the Bill and limited their criticisms to matters of detail.

The Bill is largely modelled on the provisions of the Cotton Cess Act, and there are, I think, only two points to which I need draw the attention of the House. First, the proceeds of the cess will, as in the case of the Indian Cotton Cess, be entrusted to a statutory committee which will include not only representatives of manufacturers, shippers and cultivating interests, but will also, as recommended by the Royal Commission on Agriculture, include technical experts in the employ of the Government of India and the Government of Bihar and Orissa. Secondly, as recommended by the Royal Commission, the objects to which the proceeds of the cess may be applied have been extended so as to include the investigation of marketing methods and promotion of sales. The Bill, Sir, is, I believe, entirely non-contentious and has met with very general approval.

Sir, I move.

The motion was adopted.

Clauses 2 to 12 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. A. WOODHEAD: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

(INSERTION OF NEW SECTION 85A.)

THE HONOURABLE SIR ARTHUR McWATTERS (Finance Secretary): Sir, I beg to move that the Bill further to amend the Negotiable Instruments Act, 1881, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Sir, this Bill deals with a small but somewhat technical point of law. The object of the Bill is to make it clear that the Indian law gives to bankers the same protection in respect of drafts drawn by one office of a bank upon another as the law gives in the case of cheques and bills of exchange. In the English law this protection is explicitly given by section 19 of the Stamp Act. In India bankers have to rely solely upon section 85 of the Negotiable Instruments Act which refers only to cheques. Section 85 reads:

“Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.”

These last words are defined in the Act and they mean that the banker is absolved from further liability if he makes payment in accordance with the

[Sir Arthur McWatters.]

apparent tenor of the instrument in good faith and without negligence. Now a cheque is defined in section 6 of the Act as :

“ A Bill of Exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.”

And the point at issue is whether a draft drawn by one office of a bank upon another is or is not included in that definition. One series of legal authorities holds that as the English law gives specific protection and in view of certain rulings of the English courts, specific protection would be required in India also and the courts out here would probably follow the English rulings. Another series of authorities considers that, in view of the difference in the definition of bills of exchange and cheques in the Indian as compared with the English law, the courts out here would probably hold that the existing law already gives protection. This matter has been brought before us several times in the last few years by the Associated Chambers of Commerce and they have represented fairly strongly that the existing position is uncertain and is hampering trade. When the Bill was circulated for opinion, there was no difference of opinion as regards the desirability of the law giving this protection but there was a difference of opinion among certain authorities consulted as to whether the law actually gave it at present or did not give it. We are advised that there is a distinct doubt in the matter, and therefore we have brought forward this Bill in order to put the matter beyond dispute.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR ARTHUR McWATTERS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN FOREST (AMENDMENT) BILL.

(REGULATION OF THE IMPORT AND TRANSPORT OF KUTH.)

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, I move that the Bill to amend the Indian Forest Act, 1927, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Perhaps the Honourable Members are not aware that kuth is a valuable root found mostly in the forests of Kashmir and is exported to China where it is used as a drug. It commands a fairly good price in China and that inevitably leads to the usual smuggling. As kuth has to pass through British India before it reaches China, the matter entails certain difficulties. In order to meet these difficulties some years ago, action was taken by way of issue of notifications under the Forest Act. Later on, however, it was discovered that these

notifications were *ultra vires*. This necessitated holding a conference of representatives of the provinces concerned,—the Punjab, the North-West Frontier Province, Kashmir and Chamba. The result of the conference was this,—that nothing could be done unless a small amendment were made in the existing Forest law, and this Bill is the result of that conference. It is a very nice little Bill,—just one clause and no more, and I need say no more.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN TELEGRAPH (AMENDMENT) BILL.

THE HONOURABLE MR. J. A. SHILLIDY (Industries and Labour Secretary): Sir, I move that the Bill further to amend the Indian Telegraph Act, 1885, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Honourable Members have doubtless read the Statement of Objects and Reasons. They will have found there a suitably brief and very clear explanation of the purpose of this Bill which, to put it in one sentence, is to place aircraft in the same category as ships in regard to wireless telegraphs under the Indian Telegraph Act.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. A. SHILLIDY: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

BOMBAY CIVIL COURTS (AMENDMENT) BILL.

THE HONOURABLE MR. H. W. EMERSON (Home Secretary): Sir, I beg to move that the Bill further to amend the Bombay Civil Courts Act, 1869, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

It is only necessary for me to explain that this legislation has been undertaken at the request of the Bombay Government and that its object, as fully explained in the Statement of Objects and Reasons, is to secure that an appeal

[Mr. H. W. Emerson.]

from the decree of any subordinate judge in suits exceeding Rs. 5,000 in value shall lie direct to the Bombay High Court.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. W. EMERSON : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

BENARES HINDU UNIVERSITY (AMENDMENT) BILL.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : Sir, I move that the Bill further to amend the Benares Hindu University Act, 1915, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

The main object of the Bill is to institute a Standing Finance Committee. Standing Finance Committees are always useful institutions in checking the spending of money, and when Honourable Members realise that a fairly large grant has been given to the University by the Government of India, they will at once see the need for this amendment. The details of this amendment were settled between the Government and the authorities of the Benares Hindu University. As we had to amend the Benares Hindu University Act in this connection, it was considered advisable to take advantage of this opportunity to make certain other amendments which were included in a Bill which the Vice-Chancellor of the University had prepared and of which he had given notice as long ago as 1926, but which he was unable to introduce. The objects of these amendments are mentioned in the Statement of Objects and Reasons. Briefly put, they are increase in the number of Pro-Chancellors, increase in the number of members of the Syndicate, and the provision, which I have no doubt religiously inclined members will welcome, to hold an examination in the Hindu religion for all Hindu students. These amendments close with a provision for a statutory pension or provident fund scheme being instituted for the staff of the University. This is really all that this amending Bill comes to.

Sir, I move.

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Friday, the 18th July, 1930.