

Monday, 20th February, 1933

THE  
COUNCIL OF STATE DEBATES

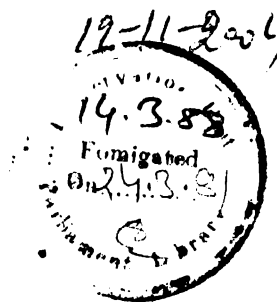
VOLUME I, 1933

*(16th February to 15th April, 1933)*

FIFTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1933



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# COUNCIL OF STATE.

*Monday, 20th February, 1933.*

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.

COMMUNICATION FROM THE INDIAN MERCHANTS' ASSOCIATION, KARACHI,  
REGARDING PROTECTION OF INDIGENOUS INDUSTRIES AGAINST DUMPING.

61. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :  
(a) Have Government received a communication from the Karachi Indian Merchants' Association strongly supporting the demand for the promulgation of a law enabling the Government to take immediate executive action to combat the abnormal import of manufactures, notably from Japan, which is considered to be in the nature of dumping, in order to protect indigenous industries ?

(b) If so, do Government propose to take any action in the matter ?

THE HONOURABLE MR. J. C. B. DRAKE : (a) Yes.

(b) The matter is engaging the attention of the Government of India.

## CUSTOMS DUTY ON NEWSPRINT.

62. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :  
(a) Is it a fact that formerly newsprint was allowed to enter free into this country and latterly was subject to a duty of 25 per cent. before the preferential tariffs under the Ottawa Agreement came into force ?

(b) Is it a fact that customs duty at the rate of 30 per cent. is now being charged on newsprint of non-British origin imported into India from the 1st January, 1933 ?

(c) Is it a fact that Schedule F, item 120 of the Ottawa Agreement, exempts newsprint from the 10 per cent. preferential duty ?

(d) If so, why is the preferential tariff levied on newsprint ?

THE HONOURABLE MR. J. C. B. DRAKE : (a) Newsprint was never on the free list of the Statutory Import Tariff Schedule but until very recently was liable to duty at the general rate.

(b) and (c). Yes.

(d) The matter is engaging the attention of Government.

## TOTAL INDIANIZATION OF THE ARMY.

63. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :

(a) With reference to the question of the total Indianization of the Army in India, will Government be pleased to say if the Rawlinson Committee expressed the opinion that the process of the Indianization of the Army could be completed within less than 40 years ?

(b) Is it a fact that the Indian Sandhurst Committee, including General Sir Andrew Skeen, in their report condemned the eight units scheme and expressed the opinion that half the cadre of officers could be Indianized within 25 years ?

(c) What is the present policy of Government as regards the Indianization of the Army and how long will the complete Indianization of the Army take under their existing scheme ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The Honourable Member is presumably referring to the scheme prepared by a committee of military officers under the chairmanship of General Shea which was appointed by the late Lord Rawlinson in 1922. A summary of this scheme, to which the Honourable Member's attention is invited was laid on the table of the Legislative Assembly on the 17th February, 1931, in reply to part (k) of starred question No. 508.

(b) The Indian Sandhurst Committee recommended that the eight units scheme should be abandoned. The reasons why Government were unable to accept this recommendation are given in Sir William Birdwood's speech in this Council on the 9th March, 1928, and Mr. Mackworth Young's speech in the Legislative Assembly on the 8th March, 1930.

The Indian Sandhurst Committee also recommended a scheme for a progressive increase in the number of King's Commissions to be granted to Indians, the effect of which would be that half the cadre of officers in the Indian Army would be composed of Indians by 1952, i.e., in 25 years.

(c) The present policy of Government is to Indianize completely one division and one cavalry brigade, with their full proportion of technical arms and ancillary services. Further progress towards complete Indianization will depend on the degree of success obtained in carrying out this policy, and I am therefore not in a position to give an answer to the latter part of the question. But I may add that the intention of Government is to proceed with Indianization as rapidly as possible with due regard to efficiency.

APPOINTMENT OF TRADE COMMISSIONERS AT DURBAN, ALEXANDRIA AND MOMBASA.

64. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :

(a) Is it a fact that the Near East Trade Mission suggested the appointment of Trade Commissioners at Durban, Alexandria and Mombasa for promoting Indian trade interests ?

(b) Has financial stringency alone stood in the way of Government's carrying out these recommendations or are there some other reasons also for the same ?

(c) Is it a fact that the High Commissioner in London recently wrote with reference to the achievements of the Trade Commissioner at Hamburg that the results amply justified the appointment?

(d) Do Government propose to reconsider the question of the appointment of Trade Commissioners as suggested in (a)?

THE HONOURABLE MR. J. C. B. DRAKE: (a) Yes.

(b) There is no other reason except financial stringency.

(c) Yes.

(d) Not while the present financial stringency continues.

RESOLUTION PASSED BY THE UNITED PROVINCES LEGISLATIVE COUNCIL REGARDING RETRENCHMENT IN THE ALL-INDIA SERVICES.

65. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD: (a) Is it a fact that the United Provinces Legislative Council passed the following Resolution in November last:

"This Council recommends to the Government to represent to the higher authorities the desirability of sanctioning at an early date the scheme of retrenchment relating to all-India services which had been forwarded to them by the Local Government sometime ago and also to ask their permission to lay on the table the correspondence in this connection."

(b) What are the details of the scheme referred to in the Resolution which was forwarded to the Government of India by the United Provinces Government with regard to retrenchment relating to all-India services?

(c) What decision, if any, has the Government of India taken in the matter of retrenchment relating to all-India services?

(d) Do Government propose to comply with the request of the United Provinces Legislative Council contained in the last part of the Resolution by granting permission to the United Provinces Government to lay on the table of the Council the correspondence in this connection?

THE HONOURABLE MR. M. G. HALLETT: (a) Yes.

(b), (c) and (d). Government regret that they are unable to divulge the details of the scheme as no decision has yet been reached. The Local Government have been asked for further information on certain points and their reply is awaited. The correspondence must in accordance with the ordinary procedure be kept confidential.

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STATEMENT LAID ON THE TABLE.

NUMBER OF EMPLOYEES BEFORE AND AFTER RETRENCHMENT ON THE STATE RAILWAYS.

THE HONOURABLE MR. J. C. B. DRAKE (Commerce Secretary): Sir, I lay on the table the information promised in reply to question No. 51 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 20th September, 1932.



Statement showing the number of employees communitywise retrenched on the State-managed Railways up to 15th September, 1932, and the total number of employees communitywise employed before this retrenchment.

Railway.	Officers.										Subordinates and others.										Remarks.		
	Number employed before retrenchment.					Number retrenched.					Number employed before retrenchment.					Number retrenched.							
	Europeans.	Anglo-Indians and Domestics Europeans.	Hindus.	Muslims.	Others.	Total.	Europeans.	Anglo-Indians and Domestics Europeans.	Hindus.	Muslims.	Others.	Total.	Europeans.	Anglo-Indians and Domestics Europeans.	Hindus.	Muslims.	Others.	Total.					
Eastern Bengal	77	11	36	7	3	134	2	8	4	...	...	217	632	39,516	16,182	603	54,939	...	(a) 24	1,147	292	...	1,453
East Indian	194	37	68	17	6	337	...	2	8	1	1	1,105	2,121	97,744	27,433	1,182	139,594	112	189	9,373	2,760	186	13,630
Great Indian Peninsula.	180	9	36	10	11	246	10	1	2	...	2	501	1,753	71,543	12,033	5,967	91,826	46	133	4,261	946	306	(b) 5,683
North Western	165	17	71	18	16	287	4	...	9	...	2	731	1,074	43,828	69,216	9,759	123,423	2	22	2,994	5,706	629	9,243
Barma	94	8	6	1	7	116	3	...	...	...	...	39	640	17,180	2,407	5,221	24,387	1	13	1,608	137	640	2,390

(b) This includes retrenched staff who have been re-employed.

(c) Includes Europeans.

## MOTION FOR THE ELECTION OF THREE MEMBERS TO THE STANDING COMMITTEE FOR ROADS.

THE HONOURABLE MR. J. A. SHILLIDY (Industries and Labour Secretary): Sir, I move:

"That this Council do proceed to the election for the financial year 1933-34, in such method as may be approved by the Honourable the President, of three Members to serve on a Standing Committee for Roads which will be appointed by the Governor General in Council and the constitution and functions of which shall be as defined in the Resolution on Road Development as adopted by the Council of State on the 4th March, 1930."

The motion was adopted.

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## MOTION FOR THE ELECTION OF SIX NON-OFFICIAL MEMBERS TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

THE HONOURABLE MR. J. C. B. DRAKE (Commerce Secretary): Sir, I move:

"That this Council do proceed to elect in such manner as may be approved by the Honourable the President, six non-official Members from the Council who shall be required to serve on the Central Advisory Council for Railways."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: As both these motions have been adopted, I declare that nominations for the Standing Committee for Roads and for the Central Advisory Council for Railways will be received up to 5 P.M., on Tuesday, the 28th February, 1933.

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## INDIAN MARINE (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move:

"That the Bill further to amend the Indian Marine Act, 1887, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Sir, the measure I propose is in itself only a small one which I hope will appeal to Members of all Parties of this House. It does, however, contain within it the germ of much greater things and is one of the steps towards India's assuming more responsibility than she does at present for the defence of her coast and ports as I feel Honourable Members will agree with me she is bound to do to a greater extent as she progresses in self-government.

Those of us who pay taxes in England know to our cost the enormous sums that are taken now from our pockets every year for the naval defence of the coast and ports of India and of outlying portions of the Empire, and towards the cost of that naval defence of India and her ports, we in India here only subscribe £100,000 a year, and for that we get the policing of many thousands of miles of our coast and its safety in peace time and an assurance that in time of war our four great ports will be reasonably safe, and it seems to me to be as certain as anything can be certain in political life that the British tax-payer will not foot the bill for ever.

[His Excellency the Commander-in-Chief.]

The Royal Indian Marine is for its size, and in view of the fact that it is considerably handicapped by the smallness of its fleet, a most efficient service and under the expert guidance of Admiral Sir Humphrey Walwyn has made very great progress in the last few years. We wish, as soon as funds permit, to bring into existence a small voluntary reserve of officers for the Royal Indian Marine with two objects. We desire, in the first place, to encourage this young but very efficient and soon to be predominantly Indian service by stimulating interest in naval affairs and giving an opportunity to private gentlemen in India, both Indian and British, a chance to learn something about naval duties. We wish, in the second place, to provide ourselves with a number of at least partially trained officers who may be able to discharge duties of very real importance connected with the local defence of our Indian coasts and ports should it become necessary in time of war. The small cadre of regular Indian marine officers is not nearly large enough for that purpose and we therefore hope that this small reserve will be of very practical as well as of theoretical use.

I have spoken in terms of very high praise of the Royal Indian Marine. I could wish myself that it was a navy in name as well as in fact, and I can assure the House that if any popular desire manifests itself to revive the Indian Navy Bill, which was unfortunately rejected in another place some time ago, we shall only be too glad to respond to that desire and to re-introduce that Bill. Meanwhile, any step which will bring the need of India to prepare herself for naval defence in the event of war into prominence in however small a way deserves in my opinion the very strongest support from all parties. The Reserve we have in view will be a very small one at its beginning. It will not consist of more than 50 officers in the first instance and it will be open alike to Indian and British gentlemen. We hope that it will not cost in the first year more than Rs. 40,000, and considerably less than that in succeeding years. Its members will receive 14 days training a year, of which a considerable proportion will actually be spent at sea in one or other of the sloops of the Indian Marine.

Now, Sir, in order to bring a Reserve of this kind into being, it is necessary to provide for the discipline of its members while they are undergoing training or in the event of their being called up for service, and the only way of doing that is to bring them under the Royal Indian Marine Act. This is what the present Bill is intended to do.

Sir, I move.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadan) : Sir, when there is a cry in the country for the Indianization of the military services, both army and navy, it is now of supreme necessity that the Bill further to amend the Indian Marine Act of 1887 as passed by the Legislative Assembly must have the entire support of this Honourable House. In a clear and concise manner has Mr. Tottenham stated the objects of and reasons for the amendment to this Bill. And it does our heart good to learn that opportunity will be provided for marine service on a voluntary basis for those persons in India who are interested in nautical pursuits. Indians, Sir, were not formerly admitted to the Royal Indian Marine Service and also in the Mercantile Marine Service but it is gratifying to observe that they are now being admitted to both the services. In reply to a question of mine last year, Sir, I had it from His Excellency the Commander-in-Chief that half a dozen Indian lads were being given training for the Royal

Indian Marine Service. As regards the number of cadets on board the H. M. S. "Dufferin" for Mercantile Marine Service this Honourable House is perhaps aware of it from the announcements in the press. All these things augur well for India. Indians must take full advantage of the provisions of this Bill when it is passed into an Act and it will be the duty of us all to encourage Indian youths to join the proposed Royal Indian Marine Volunteer Reserve. I wish I could also join it but I am afraid my age will stand in the way. It is hoped, Sir, that no sooner the passing of the Bill is announced in the papers that Army Headquarters will be flooded with applications from a large number of Indian youths. This important amendment to this Bill is in itself an indication of Government's sincerity of purpose as regards admitting Indians to the navy and as such their sincerity must be reciprocated by our sincere action. I hope, in selecting candidates for marine service on a voluntary basis, preference will be given to Indians regarding the numerical strength of the proposed corps.

However, Sir, I should not take up much of your time but only hope the House will gladly support the passage of this Bill which aims at doing some tangible service to the country.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : Non-Muhammadan) : Mr. President, the object of this Bill as given in the statement of objects and reasons is to raise and organize a small Royal Indian Marine Volunteer Reserve, on much the same lines as the Army in India Reserve of Officers on the military side, in order to provide an opportunity for marine service on a voluntary basis for those persons in India who are interested in nautical pursuits, and, at the same time, to constitute a potential reserve of officers for use in emergencies, when the officer strength of the Royal Indian Marine will require expansion. That being so, Sir, I welcome this measure. But I would like to be sure on one point. Although it has been stated that the Reserve will be open to Europeans, Indians and members of the domiciled community, which means that Indians will be equally eligible for membership with Europeans, but I would like to know what would be the proportion of Indians and Europeans in the composition of the proposed Marine Reserve, for, legal eligibility of Indians for membership is not enough. Indians are equally eligible with Europeans for so many offices under the Crown, but all the same in practice those offices are not equally shared by Indians and Europeans. I have raised this question of recruitment to the Marine Reserve because I remember that in regard to the corresponding Army force, namely, the Army in India Reserve of Officers, there have been complaints that it is composed mainly of Europeans. If I mistake not, Mr. Young, the former Army Secretary, also stated in the Legislative Assembly some years ago that Indians were equally eligible with Europeans for appointment to the Army in India Reserve of Officers, but on further inquiry it transpired that of the 379 officers then constituting the force only 19 were Indians. No doubt we will be told that this disparity in numbers is due to the lack of suitable Indian candidates. This plea of want of suitable material has for long stood the authorities in good stead, though it has not brought conviction to Indian public opinion. But, whatever the reason for the comparatively small number of Indians in the Army in India Reserve of Officers, the question is whether on the same ground the proposed Marine Reserve of Officers will be composed mostly of Europeans or whether Indians will be recruited in adequate numbers. I hope His Excellency the Commander-in-Chief will be good enough to throw some

[Rai Bahadur Lala Jagdish Prasad.]

light on this point, for I feel that if the Reserve is to be Indian in name and European in composition then it is hardly fair to burden the Indian taxpayer with further expenditure in this connection.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I think I can assure the Honourable Member who has just sat down that there will be no discrimination in this case. As regards the regular officers of the Royal Indian Marine, there are now eight Engineers and four Executive Officers, Indians, under training at home, and as regards the Reserve that I have just spoken about when I introduced the measure, I can give him my personal assurance that there will be no question at all of excluding Indians and keeping only Europeans. It is intended that this naval service shall be predominantly Indian (Applause) and it will be my object to see, if we can possibly get people to take it up, that the Reserve Service also will be more Indian than British.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Marine Act, 1887, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

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.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move:

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

The motion was adopted.

### NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

THE HONOURABLE MR. J. B. TAYLOR (Finance Secretary): Sir, I move:

"That the Bill further to amend the Negotiable Instruments Act, 1881, for a certain purpose, be taken into consideration."

Last Thursday I explained the object of what is a very simple measure designed to protect banks and the public in respect of endorsements or cheques which are apparently payable to bearer. The Bill has a fairly long history behind it. In 1924 the Bombay High Court decided that a *hundi* which was on the face of it payable to bearer, but bore an endorsement restricting its bearer character, had thereby changed its character, so that the bank which paid the instrument to the presenter was not protected from claims from a third party in respect of the matter endorsed on the back of the bill. This decision aroused something like consternation in the banking world and the Associated Chambers of Commerce asked that Government should amend the law forthwith. They contended that it was the universal practice of all banks to treat a document by what appeared on the face of it; if it was an "order" document when it was presented, then the bank examined the endorsements to see that payment was made to the holder in due course; but if the document was on the face of it a bearer instrument, then the banker was under no obligation to check the endorsements on it and in fact did not do so.

After consultation with Local Governments and commercial bodies, it was provisionally decided to introduce legislation to provide that a negotiable instrument payable to bearer should not in any circumstances lose its character as a bearer instrument or account of having been endorsed. A Bill on these lines was introduced in the other House in January, 1927, and was referred to a Select Committee; but after various vicissitudes it was finally rejected in 1929. There had throughout been a considerable divergence of opinion about the form in which we were then proposing the legislation. In the first place, there was a very general feeling that the change proposed was too wide. *Hundis* are Indian bills of exchange varying widely in character, and though under section 1 of the Negotiable Instruments Act that Act does not affect any local usage relating to any instrument in an oriental language, unless specifically excepted, it was felt by considerable sections of Indian opinion that the amendment then proposed might possibly affect traditional usage in respect of *hundis* and this they regarded as undesirable, uncalled for by Indian opinion and generally unnecessary. There was also a strong feeling that, with the Indian Central Banking Enquiry Committee beginning its investigations, it would be desirable to have the matter further and more fully investigated by that expert Committee. The matter was accordingly referred by Government to the Banking Enquiry Committee for their examination and report.

The views of the Indian Central Banking Enquiry Committee are given in paragraph 564 of their report and are as follows:

"The question has been fully considered by the provincial Committees and some of them have recommended that the Negotiable Instruments Act should be amended so as to provide that cheques originally drawn to bearer would, despite any endorsement, retain their character as bearer instruments. We concur in this recommendation. We also approve of the recommendation made by the Madras Committee that any holder of a cheque should have the right to alter the character of the cheque from 'bearer' to 'order' on the face of it and that the alteration should be supported by the name of the drawer or holding endorser who makes the alteration. It should not, however, be altered by endorsement on the back of the cheque. We further recommend that *hundis* which are drawn in the form of cheques should be treated similarly. We are not, however, in favour of interfering with the existing practice in regard to other *hundis* and do not recommend that the practice 'once a bearer, always a bearer' should be made applicable to such *hundis*."

When Government came to examine the recommendations of the Committee, we found that to follow them in their entirety would necessitate fairly wide amendments of the Negotiable Instruments Act, these amendments being due to the necessity of more clearly defining the liabilities of parties who might endorse bearer instruments. We consulted the Imperial Bank who are our expert advisers in the matter, and the Managing Governors, after carefully considering the whole question, came to the conclusion that all that was desired by the Banking Enquiry Committee and by bankers could be adequately met by a much more simple amendment of the Act—the amendment which I am now putting before the House. This amendment leaves untouched the liability of any endorsee and confines itself entirely to the three essential points in the recommendation of the Committee: first, that banks should be protected if they pay the bearer on what is on the face of it a bearer cheque; second, that the drawer of a cheque payable to bearer can secure the additional protection by making it payable to order if he so desires by altering the word "bearer" to "order" on the face of the instrument; and thirdly,—and this is the point on which Indian opinion was strong at the time the first legislation was introduced—that though *hundis* which are definitely drawn in the form of cheques, and which in fact

[Mr. J. B. Taylor.]

are cheques, should be included in the legislation, no reference will be made to negotiable instruments as a whole, so that there is no risk of other *hundis* being at all affected.

What then is the essential change proposed by the Bill, and what will be its effect? Practically every printed cheque in this country bears the words "Pay to so and so or bearer". If the word "bearer" on the face of the instrument is altered to "order," then the bank on which the cheque is drawn will be on its guard and will verify the endorsement and will not make payment except to the party in whose favour the cheque has been drawn or to whom he has endorsed it. If, however, the cheque is still open, that is to say, is still payable to "bearer," the bank will be safeguarded if it does make payment to the bearer without having to trouble about any matter written on the back.

The object of the amendment has, however, a wider scope than the mere protection of banks. What we primarily wish to do is to foster the cheque habit in the interests of the financial development of the country as a whole, and it is an essential part of the development of this habit that the purport of a cheque should be clear not to the expert only but to the layman who uses it. The principal difficulty with which we are faced in India in developing the cheque habit, as was pointed out by the Banking Enquiry Committee, is the prevailing illiteracy of the people and the fact that with the large number of commercial scripts in existence and the comparative lack of literacy in the Roman script, bearer instruments which can be paid to the bearer without the necessity of endorsement as they pass from hand to hand serve a very definitely useful purpose. They can be used and understood by people who are not necessarily literate. That is why the ordinary cheque in India is printed payable to bearer, while the ordinary cheque in England is printed payable to order. That whole purpose will be destroyed if bearer cheques can be altered by writing which does not appear on the face of the instrument and which may be unintelligible to the party dealing in the cheque. The amendment cannot affect any legitimate interest because anybody who is afraid of the risk attaching to a bearer instrument need not accept payment in that form. The people whom we wish to protect are those who accept what they think and what appears on the face of it to be a bearer cheque and then find that it is nothing of the sort. As it is desirable to encourage the cheque habit and as this is a simple measure which is being put forward after long discussion with experts and after an exhaustive enquiry by the Banking Enquiry Committee, to help towards this useful object, I commend it to the acceptance of the House.

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. B. TAYLOR : Sir, I move :

"That the Bill further to amend the Negotiable Instruments Act, 1881, for a certain purpose, be passed."

The motion was adopted.

## CHILDREN (PLEDGING OF LABOUR) BILL.

THE HONOURABLE MR. J. A. SHILLIDY (Industries and Labour Secretary): Sir, I move:

"That the Bill to prohibit the pledging of the labour of children, as passed by the Legislative Assembly, be taken into consideration."

Sir, I am glad to think that very little is required from me with regard to this Bill. I see no amendments down and I hope that is an indication that the general principle of the Bill is accepted by all the Members and that there will be complete support without any opposition. The object of the Bill is, I am sure, one that must appeal to every Member of this Council. Any attempt reasonably and properly made to protect children in service must, I think, commend itself to this Council. The origin of this Bill came from the investigation of the Royal Commission on Labour. In the course of their investigation they found that there was a custom of pledging the labour of children and they did not find this only in one particular locality or in one particular industry but they found it in the *bidi* factories of Madras, in the carpet factories of Amritsar and the cotton mills of Ahmedabad, and I see from a statement made in another place that this is a common custom also in regard to domestic service. Let me read out to the House one instance of an agreement:

"I, Booter, son of Chakli, Chowkidar, of Amritsar, owe Rs. 67 odd, of which half is Rs. 28-8-0, which I have borrowed from Booty, weaver, in advance. I agree that my grandsons N. and F. should be handed over for the purposes of carpet weaving. N. is to get Rs. 9 per month and F. is to get Rs. 7 per month. I will take the wages monthly, I will not break this agreement. If I break this agreement I will return all the money I have borrowed to the man who has lent it to me".

Now, in that agreement the child is hardly taken into consideration at all. His interests are not being considered and it is not surprising that after evidence of this kind had been gathered the Royal Commission should have said that the system was indefensible, that it was worse than the system of indentured labour for an indentured labourer enters into a contract as a free agent while the child is not.

Sir, I turn to the Bill and it has this great merit that it is both short and simple. In the second clause you will find the definitions. An agreement to pledge the labour of a child is in very wide terms. It is an agreement written or oral, express or implied. We do not want to have a loophole here whereby on some pretext or another an agreement may escape from the purview of the Act. But I would draw your attention at the same time to the proviso which says that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition. I have heard it said that the result of this Bill will be that we shall prevent children from adding by work to the family income. If any Member has any delusion on this point or any wrong information, I would draw his attention to this proviso. Then a child is a person who is under the age of 15 years and a guardian includes any person having legal custody of or control over a child. These are the definitions.

Passing to the rest of the Bill clause 3 lays down that an agreement to pledge the labour of a child shall be void. It simply ends all agreements. In clause 4 you have the penalty for the parent who enters into such an



[Mr. J. A. Shillidy.]

agreement. In clause 5 you have the penalty for the person who makes the agreement with a parent or guardian. And in clause 6 you have the penalty for the employer who employs that child knowing or having reason to believe that such an agreement has been made. Now, the first, second and third clauses all come into operation immediately the Bill is passed, but clauses 4, 5 and 6 will come into operation on July the 1st and the reason for that is obvious. It is perhaps a strange and somewhat sobering reflection that a great many people in this country do not even know of our existence and still less of the Bills that we pass. It takes a long time for information of our activities to filter down into the districts and into the smaller places. It would obviously be unfair that people who had entered into agreements thinking that they were legal agreements should suddenly find that they were subjected to penal obligations. The object therefore of giving this time is to enable people who are concerned with such agreements to bring them to an end as soon as possible.

Sir, there is nothing more for me to say. As I have said before, I feel that this Bill must commend itself to every Member of this Council.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadan) : Sir, I am glad to be able to learn from the statement of objects and reasons for this Bill that Government are going to act up to a particular recommendation of the Wheatley Commission when some other important recommendations of this Commission have not been given effect to yet. Child labour there is in India, and must be in India so long as Government will not endeavour to wipe out the illiteracy of the masses by introducing free compulsory primary education in India. But when free compulsory primary education seems to be a far cry—

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : On a point of order, Sir. This question of free compulsory primary education is a matter for the Local Governments to consider.

THE HONOURABLE THE PRESIDENT : Order, order.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : —it is but meet that in a poor country like India, where there is a considerable number of children from 12 to 15 years of age employed almost every day in different places and sometimes in unhealthy surroundings, some sort of legislation must be enacted to regulate child labour. And the Bill before us, Sir, seems to be conducive to the best interest of the country when it proposes to prohibit the pledging of the labour of children and as such we should have no objection to record our votes in favour of the passage of this Bill.

With these few words, Sir, I would like to support the Bill moved by the Honourable Mr. Shillidy.

\*THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I rise to give my whole-hearted support to the motion which has just been moved. The remarks which have been made by the Honourable Member who has just sat down show that he is also entirely in support of the Bill. But I was surprised to hear from him that one reason which he thought was responsible for these children being let loose on the streets and inducing them to take to these hard types of labour was the want of proper facilities for compulsory primary education. As has been remarked

\* Speech not corrected by the Honourable Member.

by my Honourable friend Mr. Suhrawardy, this is a matter which is the concern entirely of the Local Governments, and to lay any stress on it here is entirely out of place. Sir, it is not so much the want of proper facilities for the education of the children that is responsible for this state of things. It is more a question of employment. It is the want of employment and want of resources on the part of the parents to meet the requirements of their family and children. It is more to eke out a livelihood for the maintenance of the family that the children are tied down to such hard labour. But, Sir, whatever might be the excuse for the parents to pledge their children to such hardships, it is necessary that every step should be taken to see that child labour is not hypothecated in the way in which it is done today, and this evil, which appears to be growing every day in view of the evidence tendered before the Royal Commission, has got to be arrested.

I do not think, Sir, anything further need be said about the merits of the Bill, since the principle of the Bill appears to commend itself to every section of the House.

**\*THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : Sir, I had no intention of intervening in this debate and if I do so, it is only because of the small passage-at-arms between a member of my Party and the Deputy Leader of the other Party. The question of primary education is no doubt, as every one knows, the concern of the Provincial Governments, and he did not ask this Government to do anything to promote primary education. He was referring to the fact that because there is no primary education to engage the children—it is for that reason that boys and children are usually going in for this sort of employment.

**THE HONOURABLE MR. MAHMOOD SUHRAWARDY** : He did not say that clearly.

**THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE** : It is implied.

**THE HONOURABLE MR. MAHMOOD SUHRAWARDY** : The implication was not clear, excuse me.

**THE HONOURABLE MR. HOSSAIN IMAM** : The words that he used were these. I will read them out :

“ Child labour there is in India, and must be in India, so long as Government will not endeavour to wipe out the illiteracy of the masses by introducing free compulsory primary education in India ”.

The only reason why this Bill was not passed last session was because the wording of the former Bill as brought in the Assembly was a little unfortunate and people thought that even proper employment of children may be penalised and it was to remove this evil that this Bill was referred to a Select Committee. In the form in which it has come to us it is so inoffensive that even the Assembly did not prolong the debate, so this Council can have absolutely nothing to say against it. This Bill is quite good enough and there is no reason to oppose it. Therefore we all support it.

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\*Speech not corrected by the Honourable Member.

**THE HONOURABLE THE PRESIDENT :** The question is :

"That the Bill to prohibit the pledging of the labour of children, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2, 3, 4, 5 and 6 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. SHILLIDY :** Sir, I move :

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

The motion was adopted.

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### INDIAN FOREST (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 Indian Forest Act, 1927, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Honourable Members have no doubt noticed that the Bill consists of a definition of the word "owner" and indicates that it includes a Court of Wards, and why it has been necessary to bring in this amending measure is clearly stated in the statement of objects and reasons. The Bill is of a non-controversial nature and therefore I do not propose to detain the House over it.

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.

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The Council then adjourned till Eleven of the Clock on Tuesday, the 21st February, 1933.