

Tuesday, 5th September, 1933

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1933

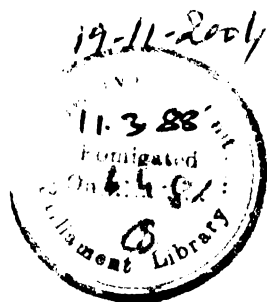
(29th August to 16th December, 1933)

SIXTH SESSION

OF THE

THIRD COUNCIL OF STATE

1933



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CONTENTS.

PAGES.

Tuesday, 29th August, 1933—

Members Sworn	1
Questions and Answers	1—72
Remarks by the Honourable the President <i>re</i> (1) absence of Members during Question time and (2) publication of their questions and resolutions before they appear on the List of Business	72—73
Message from His Excellency the Governor General	73
Committee on Petitions	73
Governor General's assent to Bills	73—74
Statements laid on the table	74—76
Bill passed by the Legislative Assembly laid on the table	77
Congratulations to the Honourable Sir Hormusji Mehta	77
Motion for the election of two non-official Members to the Standing Committee of the Department of Industries and Labour—Adopted	77
Motion for the election of two non-official Members to the Standing Committee of the Department of Commerce—Adopted	77
Indian Arbitration (Amendment) Bill—Introduced	78
Cantonments (House-Accommodation Amendment) Bill—Introduced	78
Deaths of Raja Bijoy Sing Dudhoria of Azimgunge, Bengal, and Mr. C. H. F. Pereira	78—79
Statement of Business	79—80

Wednesday, 30th August, 1933—

Address by His Excellency the Viceroy to the Members of the Council of State and the Legislative Assembly	81—89
--	-------

Thursday, 31st August, 1933—

Questions and Answers	91—95
Short Notice Question and Answer	95—96
Motion <i>re</i> future administration of Aden—Adopted	96—123
Motion <i>re</i> levy in British India of dues in respect of lighthouses, etc.—Adopted	124—25

Monday, 4th September, 1933—

Members Sworn	127
Questions and Answers	127—31
Short Notice Questions and Answers	131—32
Condemnatory speeches in connection with the assassination of Mr. Burge, District Magistrate, Midnapore	133—34
Bills passed by the Legislative Assembly laid on the table	134
Resolution <i>re</i> provision of privileges, powers and immunities to Legislatures in the new Constitution—Withdrawn	134—41
Resolution <i>re</i> condition of agriculturists—Negatived	141—55
Resolution <i>re</i> reduction of railway freights on the transport of Punjab wheat —Withdrawn	156—60
Resolution <i>re</i> sale of silver—Moved	160

Tuesday, 5th September, 1933—

Questions and Answers	161—63
Short Notice Question and Answer	163
Indian Arbitration (Amendment) Bill—Considered and passed	164
Cantonments (House-Accommodation Amendment) Bill—Considered and passed	164—65
Workmen's Compensation (Amendment) Bill—Considered and passed	165—70
Statement of Business	170

Wednesday, 6th September, 1933—

Questions and Answers	171—74
Bill passed by the Legislative Assembly laid on the table	174
Resolution <i>re</i> sale of silver—Withdrawn	174—83
Resolution <i>re</i> release of political prisoners and detenus—Negatived	183—202
Resolution <i>re</i> Indian Civil Service—Moved	202

Thursday, 7th September, 1933—

Bill passed by the Legislative Assembly laid on the table	203
Land Acquisition (Amendment) Bill—Considered and passed	203—06
Indian Wireless Telegraph Bill—Considered and passed	206—07
Indian Income-tax (Second Amendment) Bill—Considered and passed	208—12
Indian Railways (Amendment) Bill—Considered and passed	212—18
Nomination of Members for election to the Standing Committee of the Department of Industries and Labour	218
Nomination of Member for election to the Standing Committee of the Department of Commerce	218
Statement of Business	218

Monday, 11th September, 1933—

Member Sworn	219
Questions and Answers	219—31
Resolution <i>re</i> Indian Civil Service—Negatived	231—43
Resolution <i>re</i> terrorist prisoners in the Andamans—Withdrawn	243—59
Resolution <i>re</i> need for a further enquiry into the pharmaceutical action and production of the standardised alkaloids of cinchona, <i>i.e.</i> , totaquina—Withdrawn	259—66
Resolution <i>re</i> reduction of land tax—Withdrawn	266—81
Legal Practitioners Amendment Bill—Motion to circulate, adopted	281—83
Election of two non-official Members to the Standing Committee of the Department of Industries and Labour	283
Election of two non-official Members to the Standing Committee of the Department of Commerce	283—84
Appendix	285—86

Wednesday, 13th September, 1933—

Questions and Answers	287—88
Result of the election of two non-official Members to the Standing Committee of the Department of Industries and Labour	288
Result of the election of two non-official Members to the Standing Committee of the Department of Commerce	288

Wednesday, 13th September, 1933—contd.

Resolution re export duty on gold—Negatived	299—298
Resolution re University Training Corps—Withdrawn	299—300
Amber-Merwara Juveniles Smoking Bill—Motion to consider, negatived	300—11

Thursday, 14th September, 1933—

Message from the Legislative Assembly	313
Cotton Textile Industry Protection (Second Amendment) Bill—Considered and passed	313—17
Statement of Business	317

Saturday, 16th September, 1933—

Members Sworn	319
Questions and Answers	319—32
Statement laid on the table	332—36
Message from the Legislative Assembly	337
Bills passed by the Legislative Assembly laid on the table	337
Motion re Joint Committee on the Reserve Bank of India Bill—Adopted	337—64
Motion re Joint Committee on the Imperial Bank of India (Amendment) Bill—Adopted	364—65
Statement of Business	365

Monday, 18th September, 1933—

Message from the Legislative Assembly	367
Bill passed by the Legislative Assembly laid on the table	367
Motion re nomination of Members to serve on the Joint Committee to consider and report on the Reserve Bank of India Bill—Adopted	367—68
Motion re nomination of Members to serve on the Joint Committee to consider and report on the Imperial Bank of India (Amendment) Bill—Adopted	368
Murshidabad Estate Administration Bill—Considered and passed	368—76
Indian Tea Control Bill—Considered and passed	376—80
Indian Merchant Shipping (Second Amendment) Bill—Considered and passed	380—82
Statement of Business	382

Wednesday, 20th September, 1933—

Questions and Answers	383—84
Short Notice Question and Answer	385
Statements laid on the table	385—87
Bill passed by the Legislative Assembly laid on the table	387
Dangerous Drugs (Amendment) Bill—Considered and passed	387—88
Statement of Business	388

Thursday, 21st September, 1933—

Indian Medical Council Bill—Considered and passed	389—404
Death of Dr. Mrs. Annie Besant	405—06

Thursday, 14th December, 1933—

Members Sworn	407
Questions and Answers	407—43
Death of Mr. Vithalbhai Patel	444
Message from His Excellency the Governor General	445

Thursday, 14th December, 1933—*contd.*

Committee on Petitions	445
Library Committee	445
Governor General's Assent to Bills	445—46
Reports of the Joint Committees on the Bill to constitute a Reserve Bank of India and on the Bill further to amend the Imperial Bank of India Act, 1920, for certain purposes laid on the table	445
Statements laid on the table	445—53
Announcement <i>re</i> laying of information on the table	454
Bill passed by the Legislative Assembly laid on the table	454
Motion for the election of one non-official Member to the Standing Committee on Emigration <i>vice</i> Mr. G. A. Natesan, resigned—Adopted	454
Resolution <i>re</i> ratification of the Silver Agreement—Adopted	455—54
Resolution <i>re</i> non-ratification and non-acceptance of the Draft Convention and Recommendation concerning fee charging employment agencies adopted at the Seventeenth Session of the International Labour Conference—Adopted	455—56
Resolution <i>re</i> non-ratification and non-acceptance of the Draft Conventions and Recommendation concerning invalidity, old-age and widows' and orphans' insurance adopted at the Seventeenth Session of the International Labour Conference—Adopted	456—59
Statement of Business	459

Saturday, 16th December, 1933—

Member Sworn	471
Questions and Answers	471—74
Election of a non-official Member to the Standing Committee on Emigration	474
Indian Tariff (Second Amendment) Bill—Considered and passed	475—87

COUNCIL OF STATE.

Tuesday, 5th September, 1933.

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

QUESTIONS AND ANSWERS.

SILVER.

140. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Rai Bahadur Lala Jagdish Prasad): (a) With reference to the payment of the token instalment of the American debt by means of silver acquired by Britain from India's reserve, was the Government of India previously consulted by the British Government in the matter?

(b) Is it a fact that on the 11th of June last Sir George Schuster in an interview with a representative of the *Hindustan Times* with reference to a report emanating from Washington said that there was a possibility of Britain paying the debt instalment out of the silver reserves of the Government of India? Did he further say that it was all a rumour, that the British Government had not so far approached the Government of India on the subject, and that the possibility of such action had not even been discussed in their despatches?

(c) Is it a fact that three days after this interview came the announcement that the token payment would be made in silver acquired from India?

(d) Is it a fact that the decision of His Majesty's Government in the matter had not been arrived at up to June 13th?

(e) Is it a fact that on June 15th last Mr. Chamberlain made an announcement in the House of Commons that President Roosevelt had accepted the British offer of ten million dollars as acknowledgment of debt payment to be made in silver at 50 cents per fine ounce which had been acquired from the Government of India?

(f) Was the question of price settled at the time when the silver was acquired or were the Government of India ignorant of the price they were to receive from Britain for the silver sold?

(g) Is it a fact that the actual cost of the silver transferred from the Government of India to the British Government is understood to be approximately £1,600,000, or about 2 crores and 12 lakhs of rupees?

(h) Are Government aware that Mr. D. P. Khaitan has said that the market price in India of the silver which has been acquired by Britain is about rupees 3 crores and 12 lakhs, and that the price paid by the United States for it would come to about 3 crores and 30 lakhs of rupees?

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(i) Will Government be pleased to state whether the transaction has been a profitable deal for Britain or India ?

(j) Has India been paid, or is she to be paid in gold or in British securities ?

(k) Is it a fact that the Southern India Chamber of Commerce addressed the following telegram to the Finance Department of the Government of India :—“ The Chamber regrets that while Indian gold reserves are being badly depleted the Government of India should have agreed to the use of Indian silver stocks for repayment of British debts due to the United States of America. This Chamber strongly protests against such dissipation of Indian resources of precious metals as it will lead to the weakening of our financial and economic position ”?

THE HONOURABLE MR. J. B. TAYLOR : (a) to (j). The attention of the Honourable Member is invited to the reply given to question No. 19 asked by the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra on the 29th of August, 1933.

(k) Yes.

THE HONOURABLE MR. HOSSAIN IMAM : Part (h) is a new item to which the Government has not replied.

THE HONOURABLE MR. J. B. TAYLOR : Government is not aware of what Mr. D. P. Khaitan may have said.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : What is the reply to part (g) ? It was not in my question, Sir.

THE HONOURABLE MR. J. B. TAYLOR : That question was answered in my answer to question No. 19.

RECOGNITION OF THE PROVIDENT FUNDS OF THE BENARES AND OTHER UNIVERSITIES.

141. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Rai Bahadur Lala Jagdish Prasad) : (a) Have the Government of India received a representation from the Benares Hindu University through the Government of the United Provinces, asking for the recognition of the Provident Fund, instituted by the University under section 16A of Act XVI of 1915, as amended by Act XXIX of 1930, for the purpose of securing its exemption from income-tax and surcharge under section 8, clause 3 of the Provident Fund Act of 1925 ?

(b) If so, what action have Government taken in the matter ?

(c) Is it a fact that the Provident Funds instituted by the Aligarh, Allahabad, Lucknow, and other Universities have been recognised by Government and the Commissioner of Income-tax for the purpose of exemption from income-tax and surcharge ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) Yes.

(b) The matter is under consideration.

(c) Yes.

PARTICIPATION OF THE INDIAN PUBLIC IN THE FORTHCOMING INDO-JAPANESE NEGOTIATIONS.

142. THE HONOURABLE MR. HOSSAIN IMAM (on behalf of the Honourable Rai Bahadur Lala Jagdish Prasad): (a) Is it a fact that a Japanese Delegation is shortly visiting Simla to negotiate with the Government of India on the subject of future trade relations between India and Japan?

(b) What are the plans of the Government of India about the proposed Indo-Japanese negotiations?

(c) Have Government received any representation from the United Provinces Chamber of Commerce asking Government to afford a fair opportunity to the Indian public to participate in the negotiations between the Japanese Delegation and the Government of India?

(d) Will Government be pleased to state if an opportunity will be afforded to the Indian public to participate in the said negotiations?

THE HONOURABLE MR. T. A. STEWART: (a) and (c). Yes.

(b) and (d). Government are sensible of the desirability of consultation with Indian industrial interests throughout the forthcoming Indo-Japanese negotiations and have accordingly requested certain representative industrial and commercial bodies to nominate representatives who may form a panel of un-official advisers whom the Indian Delegation can consult from time to time on problems that may arise during the discussions.

SHORT NOTICE QUESTION AND ANSWER.

FREIGHT ON PUNJAB WHEAT.

143. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that under the Indian Railways Act the railway freights on commodities are fixed by Government with maximum and minimum freights within which the different railways are given the option of variation according to the exigencies of circumstances? If so, will Government be pleased to state whether the present freights on Punjab wheat has been brought down to the minimum level of freights beyond which it is not possible for the administrations to lower it without the amendment of the Railway Act.

THE HONOURABLE MR. M. W. BRAYSHAY: There is no clause in the Indian Railways Act which provides that Government should fix maxima and minima rates within which the Railways may vary their charges. The Secretary of State has however been vested with such powers under the contracts entered into with Company-managed Railways and in respect of State-managed Railways the Railway Board as their controlling authority has restricted the powers of Agents to vary rates between certain maxima and minima. An infringement of these limits requires the Railway Board's approval. The scale of charges at present in force for wheat in the Punjab is above the minimum rate prescribed by the Railway Board.

INDIAN ARBITRATION (AMENDMENT) BILL.

THE HONOURABLE MR. J. BARTLEY (Government of India : Nominated Official) : Sir, I move :

"That the Bill further to amend the Indian Arbitration Act, 1899, for a certain purpose, be taken into consideration."

It is unnecessary to explain at any length the purpose of this small Bill. That has been done very clearly in the statement of objects and reasons. The present Bill is merely an amendment designed to clarify the meaning of section 19 of the Act, owing to the fact that the expression "the Court" in that section has been differently interpreted by various High Courts. The Allahabad High Court and the Bombay High Court now hold views which would render this amendment unnecessary, that is to say, the views that they hold are directly in conformity with the object achieved by this small Bill. The Bombay High Court formerly held a contrary view and the Calcutta High Court I think still holds a contrary view, namely, that the expression "the Court" in this section must be interpreted in accordance with the definition given of that expression in section 4 of the Act in spite of the fact that in section 4 of the Act it is provided that where the context otherwise requires the words "the Court" need not necessarily mean the High Court or the District Court. This Bill puts the matter beyond doubt, and that is the only object which it is aimed at achieving.

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

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : Sir, may I say that this Bill has not come a day too soon. There were difficulties experienced in Calcutta, at any rate, where the litigants as well as practising lawyers found a lot of difficulty with the interpretation of the words "the Court" in section 19 of the Indian Arbitration Act. This small amending Bill will set all controversies at rest and the practitioners as well as the litigants will know where they stand. I fully support the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Indian Arbitration Act, 1899, for a certain purpose, 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.

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

"That the Bill further to amend the Indian Arbitration Act, 1899, for a certain purpose, be passed."

The motion was adopted.

CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, a few days ago I introduced a Bill further to amend the Cantonments (House-Accommodation)

Act, 1923, for a certain purpose. This, Sir, is a very small and non-contentious measure which I am sure will be accepted by the House without difficulty and about which therefore I need only say a very few words.

It is designed to save the house owner, whose house it is proposed to appropriate under the provisions of the Act, from the possible inconvenience and expense of having to make a reference to the court on the question of rent or repairs before he knows for certain by appealing to the Officer Commanding the district whether his house is really to be appropriated or not. Everyone would, I think, agree that all possible consideration should be given to house owners when it becomes necessary to appropriate their house, and, even though the new procedure will entail a little delay from our point of view, we fully recognise that this proposal which was put before us by the All-India Cantonments Association is reasonable in itself. In order to minimise the delay referred to we have slightly reduced the period allowed for making the appeal to the Officer Commanding the district ; but this again I think will be recognised as reasonable and as the Cantonments Association have expressed complete satisfaction with the Bill I think the House can safely accept it without further delay.

Sir, I move :

"That the Bill further to amend the Cantonments (House-Accommodation) Act 1923, for a certain purpose, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3, 4 and 5 were 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 further to amend the Cantonments (House-Accommodation) Act, 1923, for a certain purpose, be passed."

The motion was adopted.

WORKMEN'S COMPENSATION (AMENDMENT) BILL.

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

"That the Bill further to amend the Workmen's Compensation Act, 1923, as passed by the Legislative Assembly, be taken into consideration."

Honourable Members are aware that the Workmen's Compensation Act was introduced as an experimental measure in 1923. Thereafter followed certain modifications in 1929. These were minor modifications, but at the same time the more important questions underlying the Act were discussed in a letter circulated to Local Governments for their opinion. The replies of the Local Governments were then put before the Royal Commission on Labour. The Royal Commission considered these replies at the time of their investigations

[Mr. J. A. Shillidy.]

during their tour and made their recommendations in their report. The Government of India considered all these replies and the recommendations of the Royal Commission on Labour and drafted a Bill which was introduced in the Assembly. Thereafter the Bill was again considered carefully before a Select Committee which made certain alterations and again certain minor amendments followed in the debate in the Assembly. I mention these facts to give some assurance to the Council that this question has been very carefully investigated and that all that could be done to revise the Bill to suit it to our requirements has been done. I feel it is hardly necessary to speak at length because I am very glad to see that there are no amendments, which I hope means that the Members of this Council after a study of all the papers have felt that there is really nothing to add to the Bill as it now stands.

In considering the Workmen's Compensation Act there are obviously three important points which must always be considered. The first is the class of persons to whom the Act should apply. The second is, I think, the question of the dependants to whom compensation should be paid in the event of the death of a workman. The third is the amount of compensation. I propose to deal very briefly with those three heads. Turning to the question of the persons to whom the Act should apply those Honourable Members who have read the report of the Royal Commission on Labour will find that the Act as it stands applies to persons employed in branches of industry which are both organised and hazardous. The Royal Commission went into this question very carefully and they came to the conclusion that there was now room for expansion. The result is that most of those recommendations have been accepted and it will be clear to any Member who examines the number of entries in Schedule II of the Act as it now stands and the number of entries in Schedule II of the Bill as it comes before us. There is, however, one particular class to which I must refer and that is seamen. Under the Act the position is that a seaman is not entitled to any compensation for injuries unless he is employed in an Indian registered sea-going ship or home-trade ship of not less than 300 tons or in an inland steam vessel which comes under the Indian Steam Vessels Act of not less than 100 tons. The Select Committee went into this question and they saw no reason why there should be any difference between a ship which was registered in India or registered elsewhere or not registered at all. Consequently they omitted the definition of a "registered ship". If you will turn to item 6 of Schedule II to the Bill you will find that any seaman who is employed on a vessel which is a steam vessel or propelled otherwise mechanically or electrically or is in a boat which is towed by a steamship now comes under the Act. In addition to this, there is a further expansion—any seaman who is employed in a ship which does not come under any of these categories also comes under the benefit of the Bill if the ship is of not less than 50 tons. That I think shows that so far as the classes of persons to whom the Act is applicable is concerned there has been a very wide extension which has been justified by our experience of the Act since 1924. The other point to which I should like to draw the attention of the Council is the question of dependants. The Royal Commission in considering this question and comparing it with the

British system were of the opinion that the present scheme of the Act was the best which could be devised at all events at present for India and they only recommended two additions to the dependants which are now covered in the Act and that was widowed sisters and widowed daughters. The Government of India in introducing their Bill added only widowed sisters and widowed daughters as recommended by the Royal Commission. When it went before the Select Committee, however, they felt that there were not infrequently relatives who were dependants of a deceased workman who might be included. At the same time, if they were to introduce them there was a danger of abuses creeping in and consequently they divided the categories of dependants into two classes. The first are those who are very nearly related and the second are people less closely connected. But those in the first category need not prove dependence while those in the second category must do so. The third main point is the amount of compensation that is to be given to the dependants of a deceased workman or to the injured workman himself. The Royal Commission also considered this and they recommended that the clauses in Schedule 4 should be expanded. The recommendations of the Royal Commission in that respect have been accepted. They further recommended somewhat more generous terms. Any Member who wishes to compare Act IV as it now stands with the Schedule, and Schedule 4 in the Bill will see what the results of those are, but I might mention one or two small cases. For example, the compensation which would have been permissible to the dependants of a man working on Rs. 10 had he died as the result of an accident would have been Rs. 300 under the Act. Under the Bill it now becomes Rs. 600. Under the Act, the compensation to a workman on Rs. 10 p.m. (I am taking the very small figure, just for easy calculation, of Rs. 10), who was permanently and totally disabled would under the Act have been Rs. 420 ; it will now become Rs. 700. The maximum provision for permanent disablement was Rs. 2,500 ; it now becomes Rs. 5,600. As regards minors, for permanent total disablement there is now a fixed sum of Rs. 1,200.

I do not think, Sir, that there are any other points that I need trouble this Council with. There are of course questions of procedure and they are important. They have been examined very carefully and various amendments have been made. The Royal Commission on Labour said that a great deal of the success of the Act had depended on its extreme precision and on the special machinery which was applied or devised for its administration. Both those two characteristics have been maintained in the Bill. The Bill still remains extremely precise and we still have that special machinery. Sir, I feel that I can recommend to the House that after all the labour which we have spent and the inquiries which have been made the Bill can safely be accepted.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Sir, I take this opportunity to congratulate the Honourable mover of the Bill as well as the Member in charge. The Honourable Sir Frank Noyce has kindly condescended to attend today's meeting of the Council when his Bill is being

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

piloted in this House. I must confess, Sir, that this is not the first occasion for he has graced this Council several times in the Delhi session as well and when I complained about this matter it was not regarding his attitude to this Council but to that of the other Executive Councillors who did not attend the whole of the last Delhi session. So I must congratulate him heartily as well as the House on his presence here when his Bill is being piloted.

Sir, as regards the merits of the Bill, I must say that it is a great improvement on the Bill of 1923 as it brings more workmen under the scope of the Act. The Bill, Sir, does not go far enough according to the desires of the Labour Members but I think that after all this is an experimental measure and let us proceed cautiously and therefore we on this part of the House are no doubt satisfied with the improvements incorporated in the Bill.

Sir, I particularly draw the attention of the Members to some of the salient features included in the Bill. Some of them have already been mentioned by the mover of the Bill. One particular item that affects Honourable Members of this House is that motor drivers of private car owners have also been included in the Bill, so that if there is any accident to them the owners will be liable to pay compensation. I think after all they lead a hazardous life and it was in the fitness of things that they have been incorporated in the Bill. A number of persons employed in connection with explosives have also been included and it was quite right. A large improvement has been made so far as ships are concerned and I must say that the Government has removed the distinction between the ships registered in India and other ships and this was very much liked by the public in general. Then, Sir, further changes have also been made in connection with the men employed in building and construction works, for instance marine works, posts and telegraphs, etc. As far as I can find out, the men employed in private buildings have been excluded and I am glad for their exclusion because it was not necessary at the present time to include them also. Then, Sir, with all these good incorporations there are some points which ought to have been incorporated as well. For instance, the Royal Commission on Labour recommended the compulsory insurance against risk of accident. I think it was a very good recommendation of theirs and if it had been incorporated it would have been of great advantage to the individual employees.

Lastly, I would like to make one or two observations in connection with the procedure on these Bills. Bills, however important, are not referred to Select Committees of this House. They are not even referred to a Joint Committee of both the Houses. The result is that reports of Select Committees are not circulated to Members of this House. We do not know what was done in the Select Committee, who were in favour of certain provisions and who were not. If Bills are referred to a Joint Committee, our representatives will be there and they will be in a position to state what happened about certain amendments which were incorporated in or deleted from the Bill and we would be in a better position to know the points of view of the members of the Select Committee. I therefore protest strongly on this matter and would request Government that, if they do not see their way to refer these Bills to a Select

Committee of this House, they may at least be pleased to have some representatives of this House at a joint meeting so that they may be able to explain to the House the position taken up by the Select Committee.

With these words, Sir, I associate myself with the remarks that have been made by the mover of this Bill and support the motion for consideration.

THE HONOURABLE SIR FRANK NOYCE (Industries and Labour Member) : Sir, I am in the very fortunate position of having only a very few criticisms to meet. While I appreciate what my Honourable friend Rai Bahadur Lala Mathura Prasad Mehrotra has said, I should like to correct him on one point. I do not think he is correct in talking of my condescension in coming to this House today. I regard it as a great privilege to be here and it is a privilege which I should like to exercise much oftener than I do. But in Simla, as Honourable Members are aware, considerations of distance make it difficult for the Members of Council who are in the Assembly to come to this House as often as they would wish.

My Honourable friend Rai Bahadur Lala Mathura Prasad Mehrotra had only one small criticism in connection with the merits of the Bill, and that is the question of compulsory insurance. I need hardly say that all the recommendations of the Royal Commission were very carefully considered. I do not recollect the particular recommendation of the Commission to which he refers but, if there were such a recommendation, we were unable to adopt it because it was not suitable to Indian conditions.

On the question of procedure, Sir, I think it is hardly for me to offer any comments. That, I think, is a question far more for the Leader of the House than for me. But I do appreciate the advantage it might be to Members of this House if they had the reports of the Select Committees of the other House before them in considering measures which come up here, but I should say, Sir, that that is hardly a matter for Government. It is a matter between you, Sir, and the Honourable the President of the other House. In this instance if, as I am sure has been the case, Honourable Members have read the reports of the debates in the other House, they will have found no difficulty in ascertaining for themselves what views were expressed by the critics of the Bill in the Select Committee.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Some times we do not get the proceedings when the Bill comes here.

THE HONOURABLE SIR FRANK NOYCE : In this case, Sir, all the points raised in the minutes of dissent attached to the report of the Select Committee were pressed in the other House in the shape of amendments, and I may add, were all defeated.

I should like, in conclusion, to express my appreciation of the attitude of the House towards this beneficent measure which, I am glad to say, met with the support both of the representatives of capital and of labour in the other House, which is a good augury for the success of its future working.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill further to amend the Workmen’s Compensation Act, 1923, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

Clauses 2 to 23 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.

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House) : I have to announce, Sir, that in order to expedite our legislative programme, it is desirable that the Council should meet on Thursday, the 7th September, 1933, with a view to the consideration and passing of the four Bills which were laid on the table on the 4th September, 1933.

The Council then adjourned till Eleven of the Clock on Wednesday, the 6th September, 1933.