

Thursday, 7th September, 1933

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1933

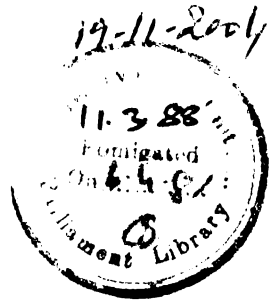
(29th August to 16th December, 1933)

SIXTH SESSION

OF THE

THIRD COUNCIL OF STATE

1933



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COUNCIL OF STATE.

Thursday, 7th September, 1933.

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

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in pursuance of rule 25 of the Indian Legislative Rules I lay on the table copies of the Bill further to amend the Cotton Textile Industry (Protection) Act, 1930, which was passed by the Legislative Assembly at its meeting held on the 6th September, 1933.

LAND ACQUISITION (AMENDMENT) BILL.

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

"That the Bill further to amend the Land Acquisition Act, 1894, for certain purposes as passed by the Legislative Assembly, be taken into consideration."

Under the Land Acquisition Act, Companies which are registered can at the present moment acquire land compulsorily if the Local Government is satisfied that it is needed for the construction of some work and that that work is likely to prove useful to the public. The question of allowing companies or business firms to acquire land for housing their labour is not a new proposal. That a provision to this effect should be made in the law was recommended by the Industrial Commission of 1916-1918. It was again recommended by the Coal Committee of 1920. About that time Local Governments were consulted and they were unanimously in favour of that proposal. For various reasons the change was not made in the law but later on when the Royal Commission on Labour investigated this question among many others they recommended that the housing of labour should be declared to be a work likely to prove useful to the public and they made a further recommendation that this privilege of the compulsory acquisition of land should not be confined to registered companies but should be extended to industrial concerns which were owned by individuals or associations of individuals. The reason why the Royal Commission made this recommendation can be given in a sentence from their report:

"In a number of instances brought to our notice land eminently suitable for the development of housing schemes had been held at ransom by the owners, fantastic values being placed upon it as a result of the construction of factories and other industrial concerns in the neighbourhood".

It seems to me hardly necessary to argue on this point at any length because I feel sure that the object of this Bill will commend itself to the Council.

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[Mr. J. A. Shillidy.]

I think everyone will agree that any industrial concern which is anxious to house its labour properly should not have undue difficulties put in its way, particularly by persons demanding extortionate prices. These two recommendations of the Royal Commission have been given effect to in the new section 38A which will be found in clause 2 of the Bill. When the Bill went before the Select Committee in the Legislative Assembly they did however introduce two further points. They insisted that the industrial concern should be a concern which ordinarily employed not less than one hundred labourers and the reason can be given in their own words :

" Clause 2.—Considerable apprehension has been expressed that the extension of the definition of company to include concerns owned by individuals might lead to the Act being used in favour of mushroom concerns. In order to provide a safeguard we have limited the application of the new section 38A to industrial concerns employing at least one hundred workers."

There was one further addition made in the Select Committee and that was that acquisition of land should be permitted not only for the housing of labour but also for the provision of amenities directly connected thereto. And here again I will quote from the report of the Select Committee :

" We have also made it clear that land may be acquired for the purpose of providing sanitation, sewage and other services at any time ".

I think it is obvious that if you are going to put up houses for workmen you should not be then debarred from making proper provision for the sanitation of those houses.

Sir, this Bill is very short and I think I have said all that there is to be said about it. The object of it is one which I am sure will commend itself to the Council. It is one that is very necessary in the interests of public health.

Sir, I move.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, the Bill sponsored by my Honourable friend Mr. Shillidy, with its objects and reasons so very ably delineated, has come to us for final approval. I have nothing further to add by way of explanation than to commend it to the acceptance of this Honourable House.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): On a point of information, Sir, I should like to know if there is any provision in the main Act itself that if the land acquired for a certain purpose is not utilised, what would happen then? I think some of the opinions that were expressed on the Bill expressly desired that some provision should be made for the return of the land to the original holders if it was not utilised for the purpose within a certain period. I should like the Honourable Member to inform the House.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay: Nominated Non-Official): Sir, I have one observation to make and that is in regard to the sanitary aspect of the proposal in the Bill for providing dwellings for workmen. We know that workmen's dwellings have been constructed on various sites in towns and cities and if they are placed in close

proximity to better class residential quarters, there is great risk on account of the insanitary habits of the workmen and of concealment of cases of infectious diseases among them. However, from the commonsense point of view, whenever any project is evolved for this purpose, there are certain considerations, namely, the amenities of the private class houses in the neighbourhood that have to be taken into account. I will quote one concrete instance in the city of Bombay itself. We have there a building called the Sanitary Institute. The foundation stone was laid and the opening ceremony was performed by a high personage whose name it is not privileged to mention in this House. When we were inspecting the building, the late Sir Ratan Tata drew our attention to some unsightly *chawls* behind the building which were supposed to have been built upon sanitary principles and utilised upon such principles. The way in which the people used to live there was everything but sanitary and was a blot upon the whole scene.

Another instance. There is a large hospital situated in a particular quarter of the city. The Improvement Trust built some buildings for the working classes. These buildings have proved so great a nuisance that the patients are harassed and the quiet and rest are disturbed. Wherever therefore workmen's buildings have to be put up, surrounding circumstances have to be taken into consideration. In Bombay we have now a large colony springing up in the North Island between Dadar and Matunga. Lakhs and lakhs of rupees have been invested there, and if any one were allowed to build either a factory or workmen's quarters, all the investment would depreciate. That is the only remark I have to make in connection with this Bill.

THE HONOURABLE MR. J. A. SHILLIDY: Sir, with regard to the Honourable Mr. Hossain Imam's question, I would point out that under this Bill, there is a provision in section 41 of the Act that the Local Government shall require the company to enter into an agreement with the Secretary of State for India providing to the satisfaction of the Local Government for certain matters, and by the Bill this has to be done where

"The purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith"

and for clause 4 the Bill substitutes the following clause, namely :

"Where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided".

The company, therefore, cannot acquire land without fulfilling these conditions. It has to enter into a definite agreement binding itself to all these conditions and the Local Government has to be satisfied that the company is genuinely intending to erect the buildings for its workmen. I think, Sir, that meets the point of the Honourable Member.

As regards the question of affecting surrounding buildings, I would refer the Honourable Member who raised this point to the fact that when land is to be acquired for a public purpose, a notification is published to this effect in the Gazette and notice is sent to the people who may, and have it in their power to, ask Government not to go on with the acquisition for reasons which

[Mr. J. A. Shillidy.]

they advance. That, I think, meets the Honourable Member's objection. It does give complete power to a Local Government to satisfy itself that damage is not being done unnecessarily to surrounding property.

THE HONOURABLE MR. HOSSAIN IMAM: My point is this. I really wanted to know who will have the *locus standi* to move the Government to take action. Is it the Local Government who will go to the court to set aside the acquisition or is it the private owner who will have to go to the courts to set it aside?

THE HONOURABLE MR. J. A. SHILLIDY: If the conditions are not fulfilled, it is open to anybody, Sir, to go to the Local Government to point out that the company have not carried out the terms of their agreement.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Land Acquisition Act, 1894, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2, 3 and 4 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.

INDIAN WIRELESS TELEGRAPH BILL.

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

"That the Bill to regulate the possession of Wireless Telegraphy apparatus, as passed by the Legislative Assembly, be taken into consideration."

I think I will have no difficulty in persuading the Council to accept this Bill. The Council in the past has shown its interest in the development of broadcasting and they will realise that if broadcasting is to develop in this country, all those who get an advantage from it should contribute towards its maintenance. Broadcasting must, in the end, depend for its revenues on the licence fees. A few sessions ago, in talking on this subject, I pointed out that there was a great deal of piracy in this country and I asked that Honourable Members should use their influence to persuade those who had not taken out their licences to do so, and there was a very fair response. That makes me feel confident that this Bill, the object of which is to provide against this piracy, will commend itself fully to this Council. Piracy is made possible because the Indian Telegraph Act only allows control of the establishment, maintenance and working of telegraphs. Therefore, a licence for mere possession is not necessary, because a man presumably can always say that he got his wireless receiver not for the purpose of listening in but merely as a toy to look at. I think it will appeal to commonsense that if a man does get any wireless set,

he gets it for some purpose ; he does not get it merely to look at but gets it in order to listen-in. Now, all that this Bill does is to make a licence necessary for the possession of a wireless set. It also, by another provision, penalises the possession of a wireless set without a licence. There is only one other remark that I feel necessary to add. The Bill, as introduced, made the penalty for the second and subsequent occasions Rs. 500. The Select Committee decided to be somewhat more merciful and have reduced the fine for the second and subsequent offences to Rs. 250. I feel that mercy is a trait of this Council and that this amendment will commend itself to the Council. The other amendments are merely consequential in order to enable the provisions of the Bill to be carried out.

Sir, there is nothing more to say on the Bill except that I feel, as I have said before, that the object is one with which this Council is entirely in sympathy.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : Sir, I should like to ask the Honourable Member whether it would not be possible to impose a condition upon every dealer that he should register the name of the purchaser and his address as also obtain information from him as to whether the apparatus was to be retained in a particular town or taken elsewhere and to communicate the information to the Department concerned. If this restriction were imposed, I believe all fraudulent dealings are likely to cease and Government will add considerably to its resources.

THE HONOURABLE MR. J. A. SHILLIDY : Sir, if the Honourable Member will turn to clause 10 of the Bill he will find that the Governor General in Council is being given power to make rules for the purpose of carrying into effect the provisions of this Act. In particular and without prejudice to the generality of the foregoing power, such rules may provide for the conditions governing the sale of wireless telegraphy apparatus by dealers in and manufacturers of such apparatus. Under the rules all dealers will have to keep a register of the persons to whom they sell wireless sets. This provision will enable the officers concerned to follow up and see that licences are properly and duly taken out by any persons who have become possessed of sets. I think, Sir, that meets the Honourable Member's point.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to regulate the possession of Wireless Telegraphy apparatus, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2 to 11 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.

INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

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

“That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Second Amendment), as passed by the Legislative Assembly, be taken into consideration.”

Sir, this large and somewhat formidable looking measure can be considered from two aspects. In the first place Government have taken the opportunity of introducing one or two amendments to protect themselves against evasion in minor matters. But secondly, and more important, they have also taken the opportunity, which I think many Members of this House will consider overdue, to go through the Bill with a view to improving the conditions in favour of the assessee, making their remedies clearer and clarifying the methods by which they can obtain redress. I shall deal with the question of the measures taken to prevent evasion first. In the statement of objects and reasons you will find that there are four. The numbers of clauses have of course been recast in the passage of the Bill through the Lower House. The first provision which is contained in clause 7 (d) is to give Government greater power to assess super-tax by collection of information and deduction at the source. The Select Committee in the Lower House has restricted this solely to assessee residing out of India and I think that with this modification the House will be content with the provision as it stands. The second provision is in clause 9, whereby bankers and others are required to give information every year as regards the amount of interest paid by them on which income-tax is not deducted at the source, that is to say, interest on fixed deposits and so on. In the Select Committee it was decided in the Lower House that the minimum limit should be fixed at Rs. 1,000, so as to prevent harassment to people with small incomes and also to minimise the work of bankers in providing returns. In their comment the Select Committee said :

“We have fixed the minimum at Rs. 1,000, but we feel that the figure chosen is experimental and that experience and working of the Act may possibly show that it is too high”.

I think that this House will agree that Rs. 1,000 is at any rate a reasonable initial figure to fix. The third measure to prevent evasion is in clause 11, and is to enable income-tax officers to assess people who either leave or intend to leave India during the course of the year. In the original Bill a similar provision was also extended to the case of people who died, but that was cut out in Select Committee, so that now the provision is restricted to those who are either leaving or about to leave India. There are many people, Europeans and others, in business who leave India during the course of the year in whose case the provision ought to enable us to make more prompt assessment, not only in the interests of Government but in the interests of the assessee themselves. The last amendment which Government proposed to make was to remove the seal of secrecy, whereby income-tax officials are prevented from disclosing in court the fact that offences have been compounded, and so on. This clause was removed by the Select Committee and Government accepted the omission, so that that particular side of the question has been dropped.

I now turn, Sir, to the amendments designed to confer either relief or greater certainty to assessee, in other words, to improve the position of the

assessee *vis-a-vis* the Income-tax Department. The great bulk of the amendments are of this nature and many of them necessarily are of a minor and complicated character dealing with the question of registration of companies and so on. There are two, however, of somewhat larger importance to which I would invite the attention of this House. In the first place, provision is now made for a relief by deduction of the charges made by bankers for commission and so on on interest collected on securities. This may not be a very large amount to the large investor but it is a decided facility from the point of view of the small investor and we hope for that reason that it will be acceptable. There is another ; professional expenses are now for the first time to be allowed to be deducted from income for the purpose of relief up to a limited extent. In the past it was merely business expenses, now professional expenses have been included, and this has been extended by the Select Committee to cover the case of books purchased by an assessee for the pursuit of his profession. This will help such people as medical men and lawyers. Those amounts in actual cash may not be very large, but still proportionately it is a definite relief. There are numerous other minor amendments, but these are the more important. The measure was introduced by Government last September and was carefully considered by the Select Committee in another place. Government accepted the recommendations of that Select Committee, made one or two other technical additions of their own, and as a result I think we may fairly claim that the measure was accepted as non-contentious in the Lower House. I hope that it will receive similar treatment here.

Sir, I move.

THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH (Bihar and Orissa : Non-Muhammadan) : Sir, I admit that there is a good deal of leakage by the evasion of submitting complete and fullest information by the assessee as regards their incomes and Government have got every right to compel the assessee by every means possible to submit a correct return of their incomes. But at the same time, Sir, I can not agree to the principle underlying the Bill by which the banks and money lenders and private bankers are being compelled to deduct the income-tax on interest paid on deposits by their clients. Sir, it cuts into the fundamental root on which the whole fabric of the system of banking rests all over the world. The basic recognised principle of banking is the keeping of secrecy of their clients and once this principle is ignored, money will be withdrawn from the banks and this will mean serious handicap to the growth of banking habits which is so much desired by the State and the people. Such flight of capital will handicap industries which were gradually developing in the country. Sir, the object I think could well have been achieved by other devices which would have prevented the assessee from submitting false returns. It is not for me to suggest the ways and means by which it can be done, but it is for the Government to find out devices to meet the popular wishes. In this connection, Sir, I make bold to say that all the Indian millowners' associations and chambers of commerce and all the Indian mercantile associations have vehemently protested against this innovation of forcing the banks to divulge the secrets of their clients. In the circumstances, Sir, I am unable to agree to the fundamental principle of the Bill and I would even now appeal to the Government to reconsider their views for meeting with the wishes of the whole of the Indian mercantile community.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-madan) : Sir, I am thankful to the Government for the small mercy they have shown in bringing forward this Bill, but our complaint as far as the Income-tax Act is concerned, is not about petty difficulties. Government themselves have brought forward three measures to amend one Act. One amending Act was passed last session : the other has come before us and the third one is before the Legislative Assembly. Amendment of this Act piecemeal is not a good proposition. We expected, Sir, that all these amendments which are contemplated would be embodied in a consolidated Bill, so that all income-tax questions might be looked into. After saying this, I wish to draw the attention of my Honourable friend Mr. Taylor to the great difficulties to which we are put to in the manner in which these Bills are placed before us. The notes on clauses are those relating to the original Bill and when the Bill emerges from the Select Committee these notes on clauses become an old story and it is really very difficult to reconcile what the note says about a particular clause with the actual clause itself. It would be better if the notes on clauses are revised or prepared after the Bill is amended by the Committee, so as to ease our work.

I have got nothing to say about the specific measures brought forward in this Bill except that I find it a little hard to reconcile section 24B (3) with the present condition of the country. When a person dies and he has not been assessed even, then the assessment is made as if it were a burden on the person and it is not divided among the number of heirs of the deceased. It is too late for us in this Council to suggest that this improvement should be made, because we are powerless, but I would like to draw the attention of the Government to clause (3) of section 24B as referred to in clause 11 of the present Bill. If they bring forward any other amendment I would like them to make some provision whereby to keep clauses (1) and (2) of section 24B and delete clause (3), because it is very hard for heirs to amass the amount of money which would be required to pay income-tax. People are put to great difficulties when the earning member dies and he is assessed to income-tax and they are not able to find the quota required.

With these few observations, Sir, I resume my seat.

THE HONOURABLE MR. J. B. TAYLOR : Sir, in the first place I must confess that I am in considerable sympathy with the point raised by the Honourable Mr. Hossain Imam regarding the notes on clauses. It was a difficulty with which I had to contend myself and I quite agree, after spending several hours in checking and re-checking, that I felt that any unfortunate Member of this Council who was going to venture on a detailed criticism at short notice would be somewhat handicapped. If I remember aright the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra raised a similar question regarding the Workmen's Compensation Bill, and though of course we have great difficulties to contend with and we do not wish to delay legislation unnecessarily, I shall see whether it is not possible for Government at least in the case of complicated measures of this sort which have been materially recast in Select Committee to put more information before the Council of State before they come to consider the Bill in its final form.

Then he raised, Sir, another difficult question, that of codifying all the income-tax legislation. That, Sir, we all admit is desirable and we regret that we have had to bring forward so many income-tax amendment Bills during the present session, but for that we are not so much to blame as the financial stringency which compelled us to cast our net wider and bring in a large number of smaller assesseees, with necessary consequential amendments in the procedure for assessing them. A Bill for regularising the procedure for such assessment is on the anvil and as the Honourable Mr. Hossain Imam points out will be the third in the course of the present year. Sir, we regret this, but I claim that in this Bill we have done the best we can to see that the extension of the scope of income-tax does not leave behind the improvement in the machinery for assessment, so that we are doing the most we can to give the assessee a fair deal. Later on we hope that we may be able to undertake some more comprehensive measures, but at present I am afraid that is impossible owing to the pressure of other business, and, as I said, in the meantime we are doing our best to concentrate on the actual practical grievances and remedy them as far as possible.

Finally, Sir, the Honourable Raja Raghunandan Prasad Singh raised the very general question of whether it was right that bankers and others should be asked or compelled to furnish returns of income which was not subject to deduction at the source. Sir, this is a step which has been taken by Government after careful consideration and it was equally carefully considered by the Select Committee in the Lower House after they had heard the representations made by bankers and other business bodies in the country, and as I pointed out in my initial speech, the Select Committee did take a material step towards alleviating any practical inconvenience of that nature both on the assessee and on the bankers who had to submit returns by limiting provisionally the minimum amount to Rs. 1,000. Sir, at present rates of interest I do not think that anybody who has sufficient means to bring the income which he derives from fixed deposits alone over Rs. 1,000 a year is in need of having his banking habits encouraged, and on the other hand the relief to the Income-tax Department and therefore to the tax-payer as a whole is believed to be material. At any rate this was a question which has been carefully considered and on which I regret that we cannot at this stage change our attitude.

Sir, with these few words, I move that the Bill be taken into consideration.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Second Amendment), as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2 to 15 were added to the Bill.

Clauses 16 to 20 were added to the Bill.

Clauses 21 to 28 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. B. TAYLOR : Sir, I move :

“That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Second Amendment), as passed by the Legislative Assembly, be passed.”

The motion was adopted.

INDIAN RAILWAYS (AMENDMENT) BILL.

THE HONOURABLE MR. M. W. BRAYSHAY (Chief Commissioner of Railways) : Sir, I beg to move :

“That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.”

The object of this Bill is explained in the statement of objects and reasons which Honourable Members have before them. Very briefly, it is to remove a restriction which under the Act as it stands prevents certain railways from operating road or air services. The railways that would be affected by this measure are the small light railways. The State Railways are not affected and the guaranteed Company Railways which are governed by Act of Parliament are prevented by that Act from operating such services. These small railways have asked that they be relieved of this restriction and be placed on an equal footing with anyone else. The terms of this Bill have been framed by a Select Committee of the Legislative Assembly and the Bill has been passed by the Assembly. In framing these terms particular care has been taken to ensure that these railways should secure no privileged position or anything in the nature of a monopoly. Sub-section (4) is intended to place the railway company operating such a service on level terms with any company, firm or individual operating a like service. It is intended to give the company no advantage nor to impose on it any disadvantage as compared with other private enterprise. In particular the intention is that such a company should not enjoy any exemption from taxation or from the licensing regulations. It will be observed that provision is made in sub-section (2) that the Local Government shall be consulted before any railway is allowed to operate such a road service, so that all interests concerned may be consulted and such conditions may be laid down by Government as will secure fair play in the best interests of the public. The Road-Rail Conference held in April of this year which comprised representatives of the Central Government, the Local Governments, railway and road interests, passed a series of resolutions recognising the necessity of coordination in road and rail transport facilities and of suitable machinery for securing such coordination in the interests of the railways, the road-users and the public. Among these resolutions was one recommending that the statutory provisions which at present limit the operation of motor services by certain railways should be repealed. The Bill now before this Council is in direct accord with that recommendation. Moreover, it will be noticed that sub-section (4) safeguards the powers of the Local Government in respect to the regulation of the use of roads, a provision again directed to assist the coordination recognised as necessary by the Road-Rail Conference.

Sir, I think that Honourable Members need have no hesitation in accepting this measure which is recommended by the Associated Chambers of Commerce,

the Kirkness-Mitchell Report, supported by the Road-Rail Conference, and was drafted by the Select Committee and passed by the Legislative Assembly.

Sir, I move.

THE HONOURABLE MR. SATYENDRA CHANDRA GHOSH MAULIK (West Bengal : Non-Muhammadan) : I must congratulate the Government on bringing forward this Bill. It will place the railways which are not guaranteed under Statutes 42 and 43 Vict. Ch. 41, i.e., railway companies which are floated in India on the same footing as those railways which are more favourably placed in the matter of running motor buses and aeroplanes ancillary to the railway service. With the advent of motor buses which run on competitive rates the railway earnings from traffic have been considerably reduced. It is a fact that railway earnings from short distance traffic form the major portion of their income and it is only on account of this that it is possible for the railways to allow favourable rates for the conveyance of goods and agricultural produce for long distances. Now, if the cream of the traffic is taken away by the buses it would not be possible for the railways to give this facility. And further the income of the railways will depreciate very much and some of the railways—I mean the small railways—will have to close down. After all, railways are national assets and a fall in the income from the railways will moreover affect the central revenue to a great extent, not to speak of the workers who will be thrown out of employment. It is therefore necessary that the railways be allowed to run such subsidiary services which might help them to retrieve some portion of the loss. I therefore wholeheartedly support the Bill.

THE HONOURABLE RAJA RAGHUNANDAN PRASAD SINGH (Bihar and Orissa : Non-Muhammadan) : Sir, I must take this opportunity of congratulating the Government and especially the Honourable Sir Joseph Bore, the Member in charge of the Railways, for removing all the obnoxious features which were present in the original Bill. Sir, after the assurances given by the Honourable Member for Railways in the other House that Government will not allow the State Railways to run road motors in competition with private buses, I think there cannot be two opinions that the Bill, as passed by the other House, is acceptable to the public. The criticisms levelled against the Bill that it will kill the indigenous bus services to my mind does not hold good as the feeder railways which are being empowered to run such road motor services dare not go into rate cutting as it will mean more loss to such companies. Sir, these companies desire to have the right of running motor buses to recoup their losses that they are incurring on running their railways. Lastly, Sir, it will be a great boon to the travelling public as they would get better buses, better running and more punctuality. They will further be saved from the haggling with the bus owners for settling their fares. No one can doubt that the buses that will be run by the railway companies will give better and more efficient service to the public. Sir, to my mind the time will not be far distant when the public will demand the extension of this system to the State Railways wherever there is a road motor service competing with such railways.

With these few words, Sir, I support the Bill.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Sir, I regret that I cannot join my Honourable friends in the congratulations that they have offered on this Bill. I for one feel that this Bill acts as a double-edged sword. It can cut both ways. It all depends upon the way in which clause 2 of the Bill is used. By clause 2 of the Bill, the whole scheme will be submitted for consultation with Local Governments when the companies apply to the Government of India for this concession. Sir, my Honourable friend the mover of the Bill has made it clear that this Bill will not affect State Railways. It will affect only small private company-owned railways. So that, so far as the income of the Government is concerned, it will not be affected. On the one hand, it will help in increasing the income of private railway companies ; on the other hand, it is sure to kill private bus services that have been established during the last 20 or 25 years. I therefore want to sound a note of warning to the Government and request Government when they give permission to these companies to consider several points in the interests both of these private bus owners and the travelling public. Sir, the moment these railway buses are permitted to be run, there is sure to be a cut-throat competition between private buses and railway buses for a short time just to kill the former. During that short period, of course, the travelling public will take advantage of the reduction in rates. But what will be the ultimate result ? After killing the private transport services, the railway may stop its own service and revert to the present system of railway traffic. This happened in England in 1928. There was a great agitation by the companies and an Act was passed by Parliament in 1928 by which these companies were permitted to run railway buses. In spite of the fact that the bus service there is more efficient, more vocal—they can put their point of view before Parliament in a better way—in spite of all that, the result was that the service was practically stopped, and after that the railway companies too practically stopped their service and there was great inconvenience to the travelling public. As a result in 1931, a Royal Commission on Transport was appointed. That Royal Commission in its report said :

“ Railways got on the road in 1928. They entered into rate-cutting wars with companies so as to force the public to return to the railway by first killing competition and then closing down the motor service ”.

This was stated by the Royal Commission on Transport in 1931. The matter was again taken up by Parliament in the same year and an Act was enacted in 1931 called the English Road Traffic Act, 1931. By that Act they appointed Traffic Commissioners to control the service and see that the public were not deprived of their amenities. That is what happened there. This leads us to think that the same may happen here. I have therefore thrown out this suggestion to the Government that they should keep an eye upon this question, particularly when they give permission to these private companies for starting railway buses.

Sir, I am glad that one of the most important provisions of the Bill was deleted by the Select Committee—in regard to giving monopolies of these roads. That provision has been deleted by the Select Committee. Sir, the report of

Messrs. Mitchell-Kirkness has said something which leads us to think that ultimately this may lead to monopoly again. They have clearly stated in their report that if railway companies run buses on equal terms with private companies, they are sure to sustain loss, because there are so many things which the companies will not be able to regulate as these private owners are doing. Therefore the report says that in competition it is likely that the companies will be put to loss. On account of this assertion, we on this side of the House are afraid that ultimately it may lead to a monopoly, and I, therefore, submit that Government should keep this point in view, and should never give monopoly to these companies. Sir, as far back as 1912, a committee appointed by the Government of India, called the Acworth Committee, suggested in this connection that in order to meet this point, a Ministry of Transport should be established. I am glad that a Board of Communications has been established in many provinces and that they will act as suggested in that report and deal with these questions. On the one hand, there is the question of the loss to these private companies; on the other hand, there is the question of the loss to private bus owners, who, I am sure, have put a lot of money into the business. The approximate figure is about Rs. 22½ crores excluding buildings, garages, service stations, petrol stations, and parts and accessories as well as workshops. If that service is totally killed, unemployment will be increased. Thousands and lakhs of people are employed in these services and this will add to the unemployment in the country. Therefore, Sir, I have no objection to this Bill, rather I support the Bill, with these warnings and observations that when Government is going to give permission they will keep all these points in view.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal :

Muhammadian) : Sir, before I make any observation

12 Noon.

in support of the Bill I want to know from the Honourable Mr. Brayshaw—he said in his speech that No. 1 was supported by the Kirkness and Mitchell Committee and No. 2 by the Select Committee—may I know whether there was any note of dissent in the Select Committee of the Lower House ?

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadian) : Sir, at the outset, I admit that the Select Committee to which the Bill was referred by the other House have removed a good deal of the objectionable features which were in the original Bill and for that I congratulate the Honourable the Member for Railways who was so accommodating as to meet the wishes of the public. Yet, Sir, I can not reconcile myself to the Bill even in its present form. The main objection of the public, both official and non-official, was due to the apprehension that lest a monopoly might not result if the railways are allowed to compete with road buses. In this connection I quote the Mitchell-Kirkness report, page 34, where it states as follows :

“ Generally official and non-official opinion appears to be opposed to railways operating road transport chiefly lest a monopoly should result which would lead to the public being badly served ”.

Against this the Select Committee claims that they have taken away the right of monopoly of bus services claimed by the railways in the original Bill and they have allowed in the Bill in its present form the railways to run buses along with private buses in competition. They think, Sir, that they have been able

[Mr. Jagadish Chandra Banerjee.]

to disarm the aforesaid criticism. But they forgot the means by which in an unfair competition between a stronger party and a weaker party the stronger party always succeeds in killing the weaker. If I am to illustrate this, by an example, I would like to bring to the notice of the House the report of the Royal Commission on Transport in England in the year 1931. That report under similar circumstances stated as follows :

“ Railways got on to the road in 1928. They entered into rate cutting wars with companies so as to force the public to return to the railway by first killing competition and then closing down the motor services ”.

This is exactly what will happen in India too. If the well-organised English bus owners could not stand the competition, how can we expect the ill-organised and mostly individualistic Indian bus services to stand the competition of the well-organised Indian Railways. Sir, I say even the Houses of Parliament in England had to come to the rescue and after allowing such competition for a time of the public and the bus services in England by the passing of the English Road Traffic Act, 1931, by which Traffic Commissioners were appointed to see that the public were not deprived of the amenities to which they were accustomed. That being the experience in England, Sir, I think the question can very pertinently be asked why should we not catch time by the forelock and have another Bill like the Traffic Commissioners Bill simultaneously by which the evil effects of rate cutting between road-rail buses should be neutralised.

With these few remarks, Sir, I oppose the Bill.

THE HONOURABLE MR. M. W. BRAYSHAY : Sir, I will take the point which the Honourable Mr. Suhrawardy mentioned first as it is a simple point. The only note to the report of the Select Committee was one by Mr. Maswood Ahmed and which read :

“ In my opinion the proposed rates should form part of the scheme and those rates should not be changed without previous sanction of the Governor General ”.

That does not I think amount to an objection to any of the provisions of the Bill.

The Honourable Rai Bahadur Lala Mathura Prasad Mehrotra has criticised the measure in that he apprehends that it will result in a cut-throat competition and a driving of the bus owner off the road, and he has urged that before giving permission for a railway to run such a service the interests of the bus owners should be considered. In support of this the Honourable Member has mentioned what has happened in England, but I think that he is not quite right. The Railways in England were permitted by the Act of 1928 to operate road services and the gradual development of the authority they got thereby was that they established in some cases road services of their own, but in many cases they coordinated with existing road services. The Act of 1931 which provided for the Traffic Commissioners had mainly the object of keeping down transport facilities to what were necessary in the public interest and what the roads could actually bear, because it had been found that the road traffic was getting so heavy that the roads could not carry it. My general reply to this criticism is to point out that no railway will be permitted to run a road service

until the Local Government have had an opportunity to consult every interest concerned, and the running of such service will be subject to such conditions as may be laid down by Government. It has been generally agreed at the Road-Rail Conference that coordination and control of road services is essential. Those recommendations are now under consideration by the Government of India with the idea of establishing a practical means of giving effect to them. But in the meantime the permission and facility that is given to railways by this present measure is subject to these conditions, that is to say, that the Local Government shall have the opportunity to consult every interest concerned, and in view of what was decided at the Road-Rail Conference there seems not the slightest doubt that every interest will get the fullest consideration.

The point made by the Honourable Mr. Banerjee is that the permission that will be granted will result or may result in a monopoly, that is to say, that the railway having superior financial resources will cut their rates, drive the buses off the road and will then raise their rates and be in the position of having a monopoly. I would point out that in the first place the railways concerned are all small railways. They are all financially not in a good position; mainly because of this competition and also partly because of the present depression.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Are they all Company-managed Railways, Sir?

THE HONOURABLE MR. M. W. BRAYSHAY: They are all Company-managed Railways; they are small railways and in many of them local boards and local authorities have financial interests. The interest of Government is not very great. It exists generally only in so far as that in certain cases it has given guarantees. But I would point out that it would hardly be possible even if these railways had a strong financial backing to drive competitors off the road in the manner suggested. The transfer of services of this nature from one road to another is a very small matter. If they have reduced their rates and driven their competitors off the road, they would have to keep their rates reduced; otherwise the competitors would come back, and I cannot conceive the company continuing such a service on which they were losing heavily.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: What about the State-managed Railways?

THE HONOURABLE MR. M. W. BRAYSHAY: The State-managed Railways are not covered by this measure. The State Railways at present may run services if they wish as the restriction in the Act does not apply to them. As a matter of fact the big State Railways or the big Company Railways have not pressed for a measure of this sort as yet and the State Railways have not taken any action on any extensive scale to establish motor services of their own.

Sir, I think I have answered the questions that have been put.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Railways Act, 1890, 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.

THE HONOURABLE MR. M. W. BRAYSHAY : Sir, I move :

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

NOMINATION OF MEMBERS FOR ELECTION TO THE STANDING COMMITTEE OF THE DEPARTMENT OF INDUSTRIES AND LABOUR.

THE HONOURABLE THE PRESIDENT : I have now to announce that the following Honourable Members have been nominated for election to the Standing Committee to advise on subjects other than “ Roads ” and “ Broadcasting ” dealt with in the Department of Industries and Labour :

The Honourable Mr. Mahmood Suhrawardy.

The Honourable Sardar Buta Singh.

The Honourable Sardar Shri Jagannath Maharaj Pandit.

There are three candidates for two seats and the election will therefore take place on Monday, the 11th September, 1933.

NOMINATION OF MEMBERS FOR ELECTION TO THE STANDING COMMITTEE OF THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT : I have also to announce that the following Honourable Members have been nominated for election to the Standing Committee to advise on subjects in the Department of Commerce :

The Honourable Mr. Sutyendra Chandra Ghosh Maulik.

The Honourable Sir Phiroze Sethna.

The Honourable Rai Bahadur Lala Mathura Prasad Mehrotra.

There are three candidates for two seats and in this case also the election will take place on Monday, the 11th September, 1933.

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House) : Sir, as Honourable Members are aware, Monday, the 11th and Wednesday, the 13th September are days allotted for non-official business. It will not be necessary for the Council to sit on Tuesday, the 12th but I would suggest that the Council should meet on Thursday, the 14th September for the transaction of official business when the Bill laid today can be proceeded with along with any other Bills which may be received from the other Chamber by Monday, the 11th September, 1933.

THE HONOURABLE THE PRESIDENT : The Council will now adjourn.

The Council then adjourned till Eleven of the Clock on Monday, the 11th September, 1933.