

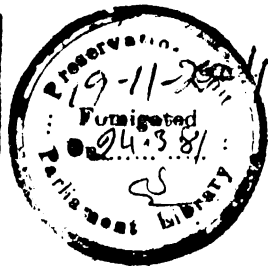
Tuesday, 20th September, 1927

THE
COUNCIL OF STATE DEBATES

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THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927



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COUNCIL OF STATE.

Tuesday, 20th September, 1927.

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

QUESTIONS AND ANSWERS.

LACK OF RAILWAY COMMUNICATION WITH THE MAJOR PART OF THE ARAMBAGH SUB-DIVISION IN THE DISTRICT OF HOOGHLY.

220. THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (on behalf of the Honourable Srijut Lokenath Mukherjee): Will the Government be pleased to state whether it is a fact that there is no railway communication with the major part of the Arambagh sub-division in the district of Hooghly?

THE HONOURABLE SIR GEOFFREY CORBETT: No railway passes through the Arambagh Sub-Division.

PROTECTION TO THE MATCH INDUSTRY.

221. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is it a fact that the Tariff Board was directed by Government to submit a report on the manner and measure of protection, if any, that might be afforded to the match industry in India? If so, how far has the inquiry by the Tariff Board proceeded, and when is it expected to submit its report; and is it a fact that the Tariff Board has postponed its investigation for an indefinite period of time? If so, why has this been done?

THE HONOURABLE SIR GEOFFREY CORBETT: A reference on the match industry was made to the Tariff Board last November. But the Board was then fully occupied with the Steel enquiry, and the enquiry into the match industry did not begin until March. The Board has taken evidence in Burma and Assam, and also from the Indian Match Association. Progress has been interrupted by a number of other pending enquiries, which have now been completed or are approaching completion. It is expected that the report on the match industry will be submitted next April.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, the following message has been received from the Legislative Assembly:

"I am directed to inform you that the Legislative Assembly have, at their meeting held on the 19th September, 1927, agreed without any amendments to the following Bills which have been passed by the Council of State:

A Bill further to amend the Aden Civil and Criminal Justice Act, 1864, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay.

A Bill further to amend the Indian Divorce Act for a certain purpose.

A Bill further to amend the Assam Labour and Emigration Act, 1901, for certain purposes."

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, which was passed by the Legislative Assembly at its meeting held on the 19th September, 1927.

THE HONOURABLE SETH GOVIND DAS (Central Provinces : General) : I want to know, Sir, when this Bill is going to be taken up for consideration.

THE HONOURABLE THE PRESIDENT : That is a matter in which I have to ask the assistance of the House. The House knows that, unless the Chair otherwise directs, the Bill which has just been laid cannot be taken up for consideration within three days of its being laid on the table of the House. The House is aware that on some occasions we have taken up Bills the day after they have been laid in this House. I have been told that one or two Honourable Members are desirous of proceeding with the Bill at once. That is a thing which I think has never been done so far. But I am entirely in the hands of the House in this matter, and I shall be very glad to have the views, particularly of non-official Members, because I imagine it is a matter of little or no moment to Government or to the official Members when the Bill is taken up. I shall be very glad to hear the views of non-official Members.

THE HONOURABLE SETH GOVIND DAS : As far as I see, after the Bill is laid on the table, according to the Standing Orders, we should have seven days' time before the Bill is taken into consideration.

THE HONOURABLE THE PRESIDENT : Three days.

THE HONOURABLE SETH GOVIND DAS : A slip of the tongue, Sir, yes, three days. On behalf of my party I would suggest that, because the Bill is of a very controversial nature, we should have at least three days before we take it up for consideration. Only the other day the Honourable Mr. Das himself withdrew a Bill in favour of the opinion of the House and he accepted its postponement to the next Session. If the House is not going to sit after three days, in that case I suggest that the consideration of this Bill should be postponed to the next Session ; but in any case it should not be immediately taken up for consideration as it is a very controversial Bill.

THE HONOURABLE THE PRESIDENT : Before I ask the views of other Honourable Members, I should like to be told by the Leader of the House if I am correct in supposing that copies of the Bill as amended by the Select Committee were circulated to the Honourable Members of this House at once, and also whether I am correct in supposing that one amendment only was made in the other House in the Bill which was reported to that House by the Select Committee.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, it is a fact that the Bill, as soon as it passed through the Select Committee was circulated to the Honourable Members of this House for information, and that the only amendment that was made in the other House is in regard to the question whether the offence should be bailable or non-bailable. Beyond that there was no other amendment whatsoever made by the other House. I may add that this Bill was circulated

among Honourable Members last evening as soon as it was passed in the other House. I am also glad to say that the Honourable Mr. Khaparde, who proposes a few amendments to this Bill, was good enough to circulate them in the course of last evening.

THE HONOURABLE SETH GOVIND DAS : That is all right, but still many other amendments were moved in the other House. Of course, they were not accepted—that is entirely a different matter. But it is a fact that certain Honourable Members of that House were of opinion that some more amendments ought to be made in the Bill, and Honourable Members here may also think it desirable to send such amendments as have been moved in the other House, though not passed. No doubt, as the Honourable the Leader of the House has pointed out, the Bill was circulated last evening as passed by the other place. The Select Committee's Report was also circulated, but we were watching the amendments that were going to be made by the other House. Though only one amendment was made, many amendments were moved in the other House. At least we should have some time to consider the Bill with the amendments which were moved in the other place. Therefore, I suggest again, Sir, that we should have at least three days' time according to the Standing Orders for considering the Bill and two days for sending in amendments.

THE HONOURABLE PANDIT SHYAM BIHARI MISRA (United Provinces : Nominated Official) : May I know, Sir, where my Honourable friend Seth Govind Das' party is ? It seems to me that the so-called party consists of himself and Mr. Zubair only to-day.

THE HONOURABLE SETH GOVIND DAS : Mr. Kumar Sankar Ray Chaudhury is here and Mr. Lokenath Mukherjee and Mr. Anugraha Narayan Sinha will also be here. Some other Members have not attended the Council to-day but they are likely to attend to-morrow. Some Members might attend in the course of the day. My party consists of course of many more Members than my Honourable friend Mr. Misra suggested. Besides the party may contain a few Members in this House, but we want to put the view of the country before the House which this party truly represents.

THE HONOURABLE THE PRESIDENT : I should be grateful for the views of other Honourable Members. So far I have only had the views of one Honourable Member representing what at least is a somewhat attenuated party in the House at the moment.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : I think the other Members would necessarily like to finish the Session as soon as possible, because some of them are business men. Most of us have been going to the other House during the debates on this Bill and hearing what was going on. So everybody is quite prepared. There is no new preparation to be made and I think, if the Bill was brought forward, say immediately, or to-morrow, most of the Members would like that.

THE HONOURABLE SETH GOVIND DAS : Sir, I should like to know whether, when the House is not unanimous on the point and when a section of the House or any Member objects to taking the Bill into consideration before three days, it can be taken into consideration earlier than the three days allowed by the Standing Orders ?

THE HONOURABLE THE PRESIDENT : The Bill can certainly be taken into consideration earlier. The matter is entirely in the discretion of the Chair. The position of the Chair in this matter is that it has to consider the convenience of the House as a whole, and I think I should be right in saying that the House as a whole does not desire to wait for the full three days' notice in this matter. The House is already somewhat thin and I have no doubt that if we do not take this Bill up till Friday, the House will be considerably thinner. The Honourable Seth Govind Das and some members of his party may be here ; the official Members will be here, but it will hardly be a House properly constituted to take into consideration a Bill of this important character. The House has put me in a position of some difficulty, but as I say I have to consider the convenience of the House as a whole, and I think I shall be doing that if I direct that the Honourable Mr. Haig's motion come before this House to-morrow. The usual two days' notice under the Standing Orders for amendments will, of course, have to be waived by the Home Secretary.

THE HONOURABLE SETH GOVIND DAS : Up till what time could the amendments be sent in ? By this evening ?

THE HONOURABLE THE PRESIDENT : I can only suggest that the Honourable Member should send them in as soon as possible. As I said, it is obviously a matter in which the two days' notice for amendments cannot be insisted on. The Honourable Member will no doubt do his best to let the Honourable the Home Secretary have notice of his amendments as early as possible.

RESOLUTION *RE* RATIFICATION OF THE DRAFT CONVENTIONS CONCERNING—(1) SEAMEN'S ARTICLES OF AGREEMENT, AND (2) THE REPATRIATION OF SEAMEN.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) :
Sir, I beg to move the following Resolution :

“ That this Council recommends to the Governor General in Council that the question of the ratification of the Draft Conventions concerning—

- (1) Seamen's Articles of Agreement, and
- (2) the Repatriation of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1926, should be considered at a later date, when the amendments necessary to bring the existing Law into conformity with these Draft Conventions have been further examined in consultation with parties interested.”

Sir, these two Conventions were the outcome of the Ninth Session of the International Labour Conference which was held at Geneva last year. This Session considered exclusively questions relating to maritime labour, and India was represented with skill and distinction by a delegation which included a Member of this Council, namely, my Honourable friend Sir Arthur Froom. I may say at once that in the matters which are dealt with in these two Conventions, Indian law and procedure are already very advanced. In the articles of agreement which are prescribed for seamen, and in the matter of repatriation, I think we may fairly claim that the Indian Government is as solicitous

for the welfare and protection of seamen as the Government of any other country in the world. It follows, therefore that it should be possible for us to ratify these Conventions, which must already be largely covered by the existing law and practice in India. In fact, I think I may say that in some respects we already go considerably beyond the requirements of these Conventions. There are, however, a few minor points in the Conventions which are not so covered ; and the procedure of the League of Nations in these matters is usually this. In the first place, a Convention cannot be ratified with a reservation. You have to take it as it stands. And secondly, before you ratify, the League of Nations desires that you should make any amendment in the law that may be necessary in order to bring your law into strict accordance with the requirements of a Convention.

Now, in this matter, relating to the position of seamen under the Merchant Shipping Acts, the English and the Indian Acts are very closely interlocked. In particular, the part of the English Merchant Shipping Act relating to masters and seamen, that is Part II of the Act, applies to all British ships wherever they may be registered, except in certain restricted circumstances ; for instance, in certain cases, when the ship concerned is within the territorial jurisdiction of the country in which it is registered. Otherwise the English Act is an Imperial Act, applying to the whole of His Majesty's possessions and governing the position of seamen on all British ships wherever they may be registered, in whatever part of His Majesty's dominions. Before therefore these conventions are applied to all ships registered in India and before we can ratify these Conventions, we have to be sure that the law governing these ships is in accordance with the Conventions.

That law, where it differs from the Conventions in certain small points, can only be brought into line with the Conventions by His Majesty's Government, acting through the Imperial Parliament. We have therefore to await the decision of His Majesty's Government on these small outstanding points before we can definitely decide to ratify.

There is also another point, I think. It is rather desirable that these Labour Conventions should be ratified simultaneously by as large a number of countries as possible. We have had a certain experience of that ourselves in regard to the Washington Conventions, which India ratified in advance of most other countries, and has suffered certain disabilities, as some think, in consequence. It is particularly desirable in Conventions relating to maritime labour, where seamen under the very conditions of their service are not confined to any particular country but proceed from one country to another. I think, therefore, we need be in no great hurry to ratify these Conventions, which are open to ratification at any time. At the same time, under Article 405 of the Treaty of Versailles, we are required to bring such Conventions before the Legislature within eighteen months of the Session at which they were agreed to. Eighteen months have now nearly expired, and will expire before the next Session of the Legislature. For this reason we have no option but to bring the Conventions before the Legislature at this Session and in this particular form. The Resolution was accepted yesterday by the Legislative Assembly, and I have no doubt that it will be accepted by this Council to-day.

Sir, I move.

The motion was adopted.

RESOLUTION *RE* RECOMMENDATIONS CONCERNING (1) THE REPATRIATION OF MASTERS AND APPRENTICES, AND (2) THE GENERAL PRINCIPLES FOR THE INSPECTION OF THE CONDITIONS OF WORK OF SEAMEN.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary):
Sir, I beg to move the following Resolution :

"That this Council recommends to the Governor General in Council that no action be taken on the recommendations concerning—

(1) the Repatriation of Masters and Apprentices, and

(2) the General Principles for the Inspection of the Conditions of Work of Seamen,

adopted by the General Conference of the International Labour Organisation of the League of Nations at its Ninth Session held at Geneva from the 7th to the 24th June 1926, until the amendments necessary to bring the existing law into conformity with these Recommendations have been further examined in consultation with parties interested."

The position in respect of these recommendation is similar to the position in respect of the Conventions which were dealt with in the last Resolution. It differs merely in one point. I said that a Convention had to be ratified without reservation. There is no such condition attaching to the acceptance of a recommendation. It is open to the Government concerned to give effect to as much or as little as it likes. At the same time, where, as in this case, recommendations have been accepted by the delegation of the country concerned, it is obviously desirable that the Government of that country should give effect to as much as possible.

The first recommendation, dealing with the repatriation of masters and apprentices, is a small matter. I think the law in regard to masters already gives as much protection as is required to the masters. It regard to apprentices some amendment may be necessary. And here again His Majesty's Government are considering, I understand, an amendment to the English Merchant Shipping Act which will apply to all British ships wherever registered, and here again it is not within our power to legislate in the matter apart from His Majesty's Government. This is a small matter that can well stand over.

The second question, *viz.*, the general principles for the inspection of the conditions of work of seamen is a matter which concerns India only, because the inspection will be confined to Indian ports. I do not think there is in contemplation any extension of inspection on board ship on the high seas. The most important article, the fundamental article as we may say, in this recommendation is article No. 3 :

"That, wherever it is compatible with the administrative practice and in order to secure the greatest possible uniformity in the enforcement of the laws and regulations relating to the conditions under which seamen work, the different services or bodies responsible for supervising the enforcement of such laws and regulations should be centralised under a single authority."

Now, that article is of considerable interest to us because, as Honourable Members are aware, we have already under consideration the reorganisation

RECOMMENDATIONS re REPATRIATION OF MASTERS AND APPRENTICES, AND 1285
INSPECTION OF WORK OF SEAMEN.

of our mercantile marine administration so as to bring it under the central authority instead of having it scattered under the authority of the various Local Governments. When I brought the Indian Lighthouse Bill before this House in the Delhi Session, I said that this was the first instalment of a general scheme of centralisation. That Bill has now become law, and we shall now proceed with the next stage, which will be the amendment of the Indian Merchant Shipping Act so as to transfer the statutory authority from the Local Governments to the Governor General in Council. We hope to bring this Bill before the Legislature at the next Delhi Session, and that will be a fulfilment of the fundamental condition required by this recommendation. Until then, Sir, I think the question of acceptance of the recommendation can well be postponed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 21st September, 1927.