

Saturday, 28th August, 1926

THE
COUNCIL OF STATE DEBATES

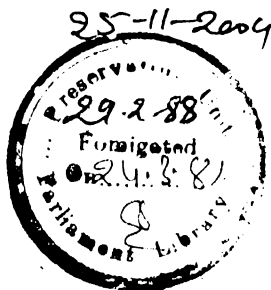
VOLUME VIII

(17th August 1926 to 31st August 1926)

SECOND SESSION

OF THE

SECOND COUNCIL OF STATE, 1926



THE
COUNCIL OF STATE DEBATES

(Official Report)

VOLUME VIII

SECOND SESSION

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COUNCIL OF STATE.

Saturday, the 28th August, 1926.

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 Provincial Insolvency Act, 1920, for certain purposes, a Bill to amend the Indian Succession Act, 1925, for a certain purpose, a Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, and a Bill to provide for the constitution of Bar Councils in British India and for other purposes, which Bills were passed by the Legislative Assembly at its meetings held on the 25th, 26th and 27th August, 1926.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, a Message has been received from the Legislative Assembly. The Message runs as follows :

"I am directed to inform you that the Bill to amend the provisions of section 33 of the Indian Succession Act, 1925, which was passed by the Council of State at its meeting held on the 23rd March, 1926, was passed by the Legislative Assembly at its meeting on the 27th August 1926, with the amendments indicated below.

The Legislative Assembly requests the concurrence of the Council of State in the amendments."

The amendments made by the Legislative Assembly in the Bill are as follows :

In clause 3, in the proposed section 33-A—

(i) in sub-section (3) for the words " in the same way as if such residue had been " the words " and such residue shall be distributed in accordance with the provisions of section 33 as if it were " were substituted : and

(ii) in sub-section (5) for the words " any Indian Christian or of " the following was substituted, namely :

" (i) any Indian Christian,

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian, or

(iii)."

Sir, I lay on the table a copy of the Bill as amended by the Legislative Assembly.

USURIOUS LOANS (AMENDMENT) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move that the Bill to amend the Usurious Loans Act, 1918, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

This Bill, as Honourable Members will observe, seeks to extend the operation of the Usurious Loans Act in two principal directions. The first is to enable debtors to file suits under the provisions of the Act in the same way as is open to creditors. The present framing of the Act permits the initiative in litigation to be taken only by a creditor. The second and almost equally important amendment which is proposed is to extend the period of limitation in proviso (i) of section 3 of the Act from six years to twelve years. These two amendments have been under the consideration of the Government of India for some time. In fact, I recollect that I had the privilege of addressing the Government of India on this subject from Bombay in the year 1921. The Government of Bombay were particularly concerned in this matter, because the legislation which is now proposed will affect their position very materially in respect of the operation of the Dekkhan Agriculturists' Relief Act. That Act is an antiquated and somewhat cumbrous measure, and great difficulty has been experienced in its working. The Government of Bombay have for a long time been anxious to simplify the legislation relating to agrarian debts particularly and to usurious transactions generally by a very extensive repeal of the Dekkhan Agriculturists' Relief Act. They were, however, unable to do so until some of the necessary safeguards, which will be provided by the Usurious Loans Act as now proposed to be amended, had been carried into effect. The Government of India took these questions into consideration three or four years ago and circulated them for opinion to the Local Governments. There was a very strong measure of support to the first proposition, which is to enable debtors to avail themselves of the privileges of the Act, and, as regards the extension of the period of limitation, though there was not the same degree of unanimity nevertheless there was a substantial degree of support. The two amendments which this Bill purports to effect will, as a matter of fact, only bring the Usurious Loans Act into closer accord with the English Moneylenders' Act on which it is based in both these respects. The English Moneylenders' Act enables a debtor to initiate litigation under the conditions of that Act, and, so far as the question of limitation is concerned, the English Moneylenders' Act contains no period of limitation whatever. The Government of India were not disposed to move for the amendment of an Act so recently passed when the matter then came before them owing to the fact that the Usurious Loans Act as originally enacted was still a somewhat unfamiliar measure and sufficient experience of its working in its original form had not, in the opinion of the Government of India, at that time been obtained. Opinions, however, are now so strongly in favour of these amendments, particularly the opinion of the Government of Bombay which is far more closely affected than any other Local Government, that the Government of India have decided that it is now an opportune time to ask the Legislature to enact these amendments. Sir, I move.

The motion was adopted.

Clauses 2 and 3 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. CRERAR : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

WORKMEN'S COMPENSATION (AMENDMENT) BILL.

THE HONOURABLE MR. A. H. LEY (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.

This is a very small Bill merely designed to give effect to the Resolution passed in this Council at their last session recommending that the Governor General in Council should ratify the Draft Convention passed at the seventh session of the International Labour Conference held at Geneva last year regarding occupational diseases. It extends slightly, and defines more precisely, the circumstances in which compensation can be claimed under the Workmen's Compensation Act by a workman who contracts the disease of anthrax.

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. A. H. LEY : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

NEGOTIABLE INSTRUMENTS (INTEREST) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill further to amend the Negotiable Instruments Act, 1881, and the Code of Civil Procedure, 1908, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

This is a Bill which is intended to give effect to another of the recommendations of the Civil Justice Committee. Chapter XXXVII of the First Schedule to the Code of Civil Procedure deals with summary suits on negotiable instruments and it provides that in summary suits on negotiable instruments, if leave is not granted to the defendant to defend, the plaintiff is entitled to the amount claimed together with interest at such rate, if any, as may be specified in the instrument itself. It does not provide at what rate interest is to be given if the rate is not specified in the instrument. On the other hand, section 80 of the Negotiable Instruments Act provides that where the rate of interest is not specified in the instrument itself 6 per cent. is to be allowed except in cases provided for under Chapter XXXVII. Chapter XXXVII, as I have told you, does not provide what rate of interest is to be given when the rate is not specified in the instrument itself. The result has been that some of

[Mr. S. R. Das.]

the High Courts have allowed evidence to be given as to any oral agreement between the parties with regard to the rate of interest where the rate of interest is not specified in the instrument itself. The object of this Bill is to amend the Civil Procedure Code, Chapter XXXVII, as also the Negotiable Instruments Act, so as to enable the plaintiff to get interest at 6 per cent. only in such cases where the rate of interest is not specified in the instrument itself and with a view also to avoid evidence as to any oral agreement. That is the main object of this Bill. There are certain other minor amendments to which I do not think I need draw the attention of this House. Sir, I move.

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. S. R. DAS : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 31st August, 1926.