

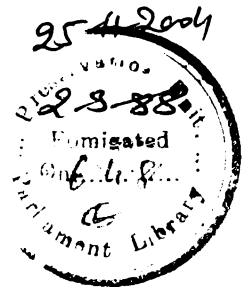
Wednesday, 18th September, 1929

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1929

(16th September to 28th September 1929)

SEVENTH SESSION
OF THE
SECOND COUNCIL OF STATE, 1929



SIMLA
GOVERNMENT OF INDIA PRESS
1929

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THE HONOURABLE SIR MANMOHANDAS RAMJI, KT.

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COUNCIL OF STATE.

Wednesday, 18th September, 1929.

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

INDIAN TERRITORIAL FORCE (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I move that the Bill further to amend the Indian Territorial Force Act, 1920, for a certain purpose, be taken into consideration.

As I explained to the House when introducing this Bill, the matter is of an extremely simple nature. As the Act stands at present, I might explain that the subjects of Indian States are as a matter of fact not debarred from enrolment in the Territorial Force. Owing, however, to the nature of the Force itself, its members must reside in the local area for which the Force is constituted. The units of the Territorial Force are constituted for local areas in British India and therefore those subjects of Indian States who reside in the territory of their States are debarred from the Force. Actually as a matter of fact, owing to a misapprehension of the law, a few subjects of Indian States residing within the borders of their States have been enrolled in the Territorial Force, and it is partly to regularise the position of these individuals that legislation is now required. I might mention that the proposal for legislation has already been put before the Central Advisory Committee of the Indian Territorial Force and also the Standing Committee of the Chamber of Princes. Neither of those bodies has raised any objection to it and I trust it will meet with the approval of this House.

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

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan) : Sir, I want to say a few words about this Bill. I approve the idea underlying the Bill but what I want to know is, suppose there are recruits from these States, can we compel their attendance in times of need if the States are opposed to it and want their subjects to remain in their territories ? I would like His Excellency the Commander-in-Chief to throw some light upon that.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I can only say that we do not anticipate any difficulty regarding that. We have experienced no difficulty regarding such men coming out for their annual training and we certainly do not consider that the Indian States themselves would put obstacles in the way of their people who join the Territorial Force from coming out when called upon to do so.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill further to amend the Indian Territorial Force Act, 1920, 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.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I move that the Bill be passed.

The motion was adopted.

INDIAN COTTON CESS (AMENDMENT) BILL.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : I beg to move that the Bill further to amend the Indian Cotton Cess Act, 1923, for certain purposes, be taken into consideration.

In support of this motion I need hardly do more than invite the attention of Honourable Members to the Statement of Objects and Reasons which establishes the contention that it is a measure of a non-controversial nature and due to certain changes introduced in pursuance of a recommendation included in the Report of the Royal Commission on Agriculture.

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 KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Sir, I move that the Bill be passed.

The motion was adopted.

INDIAN REGISTRATION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, I beg leave to move that the Bill further to amend the Indian Registration Act, 1908, for a certain purpose, be taken into consideration.

This is a formal and non-controversial measure and I move at once for consideration, both on that ground and because Local Governments have already been consulted and expressed their concurrence. Section 56 of the existing Act, which it is now proposed to repeal, lays down that a sub-registrar shall prepare duplicate copies of all entries made in certain documents. This compulsory preparation of duplicate copies leads to much unnecessary labour and it is much objected to by Local Governments. Moreover, registration

of deeds and documents is a Provincial transferred subject, subject to Central legislation. As long therefore as uniformity is maintained in matters of principle, matters of detail and of procedure can be left to Local Governments. This is particularly the case when the procedure laid down, as in this instance, tends to waste of time and money. I therefore beg to move that the Bill 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. C. W. GWYNNE : Sir, I move that the Bill be passed.

The motion was adopted.

BURMA SALT (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary) : Sir, I move that the Bill further to amend the Burma Salt Act, 1917, for certain purposes, be taken into consideration.

As I said the other day, Sir, when introducing the Bill, the measure is of the simplest possible character and the Statement of Objects and Reasons leaves me nothing to add. The merits of the measure are, I think, self-evident.

Sir, I move.

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. E. BURDON : Sir, I move that the Bill be passed.

The motion was adopted.

GUARDIANS AND WARDS (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, I beg leave to move that the Bill further to amend the Guardians and Wards Act, 1890, for a certain purpose, be taken into consideration.

This, though a very short Bill, serves a very important object. As I explained when I introduced the Bill, it is designed to make specific provision, now lacking, for the more careful and systematic audit of the guardian and ward accounts of the courts. The measure is non-contentious ; it has been accepted by Local Governments who have been consulted, and it is being enacted with a view to minimise the chances of defalcation in these accounts. I do not suggest that such defalcation actually takes place, but the absence of a

[Mr. C. W. Gwynne.]

specific provision of law and of rules regarding the proper auditing of such accounts is an omission which should be rectified. This is all that the Bill does.

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. C. W. GWYNNE: Sir, I move that the Bill be passed.

The motion was adopted.

PROVIDENT FUNDS (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I have been approached from the other side of the House and have been told that it would be convenient, at any rate to some non-official Members, if the Bill, which stands in my name, were not taken up to-day and were postponed to another day. I understand that at any rate one Honourable Member desires to propose certain amendments and that he has not had sufficient time to enable him to settle the exact form of the amendments which he proposes. Government have no objection to the Bill being postponed, if that has your permission.

INDIAN SUCCESSION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I beg leave to move that the Bill further to amend the Indian Succession Act, 1925, for certain purposes, be taken into consideration.

I move at once for consideration as the Bill, though of some importance, is formal and non-controversial. The Indian Succession Act, 1865, defined the term "District Judge" as a judge of a principal civil court of original jurisdiction. This term was wide enough to include a Judge of the High Court exercising probate jurisdiction on the Original Side, and in fact such jurisdiction was exercised. The Act of 1925, which was an Act consolidating the law relating to succession, omitted this definition of the term "District Judge" on the ground that the definition in the General Clauses Act was more suitable. The latter definition, however, would not include a High Court Judge exercising jurisdiction on the Original Side. The result of this omission has been—although it was not foreseen at the time—that the law has been changed in substance. The law as it stands at present would thus exclude a Judge of the High Court exercising original jurisdiction and such Judge therefore will have no power to entertain applications for the grant of probate and letters of administration. The result of this amendment in 1925 has been to raise great difficulties and it is represented that the omission should be remedied without delay. It is therefore proposed in this Bill to restore the definition of the term

“ District Judge ” which was contained in the Act of 1865 and thus put an end to an anomalous situation.

The second portion of the Bill relates to a very technical subject. The object is to remove a defect in the amending Act passed in 1926 by which certain Hindu wills are required to be in writing and attested as provided by section 63 of the Indian Succession Act. In enacting that provision by oversight the Legislature in fact made a distinction between wills mentioned in section 57 as amended by Act XXXVII of 1926 and of a third class of wills, that is, wills made by Hindus otherwise than those mentioned in clauses (a) and (b) of section 57, that is outside the Presidency-towns of Bombay and Madras and outside the provinces of Bengal and Bihar and Orissa. There is, however, no justification for this exclusion of the latter class of wills. Such exclusion may lead to the erroneous conclusion that different principles govern them. But once it is decided that wills should be in writing, signed and attested there is no reason for such differentiation. Similarly, rules as to revocation, obliteration, alteration, etc., should govern all these classes of wills. The Bill now before the House secures this object.

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

The motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clause 1 was added to the Bill.

The Schedule was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. C. W. GWYNNE: Sir, I move that the Bill be passed.

The motion was adopted.

ELECTIONS TO THE PANEL OF THE STANDING ADVISORY COMMITTEE OF THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT: Six nominations have been received for the six vacancies on the panel of the Standing Advisory Committee of the Department of Commerce. I hereby declare the following six Members to be duly elected to the panel:

The Honourable Mr. J. H. Fyfe.

The Honourable Mian Ali Baksh Muhammad Hussain.

The Honourable Mr. Mahmood Suhrawardy.

The Honourable Mr. Rama Prasad Mookerjee.

The Honourable Khan Bahadur Sir Ibrahim Haroon Jaffer.

The Honourable Rai Bahadur Lala Ram Saran Das.

The Council then adjourned till Eleven of the Clock on Thursday, the 19th September, 1929.