

Wednesday, 15th February, 1939

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THE
COUNCIL OF STATE DEBATES

VOLUME I, 1939

(23rd January to 18th April, 1939)

FIFTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1939

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COUNCIL OF STATE.

Wednesday, 15th February, 1939.

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

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE MR. S. N. ROY (Communications Secretary): Sir, I lay on the table the information promised in reply to question No. 18 asked by the Honourable Mr. G. S. Motilal on the 23rd January, 1939.

RESERVING OF FIRST AND SECOND CLASS ACCOMMODATION FROM HARDWAR TO DELHI, E. I. R.

Similar suggestions have previously been examined and the conclusion arrived at is that it is not generally practicable to reserve accommodation from stations other than those at which trains originate.

2. In accordance with the instructions in the E. I. R. Time and Fare Table, the Administration will endeavour to comply with requests for reservation, but can undertake no liability in the matter in the event of the berth or berths required not being available when the train reaches the intermediate station.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I lay on the table the information promised in reply to question No. 42 asked by the Honourable Mr. G. S. Motilal on the 26th January, 1939.

RAIDS ON THE NORTH-WEST FRONTIER.

(a) Hazara 13, Peshawar 58, Mardan 4, Kohat 12, Bannu 34, and Dera Ismail Khan 37. Total 158.

(b) The Government of India are employing armed civil forces of all kinds in abnormal numbers and are bringing all possible pressure military, political and economic to bear on sections, who either offend themselves or harbour outlaws or others who take part in raids in the settled districts.

(c) Hindus 236 and Muhammadans 364. These figures include all persons killed, wounded, kidnapped or robbed in the entire province and not merely the victims of trans-border raiders, since the language used by the Honourable Member in part (a) of the question refers also to raids and dacoities committed "by other men".

MESSAGES FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT : Honourable Members, I have to deliver two Messages from His Excellency the Governor General. The first Message runs thus :

"Whereas the Legislative Assembly has by its vote of the 13th February, 1939, refused leave to introduce a Bill entitled a Bill to provide for the discipline of members of the Indian Naval Reserve Forces raised in British India on behalf of His Majesty :

Now, therefore, I, Victor Alexander John, Marquess of Linlithgow, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, do hereby certify that the said Bill is essential for the interests of British India.

(Sd.) LINLITHGOW,

Viceroy and Governor General."

New Delhi ;

The 14th February, 1939.

The second Message runs thus :

"In pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, I, Victor Alexander John, Marquess of Linlithgow, do recommend to the Council of State that it do pass the Bill to provide for the discipline of members of the Indian Naval Reserve Forces raised in British India on behalf of His Majesty, in the form hereto annexed.

(Sd.) LINLITHGOW,

Viceroy and Governor General."

New Delhi ;

The 14th February, 1939.

THE HONOURABLE THE PRESIDENT (to the Honourable the Leader of the House) : When do you propose to take up this Bill ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Copies of the Bill will be circulated to Honourable Members now and it will be taken up later.

INDIAN NAVAL RESERVE FORCES (DISCIPLINE) BILL LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, I lay on the table a copy of the Bill to provide for the discipline of members of the Indian Naval Reserve Forces raised in British India on behalf of His Majesty, leave to introduce which in the form recommended by the Governor General was refused by the Legislative Assembly at its meeting of the 13th February, 1939 ; the said Bill having been certified under the provisions of the same section by the Governor General as essential for the interests of British India.

THE HONOURABLE THE PRESIDENT (to the Honourable the Leader of the House) : As this is an important Bill and I think many Honourable Members would like to speak on it, I would like to give them the full three days' notice.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Certainly, Sir. I had no intention of asking you to suspend the Standing Orders.

THE HONOURABLE THE PRESIDENT : Then you will please fix a day after three days.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Yes, Sir.

BILLS 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 following Bills which were passed by the Legislative Assembly at its meetings held on the 13th and 14th February, 1939, namely :—

A Bill to amend the Employment of Children Act, 1938.

A Bill to consolidate and clarify the provisions of Muslim Law relating to suits for dissolution of marriage by women married under Muslim Law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

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

“ In accordance with the provisions of rule 36 (1) of the Indian Legislative Rules, I am directed to inform you that the amendment made by the Council of State in the Bill further to amend the Indian Cotton Cess Act, 1923, was taken into consideration by the Legislative Assembly at its meeting held on Monday, the 13th February, 1939, and that the Assembly has agreed to the amendment.”

INDIAN INCOME-TAX (AMENDMENT) BILL.

THE HONOURABLE MR. A. J. RAISMAN (Finance Secretary) : Sir, I move :

“ That the further amendments made by the Legislative Assembly in the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration.”

There are three amendments which have come back to this House from the Assembly and two of them are purely verbal in character. One relates to the deletion of the word “ either ” in the proviso to sub-clause (c) of paragraph (iii) of sub-clause (f) of clause 2 of the Bill. This deletion merely rectifies an oversight. A certain expression was deleted in the Council of State from that proviso and the word “ either ” was left in by oversight and should have been deleted at the same time. That has now been done by amendment in the Assembly.

The second is an amendment to paragraph (c) of sub-clause (1) of clause 41. It is mainly a change in wording but it also has the effect of taking away

[Mr. A. J. Raisman.]

from the Income-tax Officer the right to go back eight years instead of four years in re-opening assessments in cases in which, although he himself has no reason to believe that there has been deliberate concealment, he has received information possibly in the form of an anonymous communication written maliciously to the effect that there has been such deliberate concealment. In other words, the effect of this amendment is to protect the assessee.

The third amendment is, like the first, purely verbal. The change made in clause 84, paragraph (c) of the proviso to rule 2, is due to the fact that the closing words of this paragraph were intended to relate to all policies referred to in paragraphs (b) and (c), but in the amendment made in this House, having separated these paragraphs which were formerly a single paragraph somewhat differently worded, the closing words literally applied only to policies referred to in paragraph (c). The change rectifies this mistake.

I am afraid these things are not very easy to explain in the course of a speech, but I think Honourable Members when they study the Bill as it now is and compare it with the previous Bill will find that the amendments are of an extremely simple and verbal character.

Sir, I move.

THE HONOURABLE THE PRESIDENT : The Question is :

“ That the further amendments made by the Legislative Assembly in the Bill further to amend the Indian Income-tax Act 1922, be taken into consideration.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly Amendment No. 1 :

“ In paragraph (iii) of sub-clause (f) of clause 2, in the proviso to proposed sub-clause (c) the word ‘ either ’ was omitted.”

The Question is that the Council do agree to this amendment.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly Amendment No. 2 :

“ In paragraph (c) of sub-clause (1) of clause 41, for the words ‘ the information received is to the effect ’ the words ‘ he has reason to believe ’ were substituted.”

The Question is that the Council do agree to this amendment.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly Amendment No. 3 :

“ In clause 84, in paragraph (c) of the proviso to rule 2 in the proposed Schedule to the Act, for the words ‘ such policies ’ the words ‘ all life insurance policies other than single premium life insurance policies ’ were substituted.”

The Question is that the Council do agree to this amendment.

The Motion was adopted.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary) : Sir, I move :

“ That the Bill futher to amend the Indian Merchant Shipping Act, 1923, as passed by the Legislative Assembly, be taken into consideration.”

Sir, I can remember occasions when Bills relating to Merchant Shipping have not received in this House that unanimity of approval which is the aspiration of every Mover of a Bill. But on this occasion I feel that I am on a good wicket, although you will be relieved to hear that I do not propose to stay in long ! The Bill before us is a very simple one. Section 28 of the Indian Merchant Shipping Act provides that agreements with the crews of ships may be made in a form sanctioned by the Governor General in Council, and it sets out the kind of terms which may be put into such agreements. Section 52 of the same Act provides that stipulations for the allotment of a seaman's wages may be made in accordance with the Act, but section 62 of the Act provides that no binding assignment of wages made prior to the accrual thereof can be made. Now, several shipping companies have provided provident funds for their staff. This involves deductions from a seamen's wages which at present cannot be legally made. In the ordinary way, stipulations agreeing to the deductions would be put in the agreement which the seaman makes under section 28 of the Act, but that is to be in a form sanctioned by the Governor General in Council, The Governor General in Council cannot sanction the insertion of this particular stipulation because it is forbidden by section 62 of the Act.

The Bill before us simply amends the Act in order to enable such contributions to be made by a seaman to funds which are instituted for his benefit and approved by Government. The necessity for a Bill of this kind will be quite clear to Honourable Members from the fact that section 163 of the Merchant Shipping Act in England is in precisely similar terms to section 62 of the Indian Act and it has been found necessary two years ago to amend that Act in England by the Merchant Shipping (Superannuation Contributions) Act in order to enable contributions to be made in respect of the Merchant Navy Officers Pension Fund.

Sir, the Bill is in the interests of seamen and I think it must be agreed by all that it enables a step to be made in the right direction.

Sir, I move.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Sir, the Honourable Member said in the course of his speech that there were several companies which made deductions from the wages of their seamen in order to provide provident funds for them. The Statement of Objects and Reasons, however, mentions only two companies, the Scindia Steam Navigation Company and the British India Steam Navigation Company. I should like to know whether there are any other companies which make similar provisions ? If there are no other companies, are we to assume that the provisions now to be embodied in the Indian Merchant Shipping Act will be enforced by Government in the case of all shipping companies ?

THE HONOURABLE MR. H. DOW : Sir, there is no question of enforcing the starting of these funds but Government will certainly do what they can to encourage them. This is simply to legalise the making of deductions, but it is not in any sense a Bill which will compel shipping companies to institute such provident funds.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What are the other shipping companies which make such deductions ?

THE HONOURABLE MR. H. DOW : So far as we are aware, there are no other companies beyond the two which you have mentioned.

THE HONOURABLE THE PRESIDENT : The Question is :

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, 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. H. DOW : 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 Saturday, the 18th February, 1939.