REGISTERED No. P-390.

The Orissa Gazette

PUBLISHED BY AUTHORITY.

No. 1. CUTTACK, FRIDAY, APRIL 21, 1939.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

Bills introduced into the Council of the Governor-General of India and Bills published before introduction in that Council.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 29th August, 1938:—

L. A. BILL NO. 19 OF 1938.

A Bill further to amend the Destructive Insects and Pests Act, 1914.

WHEREAS it is expedient further to amend the Destructive Insects and Pests Act, 1914, for the purpose hereinafter appearing; It is hereby enacted as follows:— 14.

Short title.

1. This Act may be called the Destructive Insects and Pests (Second Amendment) Act, 1938.

Amendment of section 2, Act II of 1914.

2. In section 2 of the Destructive Insects and Pests Act, 1914— II of 1914.

(a) at the end of clause (b) the word "and" shall be omitted;

(b) at the end of clause (c) the word "and" shall be added; and

(c) after clause (c) the following clause shall be added, namely:—

"(d) a reference to British India shall be construed as a reference to British India and Berar."

STATEMENT OF OBJECTS AND REASONS.

The Destructive Insects and Pests Act, 1914 (Act II of 1914), was not made applicable to Berar under the Indian (Foreign Jurisdiction) Order in Council, 1902. By the Destructive Insects and Pests (Amendment) Act, 1938 (Act VI of 1938), sections 4A to 4D and section 5A, conferring power on the Central Government to regulate or prohibit transport from province to province of insects or articles likely to cause infection to crops, were added to the Act. In order that these new provisions may, if necessary, be used to control the transport to or from Berar of insects or articles likely to cause infection and since uniformity in this matter is obviously desirable, it is proposed that the whole Act should now be made applicable to Berar by legislation for this purpose.

The 15th August, 1938.

G. S. BAJPAI.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was intronuced in the Council of State on the 15th September, 1938:—

C. OF S. BILL NO. 10 OF 1938.

A Bill to provide for Charitable and other Dispositions of property.

WHEREAS it is expedient to provide that dispositions or bequests in favour of charity, religious purposes or purposes of public utility shall not fail on the ground of vagueness or uncertainty of object; It is hereby enacted as follows:—

1. This Act may be called the "Charitable Dispositions Act".

2. It extends to the whole of British India.

3. It shall come into force on such date as it receives the assent of the Governor General.

4. No bequest, gift, trust or other disposition, whether contained in a testamentary or non-testamentary writing, shall be void on the ground of—

(*i*) Vagueness or uncertainty of object where some generic expression is used indicating that the object is charitable or religious or of public utility or more than one of them, though no particular object of any such nature has been specified;

Illustrations of some of the generic expressions:—

"Dharmada", "Sarakam", "Good work", "Purposes of charity", "Purposes of usefulness", "Purposes of public usefulness", "Just and proper acts", "Public benefits", "Good acts";

or

(*ii*) on the ground that such bequest, gift or trust or disposition is mixed up with other purposes of a definite or indefinite nature, whether charitable or non-charitable or religious or of public utility.

5. Such bequest, gift, trust or other disposition shall take effect as if the same were intended to be a contribution for the purpose of primary education imparted by the Provincial Government or the State within whose province or territory the place where the disbursement is to be made is situate and, where no place of disbursement is specified in such writing, the place determined by the trustees or executors of the will or settlement.

6. The Provincial Government may make rules for carrying out the objects or purposes of this Act and may by such rules delegate the powers under this Act to such person as the Provincial Government may think fit.

7. This Act shall apply to all testamentary or non-testamentary dispositions of property executed whether before or after the commencement of this Act but nothing herein contained shall prejudicially affect any decree or order made by any competent Court before the commencement of this Act or to anything done by the Executor, settler, truste or donee before the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS.

Gifts and bequests made by charitably-inclined persons for charity, religious pursoes or for purposes of public utility, unless the purpose has been specified and defined, have been held to be void for vagueness and uncertainty. A gift to 'Dharma' has been held to be void on the same ground. It has been held that the object meant by the word "Dharma" was too vague and uncertain for the administration of them to be under the control of a Court. For the same reason, dispositions in favour of 'Sarakam' for 'purposes of popular usefulness' or 'purposes of charity' and for various similar generic expressions, have been held to be void. Even where one of the objects of a disposition was not certain but other objects certain, there too the dispositions have been held by Courts to be void. Hence in order to give effect to the intention of a donor it is necessary to provide that such dispositions shall not fail on the ground of vagueness or uncertainty and further to provide the exact purpose for which they will be used. This Bill, therefore, seeks to provide that bequests, gifts or trusts and other dispositions whether contained in a testamentary or non-testamentary writing shall not be void on the ground of vagueness or uncertainty of object where only some general expression is used indicating that the object is charitable or religious or of public utility, nor on the ground that such bequest, gift or trust or disposition is mixed up with other purposes of a definite or indefinite nature. It is further provided in this Bill that such a disposition shall be construed as if it was intended for the benefit of Primary Education imparted by the Provincial Government or the State within whose province or territory the place where the disbursement is directed to be made, is situate. Where no place of disbursement is specified in that writing by the donor, such place as may be determined by the trustees or executors of the will or settlement.

G. S. MOTILAL.

J. D. ANDERSON,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 16th September, 1938:—

L. A. BILL NO. 21 OF 1938.

A Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province.

WHEREAS it is expedient to regulate the extent to which property vested in His Majesty for the purposes of the Central Government by virtue of sections 172 and 173 of the Government of India Act, 1935, being property of a federal railway, shall be liable to taxation imposed by an authority within a Province; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Railways (Local Authorities' Taxation) *Act, 193* .

(*2*) It extends to the whole of British India.

Definitions.

2. In this Act,—

(*a*) "federal railway" has the meaning assigned to that expression in the Government of India Act, 1935;

X of 1897.

(*b*) "local authority" means a local authority as defined in the General Clauses Act, 1897, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river;

IX of 1890.

(*c*) "railway administration" has the meaning assigned to the expression in clause (*6*) of section 3 of the Indian Railways Act, 1890.

Liability of railways to taxation by local authorities.

3. (*1*) In respect of property vested in His Majesty for the purposes of the Central Government by virtue of sections 172 and 173 of the Government of [illegible] Act, 1935, being property of a [illegible] railway, a railway administration sh[illegible] liable to pay any tax in aid of the fun[illegible] any local authority, if and to such e[illegible] as the Central Government, by notification in the official Gazette, declares it to be so liable.

(*2*) A notification issued under sub-section (*1*) may modify any tax in its application to any railway administration and in particular and without prejudice to the generality of the foregoing power may reduce the rate of the tax in respect of all or any part of the property of the railway administration, or may define the manner in which the tax shall be assessed on any such property or may exempt any particular property or class of property or any specified area from the whole or any portion of the tax.

(*3*) While a notification under sub-section (*1*) is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as an officer appointed in this behalf by the Central Government may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

Modification of existing liability to taxation.

4. The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (*1*) of section 135 of the Indian Railways Act, 1890; and where a notification is so revoked any liability arising out of the notification to pay any tax to any local authority shall cease, and where a notification is so varied the liability arising out of the notification shall be varied accordingly. IX

Saving.

5. Nothing in this Act shall be construed as debarring any railway administration administering a federal railway from entering into a contract with any local authority for the supply or water of light or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

STATEMENT OF OBJECTS AND REASONS.

Section 135 of the Indian Railways Act, 1890, provided that no railway property should be subjected to a tax by a local body unless the Governor General in Council had by notification declared the railway administration concerned to be liable to pay the tax. The Governor General in Council could at any time revoke or vary a notification under this section. Although the section is still in force it can no longer be applied to State-owned railways because of the provisions of section 154 of the Government of India Act, 1935. This exempts federal property from provincial or local taxation "except in so far as any federal law may otherwise provide", but all the taxes payable by virtue of notifications issued under the Indian Railways Act before 1st April 1937 continue to be payable until a federal law otherwise provides. The position thus is that until such a law is enacted, no new tax can be imposed in respect of such property, nor can any existing notification in respect of such property be varied or revoked. The Bill seeks to restore the position prevailing prior to the 1st April 1937 by enabling the Central Government to issue, vary or revoke notifications regarding the liability of State-owned railways to taxation by local bodies.

SIMLA:

The 11th September 1938.

A. G. CLOW.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 10th November, 1938:—

L. A. BILL NO. 24 OF 1938.

A Bill further to amend the Indian Merchant Shipping Act, 1923.

XXI of 1923. WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Merchant Shipping (Amendment) Act, 1939.

Amendment of section 62 Act, XXI of 1923. **2.** In section 62 of the Indian Merchant Shipping Act, 1923, XXI of 1923. sub-section (2) shall be re-numbered as sub-section (*3*) and the following shall be inserted as sub-section (*2*), namely:—

"(*2*) The provisions of clauses (*b*) and (*c*) of sub-section (*1*) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund approved in this behalf by the Central Government, the main purpose of which is the provision of benefits for seamen or retirement; and the provisions of clauses (*a*) and (*d*) of sub-section (*1*) shall not apply to anything done or to be done for giving effect to such an assignment."

STATEMENT OF OBJECTS AND REASONS.

The Scindia Steam Navigation Company, Limited, have recently instituted a Provident Fund scheme for the benefit of their staff afloat. Briefly, the Fund is to be financed partly by contributions payable by all eligible members of the staff by deduction at a fixed percentage (8 1/3 per cent.) from their monthly wages and partly by a contribution by the employers of an amount equal to the annual aggregate contributions of all the members. In pursuance of this scheme, the Scindia Steam Navigation Company have proposed the insertion in the Articles of Agreement of the staff of a clause to provide for the necessary deduction to be made from their wages, which in the case of an agreement with a 'seaman' as defined in section 2(*1*) (*8*) of the Indian Merchant Shipping Act, 1923 (XXI of 1923), requires the sanction of the Central Government under section 28 (*1*) of that Act.

2. The British National Maritime Board have also recently brought into operation a contributory pension scheme for officers in the Merchant Navy which is to be financed similarly by contributions equal to a prescribed percentage ($7\frac{1}{2}$ per cent.) of the officers' salaries, an equal amount being payable by their employers. As the officers' contributions are to be deducted from their salaries, the British India Steam Navigation Company, Limited, have also requested sanction to the inclusion of an additional stipulation similar to the one proposed by the Scindia Steam Navigation Company in all Articles of Agreement with seamen engaged by them.

3. Section 62 of the Indian Merchant Shipping Act, 1923, however, provides *inter alia* that an assignment of his wages, before they accrue, made by a seaman shall not be binding upon him, and unless this section is modified suitably assignments to a Pension or Provident Fund will not be in accordance with the law, and the Central Government cannot accord the requisite sanction to the inclusion of the proposed clause in the Articles of Agreement. A provision similar to that in section 62 of the Indian Merchant Shipping Act, 1923, also existed in section 163 of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), which was amended last year by an Act of Parliament [The Merchant Shipping (Superannuation Contributions) Act, 1937] to legalise the payment of contributions by seamen out of their wages to the Merchant Navy Officers Pension Fund and certain other specified Funds. It is accordingly proposed to amend section 62 of the Indian Merchant Shipping Act, 1923, on the lines of the amendment made in the Merchant Shipping Act, 1894, and the present Bill is intended to give effect to this proposal.

ZAFRULLAH KHAN.

NEW DELHI:

The 31st October 1938.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 7th December, 1938:—

L. A. BILL NO. 25 OF 1938.

A Bill further to amend the Indian Tariff Act, 1934.

XXXII of 1934. WHEREAS it is expedient further to amend the Indian Traiff Act, 1934, for the purpose of assisting the sale in India of wheat produced therein by imposing a temporary duty of customs on the importation of wheat; it is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Traiff (Amendment) Act, 1939.

*The Governor General has been pleased to accord the sanction required by section 67 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, and modified by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936.

Amendment of First Schedule, Act XXXII of 1934. **2.** In the First Schedule to the Indian Traiff Act, 1934— XXXII of 1934.

(a) after Item No. 10, the following item shall be inserted, namely:—

"10 (1)	WHEAT.	Protective.	Re. 1-8 per cwt.	...	...	March 31st, 1940".

(b) after Item No. 11, the following item shall be inserted, namely:—

"11 (1)	WHEAT FLOUR.	Protective.	Re. 1-8 per cwt.	...	...	March 31st, 1940".

It is hereby declared that it is expedient in the public interest that the provisions of clause 2 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931. XVI of 1931

STATEMENT OF OBJECTS AND REASONS.

Owing to the low price at which imported wheat is at present being landed at the principal ports in India, wheat produced in India is unable to compete with it at those ports and in the immediately adjacent areas. The extent of the annual demand for wheat in the areas in question is estimated at from 450,000 to 500,000 tons. At the present low level of world prices little Indian wheat can find an outlet in foreign markets, and it is the more desirable, therefore, that Indian wheat should not be excluded from a considerable part of the home market.

2. It is accordingly proposed to impose for a temporary period extending to the 31st March 1940 a duty at the rate of Re. 1-8-0 per cwt. on wheat and wheat flour imported into India with effect from the date of the introduction of the Bill. This rate is sufficient to enable wheat from the principal wheat producing areas in the country to be sold at the principal ports in competition with imported wheat, and allows a margin to provide for a possible increase in the existing difference between the selling prices of home-grown and imported wheat in these markets.

ZAFRULLAH KHAN.

NEW DELHI:

The 6th December 1938.

MD. RAFI,

Secretary to the Government of India

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 3rd February, 1939 :—

L. A. BILL NO. 1 OF 1939.

A Bill to amend the Insurance Act, 1938.

IV of 1938. WHEREAS it is expedient to amend the Insurance Act, 1938, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Insurance (Amendment) Act, 1939.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

IV of 1938. Amendment of section 2, Act IV of 1938.

2. In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(*a*) to sub-clause (*a*) of clause (*9*) the following shall be added, namely :—

"or

(*iii*) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in British India; " ;

(*b*) in clause (*11*), after the word "double" the words "or triple" shall be inserted.

Amendment of section 7.

3. In section 7 of the said Act,—

(*a*) in clause (*j*) of sub-section (*1*), after the words "or its cargo" the words "and no other type of marine insurance" shall be inserted ;

(*b*) in sub-section (*2*), for the word "transacted" the words "carried on" shall be substituted ;

(*c*) in sub-section (*3*) and in the proviso thereto, for the words and figures "the 1st day of January, 1939," the words "the expiry of three months from the date of registration" shall be substituted ;

(*d*) in sub-section (*4*), after the words "in the case of an insurer" the words "to whom that sub-section applies" shall be inserted.

Amendment of section 8.

4. In sub-section (*1*) of section 8 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 9.

5. In section 9 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 14.

6. In section 14 of the said Act, before the words "Every insurer" the words "Except in respect of policies of marine insurance," shall be inserted.

Amendment of section 16.

7. In sub-section (*2*) of section 16 of the said Act,—

(*a*) for the words "four copies" the words "four certified copies" shall be substituted ;

(*b*) in clause (*a*), after the words "a statement" the words "duly audited in accordance with the law applicable to the insurer in his own country" shall be inserted ;

(*c*) in clause (*b*), after the words "applicable to that class of business" the words "and similarly audited," shall be inserted.

Amendment of section 17.

8. In section 17 of the said Act,—

(*a*) for the words and figure "incorporated under the Indian Companies Act, 1913," the words and figure "to which the Indian Companies Act, 1913, applies" shall be substituted ;

(*b*) for the words "to file a balance-sheet" the words "to file copies of the balance-sheet and accounts" shall be substituted.

Insertion of new section 17A.

9. After section 17 of the said Act the following section shall be inserted, namely :—

This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.

"17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any period which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act."

Amendment of section 27.

10. In section 27 of the said Act,—

(*a*) in sub-section (*1*) and sub-section (*2*),—

(*i*) after the word and figure "section 7" the words and figure "or section 98" shall be inserted;

(*ii*) after the words "loans granted by him on policies of life insurance" the words "maturing for payment in India and within their surrender values" shall be inserted;

(*iii*) after the words "Government of the United Kingdom" the following proviso shall be inserted, namely:—

"Provided that where an insurer's liability as set forth in this sub-section includes liability in respect of life insurance policies matured or maturing for payment in an Indian State, under the law of which he is required to hold invested assets in respect of such polices, it shall be necessary under this sub-section for him to invest and hold invested only such assets in respect of such policies as represent the amount, if any, by which the investments he has made under the requirements of the law of the Indian State are less than the requirements under this sub-section, were there no such law in the Indian State.";

(*b*) in sub-section (*4*), after the words "shall be dealt with" the following proviso shall be inserted, namely:—

"Provided that where the assets held invested in respect of policies of life insurance are less, under the proviso to sub-section (*2*), than that sub-section otherwise requires, liability of the trust in respect of such policies shall not exceed the amount of the assets actually held invested in respect of these policies."

Amendment of section 28.

11. In sub-section (*1*) of section 28 of the said Act,—

(*a*) for the word "fourteen", in both places where it occurs, the word "thirty-one" shall be substituted;

(*b*) for the words "the principal officer" the words "a principal officer" shall be substituted.

Amendment of section 31.

12. In section 31 of the said Act,—

(*a*) after the word and figure "section 7" the words and figure "or section 98" shall be inserted;

(*b*) after the words "be kept otherwise than" the words "in the name of a public officer approved by the Central Government, or" shall be inserted.

Amendment of section 35.

13. In sub-section (*4*) of section 35 of the said Act, for the words and figures "and for the payment of the first instalment of the deposit under sections 3 and 7" the words and figures "under section 3 and for the payment of the first instalment of the deposit under section 7 or section 98" shall be substituted.

Amendment of section 38.

14. In section 38 of the said Act,—

(*a*) in sub-section (*2*),—

(*i*) after the words "instrument duly attested but" the words "except where the transfer or assignment is in favour of the insurer" shall be inserted;

(*ii*) after the words "notice in writing of the transfer or assignment" the words "together with either the said endorsement or instrument itself or a copy thereof certified to be correct by or on behalf of both transferor and transferee" shall be inserted;

(*iii*) the words "at his principal place of business in British India by or on behalf of the transferor or transferee" shall be omitted.

(*b*) in sub-section (*5*), for the words, figure and brackets "From the date of the receipt of the notice referred to in sub-section (*2*), the insurer shall" the words, figure and brackets "Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (*2*)," shall be substituted;

(*c*) for sub-section (*6*) the following sub-section shall be substituted, namely:—

"(*6*) Any rights and remedies existing prior to the commencement of this Act of an assignee or transference of a policy of life insurance shall not be affected by the provisions of this section." ;

(*d*) in sub-section (*7*), for the words "life of the policy-holder" the words "lifetime of the person whose life is insured" shall be substituted.

Amendment of section 39.

15. In section 39 of the said Act,—

(*a*) in sub-section (*1*), after the words "The holder of a policy of life insurance" the words ", not being an absolute assignee of the benefits under the policy," shall be inserted ;

(*b*) to sub-section (*2*) the following shall be added, namely :—

"but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in his records." ;

(*c*) in sub-section (*3*), for the word "endorsement" the words "cancellation or change" shall be substituted.

Amendment of section 40.

16. In section 40 of the said Act,—

(*a*) in sub-section (*1*), the word "licensed", in both places where it occurs, and the words and figure "under section 42" shall be omitted;

(*b*) in sub-section (*2*), the words and figure "licensed under section 42" shall be omitted ;

(*c*) in sub-section (*3*), for the words "an insurance agent" the words "any person, whether an insurance agent within the meaning of this Act or not," shall be substituted.

Amendment of section 46.

17. In section 46 of the said Act, after the words "The holder of a policy of insurance" the words "other than a policy of marine insurance," shall be inserted.

Amendment of section 47.

18. In section 47 of the said Act,—

(*a*) in sub-section (*1*), after the words "from the date of the maturing of the policy" the words "or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer," shall be inserted ;

(*b*) in sub-section (*4*), for the words "from the death of the insured, or the maturing of the policy by survival" the words "from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be," shall be substituted.

Amendment of section 48.

19. In section 48 of the said Act,—

(*a*) in sub-section (*1*), for the words and figure "incorporated under the Indian Companies Act, 1913," the words and figure "to which the Indian Companies Act, 1913, applies" shall be substituted ;

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely :—

"(2) This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business."

Amendment of section 50.

20. In section 50 of the said Act, for the words "within three months of the lapsing of a policy of life insurance," the words "before the expiry of three months from the date on which the premiums in respect of a policy of life insurance ceased to be paid," shall be substituted.

Amendment of section 53.

21. In sub-clause (*i*) of clause (*b*) of sub-section (*2*) of section 53 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

Amendment of section 59.

22. In section 59 of the said Act, for the words and figure "deposit made by the company under section 7" the words and figures "deposit made by the company or the insurer, as the case may be, under section 7 or section 98" shall be substituted.

Amendment of section 63.

23. In section 63 of the said Act, for the word "agent" the word "representative" shall be substituted.

Amendment of section 65.

24. In section 65 of the said Act, for the word "incorporate" the word "unincorporate" shall be substituted.

Amendment of section 73.

25. In sub-section (*1*) of section 73 of the said Act,—

(*a*) for the words "make each year" the words "make in each calendar year" shall be substituted;

(*b*) for the words "income for the year" the words "income for the preceding calender year" shall be substituted.

Amendment of section 80.

26. In subsection (*3*) of section 80 of the said Act, after the words "this section" the words and figure "and section 73" shall be inserted.

Amendment of section 82.

27. In sub-section (*3*) of section 82 of the said Act, for the words and figure "incorporated under the Indian Companies Act 1913," the words and figure "to which the Indian Companies Act, 1913, applies," shall be substituted.

Amendment of section 85.

28. To sub-section (*2*) of section 85 of the said Act, the words "or in the name of a public officer approved by the Central Government" shall be added.

Amendment of section 95.

29. In clause (*a*) of sub section (*1*) of section 95 of the said Act, for the words and figure "incorporated under the provisions of the Indian Companies Act, 1913", the words and figure "to which the Indian Companies Act, 1913, applies," shall be substituted.

Amendment of section 98.

30. In sub-section (*2*) of section 98 of the said Act, for the word "year", in both places where it occurs, the words "calendar year" shall be substituted.

Amendment of section 103.

31. In sub-seciton (*1*) of section 103 of the said Act, for the wrods "in relation to any such class of insurance business" the words "in relation to any insurance business transacted in contravention of any of the said sections" shall be substituted.

Amendment of section 114.

32. In clause (*l*) of sub-section (*2*) of section 114 of the said Act, after the figure and brackets "(*5*)," the figure and brackets "(*6*)," shall be inserted.

Amendment of section 116.

33. In section 116 of the said Act,—

(*a*) for the word and figure "section 6" the word and figure "section 7" shall be substituted;

(*b*) after the words "in India" the words and figure "or section 64 relating to the keeping of books of account, registers and documents," shall be inserted.

Amendment of section 122 of Act IV of 1938 and of Schedule I to Act IX of 1908.

34 In section 122 of the said Act, for the words "The date of the death of the deceased......" the words "The date of the death of the deceased or when proof of the loss is given or received to or by the insurer, whether by or from the plaintiff, or any other person" shall be substituted

Amendment of First Schedule to Act IV of 1938.

35 In Part II of the First Schedule to the said Act, in the heading to Form AA, for the words "Indian Assets" the words "Assets in India" shall be substituted.

Amendment of Third Schedule.

36. In Part II of the Third Schedule to the said Act,—

(*a*) in Form D,—

(*i*) for the entry in the first column "Commission (less that on Re-insurances)" the entry "Commission to insurance agents (less that on Re-insurances)" shall be substituted;

(*ii*) for the entry in the first column "1. Commission and allowances" the entry "1. Allowances and Commission (other than commission to insurance agents)" shall be substituted;

(*iii*) in note (*c*) the word "British" shall be omitted;

(*b*) in the fourth column of Form DD, after the word "immediate" the words "or deferred" shall be inserted;

(*c*) to Form DDD the following notes shall be added, namely :—

"A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in British India shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside British India will furnish information regarding business transacted in India only.";

(*d*) in Form DDDD,—

(*i*) the word "financial", in the three places where it occurs, shall be omitted;

(*ii*) for the word "revised" the word "revived" shall be substituted;

(e) in note (c), note (d) and the note denoted by an asterisk in Form E, the word "British", wherever it occurs, shall be omitted;

(f) in note (d), note (e) and the note denoted by an asterisk in Form F, the word "British", wherever it occurs, shall be omitted.

Amendment of Fourth Schedule.

37. In Part I of the Fourth Schedule to the said Act,—

(a) in regulation 2, for the word and figure "paragraph 3" the word and figure "paragraph 4" shall be substituted;

(b) in regulation 3, for the word and figure "paragraph 4", in the three places where they occur, the word and figure "paragraph 5" shall be substituted;

(c) in the proviso to regulation 4,—

(i) for the words "an insurance company" the words "an insurer" shall be substituted;

(ii) for the words "the company", in both places where they occur, the words "the insurer" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

Detailed scrutiny of the Insurance Act, 1938, has revealed a considerable number of defects of a technical kind which should be removed before the Act is brought into force. It is also desirable to make it clear that insurers who set up organisations outside British India and operate through agents in British India are within the scope of the Act. Further, in view of projected legislation in certain Indian States on lines similar to the Insurance Act, 1938, certain disabilities would be imposed on insurers registred under the Act which would seriously impede the development of their business outside British India. The amending Bill is designed to give relief in such cases without impairing the security for policy-holders in British India. Notes on clauses are appended.

N. N. SIRCAR.

The 31st January 1939.

NOTES ON CLAUSES.

Clause 2.—(a) widens the scope of the definition of "insurer" to bring in insurers who operate from a principal place of business outside British India and who, while it is doubtful if under the existing definition they can be said to be carrying on insurance business in British India, obtain British Indian insurance business by the employment of representatives or by establishing a place of business in British India.

(b) extends the definition to include triple indemnity accident benefits for which some companies provide.

Clause 3.—(a) Section 7 (*1*) (*j*) of the principal Act was intended to provide for a smaller deposit payable by small concerns carrying on marine insurance in a limited field; as the provision is at present worded, it is capable of the interpretation that it adds to rather than reduces the deposit referred to in section 7 (*1*) (*c*). This amendment will remove that ambiguity.

(b) The expression used elsewhere in section 7 is "*carried on* in British India", and this amendment is made as uniformity is desirable.

(c) When it was found impossible to bring the principal Act into force by the 1st October last, it was realised that section 7(*3*) might give rise to a situation in which the second instalment of deposit became payable before the first. This amendent removes that anomaly.

(d) Section 7 (*4*) is intended to refer to the same category of insurers as section 7 (*3*), namely, those incorporated or carrying on business before the 27th January 1937, and to qualify, in the case of certain insurers within that category, the concession given by section 7 (*3*). The present wording of section 7 (*4*) does not effectively carry out this intention and is accordingly clarified by the amendment proposed.

Clauses 4 and 5.—These clauses insert references to a section inserted in the principal Act during its passage through the Legislature. These amendments and others of similar character appearing later in this Bill are necessary consequences of that insertion.

Clause 6.—Marine insurance is a specialised form of insurance business and there have been found to exist difficulties, both legal and practical, in applying section 46 to such class of insurance business. Moreover it would seem that the reasons which call for amendment to section 46 also operate to render the records required under section 14 of little practical value, and the exclusion of marine insurance business from that section also is consequently proposed.

Clause 7.—(*a*) provides for *certified* copies of the second set of statements referred to in section 16 (*2*) as well as of the first such set.

(*b*) *and* (*c*). As section 12 does not apply to cases coming under section 16 (*2*), it is necessary to insert in this sub-section a provision requiring audit.

Clause 8.—(*a*) The use of the expression "a company incorporated under the Indian Companies Act, 1913" in section 17 and in other places in the principal Act excludes from the scope of those provisions companies incorporated under the earlier Companies Acts of 1866 and 1862. The wording now proposed, already in use in section 11 (*2*) of the principal Act, will remove this defect.

(*b*) The wording is revised to follow more closely that of the Indian Companies Act, 1913, to which it is related.

Clause 9.—The principal Act repeals the earlier insurance law, but it is thought necessary to make it clear that the earlier law will continue to apply even after the coming into force of the principal Act to the disposal of accounts for periods which ended before the principal Act comes into operation.

Clause 10. (*a*) (*i*) *Vide* note on clauses 4 and 5.

(*a*) (*ii*) Section 27, as it stands, might be read as permitting the deduction of policy loans which do not relate to policies maturing in India, or which are in excess of the surrender values of the policies: this amendment makes such an interpretation impossible.

a (*iii*) and (*b*). Where the law of an Indian State requires a cover in respect of life insurance policies maturing for payment in that State (perhaps on a scale equal or greater than that provided in the principal Act), it would be a manifest hardship to require the insurer to make such overlapping cover. The first of these amendments provides relief for insurers registered in British India by arranging that the cover to be made in British India will take into account the cover made elsewhere, but in such a way that the total cover is never less than that required by the principal Act standing alone. The second amendment is consequential upon the first in the sense that it provides that in cases where advantage is taken of this new provision, the liability of the trust in respect of the policies concerned shall be proportionately reduced.

Clause 11.—Section 28, as it stands, is considered to give insufficient time for the submission of the required statements: this is accentuated in cases of companies whose principal place of business is overseas. The amendments proposed will ease the difficulties in this respect without detracting from the purposes of the section.

Clause 12.—(*a*) *Vide* note on clauses 4 and 5.

(*b*) It has come to the notice of Government that some insurance companies keep the bulk of their assets in the name of the Official Trustee, as an additional protection to their policy-holders. The practice is inconsistent with section 31 as it now stands and the proposed amendment is designed to remove the bar to such an arrangement.

Clause 13.—*Vide* note on clauses 4 and 5. Here the insertion of the omitted reference entails slight rearrangement of the wording.

Clause 14.—(*a*) The first part of the sub-clause removes the anomaly inherent in requiring notice of a transaction to which he is himself a party to be served on the insurer. The second amendment in the sub-clause is to provide that the insurer (who is to be bound by the transfer or assignment) shall see either the instrument of the transaction or a true copy of it. The third amendment takes into account the new class of insurer introduced by clause 2 of this Bill, and removes redundant words.

(*b*) Sub-sections (*5*) and (*7*) of section 38 are inconsistent in the sense that the latter permits conditional assignments while the former makes no provision for them. The former sub-section is hereby amended to bring it into line with the latter.

(*c*) removes ambiguity in phrasing, the existing form leaving it doubtful whether "existing prior to the commencement of this Act" qualifies "rights and remedies".

(*d*) also removes an ambiguity, this time latent in the definition of "policy-holders".

Clause 15.—(*a*) This amendment is also occasioned by the definition of "policy-holder" and makes it clear that an absolute assignee does not possess the right to nominate.

(*b*) includes a necessary provision to indemnify the insurer without notice of a revoked nomination where he makes *bona fide* payments to a nominee in the policy or registered in his books.

(*c*) adjusts a small drafting defect, the case of revision of nomination by will not being covered by the existing wording.

Clause 16.—(*a*) and (*b*) remove matter which in view of the definition of "insurance agent" is superfluous.

(*c*) The application of the definition of "insurance agent" to section 40 (3) as it stands at present causes a conflict with the intention of the sub-section which the proposed amendment removes.

Clause 17.—*Vide* note on clause 6.

Clause 18.—There must be circumstances in which the insurer is not in a position to be immediately aware of the maturing of a policy of life insurance: in these circumstances the time provisions in section 47 should run from the receipt of notice of such maturing by the insurer.

Clause 19.—(*a*) *Vide* note on clause 8 (*a*).

(*b*) Section 48 as it stands fails to make provision for companies taking up life insurance business after the commencement of the principal Act: in such cases it is necessary that time should be given to allow the directorate to obtain the necessary qualifications in the matter of policy-holding.

Clause 20.—The expression "lapsing of a policy" is considered to be too vague and capable of varying interpretation. The section is accordingly revised in the interests of clarity.

Clauses 21 and 22.—*Vide* note on clauses 4 and 5.

Clause 23—removes a minor defect.

Clause 24—corrects a misprint.

Clauses 25 and 26—are intended to avoid difficulties in applying the principal Act, by making it clear that "year" shall be taken to be the calendar year. Clause 30 has the same end in view.

Clause 27.—*Vide* note on clause 8 (*a*).

Clause 28.—*Vide* note on clause 12 (*b*).

Clause 29.—*Vide* note on clause 8 (*a*).

Clause 30.—*Vide* note on clauses 25 and 26.

Clause 31—adjusts a drafting flaw.

Clause 32—supplies an omission.

Clause 33.—(*a*) corrects a misprint.

(*b*) The insertion is proposed to meet a difficulty which may result from similar legislation in Indian States.

Clause 34.—Provision was overlooked for the commencement of the period of limitation for a suit in respect of a sum payable on a loss, though Article 86 of the Indian Limitation Act, 1908, refers to such suits.

Clause 35—effects a more accurate form of expression.

Clauses 36 and 37—remove minor errors and inconsistencies and supply minor deficiencies in the Forms contained in the Schedules.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 8th February, 1939 :—

L. A. BILL NO. 4 OF 1939.

A Bill to make further provision for safety in coal mines.

WHEREAS it is expedient to make further provision for safety in coal mines by taking measures to facilitate or require therein the carrying out of the operation known as stowing, and to provide for the creation of a fund for the assistance of such operation, in the manner hereinafter provived ;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Coal Mines (Stowing) Act, 1939.

(*2*) It extends to the whole of British India :

Provided that the Central Government may, by notification in the official Gazette, declare that this Act shall not apply to any local area specified in the said notification.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 ; f 1923.

(*b*) "Board" means the Coal Mines Stowing Board constituted under section 3 ;

(*c*) "Chief Inspector" and "Inspector" mean the persons respectively appointed to be Chief Inspector of Mines and Inspector of Mines under sub-section (*1*) of section 4 of the Indian Mines Act, 1923, and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;

(*d*) "fund" means the Coal Mines Stowing Fund ;

(*e*) "prescribed" means prescribed by rules made under this Act ;

(*f*) "stowing" means the operation of filling with sand or other incombustible material the space left underground in a coal mine by the extraction of coal.

Constitution of Board.

3. (*1*) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Board to be called the Coal Mines Stowing Board to administer the fund, and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

(*2*) The Board shall consist of the following members, namely :—

(*i*) a person in the service of the Crown, appointed by the Central Government, as Chairman ;

(*ii*) the Chief Inspector, or an Inspector appointed by the Central Government in this behalf;

(*iii*) two persons nominated by the Indian Mining Association ;

(*iv*) one person nominated by the Indian Mining Federation ;

(*v*) one person nominated by the Indian Colliery Owner's Association :

Provided that if, within the prescribed period, any body fails to make the nomination which it is entitled to make under this sub-section, the Central Government may itself nominate a person to fill the place on the Board.

(*3*) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting the Central Government shall, on the recommendation of the body which would have been entitled to make the nomination if it had been a first nomination under sub-section (*2*), or where such recommendation is not made within the prescribed period, may, on its own initiative, nominate a person to fill the vacancy.

(*4*) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

Power to Board to co-opt members.

4. (*1*) The Board may, at any time and for such period as it thinks fit, co-opt as members of the Board any persons possessing such technical qualifications as may be prescribed.

(*2*) A member co-opted under sub-section (*1*) shall exercise all the powers and functions of a member under this Act, except that he shall not be entitled to vote on any question coming before the Board.

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* The Governor General has been pleased to accord the sanction required by sub-section (2) of section 67 of the Government of India Act, as saved from repeal by paragraph 12, the Government of India (Commencement and Transitory Provisions) Order, 1936.

Imposition of excise duty.

5. With effect from such date as the Central Government may, by notification in the official Gazette. appoint in this behalf, there shall be levied and collected on all coal and coke of such descriptions as may be prescribed which is produced in British India, a duty of excise as may, by notification in the official Gazette, be fixed from time to time by the Central Government, subject to a maximum rate of four annas per ton in the case of coal and soft coke or six annas per ton in the case of hard coke.

Imposition of customs duty.

6. During the period in which a duty of excise is being levied under section 5, the Central Government may, by notification in the official Gazette, impose on all coal and coke of the descriptions prescribed under section 5, brought into British India from the territory of any Indian State (not being territory which has been declared under section 5 of the Indian Tariff Act, 1934, to be foreign territory for the purposes of that section), a duty of customs at rates equivalent to the rates of the duty of excise levied under section 5 of this Act on coal and coke produced in British India.

XXXII of 1934.

Payment to Board of sum equivalent to the net proceeds of the excise duty.

7. The Central Government shall, as soon as may be in each financial year, pay to the Board a sum equivalent to the net proceeds (determined in like manner to that provided in sub-section (*1*) of section 144 of the Government of India Act, 1935) of the duty of excise realised under section 5 during the preceding year.

26 Geo. V, ch. 2.

Moneys received by the Board to be credited to the fund.

8. (*1*) The sum referred to in section 7 and any other moneys received by the Board shall be credited to a fund to be called the Coal Mines Stowing Fund, which shall be applied by the Board in such manner and subject to such conditions as may be prescribed, to—

(*i*) meeting the expenses in connection with the administration of this Act;

(*ii*) the grant of assistance for stowing operations to owners, agents or managers of coal mines; and

(*iii*) such other objects, connected with safety in coal mines, as the Central Government may, by notification in the official Gazette, specify.

(2) The Board shall keep accounts of the fund, and such accounts shall be examined and audited at the prescribed times by auditors appointed in this behalf by the Central Government.

Dissolution of the Board.

9. The Central Government may, by notification in the official Gazette, declare the Board to be dissolved with effect from such date as may be specified in the notification, and on the making of such a declaration the fund and all other property vested in the Board shall vest in His Majesty for the purposes of the Central Government.

Deduction out of royalties on account of stowing.

10. (*1*) Notwithstanding anything contained in the indenture, instrument or deed of lease of the mine the owner or agent of a coal mine shall, subject to such conditions as may be prescribed and with the previous sanction of the Board, be entitled to deduct out of the royalties payable by him in respect of the mine a sum, determined in the prescribed manner, at the rate of half-an-anna per ton of sand or other incombustible material actually used for effective stowing in the mine:

Provided that the deductions under this section shall not in any calendar year exceed ten *per centum* of the royalties payable in respect of that year.

(2) When granting sanction to an owner or agent under sub-section (*1*), the Board may impose such further conditions as it thinks fit.

Powers of Inspectors.

11. (*1*) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act and of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which—

(*a*) assistance is being, or has been, given under this Act, or

(*b*) deductions have been made under section 10 out of royalties,

in order to ascertain the amount of sand or other incombustible material used in stowing in the mine or to ensure that stowing has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923, the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him

to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or

(b) adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by a fire.

Application of Act IV of 1923.

12. The provisions of sub-sections (*3*) to (*6*) (both inclusive) of section 19 of the Indian Mines Act, 1923, shall apply to an order made under sub-section (*3*) of section 11 of this Act as they apply to an order made under sub-section (*2*) of section 19 of that Act, and all the provisions of the Indian Mines Act, 1923 (except sub-section (*1*) of section 11 thereof), affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, *mutatis mutandis* and so far as may be, to a committee appointed to inquire into a reference under this Act and to the disposal of such reference.

Committees of Inquiry.

13. (*1*) A committee appointed to inquire into a reference arising out of an order passed under sub-section (*3*) of section 11 shall consist of—

(a) the Chairman of the Board as Chairman;

(b) four members selected by the Chairman of the Board as follows:—

(i) two, from a panel of eight persons nominated by the Indian Mining Association;

(ii) one, from a panel of four persons nominated by the Indian Mining Federation;

(iii) one, from a panel of four persons nominated by the Indian Colliery Owners' Association; and

(c) one member appointed by the Central Government to represent the interests of persons employed in coal mines.

(*2*) No person shall be nominated to the panels referred to in clause (*b*) of sub-section (*1*) unless he possesses such technical qualifications as may be prescribed.

(*3*) If any body fails, within the prescribed period, to make any nomination which it is entitled to make under sub-section (*1*) or to fill any vacancy in a panel, the Central Government shall itself nominate a sufficient number of persons to complete the panel.

Power to make rules.

14. (*1*) The Central Government may, after previous publication, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any or all of the following purposes, namely:—

(a) the nomination, and term of office, of members of the Board appointed or nominated under section 3;

(b) the powers and functions of, and the conduct of business by, the Board;

(c) prescribing the technical qualifications to be possessed by co-opted members of the Board and by persons nominated to the panels referred to in section 13;

(d) prescribing the descriptions of coal and coke on which a duty of excise may be levied under section 5;

(e) regulating the levy, collection and payment of the duty of excise; and the imposition, collection and payment of the duty of customs;

(f) prescribing the manner in which and the conditions under which sums at the credit of the fund may be applied;

(g) prescribing the form in which the accounts of the fund shall be kept and the times at which such accounts shall be audited, and regulating the publication of the abstract of such accounts and the report of the auditors thereon, and prescribing the procedure in relation to any items of expenditure from the fund disallowed by the auditors;

(h) prescribing the conditions under which deduction out of royalties may be made under section 10 and the manner in which the amount of such deduction shall be determined;

(i) any other matter which is to be or may be prescribed.

Application to Crown mines.

15. This Act applies to coal mines belonging to the Crown.

STATEMENT OF OBJECTS AND REASONS.

The Government of India have had under consideration for some time past the question *inter alia* of devising measures for the protection of miners against the dangers involved in the present methods of extraction in the main coalfields where a stage has been reached at which the continued extraction of the large quantities of coal standing in pillars by ordinary methods is impossible in some cases and would in other cases, involve serious danger to those engaged in the work and the likelihood of a great wastage of coal. They accordingly appointed a committe known as the Coal Mining Committee in October, 2936, to inquire into the methods of extracting coal underground in Bengal, Bihar and the Central Provinces and to report on the measures which should be taken to secure the safety of the workers and to prevent avoidable waste of coal. The Committee have advocated the adoption of stowing, *i.e.*, the filling with sand or other incombustible material of the space left by the extraction of coal, to start with, in areas where there is urgent and immediate danger to life or urgent danger of substantial loss of coal. The Committee have recommended that a cess of 8 annas per ton on coal, including soft coke, and 12 annas per ton on hard coke should be imposed, to be used mainly to defray the cost of stowing. The recommendations of the Committee have been examined by the Government of India in consultation with the Provincial Governments and the interests concerned. The Government of India feel that for the present at any rate the main objective of any proposals should be to secure the safety of the worker. Such proposals would incidentally result in a certain amount of conservation but safety should be the primary objective. The Bill is designed to give effect to these proposals. Notes on some of the clauses are appended.

ZAFRULLAH KHAN.

The 4th February, 1939.

NOTES ON CLAUSES.

Clause 3—modifies in certain respects the constitution proposed by the Committee in paragraphs 275-283 of their report for the administrative authority recommended by them. The Committee's proposal is open to the objection that the constitution of the authority would be largely in the hands of the Chairman and that its personnel would be constantly changing.

Clause 4—is designed to give powers to the Committee to co-opt technical experts for dealing with any technical questions of importance that may arise.

Clause 5—The maximum rate of the excise duty proposed in the clause is considered adequate for the requirements of the scheme proposed in the Bill.

Clause 6—follows section 6 of the Sugar (Excise Duty) Act, 1934, and is designed to implement the recommendation made by the Committee in paragraph 381 of their report.

Clause 10—follows the recommendation of the Committee in paragraph 268 of their report. A Central tax on royalties is not constitutionally permissible. As this proposal is not free from complications, it is proposed to leave it to the Board to permit the deduction from royalties or not.

Clause 11—*Sub-clauses* (*1*) and (*2*) need no comment. *Sub-clause* (*3*) is designed to enlarge the powers conferred on the Mines Inspectorate by sub-section (*1A*) of section 19 of the Indian Mines Act, 1923, and to implement in modified form the recommendation made by the Committee in paragraph 290 of their report.

Clauses 12 and 13—Clause 12 is designed to extend the procedure prescribed in the Mines Act for appeals against orders passed under section 19(*2*) of that Act to orders passed under clause 11 (*3*) of the Bill; the constitution of the apellate tribunal is proposed to be strengthened as in clause 13 in view of the importance of the issues involved.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMNET OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 8th February, 1939 :—

L. A. BILL NO. 5 OF 1939.

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

WHEREAS it is expedient to amend the Employment of Children Act, 1938, for the purposes hereinafter appearing ;

XXVI of 1938.

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Employment of children (Amendment) Act, 1939.

(2) It shall come into force on the 1st day of October, 1939.

Amendment of section 2 of Act XXVI of 1938.

2. In section 2 of the Employment of Children Act, 1938 (hereinafter referred to as the said Act), after the words "In this Act" the letter and brackets "(a)" shall be inserted, and to the said section as so amended the followining shall be added, namely :—

"(b) "occupier" of a workshop means the person who has ultimate control over the affairs of the workshop ;

(c) "prescribed" means prescribed by rules made under this Act ;

(d) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on without the aid of power."

Amendment of section 3.

3. To section 3 of the said Act the following sub-setion shall be added, namely :—

"(3) No child who has not completed his twelfth year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on :

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour."

Insertion of new sections 3A, 3B and 3C.

4. After section 3 of the said Act the following sections shall be inserted, namely :—

Power to amend the Schedule.

"3A. The Provincial Government, after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, or omit any of the processes therefrom, or otherwise amend the Schedule in such manner as it thinks fit, and thereupon the Schedule shall have force in the Province as if it has been enacted accordingly.

Notice to inspector before carrying on work in certain processes.

3B. Before work in any of the processes set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the inspector, within whose local limits the workshop is situated, a written notice containing—

(a) the name and situation of the workshop,

(b) the address to which communications relating to the workshop should be sent, and

(c) the nature of the processes to be carried on in the workshop.

Disputes as to age.

3C. If any question arises between an inspetor and an employer as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be, the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the inspector for decision to the prescribed medical authority."

Amendment of section 4.

5. In section 4 of the said Act, after the word and figure "section 3" the words, letter and figure "or fails to give notice as required by section 3B" shall be inserted.

Amendment of section 5.

6. For sub-section (2) of section 5 of the said Act the following sub-section shall be substituted, namely :—

"(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates."

Amendment of section 7.

7. In clause (b) of sub-section (2) of section 7 of the said Act, for the words "the authorities" the words "the medical authorities" shall be substituted.

Insertion of Schedule.

8. To the said Act the following Schedule shall be added, namely :—

"THE SCHEDULE.

(See SECTIONS 3, 3A AND 3B.)

List of Processes.

1. *Bidi*-making.
2. Carpet-weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth-printing, dyeing and weaving.
5. Manufacture of matches, explosives and fireworks.
6. Mica-cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool cleaning."

STATEMENT OF OBJECTS AND REASONS.

The Royal Commission on labour drew attention to the serious abuses prevalent in many establishments not subject to the Factories Act. In particular, mention is made of the employment of children, often at a very early age, in various offensive, and in some cases dangerous, occupations. The Bill is intended to prohibit the employment of children under 12 on premises carrying on the occupations enumerated in the Schedule, which have been selected either because they are unhealthy or commonly accompanied by exploitation of child labour. Provincial Governments, who have been consulted, are given full power to amend the Schedule.

NEW DELHI :

The 3rd February 1939.

ZAFRULLAH KHAN.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 13th February, 1939 :—

L. A. BILL NO. 6 OF 1939.

A Bill further to amend the Indian Merchant Shipping Act, 1923 for a certain purpose.

WHEREAS it is expedient to implement fully the provisions of Article 100 (relating to accommodation on pilgrim ships) of the International Sanitary Convention signed at Paris on the 21st day of June, 1926, and in furtherance of that purpose further to amend sections 149 and 193 of the Indian Merchant Shipping Act, 1923, in the manner hereinafter appearing ; [XXI of 1923.]

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Merchant Shipping (Second Amendment) Act, 1939.

Amendment of section 149 of Act XXI of 1923.

2. In clause (3) of section 149 of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said act)—

(*a*) after the words "means a Muhammadan passenger" the words "irrespective of age" shall be inserted, and

(*b*) the words commencing "but it does not include" and ending "shall be reckoned as one pilgrim" shall be omitted.

Amendment of section 193.

3. In the provisos to sub-sections (*2*) and (*3*) of section 193 of the said Act the words "of the age of twelve years or upwards" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

Clause (3) of section 149 of the Indian Merchant Shipping Act, 1923, expressly excludes from the definition of a pilgrim a child under one year of age and further empowers the Central Government to direct, by notification, that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim. Children under one year of age are not therefore taken into account for purpose of computation of pilgrims to be carried on a pilgrim ship and are not allotted any space. This law is in conflict with the provisions of Article 100 of the International Sanitary Convection of 1926 under which provision is to be made in pilgrim ships in respect of each person irrespective of age for an area of 1·50 square meters, equivalent to 16 square feet, in the between decks over and above the space reserved for the crew. Carriage of more pilgrims than the authorised number is punishable with fine under Article 157 of the Convention. The Government of Saudi Arabia have given Article 100 the force of law. For this reason, and in view of the fact that the Central Government have accepted the implications of the Convention and, in other respects, comply with its provisions, they have, after consultation with the Standing Haj Committee of the Indian Legislature, come to the conclusion that it is desirable that the Indian Merchant Shipping Act, 1923, should be amended so as to bring it into line with Article 100. The Bill is designed to carry out the requisite amendments.

G. S. BAJPAI,

NEW DELHI :

The 6th February, 1939.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 7 OF 1939.

A Bill to abolish the punishment of Whipping.

WHEREAS the punishment of Whipping has come to be regarded as a relic of less civilised times, it is expedient to abolish it altogether; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Abolition of Whipping Act, 19 .

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

Whipping an illegal punishment.

2. Notwithstanding anything contained in any Act or Rules or other provision having the force of law, whipping is not a legal punishment in British India.

Repeal of Act IV of 1909.

3. The Whipping Act, 1909, is hereby repealed.

*The Governor General has been pleased to accord the previous sanction required by clause (c) of section 108 (1) read with clause (a) of section 313 (4) of the Government of India Act, 1935.

STATEMENT OF OBJECTS AND REASONS.

Whipping as a legal punishment is a relic of barbarous days, and lowers both the Government who suffer it to be inflicted on offenders, and the people who endure it in the scale of civilized humanity. Nearly all civilized Governments have abolished it altogether and where it is retained, it is reserved for extremely heinous offences attended with revolting cruelty. The Whipping Act No. IV of 1909 prescribes whipping for the pettiest of offences no less than for a few grave offences. Whipping is quite frequently resorted to in petty cases of theft, etc., and is often attended by extreme barbarity and excruciating bodily pain. The object of this Bill is to abolish whipping as a legal punishment.

M. THIRUMALA RAO.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 8 OF 1939.

A Bill to amend the Muslim Personal Law (Shariat) Application Act, 1937.

WHEREAS it is expedient to amend the Muslim Personal Law (*Shariat*) Appication Act, 1937; It is hereby enacted as follows:— XXVI of 1937.

Short title and extent.

1. (*1*) This Act may be called the Muslim Personal Law (*Shariat*) Application (Amendment) Act, 1939.

(*2*) It extends to the whole of British India excluding the North-West Frontier Province.

Amendment of section 3, Act XXVI of 1937.

2. In sub section (*1*) of section 3 of the Muslim Personal Law (*Sharia'*) Application Act, 1937 (hereinafter referred to as the said Act), for the words ' this Act" the words "the provisions of this section" shall be substituted. XXVI of 1937.

Amendment of section 6, Act XXVI of 1937.

3. Entry (*3*) in section 6 of the said Act shall be omited.

STATEMENT OF OBJECTS AND REASONS.

Section 2 of the Muslim Law (*Shariat*) Application Act, 1937, prescribes that Muslim Personal Law will apply to all cases enumerated therein, in preference to any custom and usage to the contrary. Section 3 of the said Act goes further and provides that if the declaration prescribed therein is made by a Muslim then the Muslim Personal Law will apply to 'adoption, wills, and legacies' also. The two sections are quite independent. No declaration before the prescribed authority is required for the applicability of either section 2 or section 5. But the words used in section 3 are somewhat ambiguous. They are: 'Any person who satisfies the prescribed authority ....may by a declaration.........declare that he desires to obtain the benefit of *this Act*'. What is really meant is desires to obtain the benefit of the provisions of this section. The use of the word 'Act' is misleading and some courts have rejected applications under section 5 on the ground that they are premature as the 'Prescribed authority' has not yet been appointed by the Provincial Government and no declaration has been made before it. It is clear from the Act itself that it was not the intention of the Legislature. Hence it is necessary to make the amendment proposed in this Bill.

The other amendment proposed in the Bill relates to section 6 of the said Act. This section was meant to repeal those enactments which gave legal sanction to usage and custom in preference to Muslim Personal Law. Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887, is also included in the list as No. 3. A perusal of the said section would show that it gives no legal sanction to custom and usage and is in no way inconsistent with the provisions of this Act. It has been included in the list by an oversight. It is therefore proposed to delete entry (3) in section 6.

MUHAMMAD AHMAD KAZMI.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939 :—

L. A. BILL NO. 10 OF 1939.

A Bill to control the Coastal Traffic of India.

WHEREAS it is expedient to encourage the development of an Indian Mercantile Marine;

AND WHEREAS for this purpose it is expedient to control unfair competition in the Coastral Traffic of India;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Control of Coastal Traffic of India Act, 193 .

(2) It extends to the whole of the coastal traffic of British India and of the continent of India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, appoint.

Measures to check unfair competition.

2. When the Governor General in Council is satisfied from a complaint, report or otherwise that unfair competition exists in the coastal traffic of British India or of the continent of India, by the lowering of the usual rates of fare or freight or by the grant of rebates or other concessions in any way whatsoever, it shall, subject to the provisions of the Government of India Act, be lawful for him to prescribe, from time to time, by rules published in the *Gazette of India*, the minimum rates of fare or freight between any ports in India or to prohibit by notification published in the said Gazette the grant of any rebate or concession which in his opinion amounts to unfair competition.

Penalties.

3. Any person who in the opinion of the Governor General in Council contravenes any such rule or prohibition shall be punished with fine which may extend to Rs. 10,000 and shall also be liable to be debarred from taking any ship into any port in India under the control of the Government of India or of any Provincial Government for such period or under such conditions as the Governor General in Council may direct.

Explanation.—A person shall include any company or association or body of individuals whether incorporated or not.

Power to make rules.

4. The Governor General in Council may, by notification, make rules for carrying out the purposes of this Act. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) for the procedure for complaint against or report about unfair competition,

(*b*) for enquiry into such complaint or report,

(*c*) for the imposition of the penalty of refusal of entry of any ship into any port and for the enforcement thereof.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to remove a possible impediment to the growth and development of the Indian Mercantile Marine. There is no question of any discrimination between British and Indian shipping. Past experience, however, shows that a well established powerful Company engaged in coastal traffic can easily put a new venture out of action by unfair competition, *e.g.*, rate-cutting, grant of rebates, etc. The fear of unfair competition deters Indian capital being invested in coastal shipping. If the Governor General in Council be given power to prevent such competition, the fear will be largely allayed and a new line of commercial activity may be opened out to Indians. By this Bill, power is given to the Governor General in Council, when he is satisfied that unfair competition exists, to fix minimum rates of fare and freight or to prohibit the grant of rebates or other concessions which are calculated to reduce such minimum rates. Contravention of any rule prescribed by the Governor General in Council or any direction given by him with regard to the grant of concession is made punishable with fine or refusal of entry to an Indian port.

SAMI VENKATACHELAM CHETTY.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 11 OF 1939.

A Bill further to amend the Indian Penal Code.

WHEREAS it is necessary and expedient that the proceedings and speeches in Indian Legislatures should be published in the widest possible manner; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 193 .

(2) It shall extend to the whole of British India.

Insertion of new section 93A in Act XLV of 1860.

2. After section 93 of the Indian Penal Code the following new section shall be inserted, namely:— XLV of 1860.

Publication of speeches in Indian Legislatures.

"93A. No publication made in good faith, of any speech or speeches in any Indian Legislature, is an offence."

STATEMENT OF OBJECTS AND REASONS.

It is proper and necessary that, for the due and effective exercise and discharge of the functions and duties of the Indian Legislatures, and of the members thereof, and for the promotion of wise and good work in the Legislatures, no obstruction or impediment should exist in the way of the publication, not only in official reports, but in the news papers and journals of the country, of the speeches, votes and proceedings of Indian Legislatures. The recent ruling of the President of the Legislative Assembly given on the point of privilege raised by Sardar Sant Singh, M.L.A., in connection with the publication of his speech by Mr. Krishna Kanta Malaviya, M.L.A., in the *Abyudhaya*, has brought the whole question to the front. The present position is exceedingly dangerous for the Legislature, for the people, and for the Press. Parliamentary work is likely to become a farce if the widest possible publicity is not given to the work therein. It is impossible to expect the newspapers to examine critically the speeches of the members of the Legislatures before publishing them. It is not right that the Sword of Damocles, the executive action under the Press Act, or any other penalty should hang over them. Moreover the electors would like to know how their representatives speak and vote in the Legislature to which they send them. In the Irish Free State such a privilege is conferred by Statute. It has been enacted in England by the Bill of Rights that the freedom of speech, debate or proceedings in Parliament ought not to be impeached.

There is no danger of abuse of this power of publication of the speeches made in the Assembly, because Standing Order 29 of the Legislative Assembly provides that a member while speaking shall not utter treasonable, seditious or defamatory words. Without this right the freedom of speech of the members in the Indian Legislature may be reduced to almost nothing, and this Bill is perfectly consistent with the provisions of the Government of India Act, which under section 67 (7) provides that "No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber". These official reports are available to any citizen at reasonable prices. Publication of the proceedings in other newspapers cannot create any different situation. Hence this Bill.

K. CHALIHA.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939 :—

L. A. BILL NO. 14 OF 1939.

A Bill further to amend the Code of Civil Procedure, 1908, for certain purposes.

V of 1908. WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 193 .

Amendment of section 60, Act V of 1908.

2. In sub-section (*1*) of section 60 of the Code of Civil Procedure, 1908,— V

(*i*) in clause (*c*) of the proviso, after the words "belonging to an agriculturist" the words "or a labourer" shall be inserted ; and

(*ii*) the present *Explanation* shall be numbered as *Explanation II* and the following shall be inserted as *Explanation I*, namely :—

"*Explanation I.*—For the purposes of this section, the word "labourer" shall include any person employed in trade or industry or agriculture whether or not in the employment of any employer and whose income does not exceed twenty-five rupees monthy."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the Code of Civil Procedure, 1908, so as to afford similar protection to a labourer as is enjoyed by an agriculturist.

To avoid the growing acuteness of the problem of housing of labourers, both in rural and urban areas, it is expedient that it should be exempted from sale in execution of a money decree.

When wild birds and animals of the forest are protected from annihilation by the Government, it is essential on humanitarian grounds also that poor labourers should be secured of their so-called resting place in order to enable them to earn their livelihood and rear their family even in the midst of extreme destitution.

KAILASH BEHARI LAL.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 15 OF 1939.

A Bill to limit rates of interest and for that purpose further to amend the Usurious Loans Act, 1918.

WHEREAS it is expedient to limit the rates of interest and for that purpose further to amend the Usurious Loans Act,
1918. 1918; It is hereby enacted as follows:—

Short title.

1· This Act may be called the Usurious Loans (Amendment) Act, 193 .

1918. Amendment of section 3, Act X of 1918.

2. In section 3 of the Usurious Loans Act, 1918 (hereinafter referred to as the said Act),—

(*1*) in sub-section (*1*),—

(*a*) in clause (*a*), for the word "and" occurring at the end the word "or" shall be substituted;

(*b*) for the words "may exercise all or any of the following powers" the words "shall exercise all the following powers or all such of them as may not be inappropriate to the case" shall be substituted; and

(*c*) in the proviso,—

(*i*) the brackets and figure "(*i*)" occurring in clause (*i*) shall be omitted; and

(*ii*) clause (*ii*) shall be omitted;

(*2*) in sub-section (*2*),—

(*a*) for clause (*a*) the following shall be substituted, namely:—

"(*a*) In this section, 'excessive' means—

(*i*) in excess of interest calculated at the rate of six per cent per annum with annual rests, or

(*ii*) if the Reserve Bank of India's rate at the date of the loan exceeds three per cent per annum, in excess of interest calculated at three per cent above such Reserve Bank rate with annual rests:

Provided that if the Court considers that having regard to the risk incurred as it appeared, or must be taken to have appeared to the creditor at the date of the loan a lower rate of interest was reasonable, all interest in excess of such rate shall be deemed 'excessive' "; and

(*b*) the *Explanation* shall be omitted; and

(*3*) to sub-section (*3*) the following shall be added at the end, namely:—

"or if such suit is instituted by a debtor for any of the reliefs specified in sub-section (*1*) of section 3".

Amendment of section 4, Act X of 1918.

3. In section 4 of the said Act, for the words "may exercise" the words "shall exercise" shall be substituted.

Insertion of new section 5 in Act X of 1918.

4. After section 4 of the said Act, the following section shall be added, namely:—

Punishment for evasion of Act relating to maximum rates of interest.

"5. Any person who evades or attempts to evade the provisions of this Act prescribing the maximum rate of interest by actually lending a smaller sum than that shown in the agreement or instrument executed by the debtor or in any other manner whatsoever, shall be punishable with fine not exceeding the sum of (*a*) one thousand rupees and (*b*) twice the amount which has been paid to him in consequence of such evasion or would have been paid to him if the attempted evasion had been successfully carried out."

STATEMENT OF OBJECTS AND REASONS.

It is an admitted fact that the high rate of interest forms a heavy burden and is one of the chief causes of agricultural indebtedness. It is also well-known that low rates of interest prevailing in the cities have little effect on the usurious rates prevailing in the rural areas. The object of the Bill is to limit the rate of interest and thus relieve the masses from the exploitation and extortion of money-lenders. The simplest method of doing this is to amend the Usurious Loans Act, 1918. The measure has been adopted in certain Provinces but in a matter like this uniformity is greatly needed.

K. CHALIHA.

MD. RAFI,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 18 OF 1939.

A Bill further to amend the Indian Bar Councils Act, 1926.

XXXVIII of 1926. WHEREAS it is expendient further to amend the Indian Bar Councils Act, 1926, for certain purposes; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Bar Councils (Amendment) Act, 193 .

XXXVIII of 1926.

Amendment of section 1, Act XXXVIII of 1926.

2. In section 1 of the Indian Bar Councils Act, 1926 (hereinafter referred to as the said Act), in sub-section (2), for the words "this Act applies" the words "this Act applies and to all courts subordinate to such High Courts" shall be substituted.

Amendment of section 2, Act XXXVIII of 1926.

3. In section 2 of the said Act, for clause (*a*) the following shall be substituted, namely:—

"(*a*) 'advocate' means an advocate entered in the roll of advocates maintained by a High Court under the provisions of this Act."

Amendment of section 3, Act XXXVIII of 1926.

4. In sub-section (*1*) of section 3 of the said Act, after the words "High Court", the following shall be inserted, namely:—

"and for all courts subordinate thereto."

Amendment of section 4, Act XXXVIII of 1926.

5. In section 4 of the said Act,—

(*1*) in sub-section (*1*),—

(*a*) for the word "fifteen" the word "eighteen" shall be substituted; and

(*b*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) three shall be elected by the legal practitioners practising in the Courts subordinate thereto from amongst their number"; and

(*2*) sub-sections (*2*) and (*3*) shall be omitted.

Amendment of section 8, Act XXXVIII of 1926.

6. In section 8 of the said Act, for sub-sections (*1*) and (*2*), the following shall be substituted, namely:—

"(*1*) No person shall be entitled to practise in any court, unless his name is entered in the roll of advocates maintained by a High Court under this Act:

Provided that nothing in this sub-section shall apply to any attorney of the High Court.

(*2*) The High Court shall prepare and maintain a roll of the advocates in which shall be entered the names of—

(*a*) all persons who were, as advocates, vakils or pleaders, entitled to practise in the High Court or in courts subordinate thereto immediately before the date on which this Act comes into force; and

(*b*) all other persons who have been admitted to be advocates under this Act:

Provided that such persons shall have paid in respect of enrolment the stamp-duty, if any, chargeable under the Indian Stamp Act, 1899, and a fee, payble to the Bar Council, which shall be ten rupees in the case of persons referred to in clause (*a*), and in other cases such amount as may be prescribed." II of

Amendment of section 9, Act XXXVIII of 1926.

7. In section 9 of the said Act,—

(*1*) for sub-section (*1*), the following shall be substituted, namely:—

"(*1*) The Bar Council may, with the previous sanction of the High Courts, make rules to regulate the admission of advocates entitled to practise in the High Courts, and all courts subordinate thereto:

Provided that there shall be in each province henceforth only one grade of advocates entitled to practise in all courts from the High Court to the lowest Civil, Criminal or Revenue Courts subordinate thereto:

Provided further that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion"; and

(*2*) sub-section (*4*) shall be omitted.

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*The Governor General has been pleased to accord the previous sanction required by sub-section (1) of section 119 of the Government of India Act, 1925.

Amendment of section 10, Act XXXVIII of 1926.

8. In section 10 of the said Act,—

(*1*) in sub-section (*1*), the words "of the High Court" shall be omitted; and

(*2*) in sub-section (*2*), the word "such" wherever it occurs shall be omitted.

Amendment of section 11, Act XXXVIII of 1926.

9. In sub-section (*2*) of section 11 of the said Act, for the words "Chief Justice or the Chief Judge of the High Court" the following shall be substituted, namely :—

"the members of the Bar Council in such manner as may be prescribed in that behalf."

Amendment of section 12, Act XXXVIII of 1926.

10. In sub-section (*7*) of section 12 of the said Act, the words "of the High Court" shall be omitted.

Amendment of section 14, Act XXXVIII of 1926.

11. In section 14 of the said Act,—

(*1*) in clause (*a*) of sub-section (*1*) for the words "the High Court of which he is an advocate" the following shall be substituted, namely :—

"the High Court and in the courts subordinate thereto"; and

(*2*) sub-section (*3*) shall be omitted.

Amendment of section 15, Act XXXVIII of 1926.

12. In section 15 of the said Act,—

(*a*) the words "with the previous sanction of the High Court for which it is constituted" shall be omitted; and

(*b*) in clause (*a*), the words "of the High Court" shall be omitted.

Amendment of section 19, Act XXXVIII of 1926.

13. In sub-section (*4*) of section 19 of the said Act,—

(*a*) the word "High" where it occurs for the first and second times shall be omitted; and

(*b*) for the words "the High Court" the words "that court" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The legal profession has now been in existence in British India for about 150 years. It is a progressive institution. But it still consists of different grades with different status.

There has been a natural and growing desire and consciousness in the profession that all the different grades and distinctions should be abolished and that there should be only one grade of lawyers, practising in all the courts—from the High Court down to the lowest Civil, Criminal and Revenue Courts.

Another equally strong feeling which has grown up is that the Bar in India, like the Bar in Great Britain, should have substantial autonomy in the management of its own affairs and should free itself from the control of the courts.

This feeling found its expression first in the Resolution moved by Munshi Iswar Saran in the Legislative Assembly in 1921, recommending legislation with a view to create an Indian Bar so as to remove all distinctions enforced by statute or by practice between Barristers and Vakils.

The Government practically accepted the Resolution of Munshi Iswar Saran and invited the opinion of the High Courts and the Local Governments on two questions, *viz.*, the creation of an India Bar Council and the desirability of removing all distinctions enforced by statute or by practice between Vakils and Barristers. The Local Governments unanimously recommended the removal of these distinctions; so also most of the High Courts. These opinions were collected in 1923. Thereupon the Indian Bar Committee was appointed by the Government of India in November, 1923, to report on the proposals made from time to time for constituting an India Bar with particular reference to the constitution, statutory recognition, functions and authority of Bar Council and its position *vis-a-vis* High Courts and the extent to which it might be desirable to remove the existing distinctions between Barristers and Vakils.

The Committee unanimously recommended the unification of all practitioners.

The Committee also recommended that some measure of self-government should be granted to the Bars attached to some of the High Courts.

To give effect to these recommendations by legislation a Bill was introduced which was ultimately passed as the Indian Bar Councils Act of 1926. A Bar Council was created by the Act to achieve this two-fold object, *viz.*, the ultimate unification and eventual autonomy of the legal profession. But the reforms accomplished by this Act did not go far enough either in extent or in substance. The Act introduced some partial reforms regarding the enrolment and status of the lawyers entitled to practise in the High Court but left completely untouched the pleaders of subordinate courts. The result therefore is that there has not been any improvement in the status of the legal practitioners of the subordinate courts. They are still governed by the provisions of the Legal Practitioners Act of 1879. Their enrolment and conduct are still regulated by the High Court by rules made under Legal Practitioners Act.

The object of this Bill is to bring about the desired unification and autonomy of the legal profession.

A. C. DATTA.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 19 OF 1939.

A Bill further to amend the Hindu Women's Rights to Property Act, 1937.

WHEREAS it is expedient further to amend the Hindu Women's Rights to Property Act, 1937, for the purpose hereinafter appearing; It is hereby enacted as follows:— XVIII of 1937.

Short title and effect.

1. (1) This Act may be called the Hindu Women's Rights to Property (Amendment) Act of 193 .

(2) It will have retrospective effect from the 14th April, 1937.

Amendment of section 3, Act XVIII of 1937.

2. In section 3 of the Hindu Women's Rights to Property Act, 1937,— XVIII of 1937.

(a) to sub-section (1) the following further provisos shall be added, namely:—

"Provided further that in the *absence* of a widow or a son or a son's son or a son's son's son of the intestate, the property of the deceased shall devolve on his daughters, subject to the limitations and in the order provided by the Hindu Law in this behalf:

Provided also that in the last mentioned case if there is a widow of a predeceased son existing with one or more maiden daughters, she shall inherit as a maiden daughter and if there is no maiden daughter but one or more married daughters having a son or sons the predeceased son's widow shall inherit as one of such daughters and if the daughter dies leaving a son or sons, the son or sons shall inherit, their mother's share along with the son's widow or son's son's widow or son's son's son's widow."; and

(b) in sub-section (3), for the word "widow" the word "woman" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give to a daughter that right of inheritance to which she is entitled under the text of Yajnavalkya and Vishnu and other exponents of Hindu Law and to which she is entitled in equity and justice

A. C. DATTA.

MD. RAFI,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939:—

L.A. BILL NO. 21 OF 1939.

A Bill further to amend the Contempt of Courts Act, 1926, for certain purposes.

XII of 1926. WHEREAS it is expedient further to amend the Contempt of Courts Act, 1926, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Contempt of Courts (Amendment) Act, 193 .

(*2*) It shall extend to the whole of British India.

(*3*) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, appoint.

Insertion of new section 1A in Act XII of 1926.

2. After section 1 of the Contempt of Courts Act, 1926 (hereinafter referred to as the said Act), the following new section shall be inserted, namely:— XII of

Contempt of Court.

"1A. Whoever, by words either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs the administration of justice in a court during the pendency of any case therein shall be deemed to commit contempt of court within the purview of sub-sections (*1*) and (*2*) of section 2."

Insertion of new section 2A in Act XII of 1926.

3. After section 2 of the said Act, the following new section shall be inserted, namely:—

Procedure for trial of offences.

"2A. A High Court or a Chief Court taking cognizance of any case of contempt under the provisions of this Act shall commit or hold to bail the accused person to take his trial before itself, and in trying the accused shall, *mutatis mutandis*, follow the procedure prescribed in Chapter XX of the Code of Criminal Procedure, 1898, for trial of summons cases." V of

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STATEMENT OF OBJECTS AND REASONS.

The Contempt of Courts Act of 1926 has defined and limited the powers exercisable by High Courts and Chief Courts in punishing contempts of court. But it has not laid down any definition of the offence of contempt of court nor has it laid down the procedure and practice which should be followed in dealing with such offence. As the law stands now, one cannot speak with confidence as to what constitutes a contempt of court. There are different categories of contempt. Is it intended merely to prohibit interference with or obstruction of the administration of justice during the pendency of a case or shoud the law of contempt go further and penalise all such adverse criticism of judges and their decisions even after the disposal of cases as may bring a court into contempt and scandalise a judge? In the absence of a definition different courts will inevitably take different views. It should not be impossible for the legislature to formulate a workable definition of an offence which it seeks to punish. In any case, the Court will in each case have to find a definition for itself. It is not fair and reasonable to enact penal legislation without a cut and dried definition of what the offence is. While preventing interference with the course of administration of justice, this Bill seeks to give perfect freedom to the press and the public in the matter of comments upon judicial decisions. As regards procedure, the jurisdiction in contempt is now exceptionally summary and arbitrary. The powers of the Court are now extraordinary, uncontrolled and unfettered. But even a judge of the High Court is a human being and not a superman. The prosecutor himself should not be the judge of the accused. Besides there should be all the safeguards of a regular trial. The procedure should be laid down. This Bill seeks to fill up this two-fold lacuna in the existing law. The freedom of the press is not infrequently in jeopardy without the definition and procedure prescribed in the Act.

A. C. DATTA.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939 :—

L. A. BILL NO. 22 OF 1939.

A Bill further to amend the Provincial Insolvency Act, 1920.

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920, for the purpose of providing procedure for Provincial Insolvency Court to bring within its jurisdiction the right, title and interest of a member of a joint Hindu Mitakshara family other than the insolvent; It is hereby enacted as follows:—

of 1920.

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Provincial Insolvency (Amendment) Act, 193 .

(*2*) It shall apply to the whole of British India, except the Scheduled Districts.

(*3*) It shall come into force immediately and shall apply to all pending proceedings.

Amendment of section 28, Act V of 1920.

of 1920.

2. Sub-sections (*3*) and (*4*) of section 28 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), shall be deleted.

Insertion of new section 34A in Act V of 1920.

3. After section 34 of the said Act the following shall be inserted as section 34A, namely:—

Description of insolvent's property divisible amongst creditors.

"34A. (*1*) The property of the insolvent divisible amongst his creditors, and in this Act referred to as the property of the insolvent, shall not comprise the following particulars, namely:—

(*a*) property held by the insolvent on trust for any other person; and

(*b*) the tools (if any) of his trade and the necessary wearing apparel, bedding, cooking vessels and furniture of himself, his wife and children to a value, inclusive of tools and apparel and other necessaries as aforesaid, not exceeding three hundred rupees in the whole.

(*2*) Subject as aforesaid, the property of the insolvent shall comprise the following particulars, namely:—

(*a*) all such property as may belong to or be vested in the insolvent at the commencement of the insolvency or may be acquired by or devolve on him before his discharge;

(*b*) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge;

(*c*) the capacity to bind the right, title and interest of the member of a joint Hindu Mitakshara family other than the insolvent for such debts as are proved in a regular civil suit instituted by the Receiver representing the whole body of creditors to be untainted with immorality or illegality, and not otherwise; and

(*d*) all goods being at the commencement of the insolvency in the possession, order or disposition of the insolvent, in his trade or business by the consent and permission of the true owner under such circumstances that he is the reputed owner thereof:

Provided that things in action other than debt due or growing due to the insolvent in the course of his trade or business shall not be deemed goods within the meaning of clause (*d*):

Provided also that the true owner of any goods which have become divisible among the creditors of the insolvent under the provisions of clause (*d*) may prove for the value of such goods."

STATEMENT OF OBJECTS AND REASONS.

The Civil Justice Committee Report (1924-25) Chapter XIV (pages 225-45) in paragraph 26 itself admitted difficulty in laying down procedure to bind the right, title and interest of the members of a Hindu Joint Mitakshara family other than the insolvent because some decisions of High Courts appeared to make the whole property of the insolvent vest in the Receiver. At that time the Civil Justice Committee was not armed with varieties of discussions on so thorny a subject and wished to elicit opinion. But in course of a dozen years sufficient opinion has clustered round it in the shape of conflicting decisions among several High Courts and even the Privy Council in *Sat Narain V. Behari Lal*, 6 Lah. 1: A I.R. 1925 P.C. 18 does not lay down any definite procedure. The result is that the wearied creditor is driven from Court to Court and is entrapped in a compromise with the insolvent on disadvantageous terms. The minor sons of the insolvent, who are always legally protected, often raise their heads to litigate at any stage during insolvency proceedings or after it, which involves a direct breach of the first duties of allegiance and respect from Hindu sons towards their insolvent fathers and is rarely instituted without collusion on the part of the latter. Consequently a claim by a son alleging the immorality or illegality of a debt incurred by his father as the ground for setting aside a transaction entered into by the latter must always be viewed with great suspicion, especially where the interests of a *bona fide* purchaser for value at an auction sale have to be considered. The members of the joint family other than the minors also put obstacles in the way. It is, therefore, necessary to stop these vexatious claims based on inequitable pleas and interference by all members of the joint Hinu Mitakshara family and to safeguard both the creditors and the insolvent debtors that a definite procedure be laid down and the present uncertain condition must be ended.

The present Bill proposes to provide for a certain procedure to safeguard the interests of the creditors, purchasers and members of the Joint Hindu Mitakshara family other than the insolvent. As the Receiver represents both the parties, confidence must be reposed in him and, to bind the right, title and interest of member of joint Hindu Mitakshara family other than the insolvent, he should be authorised to institute a regular civil suit against all those who may possibly lay adverse claim to such properties of the joint family so that there may be proper adjudication, and such of the assets as may be found liable for the just debts may be made available to the Receiver for the satisfaction of the proved debts of the insolvent.

KAILASH BEHARI LAL.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 18th February, 1939.—

L. A. BILL NO. 23 OF 1939.

A Bill further to amend the Presidency-towns Insolvency Act, 1909.

WHEREAS it is expedient further to amend the law relating to insolvency in the Presidency-towns and the towns of Rangoon and Karachi for the purpose of providing procedure for Presidency towns Insolvency Court to bring within its jurisdiction the right, title and interest of a member of a joint Hindu Mitakshara family other than the insolvent; It is hereby enacted as follows:—

Short title, commencement and application.

1. (*1*) This Act may be called the Presidency-towns Insolvency (Amendment) Act, 193 .

(*2*) It shall come into force immediately and shall apply to all pending proceedings.

Amendment of section 52 Act III of 1909.

2. In sub-section (2) of section 52 of the Presidency-towns Insolvency Act, 1909,— III of 1909.

(*i*) after clause (*b*) the following shall be inserted as clause (*c*), namely:—

"(*c*) the capacity to bind the right, title and interest of the member of a joint Hindu Mitakshara family other than the insolvent for such debts as are proved in a regular civil suit instituted by the Official Receiver representing the whole body of creditors to be untainted with immorality or illegality, and not otherwise; and "; and

(*ii*) clause (*c*) shall be re-lettered as clause (*d*).

STATEMENT OF OBJECTS AND REASONS.

The Civil Justice Committee Report (1924-25) Chapter XIV (pages 225-45) in paragraph 26 itself admitted difficulty in laying down procedures to bind the right, title and interest of the members of a Hindu Joint Mitakshara family other than the insolvent because some decisions of High Courts appeared to make the whole property of the insolvent vest in the Receiver. At that time the Civil Justice Committee was not armed with varieties of discussions on so thorny a subject and wished to elicit opinion. But in course of a dozen years sufficient opinion has clustered round it in the shape of conflicting decisions among several High Courts and even the Privy Council in *Sat Narain V. Behari Lal*, 6 Lah. I. : A. I. R. 1925 P. C. 18 does not lay down any definite procedure. The result is that the wearied creditor is driven from Court to Court and is entrapped in a compromise with the insolvent on disadvantageous terms. The minor sons of the insolvent, who are always legally protected, often raise their heads to litigate at any stage during insolvency proceedings or after it, which involves a direct breach of the first duties of allegiance and respect from Hindu sons towards their insolvent fathers and is rarely instituted without collusion on the part of the latter. Consequently a claim by a son, alleging the immorality or illegality of a debt incurred by his father as the ground for setting aside a transaction entered into by the latter, must always be viewed with great suspicion, especially where the interests of a *bona fide* purchaser for value at an auction sale have to be considered. The members of the joint family other than the minors also put obstacles in the way. It is, therefore, necessary to stop these vexatious claims bassed on inequitable pleas and interference by all members of the joint Hindu Mitakshara family and to safeguard both the creditors and the insolvent debtors that a definite procedure be laid down and the present uncertain condition must be ended.

The present Bill proposes to provide for a certain procedure to safeguard the interests of the creditors, purchasers and members of the joint Hindu Mitakshara family other than the insolvent. As the Receiver represents both the parties confidence must be reposed in him and, to bind the right, title and interest of members of joint Hindu Mitakshara family other than the insolvent, he should be authorised to institute a regular civil suit against all those who may possibly lay adverse claim to such properties of the joint family so that there may be proper adjudication, and such of the assets as may be found liable for the just debts may be made available to the Receiver for the satisfaction of the proved debts of the insolvent.

KAILASH BEHARI LAL.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 20th February, 1939 :—

C. OF S. BILL NO. 1 OF 1939.

A Bill to amend the Indian Succession Act, 1925, as respects intestate succession among Parsis.

WHEREAS it is expedient to amend the law relating to intestate succession among Parsis; It is hereby enacted as follows :—

Preliminary.

1. (*1*) This Act may be called the Indian Succession Act (Amendment) Act, 1939.

(*2*) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, appoint.

2. For sections 50 to 56 and Schedule II, Parts I and II, of the Indian Succession Act, 1925, the following shall be substituted :—

"50. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) any word expressing relationship shall be understood as denoting only a legitimate relative, and the word "relative" shall be understood to include a lineal descendant as well as any other relative by blood or marriage;

(*b*) a child, whether of the intestate or any relative of the intestate, if conceived during the lifetime of the intestate, and born alive after the intestate's death, shall be regarded in the same way as a child born during the intestate's lifetime and surviving the intestate;

(*c*) no widow of any relative of the intestate shall receive a share as such or be taken into consideration as such in the distribution of the intestate's property if she has married again during the lifetime of the intestate;

(*d*) when property is directed to be divided between members of a class, if there be only one such member, the whole shall be given to such member;

(*e*) the words "dead" or "deceased", shall be understood to mean "dead in the lifetime of the intestate", and the words "leaves", "leaving", "left" to mean "leaves, leaving or left surviving the intestate";

(*f*) when property is directed to be divided per stirpes among the lineal descendants of a deceased person, it shall first be divided among the children of the deceased who may be living, and those of them who may have died leaving a lineal descendant or descendants, the share of each such deceased child shall be divided in the same way among the children of such, and the same rule followed for remoter lineal descendants; further, in making each division and subdivision, if the share to be divided is that of a deceased male each male sub-sharer shall receive double the share of each female sub-sharer, but if the share to be divided is that of a female all the sub-sharers shall be equal without regard to sex.

DISTRIBUTION IF INTESTATE LEAVES A LINEAL DESCENDANT OR DESCENDANTS.

51. If a male Parsi dies intestate leaving a lineal descendant or descendants the property of which he dies intestate shall be divided according to the following rules :—

(*a*) It shall be divided among his children so that the share of each son shall be double the share of each daughter.

(*b*) If he also leaves a widow, she shall receive a share equal to that of each son.

(*c*) If he also leaves his father, the father shall receive a share equal to that of each son, and if he also leaves his mother she shall receive a share equal to that of each his daughter.

(*d*) If a child of the intestate be dead leaving a widow or a lineal descendant or descendants or a widow or widows of a lineal descendant or descendants, a share shall be assigned to such child and be dealt with under section 53 below. If such deceased child has left neither a widow nor a lineal descendant nor a widow of a lineal descendant, no share shall be assigned to such child.

52. If a female Parsi dies intestate leaving a lineal descendant or descendants, the property of which she dies intestate shall be divided according to the following rules:—

(*a*) It shall be divided among her children in equal shares.

(*b*) If she also leaves a widower he shall receive a share equal to that of each child.

(c) If a child of the intestate be dead leaving a widow or a lineal decendant or descendants or a widow or widows of a lineal descendant or descendants, a share shall be assigned to such child and be dealt with under section 53 below. If such deceased child has left no widow, nor lineal descendant, nor widow of a lineal descendant, no share shall be assigned to such child.

53. (a) If a male child of a Parsi intestate be dead leaving a lineal descendant or descendants, the share of such child shall be divided among the children of such child, so that the share of each son shall be double the share of each daughter, and if he has also left a widow she shall receive a share equal to that of each son.

(b) If a female child of a Parsi intestate be dead leaving a lineal descendant or descendants, the share of such child shall be divided equally among her children.

(c) If a child of a deceased child of the intestate be dead leaving a lineal descendant or descendants, the share of such deceased grandchild shall be divided in the same way as that of a child under clauses (a) and (b) of this section, and the same rule shall apply to remoter deceased lineal descendants of the intestate who may be entitled to a share.

(d) If a deceased child or other lineal descendant of the intestate entitled to a share has left no lineal descendant but has left a widow, or a widow or widows of a lineal descendant or descendants, if there be only one such widow she shall receive half the share of such deceased sharer, but if there be more than one such widow two-thirds of such share shall be equally divided between them.

(e) The half or one-third share that would be left after the widow or widows have received their shares under clause (d) of this section shall be divided per stirpes between the lineal descendants of the intestate.

DISTRIBUTION IF INTESTATE LEAVES NO LINEAL DESCENDANT BUT LEAVES A WIDOW OR WIDOWER OR A WIDOW OR WIDOWS OF A LINEAL DESCENDANT OR DESCENDANTS.

54. If a Parsi dies intestate leaving no lineal descendant but leaving his or her own widow or widower, or a widow or widows of lineal descendant or descendants, the property of which he or she dies intestate shall be divided according to the following rules:—

(a) If the intestate leaves a widow or widower but no widow of a lineal descendant, the widow or widower shall receive half of the property.

(b) If the intestate leaves a widow or widower and also a widow or widows of a lineal descendant or descendants, the intestate's own widow or widower shall receive one-third of the said property, and the widow or widows of lineal descendants shall receive another third of the said property, and the same shall be divided equally among them if there be more than one.

(c) If the intestate leaves no widow or widower, but only one widow of a lineal descendant, she shall receive half of the said property, but if the intestate leaves more than one such widow they shall receive two-thirds of such property and the same shall be divided equally among them.

(d) The half or one-third of the property that would be left after the persons mentioned in clauses (a), (b) and (c) of this section have received their shares shall be distributed among the relatives of the intestate in the order specified in Part I of Schedule II subject to the rules that—

(1) relatives included in Article 1 shall be preferred to those included in Article 2, those in Article 2 to those in Article 3, and so on in succession;

(2) where under any Article living relatives of a particular class are directed to share with lineal descendants of deceased relatives of the same class, the property shall be primarily divided among the living and the deceased relatives called hereafter primary sharers, and the share of each deceased primary sharer shall be divided per stirpes among his lineal descendants.

(3) if the primary sharers included in the same Article are of the same sex, or if the intestate is a female, the shares of all such sharers shall be equal, but if the intestate is a male the share of each such male sharer shall be double that of each female.

(e) If there are no relatives entitled to the share under clause (d) of this section, the whole of the said property shall be distributed among the persons entitled to receive shares under clauses (*a*), (*b*) and (*c*) of this section subject to the rules that—

(1) if there be only one su h person he or she shall receive the whole.

(2) if there be more than one, if one of them be the widow or widower of the intestate, she or he shall receive half, and the other half shall be divided equally among the others, but if the intestate leaves no widow or widower the whole shall be divided equally among them.

DISTRIBUTION IF INTESTATE LEAVES NEITHER WIDOW NOR WIDOWER NOR A LINEAL DESCENDANT NOR A WIDOW OF A LINEAL DESCENDANT.

55. If a Parsi dies intestate leaving neither widow nor widower nor a lineal descendant nor a widow of a lineal descendant, his or her relatives in the order set forth in Part II of Schedule II shall receive the property of which he or she dies intestate, the distribution being subject to the same rules as are set forth in clause (*d*) of section 54 for ditrib..tion among the relatives in Part I.

56. If there be no relative entitled to succeed to the property of which a Parsi dies intestate under sections 51 to 55, the relatives who would have been entitled to succeed under section 48 if the intestate had been not a Parsi shall receive such property."

"SCHEDULE II.

PART I.

(*See* section 54.)

(1) Father and mother.

(2) Brothers and sisters by the father's side and lineal descendants of such of them as shall have predeceased the intestate.

(3) Paternal grandfather and paternal grandmother.

(4) Children of the paternal grandfather and the lineal descendants of such of them as have predeceased the intestate.

(5) Paternal grandfather's father and mother.

(6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.

PART II.

(*See* section 55.)

(1) to (6). The first six Articles the same as in Part I.

(7) Brothers and sisters by the mother's side and the lineal descendants of such of them as have predeceased the intestate.

(8) Maternal grandfather and maternal grandmother.

(9) Children of the maternal grandfather and the lineal descendants of such of them as have predeceased the intestate.

(10) Widow or widows of a brother or brothers either by the father's or mother's side.

(11) Widow or widows of a son or sons of paternal grandfather.

(12) Widow or widows of a son or sons of maternal grandfather.

(13) Widower or widowers of a deceased lineal descendant or descendants of the intestate who have not married again before the death of the intestate.

(14) Materal grandfather's father and mother.

(15) Children of the maternal grandfather's father and lineal descendants of such of them as have predeceased the intestate.

(16) Children of the paternal grandmother and the lineal descendants of such of them as have predeceased the intestate.

(17) Paternal grandmother's father and mother.

(18) Children of the paternal grandmother's father and the lineal descendants of such of them as have predeceased the interestate."

STATEMENT OF OBJECTS AND REASONS.

At present the law that governs intestate succession among Parsis is that laid down in 1865 in Act No. XXI of that year. It is true the said Act has been repealed by the Indian Succession Act No. XXXIX of 1925 but this has made no change in the law, as all the provisions of the Act of 1865 have been incorporated verbatim in sections 50 to 56, and Schedule II, Parts I and II, of the Act of 1925. It has been felt for a long time by members of the Parsi Community that this enactment, more than 70 years old, requires amendment both in form and substance for various reasons. The meaning of some of its provisions is doubtful; some of these doubts have been removed by judicial decisions. It is also incomplete in some respects, and some of these deficiencies have had to be supplied by other judicial decisions. Certain other changes seem necessary in accordance with present day Parsi sentiment and usage. The arrangement and language also require some revision. In order to remove doubts, supply deficiencies, incorporate as far as possible the judicial decisions which the community has accepted, introduce changes commonly desired and make the arrangement more systematic it has been thought best to redraft the whole enactment. In making this redraft, so far as arrangement and language are concerned, other parts of the Act of 1925 have as far as possible been followed, *e.g.*, by introducing sub-headings as in the previous Chapter relating to intestate succession among non-Parsis, so as to give a grasp of the subject as a whole. For convenience the new sections of the Draft Bill have been numbered 50 to 56 so that they may be substituted for the original sections of the Act of 1925 now in force.

MANOCKJI NADIRSHAW DALAL.

The 26th November, 1938.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 18th February, 1939:—

L. A. BILL NO. 13 OF 1939.

A Bill further to amend the Indian Salt Act, 1882, for a certain purpose.

XII of 1882. WHEREAS it is expedient further to amend the Indian Salt Act, 1882, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Salt (Amendment) Act, 193 .

Amendment of section 6, Act XII of 1882. 2. At the end of section 6 of the Indian Salt Act, 1882, the following paragraph shall be added, namely:— XII.

"Nothing contained in this section shall be deemed to prohibit or restrict in any manner the residents in villages, immediately adjoining areas where salt can be collected or made, from collecting or making salt for domestic consumption or sale within such villages but not for sale to or trading with individuals living outside them."

*The Governor General has been pleased to accord the previous sanction required by clause (a) of section 67 (2) of the Government of India Act read with paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936.

STATEMENT OF OBJECTS AND REASONS.

By clause 20 of the agreement between Mahatma Gandhi and Lord Irwin published in the *Gazette of India Extraordinary* of March 5, 1931, it was provided that—

"for the sake however of giving relief to certain of the poorer classes, they are prepared to extend their administrative provisions on lines already prevailing in certain places in order to permit local residents in villages, immediately adjoining areas where salt can be collected or made, to collect or make salt for domestic consumption or sale within such villages, but not for sale to, or trading with, individuals living outside them."

This concession was in general operation in 1931 and 1932 but has been since withdrawn from most of the areas where there are natural facilities for picking salt, thereby causing much disappointment and hardship to the poor people who benefited by it. The object of the Bill is to place the concession on a statutory basis, leaving the Government free to take such steps as may be necessary to prevent breaches of the conditions attached to the concession.

B. D. PANDE.

MD. RAFI,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 27th February, 1939:—

C. OF S. BILL NO. 2 OF 1939.

A Bill to amend the Parsi Marriage and Divorce Act, 1936.

WHEREAS it is expedient to amend the Parsi Marriage and Divorce Act, 1936; It is hereby enacted as follows:—

1. This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1939.

2. In section 40 of the Parsi Marriage and Divorce Act, 1936,— III of 1936.

(*a*) in sub-section (*1*) after the words "the husband shall" the words "while the wife remains chaste and unmarried" shall be inserted;

(*b*) in clause (*a*) of sub-section (*1*), the words "while she remains chaste and unmarried" shall be omitted;

(*c*) after sub-section (*2*) the following sub-section shall be added:—

"(*3*) All orders for alimony or maintenance in favour of the wife made either under the provisions of the Parsi Marriage and Divorce Act, 1865, or under the provisions of this Act, shall cease to have effect if after the passing of such orders the wife has remarried or has not remained chaste."

STATEMENT OF OBJECTS AND REASONS.

The Parsi Marriage and Divorce Act (XV of 1865) was found defective and wanting in numerous respect to answer the present day needs of the community and considerable agitation was carried on for number of years by the members of the Parsi community and by the Parsi press all over India for the purpose of amending the said Act of 1865 with a view to bring it in conformity with the present day needs of the community. Accordingly, the Act of 1865 was repealed and the Parsi Marriage and Divorce Act, 1936, was passed on 23rd April, 1936.

2. Among the changes introduced by the Act of 1936 was a change in the law with regard to the payment of permanent alimony to the wife on the passing of any decree under the Act. There was a strong expression of opinion in the community that the payment of permanent alimony to the wife should continue only while she remained chaste and unmarried and be discontinued if she either did not remain chaste or if she remarried. The law relating to grant of permanent alimony was therefore changed by section 40 of the Act of 1936.

3. Section 40, sub-section (1) of the Act of 1936 provided therefore as follows:—

"40. (1) The Court may, if it shall think fit at the time of passing any decree under this Act or subsequently thereto on application made to it for the purpose, order that the husband shall—

(a) to the satisfaction of the Court, secure to the wife while she remains chaste and unmarried such gross sum or such monthly or periodical payment of money for a term not exceeding her life as, having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

(b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable.

In case any such order shall not be obeyed by her husband it may be enforced in the manner provided for the execution of decrees and orders under the Code of Civil Procedure, 1908, and further the husband may be sued by any person supplying the wife with necessaries during the time of such disobedience for the price of such necessaries."

4. It will be noticed that the order for payment of permanent alimony to the wife as contemplated by clauses (a) and (b) of sub-section (1) of section 40 covers two cases. In the one case, *viz.*, that covered by clause (a), the payment is "secured" by a charge on the husband's property; in the other case, *viz.*, that covered by clause (b), it is a personal order on the husband to make "monthly payments" to the wife. It will also be noticed that in the first case covered by clause (a) the intention, namely, that the payment is to continue only till the chastity or remarriage of the wife, is clearly expressed, whereas in the second case covered by clause (b) the said intention is erroneously omitted to be expressed by the Legislature.

5. The intention of the framers of the Act of 1936 definitely was to make the payment of alimony of any sort cease if the wife at any time after the order for alimonay either became unchaste or remarried. Unfortunately, however, the expression "while she remains chaste and unmarried" which should properly have found place in the beginning before clause (a) and (b) so as to cover both the said clauses was placed in clause (a) and inadvertently omitted from clause (b). This has caused injustice to parties and the Bombay High Court, in a matter which came up before it in Appeal (*vide* 38 Bombay Law Reporter page 836 Maneckbai Nadirshaw Vachha *vs.* Nadirshaw Jamshedji Vachha), expressed the inability to give effect to the intention of the framers of the Act of 1936 in view of the language employed in section 40 of the Act of 1936.

6. Amending the Act is therefore intended to remove the doubt and to express more clearly the intention of the framers of the Act.

MANOCKJI NADIRSHAW DALAL.

The 5th December, 1938.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 27th February, 1939:—

L. A. BILL NO. 24 OF 1939.

A Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose.

WHEREAS doubts have been entertained whether a workman employed on wages payable otherwise than by the month or on a monthly basis may be a workman within the meaning of the Workmen's Compensation Act, 1923; VIII of 1923.

AND WHEREAS it is expedient to remove those doubts, and for that purpose further to amend section 5 of that Act in the manner hereinafter appearing;

If is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1939.

(2) It shall come into force on the 1st day of May, 1939:

Provided that section 2 shall be deemed to have taken effect from the 30th day of June, 1934.

Amendment of section 5 of Act VIII of 1923.

2. In section 5 of the Workmen's Compensation Act, 1923—

(a) for the words "For the purposes of this Act the monthly wages of a workman shall be calculated" the following shall be substituted, namely:—

"In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated";

(b) in clause (b), the words "deemed to be" shall be omitted.

Restoration of proceedings.

3. Where in any proceedings under the Workmen's Compensation Act, 1923, VIII of 1923. concluded after the 1st day of July, 1934, any person has been found by a Court not to be a workman within the meaning of that Act only by reason of the fact that his wages were payable otherwise than by the month or on a monthly basis, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act, 1908 or any other IX of 1908. law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at, and continue the proceedings from, the stage reached immediately before the order embodying or based on such finding was made.

STATEMENT OF OBJECTS AND REASONS.

Conflicting decisions of High Courts have raised doubts as to whether on account of the expressin "employed on monthly wages" occurring in the definition of "workman" in the Workmen's Compensation Act, 1923, a worker whose wages are paid otherwise than by the month or on a monthly basis can under any circumstances claim the benefits of that Act. That a worker should be so debarred on that ground alone was never the intention of the Act, and to remove these doubts a more formal definition of the expression "monthly wages" is now proposed. The Bill also contains a provision enabling a workman whose claim has been rejected on the above ground to have the investigation of his claim reopened.

NEW DELHI:
The 16th February, 1939.

ZAFRULLAH KHAN.

MD. RAFI,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill* was introduced in the Legislative Assembly on the 27th February 1939 :—

L. A. BILL NO. 26 OF 1939.

A Bill further to amend the Indian Rubber Control Act, 1934.

WHEREAS the Agreement between the Governments of France, the United Kingdom, India, the Netherlands and Siam to regulate production and export of rubber, signed in London on the 7th day of May, 1934, as amended by the Protocols of the 27th day of June, 1935 and the 22nd day of May, 1936, has been revised in accordance with the recommendation, accepted by all the said Governments, of the International Rubber Regulation Committee of the 29th day of March, 1938 and has come into force as so revised on the 1st day of January, 1939 ;

XXVIII of 1934. AND WHEREAS it is expedient further to amend the Indian Rubber Control Act, 1934 for the purpose of implementing the said Agreement as so revised, and for certain other purposes hereinafter appearing ;

It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Rubber Control (Amendment) Act, 1939.

(*2*) It shall be deemed to have come into force on the 1st day of January, 1939.

Amendment of section 1 of Act XXVIII of 1934.

2. In sub-section (*4*) of section 1 of the Indian Rubber Control Act, 1934 (hereinafter referred to as the said Act), for the figure "1938" the figure "1943" shall be substituted.

Amendment of section 2.

3. In section 2 of the said Act,—

(*a*) clause (*a*) shall be renumbered as clause (*aa*), and before the said clause as so renumbered, the following clause shall be inserted, namely :—

'(*a*) "Agreement" means the Agreement between the Governments of France, the United Kingdom, India, the Netherlands and Siam to regulate production and export of rubber, signed in London on the 7th day of May, 1934, as amended by the Protocols of the 27th day of June, 1935 and the 22nd day of May, 1936, and as revised in accordance with the recommendation, accepted by all the said Governments, of the International Rubber Regulation Committee of the 29th day of March, 1938 ;' ;

(*b*) in clause (*b*)—

(*i*) for the words "by sea or by land" the words "by land, sea or air" shall be substituted ;

(*ii*) the words "and Burma" shall be omitted ;

(*c*) after clause (*c*) the following clause shall be inserted, namely :—

'(*cc*) "International Rubber Regulation Committee" means the Committee referred to in Article 15 of the Agreement ;' ;

(*d*) for clause (*d*) the following clause shall be substituted, namely :—

'(*d*) "net exports" of rubber means the difference between the total exports of rubber during a period and the total imports of crude rubber during the same period exclusive of rubber imported from Burma ;' ;

(*e*) for clause (*g*) the following clause shall be substituted, namely :—

'(*g*) "to plant" means to propagate a rubber plant from seed or any living portion of the rubber plant that may be used to propagate it ; "new planting" means planting in an area which has not since the first day of June, 1934, carried any rubber plants or substituting in an area carrying rubber plants and other growths, rubber growths for those other growths ; "to replant" means to plant, in such circumstances as not to constitute new planting, on any one acre of an area carrying rubber plants on the 1st day of June, 1934 more than thirty rubber plants ; and "to supply" means so to plant on any one acre of such an area thirty rubber plants or less ;' ;

(*f*) for clause (*h*) the following clause shall be substituted, namely :—

'(*h*) "rubber" means—

(*i*) crude rubber, that is to say, rubber prepared from the leaves, bark or latex of any rubber plant,

*The previous consent necessary under sub-section (*1*) of section 106 of the Government of India Act, 1935, for the enactment of the provisions of this Bill relating to the cultivation of rubber has been given by the Governors of the Provinces concerned.

(*ii*) the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber, and

(*iii*) latex in any state of concentration, and includes, for the purposes of determining net exports and regulating export, the rubber content of any article manufactured wholly or partly from crude rubber in India ;' ;

(*g*) for clause (*i*) the following clause shall be substituted, namely :—

'(*i*) "rubber plant" includes plants, trees, shrubs and vines, and any leaves, flowers, seeds, buds, twigs, branches, roots and any living portion thereof, that may be used to propagate any of the following, namely :—

(*i*) *Hevea Braziliensis* (Para rubber),

(*ii*) *Manihot Glaziovii* (Ceara rubber),

(*iii*) *Castilloa elastica*,

(*iv*) *Ficus elastica* (Rambong),

(*v*) any other plant, tree, shrub or vine which the Committee may, by notification in the *Gazette of India*, declare to be a rubber plant for the purposes of this Act ;'.

Amendment of section 3.

4. To sub-section (*1*) of section 3 of the said Act the following shall be added, namely :—

"and such Committee shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued ".

Amendment of section 8.

5. In section 8 of the said Act,—

(*a*) sub-section (*1*) and (*2*) shall be renumbered as sub-sections (*2*) and (*3*) respectively, and the following shall be inserted as sub-section (*1*), namely :—

Annual report and accounts.

"(*1*) The Committee shall publish an annual report on the working of this Act." ;

(*b*) after sub-section (3) as so renumbered, the following sub-section shall be inserted, namely :—

"(*4*) If any item of expenditure is disallowed under sub-section (*3*), an appeal shall lie to the Central Government whose decision in the matter shall be final."

Amendment of section 10.

6. In section 10 of the said Act, after clause (*a*) the following c ause shall be inserted, namely :—

"(*aa*) regulating the term of office of members of the Committee, and the circumstances in which, and the authority by which, members may be removed ;".

Substitution of new section for section 11.

7. For section 11 of the said Act the following section shall be substituted, namely :—

Limitation of application of Act.

"11. Nothing in this Act shall apply to the export of rubber by parcel post or to the re-export of rubber contained in imported manufactured articles."

Amendment of section 12.

8. In section 12 of the said Act,—

(*a*) in sub-section (*1*), the words "or Burma" shall be omitted ;

(*b*) in sub-section (*2*), for the words "grown, produced or contained in an article manufactured in a country other than India and Burma" the words "grown or produced in any country other than India" shall be substituted.

Amendment of section 15.

9. In sub-section (*2*) of section 15 of the said Act, for the word "twelve" the word "ten" shall be substituted.

Amendment of section 16.

10. In sub-section (*1*) of section 16 of the said Act,—

(*a*) after the words for "any period shall" the words, figures and brackets ", subject to the provisions of sub-section (*2*) of section 17," shall be inserted ;

(*b*) the proviso shall be omitted.

Amendment of section 17.

11. To sub-section (*2*) of section 17 of the said Act the following proviso shall be added, namely :—

"Provided that the Committee may refuse, either absolutely or for such period as it thinks fit, to grant such licence and certificate—

(*a*) in respect of rubber under attach ment by order of a competen Court, or

(*b*) where a *bona fide* dispute exists as to the person entitled to receive the quota,

and where such refusal is absolute, may cancel the unexhausted balance of the quota."

Amendment of section 18.

12. In sub-section (*1*) of section 18 of the said Act, the words "or British Burma" and the words "and Burma" shall be omitted.

Amendment of section 19.

13. In section 19 of the said Act,—

(*a*) in sub-section (*1*), after the words "licences issued against it" the words, figures and brackets ", the amount, if any, thereof transferred under sub-section (*2*) of section 16" shall be inserted;

(*b*) in sub-section (*2*), the words "and Burma" shall be omitted.

Amendment of section 20.

14. In sub-section (*1*) of section 20 of the said Act,—

(*a*) for the words "from a port in British India" the words "or shall be exported" shall be substituted;

(*b*) after the words "quantity to be shipped" the words "or exported" shall be inserted.

Amendment of section 21.

15. In section 21 of the said Act,—

(*a*) in sub-section (*1*), for the words commencing "relating to the area" and ending "manufactured in the factory" the following shall be substituted, namely :—

"and documents relating to the area planted with rubber, or to the production (including costs of production), manufacture, sale or export of rubber produced on the estate or manufactured in the factory, or to the ownership of the estate or factory, or to any other matter,";

(*b*) in sub-section (*2*),—

(*i*) after the words "any return" the words "or document" shall be inserted;

(*ii*) after the words "may cancel" the words "or suspend for such period as it thinks fit" shall be inserted;

(*iii*) for the word and figure "section 15" the word and figure "section 17" shall be substituted.

Amendment of section 22.

16. In section 22 of the said Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), for the words "per hundred pounds" the words "for every hundred pounds or part thereof" shall be substituted;

(*ii*) in clause (*b*) after the words "accounts of quotas" the words "or other documents relating thereto" shall be inserted;

(*b*) in sub-section (*2*), for the word "international" the words "institution or" shall be substituted.

Omission of section 23.

17. Section 23 of the said Act shall be omitted.

Amendment of section 24.

18. In clause (*b*) of section 24 of the said Act, the words "or British Burma" and the words "and Burma", shall be omitted.

Amendment of section 25.

19. In section 25 of the said Act, after the words "no order" the words "cancelling or suspending the unexhausted balance of any quota or" shall be inserted.

Substitution of new sections for sections 26, 27 and 28.

20. For sections 26, 27 and 28 of the said Act the follwing sections shall be substituted, namely :—

Control of cultivation of rubber.

"26. So long as this Act remains in force no person shall, save in persuance of a written permission granted by or on behalf of the Committee under this Act,—

(*a*) carry out new planting of rubber plants on any land except for the purpose of supply, or

(*b*) after the expiry of the year 1940, replant any land with rubber plants where any limitations on such replanting have been imposed under sub-section (*3*) of section 27.

Permission for new planting.

27. (*1*) The total area in British India in respect of which permission for new planting otherwise than for the purpose of supply may be granted in the years 1939 and 1940 shall be such area, being as nearly as may be five *per centum* of the total area which was planted with rubber plants on the 31st day of December, 1938, as the Central Government may, by notification in the official Gazette specify in this behalf, or such larger area as the Central Government may, by like notification, designate as being fixed in this behalf for those years by the International Rubber Regulation Committee, and shall not thereafter in any period exceed such area as the Central Government may, in like manner, designate as so fixed for that period:

Provided that such area may be modified to provide for such transfers of permissions for new plantings between British India and an Indian State as may be consented to by the Committee under this Act and under any law or order having the force of law of the Indian State concerned.

(2) A permission granted for new planting during the years 1939 and 1940 shall cease to be of effect at the end of the year 1940, and any such permission granted thereafter shall cease to be of effect at the end of the particular period referred to in sub-section (1) within which it was granted.

(3) Until the end of the year 1940 there shall be no restrictions upon replanting, but thereafter replanting shall be subject to such limitations, if any, as the Central Government may, by notification in the official Gazette, designate as imposed in this behalf by the International Rubber Regulation Committee.

(4) Where under sub-section (3) any limitations have been imposed on replanting the provisions of sections 28, 28A, 29 and 30 shall apply to permissions to replant as they apply to permissions for new planting.

Transfer of permission or new planting.

28. With the consent of the Committee—

(a) a permission for new planting under section 26 may be transferred within British India, wholly or in part, and

(b) where provision in this behalf is made by or under any law or order having the force of law of an Indian State, a permission for new planting granted under this Act or under such law or order may be transferred, wholly or in part, to or from that Indian State, as the case may be.

Rules as to principles governing grants of permissions for new planting, etc.

28A. The Committee shall make by-laws to regulate the principles and procedure to be followed in granting permissions for new planting and for giving consent to transfers of such permissions."

Amendment of section 29.

21. In sub section (1) of section 29 of the said Act,—

(a) for the words "to plant rubber plants or to replant" the words "for new planting of" shall be substituted;

(b) after the words "the Committee" the words "in such form as the Committee may specify" shall be inserted.

Amendment of section 31.

22. In section 31 of the said Act,—

(a) in sub-section (1), for the words "such returns" the words "such documents, plans or returns" shall be substituted;

(b) in sub section (3), for the words "to plant rubber plants on that estate or to replant any part of that estate" the words "for new planting of rubber plants on that estate or may cancel any such permission already given" shall be substituted.

Amendment of section 32.

23. In section 32 of the said Act, for the words "by sea or by land" the words "by land, sea or air" shall be substituted.

Substitution of new sections for section 33.

24. For section 33 of the said Act the following sections shall be substituted, namely:—

Prohibition of export of rubber plants except to territories to which the Agreement applies.

"33. (1) No person shall export rubber plants except to a territory specified in the Schedule (being a territory to which the Agreement applies):

Provided that the export of rubber plants to such territories shall be subject to such conditions as the Central Government may think fit to prescribe.

(2) Every person exporting rubber plants to, or importing rubber plants from, a territory specified in the Schedule shall, within such time and in such manner as may be prescribed, submit to the Committee a return showing the particulars of such exportation or importation.

(3) The Committee shall compile from such returns and submit to the Central Government at such times and in such form as may be prescribed consolidated statements of the total quantities and descriptions of rubber plants so exported and imported.

Power to amend the Schedule.

33A. If while this Act remains in force, the Government of any country accedes to the Agreement, the Central Government may, by notification in the official Gazette, amend the Schedule by the insertion of the descriptions of the territories by virtue of which accession the Agreement will thereafter apply."

Amendment of section 36.

25. In section 36 of the said Act,—

(*a*) after clause (*a*) the following clause shall be inserted, namely:—

"(*aa*) prescribing the conditions under which rubber plants may be exported to territories specified in the Schedule, and the times within which and the form in which returns of imports and exports of rubber plants from and to such territories shall be submitted to the Committee;";

(*b*) in clause (*c*), after the word "stocks" the words "of rubber and of imports and exports of rubber plants from and to territories specified in the Schedule" shall be inserted.

Amendment of section 37.

26. In section 37 of the said Act, for the words and figure "of section 33" the words, figures and brackets "of sub-section (*1*) of section 33" shall be substituted.

Amendment of section 38.

27. In section 38 of the said Act,—

(*a*) after the words "as required by" the words, figures and brackets "sub-section (*2*) of section 33 or" shall be inserted;

(*b*) after the word and figure "section 34" the words "the person importing or exporting rubber plants or" shall be inserted.

Amendment of section 39.

28. In section 39 of the said Act,—

(*a*) for the words "holding stocks of rubber" the words "importing or exporting rubber plants or holding stocks of rubber, as the case may be" shall be substituted;

(*b*) for the words, figures and brackets "sub-section (*1*) of section 31" the words, figures and brackets "sub-section (*2*) of section 33" shall be substituted;

(*c*) after the word and figure "section 34" the words, figures and brackets "or any document, plan or return under sub-section (*1*) of section 31" shall be inserted.

Amendment of section 42.

29. In section 42 of the said Act, for the words "plants rubber plants or causes rubber plants to be planted" the words "carries out new planting of rubber plants or causes such new planting to be carried out" shall be substituted.

Insertion of new Chapter.

30. After section 44 of the said Act the following Chapter shall be inserted, namely:—

"CHAPTER VI.

SUSPENSION OF OPERATION OF ACT.

Suspension of operation of certain provisions of this Act.

45. (*1*) If the Central Government is satisfied that an emergency has arisen rendering it necessary for the security of India that certain of the restriction, imposed by this Act should cases to be imposed, the Central Government may, by notification in the official Gazette, suspend, either indefinitely or for such period as may be specified in the notification, the operation of all the provisions of this Act except those relating to the planting and export of rubber plants.

(*2*) If partial suspension of the Agreement under paragraph (*c*) of Article 21 thereof is intimated to the Central Government, the Central Government shall, by notification in the official Gazette, suspend indefinitely the operation of all the provisions of this Act except those relating to the planting and export of rubber plants.

(*3*) Where the operation of certain provisions of this Act has under sub-section (*1*) or sub-section (*2*) been suspended indefinitely, such suspension may at any time while this Act remains in force be removed by the Central Government by notification in the official Gazette in this behalf."

Insertion of Schedule.

31. To the said Act the following Schedule shall be added, namely:—

"THE SCHEDULE.

(*See* sections 33 and 33A.)

List of territories outside India to which the Agreement applies.

1. French Indo-China.

2. Burma, Ceylon, the Federated Malay States, the Unfederated Malay States, the Straits Settlements, the State of North Borneo, Brunei and Sarawak.

3. The Netherlands Indies.

4. Siam."

STATEMENT OF OBJECTS AND REASONS.

The Inter-Governmental Rubber Agreement of 1934 providing for the regulation of production and export of rubber and for control of extension of rubber cultivation was due to expire on the 31st December 1938. The International Rubber Regulation Committee appointed to administer the rubber regulation scheme had circulated to the contracting Governments the draft of a revised Agreement which provided for the continuance of the scheme for a further period of five years from the 1st January 1939. As the Provincial Governments, the Indian States, and the other interests concerned were unanimously of opinion that the rubber control scheme had been beneficial to the country, the Government of India decided to adhere to the revised Inter-Governmental Rubber Agreement. The Agreement had already been accepted by the other contracting parties, namely, His Mejesty's Government in the United Kingdom (on behalf of Ceylon, Burma, the Federated Malay States, the Unfederated Malay States, the Straits Settlements, the State of North Borneo, Brunei and Sarawak), the Government of France (on behalf of French Indo-China), the Government of the Netherlands (on behalf of the Netherlands Indies) and the Government of Siam.

2. The Indian Rubber Control Act, 1934, which was passed to implement India's obligations under the Inter-Governmental Rubber Agreement of 1934 empowers the Government of India to extend the duration of the Act for a further period. In pursuance of section 1(4) of the Act a notification was issued in the *Gazette of India* of the 17th December 1938 which extended the operation of the Act up to the 31st December 1943. At the same time the revised Inter-Governmental Rubber Agreement involves certain legislative changes and this Bill is for the most part designed to amend the Indian Rubber Control Act, 1934, so as to bring the provisions of the Act into conformity with the provisions of the revised Agreement. Opportunity has been taken to remove some minor administrative defects which the working of the Act has brought to light.

ZAFRULLA KHAN.

NEW DELHI :

The 21st February, 1939.

NOTES ON CLAUSES.

Clause 1 gives effect to the Bill from the date on which the revised Agreement came into force, and *clause 2* extends the Act during the minimum period of the Agreement.

Clause 3 amends the definition section to bring certain definitions into line with the revised definitions in the Agreement.

Clause 4 provides for the incorporation of the Committee, as has been done in the cases of other similar bodies.

Clause 5 provides for the publication of an annual report on the working of the Act, and provides procedure for dealing with expenditure held under objection by the auditors.

Clause 6 deals with the term of office and conditions for removal of members of the Committee.

Clause 7 amends section 11 in conformity with the revised Agreement and to remove spent matter.

Clauses 8 and 9 also follow revisions of the Agreement.

Clauses 10 and 11.—The latter clause gives the power to refuse the grant of licences and certificates in cases where they cannot be used or where the title is not clear. The amendment effected by the former clause is consequential.

Clause 12, 13(b) and 17 are consequential upon the revised provisions as to Burma in the Agreement. Sub-clause (*a*) of clause 13 provides for a small administrative point.

Clause 14 effects small drafting changes on the lines of section 19 of the Indian Tea Control Act, 1938.

Clauses 15 and 16 deal also with points of administrative detail.

Clause 17.—Section 23 is now spent.

Clause 19 is consequential on clause 15.

Clause 20 incorporates the new and important terms as to planting included in the revised Agreement. New planting is now permitted on a considerably larger scale and for the present replanting is unrestricted.

Clause 21.—The first sub-clause is consequential upon the revised definitions and the second contains a point of administrative detail.

Clause 22 is introduced for similar reasons, the second sub-clause being in this case the one consequential upon the revised definitions.

Clause 23 like clause 3(*b*)(*i*) takes into account carriage by air.

Clauses 24, 25 and 31 are occasioned by the revised terms as to the export of rubber plants contained in the Agreement.

Clauses 26 to 29 are all consequential.

Clause 30 provides for suspension of certain provisions of the Act on the lines of the provisions relating to suspension of the Agreement contained in the Agreement.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 27th February, 1939 :—

L. A. BILL NO. 27 OF 1939.

A Bill to amend the Cotton Ginning and Pressing Factories Act, 1925, for certain purposes.

WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, for the purposes hereinafter appearing; XII of 1925.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Cotton Ginning and Pressing Factories (Amendment) Act, 1939.

Amendment of section 9 of Act XII of 1925.

2. In section 9 of the Cotton Ginning and Pressing Factories Act, 1925 (hereinafter referred to as the said Act)—

(*a*) after sub-section (*1*) the following sub-section shall be inserted, namely :—

"(*1A*) In any cotton ginning factory, whether erected before or after the commencement of this Act—

(*a*) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (*a*) and (*b*) of sub-section (*1*), and

(*b*) every structural addition (whether actually attached to any existing structure in the factory or not) the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specifications approved by the prescribed authority :

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.";

(*b*) in clause (*a*) of sub-section (*4*), after the word, figure and brackets "sub-section (*1*)" the word, letter, figure and brackets ", sub-section (*1A*)" shall be inserted.

Amendment of section 14.

3. (*1*) Section 14 of the said Act shall be renumbered as sub-section (*1*) of section 14, and in the said section as so renumbered—

(*a*) for the words and figure "in accordance with section 4" the words and figure "with the mark prescribed under section 4 for the factory in which they were pressed," shall be substituted;

(*b*) the proviso shall be omitted.

(*2*) To the said section as so renumbered the following sub-section shall be added, namely :—

"(*2*) Any bale marked in accordance with the provisions of section 4 shall, within the meaning of the Indian Evidence Act, 1872, be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed." I of

STATEMENT OF OBJECTS AND REASONS.

The Cotton Ginning and Pressing Factories Act was passed in 1925, with the object of putting the trade in a position to protect itself against such malpractices as damping, mixing and adulteration which are injurious to the quality and reputation of Indian Cotton. Briefly, the Act provides *inter alia* for the marking of bales pressed so as to enable the pressing factory and the owner of the bales to be traced in cases of malpractices. It further lays down that unmarked bales are not tenderable in fulfilment of a contract, if marked bales are demanded by the purchaser.

2. The cotton dealers have represented that a rigid application of section 14 of the Act which confers on a person, who had made a contract for the purchase of baled cotton, the right to reject a bale in fulfilment of a contract, if it is not marked as required by the law, causes great hardship to the trade, in that it enables purchasers to declare cotton not a fair tender even if there are only minor technical faults in marking which are far less important than the special press mark prescribed for the factory. The Indian Central Cotton Committee which is concerned with the improvement and development of the growing, marketing and manufacture of cotton in India have urged that this section should be amended in such a manner that the right of a purchaser to reject a bale of cotton is limited to cases in which the bale does not bear the special mark prescribed for the factory under section 4 (*1*) of the Act, and that if bales are correctly marked it should be presumed as between the buyer and the seller that they were marked before leaving the factory.

3. The Committee have also recommended an amendment of section 9 of the Act as complaints have been received that in certain cotton ginning and pressing factories the construction of which was completed or commenced before the Act came into operation, additions and alterations are made which are not in accordance with prescribed plans and specifications. It is accordingly proposed to so amend this section as to render the factory owner making alterations and additions to his factory liable to cause the alterations and additions to conform to the requirements which sub-section (*1*) of section 9 would have caused to attach to an original construction in so far as those requirements are directly relevant to the alteration or addition and in so far as the alteration or addition is separable *vis-a-vis* the requirements from the structure as a whole.

4. The Bill proposes to give effect to the above proposals and advantage is taken to delete the proviso to section 14 of the Act.

ZAFRULLA KHAN.

NEW DELHI:
The 22nd February, 1939.

MD. RAFI,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 8th March, 1939:—

L. A. BILL NO. 30 OF 1939.

A Bill to reconstitute and incorporate the Committee constituted under the Indian Soft Coke Cess Act, 1929.

WHEREAS it is expedient to reconstitute and incorporate the Committee constituted under the Indian Soft Coke Cess Act, 1929; VIII of 1929.

It is hereby enacted as follows:—

Short title, commencement and duration.

1. (*1*) This Act may be called the Indian Soft Coke Cess Committee (Reconstitution and Incorporation) Act, 1939.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, and shall remain in force as long only as sections 2 to 7 of the Indian Soft Coke Cess Act, 1929, remain in force. VIII of 1929.

Reconstitution of the Indian Soft Coke Cess Committee.

2. On the commencement of this Act, the Committee constituted under sub-section (*1*) of section 4 of the Indian Soft Coke Cess Act, 1929, shall stand dissolved, and shall be reconstituted in the manner provided in section 4 of the said Act as amended by section 4 of this Act. VIII of 1929.

Vesting of moneys in the reconstituted Committee.

3. All the moneys held by the dissolved Committee shall vest in the Committee as reconstituted under section 2.

Amendment of Act VIII of 1929.

4. In the Indian Soft Coke Cess Act, 1929,— VIII of 1929.

(*1*) in the long title and in the preamble, the word "and" where it occurs for the first time, shall be omitted;

(*2*) in sub-section (*1*) of section 3, the word "and", where it occurs for the second time, shall be omitted; and

(*3*) in section 4,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*iv*), for the word "seven" the word "four" shall be substituted, and the word "and" shall be omitted;

(*ii*) after clause (*v*) the following clause shall be inserted namely:—

"(*vi*) three persons nominated by the Indian Colliery Owners' Association.";

(*b*) after sub-section (*1*) the following sub-section shall be inserted, namely:—

"(*1A*) The Committee constituted under sub-section (*1*) shall be called the Soft Coke Cess Committee and shall be a body corporate and have perpetual succession and common seal and shall by the said name sue and be sued."

STATEMENT OF OBJECTS AND REASONS.

The representation of non-official bodies on the Soft Coke Cess Committee constituted under section 4 (*1*) of the Indian Soft Coke Cess Act, 1929, consists of seven persons nominated by the Indian Mining Federation and one person nominated by the Indian Mining Association. This allocation was adopted because practically all the proprietors of collieries producing soft coke were then members of the Indian Mining Federation.

2. The position was later altered owing to the coming into existence of the Indian Colliery Owner's Association which possesses a substantial interest in the soft coke industry. A Bill, called the Indian Soft Coke Cess (Reconstitution of Committee) Bill, was accordingly introduced in the Legislative Assembly in March 1937, to reconstitute the personnel of the Soft Coke Cess Committee on the basis of the output of soft coke by the members of the different organizations interested in the soft coke industry. The Bill was circulated for opinions on the 30th March, 1937. In view, however, of certain constitutional difficulties brought about by the coming into force of the Government of India Act, 1935, it was decided to drop the Bill and to frame a suitable measure later.

3. The present Bill is designed principally to reconstitute the representation on the Committee on the basis of an agreement recently reached by all three organizations interested in the soft coke industry. It also includes certain formal changes necessitated by the constitution of Orissa as a separate Province, and opportunity is being taken to incorporate the Committee.

NEW DELHI:

The 23rd February, 1939.

ZAFRULLAH KHAN.

MD. RAFI,

Secy. to the Govt. of India.

CUTTACK: Printed and Published by V. M. Money, Press Officer, Govt. Press, O. G. 3—312—14-1-1939.