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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 Bills were introduced in the Legislative Assembly on the 26th July 1943 :—

L. A. BILL No. 22 OF 1943*

A Bill to consolidate and amend the law relating to Government securities issued by the Central Government and to the management by the Reserve Bank of India of public debt of the Central Government

WHEREAS it is expedient to consolidate and amend the law relating to Government securities issued by the Central Government and to the management by the Reserve Bank of India of the public debt of the Central Government ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement*—(*1*) This Act may be called the Public Debt (Central Government) Act, 1943.

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

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

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

(*1*) " the Bank " means the Reserve Bank of India ;

(*2*) " Government security " means—

(*a*) a security, created and issued, whether before or after the commencement of this Act, by the Central Government for the purpose of raising a public loan, and having one of the following forms, namely :—

(*i*) stock transferable by registration in the books of the Bank ; or

(*ii*) a promissory note payable to order ; or

(*iii*) a bearer bond payable to bearer ; or

(*iv*) a form prescribed in this behalf ;

(*b*) any other security created and issued by the Central Government in such form and for such of the purposes of this Act as may be prescribed ;

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

(*4*) " promissory note " includes a treasury bill.

3. *Transfer of Government securities*—(*1*) Subject to the provisions of section 5, a transfer of a Government security shall be made only in the manner prescribed for the making of transfers of securities of the class to which it belongs, and no transfer of a Government security shall be valid if—

(*a*) it does not purport to convey the full title to the security, or

(*b*) it is of such a nature as to affect the manner in which the security was expressed by the Central Government to be held.

(*2*) Nothing in this section shall affect any order made by the Bank, or any order made by a Court upon the Bank.

4. *Transfer of Government securities not liable for amount thereof*—Notwithstanding anything contained in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not, by reason only of his having transferred a Government security, be liable to pay any money due either as principal or as interest thereunder.

5. *Holding of Government securities by holders of public offices*—(*1*) In the case of any public office to which the Central Government may, by notification in the official Gazette, declare this sub-section to apply, a Government security in the form of stock or of a promissory note may be held in the name of the office.

(*2*) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(*3*) When the holder of the office transfers to a party not being his successor in office a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner and subjects to the conditions laid down in section .

(*4*) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

6. *Notice of trust not receivable*—(*1*) No notice of any trust in respect of any Government security shall be receivable by the Central Government, nor shall the Central Government be bound by any such notice even though expressly given, nor shall the Central Government be regarded as a trustee in respect of any Government security.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Bank may, as an act of grace and without any liability to the Bank or to the Central Government, record in its books such directions by the holder of stock for the payment of interest on, or of the maturity value of or the transfer of, or such other matters relating to, the stock as the Bank thinks fit.

7. *Persons whose title to a Government security of a deceased sole holder may be recognised by the Bank*—Subject to the provisions of section 9 the executors or administrators of a deceased sole holder of a Government security and the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 (XXXIX of 1925), shall be the only persons who may be recognised by the Bank as having any title to the Government security.

8. *Right of survivors of joint or several holders*—Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 (IX of 1872)—

(*a*) when a Government security is held by two or more persons jointly and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons, and

(*b*) when a Government security is held by two or more persons severally and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons or in the representative of the deceased or in any of them, provided that nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which this section applies.

Explanation—For the purposes of this section a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Co-operative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force whether within or without British India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved, notwithstanding anything contained in section 7.

9. *Summary procedure on death of holder of Government securities not exceeding five thousand rupees face value*—If within *six months* of the death of a person who was the holder of a Government security or securities the face value of which does not in the aggregate exceed five thousand rupees, probate of his will or letters of administration of his estate or a succession certificate issued under Part X of the Indian Succession Act, 1925 (XXXIX of 1925), is not produced to the Bank, the Bank may determine who is the person entitled to the security or securities, or to administer the estate of the deceased and may make an order vesting the security or securities in the person so determined.

*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislative Assembly of this Bill.

10. *Government securities not exceeding five thousand rupees face value belonging to minor or insane person*—When a Government security or securities belong to a minor or a person who is insane and incapable of managing his affairs, and the face value of the security or securities does not in the aggregate exceed five thousand rupees, the Bank may make such order as it thinks fit for the vesting of such security or securities in such person as it considers represents the minor or insane person.

11. *Issue of duplicate securities and of new securities on conversion, consolidation, subdivision, or renewal*—(*1*) If the person entitled to a Government security applies to the Bank alleging that the security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the security, subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate security payable to the applicant.

(*2*) If the person entitled to a Government security applies to the Bank to have the security converted into a security of another form, or into a security issued in connection with another loan or to have it consolidated with other like securities, or to have it subdivided, or to have it renewed, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the security and order the issue of a new security or securities

(*3*) The person to whom a duplicate security or a new security is issued under this section shall be deemed for the purposes of section 19 to have been recognised by the Bank as the holder of the security ; and a duplicate security or new security so issued to any person shall be deemed to constitute a new contract between the Central Government and such person and all persons deriving title thereafter through him.

12. *Summary determination by the Bank of title to Government security in case of dispute*—(*1*) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(*2*) The Bank shall give notice in writing to each claimant of whom it has knowledge, stating the names of all other claimants and the time when and the officer of the Bank by whom the determination of the Bank will be made.

(*3*) The Bank shall give notice in writing to each claimant of the result of the determination so made.

(*4*) On the expiry of six months from the issue of the notices referred to in sub-section (*3*), the Bank may make an order vesting in the person, found by the Bank to be entitled to the security, the security and any unpaid interest thereon.

13. *Law applicable in regard to Government securities*—Notwithstanding that as a matter of convenience the Central Government may have arranged for payments on a Government security to be made elsewhere than in British India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of British India.

14. *Recording of evidence*—(*1*) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate or in an Indian State the Political Agent to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce. A District Magistrate so requested may himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the Provincial Government to record the evidence, and shall forward a copy thereof to the Bank.

(*2*) For the purpose of making a vesting order under this Act the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(*3*) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

15. *Postponement of payments and registration of transfers pending the making of a vesting order*—Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the security or postpone the making of any order under section 11 or the registration of any transfer of the security until the vesting order has been made.

16. *Power of Bank to require bonds*—(*1*) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (*2*) the amount thereof.

(*2*) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

17. *Publication of notices in official Gazette*—Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the official Gazette, and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

18. *Scope of vesting order*—An order made by the Bank under this Act may confer the full title to a Government security or may confer a title only to the accrued and accruing interest on the security pending a further order vesting the full title.

19. *Legal effect of orders made by the Bank*—No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Central Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security : and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to a personal liability to the rightful owner of the security for money had and received on his account.

20. *Stay of proceedings on order of Court*—Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in British India an order to stay the making of such order, the Bank shall either—

(*a*) hold the security together with any interest unpaid or accruing thereon until the further orders of the Court are received, or

(*b*) apply to the Court to have the security transferred to the Official Trustees appointed for the Province in which such Court is situated, pending the disposal of the proceedings before the Court.

21. *Cancellation by the Bank of vesting proceedings*—Where the Bank contemplates making an order under this Act vesting a Government security in any person the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

22. *Discharge in respect of interest on Government securities*—Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earlist date on which demand could have been made for the payment of the amount due on such security.

23. *Discharge in respect of bearer bonds*—The Central Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment an order of a Court in British India has been served on the Central Government restraining it from making payment.

24. *Period of limitation of Central Government's liability in respect of Government securities*—Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Central Government in respect of a Government security and of any interest payment due on it shall terminate on the expiry of six years from the date, on which the amount due on the security or due by way of interest on the security, as the case may be, became payable.

25. *Inspection of documents*—No person shall be entitled to inspect, or to receive information derived from, any Government security in the possession or custody of the Central Government or from any book, register, or other

document kept or maintained by or on behalf of the Central Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

26. *The Bank and its officers to be deemed public officers*—For the purposes of section 124 of the Indian Evidence Act, 1872 (I of 1872), the provisions of Part IV of the Code of Civil Procedure, 1908 (V of 1908), relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

27. *Penalty*—(*1*) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority under this Act in any application made under this Act or in the course of in inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(*2*) No Court shall take cognisance of any offence under sub-section (*1*) except on the complaint of the Bank.

28. *Power to make rules*—(*1*) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, 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 all or any of the following matters, namely :—

(*a*) the forms in which Government securities may be issued ;

(*b*) the form of the obligations referred to in sub-clause (*iv*) of clause (*b*) of section 2 ;

(*c*) the conditions subject to which Government securities may be issued to the rulers of Indian States ;

(*d*) the manner in which different forms of Government securities may be transferred ;

(*e*) the holding of Government securities in the form of stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which Government securities so held may be transferred ;

(*f*) the manner in which payment of interest in respect of Government securities is to be made and acknowledged ;

(*g*) the conditions governing the grant of duplicate, renewed, converted, consolidated and subdivided Government securities ;

(*h*) the fees to be paid in respect of the issue of duplicate Government securities and of the renewal, conversion, consolidation and subdivision of Government securities ;

(*i*) the form in which receipt of a Government security delivered for discharge, renewal, conversion, consolidation or subdivision is to be acknowledged ;

(*j*) the manner of attestation of documents relating to Government securities in the form of stock ;

(*k*) the manner in which any document relating to a Government security or any endorsement on a promissory note issued by the Central Government may, on the demand of a person who from any cause is unable to write, be executed on his behalf ;

(*l*) the form of the bonds referred to in sub-section (*1*) of section 16 ;

(*m*) the circumstance and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 25 ;

(*n*) the procedure to be followed in making vesting orders ;

29. *Act X of 1920 not to apply to Government securities*—The Indian Securities Act, 1920 (X of 1920), shall cease to apply to Government securities to which this Act applies, and to all matters for which provision is made by this Act.

STATEMENT OF OBJECTS AND REASONS

The great bulk of Government obligations in India have till very recently been expressed in the form of promissory notes which pass from hand to hand by endorsement and delivery. Stock certificates, *i.e.*, certificates which are not negotiable themselves but merely record title, the actual transfers requiring registration in the books of the Public Debt Office, are of comparatively recent introduction. Not unnaturally, therefore, the law of Government securities in India started as an appendage to the law of Negotiable Instruments, modifying it where necessary to meet the peculiar circumstances of Government promissory notes such as (1) their validity for a period much longer than that of the ordinary negotiable instrument of commerce and the concomitant necessity of issuing separate instruments to replace the originals for the record of interest payments, and (2) their being held more widely than ordinary negotiable commercial instruments by various classes of investors in addition to the financial and business community. The fact that Government loans were almost entirely in the form of promissory notes meant that the special modifications of the law, effected from time to time to meet practical difficulties, only related to Government obligations held in this form, with the result that when the previous legislation was revised in the Act of 1920, a clear distinction was not always drawn between those parts of the law which ought to relate to Government securities as a whole and those which merely related to promissory notes. A striking instance of this is provided by section 13 providing for the summary provisional settlement of disputes, which is confined only to promissory notes. Although logically imperfect, this position did not in the past lead to any practical difficulties as the holders of Government loans in the form of stock certificates were comparatively few.

As a result of war conditions, however, and the efforts of the Reserve Bank as agents of Government in the management of public debt to popularise stock certificates in the interest of safety and administrative convenience the proportion of Government loans held in the form of stock certificates or in special subsidiary ledger accounts, which the Bank has undertaken to maintain for large institutional holders, has substantially increased, and the time appears to be opportune for recasting the provisions of the Indian Securities Act, 1920, so as to provide more satisfactorily for the management of Central public debt.

2. Apart from the fact that section 13 of the 1920 Act fails to provide for the summary provisional settlement of disputes regarding Government loans held otherwise than as promissory notes, the machinery which it provides is in itself incomplete and there have been numerous cases where on account of a disputant contenting himself with the mere issue of a notice of dispute to the Public Debt Office and abstaining from prosecuting his claim in a Court of law, or on account of vague stop orders emanating from Courts, the periodical payment of interest has been held up for unconscionably long periods, much to the annoyance and prejudice of the actual holder. There have also been numerous instances in which, where the matter has been taken to Court, Government and the Reserve Bank have been made parties to what was essentially a dispute between two private parties in the decision of which Government or the Bank had no interest. It is, therefore, considered desirable to recast this part of the law so as to provide for a summary adjudication by the Reserve Bank of disputes as to the title to be the holder of a security, with a necessary safeguard by way of a guarantee of indemnity to ensure that the interests of the party who may ultimately succeed in establishing in a Court of law his right to hold the security are not prejudiced.

3. The legislative competence of the Central Legislature extends however, only to legislation affecting public debt of the Central Government, while the public debt of a Province is subject to legislation in the Provincial Legislature only. The Act of 1920, which regulates public debt of both kinds, is amenable to amendment by the Central Legislature only in so far as it deals with public debt of the Central Government. The present legislation therefore takes the form of a Bill to be enacted as a separate Act, applicable only to securities of the Central Government, which will reproduce the provisions of the 1920 Act, with amendments designed to remedy the defects already referred to, and with certain other amendments the necessity or desirability of which is suggested by experience in the administration of the Act during the last two decades. In this reproduction of the provisions of the 1920 Act, those provisions have been rearranged so as to group together sections dealing with the incidents common to the different forms in which loans of the Central Government are held, and to relegate to separate sections the incidents peculiar to negotiable instruments.

A. J. RAISMAN

NEW DELHI : *15th July 1943*

L. A. Bill No. 25 of 1943*

A Bill further to amend the Code of Criminal Procedure, 1898

Whereas it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title*—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1943.

2. *Amendment of section 503, Act V of 1898*—In section 503 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter referred to as the said Code),—

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

"(*2*) When the witness resides in an Indian State the commission may be issued to the officer, who is, for the time being, the Political Agent for such State, and when the witness resides in a Tribal Area the commission may be issued to the officer of the Central Government exercising the powers of a District Magistrate in, or in relation to such area.";

(*b*) for sub-section (*4*), the following sub-section shall be substituted, namely :—

"(*4*) Where the commission is issued to such officer as is mentioned in sub-section (*2*), he may, in lieu of proceeding in the manner laid down in sub-section (*3*),—

(*a*) delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Migistrate of the first class in British India, or

(*b*) where the commission is for the examination of a witness residing in an Indian State, forward it for execution to the State Court, if any, recognised by the Crown Representative by notification in the official Gazette as a Court to which commissions may be forwarded under this sub-section, within the local limits of whose jurisdiction the witnesss resides."

3. *Amendment of section 505, Act V of 1898*—In section 505 of the said Code,—

(*a*) in sub-section (*1*),—

(*i*) for the words "and the Magistrate", the following shall be substituted, namely :—

"and, except in a case to which clause (*b*) of sub-section (*4*) of section 503 applies, the Magistrate";

(*ii*) after the words "such interrogatories" the following sentence shall be added, namely :—

"In a case to which clause (*b*) of sub-section (*4*) of section 503 applies, the officer to whom the commission is issued shall forward such interrogatories to the Court to which he forwards the commission for execution.";

(*b*) in sub-section (*2*), for the word 'officer" the following shall be substituted, namely :—

"except in a case to which clause (*b*) of sub-section (*4*) of section 503 applies, before such officer".

4. *Amendment of section 507, Act V of 1898*—In sub-section (*1*) of section 507 of the said Code, after the words "duly executed", the following shall be inserted, namely :—

"or, in a case to which clause (*b*) of sub-section (*4*) of section 503 applies, has been again received by the officer by whom it was forwarded to the State Court".

STATEMENT OF OBJECTS AND REASONS

Section 503 of the Code of Criminal Procedure, 1898 provides that where the attendance of a necessary witness residing in an Indian State cannot be procured without unreasonable delay expense or inconvenience, a commission may be issued for his examination to the officer representing the Crown Representative in that State. On receipt of the commission the officer is required to proceed to the place where the witness is or to summon him to appear before him for the purpose of taking down his evidence. He is also empowered to delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

2. As early as 1918 some States represented that this procedure was prejudicial to their interests and privileges, and suggested that provision should be made to enable such commissions to be executed by the State Courts instead of by Political Officers. The Conference of Ruling Princes and Chiefs held in 1919 recommended the introduction of such a provision on a reciprocal basis. A Bill designed to give effect to that recommendation was introduced and passed in the Council of State in September 1921, but, meeting with opposition in the Legislative Assembly, it was allowed to lapse for the time being.

3. The existing legal position, however, continues to give rise from time to time to considerable inconvenience, and it is felt that a remedy should be contrived. As the law stands Political Officers in Indian States have a statutory duty to perform but have no power to compel witnesses to appear before them. For this purpose they have to rely on the co-operation of the Durbars, some of whom regard as an infringement of their prerogative right the exercise by Political Officers of a *quasi*-judicial function within their territory. The execution of a commission in a State far removed from the headquarters of the Political Officer charged with the task results in considerable inconvenience and expense either to the witness or to the Political Officer or to both. To avoid these difficulties in the execution of commissions Political Officers sometimes forward them to a State Court for execution although that procedure is not authorised by the law.

4. Section 21 of the Indian Extradition Act, 1903, enables a criminal Court in an Indian State to have commissions for the examination of witnesses executed by British Indian Courts. This Bill, by the amendment it proposes in sub-section (*4*) of section 503 of the Code of Criminal Procedure, 1898, will authorise the Political Officer to forward a commission for the examination of a witness to a State Court within whose jurisdiction the witness resides, if that State Court has been recognised by the Crown Representative as one competent for the purposes of section 503 to execute such commissions. At the same time by the amendment made in sub-section (2) of section 503 an ambiguity in the reference to tribal areas has been removed. The other amendments proposed by the Bill are of a consequential character.

A. K. ROY

SIMLA : *The 7th July 1943*

The following Bills were introducted in the Legislative Assembly on the 28th July 1943 :—

L. A. Bill No. 28 of 1943

A Bill to provide for the removal of social disabilities among certain classes of Hindus

Preamble—WHEREAS Hindu Shastras admit the existence of four Vernas only not a fifth one;

AND WHEREAS it is being increasingly felt now-a-days that the existence of a fifth Verna *viz.*, the untouchable class, has been causing great social harm to the solidarity of the Hindu Society;

AND WHEREAS in certain matters even this class and *viz.*, the Harijans, backward class, depressed class, are being legally recognised in the adjudication of rights and duties in Civil and Criminal proceedings, in public schools of education which has been injuring the Hindu Society as a whole;

AND WHEREAS untouchability of man in human society in the second part of the twentieth century is a slur on the society which permits its continuance and scandalous observance;

AND WHEREAS such condition in Hindu society is repugnant to modern conditions and ideas of justice and humanity;

AND WHEREAS it should no longer be recognised by law or otherwise enforced but should be totally discouraged;

It is hereby enacted as follows :—

1. *Short title and extent*—(*1*) This Act may be called the Removal of Hindu Social Disabilities Act, 194 .

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

2. *Removal of Social Disabilities among certain classes of Hindus*—Notwithstanding any law, custom, usage or prescription to the contrary, no subject of His Majesty, resident in British India, shall, by reason of his belonging to any particular community or class amongst the Hindus generally known as *achutes* or untouchables, depressed classes, backward classes from olden times and recently called the Harijans (a name coined by Mahatma Gandhi and adopted by the Indian National Congress) be disabled or prevented from being admitted into any private or a Government-aided or Government educational institution (general or technical or professional) or from being appointed to any public office or from having full and unobstructed or unobjected access to the use of any drinking wells, tanks, streams, pathways, lanes or streets, private or

* The Governor-General has been pleased to give the previous sanction required by section 108 (1) (*c*) read with section 313 (*3*) (*a*) of the Government of India Act, 1935, to the introduction of this Bill in the Legislative Assembly.

public, or to any place of worship to which the Hindu public has access or to any such institution dedicated for public use maintained or paid out of public donations, subscription or contribution, or to any place of public meetings or public worship held under any trusteeship or endowment for public welfare.

3. *Non-recognition of such disabilities by all courts*—No Court whatsoever, Civil Revenue or Criminal, or Public authority or local authority shall, while adjudicating any matter or executing any order or carrying on the affairs entrusted to such authority, recognise any such civic or social disabilities imposed by any law, usage, custom, or prescription on any such person simply for belonging to such classes as generally known a untouchables, depressed, or backward classes and lately as Harijans.

4. *Disuse of certain expresssions*—On the coming into force of this Act the words 'backward class', 'depressed class', 'untouchable', 'Harijans', and 'scheduled class' shall cease to exist in any statute book and in common usage.

STATEMENT OF OBJECTS AND REASONS

To have any untouchable in human society in the second quarter of the 20th century is not only a standing scandal to the society which persists in its existence and continuity but is a disgrace to the society. To retain a large number of people, human beings, in society known as the backward class, the depressed class, the untouchable class, or even by the name, 'Harijan' is condemable. By one stroke of pen the existence of such a scandal ought to have been removed by Government long ago without caring for the opinion of those who insisted on its continuity. But it is better to be late than never. Mahatma Ganhi, to mitigate the betterness of the suffering humanity, tried to sugar it by calling the class as 'Harijans'. By this he has established a class which in course time would have slowly and automatically merged in the 4th Verna in the Sudras. But now it has to be removed by law. The reformers had created a public opinion against such a bad custom and the depressed classes have shown their righteous indignation against such treatment. The objection raised by certain blind orthodox people in Hindu society against any proposal to do away with such social and civic disabilities deserve no notice—as their objections do not stand to reason nor are conducive to the good of the society. It is high time that these disabilities should be done away with. If Hindu society insists on Vernas according to Shastras, they cannot but merge these untouchables in the 4th Verna as they cannot have a fifth Verna recently called the scheduled class. Legislative measures should be taken up to do away with social and civic disabilities of a large number of Hindus who have suffered for ages. Humanity demands it, justice compels it and it is high time that an Act to remove these inabilities should be passed without the least objection and delay.

AMARENDRA NATH CHATTOPADHYAYA

The 12th June 1943

L. A. BILL NO. 29 OF 1943

A Bill further to amend the Land Acquisition Act, 1894

WHEREAS it is expendient further to amend the Land Acquisition Act, 1894 (I of 1894). for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. *Short title*—This Act may be called the Land Acquisition (Amendment) Act, 194 .

2. *Amendment of section 3, Act I of 1894*—In section 3 of the Land Acquisition Act, 1894 (I of 1894) hereinafter referred to as the said Act) —

(*i*) the colon at the end of sub-section (*b*) shall be deleted, and the following shall be added to the sub-section namely :—

" or has a right to offer prayer :" and

(*ii*) the following shall be inserted as sub-sections (*h*) and (*i*), namely :

" (*h*) the expression 'Place of worship' means a place or building where prayer is held according to the principles of religion of a class of persons and includes all premises attached to that place or building :

(*i*) 'Burial place' means a place where a dead body is buried and includes graveyard, cemetery, maqbara, durgah takia, khanquah, cenotaph or samadhi."

3. *Insertion of a new section 56 in Act I of 1894*—After section 55 of the said Act, the following shall be inserted as section 56, namely :—

" 56. *Act not to apply to a place of worship or a burial place*—The provisions of this Act shall not apply to a place or worship or a burial place."

STATEMENT OF OBJECTS AND REASONS

The provisions of the Land Acquisition Act of 1894, have hardly been applied to places of worship or burial places but owing to their being on the statute somtimes troubles have arisen in some places due to misunderstanding on the part of the government officials. It is therefore, desirable that a section should be added in the end of this Act, to the effect that its provisions are not intended to be applied to places of worship or burial places as defined in this amending Bill in its application to the province of Delhi and Ajmer-Merwara.

M. A. GHANI

L. A. BILL NO. 30 OF 1943

A Bill further to amend the Code of Civil Procedure, 1908

WHEREAS it is expendient further to amend the Code or Civil Procedure (V of 1908), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. *Shor-title*—This Act may be called the Code of Civil Procedure (Amendment) Act, 1943.

2. *Insertion of a new sub-section (3), in section 60, Act V of 1908*—To section 60 of the Code of Civil Procedure (V of 1908), add the following as sub-section (*3*) :—

" (*3*) Nothing in clauses (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*n*) and (*o*) of the proviso to sub-section (*1*) of this section shall be deemed to exempt to more than one-half of the amounts contemplated therein, in the execution of an order under the Indian Divorce Act (IV of 1869), for alimony costs or the execution of a decree by the wife or children for maintenance of the execution of a decree for power debt by the wife against her husband or to the execution of any other decree held by a wife against her husband resulting from the liability of the husband from conjugal relations."

STATEMENTS OF OBJECTS AND REASONS

Section 60 of the Code of Civil Procedure exempts certain properties of a judgment-debtor from attachment and sale in the execution of a decree. It is based on the principle that the judgment-debtor should be allowed to have certain essential articles of life, and articles necessary for the earning of his livelihood and a minimum amount for his expenses and for the expenses of the family. and it is only after making a provision for those that can be forced to pay to his creditors. This undoubtedly is a sound principle. It is, however, clear that the exemption so provided gives the judgment-debtor an allowanc for the maintenance of his wife and children. The exemption in salary and deposits is not solely for the benefit of the judgment-debtor but for the benefit of his wife and children as well, because for the purposes of the society and the state a provision for the maintenance of the family is no less essential than the maintenance of the judgment-debtor himself. It follows, therefore, that if the judgment-debtor fails to maintain his wife and children they are entitled to their share in the exemption. It is no doubt difficult to fix as to what would be their proper share. But looking to the individuals involved it can, in my opinion, be equitably fixed at one-half. If the judgment-debtor refuses to maintains his wife and children and discharges his obligations arising out of marital relations he must be prepared to carry on with half of his income any compulsory deposit and pay the other half to his family. The proposition is almost self-evident. Recently there has been a tendency on the part of the husbands to avoid their obligations which they owe to their family and take protection under exemption which are really intended against outside creditors. To clarify my meaning I may cite a case recently decided by a full bench of the Nagpur High Court reported in 1942 N. L. J. (p. 450). Dr. Nath *versus* Mrs. Shakuntalabai. In this case the District Judge of Nagpur passed a decree for a judicial separation with an order directing Dr. Nath the husband to pay alimony to Shakuntalabai, the wife, at Rs. 15 per month *pendante lite* and Rs. 25 as permanent alimony. The wife applied for the execution of that decree and prayed for the attachment of her husband's salary which she stated was Rs. 90. The husband contested that the attachment of the salary which was less than Rs. 100 per mensem was barred by section 60 proviso (1). The contention was negatived by the District Judge on the ground that the order for alimony under section 60 of the Divorce Act which is a special law was independent of considerations of section 60 in respect of salary, as it is the duty of the husband to support his wife and that to exempt the salary from attachment would be

to nullify the order under section 37 of the Indian Divorce Act. The husband appealed to the High Court. The appeal was heard by Mr. Justice Neogy, who, in view of the importance of the points involved, referred it to a bench and the case was ultimately decided by a full bench of three Judges, and it was held that the salary could not be attached. Their Lordships however, in their judgment took the opportunity of expressing their views on the inequity of this provision of law. They observed :

"It is no doubt distressing to moral principle that a woman who has obtained an order for alimony should be unable to execute that order by attaching her husband's salary because her husband happens to be a Government servant and his salary does not exceed the minimum which is laid down for exemption in the Code of Civil Procedure. This minimum has been raised from time to time and, considerably raised in recent years, and when the Indian Divorce Act became law in the year 1869, any such exemption, if indeed it existed at all, was presumably at such a low figure as to render considerations of any possible conflict immaterial. If a person against whom an order for alimony is made has no property the execution would fail, and in law it must fail, similarly if he has property, that is to say, salary, which, by the provision of item (1) to the proviso to section 60 of the Code, is protected. The only remedy is by legislation."

This is not a solitary case, though few cases of the type go to the High Court. The conduct of the husband in such cases cannot be defended either on grounds of equity, justice or morality. It causes great hardship to the deserted wife and children and it is to remove this hardship that this Bill is introduced.

MUHAMMAD AHMAD KAZMI

ALLAHABAD
The 20th June 1943

L. A. BILL No. 31 of 1943

A Bill to provide for the removal of political disabilities among certain classes of the Indians in general and of the Hindus in particular and for the restoration of certain rights which they are deprived of

WHEREAS it has been increasingly felt by the Indians in general and by the civil population of India in particular that the disabilities imposed by certain Acts of the Government regarding the licensing of arms to Indians in general and their right to have licences for buying and keeping arms with them even for self protection should no longer be recognised by law;

It is hereby enacted as follows :—

1. *Short title and extent*—(*1*) This Act may be called the Removal of Political Disabilities Act, 194 .

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

2. *Granting of licence for holding small arms*—(*1*) Notwithstanding any law, custom, usage or prescription to the contrary, no subject of His Majesty resident in British India shall by reason merely of his belonging to any particular community, class, race or nation among the Indians irrespective of caste, creed, colour or sex be prevented or disabled from holding a licence for all sorts of small arms, such as pistols, revolvers, rifles, shot-guns or swords or any such weapons as are ordinarily used for self protection against any such aggressor or for hunting or killing dreadful and dangerous animals or for shooting birds; and rights to hold such a licence and use such arms shall be given to all Indian alike as it has been given to all Europeans and British people at present residing in India.

(*2*) A licence for such arms as are indicated in sub-section (*1*) shall be granted to an applicant who has attained the age of majority provided he produces two certificates of character from two respectable citizens of his place of residence or his place of birth or his native place.

(*3*) In municipal towns such licences shall be granted by the Chairman or Vice-Chairman of the Municipality or the Subdivisional Officer of the Subdivision or the Magistrate of the district.

(*4*) In rural areas the applicants for such licences shall apply to the President of the Union Board with two certificates by local respectable people of character attached thereto who shall recommend such applicant to hold such licences to the Subdivisional authority for granting such licence.

(*5*) No such licence shall be granted to (*i*) habitual criminals, (*ii*) men of deranged brain, and (*iii*) to persons who have not attained majority.

3. *Period of licence*—The licence shall remain in force for five years for which a fee of Rs. 10 should be paid annually through the Municipality or the President of *Panchayat* or Union Board and the licence shall be respected throughout India and shall be renewed if the licensee has proved himself worthy of keeping the licence.

4. *Punishment of non-licensees for using small arms*—Anyone using any such arms without being holder of such licences, shall be punishable under the Arms Act and anyone using arms for attaching anyone except for self-protection or for shooting birds and wild beasts, shall be punishable under the Indian Arms Act, 1878 (XI of 1878).

5. *Liability to show licence to Government officials when required*—Holders of such licences except in their places of residence shall keep their licences with them and shall show such licences if asked to show whenever and wherever by any Government officials such as Inspector of Police, Sub-Inspector of Police, Head Constable, Circle Officer, Kanungo, Deputy Magistrate, Subdivisional Officer, District Magistrate, Munsiff, Sub-Judge or Judge, Public Prosecutor and Government Pleaders, etc.

6. *Right of a licensee to use arms for training his dependents*—All such licensees shall have the right to use arms for training their wards and sons and dependents when they attain maturity for making proper use of their arms when required before they apply for getting licences to the proper authorities.

7. *Refusal of licence to untrained people*—Licences shall not be granted to untrained people and a certificate for such training shall be acceptable to the licensing authority only when given by the person who gave such training by an affidavit before it Chairman of Municipality or Subdivisional Officer, District Magistrate or Chairman of the District Board or President of the Union Board or before a Gazetted Officer of the Provincial Government or Member of the Legislative Assembly, either Provincial or Central representing the Constituency to which the applicant belongs.

STATEMENT OF OBJECTS AND REASONS

Man has the inherent right to protect himself against any aggression from within or from without, either by his fellow being or by wild beasts, by means of arms (lethal weapons). While human beings all over the world, either in Europe or America or in Asia, have the privilege of getting a licence for keeping arms, Indians, who are not in military services under the British Government, have been deprived of this inherent human right. Even when India was under Muslim rule, they had not been disarmed by any law. This privilege had been curtailed after the efforts of the Indians to reconquer their motherland from the British power in 1857. Out of fear, suspicion and distrust, the British Government had passed the Arms Act by which people of India in general had been deprived of the right to keep arms. For over eighty years, this tyranny of law has been in force. This has created a martial and non-martial race in India which has been used as a handle by the British Government for preventing Indians from entering into the military services to defend their motherland. It has become a disgraceful handicap to the Indians and is extremely derogatory to the dignity of their manhood. The present war has proved to the hilt the mischievous result of such action on part of Government as found in Malaya, Burma and Singapore where people were absolutely helpless when invaded by the Japs. The Indian populace has been feeling the same at a time when the Japanese are already in India and when there is a possibility of German invasion. From a human point of view, the people of India should be allowed to keep arms for the purpose of self-protection and hunting purposes. This Bill, instead of repealing the Arms Act, urges restoration of a lost right of the Indian people. This is a political right which no self respecting nation can tolerate being deprived of. Loyalty to a law, derogatory to sense of national respect, has a limit and it is time now for Government to accept this Bill and pass it into an Act which will satisfy the Indians in general and all political parties in particular.

NILAKANTHA DAS

The 12th June 1943

L. A. BILL No. 32 of 1943

A Bill further to amend the Indian Penal Code

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860), for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title*—This Act may be called the Indian Penal Code (Amendment) Act, 1943.

2. *Amendment of section 34, Act XLV of 1860*—In section 34 of the Indian Penal Code (XLV of 1860) (hereinafter referred to as the said Code) after the words " in furtherance of the common intention of all " insert the following words :—

" or such as they know likely to be committed by them."

3. *Amendment of section 299, Act XLV of 1860*—For section 299 of the said Code and *Illustrations* (*a*) and (*b*) to that section, the following shall be substituted, namely :—

Culpable homicide—" Whoever causes death by voluntarily doing an act with the knowledge that he is likely by such an act to cause death, commits the offence of culpable homicide.

Illustrations

(*a*) A assults and strikes B with a knife in the leg or some other non-vital part of the body. Death results. A has committed the offence of culpable homicide because he khows that he is likely to cause death by striking a person with a knife.

(*b*) A assaults and strikes B with a lathi or other blunt weapon on a non-vital part of the body . Death results. A has not committed culpable homicide because death is not likely to result from such a blow. He has committed an offence of simple or grievous hurt."

4. *Insertion of a new section 299-A in Act XLV of 1860*—After section 299 of the said Code, the following section shall be inserted, namely :—

" 299A. *Punishment for culpable homicide*—Whoever commits culpable homicide shall be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both."

5. *Amendment of section 300, Act XLV of 1860*—(*a*) In section 300 of the said Code, the words " culpable homicide is murder " wherever they occur should be substituted by the words " culpable homicide amounting to murder ".

(*b*) In the *Exceptions* to section 300 of the sade Code, the words " culpable homicide is not murder " wherever they occur should be substituted by the words " culpable homicide does not amount to murder."

6. *Amendment of section 302, Act XLV of 1860*—In section 302 of the said Code, for the word, " murder " the words " culpable homicide amounting to murder " shall be substituted.

7. *Amendment of section 302, Act XLV of 1860*—In section 302 of the said Code and wherever else the words " transportation for life " occur in the said Code, substitute them with the following words :—

" imprisonment of either description which may extend to fourteen years."

8. *Amendment of section 303, Act XLV of 1860*—In section 303 of the said Code, for the word " murder " the words " culpable homicide amounting to murder " shall be substituted.

9. *Amendment of section 304, Act XLV of 1860*—In section 304 of the said Code, the paragraph beginning with the words " or with imprisonment of either descriptions.." and ending with the words " injury as is likely to cause death " shall be omitted.

10. *Amendment of section 307, Act XLV of 1860*—In section 307 of the said Code, for the word " murder " the words " culpable homicide amounting to murder " shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In this Bill I am giving the Statement of Objects and Reasons under the various proposed clauses and before entering on that give here in brief a sketch of a same for a proper appreciation of the points involved.

The object of this Bill is threefold.

Firstly it seeks to amend section 34, I. P. C. and to bring it in conformity with section 149 I. P. C. Just as the present section stands it applies only to offences of which ' intention ' is a necessary ingredient. It cannot be applied to the offence of ' culpable homicide not amounting to murder as provided in section 304 second part, which deals with acts resulting in death but committed without any intention to cause the same. In such cases a difficulty arises if the number of persons taking part in the offence is less than five, and the liability of the act fixed on any particular individual as in such cases section 149, I. P. C. cannot apply.

Secondly it is intended to amend the definition of 'culpable homicide ' and replace section 299, I. P. C. with a new draft and make the necessary changes in the subsequent sections for removing certain ambiguities which lead to confusion of thought regarding the framing of charges under sections 302 and 304 and which ultimately affact the defence of the accused in trials before the court of Sessions in cases of capital punishment.

Thirdly it seeks to give power to the courts and especially to the High Court in appeal to pass a proper sentence in cases under sections 302/149. in which transportation for life proves to be too harsh a sentence.

Clause 2—If out of a number of persons assembled together one person commits a criminal act, the liability of such an act may be fastened on all of such persons under sections 34 and 149 of the Indian Penal Code. The conditions prescribed by these sections for the fastening of the liability are as follows :

Section 34 makes other persons liable if the criminal act is done in *furtherance* of the common intention of all.

Section 149 extends the liability to other persons if the offence is committed—

(1) in prosecution of the object of that assembly ; or

(2) such as the members..knew to be likely to be committed in prosecution of that object.

Thus section 34 only deals with common intention while section 149, deals with common object in the first place and of the knowledge of the likelihood of the commission of the criminal act in the second place. The section 149 is wider than section 34. In cases in which an act is considered to be criminal even in the absence of a particular intention, the liability of the act cannot be extended to other persons under section 34. For example section 34 second part provides a sentence of imprisonment extending to ten years in cases when the death is caused by an act :

" if the act is done with the knowledge that it is likely to cause death but without any intention to cause death."

This gives rise to an anomaly. If one person out of five or more persons causes the death of a person without any intention to cause death, all the persons would be liable with him under section 304 second part read with section 149, I.P.C., if those persons knew that that act was likely to be committed in the prosecution of the common object. But if the number is less than five no liability would attach to other persons as section 149 would not be applicable to them their number being less than five and under section 34 no liability can be attached to them unless common intention is proved. Thus in such cases unless it can be specifically proved as to who caused the death, no person can be convicted under section 304 second part. This loophole was clearly pointed out by the Honorable Mr. Justice Plowden in Emperor *versus* Ram Nath and others 1943, A. L. J. page 207. In this case four persons were found to have caused the death of one Munnu Teli. His Lordship observed. " The accused have been found guilty of causing Munnu's death by doing an act with the knowledge that they were likely, by such act, to cause his death." If, therefore five or more accused have been convicted, they could have been found guilty under sections 304/149 because they knew that death was likely to result from the attack on Munnu, but since there are now only four accused, section 34 is involved and the definition is stricter. There must be furtherance of common intention. Under section 304, second part, however, there is not intention of causing death. Section 34 was substituted for the original section in 1873. The second part to section 304 is to be found in the original Act XLV of 1860, but it could not have been part of the original draft. In order to make section 34 applicable to the second part of section 304, it will be necessary to widen it in terms of section 149. Until that is done, accused persons cannot be found guilty under section 304 second part read with section 34. His Lordship had therefore to convict the accused under section 325, I. P. C. The amendment proposed in this clause is intended to remove this defect.

Clauses 3—6 and clauses 8—10 :—

Section 299, I. P. C. was originally intended to define all offences which resulted in voluntary causing of death. No sentence was attached to it.

The words " with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death " are reproduced and explained and amplified in section 300 as firstly, secondly and thirdly. Fourthly was intended to be equivalent in murder cases to the words " with the knowledge that he is likely by such act to cause death " in section 299.

But there is a difference between fourthly is section 300 and the above words in section 299 whereas there is no difference between the words " with the intention, etc.,

in section 299 already quoted and firstly, secondly and thirdly in section 300.

There is no difference between murder and culpable homicide not amounting to murder except for the protection afforded to the accused by the *Exceptions* to section 300.

A difficulty then arose, was there any offence of culpable homicide and if so, what was its punishment? A punishment was attached to it under section 304 second part. This meant that section 299 ceased to be a definition of all offences resulting in voluntary causing of death and became the definition of culpable homicide only. Consequently the first part of section 299 "with the intention, etc." became not only redundant but confusing and the *Illustrations* (*a*) and (*b*) have turned to be still more confusing because they are clear illustrations of murder, and there is no illustration of 'culpable homicide' as distinguished from 'murder' due to this confusion. It is not properly understood by Sessions Courts that there are three offences of voluntary causing of death (1) Culpable Homicide, (2) Culpable Homicide not amounting to murder and (3) murder. To clarify this position it is suggested that the definition of culpable homicide should be amended as follows :—

"Whoever causes death by voluntarily doing an act with the knowledge that he is likely by such act to cause death commits the offence of culpable homicide." To this should be added section 299A. "Whoever commits culpable homicide shall be punished with imprisonment of either description for a term which may extend to 10 years or with fine or with both" *i.e.*, the 2nd part of section 304. The *Illustrations* (*a*) and (*b*) to section 299 be deleted as they are illustrations of murder and in its place other illustrations given as are mentioned in the Bill. Changes suggested in other sections are merely consequential. Apart from the importance of clarifying the definitions of these three offences, injustice and waste of time arise at present because an accused is entitled to be defended by counsel if he is charged with murder and it is not always easy to obtain experienced counsel when the Sessions Judge amends a charge from culpable homicide or culpable homicide not amounting to murder to a charge of murder and this is frequently done. It is to remove this confusion and consequent difficulties in the trial of cases that this Bill is introduced.

Clause 7—By this amendment the sentence of 'Transportation for life' is sought to be substituted by imprisonment for 14 years. Under the present conditions 'transportation for life' is out of question and in practice is being substituted by a term of imprisonment for a term of years. This change in conditions itself requires the fixation of the term of rigorous imprisonment that is to be awarded in lieu of the sentence of the 'transportation for life' as transportation for life' cannot be interpreted to mean imprisonment for life. The general conception about transportation for life is transportation for a period of twenty years but in practice it mostly amounts to fourteen years, and so I have kept it at that figure. This is one of the reasons for the proposed amendment, but the chief reason for the suggested change is that in some cases great hardship is involved to persons found guilty under section 302, due to the presence of the words 'transportation for life'. Many cases of riots occur in which two parties fight with each other resulting in, say, death to one member of one of the parties. Say there are ten persons in the opposite party. Under section 302 read with section 149 all the ten are liable at least for transportation for life. This causes sometimes great hardship to the accused and the courts are powerless to intervene. Even the High Court cannot reduce the sentence in appeal as transportation for life is considered to be a sentence different in nature from imprisonment and imprisonment is not provided in section 302. A study of part one of section 304 would make this point still more clear. It provides for 'transportation for life or imprisonment of either description for a term which may extend to ten years'. The Court has got no power to award imprisonment of 11 nor 12 years. There is no intermediate stage between transportation for life and imprisonment for ten years. By substituting the imprisonment for a term of years for 'transportation for life' we will give it in the power of the courts and especially the High Court to reduce the sentence to proper limits within their discretion.

MUHAMMAD AHMAD KAZMI

ALLAHABAD
The 20th June 1943

L. A. BILL NO. 33 OF 1943*

A Bill to provide for the payment of salaries to the Members of the Central Legislature

WHEREAS it is expedient that fixed salaries be paid to the Members of the Central Legislature ;

It is hereby enacted as follows :—

1. *Short title*—This Act may be called the Members of the Central Legislature Payment of Salaries Act, 194 .

2. *Payment of salaries to Members of the Central Legislature free of income-tax*—The Members of either House of the Central Legislature shall be paid a salary of Rs. 500 (five hundred) a month free of income-tax :

Provided that a Member who attends less than half the number of sittings of the Legislature of a particular Session or of a Committee shall not be entitled to the salary for the period of the Session or Committee meetings unless the House concerned condones such absence.

3. *Travelling allowance and facilities to Members*—For the purpose of attending the Sessions of the Legislature or for any other Committee connected with the Legislature or with any Department of the Government of India, a Member shall be entitled to one First Class pass by Railway or Steamer, where necessary, with two servants and three maunds of luggage, from his permanent residence to the meeting place of the Legislature or the Committee, as the case may be, and back. For the portion of the journey for which there is no provision of travel by Railway or Steamer, a Member shall be entitled to an allowance of eight annas *per* mile.

4. *Provision of free furnished residence for Members*—A Member shall be entitled to free furnished residential accommodation at the place of the meeting of the Legislature or the Committee, as the case may be.

5. *Exception*—This Act shall not apply to the official members of the Legislature or Committee.

STATEMENT OF OBJECTS AND REASONS

The present method of remunerating the Members of the Legislature by means of daily allowance is very unsatisfactory. A Member's income varies from session to session according to its length. The demand for more frequent and longer sessions on behalf of the non-official Members is given a malicious interpretation in certain quarters. It leads to inequality of the remunerations of the Members *inter se*, as a Member who gets into Committees receives more than one who does not. The result is that the membership of a Committee instead of being an opportunity for service is regarded as a prize and it is not always the case that those best fitted get into Committees. Payment by a fixed salary has been resorted to practically in all the Provinces in India under the new Act and it is desirable that that system should be adopted in the Centre as well.

NILKANTHA DAS

The 6th April 1943

L. A. BILL NO. 34 OF 1943

A Bill further to amend the Indin Penal Code

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

1. *Short title and extent*—(*1*) This Act may be called the Indian Penal Code (Amendment) Act, 194 .

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

2. *Insertion of new section 93A in Act XLV of 1860*—After section 93 (XLV of 1860) of the Indian Penal Code the following new section shall be inserted, namely :—

"93-A. *Publication of speeches in Indian Legislatures*—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 newspapers and journals of the country, of the speeches, votes, and proceedings of the Indian Legislatures. The recent ruling of the President of the

* The Governor-General has been pleased to accord the previous sanction required under section 67 (2) (*a*) of the Government of India Act, as saved from repeal by paragraph 12 of the Government of India (Commencement and Transitory Provisions) Order, 1936, to the introduction in the Legislative Assembly of this Bill.

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 Kant 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.

MOHD. AHMAD KAZMI

MD. RAFI, *Secy.*

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