

found nothing at all relating to this incident. The second reason is that in Bengal we feel, especially since Mr. Day's murder, that so long as there are at large people of this character or type, always supposing they exist, there is nothing to prevent the summary murder of our friends and relatives in Calcutta on the ground that they possess an apparent resemblance to senior police officers. My third reason is that, if this information is confirmed, it goes far to establish the good faith of the Honourable the Home Member and the Bengal Government so often impugned in this House on the ground of arbitrary and unnecessary resort to the archaic machinery of Regulation III of 1818.

The Honourable Sir Malcolm Hailey (Home Member): Sir, the information to which Mr. Pilcher refers has appeared in this morning's telegrams and I have no reason to doubt its authenticity. At the same time I have not yet received from the Bengal Government an official confirmation of the details which have been given in the press. I am hoping to receive a telegram from them in the course of to-day and I shall be able perhaps to make a fuller statement on the subject. Like Mr. Pilcher I regard the news, if all the details are authentic, as of an exceedingly serious nature.

RULES UNDER SECTION 67 OF THE GOVERNMENT OF INDIA ACT.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I. (i) Will the Government be pleased to state the objects and reasons that led them to make the further amendments to the Statutory Rules under section 67 of the Government of India Act?

(ii) Whether the sanction of the Secretary of State was applied for and obtained to these alterations?

(iii) Why the procedure contemplated by the proviso to section 129-A of laying the Rules in draft before both Houses of Parliament before bringing them into force has not been adopted or recommended by the Government of India to the Secretary of State?

(iv) Whether steps have been taken to lay the Rules as now made before both Houses of Parliament and, if so, what is the date on which the Government expect them to be so laid?

(v) Whether the Government will refrain from putting the Rules into force until Parliament has had at least some opportunity to consider them, and the Members time to understand the curious and complicated processes contemplated by them?

Sir Henry Moncrieff Smith (Secretary, Legislative Department): In part (i) of his first question the Honourable Member asks what were the objects and reasons for the amendments of the Indian Legislative Rules which appeared in Saturday's Gazette. The reason for the amendments is a very simple one. The original rules made under the section 67 of the Government of India Act provided a procedure for legislation passed through the two Chambers in the ordinary course. There was no procedure for the special class of Bills dealt with under section 67B. The section itself merely lays down that where one Chamber has failed to pass a Bill in the form recommended by the Governor General, the Bill shall, if not already passed by the other Chamber in that form, be laid before that Chamber, and goes on to describe the consequences if the second Chamber consents to or fails to consent to the Bill. It does

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not lay down any rules of procedure dealing with the Bill in the second Chamber, and the ordinary rules would in many cases be inapplicable. Further, in cases where a recommendation is made during the course of the consideration of a Bill by a Chamber of the Legislature—that is to say, after amendments have already been made in the Bill as introduced—it is clearly necessary to lay down a procedure enabling the Chamber to come to a decision then whether it will or will not pass the Bill in the form recommended. Without rules the Chamber might be held, by reason of Standing Order 31, to be precluded from considering a motion proposing an amendment to any clause which, in the course of consideration, has already been amended and stands part of the Bill. Standing Order 31, as the House will remember, runs:

“A motion must not raise a question substantially identical with one on which the Assembly has given a decision in the same session.”

There are other small difficulties in applying our ordinary Rules and the Standing Orders to section 67B; but I think I have said enough to show the Honourable Member that some special rules were necessary. Those portions of the rules which deal with dilatory motions are desirable, since Parliament clearly did not contemplate that it should be within the power of the Legislature to make a recommendation of the Governor General wholly ineffective.

Part (ii) of the question. This matter has been under the consideration of the Government of India for nearly two years. Various drafts of the rules have been prepared from time to time; and on the 8th November last the Government of India despatched certain amendments to the Secretary of State for his sanction; after further correspondence, the Secretary of State's sanction was asked, by a despatch of the 14th February 1924, for the rules substantially in the form in which they have now been made. Sanction to the rules as now published was received on the 8th March.

Part (iii). Discretion as to the procedure to be adopted in sanctioning rules under section 129A lies entirely with the Secretary of State. It is not for the Government of India to recommend to the Secretary of State which course he should adopt, nor can the Government of India say what considerations induced the Secretary of State to follow the ordinary procedure laid down in sub-section (3) of section 129A rather than the extraordinary procedure suggested by the Honourable Member which is laid down in the proviso to that sub-section.

Part (iv). The rules as now made will be forwarded to the Secretary of State by this week's mail (they were made too late to catch the last mail); and they will no doubt be laid before Parliament as soon as possible after they arrive.

Part (v). In this part of the question, the Honourable Member suggests that even after receiving sanction the Government of India should have refrained from making the rules until Parliament had had some opportunity of considering them. I have already explained that it lies with the Secretary of State to decide whether the rules should be laid in draft before Parliament, or whether he should sanction them first. As the Secretary of State has sanctioned these rules, it would serve no purpose for the Governor General in Council to delay making them; indeed, he is not constitutionally in a position to refrain from bringing them into force for the purpose suggested. Once the procedure adopted by the

Secretary of State in this case has been followed, the rules cannot be laid till they are made, and therefore, in fact, the sooner the rules are made the sooner can they be submitted for the consideration of Parliament. In the latter part of the question the Honourable Member suggests that the making of the rules should have been delayed in order to give the Assembly time to understand, as he says, "the curious and complicated processes contemplated by them". I think if the Honourable Member studies the new rules again—possibly he has already done so by this time—he will find that they are neither curious nor complicated. The design of the draft was to utilise the ordinary procedure of legislation to the largest extent possible, and to refrain from introducing motions new to our procedure. As I have already pointed out, the rules in the first place, enable certain ordinary motions to be made which might otherwise have to be postponed till the following session by reason of Standing Order 31, and in the second place, apply some restriction to the making of certain other motions which would have the effect of unduly delaying the passage of the Bill. There is really little more in the rules; and the Government of India do not consider that any useful purpose would have been served by publishing the rules before they were made; nor indeed is any such procedure contemplated by the Act of Parliament.

The Honourable Member's second part of the question is . . .

Mr. A. Rangaswami Iyengar: I have not yet put the second part of my question.

Mr. President: The Honourable Member has not yet put the second part of his question.

Mr. A. Rangaswami Iyengar: I suppose, Mr. President, I am at liberty to put supplementary questions to both the first and second parts of my question?

(Mr. President signified his assent.)

Mr. A. Rangaswami Iyengar: II (i) Are the Government aware that the new rules are designed to augment further the powers of exceptional legislation conferred by section 67-B, and that it is not competent to them to do so by exercising the powers of rule-making which do not apply to legislation coming under section 67-B, but only to legislation coming under section 67 of the Government of India Act.

Sir Henry Moncrieff Smith: The Government are certainly not aware that the new rules are designed to augment the powers of exceptional legislation conferred by section 67-B, nor indeed is such the case. Throughout the consideration of this matter, Government have subjected the rules to the minutest scrutiny with a view to assuring themselves that they do not go beyond the scope of section 67. They are, purely and simply, rules of procedure; they confer no powers. If they added in the slightest degree to the powers conferred by section 67-B, they would obviously be *ultra vires*, and the House may rest assured that they would never have received the sanction of the Secretary of State.

I am not quite sure that I understand what the Honourable Member means by the latter part of this question. I have assured him that we are perfectly convinced that the rules are not *ultra vires*. He seems to imply that rules made under section 67 cannot be applied to legislation coming under section 67-B, but must be confined to legislation undertaken in the ordinary course—he says under section 67—I presume he means

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under section 65. Section 67 (1) lays down "that rules may be made under this Act for regulating the course of business in the Chambers of the Indian Legislature". I presume the Honourable Member does not mean to suggest that it is not the business of the Legislature to consider Bills recommended by the Governor General under section 67-B. The section itself clearly requires the Legislature to do so. Possibly the Honourable Member has in mind sub-section (5) of section 67 which lays down that "rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section". It is, however, clear that there can be no intention in sub-section (5) to limit the rule-making power in sub-section (1). If it were so, we should be unable to make rules of procedure for the purpose of legislation passed in the ordinary course under section 65; section 67 itself gives no power to legislate.

Mr. A. Rangaswami Iyengar: May I ask, Sir, whether this procedure is intended to give the Governor General power to go to the House with different recommendations at different times and whether the rules in regard to dilatory motions are intended to arm the Government with the power to get over dilatory motions by the use of the exceptional powers given under section 67-B?

Sir Henry Moncrieff Smith: There are two questions here, Sir. The first question is, as I understand the Honourable Member, whether the rules are intended to enable the Governor General, once he has made a recommendation under section 67-B, at a further stage of the proceedings, to modify that recommendation. The answer to that is, the rules are not so intended, nor indeed could any such matter be provided for in the rules. If there is power to modify a recommendation, that power must be inherent in the section itself, and by no rules that we can frame under section 67 could we provide for such a procedure, however much we should like to.

The second question was in regard to dilatory motions. The Honourable Member stated that these rules regarding dilatory motions were framed for the purpose of enabling the Governor General to use his powers under section 67-B. That is not the case, Sir. The rules were framed for this purpose that, when the Governor General has made a recommendation under section 67-B, it should not be within the power of the House then to carry a motion which might have the effect of postponing the consideration of the Governor General's recommended Bill for a period possibly of six months.

Diwan Bahadur M. Ramachandra Rao: (Godavari *cum* Kistna: Non-Muhammadan Rural): Sir, may I ask the Honourable Member, seeing that he has stated that this matter has been under the consideration of the Government for two years, why a committee of this House was not summoned to examine this extremely intricate set of rules which has just been published, and whether it is courtesy shown to this House that these rules with regard to its own procedure should be submitted to the Secretary of State by the Government of India without this House having had any chance of criticising them?

Sir Henry Moncrieff Smith: There was no intention whatever, Sir, on the part of the Government of India to show any discourtesy to this House in the making of the rules, but the fact is that the making of rules under the Government of India Act, is purely an executive matter. They rest

between the Government of India and the Secretary of State, and the only interference that can come from the Legislature is from the Houses of Parliament in England. Standing Orders are different matter; Standing Orders are supplementary to the rules and, as the House knows, the House can itself amend these Standing Orders.

Mr. A. Rangaswami Iyengar: May I know, Sir, whether the effect of the rules now made with regard to dilatory motions is this that the Government introduce the Bill with the ordinary recommendation of the Government, namely, that it is a Government Bill, and that, if the House makes amendments therein, it is for the Home Member or the Member in charge of the Bill to say " Stop this or I will bring the special recommendation of the Viceroy " and forthwith it is attached to the Bill and appended to it there that, if it is not passed in the form recommended, the Viceroy will of course as a matter of automatic action proceed to certify it and make it law.

Sir Henry Moncrieff Smith: It certainly is the intention of the rules. Sir, that a procedure should be devised which will enable—not enable, because the section itself enables the Governor General to do that—which will provide that the recommendation made by the Governor General in the course of consideration of a Bill shall be considered by the House. There is undoubtedly a power under section 67B to enable the Governor General to make a recommendation in respect of a Bill which the House has already given leave to introduce. That recommendation can be made at any time in the course of the passage of the Bill through the Chamber.

The Honourable Member had another part to his question which was whether, if that recommendation were made, the rules provide that the Governor General should automatically then certify the Bill and make the Bill law. Well, if that was the Honourable Member's question, I may assure him that it is not the case. The law itself—not the rules—the law itself enables the Governor General to make it law in the form in which he has recommended after one Chamber has failed to pass it in the form recommended, but it does not by any means compel the Governor General to make it law. It is perfectly open to the Governor General to abandon any recommendation that he has submitted to the House.

Dr. H. S. Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, may I enquire whether these rules have been framed in consequence of any difficulty experienced by the Government during the last Assembly with reference to any particular Bill?

Sir Henry Moncrieff Smith: The Honourable Member no doubt has in mind the last Finance Bill. As it happened, by pure accident the recommendation of the Governor General in respect of the Finance Bill last March was made at a stage which enabled our ordinary rules of procedure to be applied. The Government in fact experienced no difficulty in regard to that particular Bill. But it is to meet numerous difficulties that can be anticipated, that may arise over any Bill, that the rules have been framed.

Dr. H. S. Gour: I take it, Sir, then, the Honourable Member means that these rules were not made *post facto* to overcome a difficulty that had arisen in practice but that these rules have been framed in view of difficulties that may arise in the future.

Sir Henry Moncrieff Smith: That is more or less correct, Sir. If in the last case of the last Finance Bill, the Governor General's recommendations

had been made possibly at any other stage of the Bill than at the stage at it was made, then we should have experienced difficulties.

Dr. H. S. Gour: If so, may I inquire what was the urgency of rushing these rules through this House?

Sir Henry Moncrieff Smith: It has taken us two years to rush them through.

Mr. A. Rangaswami Iyengar: May I take it, Sir, that it is the opinion of the Honourable Member that, when once the Viceroy has recommended a Bill to be passed by this Assembly in a particular form as being essential for the safety, tranquillity and interests of British India, it is open to him to refrain from certifying the Bill after the House has rejected it as entirely within his discretion to do so?

Sir Henry Moncrieff Smith: It is entirely within the Governor General's discretion to refrain from certifying a Bill which has been recommended. If the Governor General recommends a Bill to this House, and this House makes amendments in the Bill and passes the Bill in a particular form, which it is true is not the recommended form,—the Governor General can abandon his recommendation and allow the course of legislation to proceed. That is to say, the Bill would go to the other House and they would be asked to take into consideration the Bill as passed by the Assembly. That would be entirely irrespective of the recommendation.

Mr. A. Rangaswami Iyengar: I am asking, Sir, whether it would be consistent with that certification or recommendation for him to do so.

Sir Henry Moncrieff Smith: It might be inconsistent with the certification because the certification is that the passage of the Bill is essential for the safety, tranquillity or interests of British India, but up to that time there has been no certification. There has only been a recommendation to the House that it should pass the Bill in a particular form.

Mr. A. Rangaswami Iyengar: As essential to the

Sir Henry Moncrieff Smith: No, not essential. I fear the Honourable Member is making a mistake. That word does not apply to recommendations.

Dr. H. S. Gour: Is the Honourable Member aware of any precedent from the procedure of the House of Commons justifying these rules?

Sir Henry Moncrieff Smith: No, Sir. I do not know of any.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, will the Honourable Member refer to the new rule 36-A which runs as follows:

"Where a dilatory motion has been carried in respect of a Government Bill and the member in charge of the Bill intimates to the Chamber that it is proposed to introduce the Bill and to move the Governor General to make a recommendation in respect thereof such as is referred to in section 67B"

Will the Honourable Member be pleased to say under what provision of the Government of India Act or rules framed thereunder is it permissible for a Member in charge of a Bill to move the Governor General to make a recommendation under section 67B of the Government of India Act?

Sir Henry Moncrieff Smith: There is no provision of the Government of India Act, Sir, that enables the Government of India to move the Governor General to exercise his powers. It is not a motion put forward by

Government at all but I think the House will realise that it should be open to the Government of India at least to tender advice to the Governor General in the matter.

Mr. N. M. Joshi (Nominated: Labour Interests): Sir, I do not understand one point. Sir Henry Moncrieff Smith said these new rules do not take away any powers given to the Assembly by the Government of India Act. The Government of India Act has given power to the House to make a dilatory motion.

The Honourable Sir Malcolm Hailey: No, Sir.

Mr. N. M. Joshi: We can move that the consideration of the Bill be postponed.

Mr. President: In view of the importance which Members attach to this subject—and I acknowledge that it is an important subject—I think we had better defer further questions on it till the House has had more time to study the rules. My Honourable friend, the Secretary in the Legislative Department, has had a fairly long innings and is still not out; so Members can ask further questions when they have considered the terms of the new Rules.

UNSTARRED QUESTIONS AND ANSWERS.

EFFECT OF THE ENHANCED SALT-TAX ON THE WORKING MAN'S EXPENSES.

204. **Mr. H. G. Cocke**: Will Government be pleased to state whether they have made any inquiries in various parts of the country as to the difference which the enhanced salt tax has made to the working man's expenses, and, if so, the result of those inquiries?

The Honourable Sir Basil Blackett: No specific or formal inquiry was undertaken. But the Government took steps to watch the movements of retail prices throughout India week by week, and to gather all the information they could as to the effect of the increase in price. The general tenor of the information received was that the increase was passing practically unnoticed by the bulk of the population. As stated a year ago during the Budget debates, the statistics show that the average cost to the consumer of the increase in the tax from Re. 1-4-0 to Rs. 2-8-0 per maund could not exceed 3 annas per head, or less than a rupee per family per annum. Judging by the average prices of retail salt during the past year this was on the whole an over-estimate.

IMPROVED SCALES OF PAY FOR POSTAL EMPLOYEES.

205. **Mr. M. K. Acharya**: (a) Will Government be pleased to say (1) whether any petition has been received this year from the Postal Employés Union either directly or through the Director General of Post Offices for sanction of improved scales of pay, (2) whether it is true that Government have declined to entertain the petition?

(b) Are Government prepared to reconsider whether out of the surplus postal revenues earned by the hard work of the employés of the Department a percentage may not be set apart for the improvement of the pay and prospects of the said employés periodically?

The Honourable Mr. A. G. Chatterjee: (a) The reply to both parts is in the affirmative.