

Mr. President: The question is:

"That the Bill to define the liability of a Hindu Coparcener be referred to a Select Committee consisting of the Honourable the Home Member, Sir P. S. Sivaswamy Aiyer, Pandit Madan Mohan Malaviya, Mr. M. A. Jinnah, Colonel Sir Henry Stanyon, Mr. Gaya Prasad Singh, Mr. Ambika Prasad Sinha, Mr. S. C. Ghose, Diwan Bahadur M. Ramachandra Rao, Rai Sahib M. Harbilas Sarda and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The motion was adopted.

THE INDIAN STAMP (VALIDATING) BILL.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): Sir, I ask for leave to introduce a Bill to validate certain insufficiently and incorrectly stamped instruments.

It will be within the recollection of Honourable Members that in the last July Session of the Assembly at Simla the Indian Stamp (Amendment) Act of 1923 was passed. The main effect of this Act was to increase the stamp duty on certain instruments such as share and stock certificates, letters of allotments for shares, letters of credit and of proxy from a stamp duty of one anna to a stamp duty of two annas. Another of the important provisions introduced by this Act was to increase the stamp duty on promissory notes. This Act was supposed to have come into force on the 1st of October 1923. But the Act itself with the assent of the Governor General was published on the 6th of October, and it was published in the local Gazette, for example, in the Fort St. George Gazette at Madras, on the 16th October, 1923. According to the provisions of the General Clauses Act, such an enactment would come into force on the day on which it received the assent of the Governor General, and the day on which it received such assent was the 1st of October 1923. So, Sir, the position is this. Even though this important enactment was supposed to have come into force on the 1st of October 1923, the provisions came to be known in Madras only on the 16th of October 1923. Therefore, at least in the period between the 1st October and the 16th October, instruments executed would in all probability have been stamped under the provisions of the old Act. It might be supposed that this may not result in very serious hardship after all, because people, when enforcing suits on these documents, might pay the requisite penalty of stamp duty and thereby get a remedy. But, unfortunately, under section 35 of the Indian Stamp Act, these are a class of instruments which cannot be admitted in evidence and upon which no suit can be enforced if they are not properly stamped. These instruments cannot be admitted in evidence at all. And, therefore, Sir, the position comes to this. If a person had a promissory note executed between these two days and had it stamped according to the provisions of the old Act, the man who lent the money cannot enforce the promissory note because such a promissory note will not be admitted in evidence. I need not tell Honourable Members of this House what a serious hardship will be caused if this were allowed to continue. For a long time people have been accustomed to use a one anna stamp on promissory notes, and I doubt very much, Sir, if, even now after the lapse of nearly six months, very many people in the country have yet realized the change that has come over the law. This aspect of the question was brought home even during the passage of the Bill in the Assembly.

[Mr. R. K. Shanmukham Chetty.]

My Honourable friend, Sir Sivaswamy Aiyer, who spoke on the occasion, said:

"Now the real hardship comes in on account of the provisions of section 35 of the Stamp Act, according to which if a promissory note is not properly stamped, the defect cannot be cured by payment of a penalty and the instrument will not be admissible in evidence in the civil courts for any purpose."

That is the real source of the hardship caused by an enhancement of the stamp duty. Even the Honourable the Finance Member, who was in charge of this Bill, admitted this hardship. He said:

"Really the whole difficulty that we have is how to get over that problem, how to bring home to the small man after this duty is changed the fact that it is changed in time to prevent him from being hurt by the change. Now the main thing that hurts him is the fact that these promissory notes, if insufficiently stamped, or not stamped in the first instance, cannot be validated afterwards."

One would naturally have expected that in enforcing a provision of law like this some time would have been allowed to elapse before people have actually come to know of the change in the law, but, unfortunately, Sir, in this case no such time had been given to the public to realize the fact of the change that had been brought about in the law: And, moreover, according to the rules that have been made under the amending Act, Honourable Members might know that only a particular denomination of stamps is to be used on promissory notes. For example, a promissory note chargeable with a four anna stamp duty must be stamped with stamps of the denomination of half an anna or one anna. If a person in ignorance had used a four-anna stamp on a promissory note of Rs. 5,000, he simply cannot sue upon that promissory note. I am sure, Sir, Honourable Members will realize the great difficulties which will be caused, especially in the country parts where people even now have not yet realized the change that has been brought about. My Bill only validates instruments executed before the 31st December 1923. It practically gives to the people three months' time, three months' grace, to realize the change that has come over the law, so that the provision is that if any promissory note or other class of instrument mentioned therein was executed before the 31st December 1923, and if it was correctly stamped according to the provisions of the old Act, it shall be admitted in evidence, notwithstanding the provisions of section 35 of the old Act or of the provisions of the amending Act. That is what I have attempted to do in this small Bill, and for these reasons, Sir, I ask the leave of the House to introduce this Bill.

Mr. President: The question is:

"That leave be given to introduce a Bill to validate certain insufficiently and incorrectly stamped instruments."

The motion was adopted.

Mr. R. K. Shanmukham Chetty: Sir, I introduce the Bill.

Sir, I move:

"That the Bill to validate certain insufficiently and incorrectly stamped instruments be taken into consideration."

Mr. President: The question is:

"That the Bill to validate certain insufficiently and incorrectly stamped instruments be taken into consideration."

The Honourable Sir Basil Blackett-(Finance Member): Sir, this question, as the Honourable Mover has mentioned, was discussed at some considerable length when the Stamp Bill of last session was under consideration. As that Bill was originally introduced, it raised the stamp duty on promissory notes of all kinds. An amendment was eventually passed by agreement which left promissory notes of Rs. 250 or less to bear the same stamp as before. It was the opinion of this House that that exclusion of the very small promissory notes, or any promissory note up to Rs. 250 provided sufficiently for the difficulty which this Bill is now introduced to meet. The exclusion of any note under Rs. 250 means that the difficulty now applies only to promissory notes of more than Rs. 250 which are drawn as a rule by people who might be expected to know the law. It is possible, however, that in some cases such promissory notes have been insufficiently stamped—though no cases have been brought to my notice—and therefore I did not rise to oppose the principle of the Bill on introduction. I should like, however, to point out to the Honourable Member that he was not quite correct in saying that no steps had been taken to give time between the passing of the Bill and the time when it came into force in order that the change in the law might be brought to general attention. The Bill was passed in the July session of the Assembly: it was not brought into force until the 1st of October. More than two months were therefore given during which opportunity arose for people to become acquainted with the fact that the law was about to be changed. Furthermore, the Government of India took steps through the Local Governments to bring to attention as far as they possibly could the impending change in the law and, after the law had been changed, the fact that it had been changed.

The Bill, as it is drafted, goes I think rather further than is necessary. The effect would be in the first instance to penalize those persons who have sufficiently stamped promissory notes during the period in question. It seems to me quite unnecessary to provide that such promissory notes should be valid in spite of being insufficiently stamped. It surely will be enough to give power for a certain period to make them valid by stamping them sufficiently. There is no reason why people should be let off altogether from the stamp. A period of three months to the end of December seems to the Government also to be rather unnecessarily long. We would suggest that the period up to the end of October would give enough leeway to meet the difficulty. I think in the Statement of Objects and Reasons a suggestion is made that other documents besides promissory notes will be dealt with by the Bill. But I would point out that documents no longer being instruments chargeable with the duty of one anna can now be validated on payment of the amount required to make up the full difference, so no provision of law is required to enable insufficiently stamped documents of those kinds to be made valid. In the circumstances, I would suggest that as a good many small alterations will probably be necessary in the Bill, we should refer it to a Select Committee. I therefore move:

"That the Bill be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir P. S. Sivaswamy Aiyer, Mr. Harchandrai Vishindas, Mr. Bipin Chandra Pal, Dr. L. K. Hyder, Colonel Sir Henry Stanvon, Mr. A. H. Lloyd, Baba Ujagar Singh Bedi and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Mr. President: Amendment moved :

"That the Bill be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Sir P. S. Sivaswamy Aiyer, Mr. Harchandrai Vishindas, Mr. Bipin Chandra Pal, Dr. L. K. Hyder, Colonel Sir Henry Stanyon, Mr. A. H. Lloyd, Baba Ujagar Singh Bedi and the Honourable Sir Basil Blackett, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The question I have to put is that the Bill be referred to that Committee.

The motion was adopted.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock.
Mr. President in the Chair.

THE INDIAN CRIMINAL LAW AMENDMENT (REPEALING) BILL.

Dr. H. S. Gour (Central Provinces Hindi Divisions: Non-Muham-
madan): Sir, I beg to move for leave to introduce a Bill to repeal certain
provisions of the Indian Criminal Law Amendment Act, 1908.

Honourable Members will see that the Act I wish to repeal is Act XIV
of 1908. The history of this legislation is as follows:

It was passed at a single sitting on the 11th December 1908. The
reason given by Sir Harvey Adamson in support of this measure was that
a number of anarchical crimes had broken out in Bengal and that bombs
were being manufactured for overawing the Government of India and that
a drastic provision of the law was necessary for that purpose. That was
divided into two parts—Part I and II. Part I created a special
tribunal to deal with political cases of the character I have described, and
Part II dealt with unlawful associations. I shall place the House in
possession of the leading facts of Part II for reasons which I shall presently
state. Part I, which deals with certain offences to be tried by a special
tribunal, has been repealed in consequence of the recommendations of the
Repressive Laws Committee. It was repealed by section 2 of Act V of
1922. Therefore nothing need be said about Part I. I shall now therefore
deal with Part II.

In this Part II the leading principle is as follows. It was open to
the Governor General in Council to declare any association as an unlawful
association, and, if after the declaration made by the Governor General
in Council, the association took part in any meeting of such association or
contributed or received or solicited any contribution for the purpose of any
such association or in any way assisted the operations of any such associa-
tion, the members thereof were liable to punishment with imprisonment
for a term which was to extend to six months or with fine or with both;
and whoever managed or assisted in the management of an unlawful asso-
ciation or promoted or assisted in promoting the meeting of any such asso-
ciation or of any members thereof, was liable to punishment with imprison-
ment which might extend to 3 years, or with fine, or with both. There-
fore, the main provisions of Part II may be subdivided into two different
branches. In the first, the Governor General in Council was given the
power under section 15 to declare any association to be an unlawful asso-
ciation, and the other sections then invoked the assistance of the judiciary