

25th January, 1922

THE  
LEGISLATIVE ASSEMBLY DEBATES  
(Official Report)

SECOND SESSION

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OF THE  
LEGISLATIVE ASSEMBLY, 1922



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# LEGISLATIVE ASSEMBLY.

Wednesday, 25th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

## STATEMENT LAID ON THE TABLE.

**The Honourable Sir Malcolm Hailey** (Finance Member) : Sir, I beg to lay on the table the information promised in reply to a question by Haji Wajih-ud-Din on the 16th January, 1922, regarding the number of appointments of the subordinate accounts service, filled by members of the different communities, in the office of the Accountant-General, Posts and Telegraphs, Calcutta, and offices subordinate thereto.

*Statement showing the number of appointments of the subordinate accounts service filled by members of the different communities in the office of the Accountant General, Posts and Telegraphs, Calcutta, and offices subordinate thereto.*

—	Permanent.	Probationary.	Provisional.	Sub. <i>pro tem.</i>	Officiating.
Hindus . .	60	2	1		21
Muslims . .	1	1			
Anglo-Indians .	8	...	...	...	...

## THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

**The Honourable Sir William Vincent** (Home Member) : Sir, I move for leave to withdraw the Bill further to amend the Code of Civil Procedure, 1908, which was introduced in the Legislative Assembly on the 1st March, 1921.

Honourable Members will remember that this Bill was circulated for opinion as the result of a motion in this Assembly in March last. We received the opinions of Local Governments before the September Session. I then proposed to ask the Assembly to take the Bill further into consideration, but later decided to postpone that motion in order to enable me to obtain the assistance of a strong legal Committee to examine certain provisions of the Bill. That Committee sat and, as a result of its deliberations, the principle of the Bill has been changed materially. I, therefore, now seek leave of this Assembly to withdraw the present Bill and propose, within two or three days, to introduce a new Bill which will embody the provisions proposed by the Committee, because I think that that is a more suitable way of dealing with these proposals than proceeding with the Bill as it stands. I hope the Assembly will be able to accede to this request.

**Mr. President :** The question is :

'That leave be given to withdraw the Bill further to amend the Code of Civil Procedure 1908.'

The motion was adopted.

**The Honourable Sir William Vincent :** Sir, I withdraw the Bill.

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### THE DELHI UNIVERSITY BILL.

**Mr. H. Sharp** (Education Secretary) : Sir, I beg to move :

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 2 Members.'

I should like, Sir, if I may be permitted, to suggest at once a slight amendment to this motion, namely, that for the number '12' the number '14' should be substituted. It is desirable to have, and there are advantages in having, a small Committee in matters of this sort, but we found, on looking into it, that we could not get a sufficiently representative body out of 12 Members, and, if I may, I should like to substitute '14' for '12'.

**Mr. President :** The question is :

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 14 Members.'

**Dr. H. S. Gour** (Nagpur Division : Non-Muhammadan) : Sir, before this Bill is consigned to a Select Committee, I should like to make a few observations on the existing Bill. The constitution of this University is described in the preamble as 'a University of a unitary teaching and residential type'. I have no objection to this description provided the Honourable Mover of this Resolution gives an assurance to this House that the word 'unitary' will be interpreted liberally, that the existing colleges of Delhi, the three Arts colleges, will be given a certain right to teach in the University and that, subject to the approval of the Academic Council, their teachers will be recognised as teachers of the University. The term 'unitary' in its rigid sense, as applied to Dacca and Lucknow, excludes the existing colleges and converts them into merely residential hostels. There is no doubt that the tutorial staff attached to these colleges performs a very different function to that which is performed by a unitary system as applied to the University of Calcutta. I have no doubt that the Honourable Mover of this Resolution desires that the three colleges in Delhi should whole-heartedly co-operate with the University of Delhi with a view to make it a success, and, in that view I hope the Honourable Mover will assure the governing bodies of those colleges that their identity will not be wholly destroyed in the new University of Delhi.

So much for the constitution of the University. I now pass on to its curriculum. The Honourable Mover will, I venture to think, agree with this House that, of the existing 11 Universities in this vast country, there is not a single University which possesses a Musical Faculty. Coming as he does and as I do from the great Universities of Oxford and Cambridge, he will realise the necessity of such a Faculty. Students in this country have



to apply to the Trinity College of Music in London or the Royal Academy of Music for their proficiency certificates, and, I think, the University of Delhi would greatly improve its constitution and prestige if it added the Faculty of Music to the Faculties therein described. I do not desire to say much with reference to the Faculties of Law, Medicine, Engineering and Agriculture beyond this, that the undergraduates and graduates of the University of Delhi should be given the right of prosecuting their further studies in the adjoining Universities of Lahore and Allahabad, a right which they possess to-day.

There must be a recognition by these Universities of the right of the graduates to prosecute their further studies for their legal degree and of undergraduates to prosecute their further studies in Medicine, Engineering and Agriculture.

I now pass on to the government of the University. The Honourable Mover will find that, under the scheme proposed in the Bill, of a total number of about 99 members of the Court, the majority are *ex-officio* and nominated members and the elected members are in a minority. I suggest, for his favourable consideration, that the Court should consist of a majority of elected members. This could be easily achieved by giving the graduate representatives 30 instead of 25 members in the Court. This Honourable House and the Council of State are given under the Bill only six seats in the Court. I understand that, in the preliminary discussion which culminated in the draft of this Bill, the intention was to give the Legislative Assembly and the Council of State six each, instead of six for both the Houses. I suggest that the Legislative Assembly and the Council of State should be represented on the Court in proportion to their numerical strength. As such, I would suggest that 12 members be elected by the elected Members of this House and 6 members by the elected Members of the Council of State, thus giving the two Houses of the Legislature 18 members for the Court. That will give the elected members a slight numerical superiority in the Court. In the Executive Council, I find, again, a disparity between the nominated and *ex-officio* members on the one hand and the elected members on the other and I suggest that this Honourable House should have a direct representation on the Executive Council and that it should elect three members from among the elected Members of the Legislative Assembly and that the Council of State should similarly elect one member, and that would give them four members in the Executive Council of about 20.

I now pass on to other matters. The Honourable Mover will find that, in regard to the constitution of the Court, the Chief Commissioner of Delhi has been given the exceptional power of appointing members to the Court subject to the number fixed by the Chancellor. That may be an indeterminate number, and I do not see any ground why the Chief Commissioner of Delhi should be given the power of direct appointment to the Court. I should have thought that this Honourable House, as it is going to finance the University of Delhi and will continue to take a paternal interest in its literary offspring, would be given such power, even assuming that it was necessary, and I therefore ask the Honourable Mover to revise this provision, if not altogether to omit it.

Now, Sir, I turn to the power of the Chancellor. Honourable Members will find that these powers are somewhat wider than those possessed by the

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Universities of Lucknow and Dacca : see section 50 of the Lucknow University Act and section 51 of the Dacca University Act. I suggest, as I believe it is intended, that a clear provision should be inserted in section 45, making it clear that these powers will cease after the establishment of the University. I also think, Sir, that members of the Court should possess the power to propose the addition or alteration of the existing Statutes, but such a proposal should, in the first instance, be submitted to the Executive Council of the University who should draw up a report and send the proposal on to the Court for final decision. I find that, in the present Bill, the Vice-Chancellor is to be appointed by the Chancellor. The Honourable Member in charge of the Bill could not be unaware of the provision made in Allahabad for the election of the Vice-Chancellor, and, while perhaps the first Vice-Chancellor of this University may not be elected, I suggest that his appointment should rest with the Chancellor, with the concurrence of the Executive Council of the University. As regards finance, I understand that only about Rs. 75,000 are to be submitted to the vote of this House in the ensuing financial year. That is an extremely modest and small sum to start a University with. In the years to come, this University, if it is to live up to its reputation as a University established in the Imperial Capital of India, will require larger and more substantial financial assistance from the public and from the Legislature. I would, therefore, suggest to the Honourable Mover to consider the proposal to give the donors to the University a direct interest in its administration : and I suggest that donors of Rs. 20,000 or more should be made life members of the Court, and that donors above Rs. 5,000 to Rs. 20,000 should be given the right to elect not more than 10 per cent. of their number, subject to the maximum of 10 members for the Court of the University. I would also, in this connection, suggest the advisability of inserting a provision for the appointment of patrons from amongst those who make valuable and substantial pecuniary contributions to the University. In this connection, I would ask the Honourable Mover also to consider whether it would not be wise to have a Pro-Chancellor and a Pro-Vice-Chancellor. I make these observations because the Joint Committee, which is about to be constituted, may have something to go upon, and this Honourable House may be in a position to convey its wishes to the Select Committee upon these various points. The Honourable Member, in charge of this Bill knows that Members of this House feel strongly, and even enthusiastically, in favour of any proposal which is calculated to advance learning in this country, and there is no Member in this House who is not anxious to advance the cause of University education here. We welcome this proposal and welcome it heartily. The suggestions I have made are made in a friendly spirit, intended to strengthen and promote the cause of University education in Delhi, and I hope the Honourable Mover of this Resolution will accept my proposal.

**Mr. T. V. Seshagiri Ayyar** (Madras : Nominated Non-Official) : Sir, the many persons who were anxious for the establishment of a University in Delhi are getting somewhat nervous about the provisions contained in the Bill. I was originally asked by my friends in Delhi to move a Resolution upon this subject, and I thought they were very enthusiastic over it, but, now that the Bill has been before the public, there is a pardonable feeling of anxiety regarding the provisions of the Bill. And, Sir, I have been asked by my

friends to intervene in the debate for the purpose of drawing the attention of the Honourable Mr. Sharp to some of the vices in the Bill. Now, before I proceed further, I should like to allay some misgivings which have been entertained regarding the principles of the Bill. As everybody knows, the Sadler Commission, which is responsible for the changes which this country is going to witness in regard to educational matters, contemplated two kinds of Universities: one dealt with the existing Universities, the other dealt with the Universities to come into existence later on. As regards the existing Universities, which, as everybody knows, have been affiliating colleges, have been regulating the curriculum of studies, and have been examining bodies, that Commission said that they should as far as possible continue to affiliate, continue to have recourse to professors to teach higher branches of knowledge, and to appoint, from among the professors in the colleges, teachers who will be able to lecture not only in their own colleges but in affiliated colleges as well. That is the position, so far as the existing Universities are concerned. As regards the Universities to be started, if I remember aright, the Commission contemplated that they should be entirely unitary Universities, Universities engaged in teaching, and, on that suggestion, the Dacca and the Lucknow Universities have been established. Now, Sir, with regard to these Universities, on two points there is no difference of opinion. That is, as regards the colleges to be established, the Commission contemplated that they should be only second-grade colleges, or colleges teaching up to the intermediate studies and that the rest of the teaching should be undertaken by University professors to be appointed. But there is one matter upon which there has been some considerable difference of opinion; that is, as regards the position of the existing colleges which are to be attached to the University to be established, and that applies specifically to the case of Delhi. Where there are some established colleges, what is to be the position of these colleges? Are these colleges to be asked to give up the teaching of the higher Courses of study and to be reduced to the position of second-grade colleges, or are they to continue as before, the University taking upon itself the function simply of teaching certain subjects? Now, Sir, even here, opinion is unanimous upon the question that, as regards the Honours Course in the University, the existing colleges should not be asked to take up teaching work, because it is rightly felt that the equipment necessary for teaching the Honours Course cannot be expected in these various colleges. For example, take the science teaching. The apparatus that is necessary, and other things would not be found to exist, in the same efficient way and in the same efficient manner, in a private college as it would be in a University college. Therefore, there is no doubt upon that matter; the Commission was unanimous that, with regard to the higher teaching, the teaching for the Honours Course, it should be confined, as far as possible, to University professors to be appointed.

There is, however, one important matter upon which there is a considerable difference of opinion; that is as regards the preparation of these students for the Pass Course. As regards the Pass Course, Sir, the members of the Commission were of opinion, if I have read their report correctly, that the existing colleges should be allowed to prepare students for the Pass Course, and that, if new colleges are to be established, those colleges should have nothing to do with the preparation for the Pass Course, but that, if possible, the new students should go into the existing colleges, and that the new colleges should, as far as possible, be only Intermediate colleges which would prepare the students for the University course.

[Mr. T. V. Seshagiri Ayyar.]

That I take to be the recommendation of the Sadler Commission. Now, coming to the University of Delhi, the question is naturally asked, what is the position of the Government in regard to the three existing colleges. These colleges have really created educational life in this city; are you going to reduce them to the position of second-grade colleges or are you going to allow them to continue to teach for the B. A. Pass Course, allowing the University Professors to teach for the Honours Course? That is the question which is being asked for the last two or three days and which has been disturbing the minds of the various professors in the colleges, and I ask Mr. Sharp to give an assurance upon that matter. I may mention that when I read the Statement of Objects and Reasons, I thought there would be no difficulty about the matter, because the Statement of Objects and Reasons contemplates apparently that the existing colleges should be allowed to continue the teaching as before. It says :

‘As the provision of sufficient funds for the complete realization of this University and the erection of suitable buildings will be a matter of time, it is proposed in the first instance to commence work with the existing colleges in their present buildings and to permit them gradually to modify their organisation, especially with reference to the separation of Intermediate classes in such a manner as to permit of the development of the University in its eventual form.’

I thought there would be some provision in the body of the Act with reference to this paragraph in the Statement of Objects and Reasons. I must say that I have searched in vain for anything which will enable this promise contained in paragraph 3 of the Statement of Objects and Reasons to be carried out. There is no provision, either transitory or permanent, which would enable the House to judge that it is the object of the promoters of this Bill that, so far as these three colleges are concerned, they will be allowed to continue to teach at least for the Pass Course until the University develops itself in such a manner as to make it possible for these colleges to give up the teaching altogether. I would suggest to Mr. Sharp to make it possible for the professors of these various colleges to be absorbed in the new University. It would then take away the sting of the objection which is being felt. If the existing professors are grafted as University professors, then, these people will have no difficulty whatsoever, and finally when the University develops itself fully, these colleges may be reduced to the position of second-grade colleges. That is a matter upon which some sort of assurance is necessary, and I hope Mr. Sharp will give such an assurance as would allay the feeling which is being felt in regard to this matter. Now, Sir, there are only one or two minor matters upon which I should like to say a few words. I find the University contemplates establishing only certain faculties; certain other faculties are not to be brought into existence for a considerable time to come. The teaching in the University should be of such a character as would enable the students to seek their education in other Universities where the new Faculties are in existence. Take concrete instance, the Law Faculty. There is no provision for a Law Faculty in the Bill. Now, the teaching in the B. A. course should be of such a character that a B. A. of this University must be able to find easy entrance into a Law college in any of the other Universities, for example, Allahabad, Lucknow, and so on. That is one question which should be borne in mind. Another matter, upon which I spoke to Mr. Sharp and about which I am particular, is this, that the course of education in the University should be of such a character

as would enable the students who find it difficult to continue the study to find admittance easily in other colleges. This is a serious difficulty which is being felt all over the country. For example, a father has employment in Delhi for about 3 or 4 years and he sends his son to a college here to be educated and afterwards he is transferred to Madras or Calcutta, and the Madras or Calcutta University authorities say that the education imparted in Delhi is not of such a character as would enable the student to get admission into the same kind of class in the college at Calcutta or Madras. That is a serious difficulty and many a parent has found great difficulty in consequence of this. I want Mr. Sharp's assurance that the curriculum of studies in the University will be of such a character that it would be easy for a student studying for a particular examination to find easy entrance either in Calcutta, Madras or Bombay when it becomes necessary for him to leave this place. These are matters upon which I should like to have assurances, and if such assurances are given, I am quite sure that persons who are feeling nervous over the provisions of the Bill will be satisfied.

**Mr. S. C. Shahani** (Sind Jagirdars and Zamindars : Landholders) : Sir, my Honourable friends, Dr. Gour and Mr. Seshagiri Ayyar, have undoubtedly voiced the sentiments on the subject of those who are engaged in University work in the city of Delhi. The existing colleges are very anxious to have their own entities duly recognised by the provisions of the Bill that has been put before us to-day. It has been said by my Honourable friend, Mr. Seshagiri Ayyar, that, in the body of the Bill, there is nothing which might enable the authorities to recognise these three colleges. I find, however, that there are some 3 sections of the Bill, under which the requisite recognition might be granted to these three colleges. I would draw the attention of the House to section 26, which says :

'Subject to the provisions of this Act, the statutes may provide for all or any of the following matters,'

and among these matters, clause (g),

'The recognition and management of colleges and halls not maintained by the University and the withdrawal of such recognition.'

Further, under section 28, I find :

'Subject to the provisions of this Act and the statutes, the ordinances may provide for all or any of the following matters,'

and among these matters, No. (d) :

'The conditions of residence of the students of the University and the conditions requisite for the recognition of colleges and halls not maintained by the University.'

So under section 32. If there is a desire to do so on the part of those who have drafted the Bill, or on the part of the Select Committee that considers the Bill, due provision can easily be made for the recognition of these colleges in Delhi; and it is very desirable that such a recognition should be granted to them. They have grown gradually, stage by stage. They have now become highly organised institutions and serve very useful purposes in the economy of the province, and I respectfully submit that these colleges should not, on that account, be, contrary to their wishes, reduced to the position of Intermediate colleges. It is desirable that they should have the degree

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courses. I am rather doubtful as to the necessity or desirability of permission being given to these colleges to do Honours work. I have studied the report that has been put forward by the Sadler Commission and my idea is that Honours teaching should be centralised in the University, as far as possible, for it is not easy for every college to command a duly equipped laboratory, nor is it competent to organise its laboratories properly, and without such an organisation and such an equipment, higher standards of education could not be easily maintained in every individual institution. But it is very desirable that the number of graduates should increase. I know that some will insist upon the quality of education that is being imparted in colleges at the cost of the necessary dissemination of knowledge, and would make out that the number of colleges and the number of students should be restricted from that point of view. Proper education of a reasonably high type should be imparted to the bulk of students. But education of the highest type could be extended to comparatively a few.

I would beg to point out that we have no technical education worth the name, and that our B.A. degree is a good admission test to the various walks of life. I have found from experience that, if a man secures the degree of B.A., he is generally fitted for doing work in most of the avocations of life, and, from this point of view, I would be inclined to support institutions that are fairly well equipped, fairly well organised, for the purpose of imparting instruction for the B.A. degree. I would, in this connection, like to read what the Sadler Commission have said with regard to the utility of such colleges and the necessity of strengthening them :

‘ If the colleges are to exercise a greater and a deeper influence, it can only be by their being strengthened; and this can, in our judgment, be best achieved by giving them a fuller partnership in the University, and by enriching them by a real co-operation with the University, instead of leaving them as more or less isolated institutions, each dependent upon its own resources.’

This is said in Volume IV, page 248; and elsewhere, they go on to say :

‘ The Teaching University of Calcutta must, therefore, be a University of colleges superficially resembling Oxford and Cambridge, and more closely, the reconstructed University of London. \* \* \* \* \* It must be a system wherein the University will be really responsible for the character of the teaching given in its name. \* \* \* It must be a system wherein the colleges, while stronger and freer than they now are, and able to command more fully than ever the loyalty of their students, will neither be tempted to rival the University or claim independence of it nor have reason to feel any jealousy or fear of it, or to regard it as a competitor. If such a synthesis of college and University is to be achieved, the colleges which take part in it must be much stronger and better equipped for their work than most of them now are. \* \* \* They must be prepared to work in harmony with one another and with the University to an extent now unknown. \* \* \* \* \*

These ends can be secured if, in addition to the lectures provided by the colleges exclusively for the use of their own students, the courses of all the best lecturers in the University and in its constituent colleges are thrown open to all qualified students for whom there is room. \* \* \* \* \* But these conditions imply a very complete departure from the existing system. They imply, in the first place, a carefully wrought-out system of co-operation between the University and its constituent colleges, whereby, in addition to, or as a substitute for, the ordinary college lectures, public and formal instruction given by either University or college teachers appointed for this purpose by the University shall be thrown open to Honours students, and also, though in a less degree, to pass students, from all the constituent colleges.’

I will read only three or four sentences more :

'The organisation of efficient co-operation between the colleges and University is one of the principal aims of the proposals which we shall put forward later in this chapter. \* \* Upon the University would obviously fall the responsibility of organising the co-operative system of lecturing, all the colleges contributing their share, and the University making provision for the filling up of gaps, as well as for the avoidance of needless reduplication and overlapping. Upon the colleges would fall responsibilities not less important. They would, of course have to provide their share of the total lecturing staff giving instruction to the whole University. They would have to provide courses of lectures and classes for their own students, and especially for the pass men'.

These institutions could be greatly strengthened by and could greatly benefit the creation of a University such as is intended by the Bill before us. The University teachers could help in the teaching of the degree courses of study in such colleges, and some of the best professors, lecturers or readers engaged in these colleges could be appointed to the University. Such a co-operation could materially improve the character generally of the education imparted to students. I have no objection to the establishment of a unitary teaching University which should be a model University ; but I am afraid the whole scheme has not been laid bare before the House.

It is said that buildings will be constructed for the University at a cost, I think, of about 35 lakhs. The recurring annual expenditure will be about Rs. 75,000. I wonder if Rs. 75,000 will suffice. If once you start a University, it will be very necessary for you to incur a large outlay and I do not know if, at this time, such a large outlay could be easily sanctioned by the Assembly.

I would also draw attention to one other thing, and that is this. So far as I see, there would be but about 500 to 600 students in the various colleges in Delhi. Is it right to start a University when the number is so small? Other places are probably riper, for instance Poona, which has about 5,000 students. If any expenditure is to be incurred on starting a new University, it ought to be incurred in the case of a city like Poona or a province like Sind. However, there are some considerations against this suggestion, *e.g.*, that Delhi is an Imperial City in an Imperial Province, and it will befit the dignity of this province to have a University. On that ground, probably, there should be no objection to starting a University here.

There is one other thing also to which I would draw attention. This Bill is a very important Bill and ought in fairness to have been circulated to the different educational institutions for opinion ; and it should, I think, have been sent to newspapers for comments. This would be a modern University and, if you want to organise it properly, the suggested preliminary course would be reckoned, I suppose, by anybody who lends a thought to the matter, as being correct.

Since the Delhi University is going to be a modern University, the popular element again ought, I think, to be much stronger than it would be if the Bill is passed as it is. By way of illustration, I would refer to a provision such as this, in section 9 and clause 7 :

'Every proposal for the conferring of an honorary degree shall be subjected to the confirmation of the Chancellor.'

If it is a felt by the Court of the University that an honorary degree should be conferred upon any distinguished man, I think it should not be necessary for the Court to make a reference to the Chancellor and get his

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sanction before any Resolution for the conferring of a degree is passed by the Court. The constitution of the Court is not, I think, rightly conceived. It ought to be thoroughly representative; it ought to represent all walks of life, and I think this is the intention of the University Commission presided over by Sir Michael Sadler. If we are to keep to the recommendations that have been made by the Commission, we might also bear in mind the recommendation with reference to the constitution of the Court. What I have said with regard to the Court would be equally applicable to the Executive Council and the Academic Council. The powers of the officials ought to be circumscribed and more powers should be given to the University and the University Court and Councils. And they should be more representative.

Before I sit down, I would once again draw the attention of the House to the necessity of not insisting upon the merging of the entities of the three Delhi colleges in the Delhi University. If the three colleges which are doing their work well have the desire to continue their work, there should be nothing to prevent their continuing it.

It should not become the object of the Bill to see that these three institutions disappear or are reduced to the Status of Intermediate Colleges. They serve a very useful purpose, and they should be allowed, on that account, not only to exist but every facility should be afforded them for strengthening their existence.

**Mr. J. P. Cotelingam** (Madras : Nominated Indian Christian) : I would like to make a few general remarks on the Bill before us. In doing so, I would like to endorse the views expressed by Dr. Gour as to the constitutional powers of the University as stated in the Bill.

In the Statement of Objects and Reasons we have been given to understand that the Bill has been framed on the model of the Dacca University recommended by the Calcutta University Commission. The framers of the Bill have not confined themselves to the Dacca University Act, but they had also before them the provisions of the Lucknow University Act. If we look at the working of both these Universities which are unitary teaching and residential, we find that the colleges that ought to form a constituent part of the University have to a great extent lost their individuality. And if, according to the recommendation of the Calcutta University Commission, the University should be organised primarily as a teaching University composed of the incorporated and the constituent colleges, I see no reason why, in starting a University for Delhi, we should follow so closely the Acts laid down for Dacca and Lucknow Universities. It would be a great pity if the existing colleges, as has been pointed out by the previous speakers, should lose their individuality. I see no reason why the Delhi University should not itself be a model University, and the existing colleges, while contributing to the life and strength of the Delhi University, should not also have preserved to them as such their individual and corporate character. It has been mentioned that the University would do its part in regulating the Honours and Post-Graduate courses and in providing professors and lecturers. That is expected. But in the interchange of professors and lecturers, a great deal can be gained by the co-operation of three colleges that are at present engaged in higher education in the city of Delhi. I think this is an admirable opportunity for showing how the existing colleges can all be utilised in



the working of the University without their identity being merged in that of the University.

The Delhi University, for some years to come, will not have a large number of students. As matters stand, we have between 500 and 600 students on the rolls of all the three colleges put together; and, if it is decided to separate the Intermediate classes, there are barely 250 to 300 students who will avail themselves of the instruction given in the B.A. classes and in the classes for the Honours courses. If the framers of the Bill for the Delhi University are not going to be obsessed by the recommendation made by the Calcutta University Commission as to the excision of the Intermediate classes, there will be a sufficient number of students to form the nucleus of a strong teaching and residential University. Unfortunately, the circumstances that prevailed in Calcutta were such that the Calcutta University Commission had to come to the conclusion that the only way of improving University education was by cutting off the two Intermediate classes and having them attached to the High School. The situation in Calcutta, as will be known to Honourable Members of this House, is very different from the situation elsewhere. We, in Madras, are not so badly off as regards the quality of the students in the Intermediate classes. I, for one, am not yet able to understand that it is absolutely necessary for the improvement of collegiate education that the two Intermediate classes should be cut off and joined to the High School classes. If, here in Delhi, we are to follow the recommendation made by the Calcutta University, we shall have a smaller number of students to begin with and we shall lose all the co-operation that we can get from the three existing colleges. Speaking on behalf of the students in the Intermediate classes, I would say that they would lose by being added to the High School, whereas they would gain a great deal if the classes were to be attached to the colleges educating or teaching up to the degree. I am not one of those who think that the final word has been pronounced by the Calcutta University Commission on the matter of University reform, and therefore, while still we have the opportunity of making satisfactory provision for University work in Delhi, I trust that this question also will be considered in the Select Committee.

One other observation only, Sir, I would like to make before I sit down. I find that there is no provision made for any examination for admission of students to the University.

In fact, in clause 7, sub-section (6), it is distinctly stated that :

'It shall not be lawful for the University to frame or conduct courses, maintain classes or conduct examinations for the purpose of preparing or testing students for admission to the University.'

I hope more light will be thrown upon it by Mr. Sharp when he replies to the observations made here. In the Chapter on Admissions and  
 12 Noon. Examinations, in clause 34, sub-section (2), there is no reference made to any examination for admission to the University. With these few remarks I resume my seat.

**Mr. N. M. Joshi** (Nominated : Labour Interests) : Sir, I too would like to get some explanation from the Honourable Mover of this Resolution before I decide either to support or to oppose it. Sir, in the matter of educational policy, there are two ideals. The first ideal is that the quality of the education which is being given at present should be improved and the

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other ideal is that higher education should be spread among the people as widely as possible. The two ideals are not inconsistent with each other, but, on account of the limit to our resources, it does not become possible always to carry out both these simultaneously. It, therefore, becomes necessary for the Government and for those who control the educational policy of the country to see which of these two ideals should be first carried out or should be given more importance. I find from the attitude of the Government, that they are more in favour of improving the quality of education, even if the spread of education suffers somewhat. This is indicated by the great speed, I may call it the speed of the Express Train, at which the Government is starting a new type of University, namely, the unitary residential, in India. They have given up suddenly the old type of the University that existed and did very good work in this country for a number of years. Sir, personally I believe, and even the Government of India will believe, that this new type of University is an experiment which must be tried sufficiently long before the whole country adopts it as the fittest type of University for us. The unitary and residential type of University has got certain essential features. The colleges must be in the vicinity of each other if the education or the instruction that is given is going to be really unitary. Then the largest number of boys must be residential in quarters or in halls which are controlled by the University. These are the two essential factors of a unitary residential University. Now, I would like to know, in the first place, from the Honourable Mover of this Resolution where he is going to locate the headquarters of this University, whether in the city of Delhi or in Raisina, four or five miles away from the city. This is a point of great importance from the point of view of the spread of education, and therefore I want a clear explanation and a clear statement from the Honourable Mover of this Resolution on this point. If the University is to be located finally, if not to-day, in Raisina, Sir, I believe that that University will come in the way of the spread of higher education in the Province and the city of Delhi. The University will be away four or five miles from the homes of boys, and those boys who cannot afford to go and live in the University halls or the University residential quarters will not be able to get the benefit of higher education. Sir, it is a matter of common knowledge that, as regards the spread of education, the more the centres of education, the greater is the spread. If, in the city of Delhi, there is only one college, it can attract a certain number of students, but, if there are colleges which are spread over the city of Delhi, say three colleges in different parts of the city, the number of students that will be attracted to the three colleges will certainly be larger. I do not think the truth of that statement can be contradicted by any one. From that point of view, if the University is located in Raisina, it will be difficult for the colleges in Delhi to be affiliated to that University, and I think, from the statements made in this Bill, as well as from the first speech of the Honourable Mover of this Resolution, it appears that the final aim of the University will be to have all the colleges located somewhere near Raisina. The colleges in the city of Delhi, then, cannot be affiliated to that University, if the University is going to be a really unitary and residential University. If the constitution of the new University will come in the way of the colleges in the city of Delhi being ultimately affiliated to the University, I, for one, shall oppose this proposal altogether. It was said by the previous speakers that the rights of the existing colleges should be safeguarded. I will go one step further and

say this, that, if some people hereafter want to start some more colleges in the city of Delhi, a little apart, a little distant from the seat of the University, they should not be prevented from starting (those colleges. (Hear, hear.) Sir, this point also must be made very clear.

Then, secondly, as regards the term 'residential', I should also like to get some explanation whether the University will compel boys to reside in certain halls controlled by them and which boys will be thus compelled; whether those boys, whose parents or relatives live in the city of Delhi or who can get accommodated in families in Delhi, will be compelled to go to the University halls to reside. This point must be made clear before I decide either to support or oppose the motion, for I believe it is a wrong policy for any University or for any Government to try to take away boys from homes not only from their own homes, but from the homes of their relatives or from the families of their friends, in order that they should go and live in the halls maintained by the University. After all, the home is a more natural surrounding for any boy who wants to be educated as a good citizen, and, therefore, residence in the University hall is the last resort in my opinion for those who cannot make proper arrangements for their accommodation in families. I am not, therefore, against the University making arrangements for those who cannot make their own proper arrangements in the city with families, either their own or of their friends or of their relatives. I should like to get a clear enunciation of the policy of the Government regarding the University in this matter.

Then, Sir, there is another point about which I should like to say a few words, and it is this. The modern spirit of University education is that this education should not be confined to a few boys who have the means of spending their whole time in securing higher education. Even the ancient Universities of Oxford and Cambridge 50 years ago found it necessary to extend their work beyond the boundaries of the University. Those Universities found that their work was not complete unless and until they brought the large mass of the society into their sphere of work, and, for that purpose, the Universities in England started work, called the University Extension Work, the work of spreading culture and higher education amongst not only a few boys but amongst the whole society, the whole mass of the working classes, as well as those who had not the benefit of getting University education during their boyhood. I shall like to know whether the Delhi University is going to undertake this kind of work, the work of spreading culture and higher education amongst the society in general. Sir, regarding this matter, there is some reference in section 7, sub-section 5 :

'In addition to recognised teaching, tutorial and other instruction shall be given under the control of the University in each college'.

I do not know what is the clear meaning of this section, but if this means that the Delhi University is going to undertake the work of University extension, I shall be very much satisfied, but, if it does not mean that, I would insist that there should be a provision in this Bill throwing definite responsibility upon this new University to undertake the work of University extension, and, if the Government does not accept this principle of a modern University, I am going to oppose the Resolution. Sir, I am not against the tax-payers' money being spent, even for the education of a few boys, but, at the same time, let us remember, when we spend money, and we are going to spend most of the money for this University out of the country's finances, let us take care that

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the society in general, the whole community will derive benefit besides those who will enter the portals of this University. On these two points I want clear information as to the policy of Government in regard to the new University.

**Mr. J. Chaudhuri** (Chittagong and Rajshahi Divisions: Non-Muhammadan [Rural]): I rise to support the principle of the Bill and also the motion that it be referred to the Joint Committee. The criticism that has been directed as to the details of the Bill may be considered by the Select Committee and I am sure that they will receive due consideration at these Committees. I shall take this opportunity of explaining to the House the principle upon which the Bill is based. It is based upon the sound principle laid down in the Report of the University Commission over which Dr. Sadler presided. I may tell this House that there are only two great experts in England on the question of education. One is the Right Honourable Fisher and the other is Dr. Sadler. Dr. Sadler has not only made a special study of the University system in England but also on the Continent, and, over and above that, he came out to this country, and for a year patiently studied the system that obtains in the Calcutta University. In the recommendations that he has made, he has tried to remedy the defects, shortcomings and drawbacks of the Calcutta University. The Calcutta University is a multi-collegiate University and it has of late developed a system of University teaching which I may describe as topheavy. It is now paying special attention to Post-Graduate study and the defect of the Calcutta University is that the under-graduate study is being neglected and is left entirely to the colleges without any material help or assistance from the University. The chief function that the Calcutta University exercises in respect of under-graduates, is that it is an examining body. It collects fees from the University students, appoints examiners and the examiners only go through the papers. The Calcutta University does not assist in, or supplement, the work of the colleges in teaching the under-graduates. It, no doubt, supervises to a certain extent the colleges but takes no part in teaching. What the Calcutta University is doing is that it is spending all its resources, which comprise the surplus left over from examination fees, in the up-keep of a large staff of lecturers for Post-Graduate teaching and this system has brought it almost to the verge of bankruptcy. There is a fundamental difference between the system which obtains at the Calcutta University and the system which obtains at Oxford, Cambridge or the Edinburgh University. When I was in England, I made a study of the system of University education there. First of all, I shall explain the system of teaching that is followed at the Oxford and Cambridge Universities. These Universities are, no doubt, multi-collegiate Universities, but they possess this advantage that all the colleges at Oxford or Cambridge are situated in one place. Thus the colleges are in a position to help each other. For instance, at Oxford, none of the colleges, except one or two, keep any laboratory for the teaching of science. So far as I remember there is no laboratory in any of the premier colleges, such as the Balliol College, the New College or Christ Church. There is only one laboratory in the Trinity College exclusively for the use of the students of that college. But there is a well-equipped laboratory kept and maintained by the University. At Oxford, it is the Clarendon Laboratory, and at Cambridge it is the Cavendish Laboratory. The science students of the University are allowed facilities for carrying on

their studies in experimental science at the University laboratory. Thus the University fulfills the functions of a teaching University so far as the undergraduates and the colleges are concerned, inasmuch as it furnishes facilities which the colleges are not in a position to furnish. Further, it is not possible for every college to keep a staff of lecturers or efficient teachers of a variety of subjects. A multi-collegiate system, when confined to one place, a place like Oxford or Cambridge, is helpful in this way. One college maintains an expert in economics, another in physical science, a different one in mathematics, and so on. Now, what the University authorities do at the beginning of a session is that they arrange for a system of inter-collegiate and University lectures. A course of elementary or advanced lectures on any particular subject by trained teachers as also by University professors is arranged at one or other of the University colleges or halls. Now, the students from the different colleges who are studying a particular subject are directed by their college tutors to attend these lectures. The primary function of the English Universities is the teaching of the undergraduates. The unitary Universities have no colleges but the teaching is done by the University itself. Let us take a University like that at Edinburgh. In the Edinburgh University, there is . . . .

**Mr. W. M. Hussanally** (Sind : Muhammadan Rural) : May I rise to a point of order? The learned gentleman is giving a lecture on the teaching at Edinburgh University and at Oxford. He is saying nothing about the Delhi University.

**Mr. President** : I am very unwilling to interrupt the interesting discussion of the Honourable Member, but I am waiting to hear him mention Delhi.

**Mr. J. Chaudhuri** : I am explaining by reference to what I have said, the system which is proposed to be introduced and described in the Bill as the unitary system. I am quite relevant, for this reason that the system which has been introduced by Dr. Sadler, and which is embodied in this Bill, is not purely the unitary system, but as I was explaining, an adaptation of the system of unitary Universities to the existing circumstances in India. The Leeds University, the Edinburgh University, and all the more modern Universities in England are unitary Universities. At Dacca, there were two colleges, which have been split up into three, one being an Intermediate College, and the other two have been remodelled and they constitute the University. But if the separate identity of the colleges at Delhi are preserved, the University need only supplement the efforts of the colleges. If the system which is a compromise between a multi-collegiate and a unitary system is introduced at Delhi, as it is proposed to be introduced, the mistakes that have been made with regard to the Calcutta University in the past will be avoided. The future University system in India should be modelled on unitary lines. Wherever a new University is established, as the one that has been established at Dacca or at Lucknow, and the one that is going to be established in Delhi, it should be based on the recommendations of the Sadler Commission. We should not fall into the error into which the Calcutta University has fallen, namely, that of building up a big University composed of colleges distributed over a wide area, say from Chittagong on the one side to Bankura on the other. The Calcutta University has become an unmanageable body. On this occasion, I am not going to discuss how far Dr. Sadler's system can be appropriately adapted to the existing conditions

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of the Calcutta University. There are difficulties in the way, but I absolutely see no difficulty in the introduction of this system, or its adaptation to the proposed Delhi University. Some of my friends, Mr. Śeshagiri Ayyar and Mr. Shahani, said that the colleges should not teach up to the Honours standard. But I see no reason why the colleges should not teach up to the Honours standard, if they want.

**Dr. H. S. Gour :** May I correct the Honourable speaker on a question of fact. There are only 20 students. There is no Honours Course, I believe. I believe, there is an Honours Course only in one college.

**Mr. J. Chaudhuri :** So, I say, if there is an efficient staff, I see no reason why that college should not teach up to the Honours standard. The University at Delhi should include within its scope the two or three existing colleges; the colleges may help each other, and the University supplement the efforts of the colleges. For instance, there may not be a Chair of Chemistry or a well-equipped laboratory at Delhi. If the University founds a Chair in Chemistry, the students who are studying Science may go to the University laboratory to study Chemistry. There is, however, one objection which will have to be practically solved by the Committee, and that is, that, if it is proposed that the existing divergence between the Intermediate course and the College course should be brought about, in my opinion it should be brought about gradually and not all at once. That is the system which, I am sure, will be followed in Calcutta also. If we separate the Graduate course and the Intermediate course at once, such a sudden disruption may make many of the colleges to collapse.

With regard to such matters of detail, the Select Committee will give their best consideration, and when the University is founded, the University authorities will also take them into consideration. I should not like that any of these colleges would suffer in any way. I do not see any insuperable difficulty in working out a scheme for adapting the existing colleges within the University Scheme. One defect of the Calcutta University system is this, that the Matriculation standard is very low in Calcutta now and an under-graduate, after matriculating and taking up the college course, cannot make any rapid progress. To ensure such progress, school education must be improved, and, if education up to the School Final is sound, then you can curtail the period of University training. The Sadler Commission recognises that the University training should take only three years. If you delegate the education up to the Intermediate course to the secondary school or second grade colleges, then it will not prolong the period of education. It will give, to begin with, sound education and in the course of three years, as at Oxford or Cambridge, one can complete one's college career. Now, one of the great drawbacks and hardships of the Calcutta students is this. It takes them six years to come out as an M. A. But we know that the M. A. course is by no means any higher than the B. A. Honours Course at Cambridge or Oxford. There, after entering the University, one takes one's Honours degree in three years. If the system recommended by Dr. Sadler and his Commission is adopted in this country, then it will curtail also the time in which our under-graduates will be able to complete their University career. With regard to Post-Graduate education, I would do away with lectures, promote research, self-help, self-reliance in the matter of study and would give the higher degrees by reference to

thesis on evidence of research or original work. I do not wish to take up more time of the House. I think I have been able to explain to the House what the present system is and the system that this Bill proposes to introduce. The system recommended by Dr. Sadler in the University Commission Report is not only a sound one, but is quite an up-to-date one. I would, therefore, ask this House to lend their unqualified support to this Bill. I am sure that the details of the Bill may be safely left to the Committee and that, when the Committee submit their report, the whole House will be free to discuss and take the Bill into consideration in all its details.

**Mr. H. Sharp:** Sir, I had no idea, when I entered the Assembly this morning to move this simple motion, that I was going to evoke a discussion lasting over about an hour and a half. I am glad, however, that we have had this discussion, because certain matters have been mentioned in such a way as to clear the air and to emphasise their importance both in this Chamber and also before the Joint Committee. I am also glad to see the very great interest which has been evinced by various Members of the House in this subject of the Delhi University, and I am particularly gratified by the reception which the principle of this Bill has received from Dr. Gour and from Mr. Chaudhuri. The only note of discord regarding the principle of the Bill, if indeed I need call it a note of discord, has been raised by my friend, Mr. Joshi; and I am sure that Mr. Joshi's remarks are not for one moment prompted by any hostility either to the scheme as such or to the cause of higher education. But, as we know, Mr. Joshi is very jealous of the rights and privileges of such classes as might perhaps not benefit *directly* by this kind of education. The opening remarks of Mr. Joshi have, I am glad to say, given me an opportunity of just mentioning a remark which fell from his lips yesterday—but at the moment I should not have been in order in saying anything about it—with reference to the spread of primary education. Now, as I have not had an opportunity of saying anything on this subject in this Assembly, I should like to take this opportunity of reiterating emphatically what I remember I did say ten years ago almost to a month in the Legislative Council regarding the attitude of Government towards elementary education in this country. Government does *not* desire to check the spread of primary education. On the contrary, Government has always given it every encouragement. The duty of spreading primary education is primarily the duty of local bodies—Municipalities and District and Local Boards. But Government has always done what it can to assist them, not merely by Resolutions on paper and so on, but, as I am sure some Members here will recollect, by substantial grants at times when funds were available and, even when so much money was not available, by giving what could be given to this object. And, if Mr. Joshi will consider the proportion of money spent on education to the revenues of this country and compare it with the proportion to the revenues of other countries, he will see that we do not fall behind with reference to those other countries.

**Mr. N. M. Joshi:** Publish a comparative statement.

**Mr. H. Sharp:** I shall be glad, if Mr. Joshi has any doubt, to show him some figures. There was one remark which Mr. Joshi made, which I should like to correct, because possibly it has caused a little misunderstanding in other minds as well. I think he said that the Government of India had abandoned the idea of affiliating Universities. Far from it. Certainly the

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Government of India has not abandoned that idea. In the Resolution on Education of February, 1913, if I remember aright, the Government of India clearly enunciated its policy regarding Universities as the necessary, essential, unavoidable preservation of the affiliating Universities; but it hoped to see carved out of their jurisdiction Universities of a newer type, Universities of the unitary type, of which we have heard a good deal this morning.

Now, Mr. Joshi asked me direct for assurances on certain points. I think those points were as follows :

- (1) the location of the University ;
- (2) the conditions of residence ; and
- (3) the possibility of University extension.

I understand that those are the points on which he desired an assurance.

As regards the location of the University, I will admit at once to Mr. Joshi that, at present, the idea is that this University will be located eventually at Raisina. But it will be in a good position, not too far from the city; and I have myself seen colleges, such as the Gujarat College in Ahmedabad, and other colleges in India, which have been located at some distance from the city, as much as four miles. Dr. Gour knows of a college in his province . . .

**Dr. H. S. Gour:** Yes, the Jubbulpore College.

**Mr. H. Sharp:** The Robertson College, Jubbulpore. Dr. Gour will recollect that College; its location has had no detrimental effect upon the numbers of the college. On the other hand, hostels can be situated in more sanitary and airy sites, there is room for larger playgrounds and the taking up of land is much more economical than if a college were in the middle of a city. But I may say at once, for the comfort of Mr. Joshi that the location of a University—I mean to say the minutiae of its location—are not fixed by legislation. As I said the other day, since the plan of the new city was made, a large plot has been set aside for this University in what seemed to us to be a very good place; but we are not bound to that by this legislation.

Now, as regards residence, I understand that the point at issue is, can students live with their relatives and friends in Delhi? Certainly they can; and I would invite attention to clause 31 of the Bill along with the statutes, clause 11, sub-clause (2). Those two passages I think are the clearest, as giving a definition of the conditions of residence. Of course, they do not give, by any means, all that might be said on the point, because this point is left to further statutes and ordinances; but that is the intention, and the Bill, as it stands, and the Statutes as they stand, do not bind down everybody necessarily to live in a hostel or a hall, although all must be attached, for the purposes of tuition, etc., to such an institution.

Now, as regards University extension—after all, this is, so to speak, the fine flower of established institutions of old date and of elaborate systems of education. But I can assure Mr. Joshi that, if this Bill, as it stands, does not compel the University to set up any system of University Extension Lectures, there is not one word which would prevent the University from so doing; and I would ask Mr. Joshi whether he considers that this measure, which has been laid before the Assembly, should be so rigidly drawn as to



leave no option, no room, for voluntary expansion to the University itself. Should we not leave many of these things that have been spoken of this morning to the authorities of the University? We cannot take a University, so to speak, by the nose and lead it along utterly against its own will. And, with reference to what Mr. Joshi said, and, with reference to certain other remarks that I have heard this morning, I cannot help feeling that there has been just a little danger of trenching upon those matters which must necessarily be dealt with in the Statutes or in the Ordinances or by Regulations of the University bodies themselves.

I do hope that Mr. Joshi will be satisfied with what I have said. I am sure he does not want to bind down this University, so to speak, in such a rigid way that it is obliged to do certain things, the possibility of which can only be seen when the University has got going. To do so would surely be going beyond the ordinary functions of University legislation.

Now, passing to other matters, many points were brought up this morning, such as the method of making Statutes, the selection of the Vice-Chancellor, the bringing in of donors, the creation of appointments of patrons and possibly of Pro-Chancellor and Pro-Vice-Chancellor. All these are matters which I have no doubt will be discussed in the Joint Committee. I do not think I need mention them this morning.

There are, however, one or two points which I must mention, because I have been asked direct questions or I have been asked for assurances here and now.

As regards the Faculties, I would invite attention to clause 22 of the Bill. Only the initial Faculties are mentioned, those the formation of which is already more or less easy. Other Faculties can be framed as the opportunity occurs; and I certainly join with Dr. Gour in hoping that this University will have facilities not merely for training in Music but for training in other forms of Indian Art.

There were just two little points which I should mention regarding the constitution. Dr. Gour said that the original intention was that there should be six Members of each of the two Chambers. I am afraid I cannot remember, after this lapse of time, whether that was the intention or not. It is, of course, possible that there may have been a little misunderstanding about it; but that is a matter which certainly will be looked into in the Joint Committee.

With reference to the nominees of the Chief Commissioner, I should point out, in order that there may be no misunderstanding, that the number of nominees is fixed by the Chancellor, not by the Chief Commissioner. However, that again is a matter which will be considered in the Joint Committee.

A matter of some importance, which was brought forward both by Dr. Gour and by Mr. Seshagiri Ayyar, is the right of the students of this University to enter, at various stages, into other Universities, in order to complete their graduation or training. There is nothing in this measure which will bring about any deprivation of any existing right, and I myself hope and believe that there will be full reciprocity in these matters. But, here again, we have to leave a considerable amount to the option of the Universities themselves. It is, of course, possible that one University might say that the Degrees of another—let us say, the Degrees which it is necessary to take prior to starting on the professional part of a medical course—were not

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quite up to its standard. I am sure, Mr. Seshagiri Ayyar will agree with me that that would be a perfectly legitimate position for a University to adopt. While, therefore, there is nothing in this Bill which will deprive any student of any existing right, the matter is one which has to be left to a considerable extent, to the University authorities. And, after all, this University will have, along with other Universities, to prove its capacity for the training of students when the authorities are formed and the instruction begins.

Now, there was one other point—the admission of students to the University. Mr. Cotelingam said that there was no provision for the admission of students to the University. I think that he will find that clause 34 of the Bill makes the necessary provision. Possibly it does not go quite so far as certain other University Acts read with the Regulations of those Universities; but I do not think that it is necessary that we should go so far as that at present. After all, this is a matter in which a good deal must be left for the Ordinances, and, whatever arrangements may be made for the admission of students and for their examination, I propose to bring before the Joint Committee one or two points with reference to this, which I think will meet the difficulty felt by Mr. Cotelingam, although I do think that he has exaggerated that difficulty, if I may say so.

I think, Sir, that it only remains for me to speak on one matter, and that is one of very great importance indeed. It has been mentioned by Dr. Gour and also by Professor Shahani. The words 'unitary University' in the Statement of Objects and Reasons, and some phrases throughout the Bill, appear to have given rise, in certain quarters, to a little apprehension. I think that, perhaps, I can make this point clear to the Assembly if I deal with it under two heads.

The first head has reference to the University in its early or transitional stage. Now this leads me on to speak of what Dr. Gour said about the powers of the Chancellor, namely, clause 45. I fully agree that that clause does look rather deterrent; and it will be within the memory of Members that I thought it right to call their special attention to that clause when I introduced the Bill, because I did feel that it seemed to present a vulnerable point in the Bill. Now, what is the position? The position is that we are faced with the fact that we have three Arts Colleges and also a Medical College situated in Delhi, organised in their own way. Also, we do not want to place before the Assembly any very large demand for starting this University just at present. Dr. Gour mentioned a moderate sum, and Professor Shahani doubted whether that sum would be quite sufficient to begin with. It certainly would not be sufficient to bring the University into complete shape, full-fledged like Minerva from the head of Jove. Certainly not. We must look forward to a transitional stage during which it will not be possible—with due respect to Mr. Cotelingam - to separate the Intermediate classes from the Degree classes, or to bring in all the other changes which are contemplated in this Bill, and we shall not be able for some time to erect the buildings, not merely because money is not forthcoming at the present time, but because buildings take some time to put up. We are, therefore, faced with this difficulty, that we have to provide for the transitional period, which may be rather long. Now, how do I visualise the condition of the Colleges during this transitional period? They will remain in their present buildings. They will

run their Degree classes. They will run their Intermediate classes. But we hope that gradually they will begin to adapt themselves, possibly in some cases by cutting off the Intermediate classes and so on, to the ultimate organisation which is contemplated in this measure. That will be their condition during this transitional period, and that is the reason why we have had to put in rather unusual powers, which I think rather frightened Dr. Gour. Well, I can assure Dr. Gour, and I can assure other Members here that I also was a little bit frightened by this clause and we shall consider it very carefully in the Joint Committee.

Now the second head that I have to speak of is the ultimate shape of the University. I do not think, Sir, that I am breaking any confidences if I give a little of the history of this case. When I introduced this Bill, I stated that we had had a meeting of representatives of the colleges in December, 1919, at which this idea of a unitary University was, I think I used the words 'enthusiastically and, I might say, unanimously adopted'. Well, there has recently grown up a little doubt in the minds of some of the representatives of colleges as to whether they were not, perhaps, giving up a little bit too much to the University.

(At this stage Mr. Deputy President took the Chair.)

I am sure, that is a feeling with which every body will sympathise; but I myself am doubtful whether any such apprehension is really warranted by the terms of this measure. I have spent many hours recently, since I came down to Delhi from Simla, in talking with representatives of the colleges and putting in points here and there which I thought would meet their wishes. Well, I have again had another talk with them since this Bill was introduced, and I find that their wishes are not yet quite met. This is a matter which we shall have an opportunity of discussing in the Joint Committee, and I hope that we shall be able to hammer something out. I do not really think it will require any radical change at all to satisfy the representatives of the colleges. For

1 P.M. the moment, I may say, there is no intention whatever of destroying the identities of these colleges, nor has there ever been. We have a University of the unitary type which has been established at Dacca. Now, the Dacca colleges are older, more established, and, I think I may say, stronger colleges than two of those which are situated at Delhi, but I have not heard any complaints; I have not heard that they have lost their identity, although they are not even called colleges but are called Halls. Professor Shahani quoted some passages out of the Calcutta University Commission Report. But I must point out that the passages which he quoted have reference to the scheme which was put forward for reconstituting the University of Calcutta, and that the reconstitution of the University of Calcutta was never intended by the Commission to turn it into a unitary University. It was to be a University in which a certain amount of co-operative teaching was to be performed. But the Commission were faced with this difficulty, which we are not faced with here, that they had an enormous area in Calcutta itself with a very large number of colleges, and colleges of very different potentiality, and also with the still more difficult problem of a vast area in the *mofussil* with many colleges which would have to continue on some system of affiliation.

Those were the difficulties with which they were faced in Bengal. Here in Delhi, we have not those difficulties, and it ought to be possible to hammer

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out something more simple, more efficient, more economical, something that will combine the preservation of the identity of the existing colleges with the idea of a University which will be able to guide and help and control, without interfering unduly with any domestic matters. (Hear, hear.)

I need not say more upon this fascinating subject of the organisation of Universities, because my friend, Mr. Chaudhuri, has already given you a lucid explanation of what a unitary university is and of its advantages; and I think that, if any difference does remain between Professor Shahani and myself, it is really one not of principle, but simply of degree. Is the University to be the handmaid of the colleges, or are the colleges to be the assistants, the willing assistants, of the University, and the collaborators with it? That is all. It is not a question of principle, it is a question of degree. (*Mr. S. C. Shahani*: Completely organised in themselves.) Professor Shahani says: 'completely organised in themselves.' I am a prudent man and I am not going to give myself away over the word 'organised', because to tell you the truth, Sir, I am not quite sure what it means; but we shall be able to consider the definition of the word 'organised' when we go to the Joint Committee.

I have not been able, Sir, to touch on all the points which have been raised this morning in this extremely interesting discussion. But I do hope that I have touched on those which, the Assembly will agree with me, are the most important and vital points; and I do hope that I have convinced Mr. Joshi, so that he will not, in any way, oppose the motion which I have placed before the House this morning. There are many other matters, some of which have been touched upon this morning, which we shall have to discuss in the Joint Committee; and, when this Bill emerges from it, I trust that Members will see that the remarks made this morning have not fallen on deaf ears.

**Mr. President:** The question is:

'That this Assembly do recommend to the Council of State that the Bill to establish and incorporate a unitary teaching and residential University at Delhi, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of 14 Members.'

The motion was adopted.

The Assembly then adjourned till Twenty Minutes to Two of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Two of the Clock. Mr. President was in the Chair.

### THE INDIAN INCOME-TAX BILL.

**The Honourable Sir Malcolm Hailey** (Finance Member): Sir, I beg to move:

'That the Report of the Joint Committee on the Bill to consolidate and amend the law relating to income-tax and super-tax be taken into consideration.'

The motion was adopted.

**Mr. N. M. Joshi** (Nominated: Labour interests): I want to point out that there are some amendments standing in my name which I never intended sending. I do not know who made the mistake.

**Mr. President :** If the Honourable Member did not intend to send them, he need not move them.

**Mr. W. M. Hussanally** (Sind : Muhammadan Rural) : I beg to move :

'That the Bill be recommitted to the Joint Committee to suggest amendments to Chapter II of the Bill.'

My object, Sir, in moving this motion is two-fold. Firstly, Sir, I want that this new institution of a Board of Inland Revenue should be knocked on the head. It is mentioned by the Joint Committee that this Board will, at the present moment, consist of only one member, but I dare say that, in course of time, it will be a regular Board of more than one member as the term implies. At the present moment, when the finances of the country are in a very bad way, we should not create any new offices of this kind. It will be for the very serious consideration of this House whether it should agree to a proposal of this kind at this juncture. But my more important object is that the Bill be referred back to the Joint Committee for a reconsideration of the question of associating non-official agency with the income-tax officers of various grades and denominations mentioned in the Joint Committee's Report, for the purpose of assessment of the tax as well as for the purpose of hearing appeals. Sir, the practice under English law is that the administration of the income-tax is consigned to various bodies and these bodies are first the Board of Inland Revenue, known as the Commissioners of Inland Revenue, secondly, general Commissioners, thirdly, additional Commissioners, and fourthly, the special Commissioners. The Board of Inland Revenue exercises general control over the officials of the Board of Revenue and the non-official bodies, and is responsible to Parliament. For income-tax purposes, England and Wales are divided into divisions according to . . . .

**Mr. President :** In what respect does the Honourable Member differentiate his proposal from an ordinary amendment to the Bill ?

**Mr. W. M. Hussanally :** I want to associate non-official agency with the assessment of income-tax as well as with the hearing of appeals and I want to show what the law in England is on the subject.

**Mr. President :** I am not dealing with the merits of the point. I am dealing with the method the Honourable Member has adopted. Is the Honourable Member satisfied that the Joint Committee did not take these points sufficiently into consideration to justify recommitment of the Bill ?

**Mr. W. M. Hussanally :** On that point there has been a considerable difference of opinion on the part of the Joint Committee, as well as the All-India Committee that met in Simla some time ago, and so far as the Joint Committee is concerned, it did consider this question, I admit, but at a time when several Members who were in favour of this proposal were away and they carried this proposal by a majority of 7 against 5. The principle is a very important one and I think the question should be reconsidered by the Joint Committee, because, if we consider that point here, it will take a lot of time as the whole of Chapter II will have to be recast. Therefore, I think, Sir, that it is fit and proper that the whole question should be referred back to the Joint Committee with a mandate from this House to reconsider this question and, if they come to the conclusion that we

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should have non-official agency associated with income-tax officers, they should recast Chapter II altogether.

**Mr. President :** I find nothing in the Report of the Joint Committee to indicate that the consideration given to the subject was inadequate, and if the members of the Committee were not agreed as to the manner in which they should deal with this subject, they would surely have expressed their grievance in the form of a Minute of Dissent. I find no Minute of Dissent and, unless the Honourable Member can give me more substantial reasons, I do not think I can allow him to move the motion standing in his name.

**Mr. W. M. Hussanally :** I had a conversation with a member of the Joint Committee, who is a Member of the Council of State, the Honourable Mr. Lalubhai Samaldas, and he told me that he is quite in favour of the principle, and so is the Bengal Chamber of Commerce, but he was unfortunately away on that particular day when this discussion took place in the Joint Committee.

**Mr. President :** The Honourable Member is only making his case worse by referring to a Member of the other Chamber, with whom we have nothing to do.

**Mr. W. M. Hussanally :** He was a member of the Joint Committee.

**Mr. President :** We are only concerned with the members of the Joint Committee who are in this House.

**Mr. W. M. Hussanally :** I am entirely in your hands as to whether I am in order or not. It is a very important question which ought to be considered fully and this House has hardly the time or the opportunity to consider it. On that ground I think the Bill should properly again be referred back to the Joint Committee.

**The Honourable Sir Malcolm Hailey :** Sir, on behalf of Government, I may say that we are perfectly prepared to discuss this question on the floor of the House.

**Mr. President :** I think this is the proper place to discuss it. I have been asking the Honourable Member whether he can point to anything in the proceedings of the Committee or in the Report of the Committee, to show that there was any opinion expressed in the Committee that the question was inadequately examined or that it should be referred to the judgment of this House. If the Honourable Member thinks that the method adopted by the Committee was inadequate, he has not put that case to me. I can find nothing in the Report of the Committee to justify the course which he has taken.

**Mr. W. M. Hussanally :** I quite admit that so far as the Report goes, there is nothing to show that, but I would bring it to the notice of the House that even the Bengal Chamber of Commerce very strongly recommended that course, and I am informed—how far I am correctly informed I do not know—that even the Chairman of the Joint Committee, Sir Alexander Murray, favoured this proposal but did not press his view.

**Mr. President :** If the Chairman of the Joint Committee thought it inadvisable to press his view, the Honourable Member need not press it. (Laughter.)

**Mr. S. C. Shahani** (Sind Jagirdars and Zamindars : Landholders) : Sir, my first amendment is that the phrase 'Collector of Income-tax' be substituted for 'Income-tax Officer.' My reason for this amendment is that the designation that I suggest will carry more weight, and I really do not understand why the Income-tax Officer, who has now so far been called the 'Collector of Income-tax,' should hereafter be called 'Income-tax Officer'.

The second amendment which I propose is that the appointments of Assistant Commissioner and Income-tax Officer be made by the Governor General in Council.

**Mr. President :** We will take one amendment at a time.

**The Honourable Sir Malcolm Hailey :** Sir, with regard to this point, I may say that the question of nomenclature has caused at different times a considerable amount of difficulty. We originally proposed that these officers should be called 'Assessors.' Now, Sir, I do not know whether there is attached to the name and functions of an Assessor, that is to say, a judicial Assessor, any such implication as makes that name unpopular in the country, but we received a number of representations asking us to remove the name 'Assessor' from the Bill and to substitute some other nomenclature. Mr. Shahani wishes to call these officers 'Collectors'. Now, Sir, I think perhaps he has been misled by the fact that, in the existing Act, we do refer everywhere to the Collector, but the Collector, in that case was, in the majority of cases also the Collector of the District. The word 'Collector' has a definite meaning in the Revenue Acts, and we wish to avoid any confusion with that officer, just as, coming to another grade, we desire to avoid using the term 'Deputy Commissioner' because the term 'Deputy Commissioner' has also a definite meaning in the Criminal Procedure Code. The new class, we call 'Income-tax Officers,' will, for the most part, be Provincial Service Officers, and we do not desire that any confusion should arise between their functions and those of the regular Collector of the District. It is for that reason, Sir, that we chose the term 'Income-tax Officer'; and, after a full discussion of various alternatives, it was decided by the Committee that this was the most convenient one to use.

**Mr. President :** Amendment moved :

'Substitute 'Collector' of Income-tax' for 'Income-tax Officer' wherever it occurs in the Bill.'

The question is that that amendment be made.

The motion was negatived.

**Mr. N. M. Joshi :** Sir, as I was explaining some time before, I am at a loss to know how this amendment came to be printed on this paper. I sent some amendment to another Bill, the Emigration Bill, but the Department has that amendment on this list of amendments to the Income tax Bill.

**Mr. President :** No doubt, that is good news for the Finance Member.

**Rai Bahadur S. P. Bajpai** (Lucknow Division : Non-Muhammadan Rural) : Sir, I rise to move the following amendment which stands in my name :

‘ After clause 2 (1) (b) insert the following :

‘ (c) Any income derived from forestry :

‘ Provided the piece of land on which the forest grows is either assessed to land revenue in British India or subject to a local rate assessed and collected by officers of Government as such.’

‘ And re-number clause (2) (1) (c) as clause 2 (1) (d).’

Sir, I regret to note that the representation of the Zamindars on the Select Committee to consider the Income-tax Bill was anything but adequate. It is, therefore, no wonder that the interest of the Zamindars did not receive sufficient attention at the hands of the Committee. Sir, I believe it will be admitted by all my Honourable colleagues here that forests are to a very great extent indispensable not only for the development of agriculture, but also of industries. I fail to see why a Zamindar growing a forest on a piece of land, which is assessed to land revenue, should also be called upon to pay income-tax. I may tell the Honourable the Finance Member that income derived from forestry is not even half as much as can be obtained from agriculture. Zamindars are doing very useful work ; their loyalty is proverbial ; they have received very high encomiums for war services from His Majesty the King-Emperor down to the Collectors. Their benefactions are known far and wide. Is it then desirable to overtax them and cripple their useful activities ? I, certainly, with due deference to the Honourable the Finance Member, think that it is not fair that, simply because a Zamindar grows a forest, he should be called upon to pay both land-revenue and income-tax. In my humble opinion, justice, equity and good conscience demand that none should be taxed twice over. With these words, I commend this amendment to the acceptance of the House.

**The Honourable Sir Malcolm Hailey :** Sir, as to the representation

2 P.M. of the landowning class on the Joint Committee, well, the appointment of the Joint Committee was in the hands of the two Houses, and, if no proposals were at the time put forward for a larger representation of that class, I think perhaps the House will see the reason is fairly obvious. It is that that class enjoys by law the privilege of avoiding income-tax entirely on any revenue that they raise from their land. Now, Sir, I admit the Honourable Member's main point that forests are indispensable to the country, but I am under the necessity of asking him, when he puts forward this amendment, what exactly he means by forestry. We had ourselves in the original Bill intended to include the word ‘ forestry ’ but when we came to discuss it, we found it very difficult indeed to arrive at any definite interpretation. If it is intended that a man who grows trees or forests on his own land should not be taxed for any income that he derives from them, then, I say, it is already sufficiently provided for, in section 2 (1) (a), which exempts :

‘ Any rent or revenue derived from land which is used for agricultural purposes.’

We tried, but could not improve on that definition. If, on the other hand, he means that a man who takes a contract in a forest, say in a Native State, and earns an income thereby, should escape from income-tax, then I, for one, am not with him. I would point out that if the House



accepts his amendment, all such persons, *viz.*, those who take contracts in forests for cutting down and selling the timber would escape assessment. It is for that reason that we ourselves have made no such amendment as he himself has now put forward and we have left the matter to the ordinary operation of the Act. I would add that if this point is not sufficiently clear from the Act, I am prepared to make it perfectly clear by executive instructions that if a land-owner grows on his own land, which is assessed to land-revenue, forests or trees and derives income therefrom, he will not be assessed on such income.

**Rai Bahadur S. P. Bajpai:** Sir, I am very thankful to the Honourable the Finance Member. All that I wanted the Government to do, he has agreed to do. I am perfectly satisfied with the assurance given by him. I did not say anything on behalf of the contractors. I only spoke on behalf of the Zamindars whose interests, I hope, will be quite safe now.

**Mr. President:** Amendment moved :

' After clause 2 (1) (b) insert the following :

' (c) Any income derived from forestry :

' Provided the piece of land on which the forest grows is either assessed to land-revenue in British India or subject to a local rate assessed and collected by officers of Government as such '

' And re-number clause (2) (1) (c) as clause 2 (1) (d). '

The question is that that amendment be made.

The motion was negatived.

**Baba Ujagar Singh Bedi (Punjab : Landholders):** The amendment which I am to move to-day, I believe the Honourable Members will agree with me, is of such an important nature, that it deserves a close examination of the House.

Before I read out my amendment, I would humbly request the Government to kindly explain their policy, frankly and openly, and say whether or not they intend to exempt the agricultural product from the operations of the present Income-tax Bill, for I fear that, if the words of the clause which I wish to get amended remain as they are, there is every apprehension of the destruction of this class—I mean that of the landholders—on which rests the magnificent edifice of the Government.

Sir, I recollect here the story of a bangler who was once carrying his bundle of glass bangles on his back when, to his great misfortune, a policeman, with a baton in his hand, approached him, gave a stroke on his bundle and said : ' What is in this that you are carrying '. ' Sir, ' the poor man, in a trembling tone replied : ' Just one more stroke and you will find nothing in it. '

Sir, exactly the same is the condition of the poor landholders. The excessive burden of heavy taxation is crushing them down. The so-called theory of State-landlordism, to analyse which I will not pause, does not only claim one-half of their produce, but in some cases actually 30 per cent. has been realised ; while all other communities are taxed to the extent of one anna or so per rupee, although I am not jealous of them.

I readily admit that clause VIII of sub-head 3 of Rule No. 4 to the said Bill exempts ' agricultural income ' from the operations of income-tax, but I am quite surprised to find that the definition of ' agricultural income, '

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as given in sub-clause (iii), clause (b), of sub-head (1) of Rule No. 2, is quite incomprehensive in giving the desired effect, of exemption.

May I read out, Sir, for the information of the House, the said sections and clauses :

‘Agricultural income’

says clause VIII of sub-head 3 of rule No. 4 :

‘means . . . . the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce.’

Now I leave it entirely to the House to judge whether or not the original words of the definition, if left as they are, will meet the required purpose of exempting the agricultural income.

May I, here, ask a few questions which may throw some light on the incomprehensiveness of the said definition :

- (1) If a certain landholder, named A, sells half of his produce this year and the other half the next year, does the act mean shopping ?
- (2) If a landholder sells 50 maunds on Monday, 70 maunds on Friday and 125 maunds on Saturday, does this sale mean shopping ?
- (3) If a landholder of the class who have purchased lands to get some profit out of them as well as the safeguard of their money, does not sell his produce for full five years and does it after that, will it be regarded as shopping ?
- (4) It being a fact that all the well-to-do landholders, who have land produce more than their requirements, keep it in different stalls, to show to the public the different qualities they have, does this stocking mean shopping ?
- (5) If a landholder sends his produce to a *mundi* (market) to some ‘*arti*’ (a broker) to dispose of it, does it mean that he is keeping a shop ?
- (6) There are many cases when, in times of scarcity, some generous landholders open their stalls for retail, to help the poor and the famine-stricken people. Would it mean that he has opened a shop ?

I have raised these few questions just to give the House an idea of the incomprehensiveness of the definition, which gives no line of demarcation between the shop of a regular *banya* and that of a cultivator.

It is just possible that the Government might say that a landholder opens a shop when he retails his produce, for thereby he makes double profits. Then, Sir, may I ask for the sake of argument as to whether there is any line of division between wholesale and retail dealing ; and if such is the case, do the Government give any concession to general wholesale dealers and treat differently the retail merchants ?

If this plea is brought forward, I cannot conceive for a single moment any life or strength in it. That a man, who has paid a tax and a very heavy tax on his produce, should be re-taxed, because he is selling it in small quantities, would mean, in other words, that he should throw away his produce and should give it to foreign big companies for export, at a very low price.

Sir, if this is the principle, I cannot understand how the landholders will be able to meet the high rate of assessment, which is realised by the Government from their limited incomes.

Therefore, I would humbly suggest to the Honourable the Finance Member either to give some definition of the words 'shop' and 'stall,' or to delete them altogether from the clause or to kindly accede to my amendment, which reads as follows :

'That the following be inserted between the words 'produce' and 'or' :  
'not being the produce of his land' :

The sub-clause thus reading as follows :

'The sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce, *not being the produce of his land,* or'

■ This amendment, in my humble opinion, seems comprehensive enough to cover the object of the Government and also goes to protect this class—which is the back-bone of both the country and the Government.

With these few words, I beg leave to commend my amendment to the House.

**The Honourable Sir Malcolm Hailey** : I see the Honourable Member is labouring under some anxiety on behalf of the land-owning community. But from his speech one would imagine that we had suddenly imported into the Act some new and astounding proposition. Could it be believed from what the Honourable Member has said that this identical sub-clause has formed part of the Income-tax Act and without alteration ever since that Act has been in existence? Its operation so far has certainly not ended in the disastrous consequences which were feared by the Honourable Member. I do not think that the land-owning classes have been driven into ruin by it, nor, if it remains unaltered, do I think that a single landowner will pay more in the future than he has in the past. As to the rather long series of questions which he has asked, I can give him definite answers. If a landholder sells half of his produce this year and half next year, there is, of course, no shop. The Act refers entirely to the keeping of a shop. If he withholds his produce for five years and then sells it, equally there is no shop. If he opens a shop for retail sale in times of famine or scarcity, then, Sir, it is true in that case he would be keeping a shop, but I assume that if he is the philanthropist that the Honourable Member predicates, he probably would be selling his produce at or below cost price. In that case there would be no profit or a loss and he would be paying no income-tax.

I do not know whether these replies are satisfactory to the Honourable Member. I again suggest to the House that it is unwise to alter a clause which has stood for so many years and, as far as we are aware, has caused no inconvenience or injustice in its operation. In any case, if any alteration is required, I would strongly advise the House not to accept that put forward by the Honourable Member for, if I read it aright—and it is a little difficult to understand—if I read it aright, it would have the effect of relieving of assessment any man who keeps a shop and at the same time draws an income from agricultural land. That, in itself, would not be a very desirable consequence.

**Bhai Man Singh** (East Punjab : Sikh) : Sir, the practical effect of this clause on the agriculturist is this; that any agriculturist who has got vast lands cannot open a shop for the sale of the produce of those lands. This is a

[Bhai Man Singh.]

definite hindrance in the way of such a man entering trade. Either he must be prepared to pay double tax for his produce or he must be contented not to open a shop for the sale of grain, etc. I see no reason why a man selling his own grain should be required to pay a tax for it, whether he sells it to a *banya* directly or whether he sells it through a shop of his own. The practical difficulty alluded to by the Honourable the Finance Member,—though I do not think that it was very definitely stated—was that if a man owning land opened a grain shop he would not pay any income-tax for its income at all. We can very well see that there are two sides to it. If a man buys grain from other people and sells it, it is one part of it; if he sells his own wheat, which is the produce of his own field, that is quite a different thing. This sub-clause, as it stands, taxes a man for selling wheat which is the produce of his own land as well. There is no reason why we should tax him over again, simply because he sells it in a shop. If you think a man can hoodwink the income-tax officer by all means, let that officer be more vigilant; let him prove that the man has sold much more grain than he can get from his own fields and tax him for its profits. There is absolutely no reason for saying, that, because a man sits down in a shop and sells the produce of his land and thereby he can hoodwink the income tax officer, so we should tax the produce of his own land as well on which he has already paid land revenue, and thereby tax the produce of land twice over. This, I think, is very hard for the agriculturists and, with these remarks, I support the amendment.

**Rao Bahadur T. Rangachariar** (Madras City: Non-Muhammadan Urban): Sir, there is a practical difficulty now that it has been pointed out. Under the old Act, the Honourable the Finance Member has to admit that agricultural income is defined so as to include:

‘Any income derived from the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him *when he does not keep a shop or stall for the sale of such produce.*’

Let us take paddy or wheat, as the case may be. Supposing a landowner, who is also a shopkeeper, sells not only his own paddy but also paddy which he buys. As the clause now runs, it may be open to the construction that even for the sale of such produce he will be liable for income-tax. (*A Voice*: It is not so.) I do not know why my learned friend interrupts and says it is not. I bestowed some consideration on the matter, but my friend is ready to answer, it is not. I quite agree that it ought not to be, but to say it is not so, is rather venturesome, and, therefore I ask for an explanation from the Honourable the Finance Member what is the object of keeping that clause. The object, apparently, is not to tax him where he sells his own produce. Apparently, that is the object which the Legislature has in view. Where he sells other people's produce he is liable, but what is the object in keeping this clause when he does not keep a shop or stall for the sale of such produce? Would it not be better to omit it altogether?

**Mr. G. G. Sim** (Joint Secretary: Finance): The reason why these words are contained in this clause is simply to have a handy distinction between the man who indulges in a regular trade in grain dealing and the man who occasionally sells his own grain. There is no double taxation whatsoever involved in this sub-clause, as was suggested by Bhai Man Singh. Where a man keeps a regular shop for dealing in grain, all that he is taxed upon for income-tax purposes, is merely the profits of the shop and not the profits he gets from cultivating the land.

**Mr. President:** Amendment moved :

' At the end of sub-clause (1) (b) (iii) of clause 2 of the Bill between the words 'produce' and 'or' add the words 'not being the produce of his land'.'

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—40.

Abdul Majid, Shaikh.  
Abul Kasem, Maulvi.  
Agarwala, Lala G. L.  
Aiyer, Sir P. S. Sivaswamy.  
Asjad-ul-lah, Maulvi Miyan.  
Bajpai, Mr. S. P.  
Barua, Mr. D. C.  
Bhargava, Pandit J. L.  
Bishambhar Nath, Mr.  
Gajjan Singh, Sardar Bahadur.  
Ghulam Sarwar Khan, Chaudhari.  
Gour, Dr. H. S.  
Gulab Singh, Sardar.  
Habibullah, Mr. Muhammad.  
Hussanally, Mr. W. M.  
Ibrahim Ali Khan, Lieutenant Nawab M.  
Ikramullah Khan, Raja M. M.  
Jatkar, Mr. B. H. R.  
Mahadeo Prasad, Munshi.  
Man Singh, Bhai.

Misra, Mr. P. L.  
Mudaliar, Mr. S.  
Mukherjee, Mr. J. N.  
Nabi Hadi, Mr. S. M.  
Nag, Mr. G. C.  
Neogy, Mr. K. C.  
Rangachariar, Mr. T.  
Reddi, Mr. M. K.  
Samarth, Mr. N. M.  
Sarvadhikary, Sir Deva Prasad.  
Shahani, Mr. S. C.  
Singh, Babu B. P.  
Singh, Raja K. P.  
Singh, Rana U. B.  
Sinha, Babu L. P.  
Sinha, Beohar Raghbir.  
Srinivasa Rao, Mr. P. V.  
Subrahmanayam, Mr. C. S.  
Ujagar Singh, Baba Bedi.  
Wajihuddin, Haji.

NOES—32.

Abdul Quadir, Maulvi.  
Akram Hussain, Prince A. M. M.  
Ayyar, Mr. T. V. Seshagiri.  
Bagde, Mr. K. G.  
Bradley-Birt, Mr. F. B.  
Bray, Mr. D. S.  
Bryant, Mr. J. F.  
Carter, Sir Frank.  
Chaudhuri, Mr. J.  
Cotelingam, Mr. J. P.  
Dentith, Mr. A. W.  
Faridoonji, Mr. R.  
Fell, Sir Godfrey.  
Ginwala, Mr. P. P.  
Hailey, the Honourable Sir Malcolm.  
Hullah, Mr. J.

Iswar Saran, Munshi.  
Joshi, Mr. N. M.  
Lindsay, Mr. Darcy.  
Manmohandas Ramji, Mr.  
McCarthy, Mr. F.  
Muhammad Hussain, Mr. T.  
Percival, Mr. P. E.  
Rao, Mr. C. Krishnaswami  
Renouf, Mr. W. C.  
Sharp, Mr. H.  
Sim, Mr. G. G.  
Spence, Mr. R. A.  
Thackersey, Sir Vithaldas D.  
Waghorn, Colonel W. D.  
Way, Mr. T. A. H.  
Zahiruddin Ahmed, Mr.

The motion was adopted.

**Sir Vithaldas D. Thackersey** (Bombay Millowners Association : Indian Commerce) : Mr. President, I beg to ask your permission to allow me to replace the word 'Collector' by the words 'Income-tax Officer' in my amendment, because I find that, throughout the Bill, the term 'Income-tax Officer' is used.

My amendment, which I now beg to move, runs as follows :

' In clause 2 (1d) for the words 'a registered' the word 'an' be substituted; and at the end after the word 'partners' the words 'of which the prescribed particulars have been registered with the Income-tax Officer in the prescribed manner' be added.'

The effect of this amendment will be that the clause will be worded exactly in the same way as in the existing Act. In the original Bill, it was proposed by Government that this clause be omitted altogether, and

[Sir Vithaldas D. Thackersay.]

no distinction be made between registered and unregistered firms; but later on, in the Select Committee, it was thought desirable, in order to minimise the inconvenience to smaller firms, that some definition should be introduced; and, when they introduced the definition, they amended it in such a way that, instead of registration being with the Income-tax Officer, they provided for a legally registered document. There have often been suggestions made by some people that all partnerships should be registered, but such proposals have always been opposed by the Indian Mercantile Community on grounds of practical difficulties. I am not discussing at this stage the merits or demerits of such a proposal but, if all the partnerships are to be registered, it should be by a law directly applicable and directly brought forward in this House, and not in this indirect way, by which we make registration practically compulsory, because the effect of the clause, as recommended by the Select Committee, will be that, if firms do not register their partnership, they will not be entitled to refund of the super-tax in cases where it has already been paid by the partners on the same income, and thus super-tax shall have to be paid twice on the same income. The original clause has worked very satisfactorily. All the partners of a firm have to make out a proper partnership document and register it with the Income-tax Officer, and, when he was satisfied he registered the document and gave the necessary certificate, the income-tax being afterwards charged according to law.

I hope Government will see the reasonableness of this and accept my amendment.

**The Honourable Sir Malcolm Hailey :** Sir, I accept that amendment on behalf of the Government.

The motion was adopted.

Clause 1, Clause 2, as amended, and Clause 3 were added to the Bill.

**Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) :** I move the following amendment :

‘ To clause 4 (2) of the Bill, add the following :

‘ *Explanation* : - When a person carries on operations in British India and abroad, the mere fact that income, profits, or gains are received abroad and invested there, is taken into account in the balance sheet prepared in British India, does not amount to receipt within the meaning of this section ’.

I do not think that many words are needed to commend this amendment for the acceptance of the Assembly. It only enacts what has been recognised by Courts as the accepted principle in construing the word ‘ received.’ But the question has been raised, to my knowledge, in the case of a Bank on the West Coast in Calicut, which has operation both in Cochin and in Malabar. The profits earned in Cochin were invested there and brought into account in the head office and they were sought to be charged. I think a similar case arose in Bombay, where a Company has got branches in the Native States and there also the same thing happened. Of course, the Madras cases did not go to Court. I know that the Bank was charged for those profits, although they were not actually received in British India. In the House of Lords, it has been decided, with reference to a similar case in England, that such profits should not be deemed to be profits received. I have taken this ‘ *Explanation* ’ from Halsbury’s Laws of England where he states it in this way.

I am advised that the word 'are' there is bad grammar. I think 'is' is perhaps a better word, although I have no doubt about the former. I think the sentence reads all right. I thought there was doubt about the word 'are', but I think the sentence, as it is, is all right. I propose that this '*Explanation*' be added.

**Mr. G. G. Sim :** Sir, I quite agree with the Honourable Member that in the circumstances mentioned in his '*Explanation*' profits received abroad and taken into account in the balance sheet prepared in British India are not liable to taxation, but I do not understand how they could possibly be held to be liable to taxation under the Bill as it stands. The cases referred to by the Honourable Member arose under the existing Act and he also referred to certain cases under the English law. But this provision—sub-clause (2)—is a new provision. It never appeared in the Act before and it makes it perfectly clear, I think, that profits and gains arising abroad are never liable to taxation until they are actually received or brought into British India. The '*Explanation*' is, therefore, I consider, unnecessary. But I do not oppose it on that account merely. The '*Explanation*' assumes that profits are to be taxed according to the receipts credited or expenditure debited in the assessee's account. The Committee which dealt with this Bill have spent a considerable amount of time in trying to make it perfectly clear that people need not be assessed in that particular manner, but, if they choose, they can be assessed on the basis of cash transactions, that is to say, according to the money actually received and money actually expended, and this '*Explanation*' seems to throw some doubt on the question whether a man can elect to have his account done on a cash basis.

**Rao Bahadur T. Rangachariar :** I do not see how it throws any doubt on the point raised by my friend. The word 'received' is in the English Act and the existing Act. The words are 'received in British India' and, therefore, the question will arise, and I want to make the point clear. As my friend has no objection to the principle of the '*Explanation*', I do not know why he should object to the '*Explanation*' as the question has been raised. I know it has been the subject-matter of a suit in the High Court of Bombay and in fact three Judges had to sit over it. I, therefore, think that the '*Explanation*' is necessary.

**Sir P. S. Sivaswamy Aiyer** (Tanjore-cum-Trichinopoly : Non-Muhammadan Rural) : In the interests of grammar, I suggest that the word 'are' before 'received' be omitted, and for the word 'is' before 'taken' the word 'are' be substituted.

**Rao Bahadur T. Rangachariar :** I agree.

**The Honourable Sir Malcolm Hailey :** As Mr. Sim has explained, we do not regard this as in any way necessary. But if the House desires to have the '*Explanation*' inserted in the Act, my advice will be that the word 'income' should also be omitted because 'income' is not mentioned in the sub-clause which refers only to profits and gains.

**Rao Bahadur T. Rangachariar :** I have no objection.

**Mr. President :** Amendment moved :

' To clause 4 (2) of the Bill, add the following :

' *Explanation* :—When a person carries on operations in British India and abroad, the mere fact that profits, or gains received abroad and invested there, are taken into account in

[Mr. President.]

the balance sheet prepared in British India, does not amount to receipt within the meaning of this section.'

The question is that that amendment be made.

The motion was adopted.

**Rao Bahadur T. Rangachariar** : This is only a formal amendment. It runs as follows :

' After sub-clause (3) (vi) of clause 4, insert the following :

' (vii) legacies not being annuities granted under a will ' and re-number (vii) and (viii) as ( viii) and (ix). '

In the original Act, as it was, legacies were excluded, but, in consequence of a doubt expressed as to whether annuities were included in legacies, the new Bill proposed to omit the word ' legacies ' and I see in the report of the Joint Committee that they consider clause (vii), as it stands, does include legacies. It may be contended that legacies were sought to be included in the new Bill. Nobody looks at the report of the Select Committee or the Statement of Objects and Reasons when they construe the section and it might be open to the construction I have put. I think, therefore, that there is no harm in inserting this sub-clause as sub-clause (vii) in order to exclude legacies not being annuities granted under a will.

**Mr. G. G. Sim** : Sir, this point was discussed in the Joint Select Committee, and they were advised by the legal authorities consulted that legacies were clearly covered by sub-clause (3) (vii) of the Bill. The insertion of the word ' legacies ' would, I think, throw a doubt on the question of whether sums similar to legacies such as gifts, are also included if they are not specifically mentioned. I am not a lawyer, Sir, but I would abide by the advice which was given by my lawyers.

**Mr. President** : Amendment moved :

' After sub-clause (3) (vi) of clause 4, insert the following :

' (vii) legacies not being annuities granted under a will ' and re-number (vii) and (viii) as ( viii) and (ix). '

The question is that that amendment be made.

The motion was negatived.

Clause 4, as amended, was added to the Bill.

**Mr. S. C. Shahani** : I move the following amendment :

In clause 5 (4) substitute ' by the Governor General in Council ' for ' by the Commissioner of Income-tax. '

We have no Assistant Commissioners, but, judging by what happens in my own province, I find that the Collectors of Income-tax have so far been appointed, not by the Commissioner in Sind, who would be very like the Commissioner of Income-tax, but by the Local Government, the Government of Bombay. The Collector of Income-tax has been drawing salaries varying between Rs. 500 and 1,000 and I take it that the salary of the Assistant Commissioner would be something like Rs. 1,500 or Rs. 1,200 to 1,500. To my mind, it is not desirable that such important appointments should be



made by the Commissioner of Income-tax. The whole of the Income-tax Department should be placed under the supervision and control of the Government of India, and I therefore propose that these appointments be made by the Governor General in Council and not by the Commissioner of Income-tax.

**Mr. President:** Before I put the amendment, I would point out to the Honourable Member that the reading of the clause would be in the following unusual form :

'Assistant Commissioners of Income-tax and Income-tax Officers shall, subject to the control of the Governor General in Council, be appointed by the Governor General in Council,'

and so on. Does he wish to retain the words 'subject to the control of the Governor General in Council'?

**Mr. S. C. Shahani:** I am sorry I have forgotten to indicate that the words 'subject to the control of the Governor General in Council' must disappear.

**The Honourable Sir Malcolm Hailey:** Our new Income-tax administration scheme assumes that the Commissioners themselves will be appointed by, and be under the direct control of, the Government of India.

**Mr. S. C. Shahani:** Amend the language.

**The Honourable Sir Malcolm Hailey:** It, therefore, seems to me to be the proper function of the Commissioner (who will be an officer under the control of the Government of India) to appoint Income-tax Officers, and it is altogether unnecessary to bring the appointment of each Income-tax Officer up to the Government of India. So long as the Government of India retains, as is proposed in the Bill, the control of the operations of the Commissioner in making these appointments, it seems to me, Sir, that this is amply sufficient. It is useless for us to organise a branch of the Central administration on a definite scale, which provides that local arrangements will be in the hands of Commissioners, if, at the same time, we have to issue orders ourselves from the Secretariat on each point of administrative detail.

**Bhai Man Singh:** I rise to support the amendment of my Honourable friend, Professor Shahani. We are to see that persons of what status are to be Assistant Commissioners and Income-tax Officers and Commissioners. I know in my province,—and I believe the same is the case in other provinces as well,—that the Commissioner of Income-tax is to be selected from a grade of officers of the rank of Senior Deputy Commissioners or Commissioners, and the Assistant Commissioners are to be selected from among the Provincial Civil Service or the Indian Civil Service, officers in grades of say, between 800 and 1,200 or something of that kind, and the Income-tax Officers are selected mostly from amongst the Provincial Service men. As a matter of fact, I know that, in the Punjab, a number of Income-tax Officers who are called Collectors are taken from Provincial Service men.

**Mr. President:** The question is what authority should appoint these officers and not the class from which they should be drawn.

**Bhai Man Singh:** I am referring to the grade of men who are appointed to these places and then I will come to the other thing and draw the attention of the House as to whether posts of this grade should be left to be filled up by an officer of the grade of Commissioner or whether they should

[Bhai Man Singh.]

be filled by some higher authority. In the Provincial Governments, we know that no officer in the grade of Provincial Service is to be appointed by any Commissioner. They are to be selected by the Local Governments. We have not got any substitute for the Local Government unless we call the Commissioner to be a substitute. But when we begin to select persons of the grade of Commissioners to be Commissioners of Income-tax, then we cannot say that they hold the same position as the Local Government. Assistant Commissioners are never to be selected by persons who hold the grade of Commissioners. Now it would be a very deplorable state of things if such high officers are to be selected by an officer who is in the grade of a Commissioner. I would therefore urge most strongly that some higher authority should be in charge of these selections.

**Mr. W. M. Hussanally:** I beg to support this amendment. At present, Income-tax Collectors are appointed by Local Governments. Commissioners of Divisions and even the most senior of them do not get pay higher than Rs. 4,000, and their powers, so far as the Local Administration is concerned, are limited to appointments which carry pay up to Rs. 150 or 200, whereas these Income-tax Officers would draw much higher salary than that. They will draw at least Rs. 400 or 500 a month, and, if these officers are appointed by the Income-tax Commissioner, then, the position of these Income-tax Officers would be much lower than what it is now and their prestige will suffer in consequence. Therefore, I think, that the power of appointing these officers should vest in the Local Governments direct, if not in the Government of India, but, as these officers will not now be under the control of the Local Government, the only alternative is that these appointments should be made by the Government of India.

**Sir Vithaldas D. Thackersey:** There is a great deal in what is said by the Honourable Member in charge of the Bill, that unnecessary work should not be thrown upon the Government of India. At the same time, instead of leaving the matter to a local officer, like the Commissioner of Income-tax, who is at the head of the income-tax officers in the districts, if the authority were vested in the Board of Inland Revenue at the head office here, I think it will meet the case. That Board will, at present, I understand, consist of only one person and that person will always be in touch with headquarters and, if that man has been given the authority of appointing the Assistant Commissioners and Income-tax Officers, I think a great deal of the objection raised by Professor Shahani may be met. At the same time, it would not throw any large burden on the Government of India.

**Mr. P. P. Ginwala** (Burma : Non-European) : I am afraid this opposition by my Honourable friends is based upon a misconception of the provisions of this Bill. If we examine the Bill, we find that the Bill proposes to replace the present system under which the Local Governments administer the Income-tax Act as agents of the Government of India. The idea now is to have a separate Income-tax Department and, under this provision, the Government of India appoints its own officer, who is nominated by the Governor General in Council, to represent what at present is represented by the Local Government. He takes the place of the Local Government and, therefore, the appointment, though it is left with the Commissioner, is in the hands directly of the Government of India, as the Commissioner is himself directly appointed by the Governor General. Besides, there are these qualifying words 'subject to the control of

the Governor General in Council.' Therefore, if the Commissioner makes a wrong appointment, the Governor General can interfere and stop that appointment. So, I submit that if my Honourable friends will look at the arrangement now proposed, they will find that it will be a far more satisfactory arrangement that the Commissioner who represents the Governor General in Council in every province is placed in charge of these appointments. Besides there is one other point. The intention is that these Assistant Commissioners should ordinarily be taken from the Local Government. I mean they may be officers employed by the Commissioner, and the Commissioner, being on the spot, will be in a much better position than the Governor General in Council can ever be. On these grounds, I submit these remarks for consideration of my Honourable friends who are supporting the amendment.

**Rao Bahadur C. S. Subrahmanayam** (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, I support the amendment moved by my friend. Apart from the detailed arguments that have been put forward by my Honourable friend, I say, on principle, the appointments rest with the Government of India, for this simple reason that it is an All-India Department, and the officers, especially the Assistant Commissioners, have large powers under this Act, and appointments made by the Government of India will command greater confidence than appointments made by Commissioners in each province. Well, of course, there has been a bit of confusion of thought in the arguments submitted. The point is simply that this Department, being a Department of the Government of India, and responsible in some measure to this Assembly, and where any question connected with its administration would come up for discussion, it is better that these appointments, at any rate the appointments of Assistant Commissioners, should be kept in the hands of the Government of India directly. As for Income-tax Inspectors, that is a different matter. There may be very many, there is the question of time, and all that. As to my Honourable friend, Mr. Ginwala's objection, if the appointments are to be made by the Local Government, as suggested by one of the previous speakers, no doubt it would be an illogical position, but what we want is that these higher offices should be made wholly by the Government of India. Of course, in making those appointments, we know that the Government of India would consult the Commissioner, would take the advice of the Local Government, as to the calibre, quality, character of the men appointed, but anyhow, the appointments must be made from here, so that the Department, in all its various branches, will be more easily amenable to criticism or discussion in this Assembly. Therefore I, Sir, support the amendment moved by Mr. Shahani, and, I think, it is a matter of principle on which this amendment rests.

**Mr. G. G. Sim** : There appears to be some confusion in the minds of several Honourable Members regarding the provisions of this clause. It is not intended, in any way whatsoever, to change the existing practice. The clause prescribes that these particular officers will, subject to the control of the Governor General in Council, be appointed and dismissed by the Commissioner of the Province. This particular control by the Governor General in Council, as explained in the Statement of Objects and Reasons, it is proposed to exercise through the Local Government. Every appointment made by the Commissioner will be subject to the approval of the Local Government, and any person dismissed from the service can appeal to the Local Government. That is clearly explained in the Statement of Objects

[Mr. G. G. Sim.]

and Reasons. The draft letter, conferring these powers on the Local Governments, was shown to the Select Committee, and the Select Committee, in their Report, have stated that they are in thorough agreement with these proposals. They suggested no change whatsoever in the present system under which these appointments will be determined by the Local Government.

**Mr. President:** Amendment moved :

In clause 5 (4), omit the words 'subject to the control of the Governor General in Council' and substitute 'by the Governor General in Council' for 'by the Commissioner of Income-tax.'

The question I have to put is that that amendment be made.

The Assembly then divided as follows :

AYES—29.

Agarwala, Lala G. L.  
Ahmed, Mr. K.  
Ayyar, Mr. T. V. Seshagiri.  
Bagde, Mr. K. G.  
Bajpai, Mr. S. P.  
Barua, Mr. D. C.  
Bhargava, Pandit J. L.  
Bishambhar Nath, Mr.  
Chaudhuri, Mr. J.  
Gulab Singh, Sardar.  
Hussanally, Mr. W. M.  
Jatkar, Mr. B. H. R.  
Man Singh, Bhai.  
Misra, Mr. P. L.  
Mudaliar, Mr. S.

Mukherjee, Mr. J. N.  
Nag, Mr. G. C.  
Neogy, Mr. K. C.  
Rangachariar, Mr. T.  
Reddi, Mr. M. K.  
Sarvadhikary, Sir Deva Prasad.  
Shahani, Mr. S. C.  
Singh, Babu B. P.  
Singh, Raja K. P.  
Sinha, Beohar Baghubir.  
Srinivasa Rao, Mr. P. V.  
Subrahmanayam, Mr. C. S.  
Ujagar Singh, Baba Bedi.  
Wajihuddin, Haji.

NOES—41.

Abdul Quadir, Maulvi.  
Aiyer, Sir P. S. Sivaswamy.  
Akram Hussain, Prince A. M. M.  
Bradley-Birt, Mr. F. B.  
Bryant, Mr. J. F.  
Bray, Mr. D. S.  
Carter, Sir Frank.  
Clarke, Mr. G. R.  
Cotelingam, Mr. J. P.  
Dentith, Mr. A. W.  
Fell, Sir Godfrey.  
Gajjan Singh, Sardar Bahadur.  
Ghulam Sarwar Khan, Chaudhuri.  
Gidney, Lieutenant-Colonel H. A. J.  
Ginwala, Mr. P. P.  
Habibullah, Mr. Muhammad.  
Hailey, the Honourable Sir Malcolm.  
Hullah, Mr. J.  
Ibrahim Ali Khan, Lieutenant Nawab M.  
Ikramullah Khan, Raja M. M.  
Iswar Saran, Munshi.

Joshi, Mr. N. M.  
Kabraji, Mr. J. K. N.  
Lindsay, Mr. Darcy.  
Manmohandas Ramji, Mr.  
Maung Maung Sin.  
Mitter, Mr. K. N.  
Muhammad Hussain, Mr. T.  
Nabi Hadi, Mr. S. M.  
Rao, Mr. C. Krishnaswami  
Renouf, Mr. W. C.  
Sharp, Mr. H.  
Sim, Mr. G. G.  
Singh, Rana U. B.  
Sinha, Babu L. P.  
Spence, Mr. R. A.  
Thackersey, Sir Vithaldas D.  
Vincent, the Honourable Sir William.  
Waghorn, Colonel W. D.  
Way, Mr. T. A. H.  
Zahiruddin Ahmed, Mr.

The motion was negatived.

Clauses 5 and 6 were added to the Bill.

**Rao Bahadur T. Rangachariar:** Sir, the amendment which I have to move is :

'In clause 7 (1) after the words 'private employer' insert the following: 'who has entered into an agreement with the Income-tax Officer in accordance with the prescribed conditions to recover the tax on behalf of Government'.'

**Mr. S. C. Shahani :** Sir, what about my other amendment\* ?

**Mr. President :** It is not an amendment, but merely an expression of opinion. The Honourable Member could have raised his point  
3 P.M. on the question that the clause stand part of the Bill.

**Rao Bahadur T. Rangachariar :** The new Bill makes a very serious departure from the existing law. I do not know if Honourable Members have seen the alterations made in the new Bill. It imposes on all private employers the liability to pay the income-tax due by their employees. There are private employers and private employers. There are several landholders in my province who pay handsome salaries to their agents and yet they do not keep proper accounts. Many of the landholders do not keep accounts and they do not know how to do it. They have to take note of the liability of their employees for income-tax whether they are earning sufficient income and also whether they are entitled to any reductions. This is an attempt to impose upon private employees the liability to pay the tax due by the employees and then to recover it from the pay of the employees. All these statutory obligations are sought to be cast on private employers, and that is a new departure quite unsuited to the conditions in this country, and I therefore ask the Government not to make this departure. This is not the time to make such a wide departure from the existing law. I therefore commend this amendment to this House.

**Mr. G. G. Sim :** Sir, in this matter the Honourable Member disagrees with the finding of the Joint Select Committee and also the Committee which met at Simla to make proposals for the amendment of the Act. Both these Committees held the definite opinion that this change should be made. They, unlike Mr. Rangachariar, were of opinion that the time had come to bring in this change. The question was debated at some length in the Select Committee and the Select Committee held that the provision should stand.

**Mr. President :** The question is :

'In clause 7 (1) after the words 'private employer' insert the following: 'who has entered into an agreement with the Income-tax Officer in accordance with the prescribed conditions to recover the tax on behalf of Government.'

The House divided as follows :

AYES—34.

Abdul Majid, Shaikh.  
Agarwala, Lala G. L.  
Ahmed, Mr. K.  
Aiyer, Sir P. S. Sivaswamy.  
Asjad-ul-lah, Maulvi Miyan.  
Ayyar, Mr. T. V. Seshagiri.  
Bajpai, Mr. S. P.  
Barua, Mr. D. C.  
Bhargava, Pandit J. L.  
Bishambhar Nath, Mr.  
Cotelingam, Mr. J. P.  
Gajjan Singh, Sardar Bahadur.  
Gulab Singh, Sardar.  
Hussanally, Mr. W. M.  
Jatkar, Mr. B. H. R.  
Mahadeo Prasad, Munshi.  
Manmohandas Ramji, Mr.

Man Singh, Bhai.  
Misra, Mr. P. L.  
Mudaliar, Mr. S.  
Mukherjee, Mr. J. N.  
Neogy, Mr. K. C.  
Rangachariar, Mr. T.  
Reddi, Mr. M. K.  
Sarvadhikary, Sir Deva Prasad.  
Shahani, Mr. S. C.  
Singh, Babu B. P.  
Singh, Raja K. P.  
Sinha, Beohar Raghunir.  
Srinivasa Rao, Mr. P. V.  
Subrahmanayam, Mr. C. S.  
Thackersey, Sir Vithaldas D.  
Ujagar Singh, Baba Bedi.  
Wajihuddin, Haji.

\* 'In clause 5 (4) provision be not made for the appointment of separate all-India staffs for any classes of cases.'

## NOES—35.

Akram Hussain, Prince A. M. M.  
 Bagde, Mr. K. G.  
 Bradley-Birt, Mr. F. B.  
 Bray, Mr. Denys.  
 Bryant, Mr. J. F.  
 Carter, Sir Frank.  
 Chaudhuri, Mr. J.  
 Clarke, Mr. G. R.  
 Dentith, Mr. A. W.  
 Fell, Sir Godfrey.  
 Ghulam Sarwar Khan, Chaudhuri.  
 Ginwala, Mr. P. P.  
 Habibullah, Mr. Muhammad.  
 Hailey, the Honourable Sir Malcolm.  
 Hullah, Mr. J.  
 Ibrahim Ali Khan, Lieutenant Nawab M.  
 Ikramullah Khan, Raja M. M.  
 Iswar Saran, Munshi.

Joshi, Mr. N. M.  
 Kabraji, Mr. J. K. N.  
 Lindsay, Mr. Darcy.  
 Maung Maung Sin.  
 Mitter, Mr. K. N.  
 Muhammad Hussain, Mr. T.  
 Nag, Mr. G. C.  
 Rao, Mr. C. Krishnaswami.  
 Renouf, Mr. W. C.  
 Sharp, Mr. H.  
 Sim, Mr. G. G.  
 Sinha, Babu L. P.  
 Spence, Mr. R. A.  
 Vincent, the Honourable Sir William.  
 Waghorn, Colonel W. D.  
 Way, Mr. T. A. H.  
 Zahiruddin Ahmed, Mr.

The motion was negatived.

Clauses 7 and 8 were added to the Bill.

**Rao Bahadur T. Rangachariar :** Sir, I beg to move that :

'In clause 9 (1) after the word 'property' where it occurs for the second time, insert the words 'situate in cities or municipal towns, and '.

The object of this amendment is to exempt, from income-tax, house property which is situate in rural areas. Supposing a person is a landholder or a merchant and he has got a country residence in his village, he has now got to include it in the income-tax return, giving the annual rental value of that property. These houses are usually ancestral residences which have been there very long and in a country like this, where we have to deal with a vast population which go from villages to settle in towns, for professional or trade purposes or as officials, to be called upon to pay income-tax on their houses in rural areas is not right. I, therefore, propose by this amendment to make house property liable to income-tax only in cases where such property is situate either in cities or municipal towns. That is the object of this amendment which I now move.

**The Honourable Sir Malcolm Hailey :** Sir, it would, I think, be better if I had an opportunity of ascertaining first of all from the Honourable Mover of this amendment what exactly is the definition he attaches to the word 'city'. I myself am not aware of any Act which defines a city.

**Rao Bahadur T. Rangachariar :** For the purpose of the Census, places with a population of 50,000 and upwards are taken as cities.

**The Honourable Sir Malcolm Hailey :** That is the first time I have ever heard that census definitions are equivalent to legislative enactments. Then again, as regards municipal towns, I suppose that the Honourable Member is aware that the result of passing his amendment would be that, whereas property situated in Delhi city would come under assessment, property situated in the civil station where we are now sitting would not come under assessment, for it is not a municipal town. It happens to be a notified area. Similarly, property in Raisina would not come under assessment. The country is full of small towns which are neither cities nor municipal towns; but they contain many wealthy citizens, and I myself see no reason

whatever why these citizens should enlist the sympathy of Mr. Rangachariar and escape assessment. You are, as a matter of fact, protecting one class against the other. The interests of the general taxpayer are that nobody should escape assessment; that the tax should be levied on everybody equally alike; and I myself can see no reason why the rural assessee should be favoured in this respect as against the urban assessee. Let that be the effect which Mr. Rangachariar wishes to attain. I claim that he does not attain it fully by his amendment, but even a revised amendment would be objectionable from that point of view.

**Sir P. S. Sivaswamy Aiyer:** (Tanjore *cum* Trichinopoly: Non-Muhamadan Rural): Sir, I should like to point out that the object, which my friend, Mr. Rangachariar, has in view, is practically attained by the proviso in clause 2. It is distinctly provided there:

'Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building.'

Therefore, dwelling houses in villages required by agriculturists or cultivators would be exempt.

**Rao Bahadur T. Rangachariar:** Sir, but for Sir Sivaswamy Aiyer's intervention, I should not have risen to reply. Oftentimes a man has an ancestral house in a village which is of no use to him; oftentimes, it is a burden to him; but he has to include it in the return. Therefore, I think, to rely merely on the proviso would not be sufficient. I think the object of the Income-tax Act is not to assess such property. Income-tax is a tax on income derived from professions, trades and such other things. This is purely a property which is quite outside any earning area, and I therefore press my amendment.

**Mr. President:** Amendment moved.

'In clause 9 (I), after the word 'property' where it occurs for the second time, insert the words 'situate in cities or municipal towns, and'.'

The question is that that amendment be made.

The motion was negatived.

**Rai Bahadur S. P. Bajpai:** Sir, I rise to move that:

'In clause 9 (I), after the words 'his business' insert the words 'or residence'.

Sir, I have never been able to understand why residential houses should be liable to taxation. The owner of a house occupying it for residential purposes does not derive any income from it. All the money he has spent on construction of the house lies idle. He has, besides, to pay so many taxes, municipal taxes and so forth. The mere fact that this sort of taxation has been in vogue for a pretty long time does not justify its continuance. I think it is only fair that residential houses should be exempted from liability to taxation under the Income-tax Act. With these words, I commend this amendment to the acceptance of the House.

**Lala Girdharilal Agarwala** (Agra Division: Non-Muhammadan Rural): Sir, I also support this amendment. It is known to everybody that many people build houses at a very heavy cost and they live in those houses

[ Lala Girdharilal Agarwala. ]

themselves. They do not like to let those houses. Under those circumstances, the money is locked up. It brings no interest or profit—and then it means an expense which is not favoured by anybody. I know the principle that the general taxpayer should not be set against an individual taxpayer, but, in cases where people build their own houses for their own residence, I submit, it is not fair or proper that those houses should be taxed.

**Rai Bahadur Pandit J. L. Bhargava** (Ambala Division : Non-Muhamadan) : Sir, this amendment stands in my name also. Income-tax should be assessed on the income which one actually derives and not on the income which he may possibly derive. If a man who is the owner of a house occupies it for his residence, he does not derive any income from that house. If the principle that the tax should be assessed, not only on the income which one gets, but that it should be assessed on the income which he may possibly get, were adopted, then a good many anomalies would arise. Take a hypothetical case. A man possesses Rs. 20,000, out of which he deposits Rs. 15,000 in the Bank or invests it in some other way, and keeps Rs. 5,000 in his iron safe—he does not invest that amount in any way. Is he to be assessed on the income which he derives from the investment of Rs. 15,000 only, or is he to be assessed for the income to be derived by the investment of the whole amount of Rs. 20,000? I think the reply should be that he should be assessed on the income which he derives from Rs. 15,000 only and not on the income which he could have derived by investing the whole amount of Rs. 20,000. A man who has built a house will be reduced to the position of a tenant, if he is to be assessed on the income which he could have derived by renting it to a tenant—that is to say, the owner of a house will be deemed to be his own tenant—which is quite anomalous. I know there was a similar provision in Act II of 1886, that, when a building was occupied by its owner, it was deemed to be a source of income, but there is no justification for its retention now—especially when provision has been made for the exclusion of such portions of the property, consisting of any buildings or lands appurtenant thereto, as the owner may occupy for the purpose of his business. When property which is occupied by the owner for his business is to be excluded, there is no justification whatsoever for not excluding the property which he occupies for residential purposes.

**Mr. G. G. Sim** : Sir, I do not quite understand how any particular hardship is involved in taxing a man on the annual value of the house which he occupies. The Honourable Member who has just sat down has put us the case of a man who owns Rs. 20,000, part of which he invests in the purchase of a house. Well, take the case of two people with the same income, one of whom lives in his own house and pays no rent. Everybody has got to have a house, and his next door neighbour pays a rent of Rs. 3,000. Why should the man who has an income of Rs. 20,000, who has got a house of his own, be taxed at exactly the same figure as a poorer man who, with the same income, owns no house and has to find the rent of his house out of his income?

This tax has always been imposed since income-tax was first imposed in India. It is imposed, so far as I know, in every country in exactly the same way. The cost of omitting this provision from the Bill would be enormous. It would mean exempting most of the house property in



India. The result would be that an enormous burden would be shifted from the backs of those people who are fortunate enough to own their own houses, to the backs of those who have to occupy rented houses. It would be impossible for the Government to accept any proposal of this nature. It would make a radical change in the whole system of taxation and there appears to be no justification for it whatsoever.

**Mr. President :** Amendment moved :

' In clause 9 (1), after the words ' his business ' insert the words ' or residence ' .'

The question is that that amendment be made.

The motion was negatived.

**Bhai Man Singh :** Sir, the amendment that stands in my name runs as follows :

' At the end of clause 9, sub-clause (1), add the following proviso :

' Provided that no income-tax shall be assessed for any income of the property assessed to land revenue.'

My reason for making this amendment is very simple.

**Mr. President :** Which amendment is the Honourable Member moving ?

**Bhai Man Singh :** I am moving No. 7 in the typewritten list, Sir.

**Mr. President :** He does not wish to move No. 5 ?

**Bhai Man Singh :** No, Sir, I have already submitted that I do not wish to move No. 5.

**Mr. President :** Then I must first call on Mr. Bhargava to move his amendments.

**Rai Bahadur Pandit J. L. Bhargava :** Sir, the following amendments are consequential amendments to the amendment which I proposed and which has been rejected by the House, and, therefore, they do not arise :

' In clause 9 (1) (i), delete the words ' where the property is in the occupation of the owner or ' and substitute the words ' the property ' for the word ' it ' in line 2.'

**Bhai Man Singh :** Sir, the amendment which I am proposing to move now is as follows :

' At the end of clause 9, sub-clause (1), add the following proviso :

' Provided that no income-tax shall be assessed for any income of the property assessed to land revenue.'

My object is very simple. There is absolutely no reason for saying that such and such a place is already paying a certain sort of tax ; we will realise another tax from it. I know the provision to the effect that the land revenue paid over it is to be deducted from the income-tax that is to be assessed.

**Mr. President :** Does the Honourable Member mean to insert his proviso at the bottom of the page after the italic type in the Bill :

' Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value ' ?

He wants to add another proviso ?

**Bhai Man Singh:** Yes, Sir.

**Mr. President:** Then I will call upon him later on. Mr. Bajpai.

**Rai Bahadur S. P. Bajpai:** Sir, the amendment \* standing in my name does not arise now as it recommended merely a consequential change.

'In sub-clause (1) (i) of clause 9, delete the words beginning from 'is' in the first line up to "it" in the second line.'

**Mr. W. M. Hussanally:** Sir, I beg to move that:

'In sub-clause (1) (i) of clause 9, substitute 'one-fifth' for 'one-sixth' in the last line'.

This would only be fair to house-owners because when prices of material and labour have gone up so high, the original percentage for repairs fixed years ago is very small and it entails a great hardship especially in places where there are Rent Acts in existence under which a landlord cannot raise the rent by a single farthing, and, therefore, he has to pay much more heavily than this one-sixth out of his pocket to carry out repairs. I have, therefore suggested that the one-sixth should be raised to one-fifth.

**Mr. G. G. Sim:** Sir, I am afraid it is impossible to accept this amendment. The question was discussed by the Committee and they decided that the allowance of one-sixth is an exceedingly generous one. The Honourable Member said that the cost of building material has gone up. That is perfectly true. So have the rents.

If a house was rented previously at Rs. 600, the owner got an allowance of Rs. 100. He now puts up the rent to Rs. 1,200 and he gets an allowance of Rs. 200. I have seen no case quoted anywhere where this allowance of one-sixth, which is given to the owner whether he spends the money in repairs or not, has proved to be insufficient. The general impression I have found is that it is grossly excessive. (Laughter.)

**Rao Bahadur T. Rangachariar:** I support the amendment. I am the owner of house property in Madras, and I can testify, from my own personal experience, that, notwithstanding the rise in rents, the cost of repair is not covered by one-sixth of the annual value. (Hear, hear.) It costs much more. If the rents have gone up, the mason's charges, the bricklayer's charges, the carpenter's charges, and the cost of various other commodities have gone up, and the excruciating sufferings we have to suffer at the hands of these tenants (Laughter), tenants who always trouble you for this and that and whom you can never satisfy,—we have all that to take into account. I, therefore, join issue with Mr. Sim when he states that an allowance of one-sixth is enough. One-sixth is certainly not enough and I can testify to it. Moreover, the House ought to know that we have to pay heavy municipal rates and no deduction is made for municipal rates for that purpose. In every town, in Bombay, Madras and Calcutta, municipal rates are going up on house property like anything, and it is the house property which has to bear income-tax taxation and local rates, and there is a great deal of force in the amendment which has been moved. If it were left to me, I would omit the whole of the house property from liability in this respect, but this is a very reasonable request and it ought to be acceded to.

**The Honourable Sir Malcolm Hailey :** Sir, Mr. Sim has given reasons why my Department would have serious reason to regret if this amendment were passed. For my own part, I am perfectly prepared to leave it to the House. If the House really thinks that landlords are the humanitarians that Mr. Rangachariar professes that class to be, then, let them be given a larger allowance for repairs. If, on the other hand, the House thinks that landlords are what we tenants sometimes call them, let it leave the clause as it stands.

**Mr. W. M. Hussanally :** The only point I would bring to the notice of the House, in reply, is that Mr. Sim has taken no account of the several Rent Acts, which are existing now in the Presidency Towns and other cities. Under the local Rent Acts, which have been in existence since 1918, no landlord can enhance the rent. (*An Honourable Member* : 10 per cent. is allowed.) I agree that 10 per cent. increase is allowed, but that only upon the rental of 1916 which is entirely inadequate considering present circumstances. The rents cannot be enhanced according to the law of supply and demand.

**Mr. President :** Amendment moved :

'In sub-clause (1) (i) of clause 9, substitute 'one-fifth' for 'one-sixth' in the last line.'

The question is that that amendment be made.

The motion was negatived.

**Lala Girdharilal Agarwala :** I beg to move :

'In sub-clause (1) (iv) of clause 9 of the Bill, after the word 'rent' where it first occurs, insert the words 'or municipal or local taxes or rate' and, at the end, add the words 'or taxes or rate'.'

My submission is that when the houses are situated in big cities, where municipal tax and many other taxes have to be paid, it is the least that I demand that deduction should be made on account of taxes so paid. This does not require any elaboration. It is very clear that on houses in which owners live or which they have let to tenants, in every case they have to pay a large number of taxes in municipal towns. This would not affect houses or buildings which are not situated in municipal towns, and I submit that there is no reason why such a deduction should not be allowed. The Select Committee has not given any reason. They simply say : we agree that no deduction on account of municipal or local taxes should be allowed in this clause. With these few words, I move my amendment.

**Mr. G. G. Sim :** Sir, the Honourable Member has said that there is no reason for disallowing municipal taxes. If he will refer to the report of the Select Committee which dealt with what has become the present Income-tax Act, he will find the reasons given, and he will also find them stated in the reply given by Sir George Lowndes in respect of a similar motion. It was pointed out that municipal taxes are a personal expense. Sir George Lowndes, if I may quote from the speech made in connection with the present Act, pointed out :

'Municipal taxes are a purely personal expense. You may have a house with water laid on, municipal water, and if you pay rates for it, that is paying for something in addition to the house. Supposing you have no water laid on, you have to provide it otherwise. The man who gets water from a municipality will be allowed the municipal tax ; the other, who does not get it, will receive no allowance. As far as I can understand it, that is

[ Mr. G. G. Sim. ]

what my Honourable friend means. It is almost an absurdity. These local rates are just like personal expenses for which we do not allow abatement of income-tax. They are like the expenses for servants, motor cars, clothes, or anything of that sort. Expenditure on such things as municipal scavenging, etc., are treated as purely personal expenses and are not allowed in England. We do not propose to allow it out here.

Apart from that, I should like to point out that this proposal means that this Assembly is going to allow local authorities to tax income before the Central Legislature may do so. In any case it would be impossible to agree to a proposal of this nature owing to the heavy financial loss involved. That was pointed out by the Simla Committee. There a much more modest proposal was put forward that allowance be made on account of municipal taxes only in cases where houses are rented. It was admitted that it was most unreasonable to ask for an allowance on account of municipal rates where a man occupies his own house and the proposal simply was that the deduction should be allowed where a man made it a business to let houses. A rough estimate was made of what the cost of any such concession would be and it was discovered that in Calcutta alone, the loss of income-tax, if this concession alone were given, would amount to six lakhs a year. I see no reason for accepting this amendment. It has been rejected every time the Income-tax Bill has been under discussion. It was objected to by both the Committees which have dealt with this question and I think that the reasons that I have given are conclusive.

(At this stage Mr. Deputy President took the Chair.)

(Lala Girdharilal Agarwala rose to reply and Mr. W. M. Hussanally rose to speak.)

**Mr. Deputy President:** The Honourable Member did not rise in his place in time.

**Mr. W. M. Hussanally:** I am sorry. I have got a similar amendment and, therefore, I should like to speak a few words in support of my friend Mr. Agarwala. The only objection which I can see that has been taken to this amendment is that the taxes paid to the municipal or other local authorities are in the nature of personal expense. I fail to see how it can be at all construed that taxes paid to the municipal authorities over house property are in the nature of personal expense. These taxes are various in their character. In the first place, there is the house tax, then, there is land rent, next water-tax, drainage, etc. Just compare the case of municipal towns and towns where there is water laid on and other municipal towns where there is no water. What is the difference? A tenant, where there are no water works, has to supply himself with water and pays for it, whereas in a municipal town, where there are water-works, the landlord pays for water to the municipality, while the tenant gets free advantage of it; similarly, if you compare the case of a landlord in such towns where there is no house tax with the case of a landlord in a municipal town where there is a house tax, the landlord in the town where there is no house tax gets undue advantage over the landlord who has to pay house-tax. These are essentially taxes which the landlord has to pay in order to earn the little net income from his property on which he has invested large amounts of money. These house properties in various towns do not pay even as much as 3 per cent. or 4 per cent. I know, Sir, in Karachi, from which place I come, house property does not even pay as much as 3 or 3½ per cent. There are other towns like Bombay

where perhaps the house property pays even 10 per cent., but in places like Karachi house property does not pay and does not give an inducement to capitalists to invest money in house property although houses are very badly wanted in such towns. Therefore, I strongly support the amendment.

**The Honourable Sir Malcolm Hailey :** I should like to join issue with Mr. Hussanally in his statement that the only ground taken by Mr. Sim in his reply was that municipal taxation is a species of personal expense. That is not, of course, the only ground. There was a very important statement by Mr. Sim, namely, that if you allow this amendment, you will lose so much taxation that it will be necessary for us to raise our rates in order to recoup ourselves for what we have lost. (*Voices:* 'You can do that.') Where will the assessee gain if we have to come to the Assembly to raise rates in order to make this loss up? Now we have framed this Bill throughout with the intention of making our procedure as easy as possible for the assessee. We have nowhere tried so to frame it as to bring in fresh taxation to ourselves. I think I might very reasonably, in the circumstances, appeal to the House not to support an amendment which will have the effect of causing a very considerable loss of money to the general treasury. But, Sir, that is not really the only point. There is a valid point of substance. Let us take the general taxable income of the country as a whole. A number of the assessees live in towns. The town taxes them for certain services rendered. It is not true that it taxes them merely for supplying water or light; it taxes them for general municipal purposes and municipal services. But we also tax them for certain services rendered. We tax them for the general protection of the country; the contributor to central revenues pays for the protection of the country and the major services which we carry on in its interest. The main question really is this: are you going to allow the local tax-gatherer to have the first cut at the general taxable revenue? If you are willing to do so, you must be prepared to make a very heavy sacrifice; and I claim, and I think the House will support me in claiming, that the major services must have the first claim on the general taxable capacity of the country.

(At this stage, Lala Girdharilal Agarwala rose to speak.)

**Mr. N. M. Joshi :** Mr. Agarwala has spoken once and he has not got the right of reply as the Mover of the amendment.

**Lala Girdharilal Agarwala :** It was said that municipal taxes are levied for general convenience, including water. I do not want that house property which is situated in municipal towns should be exempted from taxation, but I simply want what monies paid actually on account of such taxes and rates, as are described in my amendment, should be included as proper expense. For example, in the city of Allahabad, from which I come, there is a rule that a person whose house is situated within 600 feet of the municipal tap where the municipal water line goes, is liable to pay water-tax although he may not take water. There is also a rule to the effect that a tenant may, without the consent of the owner of the property, have water laid in the house, if there is no water, and deduct the cost from the rent. Besides these, there are other taxes, for example, house tax. Those gentlemen who are living in cities know how much the cost of city life is increasing day by day. In view of all these circumstances, I submit, it is not unreason-

[Lala Girdharilal Agarwala.]

able to say that that petty amount of municipal taxes should be deducted and thereafter the rest of the income from house property may be taxed.

**Mr. Deputy President :** Amendment moved :

'In sub-clause (1) (iv) of clause 9 of the Bill, after the word 'rent' where it first occurs, insert the words 'or municipal or local taxes or rate' and, at the end, add the words 'or taxes or rate'.'

The question is that that amendment be made.

The motion was negatived.

**Bhai Man Singh :** Sir, the amendment that stands in my name is as follows :

'At the end of clause 9, sub-clause (1), add the following proviso :

'Provided that no income-tax shall be assessed on any income of the property assessed to land revenue.'

My plain object in putting forward this amendment is that when a certain property is assessed to one sort of tax, there is no reason why we should again assess it to another sort of tax. The effect of the present Bill, as it stands, is that if a man in a village builds a certain house and attaches to it a certain piece of land for gardening or anything of that sort, that house, as well as the land appertaining to it, would be assessed to income-tax as well. First they have to pay land revenue and then income-tax. Of course, I find that the land revenue paid by him is to be deducted out of the income-tax amount. All the same, I cannot understand the reason why we should assess the property first to land revenue and then assess it to income-tax.

If the property is so much changed in its nature that it is no more an agricultural property and has to be taxed with income-tax, we should take steps to have the land revenue remitted and to tax it with income-tax. I do not understand why, when a certain property is taxable with land revenue, it should be taxed over again with income-tax as well.

**Mr. G. G. Sim :** This clause applies only to land with buildings upon it. Land revenue is not always assessed upon such land. When assessed, it is not assessed by taking into consideration the amount of profit that can be made by constructing a building upon the land. It merely has reference to the agricultural value. Land revenue in such a case is on the same footing as ground rent paid to a private landlord. Provision is made accordingly in the Bill for deducting ground rent where ground rent is charged and land revenue where it is charged. But the Honourable Member's proposal would have the effect that if a piece of land has once been assessed to land revenue, and if profits are made from erecting buildings upon it, such profits will not be liable to income-tax. The proposal is one which I do not think would commend itself to the House.

**Bhai Man Singh :** One word, Sir, in reply, that if a building is built upon a piece of land which is assessed to land revenue, we could separately assess to income-tax the rent of the building, excluding the piece of land or appurtenant land which may be used by the owner as a garden or a compound.

**Mr. Deputy President:** Amendment moved :

'at the end of clause 9, sub-clause (1) add the following proviso :

'provided that no income-tax shall be assessed on any income of the property assessed to land revenue.'

The question is that that amendment be made.

The motion was negatived.

**Sir P. S. Sivaswamy Aiyer:** Sir, the object of my amendment\* is simple ; it is to carry out clearly the intention of the Select Committee. The Select Committee has stated that, in the proviso to sub-clause (2) of clause 9, they have substituted the word 'total' for the word 'aggregate' in order to make it clear that it is the taxable income of the owner and not the aggregate income of the owner that is referred to. I wish to make the intention quite clear by inserting the word 'taxable' before the word 'total.'

**Mr. G. G. Sim:** Sir, I am afraid that the amendment has been put forward under misapprehension of the somewhat loose phraseology in the Report of the Committee. The Committee certainly meant that it was only income liable to taxation under this Bill that should be brought into account. But the words 'taxable income' are nowhere used in the Bill. If the Honourable Member will refer to the definition of 'total income', he will find, I think, that the actual words used by the Select Committee give exactly the result he wishes. 'Total income' means the total amount of income, profits or gains from all sources to which this Act applies. It cannot include any other income. It does not include agricultural income.

**Sir P. S. Sivaswamy Aiyer:** I must state for the information of Mr. Sim that, as a matter of fact, my agricultural income has been taken into account in calculating the total income for this purpose, and that is why I wish to add the word 'taxable.'

**Mr. G. G. Sim:** May I explain, Sir, that that was owing to the fact that previously the words used were 'aggregate income.' It has been changed to 'total income,' which, we have been advised by our legal authorities, is restricted entirely to income taxable under the Bill, and it cannot, under any circumstances, apply to agricultural income. The phrase 'taxable income' is nowhere used in the Bill. It can have no definite meaning.

**Sir P. S. Sivaswamy Aiyer:** Even in the present Act 'total income' was used.

**Mr. G. G. Sim:** 'Aggregate' income, not 'total' income.

**Mr. Deputy President:** Amendment moved :

'That in the Proviso to clause 9 (2) between the words 'total' and 'income' in the last line, insert the word 'taxable'.'

The question is that that amendment be made.

The motion was negatived.

**Lala Girdharilal Agarwala:** Sir, I move the last amendment to clause 9 of the Income-tax Bill. It runs as follows :

'In the Proviso to sub-clause (2) of clause 9, for '10 per cent.' substitute '5 per cent.'

'In the proviso to clause 8 (2), between the words 'total' and 'income' in the last line insert the word 'taxable.'

[ Lala Girdharilal Agarwala. ]

Now, Sir, this clause affects those persons only who live in their own houses. Now, the first amendment on the subject was by my Honourable friend, Mr. Bajpai, which I also supported, namely, that residential houses should be exempted from the tax. That has been lost. The next amendment was that municipal taxation and local rates should be deducted as a proper expense. That also has been lost. Now, the result is that residential houses are to be taxed, and municipal and other taxes have to be paid. My last amendment, which is before the Honourable House just now, is that only 5 per cent. should be allowed on the maximum annual value of the income of a person, and that this may be deducted as the maximum amount. Now, I submit, that if 10 per cent. is allowed, that would be rather too much.

I submit that if 10 per cent. is allowed that would be too much and would be hard. Honourable Members will be pleased to remember  
4 P.M. that now-a-days living has become very dear, and more so in the case of joint Hindu families. If there is a joint Hindu family consisting of, say, 10 persons including children, they have to spend for education, they have to spend for food, clothing, etc. Besides these, they have to spend for marriages and many other things. I submit that if 10 per cent. is taken out of their income for the purpose of income-tax, that would be too much, and I do not see that there will be very great loss if the amount is put down at 5 per cent. instead of 10 per cent. The real desire of the persons who are living in their own houses is, that the residential houses should not be taxed at all. Now, after all these other amendments have been disallowed, I submit, that this last amendment, which is a modest one, should not meet with the same fate.

**Mr. R. A. Spence** (Bombay : European) : I ask the Honourable the Mover of this amendment if he knows of any houses in this country which are obtainable by tenants for 5 per cent. of their income.

**Lala Girdharilal Agarwala** : My Honourable friend puts a personal question whether a tenant can get a house for 5 per cent. of the income. My reply to him is that perhaps he may not be able to get a house or in some cases he may be able to get a house. That depends upon the conveniences and the sort of house that my Honourable friend wants and the place where he wants it. If my Honourable friend wants a house in Raisina after the Legislative Assembly has broken up, probably he will be able to get a house for 1 per cent. of the income. (Laughter.) In fact some people would be willing to pay something to a gentleman who will keep the house in proper order. What I beg to submit is this. The case of those persons who live in rented houses cannot be compared to the case of those who live in their own houses. In some cases, persons who have built their own houses or who have inherited very costly houses from their ancestors would not like to leave them. Gentlemen who live in rented houses, even though they pay 10 per cent., do not keep houses when they go on leave. The house remains vacant. I know a certain gentleman in Allahabad who, when he came down to Allahabad, encamped just opposite to my house, Durbhanga Castle. They do not take any houses on rent. They may have to pay something higher on the hills, but when they come to the plains, they live in camps. Taking the average life of a Government servant to be 30 years, how much does he pay? Sometimes he remains in camp and sometimes he does not take any house. The Law Member has got a house worth a lakh of rupees in Allahabad, but here



he lives in a rented house and pays rent. There are many persons with small houses who live in their houses. I submit that all these considerations should be taken into account. It is not too much for me to ask that the amount should be cut down to 5 per cent. instead of 10.

**Mr. Deputy President :** Amendment moved :

‘ In the Proviso to sub-clause (2) of clause 9, for ‘ 10 per cent.’ substitute ‘ 5 per cent.’

The question is that that amendment be made.

The motion was negatived.

Clause 9 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 26th January, 1922.