

Wednesday, 1st March, 1922

THE  
**COUNCIL OF STATE DEBATES**  
(Official Report)

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**SECOND SESSION**  
OF THE  
**COUNCIL OF STATE, 1922**



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# COUNCIL OF STATE.

*Wednesday, the 1st March, 1922.*

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

## CIVIL PROCEDURE (AMENDMENT) BILL.

The HONOURABLE MR. S. P. O'DONNELL: Sir, I beg to move:

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings, as passed by the Legislative Assembly, be taken into consideration.'

This Bill is intended to deal with an evil which, as Honourable Members are doubtless aware, has unfortunately been prevalent for a long time. There are a number of persons who make a practice of filing fraudulent suits. The *modus operandi* of these persons is very simple. A suit is filed in Calcutta or Bombay against a man who resides, say in Lahore or Allahabad. Very often the plaintiff secures a fraudulent return of service and the first time the defendant hears of this suit is when execution is taken out on the decree. Of course, it is perfectly open to the defendant to have the decree set aside, but if he decides to adopt that course, he is likely to find himself involved in considerable trouble and expense which will probably not be covered by the costs awarded. Therefore, the defendant very often decides to cut his loss and to pay up. In fact, the people who bring these suits generally fix their claims at a sum which they think the defendant is likely to pay rather than go to law. Various efforts have been made in the past to deal with this evil. Whenever a case of this kind is reported to the Collector, he makes an exhaustive investigation and every possible step is taken to ensure that justice is done. Nevertheless, all these efforts have only been partially successful, and in order that the evil may be reduced or mitigated still further, it is essential that there should be legislation. The exact form which such legislation should take has been the subject of prolonged discussion and examination. I need not enter into details. They are set out in the proceedings of the other Chamber. It is sufficient to mention that this Bill is substantially on the lines recommended by a special committee containing a number of eminent lawyers of this Council and of the Assembly, which was appointed to consider the principles of the legislation required last year. The main provisions of the Bill are, firstly, that the application of the Act is permissive, that is to say, it will rest with the Local Government to apply the Act with the consent of the Governor General in Council to any area. Secondly, the provisions of the Act apply, not only to false claims, but also to false defences. The original idea was to deal with false claims, but in the course of the discussions it was pointed out that a large number of false defences also were set up. Thirdly, the amount of compensation that may be awarded is limited to a sum of Rs. 1,000 or the limits of the pecuniary jurisdiction of the Court, and the High Court is given certain powers as regards the fixing of the amount of compensation that may be awarded by certain subordinate Courts. Fourthly, the amounts so awarded will be taken into account in any subsequent suit that may be brought for compensation and damages. It is true

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that such a suit will only lie in rare cases, but if a suit does lie and is brought, the amount already awarded will be taken into consideration in that suit. And fifthly, an appeal will lie against any order awarding compensation, but not against a decree on the ground that that decree omits to award any compensation or awards an insufficient amount. These are the main provisions of the Bill. As I said, the Bill is the outcome of prolonged discussion and examination and is probably the most satisfactory measure that could be devised to combat the evil in question.

The HONOURABLE LALA SUKHBIR SINHA: I beg to support the motion. It will stop the evil of litigation to a great extent. The evil of litigation is increasing day by day, and steps should be taken to put an end to it.

The HONOURABLE THE PRESIDENT: The question is:

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings, as passed by the Legislative Assembly, be taken into consideration.'

The motion was adopted.

Clauses 1, 2, 3, 4, 5 and the Preamble were added to the Bill.

The HONOURABLE MR. S. P. O'DONNELL: I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The HONOURABLE THE PRESIDENT: The question is:

'That the Bill further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings, as passed by the Legislative Assembly, be passed.'

The motion was adopted.

### INDIAN LIMITATION (AMENDMENT) BILL.

The HONOURABLE MR. S. P. O'DONNELL: Sir, I beg to move:

'That the Bill further to amend the Indian Limitation Act, 1908, as passed by the Legislative Assembly be taken into consideration.'

The object of this Bill is to avoid the difficulties which have arisen out of the conflicting decisions of certain High Courts. The Calcutta and the Madras High Courts have held in effect that the general provisions of the Limitation Act cannot be applied in computing the period of limitation prescribed by any special or local law. That view is based on their interpretation of section 29 (1) (b) of the Limitation Act which lays down that nothing in the Act shall affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law. On the other hand, a different view has been taken by the Allahabad High Court on the ground that a special or local law is not in itself a complete law of limitation. It is obviously desirable that these conflicting decisions should be set at rest and the law placed on an unequivocal footing. It might seem a very simple matter to do that, but in fact this Bill is the result of a very prolonged process of examination and scrutiny, and I think that in the form in which it has finally emerged, it is probably as satisfactory a solution as could be devised. What the Bill does is to lay

down that, in computing the period of limitation for the purpose of determining the period of limitation prescribed for any suit, appeal, or application by any special or local law, the provisions of sections 4, 9 to 18 and 22 of the Limitation Act shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law, and that the remaining provisions of the Limitation Act shall not apply. That, I think, removes the ambiguity which existed previously. The Bill also makes a slight and purely formal amendment in section 5 of the Limitation Act.

The HONOURABLE THE PRESIDENT: The question is:

'That the Bill further to amend the Indian Limitation Act, 1908, as passed by the Legislative Assembly, be taken into consideration.'

The motion was adopted.

Clauses 1, 2, 3 and the Preamble were added to the Bill.

The HONOURABLE MR. S. P. O'DONNELL: I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

#### MESSAGE FROM LEGISLATIVE ASSEMBLY REGARDING INCOME-TAX BILL.

The HONOURABLE THE PRESIDENT: The next motion on the Agenda stands in the name of the Honourable Mr. Cook. It relates to a message received from the Legislative Assembly. The motion as it appears on the paper is misconceived and should be put in this form. There should be a motion, in the first place, that the message be taken into consideration, and when the Council agrees to that motion, then the Honourable Member will be in order in making any motion which he is entitled to.

The HONOURABLE MR. E. M. COOK: I am very grateful to you for having indicated the correct procedure in this case, and I beg to move that the message of the Legislative Assembly, disagreeing with the amendment made by this Council in clause 15 (2) of the Bill to consolidate and amend the law relating to income-tax and super-tax, be taken into consideration. I take it that this is a preliminary motion and I propose to reserve my remarks on the merits of this question until a subsequent motion.

The HONOURABLE SIR ARTHUR FROMM: I submit that sufficient notice has not been given to the Honourable Members of this Council with regard to this motion. I received some few days ago a list of business for the 1st March, and this motion now brought forward by Mr. Cook was not on that list. The first intimation I had of it was in this envelope which I found in my place when I came to Council to-day. I submit that this question relating to clause 15 (2) of the Indian Income-tax Bill is one of considerable importance. The amendment passed in this Council has been reversed in another place, and I should like to have some further time to discuss our position with my fellow Councillors.

The HONOURABLE MR. K. V. RANGASWAMI AYYANGAR: I agree with what the Honourable Sir Arthur Fromm has said now. I receive the agenda paper just now and we would like to have some time for the further consideration of the question and the principles involved therein.

The HONOURABLE MR. V. G. KALE: I do not see the necessity for any postponement of the consideration of this question. It has been discussed threadbare. All the details, the implications and the effects of the amendment are well known to us, and I do not see that any useful purpose is likely to be served by postponing consideration, and, in view of the fact that it is necessary that this measure should be passed into law as early as possible, I wish that this House will not stand out for a technical right of requiring more time for consideration, and I support the motion which has been placed before the House.

The HONOURABLE LALA SUKHBIR SINHA: I do not think it is necessary to have the discussion postponed, because the matter has been discussed here as well as in the Assembly fully, and there is no advantage to be gained by having it postponed.

The HONOURABLE MR. G. S. KHAPARDE: I wish to add only one word to this discussion. When the amendment which was made was proposed, it was said that the matter was one of very small consequence, almost negligible. So there is no need to postpone the consideration of this negligible matter when we have to consider the Financial Statement and other matters. It does not appear desirable that we should adjourn this motion. So we had better take it on to-day and finish it.

The HONOURABLE THE PRESIDENT: I should like to point out that very short notice of this motion has been given to the Council. I was well aware of the motion standing in the name of the Honourable Lala Sukhbir Sinha, which appears in the additional List of Business, but I was not aware until late last evening that this motion was coming on to-day.

The HONOURABLE MR. E. M. COOK: I am not aware, Sir, whether your orders were taken to include this item in the List of Business for to-day, nor do I know whose function it is to take your orders on the matter. I received notice yesterday afternoon that this was coming on to-day.

The HONOURABLE THE PRESIDENT: Did the Honourable Member give notice of the date on which he was going to move this motion?

The HONOURABLE MR. E. M. COOK: I am not quite sure whether I specified the date.

The HONOURABLE THE PRESIDENT: It is for the Honourable Member to specify the date. If he does not do so, who will do it?

The HONOURABLE MR. E. M. COOK: The explanation probably is that the matter was discussed verbally, and that I said that I had no objection to this motion coming on to-day. I do not think it matters very much, because I take it that it rests in your discretion whether to allow this business to proceed to-day or not.

The HONOURABLE THE PRESIDENT: I am perfectly willing to be guided by the wishes of the Council in this matter, but I must point out that this appears to me to be a matter of some importance, and it did not appear in the original List of Business. A private Bill has also been put down for to-day, of which very short notice has been given, but my consent was previously obtained, and the Bill had already been on the paper on

several occasions. As I said I was unaware that these supplementary motions have been put down for to-day and these are required to be made by my consent. I am not prepared to withhold my consent in this case, but I must explain that the notice given is short and that objection has been taken.

The HONOURABLE MR. E. M. COOK: In that case, Sir, I wish to make it perfectly clear that we do not want to force this discussion on the Council to-day. From the point of view of Government, the matter is entirely in the hands of the Council. Government is quite ready to proceed with the discussion, if the Council so decides. If, however, the Council decides to postpone it till the next official day, which is, I think, the 8th March, it will not mean any great delay. I would, therefore, suggest that you take the sense of the House on the matter.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: I do not think that anything will be gained by postponing the consideration of this amendment, and it is better that we should consider this motion at once. Otherwise it will look as if this Council is at variance with the other Chamber. I do not think it is worth our while to waste our time and energy on this. It will be safer to consider the motion now.

The HONOURABLE THE PRESIDENT: The question is:

'That the message received from the Legislative Assembly stating that the Assembly has not agreed to the amendment of clause 15 (2) of the Indian Income-tax Bill substituting the words 'any adult male member' for the words 'any male member' be taken into consideration.'

The motion was adopted.

The HONOURABLE MR. E. M. COOK: I think the correct form of my next motion is for me to move that this Council do agree to the Bill to consolidate and amend the law relating to Income-tax and Super-tax, as further amended by the Legislative Assembly. I propose to say a very few words on this matter, which is really one for the Council itself to consider. Government have made two attempts to induce the other House to agree to the view which we still claim is the reasonable, the right and the proper view, but they have been unsuccessful, and now it is for the Council to consider whether it intends to press this disagreement to the point of provoking a situation which, I fear, may delay the passing of this Bill very considerably. I think I am correct in saying that if the Council insists on its amendment, the position will be that a joint sitting of the Chambers will have to take place, which, I take it, cannot come off for the next six months. The question in issue is a simple one—is it worth while to delay the passage of this Bill, a very important Bill indeed, because of the disagreement on this point? We consider, I say frankly, that the change made in the other place is a change for the worse. However, this is not a perfect world and there are occasions when we have to make a choice between what is essential or vital and what is not. We have to consider whether this particular matter is merely *de bene esse* of the Bill or actually *de esse*. Looking at the matter as a whole I do not think it can be said that this vitally affects the Bill. I have said before that the exclusion of this little word 'adult' makes the Bill a less perfect Bill than it was before, but I would respectfully ask the Council to consider whether the issue is one of sufficiently grave importance to be made the reason for hanging up the Bill and for carrying the disagreement between the two Houses to such a point. I certainly think this is a matter regarding which the Council was perfectly

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entitled to amend the Bill how it liked; nobody questions that this is a Bill over which the Council has full control. I put this motion forward purely on the ground of expediency, and because I doubt whether it is really worth while to hang this important Bill up because of this, as I think, comparatively unimportant point.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, when the Honourable Sir Arthur Froom moved his amendment to this clause in this House, I said I feared that it would not be possible to get it accepted by the Assembly. Unfortunately, Sir, that has come to pass. At the same time, although we recognize our right, as a revising House, to make any additions or alterations that to us seem necessary, I agree with my Honourable friend, Mr. Cook, in thinking that it is not advisable on this point to stand on our right and fight with the other House, and that it is much better to come to some sort of understanding. I see, Sir, there is a feeling that the joint Hindu family is getting a concession which other communities are not getting. I beg to suggest a sort of compromise, which, I believe, will be acceptable to the other communities, and will also be acceptable, I hope it will be, to the other House also. If you will allow me, Sir, I should like to move an amendment in clause 15, sub-clause (1). This will put all communities on the same level.

The HONOURABLE THE PRESIDENT: Will the Honourable Member hand it in?

The HONOURABLE MR. LALUBHAI SAMALDAS: I will hand it in. I move, Sir, that in clause 15, sub-clause (1), after the words 'or on the life of his wife' the words 'or on the life of his children' be added.

The HONOURABLE THE PRESIDENT: I must consider this amendment. If Honourable Members will look up page 27 of the red book, they will see that rule 35 lays down that further amendments may be moved, when a Bill is returned to the originating Chamber, but these amendments must be consequential upon, or alternative to, the amendments made by the other Chamber. We have got beyond that stage now. We are now at the stage where we accepted the Bill as originally passed in the originating Chamber, with an amendment, and they have sent it back saying that they do not agree with our amendment; that is, rule 36 (4) applies. That rule runs as follows:

'The other Chamber may either agree to the Bill as originally passed in the originating Chamber or as further amended by that Chamber, as the case may be, or may return the Bill with a message that it insists on an amendment or amendments to which the originating Chamber has disagreed.'

It does not seem to me that there is room for further amendment at this stage, and I think the Honourable Member cannot move the amendment now.

The HONOURABLE MR. LALUBHAI SAMALDAS: In that case, Sir, I think it is much better to accept the amendment as moved in the Legislative Assembly and to pass the Bill as so amended, so that the Bill may come into force as early as possible, and that there should be no conflict between the two Houses. For that reason, Sir, I support the motion made by the Honourable Mr. Cook.



The HONOURABLE THE PRESIDENT: The question is that the following motion be adopted:

'That this Council do agree to the Bill to consolidate and amend the law relating to Income-tax and Super-tax as further amended by the Legislative Assembly.'

The motion was adopted.

#### BUDGET FOR 1922-23.

The HONOURABLE MR. E. M. COOK: Sir, I rise to present the Revised Estimates of the current year and the Budget Estimates of revenue and expenditure for next year. I am quite sure, Sir, that the Council will join with me in regretting that, owing to the limitations to which the human body is subject, it is impossible for the Honourable Finance Member to be in two places at once; and, if I may be permitted a reflection of my own, it is this: I think that it is a pity that the procedure of the Indian Legislature does not admit, on an occasion like this when there is no discussion, of a joint sitting of the two Houses, so that the Finance Member could present his Budget to both branches of the Legislature. ('Hear', 'hear.') However, Sir, among the various statements, estimates, and so forth, that I am now about to present, Honourable Members will find a copy of the \*Budget Speech which Sir Malcolm Hailey is now addressing to the other House. It is, therefore, unnecessary, and I think undesirable, that I should interpose any lengthy remarks of my own between the presentation of these papers and their perusal by Honourable Members. It may, however, be of some little convenience to Honourable Members if I indicate extremely briefly the more salient facts of the Central Government's financial position as set forth in the Budget speech. I shall not attempt to comment thereon or to give any lengthy exposition of the figures. I propose merely to indicate, in as few words as possible, broadly and without any elaboration, firstly, the important facts, and secondly, the proposals of Government for the coming year. What I shall say will indeed be very little more than a recitation of a table of contents of the Finance Member's speech, which will be in Honourable Members' hands in a few minutes. I pass now, without any further remarks, to the actual figures. The Council will perhaps remember that for the current year we budgetted for a revenue of 128½ crores as against an expenditure of 127½ crores, leaving a small surplus of about Rs. 71 lakhs. We budgetted in an atmosphere of some depression, but we certainly did not anticipate or provide for the very great stagnation of trade that the current year has witnessed. In the event, we now estimate in the current year a revenue of Rs. 108 crores, that is, some 20½ crores less than the revenue budgetted for. On the other hand, we expect to incur an expenditure of about Rs. 142 crores, i.e., 14½ crores in excess of the budgetted expenditure. Altogether therefore, we anticipate a deficit in the current year of Rs. 34 crores. The deficiency of Rs. 20 crores in revenue is mainly accounted for under the heads of Customs and Railways. Honourable Members will find some details about the other heads in the speech, and I do not think I need deal with them here. Under Customs we expect a falling off of Rs. 4½ crores, which would have been, I may say, very much worse but for the enormous imports of sugar. Under Railways, we expect a total worseness on the Budget of no less than Rs. 13 crores, made up of a worseness of

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Rs. 4 crores in traffic receipts, the remainder being accounted for by a very heavy increase in working expenses. As regards the worseness of Rs. 14½ crores under expenditure, 2 crores of this is accounted for by an increase in interest charges, due to our larger rupee and sterling loans. As regards military expenditure, the necessity for the continuation of operations in Waziristan has resulted in an expenditure of 6½ crores thereon as against the 3 crores provided for in the Budget. Still, in spite of this excess of 3½ crores in Waziristan, it has been found possible by various economies to keep the excess on the whole military Budget down to 2½ crores; that is to say, we expect the military expenditure in the current year to stand at Rs. 65 crores as against the Budget figure of 62½ crores.

As regards Exchange, the non-attainment of the Budget assumption of an average rate of 1s. 8d. means a worseness of a little over 9 crores. Of that 9 crores, Honourable Members will find, when they examine the statement, that about 5½ crores are shown adjusted under the head 'Exchange', while the remainder appears in the accounts of the commercial departments, Railways, Posts and Telegraphs, and so forth, *i.e.*, their Home expenditure has cost them more.

This, Mr. President, is the fourth consecutive deficit. In 1918-19, the deficit was 6 crores; in 1919-20, mainly due to the Afghan War, it was 24 crores; our final accounts for 1920-21, which have only just been made up, show a deficit for that year of 26 crores. When you add to that the 34 crores deficit in the current year, it will be seen that our expenditure has exceeded our revenues during the past four years by a total amount of 90 crores.

I now proceed to give a very brief summary of the Budget estimates for next year. In making our estimates we have assumed some slight improvement in trade as compared with the current year, though not any really substantial return to normal conditions. On the basis of the present taxation we estimate a revenue of 110½ crores, that is, 2½ crores more than the current year; this includes the full provincial contributions of 920 lakhs. I do not think I need give details about the estimates of revenue. Honourable Members will find these given in the speech. As regards our expenditure, there are very few variations in the ordinary civil departments, practically all new expenditure having been definitely debarred. Honourable Members will notice, however, that we are making a large provision for working expenses on Railways.

For the purpose of these estimates, sterling has been converted into rupees at an average rate of 1s. 4d. That is not a prophecy; it is merely an assumption; for the purposes of the Budget we have to make some sort of assumption, and that is, we think, as things are at present, as good an assumption as the ordinary business-man would make. The military Budget of next year is 62 crores 18 lakhs, that is, just slightly, a few lakhs, below the current year's Budget, although Honourable Members will observe from the speech that the provision entered for Waziristan can only be regarded as tentative—it is quite impossible to say what our operations there are going to cost, and it is possible that these may lead to some excess. Altogether, then, the total expenditure budgetted for for next year is 142½ crores, which would leave a deficit of 31½ crores.

I must invite the Council to consider with very great care and to give their very anxious consideration to what the Honourable the Finance Member says where he discusses the various possible ways of meeting this

deficit. It is obvious, when one thinks about it, that there are, in theory, three possible ways of meeting the situation. In the first place, one could in theory budget for a deficit for the whole or part of that amount. In the second place, we could, again in theory, attempt to reduce our expenditure and to bring it down nearer the level of our revenues. In the third place, we can increase our revenues. The Council will observe that these three theoretically possible courses could be applied either separately or in combination. One of the problems which this Council has to consider, and which Government have been anxiously considering, is whether it would be desirable and even if desirable, whether it would be practicable, to leave the whole or even the greater part of this deficit of 31½ crores uncovered. Now in considering this matter there are two points of the most vital importance. The first point is this: Can it be said that this deficit that we have to face is due to transient causes? Can it be said that, if we sit tight, better times will come, and that, as our revenues expand, and provided we keep a tight hold on our expenditure, may expect equilibrium to be reached? I am afraid, Mr. President, that that view cannot be taken. I challenge any one to take such a view. I do not mean to imply that either the current year's deficit of 34 crores or next year's deficit of nearly 32 crores is to be taken as the measure of the permanent gap that exists between the revenue and expenditure of the Central Government. I assume that, as our frontier commitments are liquidated, that part of our military expenditure which we classify as abnormal, and which I have mentioned this morning, will gradually disappear. I also assume that our revenues would very readily react to a really good revival of trade. But after making every possible assumption of this nature, I do not think it can be said that, if things are left to themselves, equilibrium will be obtainable within a measurable time. We have to remember that we have before us a certain loss of revenue in the shape of the provincial contributions, which we are committed to reduce and gradually to abolish on the slightest sign of any betterment in the Central Government's position. Altogether, I think it must be admitted that the position has got to be faced. Then there is a second point, of cardinal importance in this matter, how have these deficits been financed? These 90 crores of deficits for the past four years, where did the money come from? Of that 90 crores, about 37 crores have been obtained by the issue of fiduciary currency notes, that is to say, notes the only backing of which are our own I. O. U's. A further 47 crores will have been found by incurring floating debt in the shape of Treasury Bills, while the remaining six crores will have been taken from the proceeds of our regular annual borrowings. I do not wish to elaborate this point too much, because I am sure Honourable Members themselves are perfectly well aware that our position as regards the floating debt is an anxious one, and that our Treasury Bill outstandings are already dangerously high. This is a matter of experience. The events of the past month or two in India have shown perfectly plainly, I claim, to every observer that we cannot substantially increase our floating debt, and also that it is with the utmost difficulty that we can even maintain the present level. We have been obliged to force up money rates, and the tighter we have made money the more trade asks for money; and so we go on in this sort of vicious circle, and it is not too much to say that we have practically got to the end of our resources as regards the financing of deficits by our floating debt. The conclusion to which Government have come, is that the inevitable result of attempting to finance again deficits of this sort would be to force us to large issues of unbacked currency notes, and I am quite sure that Council will agree that the effect of such inflation upon the general level of prices and on the

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credit of the country would be extremely serious. The second alternative is reduction in expenditure. The Council will see from the details of the Budget that in the Civil Departments we have cut out all new expenditure which cannot be proved to be absolutely necessary. We cannot claim that further reductions are impossible, and the Honourable the Finance Member is to-day announcing in another place the appointment of a Committee of Retrenchment. But the field for retrenchment is small, and it would not be safe for Budget purposes to rely on any really material relief there from retrenchment.

The third course is to increase our revenues. We can increase our revenues in two ways: firstly, by ensuring that our commercial departments pay their way, or at any rate, are not a burden upon the general tax-payer, and, secondly, by increasing taxation. As regards our commercial departments, in the current year the Railways, after including the proceeds of the surtax, show for the first time for many years a working loss, after paying interest charges of  $2\frac{1}{2}$  crores. We estimate that next year, even after allowing for the increase in goods rates which will have effect from April 1st they will still be working at a loss of over a crore. It is proposed therefore to increase passenger fares by approximately 25 per cent. yielding an additional revenue of 6 crores. As regards the Post and Telegraph Department, in the current year this is working, after making all the necessary adjustments, at a loss of not less than 90 lakhs, and we estimate that next year, if no change be made in the rates, there would be a loss of at least 80 lakhs. It is proposed, therefore, to repeat the proposals of last year, which were not accepted by the Legislature, and to raise to half an anna the quarter anna post card, and, secondly, to abolish both the half anna and nine pies rate for letters (which I may say has brought in practically nothing) making the charges in future one anna for letters not exceeding  $2\frac{1}{2}$  tolas in weight and one anna for every additional  $2\frac{1}{2}$  tolas, bringing in an increased revenue of 160 lakhs. These changes in the Commercial Departments will altogether bring in, we estimate, an increased revenue of 760 lakhs, thereby reducing the estimated deficit from 31 crores 76 lakhs to 24 crores 16 lakhs.

I now come to the proposals for additional taxation. I shall mention these without any comment, and without attempting to arrange them in any order of unpopularity. As regards Customs, Government propose to obtain nearly 15 crores more from this source. It is proposed to raise to 15 per cent. the import duty on all articles now assessed to 11 per cent, and at the same time to increase the cotton excise duty from  $3\frac{1}{2}$  to  $7\frac{1}{2}$  per cent. The combined effect of these two measures will be an increased revenue of 5 crores and 45 lakhs. Secondly, it is proposed to raise from  $2\frac{1}{2}$  to 10 per cent. the present import duty on machinery, iron and steel and railway material, yielding an extra revenue of 4 crores, 5 lakhs. Thirdly, it is proposed to increase the duty on imported sugar from 15 to 25 per cent, giving an increased revenue of 2 crores. Fourthly, we propose to raise the specific duty of 12 annas per gross boxes of matches to Rs. 1-8-0, which would give an estimated increased revenue of 95 lakhs. Fifthly, we propose to impose an excise duty of 1 anna per gallon on kerosine produced in India, with a corresponding increase in the duty on imported petroleum, namely, from  $1\frac{1}{2}$  to  $2\frac{1}{2}$  annas per gallon, the extra revenue which we hope to get from these two measures will be 90 lakhs. Sixthly, it is proposed to remove yarn from the free list and to impose an import duty of 5 per cent, which will yield a revenue of half a crore. Seventhly, it is proposed that the articles which are assessed at the highest rate of the tariff should, in

future, be assessed to 30 per cent. instead of 20 per cent, yielding an extra revenue of 75 lakhs. Finally, as regards alcoholic liquors, the customs returns show that any attempt to increase the import duty on wines would probably result in an actual loss of revenue. As regards ale and beer, liqueurs and spirits, although Government would for some reasons prefer to wait for another year, they feel that they cannot afford to neglect any possible increase of revenue, and it is accordingly proposed to increase the import duty on these particular alcoholic liquors by approximately 20 per cent., yielding an extra revenue of 30 lakhs. Altogether the total of these increases in Customs is 14,90 lakhs, and the extra revenue during the month of March is likely to be 80 lakhs. This will still leave an uncovered deficit of about 9½ crores. Government propose to make a further call on the payers of income-tax and super-tax. They do not propose to effect any alteration in the rate of income-tax payable by persons whose incomes do not exceed Rs. 30,000 a year, but it is proposed to raise the rate on incomes between Rs. 30,000 and Rs. 40,000 from 14 to 15 pies, and on incomes above Rs. 40,000 from 16 to 18 pies. As regards super-tax, it is proposed to regrade the higher rates, working up in the manner shown in the Schedule to the Finance Bill (which will shortly be in Honourable Members' hands) to the highest rate of 6 annas, as against the existing highest rate of 4 annas. The combined effect of these Income-tax and Super-tax measures will be to produce an extra revenue of 2½ crores.

Finally, Government consider that the present emergency is such that there is now no alternative but to increase the salt duty, which has always been regarded as our ultimate reserve. It is proposed to increase the duty from Rs. 1-4-0 to Rs. 2-8-0 a maund. This is estimated to produce 5 crores a year, but in the first year, owing to the existence of the credit system of sales, it is not likely to exceed 430 lakhs.

The total extra revenue obtainable from the measures that I have mentioned, including those regarding Railways, Posts and Telegraphs is estimated at slightly over 29 crores next year. It will still leave an uncovered deficit of 2½ crores, together with any extra liability that may fall on us in respect of Waziristan. Government consider that the existence of any uncovered deficit is, in present circumstances, a matter for anxiety. They have not felt, however, justified in proposing taxation to a greater extent than I have mentioned.

I will deal very shortly, Sir, with our Ways and Means figures. This is a rather technical part of the Budget, but always a very important one, and on the present occasion it is of more than usual importance, because there is more than the usual connection between our Ways and Means and Revenue accounts. I need not give full details of our Ways and Means operations in the current year. I will only say that they show that we are obviously approaching the end of our resources as regards financing deficits. Thus, during the current year we have had to meet liabilities of 90 crores, one-third of which has been due to the Central Government's own deficit, while 12½ crores has been due to the Provincial Governments' deficits or drawing on their balances, so that half our total liabilities on the Ways and Means side has been due to the necessity for finding money to finance deficits. As regards next year, the total liabilities will amount to about 58 crores, which include 30 crores for railway capital outlay and 3½ crores for Delhi and Telegraph capital outlay. I do not think I need give details of the way in which we propose to meet those liabilities, except to say that we have entered in the Estimates a rupee loan of 25 crores and sterling borrowing of about £17½ millions, £2 millions of which will however

[Mr. E. M. Cook.]

represent the final instalments of the last loan of £10 millions. Government do not however bind themselves to distribute their total borrowings between rupee and sterling in any particular proportion.

The most important point as regards the financial events of next year is the Secretary of State's own position, and I draw particular attention to what the Finance Member has said as regards the methods that may have to be adopted for putting the Secretary of State in funds next year. After various recoveries from the Home Government, and assuming that he is going to borrow £17½ millions in sterling, the Secretary of State will still require to be put in funds to the extent of £18 millions; and the problem as to how he is to be put in funds to that extent by means of remittances from India, has a very very important bearing upon the financial arrangements for next year. There are only two ways in which he can be put in funds. One is by his drawing on the sterling reserves, and the other by the sale of Councils. I do not wish to detain the Council with any remarks about these two methods, except to indicate the importance of this particular problem and its bearing upon money and exchange conditions in India throughout the year.

I do not think I need detain the Council with any more figures or explanations. I have said enough to show, Sir, that the problem before the country is a grave one, but I feel sure, whatever views may be taken as to the particular methods Government propose for meeting it, that at any rate this Council will consider Government's proposals with that high sense of responsibility that has always characterized its deliberations.

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#### DATE FOR DISCUSSION OF THE BUDGET.

The HONOURABLE THE PRESIDENT: The Governor General has fixed the 8th for the Budget discussion. I would invite the particular attention of Honourable Members to Standing Order 70 which lays down the scope of that discussion. The rule runs:

'The Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein.'

Honourable Members will probably save themselves some trouble if, in framing their speeches, they will bear that rule in mind.

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#### PRESIDENT'S RULING *RE*: LISTS OF BUSINESS.

The HONOURABLE THE PRESIDENT: Before I call on the Honourable Lala Sukhbir Sinha to move the motion that stands in his name, I should like to refer to what transpired this morning as I wish to give a definite ruling on the question of business not included in the list of business originally circulated. The list of business is to be circulated by the Secretary, and once the list of business has been circulated, that is the list of business for the day, and if it is desired to take up any other business not included in the list, that must be done with my consent; and I shall in future always require an Honourable Member wishing to move in connection with supplementary business, before he commences his speech, to ask my definite consent.

The HONOURABLE LALA SUKHBIR SINHA: I beg to ask your consent, Sir.

The HONOURABLE THE PRESIDENT: I have already given it.

## REGISTRATION OF CHELAS BILL.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I beg to move, in a few words as possible, for leave to introduce a Bill to control the possession of minor children by *sadhus*, *fakirs*, religious mendicants and certain other persons. Sir, as far back as 1913, I moved a Resolution in the United Provinces Council to have some legislation for the protection of children taken away by *sadhus*, *fakirs* and other religious mendicants, either by inducement or by some other means, who, instead of giving them education or training, converted them into criminals and mendicants. The discussion took a long time, and the Resolution was accepted unanimously by the Council. The Honourable Dr. Sapru, who is now Law Member of the Government of India, gave his unqualified support. Many religious members also gave their support; for instance, the Maharajah of Palanpur and the Kumar Sahib of Benares. Two Members of the Assembly also gave their support Mr. Mahadeo Parshad and Mr. Biswambhar Nath. Two Muhammadan Members, one of whom is now a Member of this Council, the Honourable Saiyid Raza Ali and Khwaja Gulam Mustaklan of Meerut also gave their full support, Pandit Motilal Nehru also, who is now a great leader of the non-co-operation movement, also gave his full support. The then Lieutenant-Governor, Lord Meston, also gave his support and accepted the Resolution, and the Council appointed a Committee of many religious members. They circulated a set of questions. Over 100 opinions were received. Many of them were unanimously in favour of some legislation. The Committee drafted a Bill, and submitted it to the Government, but as the Reforms Scheme was going to come into force, no further steps were taken. During that discussion some Members pointed out that, instead of having the Bill in the United Provinces, it would have been much better if action were taken by the Government of India in the Imperial Council. On that assumption I have ventured to bring this Bill forward before this Council to-day. The provisions of the Bill are very moderate; they only provide for the registration of children under the age of 18 by those *sadhus* and *fakirs* who want to take them from their parents or in the case of orphans also. The provisions in the Bill are quite tentative and are open to changes and amendments. What I propose now before this Council is to give me leave to introduce it, and if that leave will be given, then my second motion will be to have it circulated for opinion. Therefore, Sir, with these few words, I move for leave to introduce the Bill.

The HONOURABLE MR. S. P. O'DONNELL: Sir, I wish to say a few words indicating the attitude of the Government towards this Bill. As the Honourable Lala Sukhbir Sinha has informed us, a Committee was appointed in 1913 by the United Provinces Government to consider this subject, and after a period of gestation of somewhat unusual length—six years—they produced this Bill. The Committee also consulted a large number of witnesses. Undoubtedly a number of witnesses did favour legislation. On the other hand, it was made clear that, in the opinion of a number of experienced officers and other persons, the problem was one which bristled with difficulties. There were many witnesses who thought that, although there was undoubtedly a social evil to be dealt with, nevertheless legislation was not a suitable or effective remedy, and that the better course would be to leave the evil to be gradually cured with the advance of education. Government do not desire to oppose the introduction of this Bill, but they consider that, in view of the difficulties to which I have referred, it is

[Mr. S. P. O'Donnell.]

essential that Local Governments should be consulted; and I am glad, therefore, to observe that the next motion which the Honourable Member proposes to move, assuming that the Council allows the Bill to be introduced, is one for its circulation.

The HONOURABLE MR. RANGASWAMY AYYANGAR: Sir, the Honourable Lala Sukhbir Sinha is the Secretary of the All-India Hindu Sabha, and, as such, I never expected that a Bill of this sort would emanate from him. Further, there are so many details in the Bill that require careful consideration. When there is the kidnapping section and other sections in the Criminal Acts, to cope with similar offences a Bill of this sort is not at all necessary. Then it is very difficult to distinguish between ordinary adoptions in a Hindu family and adoptions by a *fakir* or a *sadhu*. Nobody has yet defined a *fakir* or a *sadhu*, and, as such, they cannot be distinguished from an ordinary Hindu. Further, the Honourable Lala Sukhbir Sinha contemplates giving powers to the Magistrate to register the adoption. When there is the sub-registrar to register ordinary adoptions, I do not see how a Magistrate can step into the place of the sub-registrar for the purpose of registering adoptions. It bristles with so many difficulties. I reserve my remarks on the Bill for a further stage, but I have to express my disappointment that the Secretary of the Hindu Sabha should come and denounce the *fakirs* and *sadhus* and should express such a poor opinion of them. I know many of them have high ideals and many have high ideas of the training which they give to young boys. They may have to enforce strict discipline to bring the *chelas* up to their level, and such discipline should not be construed as inflicting cruel punishments upon the students. Exception should not be taken for adopting *chelas* at a young age for being disciplined.

Idealism exists only in young age and when a boy becomes grown up all his idealism and religious sentiments fade away. Further remarks and amendments on this Bill I reserve to the next stage.

The HONOURABLE MR. V. G. KALE: Sir, the feeling of surprise which is entertained by my Honourable Friend, Mr. Ayyangar, is natural in the case of my friend who is a pillar of Hindu orthodoxy. But I am not myself surprised. And if I am surprised at all, I am agreeably surprised that such a Bill comes from the Secretary of the All-India Hindu Sabha. That only shows that the orthodox Hindu community is moving very fast and the fact must be welcomed that even the orthodox Hindus are being roused to a consciousness that while in all other departments of life we are advancing by rapid strides, the community cannot be left where it was in the past on such social questions as those relating to *sadhus*. I realise that there are difficulties in the way. I do myself see that it will be very difficult to distinguish between good *sadhus* and bad *sadhus*. There are various uses to which their *chelas* may be put by them. There are indeed numerous difficulties in the way. But I wish that the Bill should have a fair chance, because it is going to be circulated in order that public opinion may be elicited thereon, and, therefore, I support the motion for leave to introduce the Bill. The Honourable Mr. Ayyangar has spoken of idealism in the early life of man and even of woman, but this very idealism is likely to be taken unfair advantage of by self-seeking people, and it is here that safeguards have to be provided by society. That being the intention of the Bill, namely, to remove the abuses wherever they are to be found—and the fact cannot be gainsaid that there are these abuses—I give my hearty support to the motion before the House.



The HONOURABLE RAJA SIR RAMPAL SINGH: Sir, I rise to support the motion of my friend, the Honourable Lala Sukhbir Sinha, and beg the House that permission should be given to him to introduce the Bill. It is a little too premature to go into the provisions of the Bill, and I do admit that the question is very complicated, and requires a great deal of consideration. But it is an admitted fact that the evil of mendicancy is growing and spreading in the country, and the sooner it is checked the better. Sir, I belong to a province which abounds in places of worship or pilgrimage and the evil of beggary is rampant in all its nakedness there. In fact, though the province is over-populated, the number of beggars has outgrown all proportion, so much so that they have now taken to migrate to other provinces to commit their depredations there. Sir, it is very unfortunate that the name of religion should be exploited by these beggars, and it is still more unfortunate that the charity-giving people should tolerate the beggars. I, therefore, support the motion and ask the House that leave should be given to my Honourable friend to introduce his Bill.

The HONOURABLE DR. GANGA NATH JHA: Sir, I rise simply to correct a misapprehension that might have arisen from the speeches of some of the previous speakers. It would appear from what they have said as if our friend, the Honourable Lala Sukhbir Sinha, was departing from orthodoxy in moving this Bill. Very far from it, Sir. The conditions laid down in our books for the initiation of disciples whom our friend calls *chelas* are so strict that the Bill now proposed by my Honourable friend is very moderate, and instead of being a departure from orthodoxy, it is only going a very few steps along the lines of orthodoxy. In that sense, Sir, the Bill cannot be regarded as any departure from the orthodoxy for which our friend stands.

The HONOURABLE DIWAN BAHADUR V. RAMABHADRA NAIDU: Sir, after having heard the arguments in favour of the Bill from such persons like the Honourable Raja Sir Rampal Singh and the Honourable Dr. Ganga Nath Jha, it is strange that the Honourable Mr. Rangaswamy Ayyangar should hold a different view. It is true that the Honourable Lala Sukhbir Sinha is the Secretary of the All-India Hindu Sabha. But he is not departing from orthodoxy. On the other hand, he has taken pains to remove the evil that exists in the so-called *sadhus*. He has experience of *sadhus* all over India, and he has seen the vices that exist among them. It is only a sense of humanity that has impelled him to bring forward this Bill after such a long study, and we should welcome the Bill all the more since it emanates from such an experienced man like the Honourable Lala Sukhbir Sinha.

The HONOURABLE CHAUDHURI MOHAMMED ISMAIL KHAN: Sir, I rise to oppose the motion of my Honourable friend Lala Sukhbir Sinha. I find that the Honourable Member has used Arabic words in his Bill. Perhaps he means that the Bill should apply to Muhammadan saints. Let me assure the Council that Muhammadans do not require such a Bill, nor do I think is such a Bill necessary for the Hindu community, as the ordinary criminal law of the country can protect them.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I thank the Honourable the Home Secretary for the sympathetic manner in which he has received my motion, and I thank the House for the sympathy and support that many of the Members have given to me. As regards my friend, the Honourable Mr. Ayyangar, I think he is under some misapprehension. The Bill will not affect those *sadhus* and *fakirs* who are really *sadhus* and *fakirs*. There is no provision in the Bill at all which will affect them.

[Lala Sukhbir Sinha].

The provisions in the Bill are only for those so-called *sadhus* and *fakirs* who take away children by force or enticement in order to make them mendicants and criminals. I have the most and best respect for *sadhus* and *fakirs*—more than he has—and as the Secretary of the All-India Sabha, it is my first duty to respect *sadhus* and *fakirs* as a class. But I do not like the country to be flooded with so-called *sadhus* and *fakirs* who take away children from their livelihood and turn them mendicants and criminals. There is a lot of evidence for this if he will kindly look into the papers that I have got with me. Therefore, I ask him to read the papers and remove his misapprehensions, and I think he will agree with me later on that the Bill will be very useful for the whole community, not only for the Hindus, but for the Muhammadans also. One of my Muhammadan friends also has opposed the Bill, but I may tell him that the Honourable Saiyid Raza Ali and Khwaja Ghulam Mustaklan, who was a Sayid and a very religious man in Meerut, gave their full support to the Bill. They used to sit in the committee and when we drafted the Bill they found it necessary also for the Muhammadans to have some legislation. Therefore, Sir, I request this House to give me leave to introduce the Bill. The provisions are liable to be changed. They are only tentative. Honourable Members are at liberty to make any amendments, but at this stage I only want leave to introduce the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

‘That leave be given to introduce a Bill to control the possession of minor children by *sadhus*, *fakirs*, religious mendicants and certain other persons.’

The motion was adopted.

THE HONOURABLE LALA SUKHBIR SINHA: I beg to introduce the Bill and to move that the Bill, with the Statement of Objects and Reasons, be circulated for the purpose of eliciting opinion thereon.

THE HONOURABLE THE PRESIDENT: The question is:

‘That the Bill to control the possession of minor children by *sadhus*, *fakirs*, religious mendicants and certain other persons be circulated for the purpose of eliciting opinion thereon.’

The motion was adopted.

The Council then adjourned to Wednesday, the 8th March 1922, at Eleven of the Clock.