

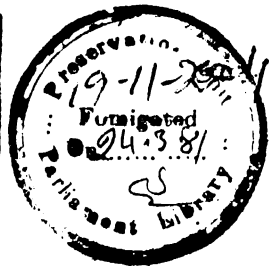
Monday, 19th September, 1927

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1927

(29th August 1927 to 21st September 1927)

THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927



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COUNCIL OF STATE.

Monday, 19th September, 1927.

The Council met in the Council Chamber at Eleven of the Clock, the Honourable the President in the Chair.

RESOLUTION *RE* RAILWAY BETWEEN INDIA AND BURMA.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, I do not propose to detain the House long over this Resolution. I am not an expert in railway matters and I only propose to lay before you the layman's point of view—the point of view which is generally accepted by people who do not know the reports of the various surveys which have been undertaken. We have been told, Sir, that one of the main principles on which railway policy is based is that of connecting the capitals of the various provinces by means of railways. It is a matter of great regret that the Indo-Burma railway connection, which is a natural corollary to this policy, has been indefinitely relegated to the background. The result is that the people who live within a short distance of the borders of Assam, the adjoining province, have to go hundreds of miles to Rangoon and then cross the seas by boat after a voyage of two or three days. Matters were brought to a head during the war when a single German man-of-war rendered the Bay of Bengal quite unsafe. Added to this, very great inconvenience was experienced in finding ships for freight and passengers, and the freights in some cases rose ten-fold. Burma was practically isolated from India during the war. The Government of India being impressed, I believe, with the urgent necessity of the Indo-Burma railway connection had the Hukong Valley route surveyed, and the survey was finished in or about 1919. There was a talk of railway connection to be immediately started, and according to all accounts the Hukong Valley route was regarded as a practical proposition. The report of the survey was shelved in the archives of the Railway Board, secure from the vulgar gaze of people like me ; it never saw the light of day and even to-day the Railway Board treats it as a very confidential document and will not allow perusal to any Member of the Legislature. But I am grateful indeed to the Honourable Sir Geoffrey Corbett for arranging to give me some insight into these things, and asking Mr. Lines of the Railway Board to explain to me the various surveys which have been undertaken and the various possibilities of a railway connection. After I got some knowledge of these things at the hands of Mr. Lines, I am more than ever convinced that it is a matter of urgent necessity to connect Burma with India. The Government of India, for reasons best known to themselves, have practically abandoned this Hukong Valley route and have been considering other routes—Chittagong to Akyab and Akyab to Pakokku through the An Pass of the Yoma Hills.

I shall first deal with the Hukong Valley route which I consider to be the easiest and the most feasible route over a length of 272 miles or thereabouts. My information is that throughout this line the gradient is only one in a hundred,

[Mr. P. C. Desika Chari.]

while in the case of metre gauge lines they can stand easily a gradient of 2 in 100. There are only two or three very small tunnels to be made, and the total cost of the line according to war conditions was estimated at about 6 crores and at present would be about one crore less. There were said to be two bridging projects of importance involved, namely, the bridges to be constructed over the Brahmaputra and the Irrawaddy. The bridge over the Irrawaddy has been since sanctioned at Sagaing, and I therefore thought it opportune to bring forward this Resolution. From inquiries I was able to make I understand that the Hukong Valley is a very fertile region, showing traces of extensive lands which were once under cultivation. The importance of opening up such a valley cannot be overestimated in the interests of the population of Upper Burma living in the dry belt round about Mandalay. I am told, Sir, that all along this route, especially in the Assam side, there is a good field for the mining industry. The Hukong Valley is favourably situated for the cultivation of very valuable crops like paddy, besides offering considerable facilities for the cultivation of rubber, tea and other valuable crops. The railway systems in Upper Burma and in Assam, owing to geographical position, at present are not paying well. If the two lines are connected, this disadvantage due to the geographical position would disappear, and the new line forming the connecting link would pay for the investment required by increasing the earnings of both the Burma and Assam Bengal Railways. This is the second ground on which I would urge the construction of this line. But the most important consideration which I would submit to the House is this. If Burma is to remain a part of British India, it is necessary that there should be free intercourse between the peoples inhabiting different provinces. The railway has been the main factor in promoting this intercourse between various provinces in India, and I do not see why Burma, which is a part of British India, should be practically segregated. The Burmese as a class do not like sea voyages and the construction of a railway line would remove one of the stumbling blocks in the way of a better understanding between Burma and the rest of India. I believe that the principle applied in undertaking railway construction is this: if the line is likely to pay a certain percentage of income or if the Local Government concerned is prepared to guarantee against loss, the construction of a new line is undertaken; otherwise not. I submit, in the first place, that the railway along the Hukong Valley route would pay and in the second place, even assuming for argument's sake that the line is considered not paying, the ordinary rule that the Local Government concerned ought to guarantee against loss cannot apply in the case of a line like this where two provinces are concerned. It is a case of inter-provincial connection; and in such a case it is but fit and proper that the Central Government ought to come in and ought to take the responsibility on itself, more especially as in this case there is the paramount necessity of opening up a fertile valley like the Hukong Valley. Our position is this that the Government of India are in possession of very valuable documents like the reports of the various surveys—especially the Hukong Valley survey; and unless they produce these survey reports to show that the line or lines is or are not feasible or that the lines will not pay, I submit that I am entitled to draw the natural inference that the Hukong Valley line is a very feasible one and a paying line, and I challenge the Honourable the Commerce Secretary to show by reference to the report of the survey that the line is not

feasible nor profitable. I hope he will not confine himself to an assertion that the line will not pay or that it is not feasible.

I find, Sir, that the Government of India is pushing forward the Burma-Siam connection which is a much more difficult line, running through mangrove swamps and uninhabited jungles and involving the construction of a tunnel, a mile and a quarter long through solid granite rock, added to which are the difficulties of bridging several creeks on the way. This international connection is preferred to the interprovincial connection, though the first 123 miles alone in this line is likely to result in an annual loss of 14½ lakhs of rupees. I am not aware, Sir, if they insisted upon this guarantee before they thought of pushing through this connection with Siam. The alternative route from Chittagong to Akyab and from Akyab to Pakokku through the An Pass is, I believe, not an easy one owing to its physical features on the west coast of Burma, and if you come to Pakokku, there is a further difficulty of bridging the Irrawaddy across to Minh a. As the bridge at Sagaing has been decided upon, it is undesirable to undertake a second bridge on the Irrawady.

I submit, Sir, I have made out a case for the railway connection between India and Burma, and if the Government think that the alternative service and not the Hukong Valley route offers a better field for railway construction, it is desirable that one or the other lines of construction should be immediately undertaken. What I want, Sir, is this. From time to time we are told that the Government have considered it desirable that there should be a connection between India and Burma, and in every railway budget speech we find that some sort of regret is expressed that it has not been possible for them to undertake this construction; and some hopes are also held out by telling us that some line or other from Pyinmana to Lewe or Lewe to Taungdwingyi is possibly the connecting link between Burma and India. But I do not find any consolation in these distant hopes unless the Government of India come forward with a definite programme to connect India with Burma. Sir, my request is a very modest one as contained in this Resolution. I only want that some line of construction should be undertaken definitely as a part of the Indo-Burma connection, and I hope that they will not relegate to the background the scheme but that they will push it through.

Sir, it is not desirable with the limited knowledge at my command to deal more exhaustively with this Resolution, and I hope, Sir, the Honourable the Commerce Secretary would deal with this Resolution in that spirit of fairness which always characterises his dealings with problems of this nature, and I hope he would take the House into his confidence by showing any difficulty, if there is really any, with regard to carrying out the expert surveys which have been undertaken at great cost. With these words, I commend the Resolution for the acceptance of the House.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“That this Council recommends to the Governor General in Council that railway construction be started during the year 1928-29 for connecting Burma with India by rail, and that necessary steps be taken forthwith.”

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) :
Sir, my Honourable friend Mr. Chari has raised a very interesting question to-day, not only economically but also perhaps psychologically. As he has said

[Sir Geoffrey Corbett.]

connection between India and Burma is at present restricted for all practical purposes to communications by sea. I have no doubt that my Honourable friend, Sir John Bell, would tell us that the services provided are comfortable, efficient, expeditious and cheap. (*An Honourable Member*. "Not cheap".) I said he would tell us it was cheap. Unfortunately, the Bay of Bengal can be rather rough especially in the monsoon, and my Honourable friend Mr. Chari has quite recently crossed the Bay of Bengal in order to attend the monsoon Session of this Council.

THE HONOURABLE MR. P. C. DESIKA CHARI : I had a very bad experience.

THE HONOURABLE SIR GEOFFREY CORBETT : That confirms my view of the psychological aspect of this case. I may say, Sir, that when I have had a rough crossing from Calais to Dover, I become for the time being a passionate adherent of the Channel Tunnel scheme. But apart from that, it is really rather a serious thing, as my Honourable friend has said, that this great province of the Indian Empire should be cut off from the rest of India and should be practically inaccessible by land from the rest of India. And as he very truly said, in the war it became a very serious problem, and though the war is over, we cannot expect to be exempt from wars altogether for the future.

I should very much like the Honourable Mover suggested, to take the House into complete confidence in this matter, but the subject really is one more for a lecture room than for a debate. I have got a map with me, and if any Honourable Member likes afterwards to go through the map with me, I can show him exactly how the thing stands, what the possible projects are and where the difficulties arise. I do not think it is possible to do that in a debate. However, I will make the best job of it I can. Well, various surveys have been made of a railway from Burma to India, but the practical projects can really be reduced to two. There is first of all what is known as the coast route, running from Chittagong down to Akyab and crossing the Yoma Hills by the An Pass down to the Irrawady Valley. That is one route which links up with the Burma Railways. The other one, to which the Honourable Mr. Chari has referred, is the Hukong Valley route which links up with the extreme north-east corner of Assam. It crosses the hills, descends the Hukong Valley and hits the extreme north of the present Burma Railways not very far from Myitkyina. Well, Sir, subject to correction by my friend Mr. Chari, I do think that, merely as a through connection between India and Burma, the Akyab or the coast route is the only route that can be seriously considered. The time taken on that route would be 56 hours by the fastest possible train, and I think Sir John Bell's mail steamers would beat us every time. Am I correct? Is it two days?

THE HONOURABLE SIR JOHN BELL (Bengal Chamber of Commerce) : It is 49 hours.

THE HONOURABLE SIR GEOFFREY CORBETT : I thought so. Well, the northern route is really an enormous detour from the populous centres of Burma to the populous centres of India. In fact, it is almost as if my friend proposed to come to Simla *via* Tibet; and until he becomes an enthusiastic

aviator, I do not think he will do that. It is a fact that the point of junction between the Burma Railway and the Assam Railway by Margherita would be within a short distance of the Tibetan frontier.

Now, to turn to the details of these projects, the southern route, the coast route, involves 578 miles of new construction, from Chittagong to the Burma Railway, and the cost would be Rs. 10 crores. As my Honourable friend Mr. Chari has said, one of the great difficulties is to cross the Yoma Hills; and on the An Pass, which is the best route that has been discovered, there would be a very long tunnel, nearly two miles, which would cost a great deal of money to construct. I do not think it would be a remunerative project merely as a through connection between India and Burma. My Honourable friend Mr. Chari is possibly aware—if not, my friend Sir John Bell will tell him—that it is really not possible for land communications to compete with sea transport. The sea is cheaper every time. And therefore merely as a means of through communication, as a commercial proposition it is not good enough. As a through communication it would only be justified, not from the point of view Mr. Chari spoke of, but in time of war or from the more subtle social point of view, to encourage Burmans to visit India a little more. But although the scheme as a whole would not be remunerative simply as a through connection, we have reason to believe that some of the local sections would be remunerative. In particular, the line from Chittagong to Akyab is probably remunerative, and it is not unlikely that it may be constructed at a not very late date; and that will cut off 210 miles of the total length of the through connection. We have already undertaken the construction of a short length of 18 miles from Chittagong to Fatikchari, which will be the take-off at the Halda river for a line running southward along the coast to Akyab. On the other side of the Yoma Hills, in the Valley of the Irrawaddy, we have now undertaken the construction of a line from the main Burma Railway down to the river, where in all probability we shall provide for a train-ferry and then run north through Minbu to Pakokku. That will get over the difficulty of crossing the Irrawaddy, to which Mr. Chari referred, for the Irrawaddy would have to be bridged, or rather a train-ferry would be provided, for the purpose of this Minbu line. That would give us a very good take-off on the Burma side of the Yoma Hills. And with these two local extensions on each side of the Yoma Hills, the construction of the link uniting them would become a matter for practical consideration, so as to complete the connection between India and Burma. I may mention, however, that the final link between Akyab and the Pakokku Railway would still be 210 miles and the cost is estimated at 5½ crores.

We turn now to the northern route which, as I said, can hardly be considered merely as a through connection to India. We do not want to go from Rangoon to Calcutta via Pekin! The Burma Government have very recently put forward a proposal, for rather special reasons connected with recent happenings in the Hukong Valley, for extending the railway up to Hukong Valley from near Myitkyina for 112 miles. The total length of the connection between the Assam Railway and the Burma Railway is 278 miles of construction, and the estimated cost according to the survey which was made in 1921 was 7½ crores. It would probably be reduced somewhat now owing to the fall in prices. Well, this railway extension which the Burma Government proposed up to the Hukong Valley, and which would effect what would seem to be

[Sir Geoffrey Corbett.]

the primary object of Mr. Chari, that is the opening up and development of the fertile Hukong Valley, would cost 164 lakhs. And the final section, from the top of the Hukong Valley over the hills at the end, which would again require a very long tunnel, would be 166 miles and would cost 440 lakhs.

THE HONOURABLE MR. P. C. DESIKA CHARI : May I know the length of the tunnel ? A few hundred feet or so ?

THE HONOURABLE SIR GEOFFREY CORBETT : 3,500 feet. That is the longest tunnel. And there are two other tunnels besides. But the total cost of linking up the head of the Hukong Valley with the head of the Assam Railway would still be 4½ crores. As I said before, the final link on the southern route would cost 5½ crores. It would cost a crore more ; and I do not think, from the commercial point of view, there is any doubt that it would be more likely to be remunerative.

Well, the general conclusion to which I think the House will come, is that there is no case now for constructing a through connection as such. It would not be commercially remunerative, and we simply could not put up 10 crores for the Akyab line or 7½ crores for the Hukong connection merely to link up Burma and India and to save Honourable Members and others from the distress of a voyage through the Bay of Bengal in the monsoon.

THE HONOURABLE MR. P. C. DESIKA CHARI : That is not the only reason.

THE HONOURABLE SIR GEOFFREY CORBETT : But the local extensions will be taken up as they are found to be remunerative. We always have it in mind. We shall keep pushing along, and I have no doubt that when the extensions come close to each other, the final link will be completed. I hope, therefore, the Honourable Member will take what I have said as being in the spirit of what he asked. That is, not that we should put up 10 crores next year to make this connection, but that we should push on with the local schemes as we can, on a financially sound basis, until finally the gap is closed and the connection is completed.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, I am afraid the Honourable Sir Geoffrey Corbett made light of my anxiety to have the Hukong Valley route. He knows there is a route *via* Pekin from Rangoon to Calcutta. My object is this. For people living along the coast they have got easier communication by sea. My object is to help people in the interior—take for instance people living at Myitkyina. Myitkyina is nearly 800 miles from Rangoon and Myitkyina and other districts have got a large and growing population and when people from these parts want to come to any portion of India they will have to travel 800 miles, come to Rangoon and then take a steamer. Whereas people living in Lower Burma and living all along the coast have got the other alternative of taking to steamships which are fairly comfortable. I do not complain against the steamship companies though the deck passengers may have very much to complain of. Sir, it is not because I think there would be a great saving of time, I urge this, but because the main bulk of the people living in the interior of Burma are put to considerable inconvenience, even if the other route is sanctioned. I have no objection if

at least the other alternative route, the coastal route, is sanctioned; it will be something. People may have some work in Rangoon or they may prefer to travel all over the place before going to Rangoon to take this railway through communication. But anyhow what I submit, Sir, is that the Railway Board and the Government of India ought to have a clear-cut programme for the Indo-Burma connection. It does not matter that the line to Burma takes a considerable time to finish. I do not mind whether it is the Hukong Valley route, which according to me has obvious advantages, or any other. If they prefer the other route, well and good. What I submit is that instead of saying that some lines may possibly be a link in the Indo-Burma connection, let them have a programme and start with that programme of construction as early as possible, and I would request that this Resolution may be kept in mind when new railway projects are being sanctioned in the province of Burma.

With these words, Sir, I submit it is practically admitted that it is desirable to connect Burma with India and under these circumstances I press the Resolution, and, though I am the sole member from Burma, I think I have the right to urge upon the House to regard it as a first-rate Indian national problem and I would request all the Members present to support this Resolution.

THE HONOURABLE SIR GEOFFREY CORBETT : Sir, I am prepared to admit that it is desirable that Burma and India should be connected by railway. And I am prepared to say that in pushing forward our local extensions, we shall always bear in mind the possibility of completing the link and we shall shape our programme accordingly. But I am not prepared to agree to recommend to the Governor General in Council that railway construction be started during the budget year 1928-29 for connecting Burma with India by rail and that necessary steps be taken forthwith; and I must therefore oppose the Resolution.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the following Resolution be adopted, namely :—

‘ That this Council recommends to the Governor General in Council that railway construction be started during the budget year 1928-29 for connecting Burma with India by rail, and that necessary steps be taken forthwith ’.”

The motion was negatived.

INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill further to amend the Indian Limitation Act, 1908, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon.

The Select Committee have altered the Bill as introduced in certain important particulars, and they have recommended that this Bill should be circulated for the purpose of eliciting opinion, and I move accordingly.

The motion was adopted.

CANTONMENTS (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I move that the Bill further to amend the Cantonments Act, 1924, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

[H. E. the Commander-in-Chief.]

The proposed amendments are explained in detail in the Statement of Objects and Reasons. They are, with perhaps one exception, of minor importance. Some of them are intended to clarify the language of the Act, others to remove inconsistencies, and others again to bring the provisions of the Act more into line with the existing municipal law.

Clause 2 of the Bill contains a purely verbal amendment which requires no comment.

Clause 3 deals with a subject to which attention has been drawn more than once in this House. It is a statutory duty of a Vice-President, as the name implies, to preside in the absence of the President. But section 20 of the Act lays down that the President of a Cantonment Board must be the Officer Commanding the Station ; and under military practice there is always an Officer Commanding the Station present in the station. If the permanent Commanding Officer goes away, for however short a time, the next senior officer takes his place, and automatically becomes the Commanding Officer of the Station and the President of the Cantonment Board. The result is that no Vice-President can ever preside at a meeting of the Cantonment Board unless the President deliberately stays away from the meeting to enable him to do so. Clause 3 proposes to remove this anomaly, and enable the Vice-President, on occasion, to preside at meetings of the Board.

Clauses 4 and 5 propose to empower Local Governments to remove members of Cantonment Boards who have, since their election, become subject to any disqualification, which if it existed at the time of their election would have rendered them ineligible for election. This also is in accordance with municipal law.

Clause 6 proposes to assimilate the powers of Local Governments of imposing taxation in cantonments with their existing powers of imposing taxation in municipalities.

Other clauses are intended to improve the phraseology of certain sections of the Act which deal with property tax.

Clause 12 proposes to enable Cantonment Boards to invest their funds in fixed deposits with banks other than the Imperial Bank. Formerly Cantonment Board funds vested in the Crown and merged in Government balances. They could therefore be invested in fixed deposit with the Imperial Bank only. Cantonment funds now vest in, and are managed by, the Cantonment Authority, and there is no reason why Cantonment Authorities should not be able to deposit their funds with other banks subject to the approval of the Local Government.

Sir, I move.

The motion was adopted.

Clauses 2 to 13 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN EMIGRATION (AMENDMENT) BILL.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member) : Sir, I move that the Bill to amend the Indian Emigration Act, 1922, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Honourable Members will remember that on Thursday last they adopted on my motion a Resolution recommending to the Governor General in Council that he should ratify the draft Convention and accept the Recommendation of the International Labour Conference passed at its Eighth Session held at Geneva concerning respectively the simplification of the inspection of emigrants on board ship and the protection of emigrant women and girls on board ship. In the course of my remarks while speaking on that Resolution, I stated that if the House adopted the Resolution which I then moved, it was proposed to undertake the necessary legislation during this Session to amend the Indian Emigration Act, VII of 1922, so as to enable the Governor General in Council to carry out such or all of the provisions of the Convention as circumstances may require. This Bill, Sir, is in conformity with the promise then made.

Article 11 of the Convention requires that each member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3, 4, 5, 6 and 7 into operation not later than the 1st of January 1928, and to take such action as may be necessary to make these provisions effective. Article 1 enjoins that for the purposes of the application of this Convention, the terms "emigrant vessel" and "emigrant" shall be defined for each country by the competent authority in that country. As regards the definition of "emigrant vessel" and "emigrant" which we are called upon to lay down by legislation, I may invite the attention of the House to the fact that the definition of "emigrant" already exists in section 2 (1) (b) of the Indian Emigration Act, VII of 1922. All that we are now called upon to do therefore is to define "emigrant vessel", and that has been attempted to be done by the Bill now under consideration.

Furthermore, section 24 (2) (k) of the said Act empowers the Governor General in Council to make rules regarding the security, well-being and protection of emigrants both up to the date of their departure from India and on their return to India. But it does not confer any power on the Governor General in Council to make provision for similar purposes during the voyage, a provision which is necessary to give effect to the provisions of Articles 3 to 7 of this Convention which I have quoted already, and the Bill under consideration makes provision for such purposes as well. I therefore move it.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN INCOME-TAX (AMENDMENT) BILL.

THE HONOURABLE MR. A. F. L. BRAYNE (Finance Secretary): Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, the House will remember that when I introduced the Budget last Delhi Session, one of the measures regarding taxation was the abolition of the export duty on tea. I then stated also that it was the intention of the Government to make up part of the loss on the export duty by raising from 25 to 50 per cent. the proportion of the profits of tea companies which are liable to income-tax as 25 per cent. seemed to be unnecessarily generous to some at any rate of the tea companies. There was an existing rule issued under the Income-tax Act which fixed the percentage at 25, and when it was proposed to raise that percentage to 50, some doubt arose in the course of the discussions whether the rule as it then stood was *intra vires* of the Act because it laid down that in all circumstances 25 per cent. of the tea companies' profits must be treated as non-agricultural and therefore assessable to income-tax. Now, under the Income-tax Act agricultural income is not assessable. But the effect of the rule in question might be in some cases, though very unlikely, to transgress this principle. These doubts having arisen, the Central Board of Revenue entered into negotiations with the tea companies. It was Government's first intention to institute a method by which the actual proportion of non-agricultural income should be definitely ascertained by the Income-tax authorities in each individual case. But it was realised that this process would prove to be extremely cumbersome and inconvenient, and it is indeed at the request of the tax-payers themselves, i.e., the tea companies, that the Government now propose that this small change be made in the Act in order that Government may be able to re-introduce a rule which will be without any doubt *intra vires* of the Act and enable them to fix a definite percentage.

At the same time, while this particular case was under consideration a doubt arose as to the rules which made similar arrangements in regard to one or two other kinds of assessment. The purpose of this Bill is to remove a defect in the Act and to exclude all doubts as to the validity of certain rules which exist for the convenience of the tax-payer, and the Bill is the result of the demands of the tax-payers themselves. If Government had been able to do so they would have much preferred to introduce a Bill laying down here and now exact percentages, but they need more experience in the case of tea companies and other cases before this can be done. When this experience has been gained from the working of the present amendment, I can assure the House that Government will try to put the matter on a much more satisfactory footing by introducing legislation fixing definite percentages; but at present it is not possible to say what would be the correct figure in some of the cases in question.

Sir, I move that the Bill, as passed by the Legislative Assembly, be taken into consideration.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 2 do stand part of the Bill."

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I beg to move the amendment standing in my name, namely:

“ That sub-section (3) proposed to be inserted in the Indian Income-tax Act, 1922, by sub-clause (1) of clause 2 of the Bill, after the words ‘ profits and gains ’ in clause (a), and after the words ‘ of the income ’ in clause (b), the words ‘ of tea companies ’ be inserted. ”

From the Statement of Objects and Reasons to the Income-tax (Amendment) Bill, it is intended to remove a slight defect in connection with the question of assessment of tea companies, but there appears to be no specification of the sort in the Bill in its present form. The absence of such a specification is open to certain apprehensions in the way of the general application of the Bill in case of its being passed into law. As such, I am afraid, it will be adding much to the powers of the Income-tax Department already exercised by them in making assessments to their liking. Instances are not wanting in which the Income-tax Department have not failed to make a full exercise of the powers provided in the Income-tax Act of 1922. They have been making assessments as it pleases them, irrespective of the particulars of income supplied by the assesses, and in certain cases no regard is had to the returns submitted by the assesses in accordance with the income-tax rules, and the assessments are made on the mere conjectures of the assessing authorities. In spite of the fact that a good many of the income-tax payers do not keep accounts similar to those of the shopkeepers, they are required to produce certain account books kept by persons of the said category, and in the absence of their producing such accounts, they are subjected to the assessments based on mere conjectures of the authorities. I think Honourable Members will agree with me in saying that every income-tax payer, and especially the agriculturist, cannot be expected to keep his accounts like the shopkeepers. In most of the cases it is not considered necessary to keep the accounts even owing to the smallness of business, particulars of which can be counted on the fingers. Under these circumstances, the compulsion to produce accounts as desired by the Income-tax authorities is largely due to the vast powers already provided for in the Income-tax Act.

Again, the assesses are granted no right of appeal against the order of the Income-tax Officer in any court except before the Assistant Commissioner of Income-tax, and finally before the Commissioner of Income-tax, with the usual result that the appeal or the revision against the order of the Income-tax Officer, as the case may be, is dismissed and the original order allowed to stand.

Under the circumstances, the passing of the Bill in its present form will be adding much to the powers already exercised by the Income-tax Department, who, I am afraid, will not hesitate to make a general application thereof, making no differentiation between the assessments of tea companies or of agriculturists. It seems necessary, therefore, that, with a view to safeguard against this general application of the Bill under discussion, it ought to be amended accordingly, so as to have it specified that it is simply intended for the tea companies and that its application should be confined to the assessments of such companies only.

THE HONOURABLE MR. A. F. L. BRAYNE: Sir, I can assure the House that Government have no sinister motive, or Machiavellian intention in bringing

[Mr. A. F. L. Brayne.]

forward this motion. My Honourable friend who has moved the amendment fears that if this Bill is passed, it will give the Income-tax Department very much stronger powers than they have at present. He thinks that the Bill is of general application to all forms of assessment. Now, the Bill merely refers to the classes of income shown in clause (a) of sub-section (2) of section 59 of the Indian Income-tax Act. Now, this section refers only to three classes of incomes, that is to say, income derived partly from agriculture and partly from business, secondly, income derived from insurance companies and, thirdly, income derived by persons residing outside British India. As I have stated, the object of the Bill is merely to validate certain rules which are meant for the convenience of assessing those classes and no other class. For example, there is absolutely no intention to assess agricultural income as such. Therefore, Sir, I oppose the motion.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, it seems to me that the Bill as it stands gives greater facilities for the convenience of Income-tax Officers, and I am afraid that with these additional powers, they are likely to use them to the great hardship of the assessees. Sir, the present income-tax administration and the income-tax law is very unscientific, and it is not based upon the system which we have in England, and the Government have not thought fit to take any action on the recommendations of this House made during the last Delhi Session, that the income-tax law ought to be made more scientific and more in conformity with what we have in England. On the other hand, my main reason in moving that Resolution was that the Government ought not to be a judge in its own cause, and the department responsible for the assessment sits as a judge in its own cause ; and now the law is made so vague that it is quite possible for the assessing officer, who is a judge, as well as the party, to have his own rules without being guided by the ordinary rules of justice, equity and good conscience. Sir, if it is necessary in the case of tea companies to give certain powers to the assessing department, the House will have no objection to do so, but if under the guise of giving certain powers to the assessing department for this particular purpose you make the law very vague, I do not think you will be right in really enlarging the measure in a manner contemplated by the Legislature and which will cause great hardship. I therefore have great pleasure in supporting the motion moved by my friend Major Nawab Mahomed Akbar Khan.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, those who say that they are the good friends of the Zamindars cannot do anything but support the motion brought forward by my Honourable and gallant friend Major Nawab Muhammad Akbar Khan. As I have said on numerous occasions before, the zamindars are already very heavily taxed, and I do not think it will be in the interests of Government to drive them to become agitators. When the Honourable Mover of the Bill has already said that he does not mean to tax the zamindars, where is the harm if this little change is made? It will make the law quite clear, and the income-tax authorities will not be able to oppress the people. We, Sir, who make these laws here, know the actual working of the laws outside this Chamber ; that is to say, we know how they are working outside the Chamber in actual practice, and so I think the Chamber ought to be very cautious so as not to put a wrong

weapon in the wrong hands. We are very grateful, Sir, to some of our English friends here, because whenever we have brought to their notice that we are being oppressed, they have always come to our rescue, and I hope to-day they will do the same. There are certain Honourable Members who are inclined to vote not according to what they think, but they vote in the way they are made to do on some occasions, but I would ask the House and the Honourable the Leader of the House to allow all Members to vote on this question as they think best, that is to say, every Honourable Member must have a free vote on this matter, so that the zamindars may be helped.

THE HONOURABLE THE PRESIDENT : The original question was :

“ That clause 2 do stand part of the Bill.”

Since which an amendment has been moved :

“ That in sub-section (3) proposed to be inserted in the Indian Income-tax Act, 1922, by sub-clause (1) of clause 2 of the Bill, after the words ‘ profits and gains ’ in clause (a) and after the words ‘ of the income ’ in clause (b), the words ‘ of tea companies ’ be inserted.”

The question is that that amendment be made.

12 NOV.

The Council divided :

AYES—14.

<p>Akbar Khan, the Honourable Major Nawab Mahomed.</p> <p>Charanjit Singh, The Honourable Sardar.</p> <p>Desika Chari, The Honourable Mr. P. C.</p> <p>Govind Das, The Honourable Seth.</p> <p>Khaparde, The Honourable Mr. G. S.</p> <p>Mukherjee, The Honourable Srijut Lokenath.</p> <p>Oberoi, The Honourable Sardar Shivdev Singh.</p> <p>Rama Rau, The Honourable Rao Sahib Dr. U.</p>	<p>Ray Chaudhury, The Honourable Mr. Kumar Sankar.</p> <p>Sett, The Honourable Rai Bahadur Nalinath.</p> <p>Singh, The Honourable Raja Sir Harnam.</p> <p>Sinha, The Honourable Mr. Anugraha Narayan.</p> <p>Umar Hayat Khan, The Honourable Colonel Nawab Sir.</p> <p>Zubair, The Honourable Shah Muhammad.</p>
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NOES—17.

<p>Akram Hussain Bahadur, The Honourable Prince A. M. M.</p> <p>Berthoud, The Honourable Mr. E. H.</p> <p>Brayne, The Honourable Mr. A. F. L.</p> <p>Corbett, The Honourable Sir Geoffrey.</p> <p>Das, The Honourable Mr. S. R.</p> <p>Habibullah, The Honourable Khan Bahadur Sir Muhammad, Sahib Bahadur.</p> <p>Haig, The Honourable Mr. H. G.</p> <p>Hooton, The Honourable Major-General Alfred.</p> <p>McWatters, The Honourable Mr. A. C.</p>	<p>Misra, The Honourable Pandit Shyam Bihari.</p> <p>Muhammad Buzlullah, The Honourable Khan Bahadur.</p> <p>Natesan, The Honourable Mr. G. A.</p> <p>Stow, The Honourable Mr. A. M.</p> <p>Swan, The Honourable Mr. J. A. L.</p> <p>Tek Chand, The Honourable Diwan.</p> <p>Thompson, The Honourable Sir John Perronet.</p> <p>Tudor-Owen, The Honourable Mr. W. C.</p>
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The motion was negatived.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. F. L. BRAYNE: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

HINDU FAMILY TRANSACTIONS BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move that the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu Law shall, in certain cases, be effected by written and registered instruments, as reported by the Select Committee, be taken into consideration.

The House will remember this Bill was introduced with a view to provide that certain Hindu family transactions, such as partitions and separations of interest and other matters, could only be effected by written and registered instruments. The Select Committee were in fact unanimous as to the principles of the Bill but, as the House will observe from the Minutes of Dissent by three of the Members, they seem to apprehend that the Bill has not given effect to some of the principles agreed to by the Select Committee. I do not think myself that there is any reason for that apprehension. I think the Bill covers the point made by the dissenting members of the Select Committee.

I move that the Bill be taken into consideration.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, I move the amendment which stands in my name:

“That the consideration of the Bill be adjourned to the next Session of the Council of State.”

I would not like to rush this piece of legislation, the principles of which do not seem to get general acceptance. Sir, the Select Committee has pointed out that:

“considerable hardship would be caused to the Hindu community by a provision which precluded the acquisition of separate status by conduct other than the execution of an instrument evidencing an intention to acquire it.”

Sir, I do not think it is necessary for me to refer at length to the various ways in which a partition can be effected. Sir, according to the objects and reasons of this Bill, it is intended to lay down a certain legal formality to be observed for particular partitions and separations of status in a joint Hindu family, but I find the Bill, as drafted after the Select Committee's Report was signed does not bear out the full intention of the Select Committee. In fact, the Bill as it stands, I am afraid, brings within its scope those transactions which were originally not intended to be affected by it according to the Statement of Objects and Reasons. Sir, I find considerable support in the Minute of Dissent which has been jointly signed by my friend Sir Manmohandas Ramji and the Honourable Mr. Ramadas Pantulu. They say, Sir:

“I feel that the intention of the Committee to exclude from the operations of the Bill transactions whereby a family can become divided in status, such as conduct, partial

alienations of joint interest by one or more members of a coparcenary, business transactions between the coparceners, and so forth, has not been given effect to by the Bill even as amended. The right to become partially divided, either in respect of the members of the coparcenary or in respect of coparcenary property, leaving the family joint in respect of the other members and the undivided property is now recognised by the decisions. It is desirable to insert a proviso to clause 2 to make the intention of the Committee clear in respect of these matters."

With this object I sent in also certain amendments, but I think it is better that in the original Bill itself rather than in the form of provisos at a later stage, it should be made clear that no other transactions except written agreements of partition should be registered, and that it is not considered compulsory that a man may get a certain status that he should always execute some document which is to be registered. In the proviso to clause 2 I find certain transactions which are maintained as exceptions in the proviso which are accepted. I find, Sir, that this Bill deals with a change in the substantive right and not a procedure of law, and that is that the substantive rights of the members of undivided Hindu families should not be lightly changed unless there is some good reason to do so. Sir, there is no object in hasty legislation and my object in bringing forward this motion is merely to give the Government draftsman time to consider all this and to draft the clauses in such a way as to bring out the intentions of the Select Committee rather than leave it to the halfhearted attempts of amendments which we can bring forward.

This is a very important measure affecting the bulk of the Hindus. After all, there is no object gained in getting this measure passed to-day. It cannot go to the Assembly during this Session. If it is taken up at about the beginning of the next Delhi Session, there will be ample time to have it passed during that Session, and nothing is lost. I think the Honourable the Law Member, who is always considerate when a request of this kind is made, would accede to my request and would not press this piece of legislation in a hurry. With these few words, Sir, I commend my motion to the acceptance of the House.

THE HONOURABLE MR. S. R. DAS : Sir, as I said when I moved the motion, I do not think there is anything in the apprehension expressed by my Honourable friend or by the members of the Select Committee, but I am prepared to accept this amendment on three grounds. The first is that even if this Bill is passed now, there is no chance whatever of our being able to place it before the other House till the Delhi Session; the second is, we are very anxious from the point of view of the Government that this Bill should not be passed practically on the last day of the Session when many of the Members, particularly those who have appended dissenting minutes, are absent, and the third ground is one which my Honourable friend has not noticed, namely, that under the Standing Orders, he can, if he likes, refuse to consider the Bill without 7 days' notice which I am not in a position to give.

THE HONOURABLE MR. P. C. DASIKHA CHARI : We do not want to raise technical objections, Sir.

THE HONOURABLE THE PRESIDENT : The original question was :

"That the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu law shall, in certain cases, be effected by written and registered instruments, as reported by the Select Committee, be taken into consideration."

[The President.]

Since which the following amendment has been moved :

“ That the consideration of the Bill be adjourned till the Delhi Session.”

The question I have to put is :

“ That the consideration of the Bill be adjourned till the Delhi Session.”

The motion was adopted.

APPOINTMENT OF A COMMITTEE TO CONSIDER THE QUESTION OF RESIDENCE AND ACCOMMODATION FOR MEMBERS OF THE INDIAN LEGISLATURE.

THE HONOURABLE MR. A. C. MCWATTERS: (Industries and Labour Secretary): Sir, I beg to move :

“ That the Honourable the President do appoint four members of this House to serve on a Committee to consider the question of residence and accommodation for Members of the Indian Legislature, including the use and disposal of the Western Hostel, New Delhi, and the question of constituting a Standing House Committee to deal with all matters connected with the allotment to Members of accommodation or quarters available for their residence. The Committee will also comprise six members of the Legislative Assembly.”

I think, Sir, that this Resolution hardly requires many words of commendation from me. The main object of the Resolution is an entirely reasonable and laudable one on the part of Government that Members of the Legislature themselves should be given a voice in questions connected with their accommodation and residence, and both from the point of view of Government and of the Legislature, it is extremely desirable that any grievances or disabilities that come to light should be expressed clearly by the persons who are affected by them. That is the main object of Government in putting forward this Resolution. But there was a more particular reason why they desired to put it forward at the present time and that is connected with the question of hotel accommodation in New Delhi. As New Delhi develops, the time is rapidly coming when it is important that there should be a good hotel in the new City, and we have found that it is impossible to induce any hotel companies to come forward with proposals for establishing a hotel in New Delhi so long as Government continue attempting to run a hotel of their own in the shape of the Western Hostel. We endeavoured to get competition on the part of hotel companies for taking up sites in New Delhi on favourable terms, but without success. We negotiated with a certain hotel company for taking over the Western Hostel and these negotiations promise, I think, to bear fruit. But the Government were of opinion that as any negotiation of that kind would involve as one of its essential elements the question of reserving a certain amount of accommodation at the Western Hostel for Members of the Legislature, it was most important that Members of the Legislature should be cognizant of those negotiations and should in fact advise Government upon them. That was the main reason for putting forward this Resolution at the present time.

There is one further point. The House will observe that in the other place the original Resolution of Government was added to and the question of considering the appointment of a House Committee was also referred to this

ad hoc Committee which is now to be formed. The House may know that during the first Session of the Legislature a House Committee was formed, but I believe I am right in saying that that Committee never functioned. We see no reason why this scheme for a House Committee, which operates successfully in other countries, I believe, should not be resuscitated, and therefore, we are quite agreeable to leave this question also, namely, the formation of a House Committee and its functions to be considered by the *ad hoc* Committee whose formation I am now proposing. I therefore, with these few words, Sir, commend this Resolution for the acceptance of the House.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): Sir, you have very kindly always told us that you will help to maintain the dignity of this House in every way. I hope, that at this juncture the Leader of the House will also come to our assistance. What I want to put before the House is that either the number of Members from our Council should be raised to 6 or the number of Assembly Members should be reduced to 4, because, if this is not done, the Assembly Members will get 6 votes and we shall have only 4. If we are out-voted we shall not have this House of much use at all. We are absolutely equal to the Assembly in every respect. If they pass a thing and we do not pass it, it cannot be considered as passed in the Legislature. If we are made inferior to the Assembly in such matters as the present, I think there is no Member of this House who will agree to it. (*An Honourable Member: "Question"*). I ask all the Members here and yourself, Sir, to help us in this matter, and make the number 6 instead of 4. If you cannot do anything with the other House in the way of cutting their number down by 2, perhaps you can send 6 from here so as to equalise the number, and I think this is a very reasonable request and I hope you will help the House.

THE HONOURABLE THE PRESIDENT: The Honourable Member has asked me to help the House. The only way in which I can help the House is by putting to the House an amendment which might be moved but which has not been moved.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: You have always allowed a Member, in an emergency time like this, to move such an amendment. You have got that power and you can help us in that way. I move this amendment, Sir, that instead of the figure "4" the figure "6" be substituted.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That for the word 'four' the word 'six' be substituted.

THE HONOURABLE MR. A. C. MCWATTERS: Sir, I think this is a point which perhaps I should have dealt with in moving the Motion in the first instance. The reason why Government are moving for four Members in this House instead of six as in the other is because there are very many more members in the other House who are affected by this question of accommodation than there are in this House, (*An Honourable Member: "More than double"*)—more than in the proportion of 6 to 4. In fact this House is getting slightly more than its due share in this deal, having regard to the proportion of Members involved. The number of Members of the Assembly

[Mr. A. C. McWatters.]

involved in this question is much greater. Also it is not a question in which one House has divergent interests from the other House. There are certain classes of Members—orthodox, unorthodox and so on, who represent particular interests. It is not a question of the Assembly having one interest and the Council of State having another interest. I think with four Members nominated from this House we shall be able to get the different classes of interests represented, and therefore I hope the Honourable Member will not press his amendment ; if he does, I am afraid I shall have to oppose it.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : I am afraid I have to press my amendment, Sir. If this sort of thing is allowed to happen in this matter it will happen in other matters also. It will be said afterwards " You did it once, why not always ? " and if this is done always there is no use having this House at all. I am therefore, Sir, sorry that I have to press my amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

" That the Honourable the President do appoint four Members of this House to serve on a Committee to consider the question of residence and accommodation for Members of the Indian Legislature, including the use and disposal of the Western Hostel, New Delhi, and the question of constituting a Standing House Committee to deal with all matters connected with the allotment to Members of accommodation or quarters available for their residence. The Committee will also comprise six members of the Legislative Assembly."

Since which an amendment has been moved :

" That for the word ' four ' the word ' six ' be substituted."

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

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question is :

" That the original motion be adopted."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 20th September, 1927.