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LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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SECOND SESSION

OF THE

THIRD LEGISLATIVE ASSEMBLY, 1928



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Legislative Assembly.

President :

THE HONOURABLE MR V. J. PATEL.

Deputy President :

MAULVI MUHAMMAD YAKUB, M.L.A.

Panel of Chairmen :

MR. M. A. JINNAH, M.L.A.

SIR DARCY LINDSAY, KT., C.B.E., M.L.A.

MR. K. C. NEOGY, M.L.A.

MR. M. R. JAYAKAR, M.L.A.

Secretary :

MR. L. GRAHAM, C.I.E., I.C.S.

Assistants of the Secretary :

MR. D. G. MITCHELL, C.I.E., I.C.S.

MR. S. C. GUPTA, BAR.-AT-LAW.

MR. G. H. SPENCE, I.C.S.

Marshal :

CAPTAIN SURAJ SINGH, BAHADUR, I.O.M.

Committee on Public Petitions :

MAULVI MUHAMMAD YAKUB, M.L.A., *Chairman.*

SIR HARI SINGH GOUR, KT., M.L.A.

MR. N. M. JOSHI, M.L.A.

MR. JAMNADAS M. MEHTA, M.L.A.

DR. A. SUHRAWARDY, M.L.A.

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LEGISLATIVE ASSEMBLY.

Monday, 20th February, 1928.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

ADMISSION OF STUDENTS OF THE ROYAL MILITARY COLLEGE, DEHRA DUN, INTO THE ROYAL MILITARY COLLEGE, SANDHURST.

249. ***Maulvi Muhammad Yakub:** (a) Will the Government be pleased to state how many students were admitted to the Royal Indian Military College, Dehra Dun, since it was opened and how many of them were selected to join the Royal Military College, Sandhurst?

(b) What is the opening for those students who, after having spent five years of their life and thousands of rupees at Dehra Dun, fail to secure admission to Sandhurst?

(c) Is it not a fact that some candidates for admission to Sandhurst are also taken from amongst the applicants who have not studied at Dehra Dun?

(d) What preference, if any, is given to the Dehra Dun College students for admission to Sandhurst over non-Dehra Dun candidates?

(e) Is it a fact that the bulk of the candidates for Sandhurst is selected from amongst the applicants who have received no training at Dehra Dun? If so, what is the necessity of having the Dehra Dun College?

(f) In the case of candidates trained at Dehra Dun who fail to secure admission to Sandhurst, do Government propose to give them the Viceroy's Commission in the Army?

Mr. G. M. Young: (a) 154 students have joined the Dehra Dun College since it was opened in March 1922. Forty-one of these have taken the entrance examination to the Royal Military College, Sandhurst, and 29 of them have passed into Sandhurst.

(b) A special Diploma examination at the Dehra Dun College has recently been instituted for which cadets enter before going up for the Sandhurst entrance examination. This Diploma has already been recognised by all the leading Universities in India as equivalent to the qualification conferred by their matriculation or other entrance examination, and holders of it, if they fail to gain admission to Sandhurst, can pass on to one of these universities and continue their studies without a break.

I may add that the progress of cadets at the College is watched with great care, and the parents of those who show no likelihood of reaching the educational standard required for the Sandhurst entrance examination

are advised at the earliest possible moment, to remove their sons in order to save themselves disappointment and expense.

(c) Yes, Sir.

(d) None.

(e) It is not the case that the bulk of the candidates for Sandhurst are selected from amongst applicants who have not received training at Dehra Dun. Since the College was opened, 29 Dehra Dun boys have obtained admission to Sandhurst as against 28 boys from other institutions, including 4 who were educated at public schools in England. The number of candidates that take the entrance examination from Dehra Dun is on an average one-third of the number of those coming from other institutions.

As to the relative merits of cadets from Dehra Dun and from elsewhere I would refer my Honourable friend to pages 26, 27 and 28 of the Indian Sandhurst Committee's Report.

(f) Selection for the Viceroy's Commission is and must continue to be the duty of Commanding Officers of units, but I may mention that one Dehra Dun cadet has already been selected by a unit for the Viceroy's Commission. His Excellency the Commander-in-Chief has also recently given orders that the names of boys from Dehra Dun who have failed for Sandhurst, and whose parents desire them to be granted Viceroy's Commissions, shall be sent to Commanding Officers for their consideration, if the boys are desirous of being so considered and are *prima facie* suitable for appointment on probation in the units concerned.

Mr. N. M. Joshi: May I ask, Sir, whether there is any military instruction given in this Royal Military College?

Mr. G. M. Young: I don't quite understand what my Honourable friend means by military instruction.

Mr. B. Das: Is it not a fact that Lord Rawlinson when addressing the Members of this House said that successful candidates from Dehra Dun, who failed to secure admission to Sandhurst, would be admitted to the Indian Police and the Indian Forest Service?

Mr. G. M. Young: I must ask for notice of that question.

GRANT OF A PENSION TO NAWAB ALI AHMAD KHAN.

250. ***Maulvi Muhammad Yakub:** (a) Has the attention of the Government been drawn to the order of the Honourable Mr. Justice Walsh of the Allahabad High Court in the appeal filed by one Nawab Ali Ahmad Khan, published in the *Leader* of Allahabad, dated the 10th April, 1927, on page 14?

(b) Is it not a fact that under Government of India Resolution of the Home Department (Establishment), dated the 15th September, 1921, published in the "Gazette of India", dated the 27th September, 1921, civil employees who prior to their civil employment, have rendered satisfactory paid military service in the Great War, which does not ordinarily qualify for a service pension under military rules, shall be allowed to count such military service for the purpose of civil pension?

(c) Is it not a fact that the said Nawab Ali Ahmad Khan rendered paid military service in the Great War prior to his civil employment, which has been approved by the testimonials of several military officers granted to him?

(d) Was the said Nawab Ali Ahmad Khan given the benefit of the Government of India Resolution mentioned above in counting the period of his service for the purpose of civil pension? If not, why not?

(e) Is it a fact that the said Nawab Ali Ahmad Khan has been rendered incapable of doing any work on account of a severe fall in Mesopotamia on field service, and do Government propose to grant him a pension for the remainder of his life?

Mr. G. M. Young: (a) Government have seen a copy of the order referred to by the Honourable Member.

(b) Yes, Sir.

(c) Nawab Ali Ahmad Khan was a permanent employee of the United Provinces Government and was subsequently employed for about a year as a temporary tally clerk in the Supply and Transport Corps in 1920-21.

(d) The matter is one for decision by the Local Government, to whom a copy of this question and answer will be sent.

(e) No, Sir. Nawab Ali Ahmad Khan was not invalidated from his temporary military appointment; and Government hold a certificate, signed by him on his return to India, to the effect that he was not suffering from any disability due to his employment under field service conditions. They understand that he returned from Mesopotamia suffering from hernia which may or may not have been caused by a fall sustained in that country. The Medical Board was unable to come to a decision on the point. He refused to undergo an operation for this injury, and in any case a disability of this nature does not render a man incapable of sedentary work. Under military rules Nawab Ali Ahmad Khan is not entitled to a military pension. As I have already indicated, the grant of a pension under civil rules for the period of his employment in the civil department is a matter for the Local Government to decide.

CONSTITUTION OF A SEPARATE SELF-CONTAINED OFFICE OF THE LEGISLATIVE ASSEMBLY.

†251. ***Mr. B. Das:** (a) With reference to starred question No. 37 of the 18th August, 1927, by Mr. Gaya Prasad Singh, on the separation of the establishment of the Legislative Assembly, will Government be pleased to state if they have come to any decision on the scheme received by them from the Honourable the President of this House last August?

(b) Will Government be pleased to state the decision arrived at on that proposition?

(c) Will Government be pleased to lay on the table a copy of the scheme of the Honourable the President?

Mr. L. Graham: (1) A copy of the scheme drawn up by the Honourable the President is laid on the table.

† For Questions Nos. 251 to 253, see p. 529, *infra*.

(2) Government have examined the scheme but have not yet reached a final conclusion.

Proposals submitted to the Government of India on the 17th August, 1927, by the Honourable Mr. V. J. Patel, President of the Legislative Assembly, regarding the constitution of a separate self-contained office of the Legislative Assembly, in fulfilment of a promise made in the House. (Vide page 233½ of the Legislative Assembly Debates of the 16th March, 1927.)

F. 43-IX/27-A.

D. 2668.

17th. August, 1927.

Dear Mr. Wright,

I am now ready with my proposals for the constitution of a separate self-contained office of the Legislative Assembly, which I promised in reply to a question asked by Sir Hari Singh Gour in the Legislative Assembly on the 16th March, 1927.

I forward the scheme for the consideration of Government, and I hope you will take immediate steps to have it considered. As you are aware, Members of the Legislative Assembly are in earnest about the matter, and the question, therefore, needs immediate attention.

Yours sincerely,
(Sd.) V. J. PATEL.

W. T. M. Wright, Esq., C.I.E., I.C.S.

I submit the following proposals for the constitution of a separate self-contained office of the Legislative Assembly in pursuance of a promise made by me on the 16th March, 1927, in reply to a question asked by Sir Hari Singh Gour.

2. I have observed that the opinions expressed in the Assembly on various occasions are distinctly in favour of the proposal and unmistakably show a keen desire on the part of the Members to have a separate office. In fact it has been asserted that the independence of the President and the House will not be complete until they are provided with a separate staff for the due performance of their high office and duties. Mr. E. L. Price (Bombay : European) first raised the question in the Assembly on the 5th March, 1921, when he moved his Resolution on the subject of the holding of sessions and more frequent meetings of the Assembly. *Inter alia* he pleaded for a double staff or an independent staff for the Assembly on the ground of efficiency. Then on the 16th March, 1922, in the course of the Budget discussion an opportunity was taken by Mr. P. P. Ginwala (Burma—General), then the chief Whip of the Democratic Party, to bring the matter before the House. It was urged that the staff of the Assembly should be self-contained and under the direct control of the President. So far the question was treated more or less as a side issue, and it was not till the 22nd September, 1922, when Mr. C. S. Subrahmanyam (Madras) moved his Resolution, that the subject was debated fully and at great length. It was agreed in principle and in theory that it was the right thing to do but that the time had not arrived when the Assembly should bring into existence a separate staff. The question was also discussed more than once at the Presidents' Conference and Sir A. F. Whyte considered that it was most desirable that the Legislature should have its own body of officers to carry out its functions, and eventually in accordance with the decision arrived at the Conference held in January, 1926, the Legislative Department was addressed on the subject of the separation of the office of the Assembly from the Legislative Department of the Government of India.

3. Before dealing with the actual staff that will be required for the separate office I shall consider the duties and functions that will devolve on it. It is necessary in this connection to refer to the existing machinery for carrying out the work connected with the Assembly. Apart from the superior staff, the Legislative Department, which at present conducts the business of the Legislature, consists of the following Branches and staff :

1. Registrar.
2. Assembly Branch (one Superintendent, 6 Assistants and 4 clerks).
3. Printing Branch (one Assistant and 5 clerks).
4. Establishment Branch (one Cashier and 3 clerks).

5. Issue Branch (one Assistant and 11 clerks).
6. Librarians (one Assistant and one clerk).
7. Reporters (13).
8. Record (one clerk).
9. Translation Branch (Head Translator and his Assistant).
10. Stenographers (3).
11. Publication Branch (one Superintendent, 5 Assistants and 5 clerks).
12. General Branch (one Superintendent, 5 Assistants and 3 clerks).
13. Council Branch (one Superintendent, 5 Assistants and 1 clerk).
14. Assistant to Registrar (one Assistant).
15. P. A. to F. C. S. (one Assistant).

4. During the session and also at least a month before and after it the business of the Assembly, as will be seen from the classification of duties detailed in Appendix A, affects almost every one in the Department, and I understand the Publication, General and Council Branches are also more or less affected. The Registrar is the normal head of the office and is directly responsible for the superintendence, control, discipline and management of the office. He is in charge of all work connected with the establishment of the Department, accommodation for Members of the Legislature, sitting arrangement in the Chambers, issue of tickets to the visitor's galleries, and various other odd jobs.

5. The duties performed by the present staff cover practically the whole field of purely Assembly work as well as those pertaining to the Department as an integral unit of the Government of India (Appendix A). Broadly speaking, there are two separate matters, *viz.*, (1) the duties of the Secretary, which are those laid down in the Rules and Standing Orders—Rules 5 and 41, S. O. 3, 7, 8, 11, 12, 22, 43, 46, 52, 65, 75 and Rule 2 of Schedule I of S. O., and (2) the duties performed by the Legislative Department as an administrative department of the Government of India. The Assembly Branch performs dual functions at present in certain respects while the work of the Publication and General Branches falls under the latter category. It is not at present possible, owing to the overlapping of duties in certain cases, to suggest any clear-cut division of functions between the Assembly office and the Legislative Department which can only be built up in process of development of the new scheme, but from the duties enumerated above a fairly accurate idea can be formed. It is therefore clear that almost the whole of the work with only a few exceptions will have to go over to the new office. The following items must necessarily remain with the Legislative Department :

1. The drafting of official Bills and unofficial references from Departments connected therewith.
2. Allotment of non-official days.
3. Programme of official business.
4. Memorandum of Legislative business in prospect.
5. Amendments to Indian Legislative Rules.
6. Nomination of Members and election petitions.
7. Amendments to Electoral Rules and Regulations.
8. Maintenance of the records of election expenses.
9. Dissolution of Assembly and elections. *

6. The two strongest points of attack on the question of separation are, firstly, on the score of economy, and secondly, that the Assembly office, while not being entirely without work during the recess, would not have enough work to keep it fully occupied throughout the year. As to the first, consideration of economy must make way before so important and well-intentioned a step which the Assembly as a body is undoubtedly desirous of taking in furtherance of the constitution which has brought it into being. The demand for an office of his own by the first elected President of the Legislative Assembly was made officially in February 1926 as already stated, and bearing in mind the recognition accorded to similar demands in some provinces, I expect the Government of India in fairness to accede to that demand which I now repeat. Against the second point of attack, I would point out that the pressure of work when the Assembly is in session asserts itself fully a month or more before the session commences, that is to say, notices of Bills, Resolutions and Questions (each

of which has to be examined and submitted at once separately for my orders) pour in. This pressure gradually reduces after the close of a session but a considerable amount of work still remains in the shape of the preparation not only of a summary of the proceedings of the whole session but of each resolution debated in the House and the indexing of the debates which requires great accuracy and care and the expenditure of a great deal of time and labour, while the Conference of Presidents is usually held at a convenient date during the recess, throwing upon the Assembly office the entire work connected therewith from the start to the finish. In the case of Bills which are circulated to Local Governments for opinion by the direction of the Assembly the opinions are received during the recess, printed and their precis is prepared by the office as soon as they are complete. Moreover Committees, such as the Joint Committee on the Gold Standard and Reserve Bank of India Bill, invariably hold their sittings during the off season and throw a considerable amount of work on the Assembly Branch. Other miscellaneous files which are not of an urgent nature are held over during the session and are disposed of when the session is over. The manuscript papers of Acts passed by the Indian Legislature are arranged for binding when the pressure of work decreases and also the recording of cases, which has to be kept aside during the session, is, I understand, undertaken at this time. Admitting that the work out of session is considerably lighter than that in the session, it would only be fair to allow the staff the well-earned respite after the strain of a full session's work (when they are not merely over-worked but grossly over-worked) as is the case with the House of Commons staff. I would here invite attention to the minutes of the Presidents' Conference held in January, 1926—pages 6 and 7.

7. Having thus cleared the ground about the scope and functions of the new office I shall now proceed to consider the question of the actual staff. It has to be borne in mind that for the new office, as in the case of the present Legislative Department, the numerical strength of the staff must be based on the actual requirements when the Assembly is in session. With this in view I propose the following scheme :

Apart from the appointment of a Secretary the Assembly office would require one Deputy Secretary and one Assistant Secretary. The appointment of an Assistant Secretary is I consider essential in the best interests of the office. The Deputy Secretary will be required to assist the Secretary in such duties as he is required to perform under the Rules and Standing Orders, e.g., dealing with notices of Bills, resolutions and questions and other departmental files. He will also have to attend the meetings of the Assembly and to interview Members and other persons. It will be almost impossible for him to superintend and supervise the work of the office and to attend to numerous and varied duties which should be done by the Assistant Secretary as at present done by the Registrar. The Deputy Secretary should not be burdened with any work in connection with the establishment, discipline, management, etc., which I am convinced is too heavy for one officer.

In addition to these officers the Assembly office would require at least :

I. One Marshal;

II. One Editor and eight Reporters;

III. The present Assembly Branch *en bloc*;

IV. Four men from the Printing Branch to deal with the debates and any other printing work there may be : as heretofore the Editor would be assisted by the men of this Branch in the preparation of the index to the debates, etc.;

V. Three Cashiers : these would deal with the preparation of Members' T. A. Bills, etc., and all correspondence arising therefrom and also with all establishment questions;

VI. For its Issue Branch, 10 men as detailed below :

(i) an Examiner, who would be in charge of the Branch;

(ii) a Reader, who would do typing in his spare time;

(iii) two despatchers, and

(iv) six typists, two of whom would work the multigraph;

VII. Two Librarians;

• VIII. One Record Keeper;

IX. Two Notice Office Clerks;

X. P. A. to P. L. A.; and

XI. One Stenographer.

In the case of the Assembly Branch at all events the staff will require to be augmented. It will require another Recorder, an Assistant to deal with miscellaneous receipts and especially with the sale and distribution of debates, the Manual and the corrections thereto, an Assistant for issuing admission tickets to the galleries, a second expert typist and one other Duftry. The need for the last three particularly has been very keenly felt and in fact the posts were sanctioned for the last Delhi session as an experimental measure and are likely to be sanctioned on a permanent footing. It would be a mistake to launch the new office under-staffed in any respect. Two Assistants will also be required to keep the officers' sets of books up-to-date, and at least two Assistants or clerks will be required to assist the Police during the session. This work at present is done with the help of other Branches of the Department. Past experience has shown the need of an Enquiry Office to be attached to the Notice Office. Members frequently make all sorts of inquiries every now and then and make requests to the Notice Office clerks to supply them with information on various matters. The Notice Office clerks have found it extremely difficult to cope with all this work in addition to their own duties, hence the need for an Assistant in an Enquiry Office is badly felt.

In basing these requirements I have assumed that the staff will ordinarily be granted leave only when the Assembly is not sitting and that no substitutes will be entertained in place of absentees, except in long leave vacancies which are likely to go into a session. This arrangement would, however, throw an undue strain on those remaining on duty after a session more especially if it becomes the practice in the future, as it very probably will, to hold three sessions (using the word in its non-technical sense) or three terms in the year. Therefore I feel very strongly that a leave reserve should be maintained which will be the best means to obtaining the maximum of efficiency. As far as I know there is at present in the Legislative Department no leave reserve, the Department containing its own leave reserve. This system, as past experience I believe has shown, has not worked very satisfactorily but somehow or other the Assembly side of the Department has been able to pull on. But this will not work in a separate office. In the Legislative Department at the time of a great rush of work during the session or owing to leave vacancies in the off season, permanent men are invariably requisitioned from other Branches but in the new office there will not be any staff of trained men to draw on and it must therefore have its own trained men for leave vacancies. There is no way of getting over this difficulty other than by a leave reserve. It may be argued in this connection that as some of the work now performed by the Assembly Branch will remain over with the Legislative Department the staff detailed above should be able to find its own leave reserve. The argument no doubt appears to have some force but the fact must be borne in mind that during the session or out of the session whenever the Assembly Branch is rushed with heavy work or under-staffed owing to leave absentees the General and the Publication Branches of the Department which are least affected by the Assembly work always come to its rescue, while in the new office there will be no other source to draw on. Moreover the Members of the Assembly hesitate at present to ask the Legislative Department to get their own work done, but with a separate office the position will be quite different and it is apprehended that there will be a good deal of extra work thrown on the new office.

8. Then there is the important question of the position and status of the new office. It would certainly not satisfy the Assembly if the new office were attached to any Department. It will have to be determined at the outset what its position and status will be. Who will be responsible for the preparation and presentation of its Budget to the Legislative Assembly and who will deal with questions raised in the House affecting the office? What will be the status of this office in relation to other Departments of the Government of India; will the office be treated on an equal footing with those Departments or will it be regarded as one of the attached offices? I may say at once that I am definitely opposed to any attempt to treat it as an attached office. The Secretary of the Assembly is under Rule 5 of the Legislative Rules appointed by the Governor General and it is important that the staff should be similarly appointed. I also feel very strongly that the staff should not be denied the privileges in the matter of leave enjoyed by the Secretariat staff; nor should the present staff, which forms part of a Department of the Government of India, in any way suffer, by separation from the Legislative Department, in the matter of their pay and prospects. Any question of depriving them of the status, pay and privileges they enjoy now as members of the I. S. S. would certainly operate harshly against them. I must make this quite clear at the outset in order to avoid complications and difficulties later.

At the Presidents' Conference held in September 1921, under the Presidency of Sir A. F. Whyte it was agreed that, although constitutionally funds for Council work must be sanctioned and provided by the Government, the Presidents should be placed in the same position as High Courts, i.e., that they should be the sole judges as to whether the expenditure was necessary, the only power of criticism by the Government being on the point as to whether funds were available.

9. The following is the summary of the requirements referred to in the preceding paragraph :

1. Secretary.
2. Deputy Secretary.
3. Assistant Secretary.
4. One Marshall.
5. Eight Reporters.
6. *Assembly Branch*—One Superintendent, 13 Assistants and clerks (including 2 Notice Office clerks).
7. *General Branch* (including Establishment).—One Superintendent, 3 Cashiers, one record keeper, one recorder, 2 clerks for publications, one for issuing tickets, one general Assistant, two clerks for general management and assistance to Police and for enquiry office.
8. *Printing Branch*.—One Editor, one Assistant-in-charge, 3 Assistants and clerks.
9. *Issue Branch*.—One Assistant-in-charge, one Reader, 2 Despatchers, 4 typists, two multigraphists.
10. P. A. to P. L. A.
11. One Stenographer.
12. Two Librarians.
13. Fourteen per cent. of the permanent establishment as leave reserve.

10. In addition to the above a Translator will also be required to undertake translations referred to in Standing Orders 43(2) and 46(3) and also to translate, if any, the speeches delivered by Members of the Assembly in vernacular.

11. These requirements are based on the actual existing state of work and I am not in a position at present to give the full details of the work which each assistant and clerk will be required to do. It will appear from Appendix B that in all 43 assistants and clerks are at present employed on the Assembly work during a Session and the same number is also proposed for the new office.

12. In basing these requirements the varying and peculiar nature of the work has been borne in mind. All work connected with the Assembly has to be submitted and got out against time. Provision must therefore be made to cope with the volume of work which pours in and which has to be dealt with *immediately* and passed out without delay. At present assistance is often sought from other Branches at the time of a very heavy rush, while the new office would have to be self-dependent. It would therefore be a mistake to start the new office under-staffed and the above establishment is the absolute minimum with which it could start.

13. The above requirements relate only to the superior and clerical staff. The new office will also require some Dufftries and a large number of peons. The actual number of these can best be settled after the total strength of the office establishment is decided upon, but at a conservative estimate the new office will require 9 Dufftries, 2 Jamadars, 1 Dafadar and 40 peons.

14. The above is a full and complete scheme for a separate and self-contained office which the Members of the Assembly demand and which I support with all the power at my control, and nothing short of this is likely to satisfy them. But if it is urged by Government that the staff will have a very easy time for some months in the year, I would suggest that the President should be empowered in consultation with the Leader of the house to place on deputation under the Legislative Department such members of the staff as he thinks he can without prejudice to the Assembly work, spare for those months.

15. I append two *statements showing the approximate cost of the present Legislative Department and of the new office. It is not possible to show the cost of the Legislative Department as it will be after the separation—unless it is known what staff will be required for carrying on the

duties of the Department. Therefore it is difficult for me to estimate the extra cost which will be incurred consequent on the creation of the new office. There will certainly be some additional cost but it could be met from the saving under the head Legislative Bodies which, as will be seen from the *statement attached, amounts to an average Rs. 1,33,809 per annum.

*Statement 3.

APPENDIX A.

Assembly Branch.

1. All work connected with the meetings of the Assembly, e.g., issue of summons, circulars regarding official and non-official days, Select and Departmental Committee meetings, Programme of Business and Announcements for the Leader of the House.
2. All work connected with official and non-official Bills, Ballots and ballot circulars for non-official Bills and Notices of Amendments to Bills.
3. Preparation, printing, and circulation of Lists of Business, Questions, Resolutions Notice Lists, Admitted Lists, Amendments to Resolutions, Ballot and ballot circulars for Resolutions.
4. Preparation and printing of a note or programme of legislative work in prospect twice a year. The note includes as far as possible all suggestions for legislation.
5. Preparation of the summary of the session including the discussion on Resolutions.
6. All work connected with the Electoral Rules and Regulations, Indian Legislative Rules, and Standing Orders and amendments and issue of addenda and corrigenda thereto.
7. Printing and distribution of the Assembly Manual and addenda and corrigenda thereto.
8. All work connected with election, nomination, resignation of members and election petitions, etc.
9. Dealing with motions for reduction of budget demands, supplementary demands, excess grants, etc., and printing work connected therewith.
10. All work connected with the election of the President and Deputy President.
11. Circulation of Bills to Local Governments for opinions, collection and printing of those opinions and the preparation of a precis of the opinions received.
12. Arrangement and binding of the manuscript papers of all Acts passed by the Indian Legislature.
13. Preparation of weekly statements showing all decisions taken in the Assembly for submission to His Excellency the Viceroy.
14. Collection of replies to questions from the Departments and the arrangement of sets.
15. Maintenance of and keeping up to date the registers of amendments to Acts, Amendments to the Indian Legislative Rules and Standing Orders, register of names of the members of the Legislative Assembly and the Bill register.
16. Recording and editing of "A" proceedings of the Assembly and Council Branches.
17. Collection of minutes of the Honourable the Law Member.
18. All work connected with the Indian Branch of the Empire Parliamentary Association.
19. All work connected with the receipts relating to election expenses and the maintenance of records of the same.
20. Compliance with requisitions from Members.
21. Taking down Divisions in the Chamber and other work in the Notice Office.
22. Dealing departmentally with questions and resolutions relating to the above subjects.
23. All the typing and routine work of the Branch.
24. Miscellaneous and general correspondence.

Printing Branch.

1. Printing of Debates of Council of State and Legislative Assembly and all work connected therewith.
2. Printing of Acts, Bills, Regulations, Ordinances, Opinions, Precises and Opinions, Reports of Select Committees.

3. Preparation and printing of Index to Debates.
4. Publication of Bills and Acts in the Gazette.
5. Other miscellaneous printing.

Establishment Branch.

1. Preparation of daily and travelling allowance bills of Members.
2. Preparation of officers' and establishment salary bills.
3. Arrangement of residential and office accommodation.
4. Distribution and custody of stationery of the Department and of the legislature.
5. Dealing with rent cases of officers and establishment.
6. Preparation of Budget estimates for the Department and Legislative Bodies.
7. Maintenance of Register of expenditure.
8. Maintenance of Service Books of establishment.
9. Dealing with all establishment cases.

Issue Branch.

1. All typing and despatch work.
2. Examination of all fair copies of letters, officers' notes, etc., that issue from the Department.
3. Issue of letters, etc.
4. Circulation of Despatches.
5. Distribution of all papers to Members.
6. Typing and multigraphing of papers.
7. Maintenance of the following registers (1) Despatches to Secretary of State for India, (2) Governor General's letters to Secretary of State for India (3) letters to the Permanent Under Secretary of State for India, (4) Circular Register, (5) Stamp Register and (6) Dak Book.
8. Correction of copies of Bills, precis of opinions and Debates.

Publication Branch.

- Correction of officers' sets of publications.

General Branch.

1. Police arrangements in the Chamber.
2. Telephonic arrangements.
3. Other miscellaneous work.

Council Branch.

1. Accommodation of Members.
2. Recording of cases.
3. Sale of Assembly Manual and stationery.
4. Issue of tickets for visitors' galleries.

APPENDIX B.

Assistants and Clerks employed on Assembly work.

Assembly Branch	}	10 (permanent).
Printing Branch		3 (temporary).
Establishment Branch	}	4
Library		3 (permanent).
Record		1 (temporary).
Translation Branch		2
Stenographer		1
P. A. to President, Legislative Assembly		1
Publication Branch		2
General Branch		2
Council Branch		2
Issue Branch		8
Assistant to Registrar		1
Total		43

1.—Statement showing the approximate cost of the Legislative Department.

Establishment.	Average pay.		Average pay.	
	Rs.	a. p.	Rs.	a. p.
1 Marshall at Rs. 250	250	0 0		
1 Secretary at Rs. 4,000	4,000	0 0		
1 Joint Secretary and Draftsman at Rs. 3,000—100—4,000. *	3,500	0 0		
1 Joint Secretary at Rs. 3,000	3,000	0 0		
1 Deputy Secretary at Rs. 2,250	2,250	0 0		
1 Solicitor at Rs. 3,000	3,000	0 0		
1 Assistant Solicitor at Rs. 1,200—50—1,800	1,500	0 0		
1 Assistant Solicitor at Rs. 1,000—50—1,200	1,100	0 0		
1 P. C. S.	4,250	0 0		
1 P. L. A.	4,000	0 0		
1 Registrar at Rs. 900—50—1,000	950	0 0		
4 Superintendents at Rs. 600—40—800	2,800	0 0		
13 Council Reporters at Rs. 450—25—750	7,800	0 0		
27 Assistants at Rs. 200—15—500	9,450	0 0		
34 Clerks at Rs. 100—8—350	7,700	0 0		
1 Clerk at Rs. 90—4—170	130	0 0		
3 Stenographers at Rs. 175—12—375—15—450—25—500.	1,212	0 0		
	<hr/>		56,892	0 0
			56,892	0 0
<i>Permanent menial establishment.</i>				
5 Record Sorters at Rs. 20—1—40	150	0 0		
11 Daftries at Rs. 15—1—35	275	0 0		
4 Jemadars at Rs. 25—1—30	110	0 0		
3 Daffadars at Rs. 17—1—22	58	8 0		
41 Peons at Rs. 14—1—16 (quinquennial) or Rs. 15-9-0 each.	638	0 0		
	<hr/>		1,231	8 0
			1,231	8 0
<i>Temporary menial establishment.</i>				
35 Peons at Rs. 14 each	490	0 0		
2 Farashes at Rs. 14 each	28	0 0		
3 Sweepers at Rs. 10 each	30	0 0		
1 Bhistee at Rs. 6 and 1 at Rs. 4	10	0 0		
	<hr/>		558	0 0
			558	0 0
Grand Total per mensem			58,881	8 0

Rs. 58,881-8-0 × 12 = 7,05,178-0-0 approximate annual cost.

N.B.—There is no leave reserve in the Legislative Department.

2.—Statement showing the approximate cost of the new Office.

Establishment.	Average pay.		
	Rs.	a.	p.
P. L. A.	4,000	0	0
1 Secretary	3,000	0	0
1 Deputy Secretary	1,750	0	0
1 Assistant Secretary	1,125	0	0
1 Marshall	250	0	0
9 Reporters	5,400	0	0
2 Superintendents	1,400	0	0
13 Assistants	4,550	0	0
28 Clerks	6,300	0	0
1 P. A. to P. L. A.	437	8	0
1 Stenographer	337	8	0
Leave Reserve—2 Assistants and 4 Clerks.	1,600	0	0
	30,150	0	0

(1,000—50—1,350)
(450—25—750)
(600—40—800)
(200—15—500)
(100—8—300)
(175—12½—375—15—450—25
500)

$0 \times 12 = 3,61,800$ (Annual approximate cost).

Menial establishment.

3 Record Sorters at Rs. 20—1—40	90	0	0	(20—1—40)
6 Daftries at Rs. 15—1—35	150	0	0	(15—1—35)
2 Jemadars at Rs. 25—1—30	55	0	0	(25—1—30)
1 Daffadar	19	8	0	(17—1—20)
40 peons at Rs. 15-9-0 each	622	8	0	(14—1—16)
	937	0	0	
				$0 \times 12 = 11,244$ (Annual cost of menial establishment).
2 Farashes at Rs. 14 each	28	0	0	
2 Sweepers at Rs. 10 each	20	0	0	
1 Bhistee at Rs. 6	6	0	0	
	54	0	0	
				$0 \times 12 = 648$ (Annual cost).
Grand Total				3,73,692 (Approximate annual cost).

3.—Statement showing the Budget estimate, annual expenditure and saving under the head Legislative Bodies.

Year.	Budget estimate.	Actuals for the year.	Annual saving.	Average saving for one year.
	Rs.	Rs.	Rs.	Rs.
1922-23	8,28,300	7,56,079	72,221	
1923-24	9,22,000	6,49,798	2,72,202	1,33,809
1924-25	7,92,300	7,22,852	69,448	
1925-26	7,45,992	6,24,627	1,21,365	

Mr. B. Das: Will the Honourable Member be pleased to state what is the cause of this delay? The Honourable the President forwarded his scheme in August last.

Mr. L. Graham: May I ask the Honourable Member in reply whether he has yet seen the scheme?

Mr. B. Das: Why was it not put on the table when the Honourable Members of this House asked for it to be put on the table?

Mr. L. Graham: I am afraid I was not in the country at the time, and I must ask for notice of that question.

Mr. K. C. Neogy: May I ask how long Government intend to take in coming to a decision in this matter?

Mr. L. Graham: I really cannot give a definite answer to that question.

Mr. B. Das: May I ask if all the work of the Government in this connection is to be done by Mr. Graham and nothing was done by his substitute?

EMPLOYERS' DELEGATE TO THE INTERNATIONAL LABOUR CONFERENCE.

255. ***Mr. Sarabhai Nemchand Haji:** (a) Will Government please state the names of the National Indian Employers' Associations who have recommended names for the employers' delegate to the International Labour Conference to be held in Geneva next summer?

(b) Will Government please state the name or names of the employers' delegate recommended by them?

The Honourable Sir Bhupendra Nath Mitra: (a) and (b). A list of the more important employers' associations together with their recommendations for the nomination of the employers' delegate to the 11th International Labour Conference will be forwarded to the Honourable Member.

Mr. N. M. Joshi: May I ask while making the list of the National Indian Employers' Associations, whether Government will include associations of European merchants?

The Honourable Sir Bhupendra Nath Mitra: The answer is in the affirmative.

Mr. Sarabhai Nemchand Haji: With reference to the reply of the Honourable Member for Industries and Labour that he will send me a list of the more important employers' associations, may I request him to reply particularly to my question, namely, that I want the names of the National Indian Employers' Associations, and not any organisations that the Honourable Member for Industries considers more important?

The Honourable Sir Bhupendra Nath Mitra: I propose to send to the Honourable Member a list of the more important employers' associations, leaving it to him to decide which he considers National Indian Employers' Associations, because that is a matter of opinion.

Mr. Sarabhai Nemchand Haji: Is it difficult for the Government of India to discriminate between Indian nationals and others?

The Honourable Sir Bhupendra Nath Mitra: That is a matter of opinion.

Mr. N. M. Joshi: May I ask why the Government should include associations of persons who are not naturalised inhabitants of India?

The Honourable Sir Bhupendra Nath Mitra: It is difficult for me to find out from the names of the associations whether they do or do not include any members who are not naturalised inhabitants of India.

Mr. Sarabhai Nemchand Haji: May I know whether the Government of India, in making their nominations to the International Labour Conference, take into account the important nature of the bodies or the national nature of those bodies?

The Honourable Sir Bhupendra Nath Mitra: The Government of India are guided in this matter by the terms of the Treaty of Versailles and I would refer the Honourable Member to that Treaty. I submit, Sir, that it is not necessary for him or for me to reopen in this House matters which he tried to argue out before the Credentials Committee at Geneva where he failed to gain his point.

Mr. Sarabhai Nemchand Haji: Is it a fact, Sir, that the Credentials Committee definitely laid down that the delegation of a country should be a national one?

The Honourable Sir Bhupendra Nath Mitra: I should ask the Honourable Member to read the report of the Credentials Committee and arrive at his own conclusions. The fact that the Credentials Committee did not give a decision in his favour, in spite of his great advocacy, leaves me with a different impression of the decision of the Credentials Committee.

Mr. Sarabhai Nemchand Haji: May I say, Sir, that I am not concerned either with my victory or my failure: what I am concerned with is whether the Government of India propose to carry out the recommendation of the Credentials Committee of the Conference that the delegation of a country should be a national one and not merely of "more or less important bodies".

The Honourable Sir Bhupendra Nath Mitra: I do not admit the implication in the Honourable Member's question.

Mr. Sarabhai Nemchand Haji: Is the Honourable Member aware that the Committee definitely use the word "national" in that report in this connection?

The Honourable Sir Bhupendra Nath Mitra: I should ask the Honourable Member to read that report again. If they had come to that conclusion, they should have certainly decided in favour of his application at Geneva.

Mr. Sarabhai Nemchand Haji: The question is not with regard to my application; that matter is finished; the question relates to a definite conclusion arrived at by the Credentials Committee, where they say—and I challenge the Government to contradict the statement—that the report....

Mr. President: Will the Honourable Member put a question?

Mr. Sarabhai Nemchand Haji: In view of the fact, Sir, that the Credentials Committee of the Labour Conference insists upon a representative being national, will the Government of India see their way to distinguish properly between the word "national" and the words "more or less important"?

The Honourable Sir Bhupendra Nath Mitra: I have nothing to add, Sir, to the very full reply which I have given to the Honourable Member.

VISIT OF THE DIRECTOR OF THE INTERNATIONAL LABOUR OFFICE IN GENEVA TO INDIA.

256. ***Mr. Sarabhai Nemchand Haji:** (a) Is it a fact that the Director of the International Labour Office in Geneva was due to visit India this winter?

(b) Will Government please state the date on which he is expected?

(c) If he is not coming this year, do Government propose to repeat their invitation to the Director requesting him to visit India next winter?

The Honourable Sir Bhupendra Nath Mitra: (a) The answer is in the negative.

(b) and (c). The Government of India are not yet aware on which date the Director or Deputy Director of the International Labour Office will be able to visit India, but they propose to issue a formal invitation this year.

Mr. Sarabhai Nemchand Haji: Should it happen that the officer is not in a position to take advantage of this year's invitation, would the invitation be repeated for next year?

Mr. President: That is a hypothetical question.

NUMBER OF INDIANS IN THE EMPLOY OF THE SECRETARIATS OF THE LEAGUE OF NATIONS, ETC.

257. ***Mr. Sarabhai Nemchand Haji:** (a) Will the Government please state the number of Indians in the employ of the Secretariats of:

(1) The League of Nations.

(2) The International Labour Conference

(3) The Committee of Intellectual Co-operation?

(b) Will Government please state if the representation of Indians in the services of these bodies is proportionate to the annual contributions made by India to them; if not, what is their proportion?

Mr. L. Graham: (a) In the General Secretariat of the League one Indian is employed and in the International Labour Office three Indians are employed. There is no separate Secretariat for the Committee on Intellectual Co-operation.

(b) Separate contributions are not made to the League of Nations, the International Labour Office and the Committee of Intellectual Co-operation, and the calculation required by the Honourable Member cannot be made separately for the General Secretariat and the International Labour Office. As nearly as the Government of India can ascertain the combined strength of the two Secretariats is 1,059 and consequently the proportion of these appointments held by Indians is .377.

As regards contributions, out of 1015 Units India contributes 56 Units, or 5.517 of the whole. It follows that the reply to this part of the question is in the negative.

Mr. Sarabhai Nemchand Haji: In view of the very few positions held in these Secretariats by Indians, will the Government of India press upon these bodies the advisability and the necessity of having more Indians on their staffs?

Mr. L. Graham: The Government of India have pressed in that direction already, Sir; the trouble of course is that vacancies do not occur every day and that officers who have already been appointed are entitled to stay in their appointments.

Mr. Sarabhai Nemchand Haji: Did the Government of India press the case of Indians when the first appointments were made? *

Mr. L. Graham: I could not say: I should like to have notice of that.

Mr. N. M. Joshi: May I ask when the last representation was made?

Mr. L. Graham: As far as I remember it was in 1926, but I am not quite sure.

Mr. N. M. Joshi: May I ask, Sir, whether the Government of India do not think that the time has come for making another representation?

The Honourable Sir Basil Blackett: I might perhaps state for the information of the House that I had a talk last November with Sir Eric Drummond in this connection when that gentleman was in London.

The Revd. J. C. Chatterjee: May I ask if some of these appointments in the League of Nations Secretariat are not term appointments held for a certain number of years; and if so, whether it would not be possible to make a representation when the terms of the present incumbents run out?

Mr. L. Graham: That is a matter which certainly requires examination and will receive it.

Pandit Hirday Nath Kunzru: Will the Honourable the Finance Member be so good as to tell us what he pressed upon the attention of Sir Eric Drummond?

The Honourable Sir Basil Blackett: The question arose as to the appointment of one or two Indians to certain particular posts and I was discussing with him the possibility of finding men who would be suitable.

Mr. Sarabhai Nemchand Haji: In view of the importance of the subject, will Government place on the table copies of the correspondence that has been carried on between the Government of India and the League of Nations and the Labour Office Secretariats?

Mr. L. Graham: I shall have to look at that correspondence first.

Mr. Sarabhai Nemchand Haji: After the Honourable Member last looked into it, will he furnish us with copies of such letters as he thinks it advisable to give?

Mr. L. Graham: That of course depends on what I find.

Mr. N. M. Joshi: May I ask whether the Government of India propose to make a second representation to the League of Nations Secretariat on this point?

Mr. L. Graham: I do think the Honourable Member might realise that by persistence and repeated representations the Government of India are not likely to improve their case. They have put their case very well and very fully and as I have said before vacancies do not arise every day, and this persistent importunity will not, I think, improve the case for India.

Mr. Sarabhai Nemchand Haji: In making these inquiries, are the Government of India afraid that, if they press too much the case for Indianisation at Geneva, they might be met with the retort by the Geneva authorities that they had better put the scheme in force in their own house first?

DECISION IN REGARD TO THE INDIAN SANDHURST COMMITTEE'S REPORT.

258. ***Pandit Hirday Nath Kunzru:** (a) Are Government aware of the statement made by the Under-Secretary of State for India in the House of Commons that a decision had been arrived at in respect of the Indian Sandhurst Committee's Report and that it would be communicated to the Indian Legislature by the Government of India?

(b) Will Government be pleased to state what decision has been arrived at and lay on the table a copy of the correspondence which has taken place between His Majesty's Government and the Government of India?

Mr. G. M. Young: (a) The answer is in the negative.

(b) The Government of India hope to announce the conclusions of His Majesty's Government and of themselves during the current Session. It is not proposed to publish the correspondence.

Pandit Hirday Nath Kunzru: May I ask whether the decision would be published or announced in this House before the budget debate?

Mr. G. M. Young: I cannot say at present.

Pandit Hirday Nath Kunzru: May I ask whether the Government of India propose as far as possible to announce it before the budget debate?

Mr. G. M. Young: The Government of India propose to announce it as soon as they can.

Pandit Hirday Nath Kunzru: Will they press on His Majesty's Government the desirability of announcing the decision of Government before the debate on the military budget takes place?

Mr. G. M. Young: They have, I think, already done so, but if the decision is not published in time for the budget debate, I may assure Honourable Members that special facilities will be given by Government for discussing the decision.

OBJECTS OF THE VISIT OF THE SECRETARY OF STATE FOR WAR TO INDIA.

259. ***Pandit Hirday Nath Kunzru:** (a) Will Government be pleased to make a statement with regard to the visit of the Secretary of State for War to India?

(b) Was the question of keeping a part of the Imperial Expeditionary Army in India one of the matters discussed between him and the Government of India?

Mr. G. M. Young: (a) The Honourable Member's attention is invited to the statement I made on the 31st August last, in reply to starred question No. 706 and to the statement made by Lord Onslow in the House of Lords on 17th February last, which explained fully the objects of the visit of Sir Laming Worthington-Evans.

(b) No.

Sir Darcy Lindsay: Sir I have been asked by Colonel Crawford to put the question† in his name.

Mr. President: The Honourable Member has given no intimation to the Chair.

STATEMENT RELATING TO CERTAIN CLASSES OF POSTAL OFFICIALS.

261. ***Maulvi Abdul Matin Chaudhury:** Will the Government be pleased to lay on the table a statement showing the number of (1) Superintendents of Post Offices, (2) gazetted postmasters, (3) non-gazetted postmasters, (4) Inspectors of Post Offices, (5) Head Assistants in the Office of the Director General of Posts and Telegraphs and of the Postmasters General, (6) officials of the clerical cadre in the Directorate and the offices of Postmasters General and the Deputy Postmaster General, (7) Inspectors of the Railway Mail Service, Circle by Circle, Hindus and Mussalmans and others, separately?

Mr. H. A. Sams: A statement giving the information required by the Honourable Member is being forwarded to him. I would explain that the appointments of gazetted postmasters, non-gazetted postmasters, Inspectors of Post Offices, Inspectors, Railway Mail Service and Head Assistants are filled by promotion and not by direct recruitment.

APPOINTMENT OF ASSAM MUHAMMADANS AS SUPERINTENDENTS OF POST OFFICES.

262. ***Maulvi Abdul Matin Chaudhury:** (a) Is it a fact that since the establishment of British rule in India, no Muhammadan from the province of Assam has been appointed to the post of Superintendent of Post Offices?

(b) If the answer is in the affirmative, are Government prepared to give special consideration to the case of Assam Muhammadans in making direct recruitments to the post?

Mr. H. A. Sams: (a) I regret that in the absence of old records which have been destroyed I am unable to answer the Honourable Member's question.

(b) Does not arise.

MUHAMMADAN SUPERINTENDENTS OF POST OFFICES RECRUITED FROM THE LOWER GRADES DURING 1927-28.

263. ***Maulvi Abdul Matin Chaudhury:** Will the Government be pleased to state the number of Superintendents of Post Offices recruited departmentally from the lower grades during the year 1927-28? How many of them are Muhammadans?

† Question No. 260. For this question, see p. 529, *infra*.

Mr. H. A. Sams: Four. None are Muhammadans.

**HEAD ASSISTANT IN THE APPOINTMENT BRANCH OF THE OFFICE OF THE
POSTMASTER GENERAL, BENGAL AND ASSAM CIRCLE.**

264. ***Maulvi Abdul Matin Chaudhury:** Is it a fact that the post of Head Assistant in the Appointment Branch of the Office of the Postmaster General, Bengal and Assam Circle, was never held by a Mohammedan?

Mr. H. A. Sams: I regret that in the absence of old records which have been destroyed, it is not possible to reply to the Honourable Member's question.

**ATTACK ON KHWAJA HASAN NIZAMI SAHEB OF DELHI AND THE
MURDER OF PIRZADA SYED MOHAMED SADIQ.**

265. ***Maulvi Muhammad Yakub:** (a) Are Government aware that great sensation is prevailing among the public on account of the attack on the life of Khwaja Hasan Nizami Saheb and the cold-blooded murder of his father-in-law Pirzada Syed Mohamed Sadiq?

(b) Will the Government be pleased to state the full facts as regards the investigation of this crime, the manner in which and the time during which the investigation was carried on, also the methods adopted to investigate the crime and the officer or officers appointed to carry on the investigation?

(c) For how many days was the investigation carried on, how many statements were recorded, and what steps, if any, were taken to trace out the real culprit?

(d) What measures, if any, are being taken to find out from where and by whom the revolver was procured with which the crime was committed?

(e) Are Government aware that Khwaja Hasan Nizami and other male members of his family are in perpetual danger of being attacked and what steps, if any, have the Government taken to protect their lives?

(f) Are Government aware that there is a general impression among the public that the case is not so vigorously and earnestly investigated as the seriousness of the crime demands?

The Honourable Mr. J. Orerar: (a), (b), (c) and (d). The case to which the Honourable Member refers is being investigated by the Delhi Criminal Investigation Department who are giving it their most careful attention. It is not in the public interest to disclose details of the enquiry at this stage.

(e) Special precautions are being taken.

(f) Government have no information to this effect.

Mr. B. Das: Is it not a fact, Sir, that the murderer who murdered Khwaja Hasan Nizami Saheb's father-in-law has given out that he committed the murder on account of a private family dispute with the deceased?

The Honourable Mr. J. Orerar: I have seen some statement in the Press to that effect.

Mr. B. Das: May I inquire if the murder was committed owing to some private quarrel or was it due to some political trouble?

The Honourable Mr. J. Crerar: I am not prepared to make any statement in the matter pending completion of the investigation and any further proceedings that may take place in a court of law.

VACANCIES IN THE ROYAL AIR FORCE HEADQUARTERS AND UNITS.

266. ***Mr. Anwar-ul-Azim:** (1) Is it a fact that candidates for employment in the Royal Air Force Headquarters are nominated by the Public Service Commission?

(2) Is it also a fact that candidates recruited for employment in the Royal Air Force units are not nominated by the said Commission but are selected by the Royal Air Force Headquarters themselves?

VACANCIES IN THE ROYAL AIR FORCE UNITS.

267. ***Mr. Anwar-ul-Azim:** Will Government please state whether the vacancies in the Royal Air Force units have ever been advertised and applications called for from candidates of different communities? If not, why not?

APPOINTMENT OF MUSLIMS AS CLERKS IN THE ROYAL AIR FORCE UNITS.

268. ***Mr. Anwar-ul-Azim:** Will Government please state whether it is a fact:

- (i) that the selection of clerks for the Royal Air Force units lies in the hands of an officer who is helped by some clerks in the Royal Air Force Headquarters;
- (ii) that not a single of these clerks is a Muslim;
- (iii) that the Superintendent in charge of these clerks is a Hindu?

PREPONDERANCE OF HINDU CLERKS IN THE ROYAL AIR FORCE UNITS.

269. ***Mr. Anwar-ul-Azim:** (a) Will Government be pleased to state since when the Hindu Superintendent has been in charge of the work relating to the recruitment of clerks for the Royal Air Force units?

(b) Will Government please state the number of clerks, Hindus, Sikhs and Muslims, recruited since 1922, for the Royal Air Force units?

(c) Is it a fact that most of the Royal Air Force units are located at places where the Muslim population preponderates? If so, will Government please state the reasons for the fact (if it is so) that the number of Muslim clerks is less than those of the Hindus?

(d) Is it not a fact that the preponderance of Hindu clerks in the said service is due to the recruitment having been controlled by an officer who was assisted by a Hindu Superintendent? If not, will Government please explain what this preponderance is due to?

CLERKS OFFICIATING IN THE UPPER DIVISION OF THE ROYAL AIR FORCE HEADQUARTERS.

270. ***Mr. Anwar-ul-Azim:** (a) Is it a fact that the offices of the Army and the Royal Air Force Headquarters are catered for by the Public Service Commission so far as the ministerial establishment is concerned?

(b) Is it a fact that candidates who have passed the examination of the Public Service Commission for employment in the attached offices, are not admitted to the clerical staff of the Army Headquarters offices?

(c) Is it a fact that such candidates have been permitted to officiate in the Upper Division of the Royal Air Force Headquarters in contravention of the orders regulating similar promotion in the Army Headquarters offices?

(d) If the reply to the above is in the affirmative, will Government please state the number of clerks who benefited by the irregularity and how many of them were Hindus or Sikhs and how many Muslims? Will Government also please explain the reasons for differential treatment having been accorded to the employees of the Army Headquarters offices?

SUPERINTENDENT OF THE ESTABLISHMENT OR CASH BRANCH IN THE ROYAL AIR FORCE HEADQUARTERS.

271. *Mr. Anwar-ul-Azim: (a) Is it a fact that the Superintendent of the Establishment or Cash Branch in the Royal Air Force Headquarters is a Hindu?

(b) Will Government please let this House know the period for which he has held this appointment?

(c) Will Government please find out and say how many clerks have been made permanent during the period the Hindu Superintendent has been in charge of this Branch, and how many of these clerks were Hindus, Muslims or Sikhs?

Mr. G. M. Young: With your permission, Sir, I should like to answer questions Nos. 266 to 271 together. The information is being collected and will be supplied to the Honourable Member in due course.

ADEQUATE REPRESENTATION OF MUSLIMS IN THE CLERICAL AND TECHNICAL APPOINTMENTS AT THE FOREST RESEARCH INSTITUTE AND COLLEGE, DEHRA DUN.

272. *Mr. Anwar-ul-Azim: (a) Will Government be pleased to state the total number of clerical appointments and non-gazetted technical appointments on a pay of Rs. 250 a month and under at the Forest Research Institute and College, Dehra Dun? Will Government please also state the minimum qualifications required for these posts and the number of members of different communities holding them?

(b) Is it a fact that over 90 per cent of the posts in question are at present held by Hindus and the remaining less than 10 per cent. by the members of other communities?

(c) Will Government please state the qualifications of the present incumbents of these posts?

(d) What steps, if any, do the Government propose to take to give the Muslims their due share in the clerical and technical appointments at the Forest Research Institute and College, Dehra Dun?

Mr. G. S. Bajpai: (a) and (b). There are 47 clerical appointments and 110 non-gazetted technical appointments at the Forest Research Institute, Dehra Dun, on the scale of pay mentioned by the Honourable Member. A statement showing the numbers of clerks belonging to different communities and the percentage of posts held by members of each community is laid on the table. Qualifications vary according to the nature of the work required.

(c) A statement giving the information required by the Honourable Member has been placed in the Library of the House.

(d) Instructions have already been issued that, in order to redress communal inequalities, one-third of all permanent vacancies should be reserved for members of minority communities, provided that qualified candidates from such communities are available.

Statement showing the number of clerks belonging to different communities and the percentage of posts held by each community, at the Forest Research Institute, Dehra Dun.

	Hindus.	Christians.	Sikhs.	Mohammedans.	Total.
Clerical . . .	41	1	1	4	47
Technical . . .	103	3	0	4	110
Total . . .	144	4	1		157

Percentages :

Clerical . . .	87	2	2	9	100.
Technical . . .	93.5	3	0	3.5	100.
	90.25 per cent.	2.5 per cent.	1 per cent.	6.25 per cent.	100

Mr. President: I have received a written request from Lala Lajpat Rai asking me to allow Mr. Jayakar to put the questions standing in his name.

ALLEGED CONVERSATION BETWEEN DR. ZIAUDDIN AHMED AND MR. J. COATMAN WITH REGARD TO PAYMENTS TO MR. JAFFRAY.

251. ***Mr. M. B. Jayakar** (on behalf of Lala Lajpat Rai): (a) With reference to the Honourable the Home Member's answer to starred question No. 25 put by Munshi Iswar Saran on the 1st February, 1928, will Government inform the House if Dr. Ziauddin Ahmed of Aligarh and Mr. Coatman had any conversation and understanding with regard to payment to Mr. Jaffray?

(b) If the answer be in the affirmative, will the Government give the substance of the conversation and understanding? If the answer is in the negative, are Government prepared to say that Dr. Ziauddin Ahmed's statement was incorrect and the implications thereof without foundation?

The Honourable Mr. J. Orerar: (a) None whatever.

(b) It is impossible for Government to make any statement in regard to a letter of the existence or contents of which they have no knowledge.

ABSENCE OF MR. J. COATMAN FROM MEETINGS OF THE INDIAN CINEMA-TOGRAPH COMMITTEE.

252. ***Mr. M. E. Jayakar** (on behalf of Lala Lajpat Rai): Is it a fact that Mr. Coatman has not been attending the Cinema Film Enquiry Committee? If so, since when? Being a Government servant nominated to a Government Committee, has Mr. Coatman's absence for those dates in connection with the Committee been authorised by Government? If so, with what object?

NATURE OF THE SPECIAL DUTY ON WHICH MR. J. COATMAN IS EMPLOYED.

253. ***Mr. M. E. Jayakar** (on behalf of Lala Lajpat Rai): Is Mr. Coatman still on special duty? If so, what is the nature of that special duty?

The Honourable Mr. J. Orerar: With your permission, Sir, I will answer questions Nos. 252 and 253 together.

Mr. Coatman is still a member of the Indian Cinematograph Committee. His temporary absence from actual sittings of the Committee, for about three weeks from the middle of January, was authorised by Government in order to enable him to keep in touch with the work of his Department.

QUESTION NOT ASKED OWING TO THE ABSENCE OF THE MEMBER, WITH ANSWER TO THE SAME.

REGISTRATION OF INDIAN TRAINED NURSES AND MIDWIVES.

260. ***Colonel J. D. Crawford:** Will Government please state whether the question of the registration of Indian trained nurses and midwives has been under consideration? If so, are Government in a position to state the result of such consideration?

Mr. G. S. Bajpai: The regulation of medical and other qualifications and standards is a provincial reserved subject, and, therefore, primarily a matter for Local Governments. The Government of India have not had under consideration the question of the registration of nurses and midwives trained in India. The Governments of Madras and Burma have, however, passed laws for this purpose, and the Government of Bengal are understood to be contemplating similar legislation.

PANEL OF CHAIRMEN.

Mr. President: In accordance with the provisions of rule 3 of the Indian Legislative Rules I announce that I have nominated the following Members to be on the Panel of Chairmen:

Mr. M. A. Jinnah.

Sir Darcy Lindsay,

Mr. K. C. Neogy,

Mr. M. R. Jayakar

COMMITTEE ON PUBLIC PETITIONS.

Mr. President: Under Standing Order 80 of the Legislative Assembly Standing Orders I have to appoint a Committee on Public Petitions. I have therefore to announce that the following Honourable Members will form the Committee:

Sir Hari Singh Gour,

Mr. N. M. Joshi,

Mr. Jamnadas M. Mehta,

Dr. Suhrawardy.

According to the provisions of the Standing Orders, the Deputy President, Maulvi Muhammad Yakub, will be the Chairman of the Committee.

RAILWAY BUDGET FOR 1928-29.

The Honourable Sir George Rainy (Member for Commerce and Railways): I rise to present the Railway Budget for 1928-29, and as this is my maiden effort in budgets, I hope the House will extend to me the indulgence which inexperience is usually allowed to claim. Sir Charles Innes was wont to preface his speech by an explanation of any changes in procedure that had been made or in the form of the papers which it is customary to lay before the House. I do not think it is necessary for me to say much on that point. There must be many here to whom the apparatus of white papers and pink books is much more familiar, and consequently much less formidable, than it is to me. I will only say that a very marked improvement has been made in the form of the Railway Board's explanatory memorandum, and I am sure that Honourable Members will find it a much more informative and interesting document than it has been in the past. This improvement we owe to Mr. Parsons on whose shoulders the burden of preparing the Railway Budget chiefly rests, and I should like to say at once how deeply I am indebted to him for the assistance I have received not only at the budget season but throughout the year. From Sir Austen Hadow and from the members and officers of the Railway Board I have always received the most loyal co-operation and assistance.

2. Figures are a regrettable necessity in a Budget speech, but I shall try to reduce their number to a minimum, and I have the less compunction in doing so, because the Railway Board's Memorandum and its appendices contain a full and lucid explanation of the financial position of the Railways.

Before attacking my task I will only add that I shall be very grateful if, in accordance with past practice, Honourable Members who give notice of motions for reduction will add a few words to indicate the subjects which they wish to bring up for discussion. The practice is of great assistance to the Government members and I believe also to the House as a whole.

Financial Results of 1926-27.

3. It will not be necessary to say more than a few words about the results of 1926-27. When the revised estimates for the year were submitted by Sir Charles Innes, he anticipated that the surplus of receipts over expenditure would not quite suffice to pay the railway contribution to General Revenues, and that it would be necessary to draw Rs. 7 lakhs from

the reserve to make good the deficiency. Actually the surplus was higher than the estimate by about $1\frac{1}{2}$ crores, and the reserve was increased by that amount. The improvement was due mainly to a remarkable increase in goods traffic on the East Indian Railway in February and March, and to a reduction in working expenses as compared with the estimate. The year was not therefore in the end a bad one for the railways, and the figures of the last two months were distinctly encouraging.

Revised Estimates for 1927-28.

4. The opening months of the current year maintained the promise of their predecessors. For some time it was impossible to be sure whether the lateness of the season had not thrown forward into 1927-28 traffic which belonged naturally to 1926-27, but as the weeks passed and the traffic earnings continuously exceeded the earnings of the corresponding months of 1926-27, it became reasonably certain that with a normal monsoon we could look forward to a prosperous year. The disastrous floods in Guzerat and Orissa slowed up progress for about a month in July and August, but the check proved to be temporary, and by the end of October all anxiety about the financial results of the year had passed away. According to our present anticipations passenger earnings will be better than in 1926-27 by Rs. $1\frac{1}{2}$ crores, and goods earnings by 3 crores, a total gain of $4\frac{1}{2}$ crores. The figures for the earlier months of the year suggest that by the end of March we may realize an increase of 6 per cent. in the passenger mileage and of $3\frac{1}{2}$ per cent. in the ton mileage. It is a satisfactory feature of the goods traffic that the increase is not confined to any one class of commodity, but with the single exception of cotton has extended to almost all. It has been most interesting to watch from week to week, as I have done, the steady increase in the loadings of grain and pulses, of oil seeds, of coal and coke and of what are termed miscellaneous full wagons and miscellaneous smalls.

Up to the 21st of January 1928, 230,000 more wagons had been loaded on the broad gauge and 90,000 on the metre gauge than in the same period last year. All the principal railways show substantial increases in traffic earnings with the single exception of the Bombay, Baroda and Central India Railway, where the receipts for the first ten months of the year are almost identical with those of 1926-27. As always, the railway results are dependent on the character of the season and particularly of the monsoon months, but I have no doubt that the ability of the railways to handle all the traffic offering without delay has contributed largely to our success. Had the conditions in 1927-28 been similar to those which prevailed five or six years ago when the wagons could not be turned round fast enough to carry the traffic, our earnings must have been distinctly smaller.

5. I have not thought it worth while to trouble the House with any comparison between the revised estimate of revenue and the budget figures. When we attempt to estimate the earnings of our railways during the coming twelve months, we are dealing with factors which we can neither control nor forecast with accuracy, and the best estimate we can make is largely guess-work. Working expenses stand on a different footing. They tend to rise, no doubt, when traffic increases, and to fall when it declines, but to a considerable extent they are subject to control by the responsible authorities. This year our traffic has brought us in Rs. 34 crores more than we expected in the shape of traffic receipts, but our working expenses, we believe, will be Rs. 63 lakhs less than the estimate. As

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compared with 1926-27, we expect to carry extra traffic which will raise our receipts by 4½ crores, but will increase our working expenses by only Rs. 8 lakhs. That, I think, is a result which on the face of it is satisfactory, and it is even better than it looks. For owing to the increase in the capital at charge, our expenditure on depreciation has risen automatically by about half a crore. Under operation we expected to spend the same amount as in 1926-27, and we now expect to spend Rs. 50 lakhs less, while under repairs and maintenance we expected to spend Rs. 50 lakhs more and we now expect to spend Rs. 18 lakhs less. I shall have something to say about both heads.

6. Under operation we expect to spend half a crore less on fuel than in 1926-27. A more economical use of fuel has had a good deal to do with bringing down our expenditure, and it is a point to which the Railway Board rightly attach great importance. The quantity of coal consumed per thousand gross ton miles hauled is steadily diminishing, and will, we hope, decrease still further. Thus for example in 1927-28 the Bombay, Baroda and Central India Railway reduced its consumption by more than 9 per cent., the Eastern Bengal Railway by nearly 12 per cent., the Assam Bengal Railway by nearly 7 per cent., and the South Indian Railway by 6 per cent. The measures which have brought about the reduction include the fixing of maximum limits for the coal to be held at one time by each railway administration so as to avoid the rapid deterioration which takes place when certain classes of coal are stacked, the employment of fuel inspectors, greater attention to firing methods and the superheating of locomotives. Apart from fuel, the decrease in operation expenses during a year of higher traffic is clear proof of the attention which is given to economy.

7. The reduction of expenditure under Repairs and Maintenance, in spite of an addition of between 600 and 700 miles to the lines to be maintained is due very largely to economies in the railway workshops and the fact that our revised figure is nearly 70 lakhs less than the budget will no doubt be of special interest to my Honourable Friend Mr. Chetty. Honourable Members who were present during the discussion of the railway budget last year may remember that Mr. Chetty moved a reduction of 50 lakhs under this head, his argument being that we were asking for more money than we actually needed for workshop expenditure, and that a substantial reduction was possible. The revised estimates show that his anticipations were more correct than ours, but there is no difference of opinion between him and us as to the policy to be followed. The Railway Board have been fully alive to the necessity of economizing in workshop expenditure, and the results of the steps they have taken are now becoming apparent. In their memorandum on the budget the Board have given a number of figures to illustrate the economies which have been effected, but I will quote only two. On the North Western Railway the average cost of a locomotive standard repair has been reduced from Rs. 14,011 in November 1926 to Rs. 11,612 in November 1927, and on the Great Indian Peninsula Railway from Rs. 11,967 to Rs. 9,573. These reductions are substantial, but the matter does not end there. With the new methods which have been adopted repairs are executed much more expeditiously than before. On the East Indian Railway, for example, the average number of days locomotives were in the shops has been reduced from 105 to 64, passenger carriages from 46:

to 35 and wagons from 15 to 5. It follows of course that much fuller use is being made of our rolling stock, and that the need for buying new stock is proportionately diminished. The economies we have been able to effect are the direct result of the modernization of the workshops which was commenced some years ago and is still proceeding. Very large sums have been voted by the Assembly for this purpose, and I think the House has legitimate cause for satisfaction with the results achieved.

8. I will now summarize briefly the financial results of 1927-28. Our total receipts on the commercial lines we put at Rs. 103½ crores, which is nearly Rs. 5 crores higher than the total for the previous year. Our total expenditure at Rs. 90½ crores is up by Rs. 1½ crores, but this increase is more than accounted for by the fact that our interest charges have risen by Rs. 1½ crores owing to the capital expenditure incurred during the year. The surplus of receipts over expenditure on the commercial lines is Rs. 12½ crores as against about Rs. 9 crores in 1926-27 and in our budget. Out of this surplus the loss on the strategic railways absorbs 1½ crores, and of the balance Rs. 4½ crores, under the operation of the convention, goes to the Railway reserve fund and Rs. 6½ crores is our contribution to general revenues.

Rates and fares.

9. The return from our railways during the current year having proved thoroughly satisfactory, the House will naturally be anxious to know what we propose to do with our surplus. When Sir Charles Innes introduced the budget for the current year, he was unable to announce any reduction in rates and fares apart from certain minor reductions in third class fares made by the Agents of particular lines. The circumstances then existing did not justify any large sacrifice of revenue, and it was necessary to wait and see what 1927-28 had in store for the railways. The position now is very different, and for some time past we have been considering what could be done to assist trade. In order to restore solvency to the railways, it was necessary some years ago to raise rates and fares to a much higher level than any of us would wish to see, and when we are prosperous enough to make substantial reductions, it is important to select those which are most likely to be beneficial. We came to the conclusion, as I think any railway administration in similar circumstances must have done, that the decisive consideration must be whether the reduction was likely to be followed by an early and substantial increase in traffic. What we hope for in the end is a general reduction in all rates and fares. If then we begin with those rates which operate to restrict traffic, we may hope to be able to deal with other commodities before very long, for our earnings will go up again as the traffic increases. But if, on the other hand, we begin with reductions which, however beneficial, are not likely to lead to increased traffic, it may be several years before further reductions become possible. It is on this basis that Government arrived at the decisions which I have now to communicate to the House.

10. In the first place, we propose to make a substantial reduction in the third class fares on the East Indian, North Western and Great Indian Peninsula Railways. Up to 50 miles no change will be made, but from 51 miles and upwards, the reduction will be half a pie per mile. On the East Indian and North Western Railways this means a reduction of 18 per cent. for a journey of 300 miles, 16 per cent. for a journey of 500 miles, and

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20 per cent. for a journey of 900 miles. The corresponding percentages on the Great Indian Peninsula Railway are 11, 13 and 15. In addition we propose to abolish on the East Indian and Great Indian Peninsula Railways the distinction by which intermediate and third class mail fares are higher than by ordinary trains. If there were no growth of traffic, the reductions in third class fares would cost Rs. 122 lakhs in a complete year.

11. It may perhaps interest the House to know how the new rates for third class passengers compare with those in force before the war. On the Great Indian Peninsula Railway the increase is still substantial, varying from 60 per cent. at 50 miles to 30 per cent. at 600 miles. On the East Indian Railway, the comparison is more favourable to the new rates. The increase is 40 per cent. at 50 miles, 23 per cent. at 300 miles, 14 per cent. at 600 miles and 10 per cent. at 900 miles. When the increase in salaries and wages and the prices of almost all commodities which has occurred since 1913 is taken into account, the increase in third class fares on this railway is distinctly less than might have been expected. But the comparisons on the North Western Railway are better still. At 50 miles it is true the increase is 55 per cent., but at 300 miles it drops to 18 per cent. and for all distances over 466 miles, the new fares are actually lower than the pre-war fares, the difference at 900 miles being as much as 16 per cent. I ought to add that we propose to discuss with the Company-managed railways the desirability of similar reductions on their systems in order to stimulate the growth of third class traffic.

12. Second in importance comes a substantial reduction in the rates for parcels and luggage. This is a very strong case, for the figures of past years clearly suggest that the present rates are operating to restrict traffic and in another respect the scale is unsatisfactory because it proceeds by 10 seers at a time so that a parcel weighing 11 seers is charged the same as one weighing 20 seers. Instructions will be issued for the introduction of a revised scale with 5 seers instead of 10 seer divisions, and for a reduction of the rates by 15 per cent. The cost in a full year, if there were no increase in traffic, would be Rs. 74 lakhs, but we have every reason to expect a substantial increase.

13. In the case of goods rates, we propose four reductions which should be of substantial benefit to the poorer classes and to the agriculturist. At present on the State-managed railways kerosene is carried at a uniform rate which works out at 42 pies per maund per 100 miles. We propose to substitute a telescopic scale which fixes lower rates for all distances in excess of 300 miles and drops to 10 pies per 100 miles for distances in excess of 700 miles. This reduction means a decrease in freight of 16 per cent. for a haulage of 500 miles, 35 per cent. for 750 miles and 42 per cent. for 900 miles. The total cost is Rs. 28 lakhs a year with the present volume of traffic. In the second place, we propose to reduce the rates on manure and oilcake which vary at present on the State-managed railways, to the absolute minimum of a tenth of a pie per maund per mile. On the East Indian Railway this means a reduction varying from 42 to 54 per cent. for distances of 500 to 900 miles. In a full year the cost is Rs. 15 lakhs, but more manure carried means larger crops and larger crops mean more traffic for the railways, so that the indirect gain to the railways from the concession may in the long run be considerable. The third important reduction is in the rate for jaggree. In

this case also we propose to substitute a telescopic scale for a uniform rate at a cost of about Rs. 10 lakhs in a full year. For distances in excess of 500 miles this means a reduction rising from 43 per cent. to 55 per cent. at 900 miles. Here also we look for a substantial increase in traffic. Finally, we propose to make a small adjustment in the rates on grain, pulses and seeds. At present the rates on the East Indian Railway up to 97 miles and on the North-Western Railway up to 232 miles are higher than on the Great Indian Peninsula Railway. We propose to remove this distinction at a cost of Rs. 12 lakhs a year.

14. In order to complete my account of the reductions in rates there are four others to be mentioned. Two of them cost very little but will, I hope, be appreciated. Petrol at present pays a uniform rate which works out at 83 pies per 100 miles. We propose to substitute a telescopic scale which will affect all distances in excess of 300 miles and means a reduction of 19 per cent. for 500 miles, 30 per cent. for 750 miles and 34 per cent. for 900 miles. The cost is only Rs. 2 lakhs in a full year. The second concession is a reduction in the charges for horses, live stock and motor cars, which will cost about Rs. 3 lakhs a year. The other two reductions may be described as the removal of anomalous conditions on the East Indian Railway. It is more than two years since the Oudh and Rohilkhand Railway was absorbed, but the telescopic scales still stop short at the old junctions, and terminals are charged as if the two railways were separate. The abolition of this system will cost Rs. 33 lakhs in a full year. In the second place, the East Indian Railway charges a goods terminal of 6 pies a maund for through booking on which they render terminal services at one end only, though the terminal charge at either end for local booking is only 3 pies. The through terminal will now be reduced to the same figure.

15. Some of the reductions in rates and fares to which I have referred will be brought into force at once, but due notice must be given of the remainder, and we do not expect that all of them can take full effect till June at earliest. That fact will of course reduce the loss of revenue in 1928-29. We are giving up in a full year Rs. 122 lakhs in passenger traffic earnings, Rs. 77 lakhs in other coaching traffic and about Rs. 106 lakhs in goods earnings, that is Rs. 305 lakhs in all. We anticipate, however, that the very substantial reductions made will have an immediate effect in stimulating the growth of traffic and that the actual loss will be much less. We have deliberately elected indeed to make substantial reductions in the case of particular commodities in the belief that the growth of traffic would thereby be insured, rather than to spread the reductions over a wider area and incur the risk that no one reduction would be large enough to stimulate bookings. On the whole we expect that the loss of revenue will not exceed Rs. 2 crores in 1928-29, when the dates at which the reductions are likely to become effective and the probable increase in traffic are taken into account.

Budget Estimate for 1928-29.

16. I turn now to the budget figures for 1928-29. But for the reductions in rates and fares which we propose, we should have budgeted for an increase of Rs. 1½ crores in the gross traffic receipts, the two basic assumptions being (1) a normal monsoon, and (2) a further growth in traffic but at a slower rate than in the current year. In view of the

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reductions in rates and fares we anticipate a fall of Rs. 55 lakhs in the traffic earnings, but owing to the increase in the interest on the balances of the reserve and depreciation funds, our total receipts are expected to be only Rs. 24 lakhs lower. On the expenditure side, working expenses are put at the same figure as in the previous year, making the fourth successive year in which they have stood at about Rs. 62½ crores notwithstanding the extension of our lines and the increase in the traffic with which we have to deal. During the period the expenditure on depreciation (which is governed automatically by the amount of the capital at charge) will have risen from Rs. 10½ crores to Rs. 11½ crores, which means that the other working expenses will have fallen by Rs. 1½ crores. This is a very satisfactory result and bears eloquent testimony to the resolute and continuous efforts of the Railway Board to secure economical administration. Operation expenses will, we anticipate, be about the same as in the current year, the increase in traffic very nearly offsetting a saving of Rs. 15 lakhs we expect in our fuel bill. Under repairs and maintenance, taking warning by this year's lesson, we are budgetting for a reduction of Rs. 63 lakhs, and this estimate, I may say, is the result of a very close examination of the number of locomotives, carriages and wagons likely to be repaired, and takes full account of the fact that on most of the principal railways there are little or no arrears to be made good. We hope also that the progressive modernization of our workshops will again bring down the average cost of repairs.

Interest charges, owing to our new capital expenditure, will be higher by Rs. 1½ crores, and the surplus profits of companies by a quarter of a crore. The latter increase, however, is due to special causes and will not recur. It is occasioned by the fact that on the 1st of January 1929 our contract with the Burma Railways Company will expire, and the line will come under State management. It will be necessary, therefore, during the year to pay to the Company not only the surplus profits of the current year, but also those of the first nine months of 1928-29.

Our total receipts for the year we put at a little over Rs. 103 crores and the total charges (including the loss on the strategic railways) at Rs. 94 crores, leaving a final surplus of about Rs. 9 crores, of which general revenues will take Rs. 5½ crores and the railway reserve fund Rs. 3½ crores.

Capital Expenditure.

17. I do not propose to deal otherwise than briefly with our capital programme. During the current year we expect that our capital expenditure will be Rs. 30 crores, which is Rs. 5 crores more than the budget estimate and nearly Rs. 3 crores higher than the actuals of 1926-27. More rapid progress has therefore been made in the construction of new works than we anticipated, and this fact need occasion no regret, for it means that the new expenditure will become fruitful at an earlier date and contribute to our traffic earnings. The House will remember that when, after the war, it again became possible to devote large sums to railway capital expenditure, the actual outlay each year fell far short of the budget provision, and in order to meet this difficulty a system of over allotment was introduced. Each railway administration was given the amount which it thought it could spend, but a lump reduction was made in the total figure for all railways so as to bring it down to the amount which experience showed was

likely to be spent. Thus in the current year the total allotment to all railways was Rs. 89½ crores, but was reduced to Rs. 25 crores by a *minus* entry of Rs. 14½ crores on account of probable savings. The experience of 1927-28 makes it clear that the railways are now much better equipped for dealing expeditiously with new projects and that closer estimating will be possible in the future. We have taken account of this fact in framing the estimates for 1928-29.

18. In next year's budget we are providing Rs. 28 crores for capital expenditure. The allotment for open line works is Rs. 15 crores and for new construction Rs. 9 crores. These are net figures and are arrived at after deducting nearly Rs. 5 crores on account of probable savings as against Rs. 14½ crores this year. The total of Rs. 28 crores is made up by a special provision of Rs. 4 crores for the acquisition of the Burma Railways on the expiration of the Company's contract at the beginning of 1929. The decision of the Government of India not to renew the contract but to take the line under direct management was in accordance with the expressed wishes of the Local Government and the local Legislature and will, I believe, commend itself to this House.

19. The only open line works of major importance which we propose to initiate next year are the remodelling of Erode junction on the South Indian Railway and the Madras suburban electrification. For the rest the completion of the works already in hand will, it is thought, give full scope for the energies of the railway administrations. Full details of the work which is going on are given in the Appendix to the Railway Board's explanatory memorandum, and I cannot attempt to summarize them now. I ought, however, to mention that the provision made for amenities for third class passengers, including the additions to, and improvements in, lower class carriages, amounts to nearly Rs. 2½ crores. This is a very important branch of our railway work, and I can testify that it receives close and constant attention from the Railway Board.

20. I turn now to new construction. When Sir Charles Innes spoke last year he expressed the hope that we should open nearly 900 miles of new line this year. We have not done quite so well as that but we expect to open 636 miles and to raise that figure to about 800 miles next year. The mileage of our construction programme indeed has now reached a formidable total, for 50 projects, aggregating 2,600 miles, have already been sanctioned, and 40 others covering 2,000 miles are under examination. Where the projects are so numerous it is difficult to single out any of them for special mention, but of those which we propose to open next year, the most important perhaps are the Daltonganj Barkakhana section of the Central Indian Coalfields Railway, the Kangra Valley line in the Punjab and the Villipuram Trichinopoly line in Southern India. The lines which will still be under construction at the end of the year are for the most part short branches or feeder lines to the main system, but in various parts of the country there are special features. Thus in Burma and Assam we are constructing pioneer lines to open out rich but undeveloped country; in southern India the branches will serve densely populated tracts where the traffic should at a very early date yield an ample return on the capital invested; in the Punjab they are for the most part cross connections running from east to west and linking up the existing lines most of which run from north to south; while in the Province of Sind we hope to commence the feeder lines which are the natural consequence of the construction of the Sukkur Barrage. To attempt an enumeration of the various projects

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would serve no useful purpose, but I am confident that any one who studies the Railway Board's Memorandum and its Appendices will realize that they are fully alive to their responsibility for extending and improving the communications of India.

21. I have now completed, Mr. President, my survey of the financial results of 1927-28 and have given our forecast for 1928-29. I have some general remarks to make as regards the financial position of the railways, but before I come to them there is one other matter to which I should like briefly to refer, I mean the progress made in recruiting Indians for the superior services of the railways. Members will find a very full account of what has been done in the last two years on pages 66 to 72 of the Railway Board's report on Indian Railways for 1926-27; but I am in a position to supplement the information there by some further and later figures. 32 per cent. of the permanent gazetted appointments created in 1925-26 and of the vacancies which occurred during that year in such appointments on State-managed railways were filled by Indians. In 1926-27, the percentage practically doubled; it was over 62 per cent. This year, on the latest available figures, it seems probable that 42 Indians will be appointed to superior railway services, including the 13 candidates who, as announced last week, were successful in the examinations for the Indian Railway Service of Engineers and the Transportation and Commercial Departments of the State-managed railways. We are only expecting 18 European recruits this year for the State-managed railways, so Indians are likely to obtain 70 per cent. of the appointments. We are rapidly reaching the percentage recommended as our aim by the Lee Commission.

So far I have only been referring to permanent appointments. But we have also succeeded recently in obtaining a much larger proportion of suitable Indian recruits for the temporary engineer posts on the State-managed railways which our large construction programme requires. When in 1925 we began to recruit temporary engineers in large numbers we first of all advertised in this country for them; but the immediate response was not as good as we could have wished, and we only succeeded in obtaining 28 sufficiently well-qualified men, of whom 7 were Europeans. In order not to hang up the programme of development we had therefore to obtain recruits from England through the High Commissioner, and we got from him in all 43 temporary officers on 3-year agreements, of whom 9 were Indians and the rest Europeans. Subsequently, in January 1927 we advertised again for recruits in India and obtained a much more satisfactory response; we have consequently stopped the recruitment of temporary engineers in England altogether. Since January 1927, we have obtained 20 temporary engineers in India, of whom 18 are Indians, and we have now got arrangements for maintaining a register of approved candidates for employment, to whom appointments are offered as they fall vacant. I am conscious that this reference to Indianization breaks the sequence of my speech, but I thought the House would be glad to have these figures before the general discussion on the budget takes place.

22. The House will readily understand, Sir, that it is a source of great satisfaction to me that on the first occasion on which I have had the honour of presenting a Railway budget to the Assembly it should be my good fortune to announce substantial reductions in rates and fares and to put forward a financial statement showing clearly the

prosperous condition of the Indian Railways, and my satisfaction is not in any way diminished by the obvious fact that I can claim no credit for these results and that the sound financial condition of the Indian Railways is due to the exertions of others. It would have been more in accordance with the fitness of things if it had fallen to Sir Charles Innes to make the announcements I have made to-day, and to inform the House that the success of the policy which he advocated so strenuously and in the formation of which he had so large a share could now be regarded as established beyond question. On the other hand, my own position may perhaps have certain advantages. When I took over charge of the Railway Department last April, I was free from responsibility for the policy which had been adopted or for any of the important schemes which were then in progress, and I approached the whole subject with an open mind prepared to hear all that could be urged for or against the system under which the Railways are at present administered. I shall not delay the House very long, but before I sit down I should like to say something of the convictions which have formed in my mind and which deepen with every month that passes regarding the railway policy which has commended itself to the Government of India and to this House.

23. As I have already explained to the House, we are about to make reductions in rates and fares involving a sacrifice in our traffic receipts exceeding 3 crores of rupees in a full year. We anticipate of course that part of what we give up will be restored to us by the natural growth of traffic. But the question may be asked whether we are not incurring thereby an excessive risk. For the past five or six years we have enjoyed a succession of favourable seasons none of them appreciably worse than the average and some distinctly above it. Can we expect, it may be asked, that nature will continue to favour us with abundant rainfall, and in the ordinary course of things must we not be prepared for at any rate a partial failure of the monsoon and possibly for two years in succession? If that is a possibility, as unquestionably it is, what provision have the Railways made for such a contingency, and has it been taken into account in framing the budget estimates for 1928-29? These are fair questions and I will endeavour to reply to them.

24. One of the best features of the scheme for separation of railway and general finance put forward by the Government of India and accepted by this House is that, under it, in the years of prosperity provision is definitely made for the less favourable years which in course of time we shall undoubtedly have to pass through. Every year after our contribution to general revenues has been made, out of the surplus of receipts over expenditure, the balance goes into the Railway Reserve Fund which by the end of March 1928 will amount to about 16 crores and in March 1929, if our expectations are fulfilled, to over 19 crores. If, then, we had the bad fortune to experience two successive years in which the conditions were so unfavourable that the surplus of receipts over expenditure disappeared altogether, we could still meet our contribution to general revenues in full without exhausting what we have set aside in the reserve fund. That is a very important and interesting fact, for it enables us to adopt a much bolder policy in the way of reducing rates and fares or in making desirable improvements in our railways than otherwise we should be able to do. If our railway finances were still inextricably entangled with the ordinary finance of the year, it might be the duty of the Finance Member to impose

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a veto on reductions in rates and fares which from the railway point of view were very desirable, on the ground that he could not face the sacrifice of revenue which they were likely to entail. As it is, when the time comes for making his budget, he knows that for two years ahead he is sure of getting the 1 per cent. contribution on the capital at charge on the commercial lines, whatever the actual traffic earnings of the railways may be. A very valuable element of stability is thereby introduced into the finances of India. At the same time, those who are responsible for the railway administration can make their plans in advance with reasonable security that they will be able to proceed with them unimpeded, and need not apprehend any sudden interruption owing to the financial exigencies of the moment.

25. I have thought it right, Mr. President, to emphasise the value which the Government of India set on the scheme for the separation of railway finance and to explain the very important advantages which it secures. As the House are aware, it rests on the convention accepted in 1924 both by this House and by Government, and it was part of the convention that it should be tried for at least three years, with an implicit recognition that after the expiry of that period, it might be desirable to review its working. During the last budget debate, it was suggested by some members that the time for this review had arrived, and Sir Charles Innes then said that, if there was a general feeling in the House to that effect, he would be quite prepared to agree to it. It is therefore a matter which had been under my consideration since I took charge of the Railway Department last April, but I felt that it would be difficult, if not impossible, to arrive at satisfactory decisions as to the changes, if any, in the system which might be thought desirable, until we were in a position simultaneously to decide what changes in railway accounting practice were necessary as a result of the enquiry made by Sir Arthur Dickinson. His report was received last Autumn and the Railway Board and the Auditor General are now engaged in studying its recommendations. We hope that those of them which have a direct bearing on the separation of railway finance will be ripe for discussion in the Railway Standing Finance Committee in the course of next summer. When that has been done, a natural opportunity will occur for considering again the terms of separation agreed to in 1924. The discussions which will take place during the next few days should serve to elucidate the general feeling in the House, and if there appears to be a general desire to review the terms of the convention, we shall push on with the examination of Sir Arthur Dickinson's report, and will do our utmost to have the opinions of the Standing Finance Committee ready for the consideration of this House when it meets again in the Autumn Session. If we are successful, then I would move during the course of that Session for the appointment of a Committee to examine the working of the convention and to report what alterations, if any, were desirable. I have made it plain that the Government of India attach great value to the convention and consider that it has worked most successfully, but I hope that by what I have just said I have made it equally plain that they do not regard it as a thing so sacrosanct that it should be withheld from scrutiny or that they have any desire to deny this House an opportunity of satisfying itself on the whole subject. I trust that the procedure I have suggested will commend itself to the House.

26. The budget which I have presented to-day must, I think, give the Assembly reasonable cause for satisfaction, and it may fairly be claimed by Government as affording evidence of the success of the policy vigorously pursued during the last five or six years. During that period, the railways of India, whether regard be had to their actual working, or their financial results, have improved more rapidly than at any previous period in their history. Six years ago, owing to the wagon shortage and the suspension during the war of the provision of new traffic facilities, the railways were unable to deal with the goods traffic offering without prolonged delays which were a source of annoyance to the mercantile community and inflicted serious injury on trade. For two years past our wagon supply has been ample and we have been in a position to deal expeditiously with all the traffic offering even at the busiest season of the year. Six years ago the financial position of the railways was thoroughly unsound, and very heavy increases in railway rates became necessary in order to restore solvency. To-day Railways are not only entirely solvent, but, after making a substantial contribution in relief of taxation and setting aside large sums to the reserve fund as a provision against the bad years that may come, we are able to make a substantial reduction in rates and fares without any apprehension that these may involve us in commitments too heavy for us to carry. Results like these cannot be achieved by any railway administration unless its policy is conceived on sound lines and unless those in charge of its administration possess the practical wisdom to devise the schemes necessary to secure economy and efficiency and the energy which enables them to carry these schemes to fruition. Many have contributed to bring about the satisfactory results which we see, and I sometimes doubt whether we give nearly enough credit to the great body of the Railway servants of India. It is they, after all, who bear the burden and heat of the day, and every reform which is introduced means months of hard and unremitting toil for many officers. The modernization of our workshop methods, to take only one example, has involved an infinitely careful planning and strenuous effort on the part of all concerned, and I am glad to take this opportunity of acknowledging what we owe to the officers responsible. But while many have done well the main burden of responsibility has rested on the shoulders of two men—His Excellency Sir Charles Innes, now Governor of Burma, and Sir Clement Hindley, the Chief Commissioner of Railways. (Applause). I do not think, Sir, it will be out of place if I put on record to-day my deep conviction of the great debt which India owes to both of them for the work which they have done for the Railways of India.

27. There is another aspect of the case to which I must also refer. In all our calculations and estimates there is one element of uncertainty which can never be eliminated but will continue to affect the railway budget until the day comes when we have shut down our railways altogether and embark precariously in the motor car or the aeroplane—I mean the monsoon. Against that contingency we have provided, as far as possible, by means of our railway reserve fund. But in some of the years which followed the war there was another element of uncertainty almost equally serious which profoundly affected railway finance—I mean the variations in the exchange ratio. That factor has now been eliminated, I hope and believe permanently, by the legislation which was passed in March 1927. I do not wish to enter upon controversial topics, but it is important that every member of the House should realise clearly that variability in the

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exchange ratio introduces instability into the railway budget, that instability necessarily weakens confidence, and that this lack of confidence will certainly be reflected in an ultra conservative financial policy. If indeed we are anxious, as I believe every member of the House is anxious, to facilitate trade by the reduction of rates and fares and by the progressive improvement of the Indian railway system, then a stable rupee is one of the very first requisites. In this matter we in the Railway Department, as in many others, owe a very deep debt of gratitude to my Honourable Colleague Sir Basil Blackett, and I should like to take this opportunity of acknowledging on behalf of the Railway Department the assistance we have invariably received from his broad-minded and courageous outlook on all our railway financial problems. We owe him much in connection with the separation of railway and general finance and in many other matters too numerous to mention. But I am not sure that our deepest debt of all is not due to him for the work he did in stabilising the rupee, although in that matter the railways were only a subordinate issue.

28. The last matter to which I wish to refer is this. I have claimed on behalf of the Railway Department that the budget I have presented testifies to the success of the railway policy of the Government of India, and I have discussed some of the factors which made our success possible. But there is one aspect of it to which I have not referred, namely, that it has been based on co-operation between the Government and this House. I have not yet been present during the discussion of a railway budget, but I have heard it whispered that at times the spirit of co-operation has not always been visibly present, that speakers on the non-official benches have complained of the slowness of Government to give effect to strongly expressed views on Indianisation and other matters, and that those who sit in the benches on this side of the House have felt that something less than justice was done by the critics to the admirable work of our Railway officers. In a week's time Mr. President, I shall be able to form my own opinion as regards that. But whatever acrimonies may from time to time have flavoured all our railway debates, I am quite sure that there has been a great deal of practical co-operation, and that this co-operation has been largely responsible for any success we have achieved. It was in agreement with this Assembly that the convention for the separation of railway finance was settled, and we continually receive practical proof of the spirit of co-operation throughout the year in the proceedings of the Standing Finance Committee. I should like to take this opportunity of acknowledging the debt which we owe to the members of that Committee for the interest they display in railway matters and for the assistance we receive from their work not only in connection with the projects placed before them from time to time, but also in connection with the preparation of the present budget.

29. Mr. President, it is time that I should bring my remarks to a conclusion. In what I have said I have had my eye chiefly on the past and the present, and I have said very little about the future. And yet a man with any imagination charged with some degree of responsibility for the administration of the railways of India must naturally have many thoughts regarding the possibilities of the future and the measures that ought to be taken in order that we may be ready to deal with all that the future has in store for us. But on these matters I will not dwell, not merely

because I am unwilling to weary the House, and not only because it is unwise to prophesy until you know, but mainly perhaps because of a profound conviction of the truth of the old saying—

“Let not him that putteth on his armour boast himself as he that taketh it off.”

(Applause.)

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The Honourable Sir Basil Blackett (Finance Member): Sir, I rise to move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as reported by the Select Committee, be taken into consideration.

This is a Bill which now contains eleven clauses, which deal with various machinery points in connection with the income-tax. Its principles have been approved by this House when the Bill was sent to the Select Committee, and the Bill has been very carefully and fully considered by the Select Committee, whose report is now before the House.

I do not think that I can usefully add anything at this stage to what is contained in the Report of the Select Committee. There is one point on clause 7, in which the Government are not entirely in agreement with the results reached in the Select Committee. But their view is that there is much to be said for the line taken by the Select Committee that it is better to leave the existing Act as it is rather than to amend it in a way that does not meet with general approval, and the Government do not themselves propose to press for any amendment in the Bill as it now stands. We shall probably have a better opportunity when we come to the clauses to deal with the contents of the Bill, and I confine myself, therefore, at this stage, to the few words I have spoken, and move the motion.

The motion was adopted.

Mr. President: The question is:

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

Sir Victor Sassoon (Bombay Millowners' Association: Indian Commerce): Sir, may I ask whether you in your wisdom will be prepared to put the questions in regard to the two sub-clauses of this clause separately, as they refer to two different matters?

Mr. President: Is there any opposition to either sub-clause?

Sir Victor Sassoon: Yes; I am going to oppose the second half of the clause.

Mr. President: The Honourable Member may speak and oppose it.

Sir Victor Sassoon: Sir, I am opposing the second half of the clause, and not necessarily sub-clause (a). If the objects and reasons of the Bill as it originally came before this House last year are looked at, it will be seen that the necessity in the eyes of Government for amending the Income-tax Act by the inclusion of this sub-clause was due to a decision of the Calcutta High Court, with reference to a case on road cess, which had been calculated, as I understand, on the average of the

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profits of the previous three years; and it was decided by the High Court that this was a proper deductible item from the profits of the year for purposes of assessing income-tax. The Government point of view, as I understand it, is that a charge for the upkeep of roads made by a local body is a proper deduction, subject to the calculation not being based on profits whether present or past, and the object of the Government in asking us to reverse this decision of the Calcutta High Court is due to the fact that they are jealous of the right they claim of being the only authority who should tax profits. Now, Sir, I personally have no objection to such a standpoint and we, the signatories of the minority minute, which is before the House, suggest that specific legislation should be undertaken definitely prohibiting local bodies from basing their demands in the manner objected to; but we have been told that such legislation would be a long drawn out affair, as under the Government of India Act the Provincial Governments are entitled to-day to levy taxes as they have done in the past without let or hindrance; and I understand that among these taxes are some calculated on profits such as the road cess in question. Here we come to the very crux, the very heart of this matter. Because the Central Government are not in complete control of the actions of local bodies, because they are afraid that at some future date the local bodies might pass an Ordinance taxing profits directly and thus affect the central revenues, we are asked to-day to pass this clause which will in effect make the assessee pay to the Central Government income-tax on the amount paid to the local body for services rendered. This is not to-day and was never intended in the past to be a charge on the assessee. If the Government wish to alter the present principles of taxation, if they wish to say "No charges on local bodies will be allowed as deductions from profits for the purpose of assessing income-tax", let them come boldly out into the open and say so. What they in fact say to the assessee here is this: If you are charged by one method you can deduct it; but if you are charged by another method, you cannot. Well, the assessee has no choice. He cannot say to the local body "I wish to pay for these services rendered in some other way." The assessee cannot dictate to the local body the method of calculation which should be adopted and so the result is that the local body still makes its charge, which the assessee still has to pay. The Central Government receives an additional revenue to which it is admittedly in equity not entitled, and the poor innocent tax-payer suffers. By passing this clause we shall be laying down a new principle that the innocent may be justifiably punished for the misdeeds of the guilty. It has been suggested that those who pay this Rs. 1½ lakhs a year, spread all over India, will agitate and put pressure on their Local Governments to alter the method of assessment and it is to reach this end that it has been suggested that this clause is justified. I ask this House to agree with me that it is a very dangerous principle to lay down. Let us pursue it a little further. Why should not the local bodies put a special tax on all Members of the Legislature (*Mr. B. Das*: "Why not?") so that the local Members of the Legislature (*Mr. B. Das e.g.*) may be induced to put pressure on the Central Government to remove any grievances which the local bodies may think they have against the Central Government? It might admittedly keep Members of this House up to the mark if such a tax were put on them.

until all provincial contributions had been rescinded. But I cannot believe that this House would agree to such a suggestion, not even my friend, Mr. B. Das; and I feel confident that I shall find support in moving the omission of this sub-clause; and, Sir, I shall be disappointed if the Honourable the Finance Member cannot see his way to waive his claim to this windfall of Rs. 1½ lakhs which is only obtained by the sacrifice of all principles of equity and fair dealing.

- **Mr. President:** Do I understand that the Honourable Member is moving an amendment to this clause?

Sir Victor Sassoon: No, Sir: I move the omission of clause (b).

Mr. President: That is an amendment.

Sir Victor Sassoon: Well, Sir, I move it.

Mr. President: It is only fair that the Honourable Member should have given notice. I do not know if the Honourable the Leader of the House will have any objection.

The Honourable Sir Basil Blackett: I have no desire, Sir, to object. I would point out that the minute of dissent in the Report of the Select Committee was taken by me as leading me to think that probably such an amendment would be moved; therefore I am not entirely unprepared.

Mr. President: Will the Honourable Member pass on his amendment to the Chair?

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber: Indian Commerce): Sir, I rise to support the amendment which my friend, Sir Victor Sassoon, has just moved. The question in this case is not one of saving money for the assessee. The question is one which involves a comparatively small amount of Rs. 1½ lakhs but it is the most important question of the underlying principle whether a tax on income can be levied by more than one authority. The Honourable the Finance Member confessed quite candidly that as far as the Government of India were concerned they would very much like to restrict this to the Central Government only. But he also admitted that there are certain local bodies who do levy charges for services rendered as based on profits or net income earned by individuals or by companies. Sir, the Finance Member would very much like to see these bodies drop the basis of such a taxation of theirs; but he apprehended that it might take a considerably long time before the Central Government could devise machinery to provide for this by law. He has, I am afraid, therefore selected an easy and short cut by putting this clause in the Bill, a clause which I submit this Assembly should not pass. Where the Central Government and a local body are both concerned, the Central Government being the more powerful of the two and having all the machinery at their disposal to stop the local body from doing what they should not do, seeks by this clause sanction to tax the assessee and recover the money due to them irrespective of what any other body does under the sanction of the law in a local area in British India. I will illustrate this by a short example. If a company makes a lakh of rupees net profit, the local body which proposes to charge 2 per cent. on such profit recovers from that company Rs. 2,000. The net

[Sir Purshotamdas Thakurdas.]

profit of that company would then be Rs. 98,000 when the assessment for income-tax leviable by the Central Government is made. But in the concrete case which has been referred to by my friend Sir Victor Sassoon, the income-tax authorities insisted on recovering income-tax on the lakh of rupees. They would *not* give credit to the assessee for the Rs. 2,000 which had been paid by the assessee to the local body perfectly in accordance with the law prevalent in that local area. I submit, Sir, that this is unfair and inequitable. I feel that this House should say to the Honourable the Finance Member "We agree with you that you alone should be able to levy taxes on incomes, but if any other local body does it, we should be quite prepared to consider legislation which would prevent them from making this charge. Until then you must give the assessee concerned in such a case protection, or you must levy income-tax on his net profits, less the tax paid to the local body." I feel, Sir, that while one may sympathise very fully with the activities of the Income-tax Department and even though one may be most anxious that the Income-tax Department should recover all due to them, by this clause which I am opposing, namely, sub-clause (b) of clause 2 of the Bill, the Government of India are really trying to put the assessee in such an unfortunate local area to the greatest possible disadvantage. I feel, Sir, therefore, that on nothing else but on this bare question of equity, it is up to the Government of India to introduce fresh legislation and not press this sub-clause before the House.

-Sir, I oppose this sub-clause.

The Honourable Sir Basil Blackett: Sir, the question that is raised is undoubtedly an important and difficult one. If in the Select Committee the verdict had gone against the Government, I should not, I think, have pressed for the re-introduction of this sub-clause in the House. But we had a very full discussion in the Select Committee, and I put the full explanation before the Select Committee, and the Select Committee eventually agreed with the Government. The position is not easy to make completely clear. I prefer to start with history. For a period of about 40 years, I think, the tax on certain coal companies, mainly coal companies in Bengal and Bihar, was collected on the basis which is proposed to be restored by this Bill. There was in existence under certain local Acts power to impose a road cess, and these local Acts empowered the local authorities concerned to impose this road cess in a form indistinguishable from a tax on profits. Now, it is admitted by all that the taxation on income or on profits ought under our system to be reserved for one authority, namely, the Central Government, and it is improbable, though not perhaps absolutely impossible, that any new cases will arise in the near future in which local authorities will obtain or manage to exercise powers to tax profits. But in these particular cases they do impose a road cess in a form indistinguishable from a tax on profits. Now, the Central Government has the first right under the Income-tax Act to impose a tax on profits, and in calculating those profits it is required under the law to exclude among other things any expenditure incurred solely for the purpose of earning such profits or gains. Now, clearly a tax on profits cannot be expenditure incurred for the purpose of earning those profits. Profits cannot be ascertained until after the profits are earned. Any deduction cannot be expenditure incurred for the purpose of earning those profits . . .

Sir Victor Sassoon: They will be based on past profits.

The Honourable Sir Basil Blackett: That is the contention that the Government of India relied on. A decision was taken some two years ago by the courts which, contrary to the practice prevailing for 40 years, required the Government of India, that is, the income-tax authorities, to allow these cesses to be treated as a deduction from the income as expenditure incurred for the purpose of earning those incomes. We are obviously in a difficult position. If you admit the new practice is to stand, even then there is no reason, to my mind, why the local authority should come before the Government of India, or why the cess should not be on the profits after deduction of income-tax, or why the income-tax should be on profits after deduction of the cess. There is obviously no logic that puts the cess before the tax.

Sir Purshotamdas Thakurdas: What are the facts, Sir? Don't the local authorities charge without deduction of the Central Government income-tax

The Honourable Sir Basil Blackett: Certainly, they do. That is the difficulty. As I put before the Select Committee and as I now put before the House, there is here a conflict of principles . . .

Sir Purshotamdas Thakurdas: Thank you.

The Honourable Sir Basil Blackett: We attach very great importance to this principle that the Central Government should be the one and only authority entitled to tax profits, and if in any particular cases it does appear that another taxing authority has by some means or other the power of taxing profits, it should be the profits after and not before the Government of India has taxed them. The Government therefore brought forward this clause for the purpose of asserting their priority of claim of taxing profits and they are, I think, specially justified in what they are proposing by the fact that all they are doing is restoring the position as it stood for 40 years.

It is said that this is a new principle. We are simply trying to restore the position as it stood for 40 years. The extent to which income-tax revenue is concerned is 1½ lakhs. It is not a very large sum. It is however a sum of some importance to the Government of India, but more important than the sum is the principle, and I do ask the House, in view of the fact that we are only asking that the law be restored to the position in which it stood or was believed to stand only two years ago, that the assesses be put into the same position as they were in two years ago, that it should support the Government in the important principle that the Central Government's right to tax profits takes precedence of any possible right of any other authority.

Sir Purshotamdas Thakurdas: What about the assessee?

The Honourable Sir Basil Blackett: The assessee is being put in the position that he was in for 40 years. I do not think that can be said to be a very great hardship on the assessee. As I say, this matter was considered at great length by the Select Committee and the Select Committee supported the Government. In those circumstances, I do hope the House will consider the matter carefully and realise that it is an important principle that the Government are asking them to adopt in this matter.

Sir Walter Willson (Associated Chambers of Commerce: Nominated Non-Official): Sir, with the principle that the Government should have first share in profits we do not quarrel in any way. But it does not seem to me that the point I wish to make has yet been made plain to the House and it is this. Take your company that made a profit of Rs. 1,00,000. The Government have got their income-tax on that Rs. 1,00,000. They have had it. The municipality then come along over this road cess and they charge the road cess on the profits after the Government have had their share.

Sir Purshotamdas Thakurdas: Is it not the other way about?

Sir Walter Willson: Excuse me; let me make my meaning perfectly plain. The profits on which the coal company pays its road cess, are not the profits which it is in the current year sharing with the Government. It pays its road cess on profits which it made in the past and has already paid its income-tax in the past on those profits. That, Sir, to my mind is the essence of the whole thing. The Government have had their share of profits without deduction. Then the cess is levied and becomes a charge upon the business based on its past. But the Government say "Now then, it being a charge which you have paid, we are not going to allow you to deduct it from this year's profits".

Sir Purshotamdas Thakurdas: That is right.

Mr. K. C. Roy (Bengal: Nominated Non-Official): Sir, as a member of the Select Committee I feel that we owe the House an explanation. We are considerably handicapped because Sir Victor Sassoon did not give us timely notice of his amendment. But this matter was fully examined by the Select Committee, as explained by Sir Basil Blackett. The two points which practically weighed with us were these. First, that we were legalising a practice which has been in existence for 40 years, and which has really been with us.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): That is not the point. Is it all right?

Mr. K. C. Roy: Many things that we do, are these things all right?

Mr. M. A. Jinnah: Is it just?

Mr. K. C. Roy: It is just. We are legalising a thing which we have been doing for 40 years. The second point on which the Select Committee was asked to give a decision was the assertion of the principle that it is the function of the Government of India to tax profits first and foremost. Sir, I oppose the amendment.

Sir Walter Willson: We, of course, do not oppose that. We do not say that Government should not tax profits.

Mr. President: Order, order.

The question is:

"That the word 'and' at the end of sub-clause (a) and the whole of sub-clause (b) of clause 2 be omitted."

The Assembly divided :

AYES—35.

Abdoola Haroon, Haji.
 Abdul Matin Chaudhury, Maulvi.
 Alexander, Mr. William.
 Aney, Mr. M. S.
 Ayyangar, Mr. K. V. Rangaswami.
 Bhargava, Pandit Thakur Das.
 Chalmers, Mr. T. A.
 Chatterjee, The Revd. J. C.
 Crawford, Colonel J. D.
 Das, Mr. B.
 Gavin-Jones, Mr. T.
 Gidney, Lieut.-Colonel H. A. J.
 Gour, Sir Hari Singh.
 Haji, Mr. Sarabhai Nemchand.
 Ismail Khan, Mr.
 Iswar Saran, Munshi.
 Jayakar, Mr. M. R.
 Jinnah, Mr. M. A.

Kelkar, Mr. N. C.
 Kikabhai Premchand, Mr.
 Lamb, Mr. W. S.
 Lindsay, Sir Darcy.
 Moore, Mr. Arthur.
 Mukhtar Singh, Mr.
 Neogy, Mr. K. C.
 Purshotamdas Thakurdas, Sir.
 Rahimtulla, Mr. Fazal Ibrahim.
 Rao, Mr. G. Sarvotham.
 Sarda, Rai Sahib Harbilas.
 Sassoon, Sir Victor.
 Singh, Raja Raghunandan Prasad.
 Sinha, Mr. R. P.
 Sykes, Mr. E. F.
 Willson, Sir Walter.
 Yakub, Maulvi Muhammad.

NOES—38.

Abdul Aziz, Khan Bahadur Mian.
 Abdul Qaiyum, Nawab Sir Sahibzada.
 Ahmad, Khan Bahadur Nasir-ud-din.
 Allison, Mr. F. W.
 Anwar-ul-Azim, Mr.
 Ashrafuddin Ahmad, Khan Bahadur
 Nawabzada Sayid.
 Ayangar, Mr. V. K. Aravamudha.
 Bajpai, Mr. G. S.
 Blackett, The Honourable Sir Basil.
 Chatterji, Rai Bahadur B. M.
 Coatman, Mr. J.
 Cocke, Mr. H. G.
 Cosgrave, Mr. W. A.
 Couper, Mr. T.
 Courtenay, Mr. R. H.
 Crerar, The Honourable Mr. J.
 Dalal, Sardar Sir Bomanji.
 Ghuznavi, Mr. A. H.
 Graham, Mr. L.
 Irwin, Mr. C. J.

Joshi, Mr. N. M.
 Jowahir Singh, Sardar Bahadur
 Sardar.
 Kabul Singh Bahadur, Captain.
 Keane, Mr. M.
 Mitra, The Honourable Sir Bhupendra
 Nath.
 Mukherjee, Mr. S. C.
 Parsons, Mr. A. A. L.
 Rainy, The Honourable Sir George.
 Rajah, Rao Bahadur M. C.
 Rao, Mr. V. Pandurang.
 Roy, Mr. K. C.
 Roy, Mr. S. N.
 Sams, Mr. H. A.
 Shamaldhari Lall, Mr.
 Shillidy, Mr. J. A.
 Taylor, Mr. E. Gawan.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.

The motion was negatived.

Clauses 2 and 3 were added to the Bill.

Mr. President: The question is :

“That clause 4 do stand part of the Bill.”

Mr. Mukhtar Singh (Meerut Division: Non-Muhammadan Rural): I have an amendment, Sir.

Mr. President: Does the Honourable Member wish to move his amendment?

Mr. Mukhtar Singh: Yes, Sir. I beg to move:

“That in clause 4 of the Bill to the proposed section 25A (c) the following proviso be added :

“Provided that the admission of one member in the absence of objection by other members of the Hindu family will be regarded as sufficient proof of such partition.”

[Mr. Mukhtar Singh.]

Section 25A (1) provides :

“Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effect.”

This, Sir, places the entire power in the hands of the Income-tax Officer to make any sort of inquiry or to make no inquiry at all. If an assessee wants to summon his witnesses or to produce his evidence the Income-tax Officer is not bound to send for those witnesses or to record their evidence. The Income-tax Officer can do whatever he likes. We know, Sir, that unfortunately the Income-tax Officer represents the Government and the other party is the assessee. He has the power of being both the representative of the Government and the judge. It seems to me to be necessary, Sir, that he should be forced to take evidence or at least the assessee should have the right to produce his evidence. A right of appeal has been given to the assessee, but, if he is not allowed to produce his evidence, I do not know, Sir, what would happen in the appeal. My amendment does not seek to go against the discretionary power of the Income-tax Officer but simply provides that if a member of a Hindu joint family says that he is separated and that a partition has taken place, in such a case notice should be sent as provided for to the other members of the family and if they do not object to it, then it should be taken for granted that the family is separate. It may be said, Sir, that certain unscrupulous persons may say, “I am not a member of a joint Hindu family; I am separate; a partition has taken place.” I consider, Sir, that a member of a Hindu joint family will be taking a very grave responsibility when he says that he is no more a member of the family. He then loses the right of survivorship, and therefore we should not think that any member would go to the length of saying that the family is no more joint simply because he will be saved the necessity of paying a few rupees towards the income-tax. When the highest authority has declared that a mere intention to separate is quite enough to hold that the member has separated I would submit that it is but fair that the mere statement of a member of a Hindu joint family should be considered to be sufficient proof that the family is no more joint, especially when no other member whose interest is affected comes forward and says that the family is still joint. An assessee who files an application declaring himself to be a separate member of a Hindu family takes a very grave responsibility and, therefore, if it is not objected to by the other members of the same family, it is but fair that he should be considered to be a separate member of the Hindu family and should be so assessed.

With these words, Sir, I beg to move my amendment.

The Honourable Sir Basil Blackett: Sir, I find some difficulty in understanding quite what purpose the Honourable Member has in moving this amendment. If the present law is as the Honourable Member wants to make it in this amendment, then the amendment is superfluous. We do not want on the other hand a different law of partition for income-tax purposes from the law of partition for general purposes. Therefore, it seems

to me that the Honourable Member's amendment is either superfluous or dangerous. But I do not pretend fully to understand what his purpose is in moving it. It seems to me that possibly it is very dangerous. If, for example, one of four brothers admits that he is separated from the others and has a half share, and at the moment none of the other family members object to it or take steps to object to it, and if that happens not to be true, he would obviously be piling up a great deal of trouble for his family. I would suggest to the Honourable Member that this amendment should not be pressed, and that all that we are proposing is that the law of evidence for the purpose of partition should be the same for income-tax purposes as for others.

Mr. President: The question is:

"That in clause 4 of the Bill to the proposed section 25A (1) the following proviso be added:

'Provided that the admission of one member in the absence of objections by other members of the Hindu family will be regarded as sufficient proof of such partition.'

The motion was negatived.

Clauses 4, 5 and 6 were added to the Bill.

Mr. President: The question is:

"That clause 7 do stand part of the Bill."

Sir Victor Sassoon: I rise to move the amendment that stands in my name to clause 7:

"That in clause 7 of the Bill the following new sub-clause be inserted:

'For sub-section (1) of section 42 of the said Act the following sub-section shall be substituted:

(1) All profits or gains accruing or arising to any person residing out of British India, whether directly or indirectly from any trade carried on or transacted in British India by any agency or branch in British India on his behalf shall be chargeable to income-tax under the head 'business' and shall be charged in the name of the agent of such person, and such agent shall be deemed to be for all purposes of this Act the assessee in respect of such income-tax:

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of a non-resident person which are or may at any time come within British India.'

When clause 7 came before the Select Committee we were informed that the Government desired to drop the original sub-clauses (1), (1A), and (1B), which were in the Bill as originally introduced in this House, and in the draft notes on the amendments we were told—I read the notes:

"The main points that it is desired to make clear are that in respect of export trade or import trade, whether the business be conducted by a resident or a non-resident, all profits (the words are in italics) accruing or arising or received in British India are liable to tax and no other profits (which are also in italics) are so liable."

As I read that Statement of Objects and Reasons I thought, perhaps naturally, perhaps wrongly, that it meant that only profits made in India would be taxed and that that should be all. I admit now, Sir,—I admit to my lawyer friends in this House that this was an occasion when probably

[Sir Victor Sassoon.]

the presence of a lawyer on the Select Committee might have been highly desirable. I admit that it was only on further consideration that I was led to feel doubtful as to whether my reading of that Statement of Objects and Reasons was right, and after consulting some of my colleagues we asked for a further sitting of the Committee. This request was very courteously acceded to. At this sitting I asked the Government nominee some questions so as to clarify their position, and I am indebted for an absolutely unequivocal reply to my question. I put this example to them. I put the case of a cotton merchant in Bombay selling regularly to a cotton merchant in Hamburg and I was told that in the event of the German merchant buying cotton for forward shipment and the market advancing during the period between the date of the contract and the shipment of cotton, the Government of India would consider that that merchant in Hamburg was liable for tax and that if he failed to make a return showing how much he had actually made by selling that cotton in Germany they would under section 42 (1) of the existing Act deem the merchant in India to be his agent as having had business connections with him and would assess him under rules which would be made and which might either be the original sub-clause (1) which we had in the original Bill or any other clause, because the Government were advised that it was not necessary for them to come to this House for sanction as they could go ahead and issue rules. That being so, I think it will be advantageous if I point out that the existing section 42(1) lays down that:

"in the case of any person residing out of British India, all profits or gains accruing or arising to such person, whether directly or indirectly through, (and mark these words), or from any business connection or property in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be the assessee in respect of such income-tax."

What we felt on being told this was that the existing powers of Government were too wide, and as they proposed issuing a rule which we did not think had been anticipated by the Legislature when it passed that section, a clarifying modification was necessary, and this amendment that stands in my name carries out that object. For the effect of this amendment will be that where a foreign merchant buys, shall we say, cotton in India and then re-sells that cotton through his agent in India he will quite rightly be assessed for Indian income-tax on the profit that he makes, but he will not be liable for any profit that he makes by selling that cotton or other commodity outside this country. It will be noted that the word "property" which occurs in the existing section 42(1) is absent from the amendment that is now before the House. This has only been left out because we have been advised by our lawyer-friends that it is unnecessary in this connection. The definition of "property" takes place in section 6 and if it is desired to expand that definition that section is the proper place where any amendment should take place and it should not be put in in any other section where it might lead to confusion or misunderstanding. In asking the House to pass this amendment which alters the existing clause, perhaps I may be permitted to go back to the original reasons why the Government of India in bringing forward this Bill considered it necessary to clarify the situation. We have been told that their reasons are based on two conflicting judgments, and if I may be allowed to read a short paragraph from the judgment of

Cockburn, C. J., it will give the House the point of view of those who consider that the views of Government are not correct. Cockburn, C. J., said :

"Wherever a merchant is established, in the course of his operations his dealings must extend over various places; he buys in one place and sells in another. But he has one principal place in which he may be said to trade, *viz.*, where his profits come home to him. That is where he exercises his trade. It would be very inconvenient if this were otherwise. If a man were liable to income-tax in every country in which his agents are established, it would lead to great injustice. The argument for the Crown must be carried to this extent, that merely buying goods in this country is a trade exercised here so as to subject the purchaser of the goods to income-tax. . . . It would be most impolitic thus to tax those who come here as customers. The subjects of a foreign State, not resident here, cannot be made amenable to our laws. How then are their profits to be made amenable to the fiscal law?"

The Chief Justice of Madras, Sir Walter Schwabe, says that such procedure would interfere with the comity of nations. If we take the case on which the Government rely we find that the Calcutta High Court takes the opposite view. It does not take the opposite view because it considers that it is a proper thing for such taxation to be levied on foreign countries, because Justice Chatterjee says :

"Whether it is politic or whether it contravenes the comity of nations it is not for us to consider. We are merely construing the Act."

So it is merely by construing the Act, by construing these very far-reaching words that any foreign resident who has any business connection with anybody in British India is liable to be taxed for any profits he may make from the goods he receives under this section. I do not think we in this House would object to receiving income-tax from a foreigner to help us if we felt quite sure that it could be done without hurting our own traders and our own business men in this country. Let us take the practical application of this policy which is supported by Government. Let us assume the reverse position. Let us assume that Germany or Belgium proceeds to pass similar legislation and then the exporter there says to our importers of Continental steel and our manufacturers who make safes and a number of the articles which we heard of in this House last year from Continental steel, "My Government say that they are entitled to German or Belgian income-tax on the profits that you have made by using this steel and by selling it in a manufactured form. Will you please give me a return of what profits you have made and remit to me the amount of German or Belgian income-tax on it" What would the answer of the Indian manufacturer be? I think he naturally would say, "I bought and paid for your raw material and the profits that I make are my concern and the concern of my Government. I shall have to pay the income-tax in British India on my profits and I am not concerned with paying income-tax to you in a foreign country for profits which I have made here." That is what I think the consumer of Continental steel in this country would say.

Now, we will go back and reverse the position again to the position of the Indian exporter. We will take him to be a cotton exporter who sells cotton regularly direct to the consumer, perhaps to a mill in Germany. That mill wants a particular type of cotton that one exporter is noted for and buys direct from him. Then what is the position? The tax-gatherer may come to the exporter and may say, "We consider that we are entitled to Indian income-tax on the profits that have been made by that consumer of cotton and if he does not send a return we shall assess you. We shall

[Sir Victor Sassoon.]

assess you under rules which we shall make on the difference between the cost to the manufacturer when he made the contract and the c.i.f. price or f.o.b. price when the cotton left our shores. We shall assess you for a definite amount of money and you will be deemed his agent under this clause 42(I). You will have to pay this money to us and do the best you can to get it from the foreign manufacturer." There is a rather interesting exception to this case. There is a case where a foreign exporter may not find himself in practice called upon to pay this tax and that will be where the Indian exporter sells his product to a British firm. It will be in the memory of this House that there is a reciprocal arrangement between Great Britain and India. As the profits made by the buyer in England, being amenable to British income-tax, will not then have to pay Indian income-tax all over again, the exporter to a British buyer need not fear the likelihood of being assessed as the agent of the British importer because that would mean no addition to the coffers of the Government of India, and here again because of this fact I find that a statement I made here a year ago may have been misleading. I think I pointed out that under the line of procedure which the Government were taking the Tata Steel Company might be asked, I do not say would be asked, by the Government of India to deduct from the interest they paid on their sterling debentures, Indian income-tax because it might be said under this section that those who have bought those debentures had a business connection through the Tata Steel Company with India as that money has been brought over and was used here. It would be rather an interesting position if such were the case. The Tata Steel Company would deduct Indian income-tax before paying the debentures interest to the investors in England. The investor in England would not mind that because he would merely deduct the amount that he had paid, that had been paid to the Indian central revenues from his British income-tax assessment and in practice the position would be that instead of the Chancellor of the Exchequer of Great Britain receiving the whole of his tax on those debentures, part of it would come into the coffers of the Government of India and part of it would go into those of the British Chancellor of the Exchequer. Somehow I feel, therefore, we need not fear that such a course of action will be taken when money is borrowed in Great Britain, but in the event of loans being taken from another country the borrower will always have hanging over him the possibility that he may be assessed by the tax-gatherer as the agent of the man from whom he borrows and might have to pay Indian income-tax on the interest he pays out, which would merely mean that he will have to add that on to his expenses.

Now, Sir, I am one of those who believe in Imperial Preference, but it seems to me to be carrying the policy of Imperial Preference rather far when by working the existing section in this manner you can in fact drive Indian exporters and Indian industries desirous of capital into placing their business with Great Britain in preference to other countries. We may be told, Sir, that my views are alarmist. We may be told that although under the actual wording of this section it might be even held that the Government of India would claim a share of the profits made by selling a shirt in Berlin because the cotton had originally been shipped from this country, in practice no Government would make rules to that effect and that we need not be afraid of any such thing taking place, but I think it will be admitted that tax-gatherers try to collect all the tax they can. Their promotion very often

depends on their success in collecting revenue and naturally they try and collect the revenue with as little trouble as possible. If the assessee appeals and if those appeals are successful it naturally disappoints the tax-gatherer who would naturally like his demands to go through without any trouble or grumbling and it is giving him an enormous weapon if he is able to go up to the merchant and say, "If you are not amenable to what I am asking you for, I may have to assess you as an agent on the profits which may be alleged to have been made". This is a form of action which unfortunately takes place in all countries. It is not peculiar to the tax-gatherers of this country. It is a form of moral blackmail. A number of assessee pay where they should not have to pay so as to avoid being worried and harassed and having to go to appeal and to all the expense of taking the case to the High Court. Unfortunately as has been said this is a species of moral blackmail. By supporting this amendment the House will help to restrict the powers given to Government to powers which are essential and therefore in doing so to remove some of the opportunities for tax-gatherers putting what is called pressure on assessee.

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

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

The Honourable Sir Basil Blackett: Sir, I am sorry that Sir Victor Sassoon is not in his place because it is his arguments with which I wish to deal and his speech which I desire to answer.

(At this stage Sir Victor Sassoon came to his seat.)

I do not suppose that the Honourable Member was intentionally misleading the House, but I should like to say that I think his speech was calculated to mislead, though no doubt it was not his intention to do so. I will give one example to show what I mean, where, at any rate, his arguments were more *ad captandum* than real. He developed a hypothetical non-existing case in which the result of the income-tax law, as it stands at present and which he desires to alter, would, he said, be to bring about Imperial Preference. I submit to him and to the House that it is the existence of an agreement in regard to avoidance of double tax that makes it more profitable for a man to be concerned with income in England and in India than if he is concerned with income in England and, say, Chili where there does not happen to be an arrangement regarding double income-tax. If there is an arrangement regarding double income-tax in any case, that is what brings about the advantages. It has nothing to do with Imperial Preference. Does the Honourable Member really wish to suggest that if we were proposing to introduce what we have already introduced, namely, an arrangement for the avoidance of double income-tax between India and England, he would oppose it on the ground that it is Imperial Preference? Would he not support it and argue that it had nothing to do with Imperial Preference?

Now, I would like to put before the House the history of this business. The clause in the existing Income-tax Act historically came into existence

[Sir Basil Blackett.]

in connection with the Income-tax Act of 1918 and was reproduced in the Income-tax Act of 1922. It was introduced in the Income-tax Act of 1918 at the instance of business men in Bombay who complained of competition by Japanese who had established branches in Bombay and said that it was unfair that the profits of those branches should not be taxed while the profits of an Indian business house that was doing the same business were being taxed. That was the origin of that clause. The clause, as I say, was continued in the Income-tax Act of 1922. It is a machinery clause and not a taxing clause and undoubtedly it is a very wide one. The difficulty that we are in is that it has been interpreted in a different way by the Madras High Court from that in which it has been interpreted by other High Courts. At the time when we were considering the inclusion of a clause in this Bill dealing with this point, the power of appeal to the Privy Council had not come into existence. That power has now come into existence so that it is possible or it may be possible to solve this conflict of judgments at some date by an appeal to the Privy Council. In view of that fact and also in view of the fact that none of the amendments of the law suggested by the Government were entirely acceptable to the Select Committee, after the Select Committee had voted against the inclusion of an interpreting clause that the Government had suggested for inclusion, I stated on behalf of Government and I state it now that the Government are prepared for the time being to put up with the inconvenience of the existing situation. At present there are two different interpretations in existence of the existing Act. One interpretation exists in Madras and the other in the rest of India and this will continue to be the case until such time as further experience or further opportunity of dealing with the matter in the courts may either clarify the law or make it more evident that an alteration of the law is desirable. What Sir Victor Sassoon proposes is that the existing law should be altered in such a way as definitely to exclude from a liability to taxation profits which are now liable to taxation. He tried to make out his case by setting up the *ad captandum* argument of Imperial Preference with which I have already dealt. The Government has never said, as I think he said we did, that where a man regularly sells to a person abroad, the resident may be deemed to be the agent of the non-resident and taxed on his foreign profits. What we said is that where a non-resident sets up an agency or a branch in British India and through that agency or branch buys produce in British India and exports it, he is not merely trading in the other country but is trading in this country through a representative established in this country, and that from this business or trade conducted in this country some profits arise.

Sir Victor Sassoon: May I ask the Honourable Member to read the present section 42 (1) which is much wider than what he has just read out?

The Honourable Sir Basil Blackett: I hope the Honourable Member will forgive me but I am replying to what he said was a statement made by the Government. I am not for the moment dealing with what is possible under the clause to which he refers. He stated quite definitely that the Government had made certain explicit statements and I am trying to make it clear that what he said the Government said is not what I say the Government said. When we brought an amendment before the Select Committee, our proposal was to apply the same criterion to the allocation of the

profits, which is the determination of the part accruing or arising in British India in this case, as we proposed to apply if the exporter were a resident. The difficulty about our clause was that it involved leaving it to rules to be made by the Income-tax authorities to explain exactly how they proposed to apply the clause, and the Committee felt, and I do not deny that there is substance in the argument, that that was putting unduly wide powers in the hands of the Income-tax authorities. As I say, in view of our failure to agree on any particular method by which we should rewrite this clause, the Government agreed not to attempt to alter it as far as purchase for export was concerned.

Sir Victor Sassoon desires to introduce an amendment which will very much narrow the present clause. The objections to his amendment are many. In the first place, as I have already pointed out, clause 42 is merely a machinery section enabling us to recover from an agent a tax leviable under the charging section No. 4. The proposed sub-section would not enable us to tax anything which would not be taxable without it. Therefore our position is that we contend that where any trade profits or gains accrue or arise in the circumstances indicated, even if the transactions are not completed in British India, and the sale profits are not received in British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India. Where it is a question of export trade, we say part of the profits accrue or arise in British India.

Sir Victor Sassoon's objection is to the words "deem to accrue or arise in British India." So long as these words are there, some High Courts at all events say that the profits can be deemed to arise and so included in the clause. It clearly includes the profits referred to since whether or not they accrue or arise or are received in British India they may be liable to tax, because even if they did not so accrue or arise, and are not so received, they are deemed so to accrue or arise. That is brought within the scope of section 4, which refers both to profits accruing and profits deemed to accrue. We contend that we are not seeking to tax any profits which do not accrue or arise in British India, except profits received in British India. We also contend that if we have no such provision to make it plain that part of the profits of export trade conducted by a non-resident is identical with that conducted by a resident, but simply rely on section 4 (1), the courts will contend that no part of such profits accrues or arises in British India, and therefore no part of such profits is taxable unless it is received in British India. That is a position we cannot agree to. What the Madras High Court held in the Madras Export Company's case was that that was the position that I have stated. It was dissented from by both the Rangoon and Calcutta High Courts.

The second objection to the draft amendment is that it leaves out of account profits received in British India, thus depriving us of the tax.

The third objection is that the amendment contains no reference to property, as the existing sub-section does. This is a most serious objection. Sir Victor Sassoon is aware, I know, that it is an important matter in connection with a case that is now before the court.

The fourth serious objection is the substitution of the word "trade" for the words "business or business connection." It is perfectly obvious that

[Sir Basil Blackett.]

if you use the word "trade" alone you exclude all that part of the definition of business that comes after the word "trade". The object of the amendment is, I think, perfectly clear to the House. It is clearly to go back on the decision taken in the Income-tax Act, 1918, that agencies of the kind to which I referred are proper subjects for taxation by the Indian taxation authorities. As I say, that clause was introduced at the instance of business men in Bombay, who complained that the existing law allowed the Japanese to establish branches in Bombay and avoid taxation which was not avoided by their Indian competitors.

I want to make it quite clear that the Government cannot possibly accept the amendment now put forward. We are not entirely contented with the existing section, but in the absence of considerable agreement as to the method of amending it, we are prepared to try and work it further, but I am certainly not prepared, on behalf of Government, to give up quite definitely the principle that we have a right to collect taxation on profits on purchase for export.

I might just mention one other case mentioned by Sir Victor Sassoon. We do not tax interest on sterling debentures, such as those of Tata's, and do not consider that the existing section gives us any power to tax them.

I hope the House will not upset what I regard as a compromise arrived at in the Select Committee. While the Government gave up the attempt to do anything to interpret the existing section, the other side recognised that the section was imperfect but ought not to be amended until we had had further experience.

Mr. H. G. Cocks (Bombay; European): Sir, this was a difficult subject to discuss in the Select Committee, and I find it still more difficult to discuss in this House.

The amendment of Sir Victor Sassoon seeks to substitute for section 42 (1) of the present Act a new sub-section, and the main difference between the two is that in the existing Act, the section, which is a machinery section, seeks to tax profits arising *from any business connection or property in British India*, or profits which are deemed so to arise. The words "from any business connection or property" are the words which Sir Victor Sassoon wishes to amend and he puts in their place the words "from any trade carried on." It has been said, from the trader's point of view, that section 42 is much too wide. From the point of view of the taxing authorities it is stated that the clause as it stands is necessary.

Now, it seems to me that this is an occasion.—possibly the only occasion we shall have for some years to come,—to review and revise this very wide law which I do not think is really in the interests of anybody, and to get something a little more definite. The Taxation Inquiry Committee dealt with the subject and made certain recommendations. The Government have accepted those recommendations where it suits them and have not done so where it does not suit them. So far as the position of the export agent—the agent here carrying on an export business for his foreign principal—is concerned, I cannot help thinking that the amendment of Sir Victor Sassoon is all that is necessary. If the courts were to hold as a result of the suggested amendment that a man here who is merely exporting

to his foreign principal is not conducting a trade in India, then I admit that the Government are going to lose tax. But I do not think it would be so held and I agree absolutely that the exporter here, under the recommendations of the Taxation Inquiry Committee, should be liable to be assessed to tax. That is not so in the United Kingdom. In the case of an export agent in the United Kingdom no profits are deemed "to come home" and no assessment is made. But if a man comes out here, say, to buy antiques for his principal in England; he goes round the country and buys antiques and sends them to England; he merely gets a remittance from the United Kingdom to pay for the goods purchased and there is no question of profit received in India. But the Government hold, and the Taxation Inquiry Committee hold, that the buying of the antiques and the sending them home to be sold, perhaps to an American millionaire across the Atlantic for a big profit, should be considered as the carrying on of a trade here and India should be entitled to a portion of the ultimate profit. How to tax that profit in practice is extraordinarily difficult, but I for one do not dispute the principle. I do think, however, that we have an opportunity now of getting something a little more definite and a little less broad in the law affecting this export agent and his foreign principal. We are really only dealing with that subject on this particular amendment. The question of the importer comes later. I do think that when you set up an inquiry like the Taxation Inquiry Committee, who go into the whole subject very fully, and hear witnesses from all sides including witnesses from the Income-tax Department, and the Committee then comes to certain decisions, it is very important, I say, that when we have an opportunity of revising the law, we should take that opportunity. That remark applies, I admit, when we come to consider the import section; but as regards this first amendment, I admit that it narrows the Government's powers of taxation; but I do not agree that it takes away anything tangible. Section 4 remains, which is the main charging section; and it is for the courts to interpret this suggested new clause when it becomes law. We decided in Select Committee that a case similar to the three cases that had been before the Indian courts and which had resulted in different decisions being arrived at, might well be taken to the Privy Council at a suitable time, because if you get a Privy Council decision on a particular question of law, as we have had one recently in the case of the Western India Turf Club, it settles the law. Then we must either alter our law to meet the decision or accept the law as we find it. I think that until we get that decision of the Privy Council in connection with one of these export cases, we should allow things to remain as they are; but I say that the opportunity might well be taken of narrowing the broadness of this wording of section 42 (1) and I see no objection to the wording proposed in the amendment.

Mr. President: The question is:

"That in clause 7 of the Bill the following sub-clause be inserted: . . .

Mr. L. Graham (Secretary, Legislative Department): Might I suggest, Sir, that a slightly revised form of the amendment which is in your hands might be substituted? It puts the Bill in proper form. It has the approval of the Mover.

Mr. President: Has the Honourable Member agreed?

Sir Victor Sassoon: Yes, Sir; I have no objection.

Mr. President: The question is :

“That in clause 7 after the words ‘said Act’ the following be inserted, namely :

‘(a) For sub-section (1) the following sub-section shall be substituted :

- ‘(1) All profits or gains accruing or arising to any person residing out of British India, whether directly or indirectly from any trade carried on or transacted in British India by any agency or branch in British India on his behalf shall be chargeable to income-tax under the head ‘business’ and shall be charged in the name of the agent of such person, and such agent shall be deemed to be for all purposes of this Act the assessee in respect of such income-tax :

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of a non-resident person which are or may at any time come within British India, and (b).’

The motion was negatived.

Mr. President: The question is :

“That clause 7 do stand part of the Bill.”

Sir Victor Sassoon: Sir, I rise to move the amendment standing in my name to sub-section (3) of section 42 of the Act. The amendment reads thus :

“In clause 7 of the Bill for the proposed sub-section (3) of section 42 the following sub-section be substituted :

- ‘(3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India in calculating such profits or gains, no allowance shall be made under clause (ix) of sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains.’”

Sir, we have dealt in the previous amendment with the question of exports from this country. This sub-section deals with imports. As it stands on the paper, we are asked to allow Government to assess for income-tax not only the merchanting profit on an imported article but also the manufacturing profit where the manufacturer deals direct with an agent in British India and does not sell through a middleman abroad.

Now, on the face of it, we in India should have no objection to taxing a foreign manufacturer for his profit, and if I felt assured that the effect of this sub-section would achieve that end, I should not be opposing it today. That I am opposing this clause is due to the fact that in practice the manufacturer will not pay. Where he has his own branch out here he will avoid the tax as he is already doing in some cases by establishing a marketing organization in the form of a separate company abroad. What I am afraid of is that the Government will not put these powers into effect generally. We shall then find Indian companies who act as agents for foreign manufacturers being suddenly threatened with assessment of the alleged profits of their principals unless separate accounts are supplied from abroad showing the profits made on the Indian business apart from other business. Here again the importer will risk having to pay out of his own pocket the assessed tax which may be in fact very different to the actual profits made. I know of a concrete case where a foreign manufacturer has been dumping goods on this market in competition with a foreign manufacturer in another country and he has been prepared to sell his goods at a loss so as to keep his market here. And yet although these

goods have been sold at a loss, he is being assessed through his local branch for income-tax based on profits made in his own country and largely due to other activities not concerned with this article at all. The natural result, I fear, will be that these Indian agents here will have to employ an intermediary at home so as to protect themselves and the cost of this middleman will have to be borne by the Indian consumer. I feel, Sir, that the proposed sub-section which stands in my name will safeguard the State from any foreign manufacturer with his own branch absorbing the profit made here by imaginary charges, and this should meet the just demands of the situation.

The Honourable Sir Basil Blackett: Sir, my difficulty in dealing with this amendment is that I am not really quite clear what its purpose is. Is its object to get rid of the words "profits deemed to have been accrued"? If so, my objection to it is very much the same as my objection to the previous amendment. I am, however, in some difficulty as I am not at all clear exactly where this draft differs from the existing sub-section as passed by the Select Committee. Our object here was to interpret the existing clause 42 in a clearer way so as to make quite clear that the whole of such profits or gains shall be deemed to have accrued in the circumstances to which reference is made. I think that the object of the Honourable Member is to get rid of our right to tax the manufacturing profits in such a case altogether. If so, I think I must clearly oppose the amendment; and in any case, I am afraid I must oppose it, because here again this was discussed at very considerable length in the Select Committee and there was quite a definite majority decision in favour of the clause now contained in the Bill.

Mr. President: The question is:

"That in clause 7 of the Bill, for the proposed sub-section (3) of section 42, the following sub-section be substituted:

"Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India in calculating such profits or gains, no allowance shall be made under clause (ix) of sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

The motion was negatived.

Mr. President: The question is:

"That clause 7 do stand part of the Bill."

Sir Walter Willson: Sir, as Government have refused to accept either of the amendments proposed by my friend Sir Victor Sassoon, I am afraid it must fall to me to oppose the passage of this clause,—that portion of it which remains,—because it does not follow and is not in accordance with the recommendations of the Taxation Enquiry Committee. I will read from paragraph 236 as shortly as I can:

"Where a non-resident person is chargeable to income-tax in the name of any branch manager, agent, factor or receiver . . . the non-resident person . . . may . . . to have the assessment to income-tax . . . amended on the basis of the profits which might reasonably be expected to have been earned . . . by a retailer of the goods sold who had bought from the manufacturer or producer direct."

[Sir Walter Willson.]

That, Sir, is all I need quote to make the principle of it clear to the House. This principle, the Government know very well, is one for which the Chambers of Commerce stoutly fought. The clause as drafted may not appreciably alter the law as at present laid down in section 42 of the existing Act, but it does propose to assert in more unambiguous terms rights on behalf of income-tax authorities which are so unreasonable that, I understand, they have never been put into force. Freed from all technicalities, the law to be framed by this Bill entitles the income-tax authorities to tax a non-resident principal on that portion of his profit made outside of India as well as on that made inside of India. It appears to be not only unjust but palpably wrong that Government should claim to tax the agent in India on problematical profits, which he may be unable to ascertain, made by his principals on various manufacturing processes on the banks of the Rhine or anywhere else. Surely the reasonable and fair rule is that an agent in India should pay income-tax on his merchanting profit and on that only, the activity of which has taken place in India. This is what was recommended, as I have just shown you, by quoting from the Taxation Enquiry Committee's Report. Now, if Government wish to make the law less vague and less unsatisfactory and equitable to the taxpayer, there is no reason why they should prefer the decision of the High Court in Madras to that of the full Bench in Rangoon in the Steel Brothers case. The principle laid down in Rangoon was that the profits of any service performed in a country are the profits which should be taxed, and not the profits on any manufacture in another country. There is no doubt that the Government have increased power in the newly worded section, and we got quite definite assurances about that point through the Punjab Chamber of Commerce, who wrote a letter to Government inquiring and got this reply:

"In reply to your letter quoted above, I am directed to say that the Central Board of Revenue understand that the intention of the Government is to make it clear that one of the basic principles of the Indian Income-tax Act which renders liable to taxation incomes wherever accruing or arriving, if it is received in India, is as much applicable to the profits of non-residents. In the particular circumstances that you mention, the manufacturing profits are received as such on behalf of the manufacturer in India. They are therefore liable to tax in India and in practice, so far as the Board is aware, they have hitherto been taxed in India. The sub-clause is not intended to introduce any innovation."

That, Sir, is the reply that was given and it has made people very very anxious as to how this law is going to be applied. And the wording of it is, as Sir Victor Sassoon pointed out, so inclusive that it seems to me they might put in any profits they like. If I have made that danger plain and if it is the intention of the Government to take their stand on the principle of the Act, then we have to try and shake that position. The arguments are very plain as stated by Sir Victor Sassoon and Mr. Cocke and we object altogether to the wording of this. If the position has been unsatisfactory in the past, surely when we were in Select Committee that was the time to word it properly. Mr. Cocke has rightly pointed out the very great difficulty there is of discussing a matter of this kind across the floor of the House and, therefore, Sir, since it has not been done and the principle of the Act is opposed to that for which the Chambers have always stood, I say I cannot be asked to vote for this clause. I must therefore vote against it.

The Honourable Sir Basil Blackett: Sir, I recognise and appreciate Sir Walter Willson's difficulty in regard to this. He has dot-dotted the i's and cross-crossed the t's of the fact that we do not entirely agree with the Indian Taxation Enquiry Committee in this matter. But I do not admit that there is any intention to widen our existing powers in this clause. I was not aware indeed that this clause aroused any particular objection. When we discussed it in the Select Committee, it seemed to be agreed to with very much less difficulty than the clause that we have previously been discussing. Indeed, its fate was different, because the fate of the first amendment proposed by the Government in regard to purchases for export was that it was excised from the Bill and the existing law was left as it stood. The second clause was merely interpreting the law in a way that made it more intelligible and it was not strongly opposed. We do not think that this clause is doing anything to increase our powers. Indeed, we regard it as being in the interests of the tax-payer at least as much as of the tax-collector, because it makes the position plain, or plainer than it was. I am sorry not to be able to meet my Honourable friend Sir Walter Willson on this matter, but here again the Select Committee did discuss this at some length and I think that the conclusion that was arrived at is one which the House might reasonably accept.

Mr. President: The question is:

"That clause 7 do stand part of the Bill."

The motion was adopted.

Clauses 7, 8, 9, 10 and 11 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Basil Blackett: Sir, in moving that the Bill, as amended by the Select Committee, be passed, I want to say just one word on one subject which was referred to by Sir Victor Sassoon. I do not suppose that there is anybody who has a more difficult task in India than the Income-tax Officers and their subordinates. The tax collector is proverbially unpopular. Sir Victor Sassoon said one or two things about them which I think it is my bounden duty, as the Member in charge of the Income-tax Department, to rebut and which I desire to rebut because I do believe that the charges or insinuations made are very unfair to the income-tax authorities. It really ought not to be suggested that they are using their powers to blackmail on behalf of Government. Though it was never suggested that they were blackmailing on behalf of their own pockets, it was suggested that they were using the rather wide powers of the Act to enforce their position as against the tax-payer. Sir Victor said one thing with which I entirely agree. It is in the interests both of the tax-payer and of the tax-gatherer that there should be as little friction and as little trouble in the assessment and collection of income-tax as possible and it is only if there is the minimum of trouble that a tax of this sort will work well in any country. I do not want to take up the time of the House more, but I do wish to remind the House that it is very much interested in the revenue of this country and that I am sure Honourable Members will recognise that it is only my bounden duty not to let pass any slur on the integrity or the intelligence or the capacity of officers of the Income-tax Department under my charge.

Sir, I move that the Bill, as amended by the Select Committee, be passed.

The motion was adopted.

THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

(AMENDMENT OF SECTIONS 2, 23, 28, ETC.)

The Honourable Sir Basil Blackett (Finance Member): Sir, an Amurath an Amurath succeeds, and the Bill in regard to which I now rise again deals with the thorny subject of income-tax.

The motion that I have to make is that the Bill be referred to a Select Committee. The Statement of Objects and Reasons will show that the Bill is an effort to get at persons at present not many in number but increasing every day both in number and in wealth,—persons of wealth and influence who take advantage of certain loopholes in the existing law, as they are thoroughly entitled to do, in order to avoid their fair share of the burden of taxation. When I say "fair share" I mean the share that other people regard as fair. They, as I said, are perfectly entitled to do their best to evade by legal means the imposition of taxation upon them. But equally, I think, it is the duty of Government that is collecting the income-tax to do its best to get at them. I think it ought to be common ground that these evaders of tax should be caught and made to bear their proper share of taxation. The trouble is that in order to get at them one has to get behind apparent forms of law and tax incomes on the basis of real facts. This involves the conferment of wide powers on the Income-tax Officers, and the conferment of wide powers carries with it the risk of possible abuse by the revenue officers, and it is therefore necessary to provide for effective safeguards as well for those who are not evaders. The problem is one of conferring wide powers on revenue officers to enable them to catch evaders of tax and at the same time so to circumscribe these powers that the innocent need not fear. The Bill which is before the House is to a large extent modelled on similar provisions made in the United Kingdom law, due allowance being made for the differences in the scheme of the law in the two countries. Since this Bill was introduced, or at any rate since it was framed, very much wider powers have been given in Great Britain to the income-tax authorities under the Finance Act of 1927, and when this Bill comes before the Select Committee, as I hope it will, the question, I think, will have to be considered whether some changes not in the Bill as it stands may not be desirable to be incorporated in addition to what is here. The one man company and the partnership are, I think, two of the main difficulties with which we try to deal. The Bill lays it down that the expressions "firm", "partner" and "partnership" are used in the same sense in the Income-tax Act as in the Contract Act. This has become necessary because of certain doubts that had arisen on this point. The next important provision is to give the Income-tax Officer the option of treating one man firms or associations as if they were registered firms. As the law stands certain clever persons avoid their full burden of taxation by splitting up their business between a number of nominal partnerships in each of which there is a dummy partner. They do not register these partnerships but they pay tax separately in respect of each partnership. The law does not require partnerships to be registered, and the Income-tax authorities treat unregistered partnerships more or less like individuals. The result is that these individuals pay tax on their profits at lower rates than they ought to and in many cases escape supertax altogether. I do not think there is anything unfair or draconian in the provision that this Bill makes in regard to that.

Then there is the case of the one man company—the possibility of getting at evasion of income-tax behind the device of a one man company. The possibilities are so many and so various that I cannot attempt to deal with them all. But there is a common feature, and that is, they are evading income-tax by means of the creation of a company. The clause which deals with this—I think it is No. 4 (2)—gave rise to a good deal of criticism on the Bill being circulated. As a matter of fact, I think it is necessary to strengthen it if it is to be made effective. The Select Committee will perhaps have an opportunity of considering this.

Another revision—I do not propose to go through the whole of the Bill—another revision of some importance is that if a firm has been registered and if it fails to submit a return of income, the registration may be cancelled at the discretion of the Income-tax Officer. The primary object of registering firms is to enable the income of partners to be accurately ascertained and if the income of the firm is to be estimated and if the firm will not submit a return or produce accounts, the right of registration might reasonably not be given to it. There is no doubt that there is heavy loss to the Government of income-tax that would be obtainable if we can stop up all these legal loopholes. Whether we are entirely successful in doing so in this Bill is a matter which I think the Select Committee may well examine. But that it is desirable to do so is, I think, a proposition that every one in the House will assent to even if he himself or his friends are aware that the result may be that he himself or his friends may have to pay additional tax. I think we shall all agree that though we are perfectly entitled perhaps to evade by use of legal means any liability that comes to us, it is up to us as legislators to assist the Government in preventing such evasion.

Sir, I move accordingly that the Bill be referred to a Select Committee, and with your permission I desire to add some names to those which are on the paper. The names on the paper are:

“ a Select Committee consisting of Sir Purbotomdas Thakurdas, Haji Abdoola Haroon, Sir Victor Sassoon, Mr. H. G. Cocke, Mr. M. S. Aney, Mr. K. C. Neogy, Mr. Mukhtar Singh, Mr. A. H. Ghuznavi, Mian Mohammad Shah Nawaz, Mr. Anwar-ul-Azim, Mr. K. C. Roy and Mr. V. K. Aravamudha Ayangar.”

To which names I desire to add the names of Mr. Shanmukham Chetty, Mr. Vidya Sagar Pandya, Mr. Nirmal Chunder Chunder, Mr. Kikabhai Premchand, and Sir Walter Willson and to move that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be seven.

Sir Walter Willson (Associated Chambers of Commerce: Nominated Non-Official): Sir, the Statement of Objects and Reasons states quite definitely that this Bill is designedly intended to render illegal certain practices now legal. I wish, Sir, we could adopt a sort of convention in this House that we only use the word “avoidance” when we are referring to legal loopholes and we use the word “evasion” when we are referring to illegal loopholes. I think that would be a great deal plainer to us all.

As the Government and the House know very well, the Associated Chambers of Commerce are ready and willing at all times to lend their aid towards defeating any illegal attempts to evade lawful taxation. It is perfectly obvious that the inevitable effect of that course of conduct is that additional taxation recoils upon the heads of those who are paying their taxes fairly and lawfully.

[Sir Walter Willson.]

This Bill contains several clauses with which the Chambers are in full agreement, but it also contains some clauses to which they must reasonably object in so far as those clauses must undoubtedly adversely affect the lawful operator where they give, as I shall show later they do give, excessive powers to the executive officers of Government. It must be kept in mind that the Bill does not purport to aim at those who have been unlawfully evading the law, but quite definitely it intends now to set out upon a course of rendering illegal certain practices, legal, common and essential in the past.

A principal objection I have to this Bill is that, like others of its kind, I am doubtful as to how far its only effect will be to drive underground certain practices now open and above board and so further defeat the object of Government. It may encourage further defections, and encourage generally the practice of cheating where it exists, and discourage the open method of accounting, which is part and parcel of the company system where you have recognised firms of managing agents and companies with accounts signed by auditors of first class repute who would never put their signature to any document prepared in defiance of the law. I have consistently opposed in this House all legislation introduced, attempting to handicap companies as such, and it is for that reason that I should wish to be particularly wide awake over this present Bill. The present Bill, I may say at once, makes no appeal to me on the grounds of its efficiency or of the likelihood of being effective in the ostensible purpose with which it sets out. Avoidance,—you see I avoid using the word “evasion”—is easy, so very easy. Look at clause 4 where a company (a) does one thing, (b) or does another, or (c) or does another, any one of which must be combined with the remainder of the clause, “and the income-tax officer is satisfied, etc.” The whole of the effects of this clause can be avoided by just not doing any of those three things. All an existing company, which we will suppose has incurred the ire of the Income-tax Officer, will have to do is to delete from its articles the right to limit transfer of its shares. If it does that, it will not compel the present controller of the shares in the company to sell them and divest himself of the control. He will still own them and still control the company if he wants, and when he wants to sell any shares, he can easily sell them on such conditions as he chooses to impose in the sale transfer. Where a company is managed by managing agents, the managing agents would refuse to register a transfer which was not in accordance with the deed of sale. That argument seems to me to dispose of the value of clause (a) so far as the Government desire to use it as a check. But what on the other hand are some of the injustices that this clause would impose upon the majority of companies, and I once more assert in this House that the vast majority are legitimate trading concerns? Most companies’ articles contain some provision for a veto, and it is right and proper that a company working say a patent process or something of that kind may be opposed to allowing any man in the street to buy shares and attend its meetings and learn something about his competitor’s business. That protection would not be allowed under this suggested clause. Take the Steel Protection Bill again. There were some general clauses inserted there as to Indian holdings. The same idea. If you take (b) the limit of number of shareholders to 50. It is so very easy to make the shareholders 51, or put all the other shares in the names of your sisters, cousins, aunts, your solicitors, bankers and the like. It is so very easy, the clause seems to

me to be of no use at all. I deprecate all these new Income-tax Acts which are complicating the system. I regard a great deal of this Act as merely another link in a chain which is a vicious circle. By bringing in a Bill of this kind you are not going to catch the man that the Honourable Sir Basil Blackett has in mind. I dare say many of us have names in our own minds that we think the Income-tax people are after, but when you bring in an Act like this and laboriously pass it through, the gentleman you really want to catch does something else in five minutes, and if he likes he can transfer his head operations to Hong-Kong or Ceylon or some other place. You are going to impose definite hardships on companies trading well within the principles of the law, which recognises and encourages public companies and private companies and confers a certain status upon them in return for which they pay their fees. Look at (c), which says, "prohibits or makes no provision for invitation to the public to subscribe." This seems to me to be a perfectly monstrous clause. All you have got to do is to issue a prospectus in the daily newspaper inviting the public to subscribe a crore and a half rupees at 3 per cent. The public are not going to take it up if they know anything at all, at 3½ per cent. but you will be within the law, which is utterly useless. Therefore I say it is a great mistake to bring in an Act like this which is so easily avoided, not evaded.

Now, Sir, look at it even from a most moderate point of view. It is not usual for the articles of private companies to make provision for invitation to the public to subscribe, or of even public companies for the matter of that. Well, I do not say for one moment that they cannot all go and hold meetings to alter their articles, but it is giving them a great deal of trouble, and what is the use of it when they have done it? You merely fall into line with this Act which, as I have suggested, is hopelessly inefficient because it is quite easy to avoid it. My point is, what is the use of enacting a lot of still-born clauses like this, in other words you are encouraging infanticide, and you are going to bring the law into contempt by bringing into law clauses which you will be entirely unable to enforce.

As regards section 5, if this Bill goes to Select Committee I hope it will be possible to move there for the insertion of provisions for the set-off of business losses. It seems to me that section 5 is one that might conveniently be used for that purpose, but perhaps in the Select Committee we might find another place for it.

When I examined this Bill I was very seriously afraid of the excessive powers which are given to Income-tax Officers, but in view of the remarks which have fallen from the Honourable Sir Basil Blackett to-day and also of the fact that he has been good enough to put my name down on the Select Committee for this Bill, I will reserve my observations for the Select Committee.

I do want to make this point now, that it is essential that this Bill, in whatsoever form it may emerge from the Select Committee, should provide either in the Preamble or elsewhere that it is only intended to apply these restrictions in cases where an attempt at evasion can be proved. I have doubts myself, and this is where I shall value the opinion of some of my legal friends, as to whether that can best be done in the Preamble or elsewhere in the Bill, but some reservation of that kind, I submit, is essential.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Not in the Preamble, it must be done in the Bill itself.

Sir Walter Willson: I shall be very glad to bear that opinion out in the Select Committee. I do not oppose reference to a Select Committee, but I would like the House to keep in mind that this is not, as drafted, anything in the nature of a good Bill.

Mr. President: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, (*Amendment of sections 2, 23, 28, etc.*) be referred to a Select Committee consisting of Sir Purahotamdas Thakurdas, Haji Abdoola Haroon, Sir Victor Sassoon, Mr. H. G. Cocke, Mr. M. S. Aney, Mr. K. C. Neogy, Mr. Mukhtar Singh, Mr. A. H. Ghuznavi, Mian Mohammad Shah Nawaz, Mr. Anwar-ul-Azim, Mr. K. C. Roy, Mr. V. K. Aravamudha Ayangar, Mr. R. K. Shanmukham Chetty, Mr. Vidya Sagar Pandya, Mr. Nirmal Chunder Chunder, Mr. Kikabhai Premchand, Sir Walter Willson and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be seven."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 21st February, 1928.